



Town of Johnstown

TOWN COUNCIL REGULAR MEETING

450 S. Parish, Johnstown, CO
Monday, May 01, 2023 at 7:00 PM

MISSION STATEMENT: Enhancing the quality of life of our residents, businesses, and visitors through community focused leadership.

AGENDA

CALL TO ORDER

Pledge of Allegiance

ROLL CALL

AGENDA APPROVAL

SPECIAL PRESENTATIONS

- [1.](#) Proclamation - Foster Care Month
- [2.](#) Proclamation - Mental Health Month
- [3.](#) Proclamation - Public Service Recognition Week
4. Business of the Month
- [5.](#) 8th Judicial District Attorney Gordon McLaughlin presentation

PUBLIC COMMENT

Members of the audience are invited to speak at the Council meeting. Public Comment is reserved for citizen comments on items not contained on the Public Hearing portion of the agenda. Citizen comments are limited to three (3) minutes per speaker. When several people wish to speak on the same position on a given item, they are requested to select a spokesperson to state that position.

CONSENT AGENDA

The Consent Agenda is a group of routine matters to be acted on with a single motion and vote. Council or staff may request an item be removed from the Consent Agenda and placed on the Regular Agenda for discussion.

- [6.](#) April 17, 2023 Meeting Minutes
- [7.](#) Ordinance 2023-244 (Second Reading) Annexing certain unincorporated lands known as the Archdiocese Annexation Nos. 1-3
- [8.](#) Ordinance 2023-245 (Second Reading) Approving PUD-MU Zoning for the properties known as Archdiocese Annexation Nos. 1-3
- [9.](#) Ordinance 2023-246 (Second Reading) Approving the Outline Development Plan for Dove Solar

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- [10.](#) Ordinance 2023-247 (Second Reading) Repealing Chapters 15, 16 & 17 of the Johnstown Municipal Code, and Readopting Chapter 17 to Adopt the Johnstown Land Use & Development Code
- [11.](#) Annexation Agreement for Archdiocese Annexation Nos. 1-3
- [12.](#) Water & Sewer Service Agreement for GMX Building, with Johnstown 3425, LLC
- [13.](#) April 2023 List of Bills

TOWN MANAGER REPORT

- [14.](#) Town Manager's Report

TOWN ATTORNEY REPORT

NEW BUSINESS

- [15.](#) Resolution 2023-21: Adopt Level 2 Drought Condition Water Conservation Measures
- [16.](#) State Highway 60 & CR13/Colorado Boulevard Ultimate Intersection Design Preference

PUBLIC HEARING

- [17.](#) Ordinance 2023-250, An Ordinance Granting to Comcast of Colorado IX, LLC, A Nonexclusive Franchise to Construct, Install and Operate a Cable System and Provide Cable Television Service Within the Town and, In Connection Therewith, to Make Reasonable Use of Town Streets and Other Public Places Within the Town.
- [18.](#) Ordinance 2023 - 251: An Ordinance Submitting to the Registered Electors of the Town Of Johnstown at the General Municipal Election to be Held On April 2, 2024, A Charter Amendment Adopting A Water Policy for the Town of Johnstown
- [19.](#) Ordinance No. 2023-248 Repealing Articles I-VIII of Chapter 6 and Readopting Articles I-IV of Chapter 6 of the Johnstown Municipal Code
- [20.](#) Public Hearing – Ordinance 2023-249 amending Article XII of Chapter 10 of the Johnstown Municipal Code, including Sec. 10-44(a)(4) - Harassment, Sec.10-62- Criminal Trespass, Article IX -Fireworks, and Article XII- Tobacco.

COUNCIL REPORTS AND COMMENTS

MAYOR’S COMMENTS

INFORMATIONAL ITEMS

- [21.](#) Informational Items

SWEARING IN OF MAYOR TROY MELLON

PRESENTATION OF PROCLAMATION

- [22.](#) Proclamation In Recognition of the Service of Mayor Gary Lebsack

APPOINTMENT OF MAYOR PRO TEM

ADJOURN

AMERICANS WITH DISABILITIES ACT NOTICE

In accordance with the Americans with Disabilities Act and other applicable laws, persons who need accommodation in order to attend or participate in this meeting should contact Town Hall at 970-587-4664 no later than 48 hours before the meeting in order to request such assistance.

De conformidad con la Ley de Discapitados Estadounidenses y otras leyes vigentes, los individuos que necesitan adaptaciones funcionales para asistir o participar en esta reunión deberán comunicarse con la Municipalidad marcando el 970 587- 4664 a lo más tardar 48 horas antes de dicha reunión para solicitarla.



Town of Johnstown

PROCLAMATION FOSTER CARE MONTH PROCLAMATION

Presented To Envoi Associates

- WHEREAS,** children are key to Colorado’s future success, prosperity and quality of life; and
- WHEREAS,** children have a right to thrive, learn and grow in a safe environment; and
- WHEREAS,** foster parents provide the care, safety and stability for children and youth in foster care whose parents need time to learn new skills to become the parents their kids need them to be; and
- WHEREAS,** each day in Colorado, approximately 10 children and youth enter foster care while a child’s parent(s) or caregiver(s) address safety concerns in the home; and
- WHEREAS,** Colorado foster parents are caring for more than 3,700 children and youth in out- of-home placement today; and
- WHEREAS,** there are approximately 375 children and youth in foster care in Colorado living in residential facilities and group-based care who need stable and caring homes to live and grow in a family-like setting; and
- WHEREAS,** to care for older youth, children with complex behavioral and mental health needs, siblings groups, youth of differing gender identities and sexual orientation, and children whose first language in not English; and
- WHEREAS,** we must recognize the important role foster parents play in caring for children who have experienced abuse and neglect, supporting family reunification and building strong communities; and
- WHEREAS,** we all play a role in ensuring Colorado’s children are healthy and safe, and are able to reach their full potential; and
- WHEREAS,** supporting children and youth in foster care, their foster families or kinship providers, biological families, and services that support foster children can change generations, break cycles of abuse, prevent exploitation, and give children the opportunity to thrive.

NOW, THEREFORE, BE IT RESOLVED BY THE

TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO THAT:

*I, Gary Lebsack, Mayor of the Town of Johnstown, Colorado on the 1st of May 2023, do hereby proclaim
May Foster Care Month in Johnstown*

TOWN OF JOHNSTOWN, COLORADO

By: _____
Gary Lebsack, Mayor

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Town of Johnstown

PROCLAMATION

MENTAL HEALTH MONTH PROCLAMATION

- WHEREAS,** now, more than ever, we must understand that the health of our minds is as important as physical health; and
- WHEREAS,** one in every four people are affected by mental illness, with more Weld County residents having reported mental health challenges such as depression, anxiety, or other mental health conditions than in years past; and
- WHEREAS,** Johnstown residents can find recovery through a variety of outpatient, residential, and critical walk-in crisis support options through Weld County’s community mental health center, North Range Behavioral Health; and
- WHEREAS,** Johnstown residents are healthier because of North Range’s commitment to preventing hospitalizations, incarcerations, trauma, suicides, and substance use disorder through collaboration with community health centers, school districts, human services, law enforcement, United Way, and many others; and
- WHEREAS,** National Mental Health Month is observed every May to raise awareness about behavioral health, recovery and hope, the importance of prevention, and the factors that contribute to mental wellness; and
- WHEREAS,** we the Town Council of Johnstown call upon the citizens, government agencies, public and private institutions, businesses and schools to recommit our community to increasing awareness and understanding of behavioral health and understanding the need for appropriate and accessible services for all citizens.

NOW, THEREFORE, BE IT RESOLVED BY THE

TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO THAT:

I, Gary Lebsack, Mayor of the Town of Johnstown, Colorado on the 1st of May 2023, do hereby proclaim May Mental Health Month in Johnstown.

TOWN OF JOHNSTOWN, COLORADO

By: _____
Gary Lebsack, Mayor

The Community That Cares

johnstown.colorado.gov

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Town of Johnstown

PROCLAMATION

PUBLIC SERVICE WEEK PROCLAMATION

WHEREAS, Americans are served every day by public servants at the federal, state, county and town levels, who supply continuity to our communities; and

WHEREAS, public employees and community volunteers serve in areas such as health, education, public safety, the arts, the environment, finance, public infrastructure, community planning, human rights, recreation, government administration, economic development, and more; and

WHEREAS, the public employees of the Town of Johnstown are committed to exhibiting the highest standards of professional excellence, creativity, skill, and customer service; and

WHEREAS, the dedicated volunteers who serve on Town of Johnstown commissions inform and advise policymakers and are integral to the advancement of the quality of life that we enjoy here; and

WHEREAS, the efficiency of government relies on public employees and volunteers, who provide services in the quality and quantity required and expected by the public; and

WHEREAS, the Town of Johnstown recognizes the generous contributions of time and talent by public employees and community volunteers, and the importance of the services they render;

NOW, THEREFORE, BE IT RESOLVED BY THE

TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO THAT:

*I, Gary Lebsack, Mayor of the Town of Johnstown, do hereby proclaim May 7-13, 2023 as **Public Service Recognition Week** in the Town of Johnstown and call upon all residents to recognize and express their appreciation for the important contributions of public employees and community volunteers throughout the Town of Johnstown.*

TOWN OF JOHNSTOWN, COLORADO

By: _____
Gary Lebsack, Mayor

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8th Judicial District Attorney

2023

JOHNSTOWN TOWN
BOARD



8th Judicial District
Larimer & Jackson
Counties (pop. ~370,000)
6th most populous JD

www.larimer.gov/da
[@DA8Colorado](https://www.facebook.com/DA8Colorado)
on Facebook & Twitter

Mission

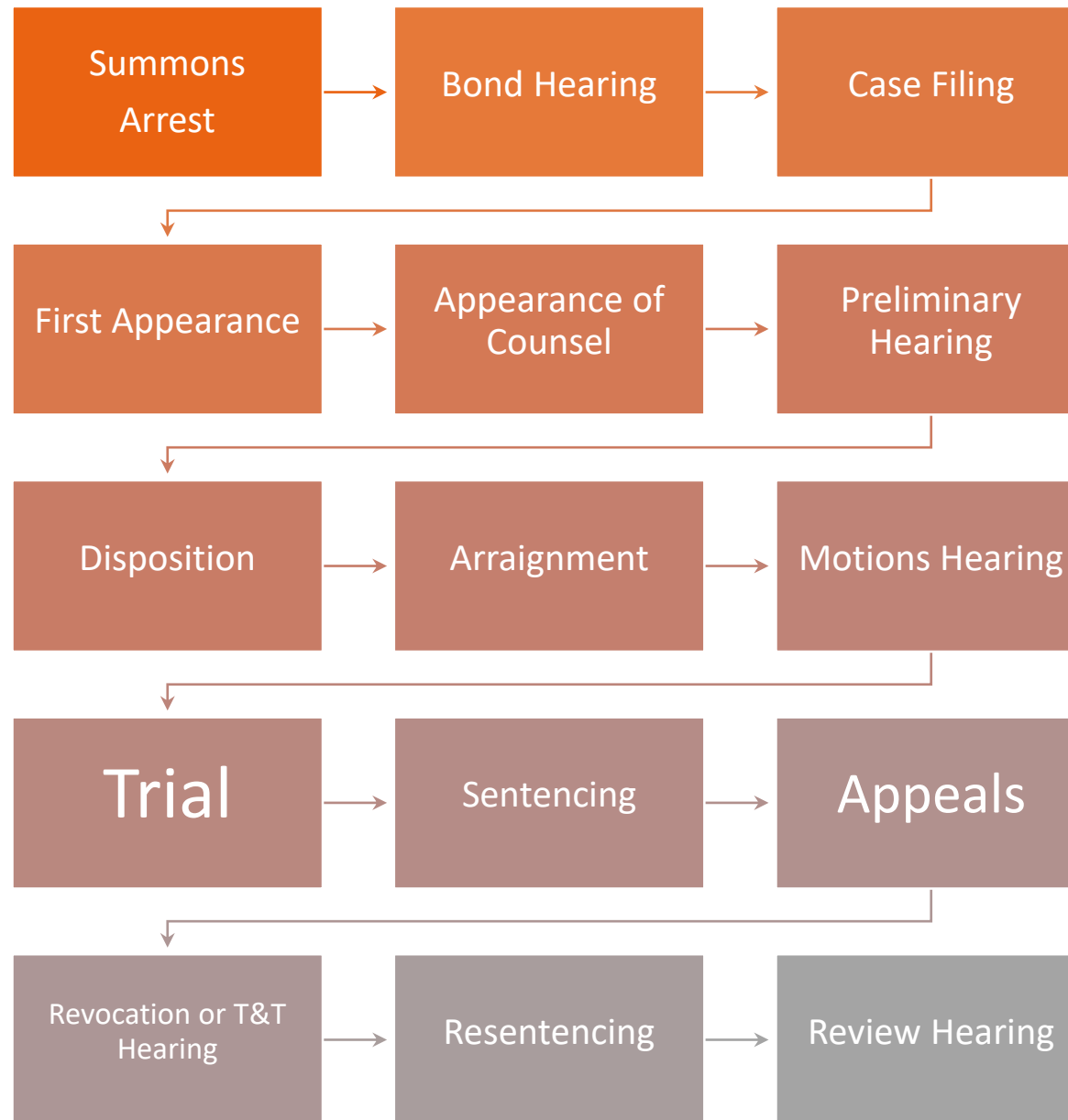
The District Attorney's office serves to seek justice and ensure the safety of our community in an equitable manner. Every day we work to thoughtfully prosecute crime, protect victims of crime, address systemic bias, rectify injustice, and provide transparency about our work. We are zealous advocates for the truth and fair practitioners of justice.

Vision

To protect and serve Larimer and Jackson counties, while creating a stronger community where the application of criminal justice is more equitable and no longer at odds with social justice.

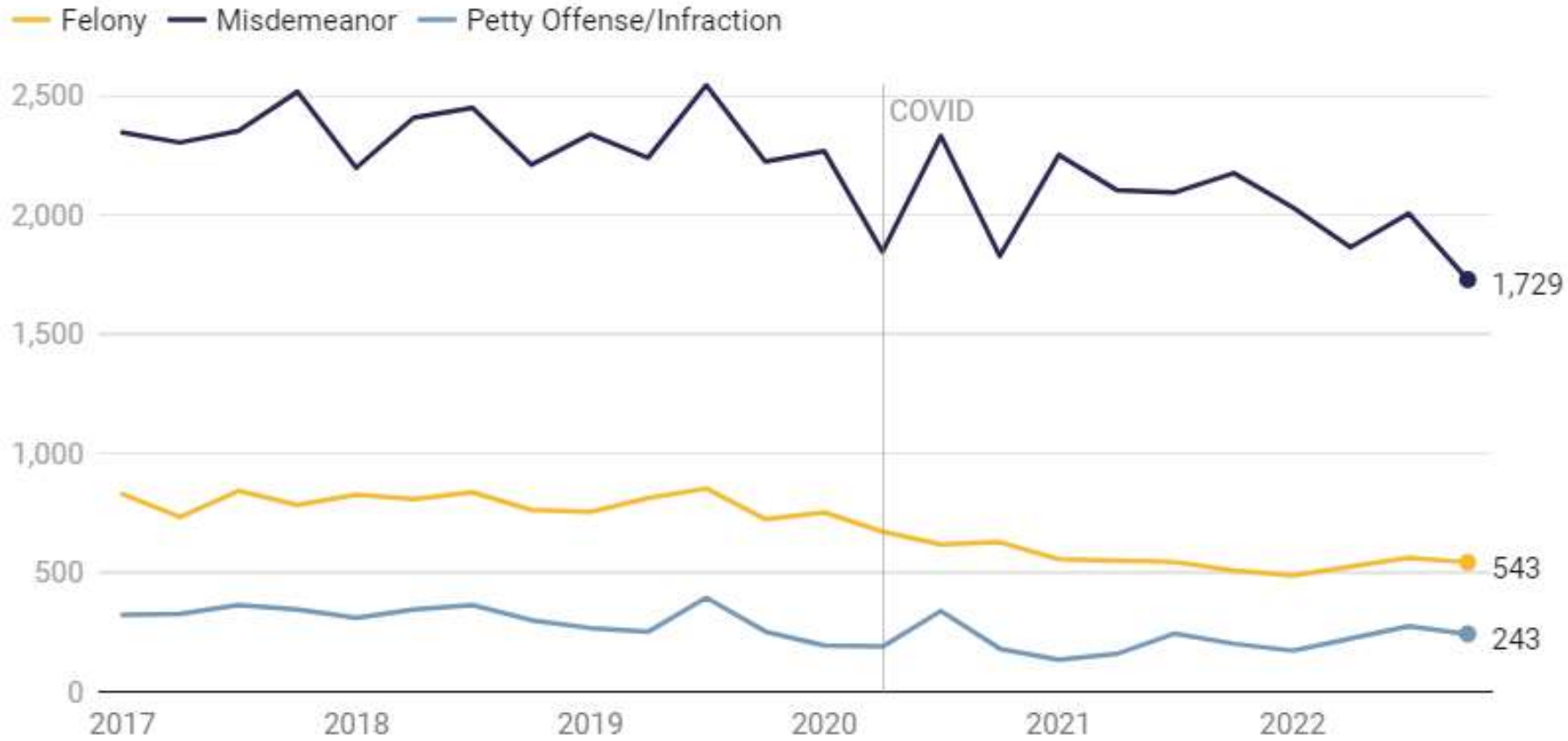


Case Roadmap



Item #5.

Number of Cases Filed, by Quarter and Charge Level



The charge level represents the most serious charge filed in a case. Cases grouped by filing date.

[Get the data](#)

Programs & Projects

Adult Diversion

- New Grant funded program
- Restorative Justice
- 2022:
 - 358 individuals diverted
 - 91% success rate

Complex Case Prosecutor

- Fentanyl distribution & gun crimes
- Charged 2 distribution causing death cases since July

Competency Court Docket

- Efficient treatment & services for those w/ MH needs
- State/nationwide model

Northern Colorado Economic Crime Task Force

- \$358,000 in restitution for LL credit card skim
- \$100,000 in restitution for taxpayer library funds

CIRT Protocol Update

- Ensuring independent investigations of more uses of force
- 10 full CIRT Investigations in 2022 & dozens of consultations

Victim Services

- Victim & witness support
- Courtroom Facility Dog
- Restitution & Crime Victims Compensation

Brand New Nation Leading Data Dashboard!

Larimer.gov/da



Statistics

National Research Partnerships

- PPI & University of Denver Action Lab
- 8 JDs & growing

Transparency

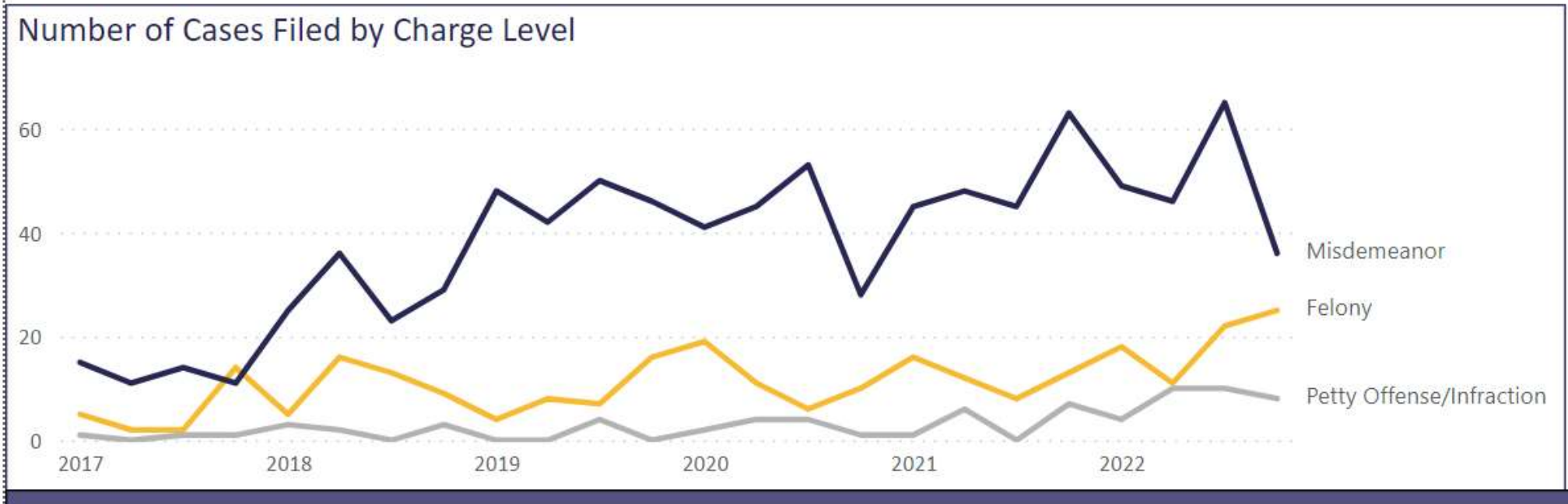
- Largest data transparency project in the country
- Accountability & Trust w/ community, victims, & jurors

Data-Driven Decision Making

- Comprehensive insight into what we do & if we're effective
- Leverage success & identify areas for improvement

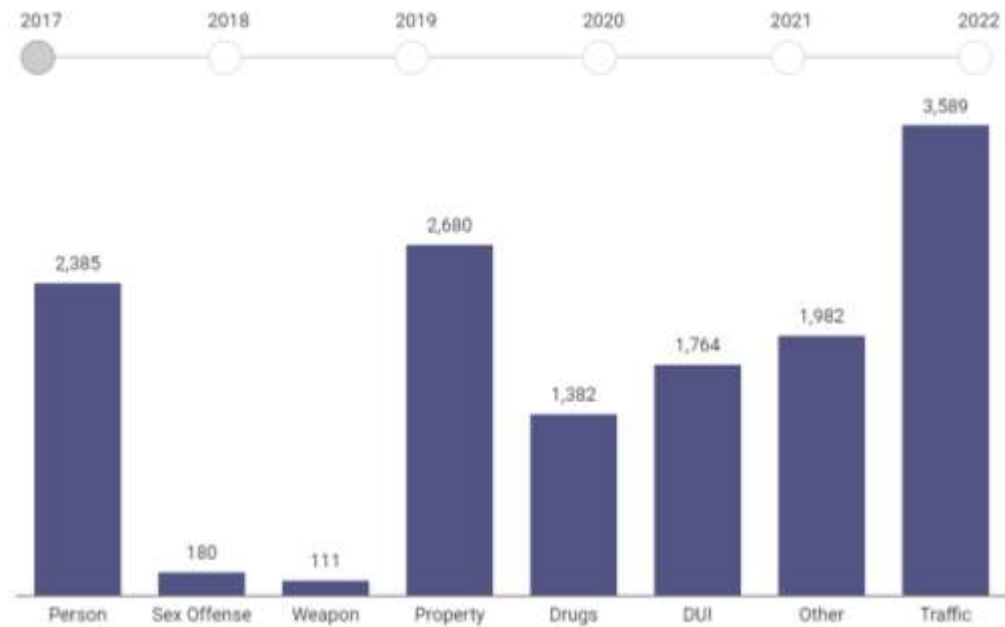
Starting Point

- Data to inform our ability to ask deeper questions and assess possible action steps to improve our public service

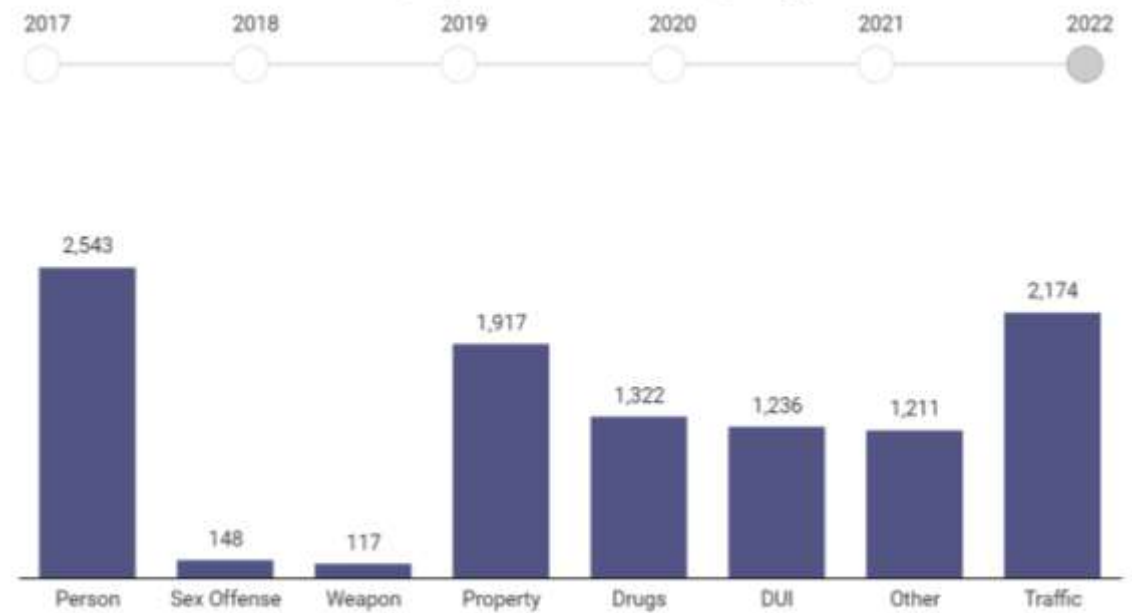


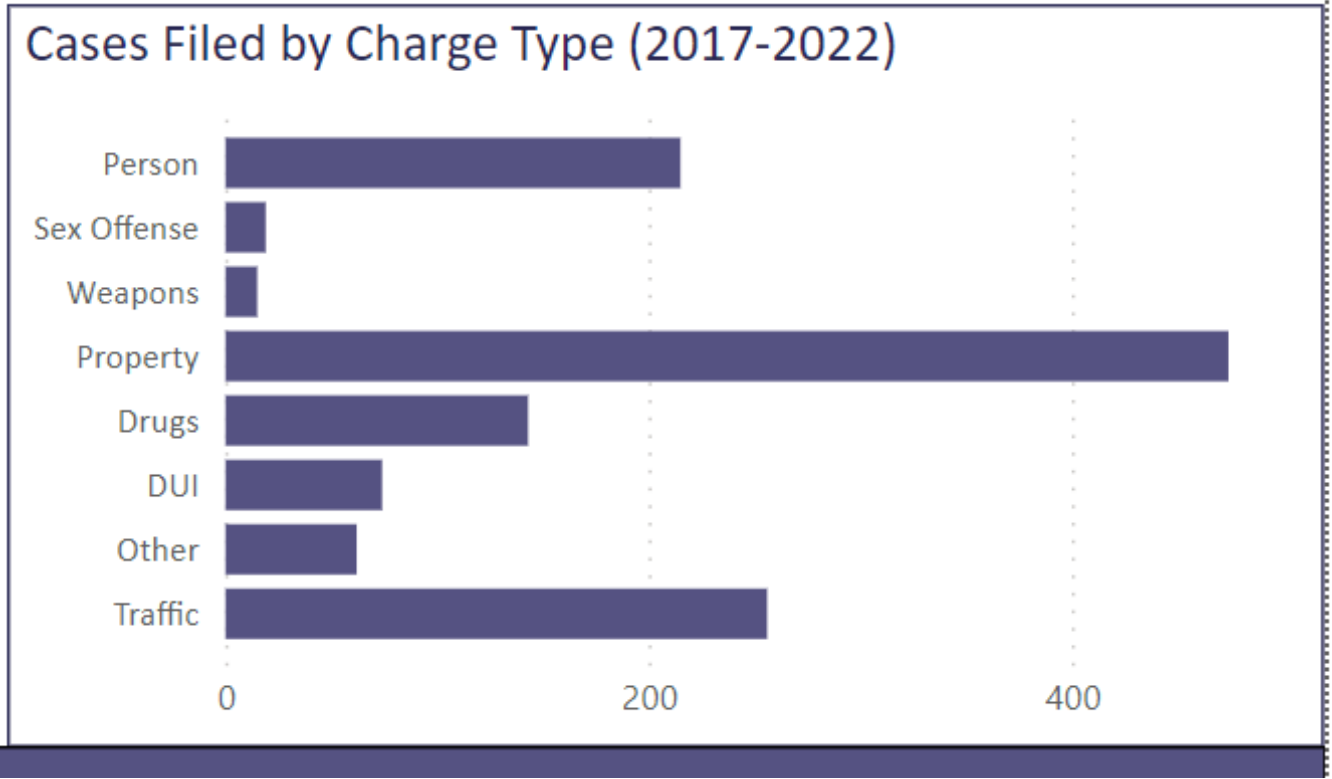
Johnstown PD Total Case Filings

Number of Cases Filed, by Year and Charge Type



Number of Cases Filed, by Year and Charge Type



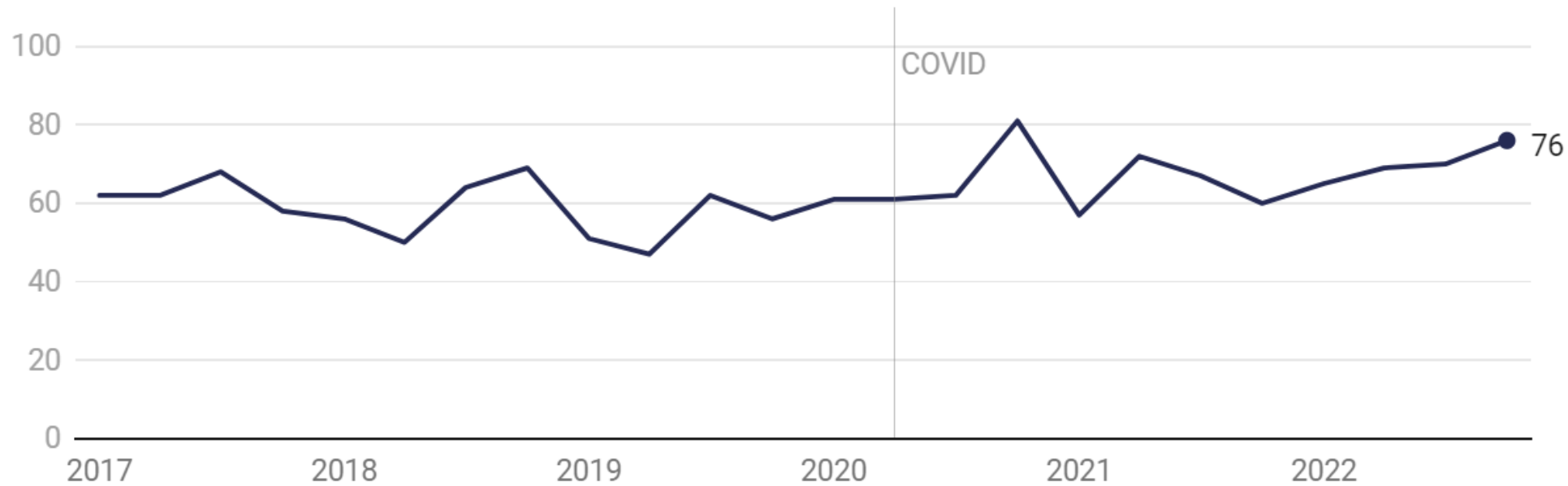


Johnstown PD Case Filings by Type

Violent Crimes Filed, by Quarter

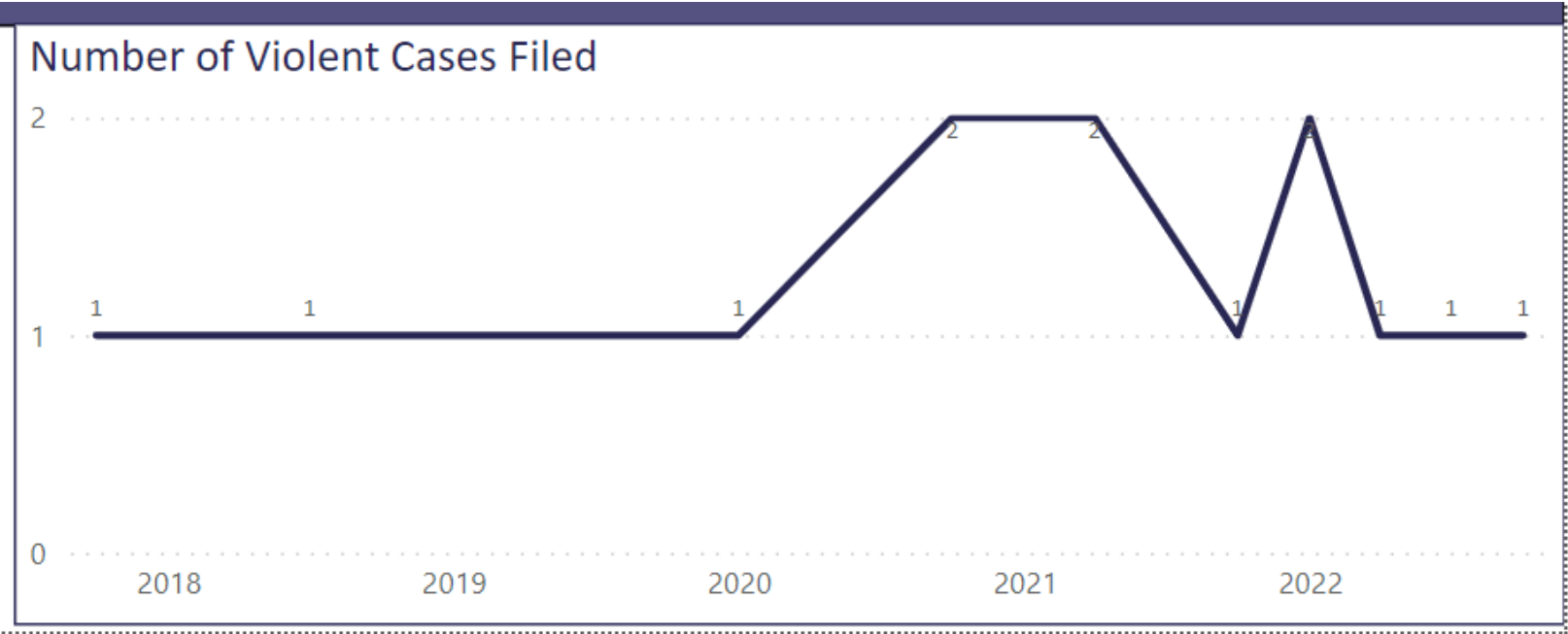
This chart shows the number of felony cases filed for prosecution that involved a violent crime charge. Understanding trends in the number of cases involving a violent crime charge can help to develop more effective and efficient responses to crime.

— Number of violent cases filed per quarter



For a complete list of crimes included in Violent Crime see Definitions under Technical Notes. Cases grouped by filing date.

Source: [Prosecutorial Performance Indicators PPI 4.1](#) • [Get the data](#)



Johnstown PD Violent Crime Filings

Table 2: Motor Vehicle Crime Rate Versus Income Distribution		
Motor Vehicle Theft	MV Theft Crime Rate Jan-June 2022	Ratio of High to Low Income to Poverty Rate
Adams	216	1.54
Arapahoe	38	2.92
Boulder	21.7	5.03
Broomfield	50.2	7.95
Denver	176.6	2.07
Douglas	14.5	10.66
El Paso	37.7	1.88
Jefferson	63.4	4.79
Larimer	16.5	3.27
Mesa	21.5	1.33
Pueblo	87.9	0.84
Weld	46.7	1.73

Per 100,000 residents

Motor Vehicle Theft Comparisons

Source: Common Sense Institute Report 9.8.22

Thank You!

Please Reach
Out

In Person: Loveland Police & Courts Building (810 E 10th St)
Larimer County Justice Center (201 LaPorte Ave)

Online: Larimer.gov/da (Data Dashboard, CIRT Findings, Victim Services, etc)

Email: 8thdist-da@co.larimer.co.us

Phone: (970) 498-7200

Facebook: DA8Colorado

Twitter: @DA8Colorado



Town of Johnstown

TOWN COUNCIL REGULAR MEETING

450 S. Parish, Johnstown, CO
Monday, April 17, 2023 at 7:00 PM

MINUTES

CALL TO ORDER

Mayor Lebsack called to order the April 17th, 2023 Regular Council meeting at 7:00 p.m. and led the Pledge of Allegiance.

Pledge of Allegiance

ROLL CALL

Present:

Councilmember Berg
Councilmember Mellon
Councilmember Molinar
Councilmember Morris
Councilmember Young
Mayor Lebsack

Absent:

Councilmember Dominguez

AGENDA APPROVAL

Councilmember Berg moved to approve the agenda.

Councilmember Morris seconded and the motion passed.

SPECIAL PRESENTATIONS

1. Arbor Day Proclamation

Mayor Lebsack read the Arbor Day Proclamation, proclaiming April 28th, 2023 as Arbor Day in the Town of Johnstown.

2. Weld County Department of Public Health and Environment Presentation

Eric Aakko presented the key findings overview from the Weld County Community Health Department. Council asked for follow-up on specific data related to Johnstown and Milliken, which Mr. Aakko noted he would send via email.

PUBLIC COMMENT

Pamela Douglas spoke on behalf of Weld County GOP, extending an invitation for a dinner event.

Joe Ciancio introduced himself, noting he has been hired as an additional position as a Parks and Recreation Director for TRPR.

CONSENT AGENDA

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Councilmember Morris moved to approve the consent agenda.

Councilmember Berg seconded and the motion passed.

3. April 3, 2023 Meeting Minutes
4. Resolution 2023-20: Opposing Statewide Land Use And Zoning Preemptions In Senate Bill 23-213
5. Agreement For Disaster-Emergency Mutual Aid and Disaster-Emergency Funding Assistance
6. Water & Sewer Service Agreement - Sunbelt Rentals with MPV SBR Investors III, LLC
7. March 2023 Financial Statements

TOWN MANAGER REPORT

Matt LeCerf, Town Manager, noted inside the informational packet was a memo from Milliken Hillsborough Change Case.

TOWN ATTORNEY REPORT

There was no Town Attorney report.

OLD BUSINESS

8. Resolution 2023-16: Findings Of Fact and Conclusions Based Thereon With Respect to the Archdiocese Annexation Nos. 1-3

Kim Meyer, Planning and Building Director, presented this resolution, noting a few changes in the annexation as it has gone through the process with Council.

Councilmember Mellon moved to approve Resolution 2023-16 Findings of Fact and Conclusions based thereon with respect to the Archdiocese Annexation No. 1-3.

Councilmember Morris seconded and the motion passed.

NEW BUSINESS

9. Discussion - Water Policy

Mr. LeCerf presented this item, noting the Council discussed this item at their Council Retreat, with the intent to see if Council would like present this item to the voters in the April 2024 election as a change to the Home Rule Charter.

Discussion took place regarding the language in the proposed water policy, providing direction to Mr. LeCerf to proceed with a possible ballot question.

PUBLIC HEARING

10. Ordinance 2023-244 regarding the Archdiocese Annexation Nos. 1-3

Mayor Lebsack opened the public hearing for this item.

Ms. Meyer noted the location of the annexation. Planning and Zoning Commission, the Town Review Committee and the Town of Milliken have reviewed this annexation and the Planning and Zoning Commission recommends approval.

The Project Developer for SunShare, Liz Scanlan-Rye, noted after annexation the desire would be to be permitted for a solar field.

Jared Laraway, representing Archdiocese of Denver, spoke to the land use and purpose of the annexation to provide lower cost electricity to lower income schools, parishes', and residential community within the Catholic Church. Ms. Scanlan-Rye noted the solar use would be discussed later on the agenda.

Mayor Lebsack opened public comment to parties of interest for those in favor of this item, to which there was none.

Mayor Lebsack opened public comment to parties of interest for those opposed to this item, to which there was none.

Mayor Lebsack closed the public hearing.

Councilmember Morris moved to approve Ordinance 2023-244 on first reading.

Councilmember Young seconded and the motion passed.

11. Ordinance 2023-245 Approving PUD-MU Zoning for the properties known as Archdiocese Annexation Nos. 1-3

Mayor Lebsack opened the public hearing for this item.

Ms. Meyer noted the location, with the entire parcel being recommended to be zoned PUD-MU. The Johnstown Review Committee, Town of Milliken, and Weld County reviewed this application. Planning and Zoning Commission also reviewed this item, and recommend approval.

Mayor Lebsack opened public comment to parties of interest for those in favor of this item, to which there was none.

Mayor Lebsack opened public comment to parties of interest for those opposed to this item, to which there was none.

Mayor Lebsack closed the public hearing.

Councilmember Young moved to approve PUD-MU Zoning for the property known as Archdiocese Annexation Nos. 1, 2 and 3 on First Reading.

Councilmember Morris seconded and the motion passed.

12. Ordinance 2023-246 Approving the Outline Development Plan for Dove Solar

Mayor Lebsack opened the public hearing for this item.

Ms. Meyer reviewed the parcel location of this plan for Dove Solar, noting current Municipal Code does not speak to solar use. This item does include minimum standards for the solar facility, including setbacks, fencing and seeding. Planning and Zoning Commission does recommend approval of this item.

Mayor Lebsack opened public comment to parties of interest for those in favor of this item, to which there was none. .

Mayor Lebsack opened public comment to parties of interest for those opposed to this item, to which there was none.

Mayor Lebsack closed the public hearing.

Councilmember Berg moved that the Town Council Ordinance 2023-246 Approving the Outline Development Plan for Dove Solar, on First Reading.

Councilmember Young seconded and the motion passed.

13. Resolution 2023-17 Approving a Use by Special Review for the Dove Solar Array

Mayor Lebsack opened the public hearing for this item.

Ms. Meyer introduced this item and reviewed the site plan, noting that a public comment at the Public Hearing during Planning and Zoning Commission was received regarding type of seeds used. Planning and Zoning Commission recommends approval of this item.

The applicant from SunShare, Liz Scanlon-Rye, reviewed the dual application noting they are the oldest community solar developer in the country. The project will be built as a part of Xcel's Solar Rewards Community program, and at the end of the project the land will be returned to current conditions.

Mayor Lebsack opened public comment to parties of interest for those in favor of this item, to which there was none.

Mayor Lebsack opened public comment to parties of interest for those opposed to this item, to which there was none.

Mayor Lebsack closed the public hearing.

Councilmember Young moved to approve Resolution 2023-17.

Councilmember Morris seconded and the motion passed.

14. Ordinance 2023-247 Repealing Chapters 15, 16 and 17 of the Johnstown Municipal Code, and Readopting Chapter 17 of the Johnstown Municipal Code to adopt the Johnstown Land Use & Development Code by Reference

Mayor Lebsack opened the public hearing for this item.

Ms. Meyer briefly reviewed the past discussions with Council, and noted the key changes in proposed code. Council inquired about parking requirements for areas such as apartments. Ms. Meyer clarified that it is not included in the ordinance as it stands but confirmed with Council that staff would look at what a good requirement would be.

The Impact Fee Schedule placement was noted for clarification as needing to be codified, not included in the Fee Schedule.

Mayor Lebsack opened public comment to parties of interest for those in favor of this item, to which there was none.

Mayor Lebsack opened public comment to parties of interest for those opposed to this item, to which there was none.

Mayor Lebsack closed the public hearing.

Councilmember Berg moved that the Town Council approve Ordinance No. 2023-247 Repealing Chapters 15, 16 and 17 of the Johnstown Municipal Code, and Readopting Chapter 17 of the Johnstown Municipal Code to adopt the Johnstown Land Use & Development Code by Reference

Councilmember Mellon moved and the motion passed.

COUNCIL REPORTS AND COMMENTS

Councilmember Mellon reported on a MPO meeting and lists of transportation projects.

Councilmember Berg noted the unveiling of the Veteran's Memorial and current progress on that project.

MAYOR'S COMMENTS

Mayor Lebsack announced his resignation as Mayor, effective at the May 1, 2023 Town Council meeting as he will no longer be a resident of Johnstown.

INFORMATIONAL ITEMS

Informational items were included in the packet.

15. Informational Items

ADJOURN

Mayor Lebsack adjourned the April 17, 2023 meeting at 9:26 pm.

Gary Lebsack, Mayor

Hannah Hill, Town Clerk



Town of Johnstown

TOWN COUNCIL CONSENT AGENDA COMMUNICATIONS

AGENDA DATE: May 1, 2023

SUBJECT: Ordinance 2023-244 Approving the Archdiocese Annexation Nos. 1-3

ATTACHMENTS: 1. Ordinance 2023-244

PRESENTED BY: Kim Meyer, Planning & Development Director

AGENDA ITEM DESCRIPTION:

The Council held a public hearing on April 17, 2023, and approved Ordinance No. 2023-244 on first reading. Approval of this agenda item will be the final approval of the Ordinance and cause the property to be annexed into the Town of Johnstown, as requested by the owner.

LEGAL ADVICE:

The Town Attorney drafted the Ordinance.

FINANCIAL ADVICE:

NA

RECOMMENDED ACTION:

Approve Ordinance 2023-244 Approving the Archdiocese Annexation Nos. 1-3

Reviewed and Approved for Presentation,

Town Manager

The Community That Cares

www.TownofJohnstown.com

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**TOWN OF JOHNSTOWN, COLORADO
ORDINANCE NO. 2023-244**

ANNEXING CERTAIN UNINCORPORATED LANDS LOCATED IN PORTIONS OF THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 16 AND THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 4 NORTH, RANGE 67 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO, CONSISTING OF APPROXIMATELY 47.49 ACRES, AND KNOWN RESPECTIVELY AS THE ARCHDIOCESE ANNEXATION NOS. 1-3.

WHEREAS, the Town of Johnstown, Colorado (“Town”) is a Colorado home rule municipality, duly organized and existing under the laws of the State of Colorado and the Town’s Home Rule Charter; and

WHEREAS, the Town Council is vested with authority to administer the affairs of the Town; and

WHEREAS, by Resolution No. 2023-06, the Town Council found a petition for annexation of certain property situated in a portion of Sections 15 and 16, Township 4 North, Range 67 West of the 6th P.M., County of Weld, State of Colorado, consisting of approximately 82.59 acres, known as the “Archdiocese Annexation No. 1 and Archdiocese Annexation No. 2,” to be in substantial compliance with C.R.S. § 31-12-107(1); and

WHEREAS, subsequent thereto, the Archdiocese modified its request and only seeks to annex 47.49 acres of the 82.59 acres into the municipal boundaries of the Town in order to exclude lands which contain the Little Thompson/Hillsborough Reservoir and Ditch; and

WHEREAS, consistent with the foregoing, the Archdiocese seeks to annex a Portion of the North Half of the Northeast Quarter of Section 16 and a Portion of the West Half of the Northwest Quarter of Section 15, Township 4 North, Range 67 West of the 6th P.M., County of Weld, State of Colorado, consisting of approximately 47.49 acres, as more particularly described on Exhibit A, attached hereto and incorporated herein by reference, known as the “Archdiocese Annexation Nos. 1-3;”

WHEREAS, after notice pursuant to C.R.S. § 31-12-108, on April 17, 2023, the Town Council held a public hearing on the proposed annexation to determine if the annexation complies with C.R.S. §§ 31-12-104 and 105; and

WHEREAS, the Town Council has determined that the requirements of C.R.S. § 31-12-104 and 105 have been met, that an election is not required and that no additional terms or conditions are to be imposed on the annexed area.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO, THAT:

Section 1. The annexation of certain unincorporated property situated in a Portion of the North Half of the Northeast Quarter of Section 16 and a Portion of the West Half of the Northwest Quarter of Section 15, Township 4 North, Range 67 West of the 6th P.M., County of Weld, State of Colorado, consisting of approximately 47.49 acres, being more particularly described on Exhibit A, known as the Archdiocese Annexation Nos. 1-3, be and the same is hereby approved and said unincorporated area is hereby incorporated and made a part of the Town of Johnstown, Colorado.

Section 2. The annexation of such unincorporated area to the Town of Johnstown, Colorado shall be complete and effective on the effective date of this Ordinance, except for the purpose of general property taxes, and shall be effective as to general property taxes on and after the first day of January, 2024.

Section 3. Within thirty (30) days of the effective date of this Ordinance, the Town Clerk be and is hereby authorized and directed to:

- A. File one copy of the annexation map with the original of the annexation ordinance in the office of the Town Clerk; and
- B. File three certified copies of the annexation ordinance and map of the area annexed containing a legal description of such area with the Weld County Clerk and Recorder.

Section 4. This Ordinance shall take effect as provided by State law.

INTRODUCED AND APPROVED on first reading by the Town Council of the Town of Johnstown, Colorado, this 17th day of April, 2023.

ATTEST:

By: Hannah Hill
Hannah Hill, Town Clerk



TOWN OF JOHNSTOWN, COLORADO
Gary Lebsack
Gary Lebsack, Mayor

PASSED UPON FINAL APPROVAL AND ADOPTED on second reading by the Town Council of the Town of Johnstown, Colorado, this ____ day of _____, 2023.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Hannah Hill, Town Clerk

By: _____
Gary Lebsack, Mayor

EXHIBIT A**PROPERTY DESCRIPTION:****ARCHDIOCESE ANNEXATION No. 1**

An area of land being a portion of the Northwest Quarter of the Northeast Quarter (NW1/4NE1/4) of Section Sixteen (16), Township Four North (T.4N.), Range Sixty-seven West (R.67W.) of the Sixth Principal Meridian (6th P.M.), County of Weld, State of Colorado, being more particularly described as follows;

COMMENCING at the North Quarter corner of said Section 16 and assuming the North line of the Northeast at the North Quarter corner of said Section 16 and assuming the North line of the Northeast Quarter (NE1/4) of said Section 16 as monumented by a #6 rebar with a 3.25" aluminum cap stamped LS 7242 at the West end and a 2.5" aluminum pipe with a 3.25" aluminum cap stamped LS 13155 at the East end, as bearing South 88°26'46" East, being a grid bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983 (2011), a distance of 2722.98 feet, with all other bearings contained herein being relative thereto.

The lineal dimensions as contained herein are based upon the "U.S. Survey Foot".

THENCE South 01°04'34" East along the West line of the NE1/4 of said Section 16 a distance of 1054.41 feet to the POINT OF BEGINNING;
 THENCE South 79°32'21" East a distance of 673.25 feet;
 THENCE South 77°23'12" West a distance of 673.25 feet to the Center North Sixteenth corner of said Section 16;
 THENCE North 01°04'34" West along the West line of the NW1/4NW1/4 a distance of 269.30 feet to the POINT OF BEGINNING.

Said area of land contains 2.04 Acres (+/-88,822 sq.ft.) and is subject to any rights-of-way or other easements of record as now existing on said described parcel of land.

AND

ARCHDIOCESE ANNEXATION No. 2

An area of land being a portion of the North Half of the Northeast Quarter (N1/2NE1/4) of Section Sixteen (16), Township Four North (T.4N.), Range Sixty-seven West (R.67W.) of the Sixth Principal Meridian (6th P.M.), County of Weld, State of Colorado, being more particularly described as follows;

COMMENCING at the North Quarter corner of said Section 16 and assuming the North line of the Northeast at the North Quarter corner of said Section 16 and assuming the North line of the Northeast Quarter (NE1/4) of said Section 16 as monumented by a #6 rebar with a 3.25"

aluminum cap stamped LS 7242 at the West aluminum cap stamped LS 7242 at the West end and a 2.5" aluminum pipe with a 3.25" aluminum cap stamped LS 13155 at the East end, as bearing aluminum pipe with a 3.25" aluminum cap stamped LS 13155 at the East end, as bearing aluminum cap stamped LS 13155 at the East end, as bearing South 88°26'46" East, being a grid bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983 (2011), a distance of 2722.98 feet, with all other bearings contained herein being relative thereto.

The lineal dimensions as contained herein are based upon the "U.S. Survey Foot".

THENCE South 01°04'34" East along the West line of the NE1/4 of said Section 16 a distance of 1054.41 feet to the POINT OF BEGINNING;
 THENCE South 89°01'10" East a distance of 1357.98 feet;
 THENCE North 00°54'49" West a distance of 756.16 feet;
 THENCE North 90°00'00" East a distance of 376.23 feet;
 THENCE North 00°00'16" East a distance of 274.14 feet to the North line of said N1/2NE1/4;
 THENCE South 88°26'46" East along said North line a distance of 466.38 feet;
 THENCE South 00°44'27" East a distance of 1301.34 feet to the South line of said N1/2NE1/4;
 THENCE North 89°01'10" West along said South line a distance of 2200.27 feet to the Center North Sixteenth corner of said Section 16;
 THENCE North 77°23'12" East a distance of 673.25 feet;
 THENCE North 79°32'21" West a distance of 673.25 feet to the POINT OF BEGINNING.

Said area of land contains 29.24 Acres (+/-1,273,591 sq.ft.) and is subject to any rights-of-way or other easements of record as now existing on said described parcel of land.

AND

ARCHDIOCESE ANNEXATION No. 3

An area of land being a portion of the Northeast Quarter of the Northeast Quarter (NE1/4NE1/4) of Section Sixteen (16) and a portion of the West Half of the Northwest Quarter (W1/2NW1/4) of Section Fifteen (15), both of Township Four North (T.4N.), Range Sixty-seven West (R.67W.) of the Sixth Principal Meridian (6th P.M.), County of Weld, State of Colorado, being more particularly described as follows;

COMMENCING at the North Quarter corner of said Section 16 and assuming the North line of the Northeast at the North Quarter corner of said Section 16 and assuming the North line of the Northeast Quarter (NE1/4) of said Section 16 as monumented by a #6 rebar with a 3.25" aluminum cap stamped LS 7242 at the West aluminum cap stamped LS 7242 at the West end and a 2.5" aluminum pipe with a 3.25" aluminum cap stamped LS 13155 at the East end, as bearing aluminum pipe with a 3.25" aluminum cap stamped LS 13155 at the East end, as bearing aluminum cap stamped LS 13155 at the East end, as bearing South 88°26'46" East, being a grid bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983 (2011), a distance of 2722.98 feet, with all other bearings contained herein being relative thereto.

The lineal dimensions as contained herein are based upon the "U.S. Survey Foot".

THENCE South 88°26'46" East along the North line of the NE1/4 of said Section 16 a distance of 2208.80 feet to the POINT OF BEGINNING;

THENCE continuing South 88°26'46" East along said North line a distance of 514.19 feet to the Northeast corner of said Section 16;

THENCE South 89°22'30" East along the approximate North line of said W1/2NW1/4 of Section 15 a distance of 30.01 feet to the East right-of-way line of County Road Nineteen (19);

THENCE South 00°44'50" East along said East right-of-way line a distance of 1296.39 feet to the Easterly extension of the South line of said NE1/4NE1/4 of Section 16;

THENCE North 89°01'10" West along said Easterly extension a distance of 30.01 feet to the North Sixteenth corner of said Sections;

THENCE continuing North 89°01'10" West along said South line of the NE1/4NE1/4 a distance of 514.15 feet;

THENCE North 00°44'27" West a distance of 1301.34 feet to the North line of said NE1/4NE1/4 of Section 16 and to the POINT OF BEGINNING.

Said area of land contains 16.21 Acres (+/-706,259 sq.ft.) and is subject to any rights-of-way or other easements of record as now existing on said described parcel of land.

PREPARED BY:

Lat40°, Inc.
Professional Land Surveyors
 6250 W. 10th Street, Unit 2
 Greeley, CO 80634
 (970) 515-529



Town of Johnstown

TOWN COUNCIL CONSENT AGENDA COMMUNICATIONS

AGENDA DATE: May 1, 2023

SUBJECT: Ordinance 2023-245 Approving PUD-MU Zoning for the Archdiocese Annexation Nos. 1-3

ATTACHMENTS: 1. Ordinance 2023-245

PRESENTED BY: Kim Meyer, Planning & Development Director

AGENDA ITEM DESCRIPTION:

The Council held a public hearing on April 17, 2023, and approved Ordinance No. 2023-245 on first reading. Approval of this item will apply PUD-MU zoning for the 47.49 acre property.

LEGAL ADVICE:

The Town Attorney drafted the Ordinance.

FINANCIAL ADVICE:

NA

RECOMMENDED ACTION:

Approve Ordinance 2023-244 Approving PUD-MU Zoning for the Archdiocese Annexation Nos. 1-3.

Reviewed and Approved for Presentation,

Town Manager

The Community That Cares

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P: 970.587.4664 | 450 S. Parish Ave, Johnstown CO | F: 970.587.0141

TOWN OF JOHNSTOWN, COLORADO
ORDINANCE NO. 2023-245

APPROVAL OF PUD-MU ZONING OF THE PROPERTY KNOWN AS THE ARCHDIOCESE ANNEXATION NOS. 1-3, LOCATED IN A PORTION OF THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 16, AND A PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 4 NORTH, RANGE 67 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO, CONSISTING OF APPROXIMATELY 47.49 ACRES

WHEREAS, the Town of Johnstown, Colorado (“Town”) is a Colorado home rule municipality, duly organized and existing under the laws of the State of Colorado and the Town’s Home Rule Charter; and

WHEREAS, the Town Council is vested with authority to administer the affairs of the Town; and

WHEREAS, the Town Council approved the annexation of certain property situated in portions of the North Half of the Northeast quarter of Section 16 and the West Half of the Northwest Quarter of Section 15, Township 4 North, Range 67 West of the 6th P.M., County of Weld, State of Colorado, consisting of approximately 47.49 acres, and known respectively as the Archdiocese Annexation Nos. 1-3, being more particularly described on Exhibit A; and

WHEREAS, in conjunction with annexation, the Archdiocese of Denver, a Colorado corporation sole, the property owner, applied for Planned Unit Development (“PUD-MU”) zoning of the property known as the Archdiocese Annexation Nos., 1, 2 and 3; and

WHEREAS, pursuant to state law, upon annexation, the Town Council must zone the property within ninety (90) days; and

WHEREAS, the Town’s Planning and Zoning Commission held a hearing and recommended approval of PUD-MU zoning for the property known as the Archdiocese Annexation Nos. 1, 2 and 3; and

WHEREAS, on April 17, 2023, the Town Council held a public hearing to determine appropriate zoning for the property and, based upon the evidence received at the hearing, finds that the requested zoning of the of the property known as the Archdiocese Annexation Nos. 1, 2 and 3 to PUD-MU conforms to the Town’s Comprehensive Plan.*

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO, THAT:

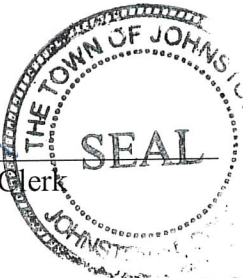
1. Archdiocese Annexation No. 1 Zoning. Zoning of the property known as the Archdiocese Annexation No. 1 and more particularly described on the attached Exhibit A shall hereby be designated as Planned Unit Development – Mixed Use.

- 2. Archdiocese Annexation No. 2 Zoning. Zoning of the property known as the Archdiocese Annexation No. 2 and more particularly described on the attached Exhibit A shall hereby be designated as Planned Unit Development – Mixed Use.
- 3. Archdiocese Annexation No. 3 Zoning. Zoning of the property known as the Archdiocese Annexation No. 3 and more particularly described on the attached Exhibit A shall hereby be designated as Planned Unit Development – Mixed Use.
- 4. Effective Date. This Ordinance, after its passage on final reading, shall be numbered, recorded, published and posted as required by the Home Rule Charter of the Town of Johnstown, Colorado (“Charter”) and the adoption, posting and publication shall be authenticated by the signature of the Mayor and the Town Clerk. This Ordinance shall become effective upon the later of the following: (i) final passage as provided by the Charter or (ii) the effective date of the annexation of the property known as the Archdiocese Annexation No. 1, Archdiocese Annexation No. 2, and Archdiocese Annexation No. 3. At such time, the Town Clerk is directed to file this Ordinance with the real estate records of the Weld County Clerk and Recorder. Copies of the entire Ordinance are available at the office of the Town Clerk.

INTRODUCED AND APPROVED on first reading by the Town Council of the Town of Johnstown, Colorado, this 17th day of April, 2023.

ATTEST:

By: Hannah Hill
Hannah Hill, Town Clerk



TOWN OF JOHNSTOWN, COLORADO

By: Gary Lebsack
Gary Lebsack, Mayor

PASSED UPON FINAL APPROVAL AND ADOPTED on second reading by the Town Council of the Town of Johnstown, Colorado, this ____ day of _____, 2024.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Hannah Hill, Town Clerk

By: _____
Gary Lebsack, Mayor

EXHIBIT A**PROPERTY DESCRIPTION**

An area of land being a portion of the North Half of the Northeast Quarter (N1/2NE1/4) of Section Sixteen (16) and a portion of the West Half of the Northwest Quarter (W1/2NW1/4) of Section 15, Township Four North (T.4N.), Range Sixty-seven West (R.67W.) of the Sixth Principal Meridian (6th P.M.), County of Weld, State of Colorado, being more particularly described as follows;

COMMENCING at the North Quarter corner of said Section 16 and assuming the North line of the Northeast at the North Quarter corner of said Section 16 and assuming the North line of the Northeast Quarter (NE1/4) of said Section 16 as monumented by a #6 rebar with a 3.25" aluminum cap stamped LS 7242 at the West end and a 2.5" aluminum pipe with a 3.25" aluminum cap stamped LS 13155 at the East end, as bearing aluminum pipe with a 3.25" aluminum cap stamped LS 13155 at the East end, as bearing aluminum cap stamped LS 13155 at the East end, as bearing South 88°26'46" East, being a grid bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983 (2011), a distance of 2722.98 feet, with all other bearings contained herein being relative thereto.

The lineal dimensions as contained herein are based upon the "U.S. Survey Foot".

THENCE South 88°26'46" East along said North line of the NE1/4 a distance of 1742.42 feet to the POINT OF BEGINNING;

THENCE continuing South 88°26'46" East along said North line a distance of 980.56 feet to the Northeast corner of said Section 16;

THENCE South 89°22'30" East along the approximate North line of the W1/2NW1/4 of said Section 15 a distance of 30.01 feet to the East right-of-way line of County Road Nineteen (19);

THENCE South 00°44'50" East along said East right-of-way line a distance of 1296.39 feet to the Easterly extension of the South line of the N1/2NE1/4 of said Section 16;

THENCE North 89°01'10" West along said Easterly extension a distance of 30.01 feet to the North Sixteenth corner of said Section 16;

THENCE North 89°01'10" West along the South line of said N1/2NE1/4 a distance of 2714.42 feet to the Center North Sixteenth corner of Section 16;

THENCE North 01°04'34" West along the West line of said N1/2NE1/4 a distance of 269.30 feet;

THENCE South 89°01'10" East a distance of 1357.98 feet;

THENCE North 00°54'49" West a distance of 756.16 feet;

THENCE North 90°00'00" East a distance of 376.23 feet;

THENCE North 00°00'16" East a distance of 274.14 feet to the North line of the N1/2NE1/4 of said Section 16 and to the POINT OF BEGINNING.

Said area of land contains 47.49 Acres (+/-2,068,673 sq.ft.) and is subject to any rights-of-way or other easements of record as now existing on said described parcel of land.



Town of Johnstown

TOWN COUNCIL CONSENT AGENDA COMMUNICATIONS

AGENDA DATE: May 1, 2023

SUBJECT: Ordinance 2023-246 Approving the Dove Solar Outline Development Plan

ATTACHMENTS: 1. Ordinance 2023-246

PRESENTED BY: Kim Meyer, Planning & Development Director

AGENDA ITEM DESCRIPTION:

The Council held a public hearing on April 17, 2023, and approved Ordinance No. 2023-246 on first reading for the Dove Solar Outline Development Plan (ODP) that applies to 46.60 acres, and allows ongoing agriculture use as well as a solar array facility on up to 31 acres of the property.

LEGAL ADVICE:

The Town Attorney drafted the Ordinance.

FINANCIAL ADVICE:

NA

RECOMMENDED ACTION:

Approve Ordinance 2023-246 Approving the Dove Solar Outline Development Plan.

Reviewed and Approved for Presentation,

Town Manager

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**TOWN OF JOHNSTOWN, COLORADO
ORDINANCE NO. 2023-246**

APPROVING DOVE SOLAR OUTLINE DEVELOPMENT PLAN FOR PROPERTY LOCATED IN A PORTION OF THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 16, AND A PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 4 NORTH, RANGE 67 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO, CONSISTING OF APPROXIMATELY 46.60 ACRES

WHEREAS, the Town of Johnstown, Colorado (“Town”) is a Colorado home rule municipality, duly organized and existing under the laws of the State of Colorado and the Town’s Home Rule Charter; and

WHEREAS, the Town Council is vested with authority to administer the affairs of the Town; and

WHEREAS, Sun Solar, LLC, a Colorado limited liability company (“Applicant”), on behalf of the property owner, the Archdiocese of Denver, a Colorado corporation sole, submitted an application to the Town for approval of an Outline Development Plan for a development known as Dove Solar (“Dove Solar Outline Development Plan”), located in a Portion of the North Half of the Northeast Quarter of Section 16, Township 4 North, Range 67 West of the 6th P.M., County of Weld, State of Colorado and a Portion of the Northwest Quarter of the Northwest Quarter of Section 15, Township 4 North, Range 67 West of the 6th P.M., County of Weld, State of Colorado, consisting of approximately 46.60 acres (“Property”); and

WHEREAS, by Ordinance No. 2023-244, the Town Council approved the annexation of the Property; and

WHEREAS, on February 15, 2023, the Planning and Zoning Commission held a public hearing and recommended approval of the Dove Solar Outline Development Plan; and

WHEREAS, on April 17, 2023, the Town Council held a public hearing concerning approval of the Dove Solar Outline Development Plan; and

WHEREAS, after considering the Planning and Zoning Commission’s recommendation for approval, reviewing the file and conducting such public hearing, Town Council found that the Dove Solar Outline Development Plan satisfies the factors set forth in the Johnstown Municipal Code and is consistent with the Johnstown Area Comprehensive Plan; and

WHEREAS, based on the foregoing, the Town Council desires to approve the Dove Solar Outline Development Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO, THAT:

Section 1. P.U.D. Outline Development Plan Approval. The Dove Solar Outline Development Plan, concerning property located in a Portion of the North Half of the Northeast Quarter of Section 16, Township 4 North, Range 67 West of the 6th P.M., County of Weld, State of Colorado, and a Portion of the Northwest Quarter of the Northwest Quarter of Section 15, Township 4 North, Range 67 West of the 6th P.M., County of Weld, State of Colorado, consisting of approximately 46.60 acres, attached hereto and incorporated herein by reference as Exhibit A, is hereby approved.

Section 2. Effective Date. This Ordinance, after its passage on final reading, shall be numbered, recorded, published and posted as required by the Home Rule Charter of the Town of Johnstown, Colorado (“Charter”) and the adoption, posting and publication shall be authenticated by the signature of the Mayor and the Town Clerk. This Ordinance shall become effective upon the later of: (i) final passage of the Ordinance as provided by the Charter or (ii) annexation of the Property. Copies of the entire Ordinance are available at the office of the Town Clerk.

INTRODUCED AND APPROVED on first reading by the Town Council of the Town of Johnstown, Colorado, this 17th day of April, 2023.

ATTEST:

By: Hannah Hill
Hannah Hill, Town Clerk



TOWN OF JOHNSTOWN, COLORADO

By: Gary Lebsack
Gary Lebsack, Mayor

PASSED UPON FINAL APPROVAL AND ADOPTED on second reading by the Town Council of the Town of Johnstown, Colorado, this _____ day of _____, 2023.

ATTEST:

By: _____
Hannah Hill, Town Clerk

TOWN OF JOHNSTOWN, COLORADO

By: _____
Gary Lebsack, Mayor



Town of Johnstown

TOWN COUNCIL CONSENT AGENDA COMMUNICATIONS

AGENDA DATE: May 1, 2023

SUBJECT: Ordinance 2023-247 Repealing Chapters 15, 16 and 17 of the Johnstown Municipal Code, and Readopting Chapter 17 of the Johnstown Municipal Code to adopt the Johnstown Land Use & Development Code by Reference

ATTACHMENTS:

1. Ordinance 2023-245
2. Land Use & Development Code

PRESENTED BY: Kim Meyer, Planning & Development Director

AGENDA ITEM DESCRIPTION:

The Council held a public hearing on April 17, 2023, and approved Ordinance No. 2023-247 on first reading. The ordinance will repeal the current Johnstown Municipal Code Chapters 15, 16, and 17 related to Annexation, Zoning, and Subdivision, reserve Chapters 15 and 16 for future use, and replace these code sections with an updated Chapter 17 that references an external code document, to be named the “Johnstown Land Use & Development Code” (Attachment 2).

This Code more cohesively and clearly governs and describes the Town’s zoning districts, land uses, processes, and development standards with up-to-date code language and design standards integrated into the code, replacing a patchwork of outdated, poorly organized, and confusing code sections with separate design guidelines.

Planned Amendments and Additional Issues Research.

As noted in the April 17th Staff Memo, Town Staff is pursuing several items for future amendments including a review by the Town Attorney and additional clarifying graphics. During the April hearing, Council noted several additional issues that warrant staff attention and research to bring to Council for consideration, to include:

- Beyond the maximum lighting performance standards provided in Sec. 17-4, Staff will perform additional research on appropriate expansion for “Dark Skies” lighting requirements, which generally implements site and building lighting techniques and fixtures that minimize the impact of lighting on the environment and surrounding lands.

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Staff will provide a recommendation on what may be most applicable and appropriate for Johnstown with the initial amendment package to Council.

- Town Staff will research and propose minimum guest parking requirements for developments that include cluster-style housing where full-depth driveways are not available to use as additional/guest parking.
- Council noted consideration of a wider mailing radius as well as clarification on how that radius is calculated.
 - With the minor editorial leeway provided in Section 7 of Ordinance 2023-247 and prior to final publication of the document, Staff has updated the language in Sec 17-2-1.F (page 2-5) to better clarify how that distance is measured:
 3. *Mailed.* The Town shall mail notice, as a courtesy, for applications as indicated in Table 2-1, including the date, time, place of the meeting; the general location of the subject property; the type or general nature of the application; and the location and contact where additional details may be found. Notice shall be sent by regular mail to the following, at least 10 days prior to the hearing or review meeting:
 - a. All property owners within 500 feet shown by the records of the county assessor, **measured from the property boundaries;**
 - Also note that subsection “b” provides the Planning & Development Director with discretion to expand the notice area up to 2,000 feet where there may be a specific or unusual circumstance or impact or a more controversial project proposed.
 - In the past few years, Council has reviewed this issue and at that time, Staff determined that 500 feet is a commonly-used distance utilized throughout Northern Colorado for the majority of development project types, and no change was made. Staff will plan to resurvey comparable jurisdictions and report back to Council with findings for further direction which can then be included with the initial amendment request.
- Council indicated a desire for Staff to research the ability and implementation of standards that would identify and protect the “view sheds” of individual properties. An initial effort indicates this present be a more complex legal and planning issue. Staff will continue to pursue this research and report on progress and findings in conjunction with the initial amendment package.
- Short term utilization of grazing livestock for the purposes of weed mitigation and control of grasses was mentioned as a potential issue where this practice is potentially used on solar facilities. Livestock is addressed in Chapter 7 of the Johnstown Municipal Code. Town Planning Staff will pursue this discussion this with the Town Attorney and Police Department to determine is there are any appropriate amendments to the Code that could ensure the ability of future developments or projects to use this as a viable option.

Staff will research and evaluate these additional issues for inclusion in upcoming code amendments to further craft this Code to meet the needs of the community. The initial amendment set is anticipated to be compiled and presented to Council in late June or early July.

The adoption of this Ordinance and Land Use & Development Code will permit Town Staff to begin implementation and application of this proposed code, as presented.

LEGAL ADVICE:

The Town Attorney drafted the Ordinance. Consulting counsel drafted the Land Use & Development Code.

FINANCIAL ADVICE:

NA

RECOMMENDED ACTION:

Approve Ordinance 2023-247 Repealing Chapters 15, 16, and 17 of the Johnstown Municipal Code, and Readopting Chapter 17 of the Johnstown Municipal Code to adopt the Johnstown Land Use & Development Code by Reference.



Reviewed and Approved for Presentation,



Town Manager

TOWN OF JOHNSTOWN, COLORADO**ORDINANCE NO. 2023-247****AN ORDINANCE REPEALING CHAPTERS 15, 16 AND 17 OF THE JOHNSTOWN MUNICIPAL CODE, READOPTING CHAPTER 17 OF THE JOHNSTOWN MUNICIPAL CODE TO ADOPT THE JOHNSTOWN LAND USE & DEVELOPMENT CODE BY REFERENCE THEREIN AND ADOPTING THE JOHNSTOWN LAND USE & DEVELOPMENT CODE**

WHEREAS, the Town of Johnstown, Colorado (“Town”) is a Colorado home rule municipality, duly organized and existing under the laws of the State of Colorado and the Town’s Home Rule Charter; and

WHEREAS, the Town Council is vested with authority to administer the affairs of the Town; and

WHEREAS, based on the recommendation of the Town Planning and Development Director, on or about August 16, 2021, the Town Council retained Gould Evans, Inc., a Kansas corporation, n/k/a Multistudio, Inc., a Kansas corporation (“Gould Evans”), to prepare an updated land use and development code for the Town to replace Chapters 15, 16 and 17 of the Johnstown Municipal Code; and

WHEREAS, in order to draft a land use and development code that satisfies the needs, expectations and desires of the Town, Gould Evans worked diligently with Town staff and, through numerous work sessions, obtained extensive input from the Town Council as well as input from the public and developers; and

WHEREAS, based on such input, Gould Evans drafted an updated land use and development code, referred to as the “Johnstown Land Use & Development Code;” and

WHEREAS, on April 17, 2023, after due notice to the public, the Town Council held a public hearing to consider adoption of the Johnstown Land Use & Development Code; and

WHEREAS, after considering the evidence presented at the public hearing and reviewing the Johnstown Land Use & Development Code, the Town Council finds that adoption of the Johnstown Land Use & Development Code promotes the public health, safety and welfare of the Town, implements the strategies and objectives of the Town Council and is consistent with the goals set forth in the *Johnstown Area Comprehensive Plan*; and

WHEREAS, for the foregoing reasons, the Town Council desires to adopt the Johnstown Land Use & Development Code to replace the rules and regulations contained in Chapters 15, 16 and 17 of the Johnstown Municipal Code; and

WHEREAS, the Town Council further finds, determines and declares that this Ordinance is promulgated under the general police power of the Town, that it is promulgated for the preservation of the public health, safety, welfare and property and that this Ordinance is in the best interests of the citizens of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO, AS FOLLOWS:

Section 1. Repeal. Chapters 15, 16 and 17 of the Johnstown Municipal Code are hereby repealed in their entirety.

Section 2. Reservation. Chapters 15 and 16 of the Johnstown Municipal Code are hereby reserved for subsequent use.

Section 3. Readoption. Chapter 17 of the Johnstown Municipal Code is hereby readopted to read in full as follows:

CHAPTER 17 – LAND USE AND DEVELOPMENT CODE

Article I – Adoption.

Sec. 17-1 – Adoption by Reference.

The Johnstown Land Use & Development Code is hereby adopted by reference and incorporated with the same force and effect as if fully set forth herein. A copy of the Johnstown Land Use & Development Code is on file at the office of the Town Clerk and is available on the Town’s website at www.johnstown.colorado.gov.

Section 4. Johnstown Land Use & Development Code. The Johnstown Land Use & Development Code, attached hereto and incorporated herein by reference as Exhibit A, is hereby adopted. The Johnstown Land Use & Development Code shall hereinafter regulate land use and development in the Town and supersede and replace the rules and regulations previously contained in Chapters 15, 16 and 17 of the Johnstown Municipal Code.

Section 5. Penalty Provision. Section 17-1-8(C) of the Johnstown Land Use & Development Code provides as follows:

Penalty. Any person violating any of the provisions of this code shall be deemed guilty of such violation and upon conviction, shall be penalized as provided in Article IV of Chapter 1 of the Johnstown Municipal Code. Each day of a violation shall constitute a separate offense, and any owner or other person employed in connection with a violation shall be guilty of a separate offense. The Town shall further have the right to maintain suits or actions in any court of competent jurisdiction for the purposes of enforcing these regulations and to abate any potential nuisance, including preliminary or permanent

injunctions. These penalties are not exclusive of any other remedy available under any applicable local, state, or federal law, and it is within the discretion of the Town to seek alternative and/or cumulative sanctions or remedies.

Section 6. Severability. If any part or provision of this Ordinance, or its application to any person or circumstance, is adjudged to be invalid or unenforceable, the invalidity or unenforceability of such part, provision, or application shall not affect any of the remaining parts, provisions or applications of this Ordinance that can be given effect without the invalid provision, part or application, and, to this end, the provisions and parts of this Ordinance are declared to be severable.

Section 7. Code revisions. Minor changes such as the format and other changes to unify the revised Land Use & Development Code may be necessary. The Town Clerk is hereby authorized to make such changes, provided that neither the intent nor substantive content will be altered by such changes.

Section 8. Publication; Effective Date. This Ordinance, after its passage on final reading, shall be numbered, recorded, published and posted as required by the Town’s Home Rule Charter and the adoption, posting and publication shall be authenticated by the signature of the Mayor and the Town Clerk. This Ordinance shall become effective upon final passage as provided by the Home Rule Charter of the Town of Johnstown, Colorado. Copies of the entire Ordinance are available at the office of the Town Clerk.

INTRODUCED, AND APPROVED on first reading by the Town Council of the Town of Johnstown, Colorado, this 17th day of April, 2023.

ATTEST:

By: Hannah Hill
Hannah Hill, Town Clerk



TOWN OF JOHNSTOWN, COLORADO

By: Gary Lebsack
Gary Lebsack, Mayor

PASSED UPON FINAL APPROVAL AND ADOPTED on second reading by the Town Council of the Town of Johnstown, Colorado, this _____ day of _____, 2023.

ATTEST:

By: _____
Hannah Hill, Town Clerk

TOWN OF JOHNSTOWN, COLORADO

By: _____
Gary Lebsack, Mayor

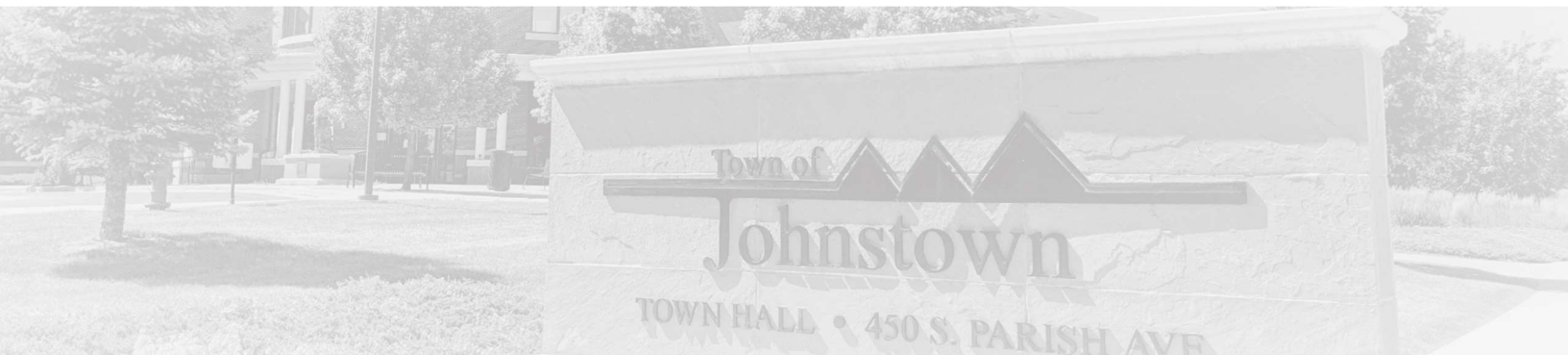
TOWN OF JOHNSTOWN



LAND USE AND DEVELOPMENT CODE (LUDC)

ADOPTED MAY 2023

AS REFERENCED IN CHAPTER 17
OF THE JOHNSTOWN MUNICIPAL CODE





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CHAPTER 17 – LAND USE AND DEVELOPMENT CODE

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17-1-1 Title

This Chapter is known as the Johnstown Land Use & Development Code. References to “this code,” “the development code,” “the land use code,” “the zoning code,” or “these regulations” shall be considered a reference to the Johnstown Land Use & Development Code.

17-1-2 Authority

- A. **Authority.** The Johnstown Land Use & Development Code is adopted through the powers granted in the Johnstown Home Rule Charter (“Charter”), and in accordance with the general purposes and authority granted by Colorado Revised Statutes, Title 31, Article 23 Planning and Zoning. The Town of Johnstown recognizes that zoning is a local and municipal matter and intends that this code supersedes any conflicting general law of the State of Colorado within its jurisdiction.
- B. **Jurisdiction.** The Johnstown Land Use & Development Code applies to all structures, uses, and land within the incorporated area of the Town of Johnstown, as depicted on the official zoning map, and other maps accompanying the Town’s plans and policies. The provisions of this code that apply to subdivisions, and the planning and design of major streets, shall apply to all land within the legal boundaries of the Town and all land within three miles of the corporate limits of the Town, if not located in any other municipality’s authorized jurisdiction.

17-1-3 Purposes

This development code is adopted to promote the public safety, health, and general welfare for the Town of Johnstown and its citizens and businesses. Specifically, the regulations have the following purposes:

- A. Implement the Comprehensive Plan, and other plans and programs authorized under the guidance of the Comprehensive Plan.
- B. Ensure long-term value and the physical, social, and economic well-being of residents and businesses through coordinated public and private investment.



- C. Promote planning and urban design that emphasizes distinct places and unique elements of community character throughout Johnstown.
- D. Provide parks, trails, natural areas, and civic spaces and organize development around systems of connected open spaces.
- E. Secure proper arrangement and design of streets to shape efficient development patterns, implement multimodal networks, coordinate with existing and planned streets, and improve mobility and access.
- F. Divide the Town into zones and districts that promote the character, intensity, and development patterns of distinct places identified in the Comprehensive Plan.
- G. Regulate and restrict the development and use of buildings and land within each zoning district to create compatibility within districts and transitions between complimentary districts, uses, and buildings.
- H. Secure adequate provisions for water, storm drainage, wastewater facilities and other public improvements based upon local, state, and federal requirements.

17-1-4 Applicability

- A. **General Applicability.** It shall be unlawful to conduct any development or use of land until all specified development review processes have been followed, all applicable standards have been fulfilled, and all required approvals, permits or other authorizations have been issued.
- B. **Transition Provisions.** The following rules shall determine the transition from previous regulations to the current code:
 - 1. *Applications.* Any application submitted prior to the effective date, and determined a complete application by the Director, shall be reviewed and processed according to the prior standards and procedures. An application submitted prior to the effective date, but determined incomplete, shall be resubmitted and processed according to the regulations in effect at the time of submittal of a complete application.
 - 2. *Prior Approvals.* All permits, site development plans, or other approvals issued prior to the effective date of this code shall remain effective, subject to any prior expiration provision of the specific application. Any changes, or amendments to a prior approval requested after the effective date of this code shall be subject to all provisions of this code.
 - 3. *Plats.* Any approved preliminary plat may continue to advance to final plat according to the procedures of this code and as presented on the approved preliminary plat unless:
 - a. A major amendment is proposed to the preliminary plat; or
 - b. Any final plat proposes a substantial change to the preliminary plat.
 - 4. *Use by Special Review.* Any use operating under a use by special review or other approval that may be limited to a specific duration or conditions under prior regulations may continue for that specified duration or according to the conditions. Any changes or subsequent approvals of these uses upon expiration of that period shall be processed according to this code. A use existing legally prior to the effective date of this code, but which is now classified as Use by Special Review, shall be considered as having Use by



Special Review approval according to this code based on the extent of the existing operations.

5. **Planned Unit Developments.** All preliminary and final development plans and design guidelines approved within the previous Planned Unit Development (PUD) zoning districts shall remain in effect. Subsequent approvals needed for ongoing development under the PUDs shall be processed according to the previously applicable to PUD progression for outline, preliminary, and final development plans. Amendments to approved PUDs and design guidelines, or future development or redevelopment within PUDs, may be processed according to the terms of the current development code, and the prior PUD plans be voided and superseded. Alternatively, Planned Unit Developments may be rezoned by the Town according to the current code, and the prior PUD plans be voided and superseded.
6. **Continuation of Enforcement.** Any violations of a previously valid regulation that continues after adoption of this code may be enforced as provided by this code. The Town may, in its discretion, enforce either the previous regulation or the standards of this Code.

D. Severability.

1. If a valid and final court decision declares any part of this development code to be invalid, that ruling shall not affect any other provisions of this development code not specifically included in that ruling.
2. If a valid and final court decision declares that the application of this development code to a particular property or structure is invalid, that ruling shall not affect the application of the regulations to any other property or structure, or to development with different circumstances.
3. No provision of this code shall enable any circumstance that is unlawful under superseding federal or state law. If any section, subsection, sentence, clause, phrase, or portion of this code is now or in the future superseded or preempted by state or federal law, or found by a valid final court decision unauthorized, such provision shall be interpreted and applied as required by law.

17-1-5 Administration

A. Staff. The following Town Staff positions are responsible for administering specific aspects of this code.

1. **Planning Director.** Pursuant to Article 8 and administrative authority granted by the Town Manager, the Planning Director (Director) is responsible for general administration of the development code and is the principal interpretation and enforcement official of these regulations. The Director may consult with any other department or relevant outside agencies to coordinate any plans, policies and programs that impact the Comprehensive Plan or this code.
2. **Johnstown Review Committee.** The Town Manager or Director may assemble the Johnstown Review Committee, for any applications that the Town Manager or Director determines require referral, review, and comment from any of other departments or external agencies. The committee generally includes the Public Works Director, Utilities Director, Town Engineer, Building Official, public safety representatives, and staff from



any other relevant departments or their authorized representatives on a project-specific basis.

- B. **Planning & Zoning Commission.** The Planning and Zoning Commission is the appointed body of the Town responsible for long-range and comprehensive planning, as well as review, recommendations and decisions on implementation of the Comprehensive Plan and development code. The Planning and Zoning Commission is established according to the Municipal Code.
- C. **Board of Adjustment.** The Board of Adjustment was created under the authority of C.R.S. 31-23-307. The Board of Adjustment is established pursuant to these regulations and is empowered to hear and decide the following appeals as specified in Article 2:
 - 1. Grant variances to the strict application of the standards in this code; and
 - 2. Hear and decide appeals when an error is alleged in any order or determination made by the Director in the interpretation or enforcement of this code.

17-1-6 Interpretation

- A. **Rules of Construction.** The following rules shall be use in the application and interpretation of this code, unless the usage in a specific standard or context clearly indicates otherwise:
 - 1. All words shall have the customary dictionary meaning, unless specifically defined in these regulations.
 - 2. The present tense includes the future tense, and the future tense includes the present tense.
 - 3. The singular includes the plural, and the plural includes the singular.
 - 4. Lists of examples prefaced by “including the following,” “such as,” or other similar clauses shall not be construed as exclusive or exhaustive and shall not preclude an interpretation of the list to include other similar and non-mentioned examples.
 - 5. The conjunctive “and” in a list means that all apply; the conjunctives “or” and “and/or” mean the provisions may apply singly or in any combination; and the conjunctive “either ..or” means the provisions apply singly but not in combinations.
 - 6. When calculations to determine a requirement of something that cannot be divisible (i.e. parking space, trees) results in fractions, it shall be rounded up to the nearest whole number if the standard is expressed as a minimum requirement and rounded down to the nearest whole number if the standard is expressed as a maximum allowance.
 - 7. “Shall,” “will” or “must” is mandatory; “should” or “may” is permissive but a recommended method to best meet the standard or achieve the intent of the standard.
 - 8. A reference to an administrative official shall refer to that official, or their official designee, and all references to specific town officials may also include any other designee of the Town Manager.
 - 9. Any reference to other official local, state or federal government rules or regulations shall include the current versions of those regulations, provided they remain binding on the Town, or where not binding, remain consistent with the purposes, intent, and objectives included in these regulations.
 - 10. References to a person shall include individuals, partnerships, agencies, corporations or other legal entities and the owner, tenant, occupant, principal, partners, officers, employees, agents, and representatives of any legal entity.
- B. **Conflicts.** All provisions shall be considered the minimum requirements to promote the public health, safety and welfare. In case of a conflict between these regulations and any other adopted rule, regulation or code of the Town, the higher standard shall apply. In deciding of which standard is higher, the official may consider which is more specific; which is more consistent with



the Comprehensive Plan; which is more consistent with the purposes, intent and objectives of these regulations; and which best promotes the public health, safety and welfare.

- C. **Computations of Time.** The following rules apply to any computation of time, unless a specific section of these regulations indicates otherwise:
1. The day of the act that commences a time period shall not be counted.
 2. The last day of the time period shall be included, unless it is a Saturday, Sunday or legal Town holiday, in which case the next working day shall end the time period. In all other cases Saturday, Sunday or legal Town holidays count in the time period.
 3. Whenever any time period is expressed for a formal submittal to the Town, the time period shall end at 5:00 p.m. on the last day of that time period.
 4. Any time period expressed in years shall include a full calendar year from the act that commences the time period.
- D. **Interpretation of Zoning Map.** Where uncertainty exists with respect to any boundary on the zoning district map, the following rules shall apply:
1. Boundaries approximately following streets or other rights of way or rivers or streams; the centerlines or extension of these centerlines shall be the boundaries.
 2. Boundaries indicated as approximately following property lines - the platted or other official legal line of that property shall be the boundaries unless the property boundaries on the map have been substantially altered.
 3. Boundaries approximately following Town limits shall be interpreted as following the actual Town limits.
 4. Boundaries that split any platted lots - the lot shall be interpreted in the district designated to the majority of the lot. In the case of an equal split, the Director shall determine the appropriate zoning based on consideration of the Comprehensive Plan, the context, the surrounding existing uses, and the likelihood of change in context or existing uses in the future.
 5. Boundaries that split any unplatted property - any future platting of property may generally follow the zoning boundary and then each resulting property may assume the zoning applicable to the majority of the resulting lot actual platted boundary, or where any resulting lots have significant discrepancies with zoning boundaries, rezoning may be required.
- E. **Non-regulatory Provisions.** Intent statements, design objectives, graphics, and commentary such as captions to graphics or notes in tables, are an aid to interpretation of the standards and criteria. In the event of a conflict between the intent statements, design objectives, graphics or commentary and a specific standard, the specific standard shall control unless the context and intent clearly indicate otherwise.
- F. **Resources, Guides, & Industry Standards.** Resources, guides, and industry standards that are recognized as a reputable authority in the planning, development and urban design professions, may be used to supplement interpretation of this code. They shall be subject to the approval of the Director upon a determination that the content is consistent with the policies of the Comprehensive Plan and the purposes, intent, and design objectives of these regulations. Any resource, guide, or industry standard approved by the Director shall be listed in Appendix A, and at least one copy shall be kept on file with the Planning and Development Department. The use of these guides shall only be to the extent that it is consistent with the purposes, intent and design objectives expressed in these regulations, and shall not be used to otherwise modify or conflict with any specific standard in these regulations.



17-1-7 Nonconformities

- A. **Intent.** The Town permits existing uses, buildings and lots that were created legally and in conformance with then-applicable requirements, but do not conform to the current applicable requirements of these regulations, to continue to be put to productive use. The Town’s intent is to bring as many aspects of these nonconformities into compliance with current regulations as is reasonably practical. The intent of this section is to balance the interests of property owners in past investments, discourage investment that expands or reinforces non-conforming situations, and promote investment consistent with the Comprehensive Plan and these regulations.
- B. **Nonconforming Uses.** Uses that were legally initiated or established prior to the adoption or amendment of this code, but which would otherwise not be continued under the current terms of this code, may continue to exist subject to the following:
1. The use shall not be expanded beyond the current size any specific area of the site or lot where it was legally established, beyond any existing building or structure, or within any building or structure where any structural changes expand the exterior footprint of a building or structure. The Director may consider an exception based on the following findings:
 - a. The enlargement of the structure or buildings is only to facilitate conforming uses or activities, and does not otherwise allow, encourage or promote expansion or increase impacts of the nonconforming use;
 - b. The enlargement of the structure or buildings may allow for an addition to a detached house to enhance the livability, provided it does not add more than 50% of the original building square footage.
 2. Any accessory use to a principal nonconforming use shall not be permitted absent the principal use, and continuation of accessory uses shall not avoid any abandonment period for the nonconforming principal use. No additional accessory building or use not present when the nonconforming use was established shall be permitted, unless in conformance with these regulations.
 3. If active and continuous operations are not carried on during a period of 1 year, the use shall not be reestablished and all subsequent uses shall be in conformance with the provisions of this code.
 - a. Intent to resume active and continuous uses shall not count towards reestablishing the use. Evidence of a continuous business license is not sufficient to maintain use for this purpose. A business use must be operational to be considered active.
 - b. A nonconforming home occupation shall be considered abandoned if the occupants of the dwelling who were conducting the use discontinue either their occupancy of the dwelling or the nonconforming home occupation.
 - c. At the time any nonconforming, individual mobile home existing on a private lot is removed or is vacated, the use shall be deemed abandoned and shall not be returned or occupied except in compliance with this code.
 - d. A change of operator or sale of use shall not be considered discontinued, provided that neither the previous or current business or owner combined to cease operation for 1 year or more.
 4. No person shall move a nonconforming use within the same parcel or to another parcel unless the relocation conforms to this code.
 5. Any change of use shall be to a conforming use, and at that time the nonconforming use shall be abandoned. The Director may consider and authorize a change to a lessor



nonconforming use considering the extent, intensity, or operations of the use, provided it does not otherwise include investments that extend the period that the property is not conforming to this code.

6. Any structure in which a nonconforming use is carried on that is damaged to the extent of more than 50% of the current replacement value shall not be restored to support the nonconforming use with the exception of detached houses and duplexes, which may be replaced at its prior size as evidenced by records of the county assessor or other official record.
7. Any new activity that triggers specific site design standards shall require full compliance with that site design standard in order for the nonconforming use to continue, and the presence of a nonconforming use shall not be used to justify not meeting other applicable standards.

C. **Nonconforming Structures.** Structures other than signs that were legally constructed prior to the adoption or amendment of this code, but which could not be constructed under the current terms of this code, may continue to exist subject to the following:

1. Rehabilitation or expansion of the structure that increases the degree of nonconformity is prohibited. Other rehabilitation or expansions may occur provided that they comply with all other requirements of this code; are not detrimental to the purposes, intent and objectives of the standards; and do not negatively impact development in conformance with this code on adjacent property. In general, no repairs or alterations that exceed 50% of the replacement value of the structure shall be permitted.
2. If damaged by 50% or less of its total replacement cost, the structure may be restored to its original condition if a permit is obtained within 120 days of the damaging event and work is completed prior to expiration of the permit.
3. If the structure is determined obsolete or substandard by virtue of any applicable code beyond this chapter, and the cost of improvement or restoration is 50% or more of the current replacement value, then the right to maintain the nonconformance shall terminate.
4. Structures granted variances from the dimensional standards are not considered nonconforming and are not subject to the limitations of this section, provided that the structure and owner comply with any terms of the variance and the circumstances surrounding the variance have not substantially changed.

D. **Nonconforming Site Conditions.** Any site condition associated with a conforming use or structure (such as parking, landscape, open space or other non-building site characteristic) in existence prior to these regulations, but which are not compliant with the standards of these regulations, may continue to exist subject to the following:

1. Any change of use or expansion of use shall require compliance with the current development standards up to the maximum extent possible, considering the level of investment needed to support the new use and the extent of area being impacted by work to support the new use.
2. Any site development activity on a portion of a site shall require compliance with the new standards up to that proportion that is subject to the development activity. For example, a site that is not compliant with the landscape standards must meet the landscape standards prorated to the portion of the site where development activity occurs, but the remainder of the site may remain nonconforming.



3. Any change of use, building or site design element that triggers a screening requirement shall require 100% compliance with all screening standards applicable to the site.
 4. Where any investment is greater than 50% of the current replacement value of the site or can reasonably be interpreted as impacting more than 50% of any one component of the site, the site or that component shall be brought into full compliance with these standards.
- E. **Nonconforming Lots.** Any lots platted legally prior to the adoption or amendment of this code, but which could not be platted under the current requirements of this code, may continue to exist and be used for the uses permitted in the current zone district, provided development can meet other development standards.
- F. **Nonconforming Signs.** Existing signs which do not conform to the specific provisions of these regulations are designated as nonconforming signs. Nonconforming signs must be brought into compliance with this code or must be removed when any of the following conditions exist:
1. When the property or premises upon which the sign is located is vacant for a period of at least 120 days.
 2. When a sign and/or sign structure is damaged or destroyed in a monetary amount which exceeds 50% of its total replacement cost or becomes a hazard or potential hazard.
 3. When there is a zone change initiated by the business or property owner.
 4. When a sign and/or sign structure is abandoned for more than 120 days, including empty frames.
 5. When an existing structure upon which the sign is located is relocated, replaced, or changed in size, location, height or setback.
 6. When the sign itself is relocated, replaced, or changed in size, location, height or setback.
 7. The structure or size of the sign is altered in any way except towards compliance with these regulations. This does not refer to change of copy or normal maintenance.
 8. When improvements are being made to 50% percent or more of the facade of a building on which a nonconforming sign is located.
- G. **Burden of Proof.** The burden shall be on the applicant to establish that the nonconformity was established lawfully and the entitlement to continuation of nonconforming situations or completion of nonconforming projects according to this section. Owners of nonconformities may request a “certificate of legal nonconforming status” by filing an application with the Director.

17-1-8 Enforcement

- A. **Violations.** It shall be unlawful for any building, structure, site element or use of land to be constructed, altered, maintained, or otherwise initiated in violation of these regulations. It shall be unlawful for any person to do or cause:
1. Any act or thing prohibited by these regulations;
 2. Omit any act or thing required by these regulations; and
 3. Interfere in any manner with persons in performance of a right or duty granted or imposed by these regulations, maintained, or otherwise initiated in violation of these regulations.
- B. **Enforcement.** The Town may investigate and initiate proper actions or proceedings to prevent or terminate any activity or condition that is in violation of these regulations, including withhold any permits or licenses, revoke or suspend any permits or licenses previously granted, issue stop work orders, cease action on pending development application or permits, correct or abate the



nuisance, withhold any public improvements, or penalize and initiate legal proceedings to prevent the continuance of unlawful actions or conditions.

- C. **Penalty.** Any person violating any of the provisions of this code shall be deemed guilty of such violation and upon conviction, shall be penalized as provided in the Johnstown Municipal Code. Each day of a violation shall constitute a separate offense, and any owner or other person employed in connection with a violation shall be guilty of a separate offense. The Town shall further have the right to maintain suits or actions in any court of competent jurisdiction for the purposes of enforcing these regulations and to abate any potential nuisance, including preliminary or permanent injunctions. These penalties are not exclusive of any other remedy available under any applicable local, state, or federal law, and it is within the discretion of the Town to seek alternative and/or cumulative sanctions or remedies.



Article 2. Applications & Procedures

- 17-2-1 General – All Applications
- 17-2-2 Platting
- 17-2-3 Rezoning
- 17-2-4 Planned Development
- 17-2-5 Site Development Plan
- 17-2-6 Alternative Compliance
- 17-2-7 Use by Special Review
- 17-2-8 Variance
- 17-2-9 Appeals of Administrative Decision
- 17-2-10 Text Amendments
- 17-2-11 Vested Property Rights
- 17-2-12 Annexation & Establishment of Zone District

Table 2-1: Procedures Summary

	Eligible Applicants			Pre-application Meeting	Neighborhood Meeting	Notice			Review Body			
	Owner	PC	TC			Post	Publish	Mail	Staff	PC	TC	BoA
Minor Subdivision (17-2-2.C)	■			☑					D		A	
Preliminary Plat (17-2-2.D)	■			☑	☑	☑	☑	☑	R	R/PH	D/PH	
Final Plat (17-2-2.E)	■					☑	☑	☑	R		D/PH	
Rezone (17-2-3)	■	■	■	☑	☑	☑	☑	☑	R	R/PH	D/PH	
Planned Development (17-2-4)	■	■	■	☑	☑	☑	☑	☑	R	R/PH	D/PH	
Site Development Plan (17-2-5)	■			☑					D	A		
Alternative Compliance (17-2-6)	■			☑		Based on procedures of related application						
Use by Special Review (17-2-7)	■			☑	☑	☑	☑	☑	R	R/PH	D/PH	
Variance (17-2-8)	■			☑		☑	☑	☑	R			D/PH
Appeal of Administrative Decision (17-2-9)	■	■	■			--	--	--				D/PH
Text Amendment (17-2-10)		■	■				☑		R	R/PH	D/PH	
Vested Property Right (17-2-11)	■			☑					R	R	D/PH	
Annexation & Establishment of Zone District (17-2-12)	■		■	☑		☑	☑	☑	R	R/PH	D/PH	

☑ = Required
 ■ = Authorized
 PC = Planning & Zoning Commission
 TC = Town Council
 BoA = Board of Adjustment

R = Review and Recommending Authority
 D = Decision Making Authority
 A = Appeal of Decision
 PH = Public Hearing Required



17-2-1 General – All Applications

A. Applications & Fees

1. **Forms.** Applications required under this code shall be submitted to the Planning and Development Department on forms supplied by the Department. The Director is authorized to establish application forms and submittal requirements to ensure all applications can be evaluated for conformance with this code. The Director may waive the requirement for any information on standard forms at the time of application, due to the routine nature of the application or due to the context of a particular application making the information inapplicable for review against the criteria.
2. **Fees.** Applications shall be accompanied by a non-refundable fee established by the Town's current Fee Schedule. Any application that does not include the required fee shall be returned to the applicant as incomplete. Fees shall not be required for applications initiated by the staff on behalf of the Planning and Zoning Commission or Town Council. In addition to any application fee established, applicants shall cover the direct expenses incurred by the Town in the review and processing of the application, including external consultants necessary and publication costs, in accordance with the Johnstown Municipal Code.
3. **Eligible Applicants.** Table 2-1 indicates applicants eligible for each particular application under this code, which may include the following:
 - a. **Owner.** The record owner of property that is the subject of the application or that owner's agent authorized by written permission of the owner.
 - b. **Planning and Zoning Commission.** The Planning and Zoning Commission, acting on its own initiative or through recommendations brought to it by town staff.
 - c. **Town Council.** The Town Council acting on its own initiative or through recommendations brought to it by town staff.

B. Concurrent Applications.

When a project requires approvals under more than one type of application, the Director may determine that each application may run concurrently based on the following:

1. The similarity of information required for each type of application, or where they require different information, the ability to coordinate information, review criteria and decisions under each application.
2. The similarity of notice, timing, procedures, meetings and review bodies required for each application.
3. The ability of the staff and review bodies to make effective and well-informed decisions when reviewing the applications concurrently and comprehensively.

In cases where the Director determines applications may run concurrently, the application shall be processed through the highest review level of any of the associated applications. Approvals may be contingent on final decisions and subsequent approvals of the highest concurrent review, except that decisions of lesser applications may stand alone regardless of the outcome of higher-level decisions they may be considered final provided all procedures and criteria of that particular application are satisfied. Otherwise, no decision shall be considered final until the last of the related decisions has been made.

C. Pre-application Meeting.

Pre-application meetings may be requested for any application and shall be required as indicated in Table 2-1. A required pre-application meeting may be waived at the Director's discretion and upon the applicant's request, for any application that is routine in nature and where the topics below can be addressed by general correspondence. Preapplication discussions are informational and non-binding, and assist applicants with further required due diligence on formal application requirements. Applicants shall confer with the Director and other



town staff or officials designated by the Director, to discuss the general nature of the proposal, including:

1. How the proposed project meets the goals of the Comprehensive Plan, or other specific plans or policies applicable to the area.
2. The applicant’s vision and understanding of the market for the proposed project.
3. The proposed uses, general site layout, and conceptual or anticipated design of buildings, including how the project relates to surrounding sites and public spaces.
4. How the project will contribute to the area and further the intent of the zoning district.
5. Planning and infrastructure impacts demands and impacts.
6. Development review processes and review criteria.
7. Opportunities to improve designs or coordinate the preliminary concepts with other private or public investments in the area.

D. Neighborhood Meeting. A neighborhood meeting shall be required as indicated in Table 2-1.

1. The Director may waive the requirement for a neighborhood meeting where the application will not impact the character of development or nature of activities in the area, or where information about the project is adequately presented in other means.
2. The Director may request a neighborhood meeting for other projects not required by Table 2-1 where the nature of the project is particularly complex or presents potential impacts on property in the vicinity.
3. Neighborhood meeting scheduling, notice, content, and record-keeping shall be coordinated with other procedures required for the application, and according to any Town policies on community engagement.

E. Staff Review. Upon receipt of an application or resubmittal, the Director shall take the following steps:

1. **Determination of Complete Application.** The Directory shall conduct a cursory review of the application to determine if the submittal is complete.
 - a. If an application is determined incomplete, the Director shall notify the applicant of the specific ways in which the application is deficient within 10 business days from the submittal date. No further processing of the application shall occur until the deficiencies are corrected. If a deficient application is not corrected within 30 days of the notice, the incomplete application may be considered withdrawn.
 - b. If an application is complete, it shall be processed for formal review.
2. **Staff Review.**
 - a. Applications may require review by the Johnstown Review Committee (JRC) as established in Section 17-1-5, and the Director may determine that any application can be reviewed by the JRC when it affects issues or facilities significant to other departments and outside agencies.
 - b. The Director may determine if other referral agencies are appropriate based on the application and has discretion to add any other relevant or applicable agency to the list. In general, the following agencies may be requested to review and comment:
 - (1) Adjacent county and municipal governments
 - (2) State of Colorado Department offices
 - (3) Gas and electric utilities
 - (4) Telecommunications and cable providers
 - (5) Public safety agencies (police, fire, health, emergency medical services)
 - (6) School district(s)
 - (7) Water and sewer utilities
 - (8) Ditch companies



- (9) Special districts; and
 - (10) Other local, state, or federal government agencies or impacted entities
 - c. Failure to receive comments from referral agencies may allow the Director to delay the application. However, if the applicant demonstrates sufficient due diligence in attaining comments, the Director may interpret the failure to comment as consent to the application by the agency.
 - d. The applicant shall be responsible for coordinating all subsequent requirements or comment, agreements, plans, or fees required to satisfy agency requirements, and for notifying any agency prior to final review of any changes that may affect their comments on initial plans.
 - 3. **Staff Comments.** The Director shall coordinate a staff review after receipt of a complete application and may provide the applicant the following information in writing:
 - a. Comments or recommended changes based on the results of any referral agency comments, neighborhood meetings, or staff review.
 - b. A list of any additional information necessary to support the application or address any comments or recommended changes.
 - c. If the applicant chooses not to address any comment or recommended change, a written statement shall be included with the resubmittal that demonstrates a good faith effort to address the issue and provide reasonable rationale why the comment cannot be addressed. The applicant may request to schedule the application for official review based on this rationale.
 - d. If the applicant fails to submit revisions or otherwise address any comments from the Planning and Development Department in writing for more than 120 days, the Director may determine the application withdrawn and the review terminated. Any further action will require a new application and fees.
 - 4. **Scheduling.** Applications that have completed JRC or staff review, and addressed comments or recommended changes, shall be scheduled for further review according to these regulations.
 - 5. **Staff Report.** The Director shall prepare a staff report for applications that require review and decisions by other review bodies. The report shall identify the appropriate policies, plans, regulations and review criteria, and identify relevant facts of the application. The Director shall publish or otherwise make the report available to the applicant and public prior to the review body meeting, in association with the public meeting agenda and packet.
- F. **Notice.** Notice shall be provided for each application as indicated in Table 2-1, which shall provide the date, time, place of the meeting, and general information on the application including the location and type of application. Notices for concurrent projects may be combined into a single notice. Required notices shall meet the following requirements, in addition to the general agenda publication:
 - 1. **Published.** Where published notice is required, at least 10 days prior to the public hearing or meeting, the Town Clerk shall publish the notice in the newspaper of general circulation.
 - 2. **Posted.** Where posted notice is required, notice shall be posted on the property or near the proposed site, visible to surrounding properties and the general public from adjacent public ways, according to the following:
 - a. The Director shall determine the number, type, and specific location of signs based on the context of the property.
 - b. The applicant shall ensure that signs are posted at least 10 days prior to the public hearing or meeting.



- c. The applicant shall make a reasonable, good faith effort to maintain posted notice throughout the proceedings.
 3. **Mailed.** The Town shall mail notice, as a courtesy, for applications as indicated in Table 2-1, including the date, time, place of the meeting; the general location of the subject property; the type or general nature of the application; and the location and contact where additional details may be found. Notice shall be sent by regular mail to the following, at least 10 days prior to the hearing or review meeting:
 - a. All property owners within 500 feet shown by the records of the county assessor, measured from the property boundaries;
 - b. For USR applications and other situations where the Director determines that additional notice may be appropriate due to the context or nature of the project, the distance for property owner notifications may be increased up to 2,000 feet.
 4. **Surface Development Notification.** Where mailed notice is required by state statutes for any project related to mineral estate owner identified on the county tax assessor's records or who has filed in the office of the county clerk and recorder a request for notification, the applicant shall be responsible for notice. The applicant shall certify to the Town that notice has been provided as required by this code and Colorado law prior to a public hearing, public meeting, or administrative decision.
 5. **Additional Hearing or Meeting Dates.** For any application where mailed or published notice is required by this code or Colorado law, and the reviewing authority adjourns or continues to the review to a certain date, time and location, no new notice shall be required.
 6. **Failure of Notice.** Any failure of published, posted, or mailed notice shall not invalidate any subsequent process or decision in the Director's discretion. In making this decision, the Director shall consider whether:
 - a. Good faith efforts were made to comply with notice, and the failure of notice was beyond the applicant's or Town's control;
 - b. Technical errors in the notice were made, but constructive and actual notice was available to all interested parties; or
 - c. The failure of notice is not otherwise instrumental to the proceedings, criteria, or record established for the decision.
- G. **Public Hearings.** Where public hearings are required by Table 2-1, the following procedures apply:
 1. The hearing shall be conducted, and a record of the proceedings shall be preserved.
 2. Any interested person or party may appear and be heard in person or by agent.
 3. The review body may request testimony or a report on the application from any government official or agency, or any other person with information pertinent to the application.
 4. A public hearing for which proper notice was given may be continued to a later date without again requiring notice provided in this section if the specific date, time and place of the continued hearing is announced at the original hearing.
- H. **Action by Review Bodies.** Review bodies shall take the actions indicated in Table 2-1. A review body may take any action on the application consistent with notice given or criteria in this Article, or recommend such action when the review body is a recommending body, including the following:



1. Approve the application.
 2. Approve the application, with conditions or modifications that make it more consistent with the standards and approval criteria.
 3. Deny the application, with specific reasons for the denial.
 4. Continue the application to allow further analysis. The continuation period shall not be more than 60 days from the original review without consent of the applicant.
 5. Remand the application back to staff for reprocessing, should the application lack sufficient quality or pertinent information to make a decision.
- I. **Appeals.** Where no appeal is designated in Table 2-1, the decision shall be final and only appealed as authorized by law. Any final decision made under this code by an administrative official may be appealed through an Administrative Appeal application according to 17-2-9 and Table 2-1. Where a review body is designated as the appellate body in Table 2-1, the following appeal procedures apply:
1. Appeals shall be filed with the Director within 15 days of the decision.
 2. Appeals shall identify the exact provisions in dispute and whether it is incorrect due to one or more of the following:
 - a. It was against the express standards of this development code;
 - b. It was an unreasonable interpretation or application of the standards or review criteria;
 - c. It was erroneous, based on the record and facts reviewed by the decision-making body; or
 - d. It was otherwise clearly contrary to law.
 3. The following persons and entities shall have standing to appeal the action of the review body:
 - a. The applicant;
 - b. The Town Manager, on behalf of any public official, department, or public body;
 - c. Any other person who was aggrieved and materially affected by the decision, and otherwise has a right to appeal by law.
 4. The appellate body shall consider the application based on the established record, within 60 days of a filed appeal. It shall give deference to the previous review body, but may take any action authorized by the decision-making body under this code if it determines that a clear error was made.
 5. The procedure and required notice shall be the same as required of the original application.
- J. **Technical Studies.** The Director, on behalf of any public official, department, or agency, the Planning and Zoning Commission, or the Town Council, may require applicants to submit technical studies necessary to evaluate the application. Technical review by outside entities with expertise or jurisdiction over some aspects of the application may be required in place of, in addition to, or in association with any studies. Examples of technical studies that may be required include traffic studies, infrastructure capacity and impact analysis, geologic, geotechnical or hydrologic studies, environmental impact and biological assessments, noise studies, market studies, or fiscal and economic impacts. The persons or firms preparing the studies may be subject to the approval of the Director. The costs of all studies shall be borne by the applicant. Any application that is determined to require technical studies or review from entities outside of the Town may require special schedules based on the reasonable time frames to conduct those studies or additional reviews.
- K. **Permits.** Upon final approval and completion of any conditions as specified for each application in this section, applicants may apply for all permits necessary to construct buildings, infrastructure, and site improvements. Permits necessary to show full compliance with the standards of this code, other applicable Town codes, or other agency requirements or laws may be required.



- L. **Successive Applications.** When the review body takes final action to deny an application, the same or a similar application shall not be refiled for one year from date of denial. The Director may permit a refiled of the application sooner than 1 year when it is determined that significant physical, economic or land use changes have taken place within the immediate vicinity, or where a significant text amendment to this code has been adopted that may affect the outcome of the action on the application. There shall be no time limitation on an application that the Director determines is substantially different from a previously denied application, when considering the proposed use, scale or intensity of development, and potential impacts on adjacent property.

17-2-2 Platting

- A. **Applicability.** Plat applications are required to design and coordinate streets, open spaces and other civic places with developable lots and buildings; to create lots and establish or alter the legal boundaries of a property; and to account for public facilities and services, infrastructure, development patterns, or other long-range growth and development considerations prior to potential fracturing of ownership. Plat applications shall be initiated by the property owner. Specifically, plat applications shall apply to:

1. Any division of land into more than one lot or parcel;
2. Any adjustment of previously platted lots that alter the legal boundaries or potential ownership patterns, other than those by operation of law, acquisition by a public entity, or by court order such as partition or quite title action; and
3. Any development on previously unplatted property.

- B. **Types of Plats and Applications.** Plat applications are classified and processed as one of two types:

1. *Minor Plats.* Minor plats are routine applications such as lot adjustments or land divisions that change legal boundaries but do not significantly alter overall development patterns or impact public services.
2. *Major Subdivisions.* Major subdivisions are all other land divisions or development impacting development patterns and intensity, rights-of-way, or infrastructure, which require a comprehensive review through preliminary plat and final plat procedures.

- C. **Minor Plat.** Minor plats shall be processed according to the following criteria and procedures.

1. *Eligibility.* The following situations are specifically eligible for minor plat processes:
 - a. The adjustment to legal boundaries of previously platted lots.
 - b. The consolidation of up to 4 previously platted lots into fewer lots.
 - c. The division of a previously platted lots into no more than 2 additional lots.
 - d. The division of previously unplatted land or of a platted tract into 4 or fewer lots.
 - e. A survey or other legal instrument to correct an error in the legal description, certification, or other element of an approved plat; to dedicate, vacate, or alter easements; or to confirm legal boundaries of lots in an approved plat that could only be determined post-construction.
2. *Review Criteria.* An application may be approved by the Director if the Director determines that all of the following are met.
 - a. No significant increase in service requirements (utilities, schools, traffic control, streets, etc.) or impact on the ability to maintain existing service levels will result.
 - b. The application does not alter any zoning district boundaries due to adjustments to any lots.



- c. All resulting lots meet the legal standards of the subdivision regulations and applicable zoning districts.
- d. The lot patterns are compatible with the surrounding area and any previously approved final plat for the subject property. In determining compatibility, the size and dimension of lots, the layout and design of existing subdivisions and rights of way, and the degree of deviation from previous development and the potential impact of this deviation on surrounding property shall be considered.
- e. Any dedication of right-of-way included in the plat is part of a planned street or required expansion of an existing street and is subject to acceptance by the Town Manager or may be further referred to the Town Council for acceptance of that right-of-way.
- f. No other significant issues exist with potential development enabled by the plat that could affect planning policies, undermine the application of other development regulations, or impact adjacent property owners.
- g. No prior administrative plat process created the lots being resubdivided, such that the proposed administrative plat and lots appear to circumvent the major subdivision process.

Any application not classified as an administrative plat or not meeting these criteria shall be processed as a major subdivision with a preliminary plat and final plat.

3. **Review Procedures.** In addition to the general requirements in Table 2-1 and Section 17-2-1, the requirements in this sub-section apply to administrative plat applications.
 - a. If the Director determines at any point in the process that the application is not eligible or appropriate for an administrative plat the Director may require that the application be processed as a major subdivision.
 - b. Any administrative plat that includes right-of-way or other public dedication shall be accepted by Town Manager or the Town Council by certification on the plat.
 4. **Effect of Decision.**
 - a. The applicant shall submit the approved administrative plat and all other required documents and certificates to the Town for execution.
 - b. The Town shall record the administrative plat and executed documents with the applicable county clerk and recorder.
 - c. The administrative plat shall become effective after recording.
- D. **Major Subdivision – Preliminary Plat.** Any subdivision not eligible as an administrative plat is a major subdivision that shall require approval of a preliminary plat. A preliminary plat shall be processed according to the following specific procedures.
1. **Applicability.** The preliminary plat provides detailed planning review of development patterns, street networks, block and lot layout, and the ability to meet public facility and utility requirements for future development, prior to preparation of detailed construction and engineering plans. The Director may allow a preliminary plat and final plat to be processed simultaneously, provided the submittal requirements and criteria for both applications can be met. For any application that is particularly complex, the Director may require the applicant to first submit a concept plan as discussed in Sec. 17-2-4 B.1 for public review by the Planning and Zoning Commission and Town Council prior to official submittal. Review of a concept plan shall not require any approval, but merely provides feedback and general consensus and provides the applicant direction for preparing a formal preliminary plat.
 2. **Review Criteria.** A preliminary plat shall be reviewed according to the following criteria.
 - a. The application is in accordance with the Comprehensive Plan, and in particular, the physical development patterns and concepts of the plan.



- b. The development and infrastructure are arranged in a manner to minimize impacts on geologic hazards, environmentally sensitive areas, wildlife habitat, or other natural features of the land.
 - c. The arrangement and proposed design of streets, open spaces, and blocks meet the development and design standards this Chapter and are coordinated with existing or potential development on adjacent property.
 - d. The proposed blocks and lots are capable of meeting all development and site design standards of the applicable zoning district.
 - e. The application demonstrates a preliminary feasibility of being able to meet the design, construction, performance, and maintenance requirements for all required improvements.
 - f. Any phasing is clearly indicated and demonstrates a logical and coordinated approach to development, and the timing, location, and construction of amenities is consistent throughout phases.
 - g. Any impacts identified by specific studies or technical reports, including a review of storm water, are mitigated with generally accepted and sound planning, engineering, and urban design solutions that reflect long-term solutions and sound fiscal investments.
 - h. The design does not impede the construction of anticipated or planned future public infrastructure or other development within the area.
 - i. The plat has addressed issues of professional staff or any other public entity or review agencies asked to officially review the preliminary plat and received positive recommendations.
3. *Review Procedure.* In addition to the general requirements in Table 2-1 and Section 17-2-1, the requirements in this sub-section apply to preliminary plat applications.
- a. At the pre-application meeting, and based on the size, scope and impact of any future development anticipated or pending with the request, the applicant shall propose how to coordinate the Neighborhood Meeting according to Section 17-2-1.D.
 - b. Any application that is particularly complex or involves significant planning and design issues, may be coordinated with a Rezoning in Section 17-2-3 or a Planned Development in Section 17-2-4 prior to or concurrent with an official submittal of a preliminary plat.
 - c. After review by staff, receipt of any comments from referral agencies, and any necessary resubmittal, the Director shall schedule review by the Planning and Zoning Commission.
 - d. The Planning and Zoning Commission shall hold a public hearing and make a recommendation to the Town Council on the preliminary plat.
 - e. After a recommendation by the Planning and Zoning Commission, the preliminary plat shall be scheduled for a public hearing at the Town Council for approval of the design concepts in the plat and acceptance of all public lands or proposed facilities.
4. *Effect of Decision.*
- a. The approval of the preliminary plat does not constitute an acceptance of the subdivision but authorizes preparation of the final plat.
 - b. An approved preliminary plat shall be effective for two years, except that any complete submittal of final plat for any phases indicated on a preliminary plat shall renew remaining portions of the preliminary plat. If a final plat is not submitted in that timeframe, the preliminary plat shall expire.
 - c. The Director may grant a one-year extension, if the applicant demonstrates substantial progress towards the design and engineering requirements necessary to submit a final plat



- E. **Final Plat.** After approval of the preliminary plat, the applicant may submit a final plat for all or for portions of the preliminary plat area subject to a phasing plan approved with the preliminary plat. A final plat shall be processed according to the following specific procedures.
1. **Review Criteria.** A final plat shall be reviewed according to the following criteria, as well as all criteria applicable to the preliminary plat review.
 - a. The layout and design of the final plat is substantially consistent with the approved preliminary plat considering the number and size of lots and outlots; the block layout, street designs and access; the open space systems and civic design elements; the infrastructure systems; or other elements of coordinated developments. Deviations made necessary due to the further detail in planning, design and engineering, and which meet the standards of this code, are generally considered “substantially consistent” with the preliminary plat.
 - b. The construction plans for any utilities, infrastructure, and public or common facilities meet all technical specifications.
 - c. All required improvements, dedications, fees, financial guarantees, and maintenance guarantees are provided.
 - d. The phasing and timing of required improvements ensures construction and performance guarantees. Any phasing that meets an approved preliminary plat is presumed acceptable. Any deviations of the final plats from an approved phasing plan shall not alter the timing or coordination of required improvements or amenities in the approved preliminary plat.
 - e. Deviations in the final plat from the approved preliminary plat may be considered where the change:
 - (1) Complies with all applicable zoning standards, subdivision design standards, and meets the intent and design objectives of those standards.
 - (2) Does not increase the impact of any development on required improvements beyond the capacity for required improvements identified in the preliminary plat;
 - (3) Does not impact any condition of the Planning and Zoning Commission or Town Council associated with the approval of the preliminary plat;
 - (4) Is generally consistent with development concepts in the preliminary plat in terms of land uses, scale, and intensity of development, and in no case changes the number of lots, dwelling units, buildings, or sizes of blocks and open spaces by more than 10 percent; and
 - (5) If technical studies were required with the preliminary plat, the author of the study shall submit an amendment noting that the change does not impact any findings of the study.
 - f. Any other changes to the preliminary plat, including significant changes in the phasing or dedication of public lands and rights-of-way, may require resubmittal of a revised preliminary plat.
 2. **Review Procedure.** In addition to the general requirements in Table 2-1 and Section 17-2-1, the requirements in this section apply to final plat applications.
 - a. The applicant shall identify all improvements to be constructed, either according to the required improvements listed in this code or by a specific agreement for the project. The applicant shall submit final plans and specifications for these improvements, and ensure construction of these improvements of financial guarantees as provided in Section 17-3-4.
 - b. Staff shall review the final plat for conformance with the planning and design elements, and the engineering specifications, and a final plat that meets these criteria shall be presented to the Town Council for acceptance.



- c. A final plat that does not meet these review criteria may require reprocessing as a revised preliminary plat.
 - d. The Town Council shall make a final decision on final plats based on these criteria, and may accept the dedication of any easements, rights-of-way, or other public lands on behalf of the Town.
3. *Effect of Decision.*
- a. The applicant shall submit the approved final plat and all other required documents and certificates to the Town for execution. Approval may be conditioned upon payment of all other applicable fees and execution of all applicable agreements prior to recording.
 - b. Once approved and all conditions are satisfied, the Town shall record the final plat and executed documents with the applicable county clerk and recorder.
 - c. The plat shall become effective after recording, and recording shall complete the Town’s acceptance of the dedication of land for public purposes indicated in the approved final plat.
 - d. A recorded plat may be modified through the same procedure used to approve the final plat unless it qualifies as a minor subdivision, or unless the changes are significant enough to require a new preliminary plat.
 - e. No substantial site construction may begin until all final plat documents are executed and recorded, applicable fees paid, and plans and agreements for required improvements are in place according to Section 17-3-4. A building permit shall not be issued until the completion, inspection, and acceptance of all required improvements, unless otherwise agreed to in writing with the Town.

17-2-3 Rezone

- A. **Applicability.** The rezone process provides review of changes to the boundary of zoning districts (rezoning) that may be necessary to implement the Comprehensive Plan, to account for changed conditions in the general area, or to reflect a change in policies with respect to future development. A minor modification to a zoning district to better align with final development configuration of lots and streets is also eligible for a rezone and may be initiated by the Town. Applications for a rezone may be filed by the property owner, the Town Council, or the Planning and Zoning Commission, or by Staff on behalf of these Town entities.
- B. **Review Criteria.** Review, recommendations, and decisions for a proposed rezone shall be based on the following criteria.
 - 1. The rezone furthers one or more of the purposes of these regulations in Section 17-1-3, and on balance any purposes that may be undermined are outweighed by the benefits of those purposes it furthers.
 - 2. The proposal is consistent with the goals and objectives of the Comprehensive Plan and any other plan, policy or guidance adopted pursuant to that plan.
 - 3. The change is consistent with the intent of the proposed zoning district, specifically considering:
 - a. the design of streets, civic spaces and other open space;
 - b. the pattern, scale, and format of buildings and sites; and
 - c. the compatibility and transition with other complementary uses and development in the vicinity.
 - 4. The change is necessary for at least one of the following reasons:
 - a. There has been a material change in the character of the area or in the Town generally, such that the proposed rezone is in the public interest.



- b. The change will serve a community need or provide an amenity or benefit to the surrounding area that was not anticipated at the time of the initial zoning.
 - 5. The Town or other agencies have the ability to provide services or facilities that may be necessary for anticipated uses in the proposed district.
 - 6. Any reasonably anticipated negative impacts on the area or adjacent property either are mitigated by sound planning, design and engineering practices or are outweighed by broader public benefits to the surrounding community.
 - 7. If owner-initiated, at least two-thirds of the subject property owners within the change of zone boundary have signed the application.
 - 8. If owner-initiated, the subject property has not been included in a rezone action in the prior 12 months, with the exception of property in the H-A zoning district which was established concurrent with annexation.
 - 9. The recommendations of any professional staff and advisory review bodies have been considered.
- C. **Review Procedure.** In addition to all applicable general procedures in Section 17-2-1 and Table 2-1, the following specific procedures shall apply to zone changes.
- 1. Applications may be accompanied by any preliminary plat, site development plan, planned development, or other development concepts necessary to evaluate conformance with the Comprehensive Plan.
 - 2. The Planning and Zoning Commission shall hold a public hearing and make a recommendation to the Town Council.
 - 3. The Planning and Zoning Commission may recommend, and the Town Council may approve:
 - a. A lessor change than was proposed in the notice, whether in extent of property or project areas, or to a zoning district that permits a lessor scale and intensity of uses or other development standards.
 - b. A rezone based on the condition that the plat or site development plans are approved according to this code either prior to or within a certain time after Town Council action.
 - c. No substantial amendment to the Planning and Zoning Commission recommendation may be approved without referral back to the Commission. Failure by the Planning and Zoning Commission to consider or revise its recommendation shall be considered a resubmission of the original recommendation.
 - 4. Approval of a rezone shall be by ordinance approved by the Town Council.
- D. **Effect of Decision.**
- 1. A rezone shall be effective by an ordinance approved by the Town Council, and the Town Clerk shall record a copy of the ordinance and map exhibit with the applicable county clerk and recorder.
 - 2. The Director shall make the change on the official map by an actual change or other record identifying the ordinance with the associated property.
 - 3. The approved rezone remains in effect after the effective date of the ordinance, unless changed by a subsequent process according to the applicable procedures and criteria.



17-2-4 Planned Development

A. Applicability. The Planned Development process is intended for innovative development concepts that require a higher degree of specific master planning due to the scale, novelty, or complexity of the project. It is a type of rezone, but is based on a specific and integrated development plan. This process affords flexibility in the standards to improve the relationship of the project to the context; to deliver greater community benefits; and to better meet the purpose, intent, and objectives of this code. Application for a Planned Development may be filed by the property owner, the Town Council or by staff on behalf of these Town entities.

- 1. Planning Thresholds. A development plan shall include sufficient area to implement planning concepts that generate broader public benefits only gained from flexible application of the standards, and not simply be used to justify deviations for single projects or on a site-specific basis. Typical applications include:
a. Large-scale planned communities that involve transitions in land uses, development patterns or intensity, or public and civic spaces;
b. Additions to previously approved PUDs if the flexible application of standards is used to integrate projects with previous plans;
c. Projects with a mix of uses that are not otherwise accounted for by one or a combination of the base zoning districts of the code;
d. Projects that need deviations to facilitate appropriate infill development or redevelopment of a site; or
e. Other similar public or community benefits determined by the Director.
2. Eligible Adjustments. Design and site elements that may be stipulated in a Planned Development, and vary from other sections of this Code include:
a. Modifications of building types and development standards, including lot sizes, setbacks, or heights.
b. Enhanced design specifications for buildings, open and civic space, streetscapes, or landscape that provide higher standards to execute a specific theme;
c. List of permitted or prohibited land uses and accessory uses;
d. Modifications to public streets and transportation-related infrastructure to specifically accommodate a transit-oriented development within 1/4 mile of a highway, interstate or transit corridor, or support more walkable and multi-modal patterns.
e. Any changes that can positively impact housing affordability based on a financial impact analysis and based on federal, state, or local guidelines relative to Area Median Income (AMI).

B. Development Plan. A Planned Development zoning application requires a specific plan for coordinated development of the entire area within the planned zoning boundary, and shall include the following:

- 1. Concept Plan. A Concept Plan is a plan the presents the overall vision for the project, and development strategies for applying the Comprehensive Plan and Future Land Use Map policies and principles to a specific area. A Concept Plan shall demonstrate:
a. Statements on the intent and objectives for the project, and how they meet the review criteria for PUD rezones;
b. Maps designating general land use categories and distinct areas of the plan;
c. Diagrams and maps identifying a general arrangement and character of streets and open spaces;
d. Graphics illustrating anticipated scale, intensity and character of development;
e. A comparative description of how the plan and proposed standards differ from implementation of strict standards of the development code.



- f. A list of commitments to planned amenities or design strategies that will deliver public or community benefits beyond what the base zoning district requires.
2. **Framework Plan.** A Framework Plan is a design plan for the development pattern, streets, and civic spaces that serve as organizing elements of the area and development projects. A Framework Plan shall demonstrate the following, and may serve as a preliminary plat to the extent it includes all elements in Section 17-2-2.D:
 - a. Outline any proposed streets, internal streetscapes, and access, and how they coordinate with the adjacent development patterns, street networks, and blocks;
 - b. Specify dimensions and design cross sections for streets and internal circulation, or identify types and classifications for all routes.
 - c. Indicate the location, function, size, type and other design characteristics of open and civic spaces – whether public, common, or private.
 - d. Propose any phasing or implementation strategy for projects that will be designed or permitted in stages, including the estimated timing and any other details of implementing the project through future final plats and site development plans.
 3. **Regulating Plan.** A Regulating Plan becomes the zoning map for the specific project. It shall be based on the most comparable base zoning district(s), but specifically identify where development standards or uses may differ from those that would otherwise be applicable through the zoning district(s) and general development requirements of this code. It indicates the following:
 - a. The block and lot patterns, and where transitions in use or development intensity occur;
 - b. Specific land uses and their density/intensity. Including additions, subtractions, or other limitations from uses otherwise permitted in the base district;
 - c. The building and site design standards applicable for each distinct area; and
 - d. Any detailed plans, prototypes, renderings, elevations or other urban design and architectural specifications that can help expedite future development proposals through the site development plan process.

C. Review Criteria

1. **New Planned Developments.** Review, recommendations, and decisions for newly proposed planned development shall be based on the following criteria:
 - a. The plan implements the Comprehensive Plan to a demonstrated higher design and development standard than could be accomplished under application of general zoning districts and development standards.
 - b. Unique benefits to the community result from the flexibility in the proposed plan which elevate the general public health, safety and welfare of the community and surrounding areas, rather than flexibility to strictly to benefit the applicant or a single project.
 - c. The flexibility in the proposed plan allows the project to better meet or exceed the intent statements of the base zoning district(s).
 - d. The proposed adjustments to the standards do not undermine the intent or design objectives of those standards when applied to the specific project or site.
 - e. The plan reflects generally accepted and sound planning and urban design principles with respect to applying the goals and objectives of the Comprehensive Plan and the purposes of this code.
 - f. The plan meets the review criteria for a rezone in Section 17-2-3.B.
2. **Minor Amendment to PDs & PUDs.** Minor amendments to PDs under this code or PUDs approved under a prior code, may be approved by the Director, provided it meets all criteria or conditions for the initial approval, and is limited to the following:



- a. Any change in the number of housing units, change in lot sizes or dimensions, or increase the extent of non-residential uses is less than 5%.
 - b. There is no decrease in the amount of open space or other reduction of amenities from the approved plan.
 - c. Any change in the height or square footage of buildings is no more than 10% of the approved measurements.
 - d. Any change in a design standard meets the criteria for alternative compliance in Section 17-2-6.
 - e. Changes to the boundaries of any planning areas do not change the boundaries of the PUD, do not alter the mix of uses by more than 10% in land area or square footage, and otherwise reflect a similar land use plan.
 - f. The proposed change is consistent with concept plans in the previously approved planned unit development.
 - g. The plan otherwise meets all of the review criteria for site development plans in Section 17-2-5.
3. **Major Amendment to PDs & PUDs & Conversions.** Changes to previously approved PDs that exceed allowances for minor amendments, or conversions of PUDs approved under a prior code to the provisions of this code, may be proposed for a portion of the area under the following criteria:
- a. The plan proposes the most closely applicable base zoning district(s) for in terms of land use, development intensity, and building form and scale.
 - b. The proposed change is consistent with concepts or plans in the previously approved PUD or planned development.
 - c. The plan does not increase development beyond any capacity constraints or impact limits of the previous plan.
 - d. The proposed plan either meets the standards provided in this code and the conversion is to a base zoning district according to general standards, or where deviations from the base zoning districts or other standards of this code are requested, they are in closer compliance than is allowed under the prior PUD or planned development.
 - e. The plan meets all other applicable criteria and review process for a site development plan.
 - f. Any other changes that do not meet these criteria may only occur through the same process and criteria for a new planned development.
- D. **Review Procedure.** The following specific procedures supplement the general procedures in Section 17-2-1 and Table 2-1 applicable to planned developments:
- 1. The Planned Development process involves at least two steps:
 - a. The development plan establishing the zoning and any necessary deviations; and
 - b. Platting and site development plans for specific components of the development plan.

However, based on the complexity of projects and degree of advanced planning and urban design necessary for a project, the Director may require, or the applicant may elect, breaking the review of the elements of a development plan in sub-section B. into two or more steps to review Concept Plans and preliminary designs, Framework Plans and larger-scale planning and design, or the full development plan.
 - 2. The Planned Development application is a rezoning and shall follow the procedures in Section 17-2-3.C.
 - 3. In most cases, land will need to be subdivided in order to carry out a development plan. The platting process is a separate process but may run concurrently with the planned development process, as specified in Section 17-2-1.B.



- E. **Effect of Decision.** Approval of a planned development shall constitute acceptance of the overall planning concepts and development parameters, and may constitute additional rights as specified below.
1. **Concept Plan.** Approval of the Concept Plan reflects the approved land uses and density / intensity, and a commitment to planned amenities and design strategies. Independent of any corresponding approval of a Framework Plan or Regulating Plan, it serves as a more specific application of the Comprehensive Plan and Future Land Use Map policies and principles to the specific area, and reflects consensus that future development plans in accordance with the concepts should be approved.
 2. **Framework Plan.** Approval of a Framework Plan indicates that the basic development patterns and infrastructure concepts are agreed to in principle as conforming to the intent of the Comprehensive Plan and any other plans or policies created under the guidance of that plan. Approval of a Framework Plan may have the same effect as approval of a preliminary plat as specified in Section 17-2-2.D, provided it includes or is accompanied by information required for preliminary plats.
 3. **Regulating Plan.** Approval of a Regulating Plan shall have the same effect as a rezoning specified in Section 17-2-3.D. Sites governed by an approved Regulating Plan shall be designated on the Official Zoning Map with the letters of the proposed base zoning district plus “PD” (planned development). (For example, where a portion of the development plan uses the R-1, R-3 and the MU-NC base zoning districts, the zoning of each area of an approved regulating plan shall be R-1-PD, R-3-PD, and MU-NC PD respectively.)
 4. **Final Development.** Prior to applying for permits for final development, any project included as part of a Planned Development shall first require approval of a final plat and a site development plan as provided in these regulations. In addition to all other information and criteria required for those applications, submittals under an approved Planned Development shall demonstrate that all applicable standards, requirements, and conditions of the development plan have been met.
 5. **Duration of Plan.** A Planned Development shall lapse and be of no further force and effect if a final plan (all of applicable final plats or site development plans) for specified phases has not been approved within three years of the date of approval of the development plan. Approval of final plans for a portion of the plan shall renew this period. The Town Council may approve an extension of a development plan for up to three additional years. The Town and applicant through a development agreement or approved phasing plan may establish timelines different from this section.

17-2-5 Site Development Plan

- A. **Applicability.** The site development plan process ensures that development projects meet the development and design standards of this code, and all other standards applicable to the property. It coordinates development projects with the public realm design and with adjacent sites, including streetscape design, compatible arrangement of buildings, pedestrian and vehicle access, site design, lighting, and landscaping. Site development plans may be initiated by the property owner.

The site development plan process specifically applies to any of the following:

1. All new non-residential development, mixed-use development, or residential development with multi-unit building types.



2. Any development or site improvements in a PD zoning district or a PUD approved under a prior development code.
3. New detached houses or multi-unit houses where 3 or more buildings are proposed.
4. Expansion or alterations to an existing multi-family or non-residential building that alter the footprint, massing or facade design
5. A change of use that is potentially more intense than the existing use, or that could otherwise trigger associated site development activity, such as parking, access, landscape, or screening.
6. Any site development activity that expands the existing impervious surface.
7. Any changes to the site access and circulation, or other development requirements that significantly impact streetscape design or existing traffic conditions near the site.
8. The Director may require abbreviated site development plans or other improvement plans for any other development necessary to demonstrate zoning compliance prior to permitting.

A pre-application meeting is recommended to clarify the scope of the project or changes to a site, and thereby best determine the needed submittal materials.

- B. **Review Criteria.** In general, any site development plan in compliance with all applicable standards of this code shall be approved. In making a determination of compliance with the standards applied to a particular project and site, the following criteria shall be considered:

1. *Generally.*
 - a. The plan meets all applicable standards or the criteria for any discretionary approvals.
 - b. The plan does not substantially undermine any goals or objectives of the Comprehensive Plan that are applicable to the area or specific project.
 - c. The plan does not present any other apparent risks to the public health, safety or welfare of the community.
 - d. The application is consistent with or meets the intent of all prior approvals and conditions associated with the project.
 - e. The plan does not directly conflict with the intent or design objectives of any applicable standard in this code.
 - f. The application can reasonably be assumed to meet the criteria for all subsequent permits and reviews needed to build the project as proposed.
2. *Site Design and Engineering.*
 - a. The plan provides safe access and internal circulation considering the site, the block and other surrounding connections, and appropriately balances vehicle, bicycle and pedestrian needs for the context.
 - b. The plan provides or has existing capacity for utilities and other required improvements to serve the proposed development.
 - c. The plan provides adequate management of storm water runoff.
 - d. The plan provides proper grading considering prevailing grades and the relationship to adjacent sites.
3. *Landscape and Open Space Design.*
 - a. The plan creates an attractive aesthetic environment and improves relationships to the streetscape or other nearby public, civic or common spaces.
 - b. The plan enhances the environmental and ecological functions of un-built portions of the site and makes effective use and conservation of water resources.
 - c. The plan reduces the exposure and adverse impact of more intense activities or components of the site or building on the streetscape and on adjacent properties.



4. **Building Design.**
 - a. The location, orientation, scale and massing of the building creates appropriate relationships to the streetscape and to adjacent properties.
 - b. The selection and application of materials will promote proper maintenance and quality appearances over time.
 - c. The building reinforces the character of the area and reflects a compatible architectural relationship to adjacent buildings. Specifically, if there is any consistency or commonality in the scale, proportion, forms and features, and materials of adjacent buildings, they inform choices on the proposed building.

- C. **Review Procedure.** In addition to the general requirements in Section 17-2-1 and Table 2-1, the following requirements are specific to site development plan applications:
 1. The Director shall review the application and determine if the review of any other department or agency is required.
 2. At the applicant's discretion, and as part of the pre-application steps, the applicant may present a preliminary sketch or Concept Plan for review by staff or the Planning and Zoning Commission and Town Council. This may be used to confirm interpretations, test basic concepts and standards, or review options for a proposed project.
 3. For any application that presents significant interpretation issues regarding the standards and criteria, proposes substantial land use change, or is of a scale and intensity that may impact surrounding properties in a manner different than existing development in the area, the Director may require a Concept Plan or that the site development plan be reviewed and approved by Planning and Zoning Commission, and may require notice or meetings with potentially impacted property owners and residents.
 4. Applications associated with another application may be approved with a condition on final approval of the associated application. The site development plan shall be noted in the associated application and either affirmed or denied by the review body according to the criteria of the associated application.
 5. The Director shall make the final decision on site development plans, and the decision may be appealed to the Planning and Zoning Commission. For development plans that include a substantial impact to public infrastructure, traffic patterns and the transportation networks, or other impacts that may require additional review and consideration, the Director may refer this project for Full Review with the Planning & Zoning Commission and Town Council for final determination.

- D. **Effect of Decision.**
 1. Approval of a site development plan shall authorize the applicant to apply for a building permit and other applicable permits.
 2. Approval of a site development plan shall be valid for one year unless some other period is stated on the approval or any other associated application. The Director may grant a 1-year extension provided no conditions, standards, or policies affecting the application have changed.
 3. The Director may approve minor amendments to any site development plan, provided the changes do not:
 - a. Increase the proposed residential density by more than 5%, or the non-residential floor area by more than 10%.
 - b. Increase the building footprint by more than 5%.
 - c. Increase the building height by more than 10%.
 - d. Increase the impervious surface by more than 10%.
 - e. Change the design of the plan to substantially and negatively alter:
 - (1) pedestrian or vehicle access;
 - (2) relationships of constructed elements to adjacent property;
 - (3) landscape and open space designs; or



- (4) the architectural appearance of buildings.
- f. In all cases the change meets all applicable development standards for the site and does not negatively impact any criteria or conditions of the original approval.
- 4. Any site development plan where permits are not issued prior to a lapse, or any other changes are proposed, shall require a new application.

17-2-6 Alternative Compliance

A. **Applicability.** The alternative compliance process provides limited flexibility to design standards so that the best design solution may be applied to a particular context or site. It ensures that projects meet the intent and design objectives of the standards of this code and allows for relief from strict application of the standards where an equal or better design solution is possible. Alternative compliance shall not undermine requirements of this code, but provides equivalent alternative designs or standards applied in a site-specific or creative way. Alternative compliance applications may be initiated by the property owner.

Specifically alternative compliance shall be applicable for any of the following:

- 1. Street design standards in Section 17-3-1.
- 2. Open space design standards in Section 17-3-2.
- 3. Residential development and design standards in Sections 17-5-2 and 17-5-3;
- 4. Non-residential design standards in Sections 17-6-2 and 17-6-3;
- 5. Access and parking standards in Article 7;
- 6. Landscape & site design standards in Article 8; and

B. **Review Criteria.** The following criteria apply to any application that is proposing alternative compliance to any of the eligible standards.

- 1. Specific conditions, configurations, or context of the site make strict compliance with the standard impractical, or meeting the standards would clearly not advance the intent or design objective of the standard.
- 2. The proposed alternative equally or better meets the intent or design objective of the standards and is not used to avoid appropriate application of the code standards.
- 3. The alternative does not undermine any other standards or create additional negative impacts on adjacent sites.
- 4. The alternative shall not alter any standard in a manner that permits a use that would otherwise be prohibited.
- 5. The alternative is not strictly for the convenience of a specific project, but is justified under any of the following broader community benefits:
 - a. Aesthetic considerations that permit better coordination of the lot and building with the established character of the specific area;
 - b. Improved environmental performance;
 - c. Enhanced pedestrian or bicycle accommodations, or better civic space design;
 - d. Adaptive reuse of an existing building, additions to an existing building, or infill on an existing lot that accommodates development comparable to that on adjacent property;
 - e. Better serves public health and safety considerations.
- 6. The deviation is the minimum necessary to address the circumstance or context.

C. **Review Procedures.** In addition to the general requirements in Section 17-2-1 and Table 2-1, the following requirements are specific to alternative compliance applications:

- 1. Applications shall be submitted with a written narrative explaining the rationale for the request and an accompanying site development plan demonstrating the request. Collectively these shall demonstrate:



- a. Required standard;
 - b. Why the required standard is not practical;
 - c. The proposed standard or alternative solution; and
 - d. How the proposed standard or alternative is an improvement.
2. Alternative compliance associated with an application that requires approval of another review body may be approved by the Director conditioned on final approval of the associated application. The alternative compliance shall be noted in the associated application and either affirmed or denied by the review body according to the criteria of the associated application.

D. Effect of Decision.

- 1. Approval of alternative compliance shall be indicated by a written statement of the Director, which shall be submitted with and clearly noted on any subsequent submitted plans or permit applications. It shall authorize deviation from the standards only to the extent demonstrated on the approved plans.
- 2. The approval shall only be valid for one year from the written statement, or for the time period of any associated or subsequent approved plans or permits.
- 3. Denial of an alternative compliance request may be appealed as provided in Section 17-2-9, Appeals of Administrative Decisions.

17-2-7 Use by Special Review

- A. **Applicability.** A use by special review provides flexibility for different uses within a zoning district and allows the potential for additional uses subject to specific conditions. These uses are not generally appropriate throughout the district, but due to the design and operational characteristics of particular application of the use, or due to conditions in the area where the use is proposed, may be appropriate based on a case-specific review. Uses by special review may be initiated by the property owner for those uses as indicated by the Use Table in Section 17-4-2.
- B. **Review Criteria.** A use by special review shall be reviewed according to the following criteria:
- 1. All criteria for site development plan review in Section 17-2-5.B. are met, including any conditions or additional requirements identified in this code for the particular use.
 - 2. The application furthers the intent of the proposed zoning district and is otherwise determined to be consistent with the Comprehensive Plan.
 - 3. Compatibility with the area and other allowed uses in terms of operating characteristics such as hours of operation, visible and audible impacts, traffic patterns and parking demands, intensity of buildings and activity on the site, and other potential impacts on adjacent property.
 - 4. The long-range plans applicable to the site and surrounding area are not negatively impacted considering the permanence of the proposed use, the permanence other uses in the area, potential future uses, and any changes in character occurring in the area.
 - 5. Whether a limited time period for the permit is reasonably necessary to either limit the duration of the use, assess the use against changing conditions in the area, or require periodic reporting or review of the permit.
 - 6. The recommendations of professional staff or other technical reviews associated with the application.
 - 7. Whether any additional site- or use-specific conditions are necessary to meet these criteria.
- C. **Review Procedure.** In addition to the general requirements in Section 17-2-1 and Table 2-1, the following requirements are specific to use by special review applications.



1. Applications may be accompanied by site development plan where it is necessary to review conformance with standards of this code and any performance criteria for the particular use.
2. The Planning and Zoning Commission shall hold a public hearing and shall make a recommendation to the Town Council. Upon a recommendation from the Planning and Zoning Commission, the Town Council shall review the application and make the final decision on the use by special review.

D. Effect of Decision.

1. All approved plans and conditions associated with a use by special review shall be recorded with the applicable county clerk and recorder.
2. Approval and recording of a use by special review shall authorize the applicant to apply for a building permit and other applicable development or construction permits.
3. Approval of a use by special review shall be valid for one year, and the Director may grant a one-year extension, provided no applicable standards or conditions have changed. Any application not acted upon according to the approval and conditions within this period shall be void. (This period requiring action on an approved use by special review is distinct from any condition limiting the duration of the permit.)
4. A use by special review may be revoked or modified with additional conditions by the Town through the same procedures approving the permit, upon a finding that the conditions of approval have not been met, or that the use has otherwise violated the provisions of this code.
5. Minor changes to an approved use by special review may be approved by the Director limited to the following:
 - a. A change of ownership provided all conditions and criteria of the permit are met, and provided the new owner demonstrates the likelihood to continue to comply with all standards.
 - b. Any change to any associated site development plan provided it meets the minor amendment criteria, and does not violate any required conditions of the approval.
 - c. A change in operations that is otherwise determined by the Director to not have a significant impact on any adjacent property and is otherwise consistent with the criteria and conditions for approval of the original use by special review.
 - d. Any other change shall require an amendment to the use by special review through the same process as the original approval

17-2-8 Variance

- A. **Applicability.** A variance is a process to provide relief from a strict interpretation of the zoning and site design and development standards of this code, which when applied to a particular property and in a specific context would create practical difficulties or unnecessary hardship on all reasonable use of the property. This application shall only apply to the design, dimensions and other site development standards of this code and shall not be used to authorize a use that is prohibited by the applicable zoning district. Variances may be initiated by the property owner.
- B. **Review Criteria.** A variance shall be reviewed and approved only on the finding that all of the following conditions are met:
 1. Unique physical conditions not ordinarily found in the same zoning district, and that are not created by the property owner deprive the owner of privileges enjoyed by other property in the vicinity and in the same zoning district;
 2. The strict application of the regulations constitutes an unnecessary hardship upon the property owner, hindering reasonable uses of the property. Economic considerations



- alone shall not constitute an unnecessary hardship if a reasonable use for the property exists under the standards of this code;
- 3. The granting of the variance will not adversely affect the rights of adjacent property owners or residents;
- 4. The variance desired will not adversely affect the public health, safety, or general welfare;
- 5. Granting the variance would not alter the essential character of the surrounding neighborhood, and the general spirit of the ordinance and intent of the standards will be maintained; and
- 6. The requested variance is the minimum necessary to relieve the conditions and permit reasonable use of the property.

C. **Review Procedures.** In addition to the general requirements in Section 17-2-1 and Table 2-1, the following requirements are specific to variance applications:

- 1. The concurring vote of a majority of the membership of the Board of Adjustment shall be necessary to grant a variance.
- 2. In granting a variance, the Board of Adjustment may impose conditions and requirements that best assure the criteria for approval are in place and maintained, and any violation of these conditions shall be considered a violation of the ordinance.
- 3. The Board shall issue all decisions in writing, including the grounds for its decision based on findings of fact regarding each criterion, within 30 days after the decision has been made at a public hearing.

D. **Effect of Decision.**

- 1. An approved variance shall become effective when recorded with the applicable county clerk and recorder. Upon recording the applicant may proceed with any necessary approvals or permits authorized in the variance.
- 2. A variance shall run with the land to extent the zoning of the subject property remains in place.
- 3. Any decision not acted on within one year of the decision by the Board shall expire.
- 4. Any person aggrieved by a final decision of the Board of Adjustment may appeal the decision to the district court within 30 days of the Board’s vote on the final decision.

17-2-9 Appeal of Administrative Decision

A. **Applicability.** The appeal process is to determine if there was an error in a final decision made under this code. There are two types of appeals:

- 1. *Applications.* An appeal of a final decision on a development application in Table 2-1 which shall be made according to the appeal process specified for that application.
- 2. *Administrative Decisions.* An appeal of a final administrative decision made under the authority of this code, which shall require the filing of an Administrative Appeal application according to Table 2-1 and this section.

All appeals shall follow the standards and criteria in Section 17-2-1.I.

B. **Criteria.** An administrative appeal shall be reviewed according to the following criteria:

- 1. The Board of Adjustment shall grant the administrative official's decision a presumption of correctness, placing the burden of persuasion of error on the appellant.
- 2. An appeal shall be sustained only upon findings, supported by the record, that the official was in error.
- 3. In deciding on an appeal, the Board shall have all powers of the official from whom the appeal is taken, and the Board may reverse, affirm wholly or partly, remanded the



decision back to the administrative official with instructions, or modify the decision being appealed.

C. **Review Procedures.** In addition to the general requirements in Section 17-2-1 and Table 2-1, the following requirements are specific to administrative appeal applications:

1. Notice of the administrative appeal shall be served upon the person whose decision is being appealed by providing a copy of the appeal. The administrative official whose decision is being appealed shall transmit all plans, applications and other files directly impacting the decision to the Board within 30 days of filing.
2. An administrative appeal stays all proceedings in furtherance of the action appealed from unless the official from whom the appeal is taken certifies to the Board after the notice of appeal that a stay could cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.
3. The concurring vote of a majority of the membership of the Board of Adjustment shall be necessary to overturn or modify an administrative decision.
4. In deciding on an appeal, the Board of Adjustment may impose conditions and requirements that best assure the criteria for approval are in place and maintained, and any violation of these conditions shall be considered a violation of the ordinance.
5. The Board shall issue all decisions in writing within 30 days of the hearing, including the grounds for its decision based on findings of fact.

D. **Effect of Decision.**

1. An approved appeal shall become effective when decided upon and issued in writing.
2. An approved appeal shall be kept on file with the Town and guide all future decisions on the same issue, and in the same or similar situations, unless limited by the terms of approval or unless modified by an ordinance amendment.
3. Any person aggrieved by a final decision of the Board of Adjustment may appeal the decision to the district court within 30 days of the Board's vote on the final decision.

17-2-10 Text Amendments

A. **Applicability.** Text amendments to these regulations may be initiated by the Town Council or the Planning and Zoning Commission, or by Staff on behalf of these entities.

B. **Review Criteria.** A text amendment shall be reviewed according to the following criteria:

1. The amendment furthers the purposes of these regulations.
2. The amendment is in accordance with the Comprehensive Plan and has been considered for both its long-range affects as well as immediate impacts.
3. The amendment promotes the public safety, health and general welfare of the community in the Town of Johnstown.
4. The amendment improves the effectiveness and efficiency of administering the Development Code.

C. **Review Procedures.** In addition to the general requirements in Section 17-2-1 and Table 2-1, the following requirements are specific to text amendment applications:

1. Applications may be accompanied by a related Comprehensive Plan amendment, or more specific plan, provided that amendment or plan has met all of the legal and policy requirements for plan approvals independent of the proposed text amendment.



2. The Town Council may recommend the application be returned to Planning and Zoning Commission for further study or additional information at its next regular meeting. Failure by the Planning and Zoning Commission to consider or revise its recommendation shall be considered a resubmission of its original recommendation.
 3. The Planning and Zoning Commission may recommend or Town Council may approve a lesser change than was proposed in the notice, when considering the proposed change relative to the currently applicable standards.
- D. **Effect of Decision.** Amendments to the text of these regulations shall be approved by the Town Council in the form of an ordinance and be effective after the date specified in the ordinance. The Director shall incorporate approved amendments into this code by reference to the specific amending ordinance, indicating the newly applicable provisions and any replaced provisions, or by recodification of the official code that incorporates the approved amendment.

17-2-11 Vested Property Rights

- A. **Applicability.** The following applications may be considered “site-specific development plans” which establish a vested property right upon any approval or conditional approval according to the procedures and criteria of this code. establishes the right to undertake and complete development according to a “site specific development plan” as defined by this code to meet the requirements of C.R.S. Article 68 of Title 24. A “site-specific development plan” shall mean final approval and the applicant’s acceptance of conditions of any of the following types of applications:
1. Site Development Plan
 2. Administrative Plat
 3. Final Plat
 4. Other elective applications at the request of a property owner and subject to the discretion of the Town Council.
- B. **Review Criteria.** The review criteria for a vested property right shall be the same criteria as the associated application. In addition, when the Town Council is considering a request to vest any other property right or development approval, it shall consider the following additional criteria:
1. The level of planning, urban design, or engineering investment that was necessary for the applicant to reach this point in the application.
 2. The extent of details included in the proposal, the certainty associated with future development, and the extent of future reviews that may be necessary to advance the project to construction.
 3. The context of the property and the likelihood of future changes in the surrounding area that could impact the project.
 4. Any other aspect of public health, safety, and welfare.
- C. **Specific Procedures.** In addition to the general requirements in Section 17-2-1 and Table 2-1, the following requirements are specific to vested right applications.
1. **Notice & Hearings.** The statutory notice and hearing requirements shall be satisfied as follows:
 - a. **Final Plats.** For final plats, the notice and public hearing to consider the preliminary plat before the Planning and Zoning Commission provided the Commission shall indicate that such vested right shall only be created upon approval of the required final plat by the Town.



- b. **Site Development Plans.** For site development plans, which are approved by the Director or Planning & Zoning Commission, a separate hearing before the Town Council following the decision. The applicant shall request a vested right hearing within 30 days following the approval of the site development plan, or the right to request such a hearing shall be waived.

- 2. **Plat or Plan Language.** Each site-specific development plan shall contain the following language: "Approval of this plan [or plat] creates a vested property right subject to all conditions of approval pursuant to C.R.S. Section 24-68-103 et. seq., as amended. The effective date of vesting is [insert date]."

- 3. **Publication.** Approval of a vested right shall be published in a newspaper of general circulation within Johnstown within 14 days of the Town Council decision advising the public of the site-specific development plan and approval of a vested right.

- D. **Effect of Decision.**
 - 1. Final approval of a site-specific development plan shall create a vested right to undertake and complete development and use of real property pursuant to Colorado Statutes, but only as to those terms and conditions contained in the approved site-specific development plan.
 - 2. The review and approval of a vested property right in a site-specific development plan shall not prevent the Town, in subsequent actions, from applying any of the following to the subject property:
 - a. New ordinances, rules, regulations, standards, and policies that do not conflict with those in effect as of the site-specific development plan's effective date of approval;
 - b. New ordinances, rules, regulations, standards, and policies that are specifically anticipated and provided for in the terms or conditions of the approved site-specific development plan;
 - c. New ordinances, rules, regulations, standards, and policies that are necessary for the immediate preservation of the public health and safety, whether adopted while a complete application is pending or after the decision; or
 - d. New ordinances, rules, regulations, standards, and policies when the Town finds that the site-specific development plan is based on substantially inaccurate information supplied by the applicant.
 - 3. A vested property right shall remain vested for 3 years from the publication date of the decision unless a longer term is agreed to by the Town in a development agreement. An amendment to any site-specific development plan shall not extend the period of vested rights, unless otherwise authorized by agreement approved by the Town.
 - 4. A landowner may waive a vested property right by separate agreement, which shall be recorded in the office of applicable county clerk and recorder. Unless otherwise agreed to by the Town, any landowner requesting annexation to the Town shall waive in writing any pre-existing vested property rights as a condition of annexation.
 - 5. Any violations of the approved plan, or any failure to comply with conditions of approval shall result in forfeiture of the vested property right.
 - 6. The Town Council may revoke the vested property right through the same procedures as the original plan approval, and after providing at least 14 days written notice to the property owner and original applicant.

17-2-12 Annexation & Establishment of Zone District(s)

- A. **Applicability.** The annexation process is to add unincorporated areas to the Town. The process considers logical extensions of the boundaries, sets the conditions for well-ordered development,



and provides efficient and effective extension of municipal services and facilities. Annexation applications may be by petition of the landowners or at the initiation of the Town Council.

B. Review Criteria.

1. **General Eligibility.** The Town Council may consider an annexation petition for land that satisfies the eligibility requirements of the statutes of the state as follows:
 - a. The area proposed for annexation has not less than one-sixth of its perimeter contiguous with the municipal boundaries.
 - b. A community of interest exists between the area proposed for annexation and the Town; the area is urban or will be urbanized in the near future; and the area is integrated with or is capable of being integrated with the Town.
 - c. The full width of all public rights-of-way adjacent to a proposed annexation shall be included in the annexation.
 - d. Any land in single ownership that would be divided by the proposed Town boundary shall require consent of the landowner.
 - e. The responsibility to apply for exclusion from any applicable special districts or school districts shall be upon the applicant of the annexation.
 - f. All other state statute requirements are satisfied.
2. **Specific Criteria.** The Planning Commission and Town Council shall evaluate annexations according to the following criteria:
 - a. The proposed annexation is in conformance with the Town's Comprehensive Plan in terms of future growth, development patterns and intensity, and proposed or anticipated land uses.
 - b. Adequate services are or will be available to support the development expected to result from the proposed annexation, in accordance with Section 17-3-4.
 - c. The proposed annexation provides for a continual and rational boundary Town.
 - d. The proposed annexation accommodates reasonable anticipated growth and future land use needs.

C. Review Procedures. In addition to any specific procedure required by the laws of the state at the time of annexation, and in accordance with the general procedures applicable by Section 17-2-1 and Table 2-1, the following specific procedures apply to annexations:

1. **Petition for Annexation.** The petition shall be signed by persons comprising more than 50% of the landowners in the area and owning more than 50% of the land area.
2. **Annexation Elections.** As an alternative to an annexation petition, the qualified electors of the area being proposed for annexation may petition the Town Council to hold an annexation election.
 - a. The petition for annexation election shall be signed by at least 75 qualified electors or 10% of the electors, whichever is less, or as otherwise required by state statutes.
 - b. The petition shall be filed with the Town Clerk and shall comply with the provisions of the state statutes.
 - c. If the petition for annexation election is in substantial compliance with state statutes, the Town Council shall call for an election to be held. Notice of such election shall be given by the Town Clerk.
 - d. If a majority of the votes cast are against annexation, or the vote is tied, the annexation proceedings to date will be voided and considered of no effect and the Town Council shall proceed no further with the annexation proceedings.
 - e. If a majority of the votes cast at the election are for annexation, the Town Council may thereafter annex the area.



3. **Town Annexation.** As an alternative to an annexation petition or election, the Town may initiate annexation of any property that is entirely surrounded by Town boundaries for more than three years, or which is owned by the Town.
4. **Application.** Application form and related application fees, including all additional plans and details required on the forms shall be provided by the applicant.
5. **Request for Zoning.** The applicant shall submit a request for zoning in accordance with this section and Section 17-2-3, Rezoning or Section 17-2-4, Planned Development. The Director shall conduct an analysis of existing land uses on the subject property to ascertain zoning and lawfully established nonconforming uses. Nonconforming uses shall be permitted to continue as provided in Section 17-1-7.
6. **Staff and Agency Review.** The Director shall coordinate review of an application with all necessary reviewing agencies, and allow them two weeks from the date of distribution of the annexation plat and supporting documents to make any objections or comments to the Director. This time period may be extended to the minimum period needed to complete the review.
7. **Resolution to Consider Annexation.** The Town Council shall determine eligibility and whether to proceed with annexation of property by resolution. The resolution shall include the dates of any required public hearings, any other corresponding review procedures, and determine if an annexation agreement will be required.
8. **Annexation Impact Report.** For annexations of areas larger than ten acres, the Town shall prepare an impact report concerning the proposed annexation. The report shall be prepared at least 25 days prior to the date of the Town Council's hearing on the proposed annexation, and a copy of the report shall be filed with the Board of County Commissioners governing the area proposed to be annexed within five days after preparation of the report. The annexation impact report shall contain the following information at a minimum:
 - a. A map or maps of the municipality and adjacent territory to show the following:
 - (1) The present and proposed boundaries of the Town in the vicinity of the proposed annexation;
 - (2) The present streets, major trunk water mains, sewer interceptors and outfalls, other utility lines and ditches and the proposed extension of such streets and utility lines in the vicinity of the proposed annexation; and
 - (3) The existing and proposed land uses in the areas to be annexed.
 - b. A copy of any draft or final annexation agreement, if available;
 - c. A statement on plans of the Town for extending and providing municipal services at the time of annexation;
 - d. A statement on the method to finance the extension of the municipal services into the area to be annexed;
 - e. A statement identifying existing districts within the area to be annexed; and
 - f. A statement on the effect of annexation upon local public school district systems, including the estimated number of students generated and the capital construction required to educate students.
9. **Planning & Zoning Commission Hearing.** The Planning and Zoning Commission shall hold a public hearing and make a recommendation to the Town Council based on the criteria in this section. Annexation of property owned by the Town does not require a hearing and may be approved by the Town Council by ordinance.



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10. **Town Council Hearing.** The Town Council shall hold a public hearing and make any decision authorized by this code or the Colorado Statutes. The Town Council may approve the annexation by ordinance subject to the criteria in this section. Annexation of property owned by the Town does not require a hearing and may be approved by the Town Council by ordinance.
- D. **Effect of Decision.** If the annexation is approved, the Director shall cause a copy of the signed annexation plat to be recorded in the appropriate county clerk and recorder's office.
1. **Effective Date.** The annexation shall be effective upon filing of the annexation ordinance and map with the county.
 2. **Development Plans.** The Town may approve a Development Plan per Section 17-2-4 or other land use or development concept plan per Section 17-2-3, in association with annexation and prior to the effective date of the annexation and zoning.
 3. **Zoning.** Annexed areas shall be included in the Town's zoning ordinance and map within 90 days after the approval of an annexation ordinance. The Town shall consider zoning such newly annexed areas under the appropriate zoning category as follows:
 - a. If land use approval or development of areas being considered for annexation is not pending upon completion of annexation, if the subject property is in a transitional state regarding development, or if it is in the best interest of the Town, the Town Council shall place the newly annexed property into the H-A Holding Agriculture Zoning District.
 - b. Requests for zoning districts other than the H-A Holding Agriculture District may be considered by the Town Council in conjunction with the annexation and based on the submittal of all applicable requirements for a rezoning application. The Town Council shall place the newly annexed property into the most appropriate zoning district, considering the goals and objectives of the Town's Comprehensive Plan and the applicant's future development plans.
 - c. During the time in which zoning of newly annexed areas takes place, the Town may refuse to issue any building or occupancy permit for any portion or all the newly annexed area.
 4. **Annexation Agreements.** The Town may otherwise coordinate the effective date of annexation, future development plans, required improvements and capital planning, and application of zoning through a specific annexation agreement.



Article 3. Subdivision, Development, & Community Design

- 17-3-1 Streets
 - 17-3-2 Open & Civic Space
 - 17-3-3 Blocks & Lots
 - 17-3-4 Required Improvements & Dedications
 - 17-3-5 Community Facilities & Fees
-

17-3-1 Streets

- A. **Intent.** The intent of the street design standards is to:
1. Emphasize street design as a key determinant of Johnstown’s community image and unique identity.
 2. Ensure the proper arrangements of blocks and lots that coordinate with long-term growth and development of the community.
 3. Plan street networks to connect to adjacent development and future development areas at regular intervals and avoid overloading traffic on regional or arterial streets that become barriers.
 4. Build complete and multi-modal networks of small, well-connected streets, trails and paths to improve the access, capacity, safety and efficiency of transportation systems.
 5. Use street design to call attention to differing contexts within the Town, and to better support development patterns and uses abutting the streets.
 6. Design streets to account for all potential users of the streets, including pedestrians, bicycles, automobiles, trucks, and transit.
 7. Integrate open and civic spaces with street networks and designs to establish a valuable public realm.
 8. Coordinate and integrate individual sites into the design of the community, including existing and planned future development in the area.
- B. **Street Network.** Arterial, collector, neighborhood connector, and local streets shall be laid out according to the Town’s planning and Development Standards for development, streets, and open spaces. In the absence of more specific or updated guidance in these plans or for a specific area, the following standards shall apply to street networks:
1. *Blocks and Connectivity.* Streets shall be laid out to provide a network of streets and blocks based on the planning context and development pattern as identified in Table 3-1:



Planning Context	Block Size	Closed-End Street Limits
Downtown, Walkable Commercial. & Mixed-Density Neighborhoods <i>Downtown, near downtown areas, walkable commercial areas, primarily in the Activity Centers, High Density/Intensity areas or other commercial nodes, mixed-use, or mixed density neighborhood transitions to these areas. where walkable patterns and multi-modal routes are planned.</i>	150' min. 500' max. 4 ac. max.	Per Exceptions in B.2 only
General Neighborhoods & Non-residential <i>Walkable mixed-density and suburban neighborhoods and other areas supporting commercial corridors or employment areas outside walkable centers, primarily in the Moderate and Low Intensity / Density areas.</i>	250' min. 800' max 7 ac. max	Per Exceptions in B.2 only.
Campus, Rural, or Remote Areas <i>Limited to areas where large-scale uses with internal circulation or low intensity / density uses with limited circulation needs, where disrupting the development patterns and street network is justified, typically in the Very Low Density / Intensity or Greenway areas.</i>	250' min. 1,320' max. 10 ac. max.	600' max.



Figure 3-1 Connectivity & Block Sizes. Street networks shall be based on maximum block sizes (length between centerlines of perimeter streets and area) and stub to adjacent property at a frequency sufficient to create connected networks unless exceptions justify not connecting.

2. **Exceptions.** Blocks may only exceed the acre or block length maximums in Table 3-1, or provide alternative designs and connectivity, based on the following are exceptions:
 - a. **Natural Features, Open Spaces or other Civic Spaces.** Blocks or parcels abutting or containing important natural features, topographical constraints, or open



- spaces may be modified provided the proposed street layout preserves these features and integrates them into public realm design for the area.
- b. **Regional Transportation Routes.** Blocks or parcels abutting significant regional transportation routes that impede local network connectivity, such as highways or rail rights-of-way, may be modified provided the street layouts and development patterns achieve local connectivity in all other ways possible.
 - c. **Rural Parcels.** Tracts divided into lots of at least one acre for rural, agriculture, or very low-intensity development may exceed the block limits, provided they are designed to allow future streets in compliance with these regulations and permit a logical pattern of re-subdivision with minimal disruption of existing or planned buildings, utilities, and other structures.
 - d. **Oversized Parcels.** Where oversized parcels are platted for special land uses or development patterns that accommodate large-scale buildings, such as campuses, industrial uses, employment centers, or regional commercial areas, platted blocks may be larger provided private streetscapes matching the block structure of Table 3-1. Private streetscapes shall mimic streetscape and design amenity of this section and create logical extensions and connections to the public street network beyond the project.
 - e. **Closed-end Streets.** In any case where streets are not required to connect by these standards or are justified by these exceptions, alternative designs such as loops, courtyard layouts, or closes are preferred over dead ends and cul-de-sacs.
 - f. **Specific Plan.** A specific street network plan approved by the Town through the planned development process in 17-2-4 or similar planning initiative for a connected local network for a significant area beyond individual projects may provide different connectivity provided there are sufficient external connections to the surrounding transportation system and the design meets the intent and design objectives of this section.



Figure 3-2 Private streetscapes. Private streetscapes shall be used to mimic public street networks and streetscapes for over-sized parcels and large scape development (17-3-1.B.2.d).

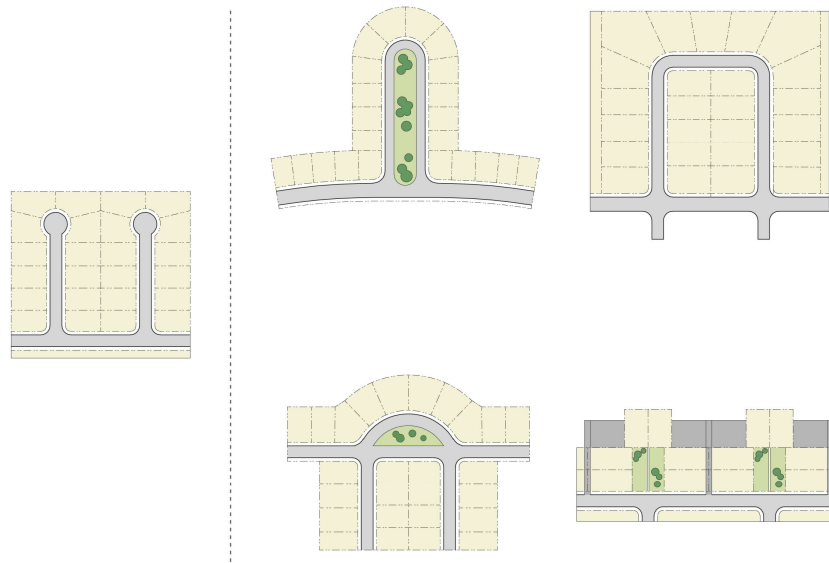


Figure 3-3 Disconnected Street Options. Where streets will not connect, blocks and lots should be laid out to limit the need for cul-de-sacs and maximize other options such as loops, closes, eyebrows and courtyard patterns. (Section 17-3-1.B.2.)

- 3. **Walkways and Bicycle Routes.** In any case where exceptions for larger blocks apply, or any other area where pedestrian and bicycle connections are important, such as adjacent to schools, parks, trail systems or community centers, the Town may require pedestrian walkways or bicycle routes through blocks or at the end of any closed-end street. Connections shall meet the open space design standards in Section 17-3-2.



3-4 Walkways and Bicycle Routes. Where streets will not connect or where larger blocks are platted, connections for pedestrians or bikes may be required through blocks or at the ends of disconnected streets. (17-3-1.B.3).



- 4. **External Connections.** Streets shall be planned to provide continuation to adjacent areas at intervals where all resulting blocks meet the standards in Table 3-1, unless justified by an exception in 17-3-1.B.2.
 - a. The Town may require dedication of right-of-way and construction of streets extended to the boundary line of the property to be subdivided or approve alternative arrangements for location and timing of construction to coordinate with anticipated future development of adjacent areas.
 - b. Areas of future development or smaller subdivision may require a conceptual street network associated with a preliminary plat and applied to adjacent property and connection to other planned major streets to demonstrate compliance with this section and the practicality of external connections.

- 5. **Intersections and Offsets.** Subject to adopted Design Standards, streets shall be laid out to intersect to include the following:
 - a. Intersection angles should be as near as possible to right angles.
 - b. Oblique streets shall be curved to approach an intersection at right angles, for a minimum distance prior to the intersection.
 - c. Intersections shall be aligned with existing intersections on the opposite side of the street, and offsets of the centerlines are not acceptable.
 - d. Intersections of more than two streets at one point are not acceptable.
 - e. Deviations and different intersection configurations may be approved through a design modification process, if required or utilized to emphasize unique natural features, better correspond to topography, implement traffic calming, or create gateways or focal points within the street network.

- C. **Street Types & Design.** The street types in this section implement variations for context-based street design, enhancement of multi-modal transportation options, and support the intent of this section to accommodate a variety of contexts. Design Standards shall be followed in all circumstances; however these type classifications provide alternative design variations that may be more appropriate for a development’s context; provided it meets all engineering and safety standards.
 - 1. **Street Design Standards.** Typical cross section standards are shown for each street type in Table 3-2: Street Types and Cross-sections with examples following the table. Application of these standards may be further refined with adjustments for a particular context or application, using the Complete Street Design Guide in Section C.3, Table 3-2.
 - 2. **Context & Type.** The street design variations are grouped with the following design types for application to apply to more specific contexts:
 - a. **Neighborhood Streets.** A neighborhood-oriented street type is appropriate where a higher level of neighborhood design amenity and walkability is desired. It is characterized by large street trees, sidewalks, slow speeds, and occasional on-street parking.
 - b. **Pedestrian Streets.** A pedestrian-oriented street type is appropriate for all areas where walkability is a goal. It is characterized by narrow lanes, slower speeds, on-street parking, and large, well-designed pedestrian amenity zones that support businesses and economic activity along these streets. Ideal for a downtown or high-pedestrian activity area.
 - c. **Parkway and/or Bikeway.** A high-amenity street type that emphasizes landscape and/or bicycle facilities. It is characterized by balanced approach to bicycles, pedestrians, and vehicles, and uses enhanced landscape to create welcoming environments. This street type is usually reserved for signature streets or important bicycle connections, and may be coordinated with Open and Civic Space Systems in Section 17-3-2.



- c. *Standard Streets.* The basic street type appropriate generally where no particular development characteristics or urban design context warrant application of other street types, or where moving traffic is the sole priority. Based on the Design Standards, with no variation.



Table 3-2: Street Types & Cross-sections							
Street Type	ROW Width	Street Width [1]	Travel Lanes	Parking	Bicycle Facility	Landscape Amenity	Detached Sidewalk
Major Arterial – 120' / 78'							
Pedestrian Focus	120'	78'	4 @ 11'	8'	N/A – slow speed	9' amenity zone 18' center median	12'
Parkway / Bikeway	120'	78'	4 @ 11-12"	n/a	8-10' protected lane	10-12' tree strip 20' center median	8'-10'
Standard Street	120'	78'	4 @ 12' w/ center turn lane	n/a	n/a	10' tree strip	10'
Minor Arterial – 110'/74'							
Pedestrian Focus	110'	74'	4 @ 11'	8'	n/a – slow speed	5-10" amenity zone 10'-18' center median	10'
Parkway / Bikeway	110'	74'	4 @ 11-12"	n/a	8'-10' protected lane	8'-12' tree strip 10'-18' center median	6'-10'
Standard Street	110'	74'	4 @ 12' 2' outside shoulder	n/a	n/a	10' tree strip	5'
Collector – 80' / 52'							
Pedestrian / Bikeway	80'	52'	2 @ 11'	8'	7' protected lane	4' amenity zone	10'
Pedestrian Mixed-use Focus	80'	52'	2 @ 11'	8' (1 side) 22' angled (1 side)	n/a – slow speed	4' amenity zone	10'
Parkway / Bikeway	80'	52'	2 @ 11'	n/a	7' protected lane	8' tree strip 16' center median	6'
Standard Street	80'	52'	2 @ 12' 12' center turn lane	n/a	4' lane	8' tree strip 14' center median	6'
Local – 60' / 32-36'							
Neighborhood Connector	60'	32'	2 @ 9'	7'	n/a – slow/low volume	8' tree strip	6'
Pedestrian Street	60'	32'	2 @ 11' 2' shoulder (1 side)	8' (1 side)	n/a – slow speed	4' amenity zone	10'
Pedestrian Mixed-use Street	60'	36'	2 @ 10'	8'	n/a – slow speed	4' amenity zone	8'
Bikeway	60'	32'	2 @ 10'	n/a	6' lane	8' tree strip	6'
Standard Street	60'	36'	2 @ 12'	4'	n/a	6' tree strip	5'
Lane 60' / 24'							
Rural Local	60'	24'	2 @ 10' 2' outside shoulder	n/a	n/a	rural buffer with drainage	n/a
Access Alley 30' / 20'							
Residential Alley	30'	20'	16' yield lane	n/a	n/a	2' buffer	n/a
Non-residential Alley	30'	20'	2 @ 9'	n/a	n/a	1' buffer	n/a

- [1] Street width is front-of-curb measurement, with curb and gutter included street width where it is on-street parking or a travel lane; or to the edge of paving if alternative edge and drainage is approved.
- [2] Access alleys may be located in public access easements at the Town's discretion and provided a property owner's association or other entity with financial and administrative capacity for maintenance is established.



3. *Complete Streets Design Guide*. When proposing a design modification to adjust the typical cross-sections for specific contexts or constraints, the guidelines in Table 3-3: Complete Street Design Guide should apply:

Table 3-3: Complete Street Design Guide		
Street Element	Size	Context & Application
Travel Lanes	12' +	High-speed / high-volume; generally avoid on city streets.
	11'	Applicable on major streets or routes where frequent truck or transit vehicles are expected.
	10'	Generally applicable on all city streets with through traffic.
	9'	Limited to low-volume streets, slow-speed streets, or where ROW is constrained.
	12' -17' yield lanes	Limited to slow, low-volume streets in well-connected networks, where intermittent parking and occasional queuing areas allow two cars to pass.
Bicycle Lanes	n/a	Slow or low-volume streets where bicycles can mix with travel lanes.
	4' – 6' lane	Low-speed streets or constrained ROW (typically < 35mph)
	7'-10' protected lane	Important bike routes or higher speed streets (typically 35+ mph); 2' – 4' protected buffer; 4' – 8' bicycle travel way
	Off street facilities	High-speed / high-volume (typically 45+mph); or portions of trails system.
Parking	6'-7'	Limited to low-volume residential streets.
	7' 8'	Generally applicable to all residential and commercial areas where parking is necessary.
	14'-22' angled	Limited to high-activity streets to maximize parking; depth depends on angle of parking, availability of backing area or cueing lane, and other traffic circumstances.
Landscape Area	2' – 8' amenity zone	Walkable areas (typically paired with adjacent on-street parking) where hardscape, landscape, and street furniture extend sidewalks as social space.
	8'+ amenity zoned	Used for high-activity streets that prioritize social space in streetscapes (i.e., sidewalk dining, mini-courtyards); can accompany Open & Civic Space system credits
	1' – 4' landscape area	Avoid –difficult to grow and maintain plants or trees.
	5' – 6' tree strip	Limited to constrained ROW; small or ornamental trees only.
	7' – 8' tree strip	Generally applicable, sufficient for large shade trees.
	8' – 12' tree strip	Use on busy streets or where no on-street parking exists to provide greater pedestrian buffer.
	13'+ tree strip	Used on signature streets for enhanced landscape amenities; space can be shared with or shifted to medians' and may meet Open & Civic Space system credits (See 17-3-2.C. & D.).
	10' – 20' Median	Used on signature streets for enhanced landscape; can be accompanied with turn lanes and/or mid-street pedestrian refuge at intersections
Sidewalks	20'+ Median	Used on higher-order signature streets; may meet Open & Civic Space system credits (See 17-3-2.C. & D.).
	5'	Minimum, generally applicable standard (typical neighborhood streets)
	6' – 8'	Minimum for non-residential streets (if combined with amenity zone), and priority routes in neighborhoods (i.e. routes to schools, parks, or other destinations).
	8' – 10'	Used for non-residential streets, walkable areas (if combined with amenity zone); or higher density neighborhoods.
	10' +	Used for signature streets in walkable areas, where social spaces are desired in streetscapes, or as a multi-use bicycle / pedestrian path in other contexts.
	Detached	All sidewalks are “detached” to provide a buffer between pedestrians and the street or moving traffic; unless (a) on-street parking is prevalent and the amenity zone provides and expansion of the sidewalk; or (b) right-of-way constraints prevent a more complete street design.



D. Intersection Design.

1. **Corner Radii.** Curb radii shall be designed according to the Design Standards. However, to balance the competing interest of vehicle turning movements and the distance and safety of pedestrians crossing the street, the Public Works Director may recommend, and the Town Engineer may approve, decreases in the specified corner radii based on the following considerations:
 - a. The context of a particular development, and particularly whether walkable development patterns are a priority and whether neighborhood or mixed-use street types in Table 3-2 are used.
 - b. The impact that the specified radius has on increasing the distance that pedestrians must cross.
 - c. The desired speeds of vehicles on the roadway and the desired speeds and volume of turning vehicles.
 - d. The connectivity of the street network and whether vehicles have multiple alternative routes that minimize frequent turning movements.
 - e. The effective turning radius of vehicles considering other features of the specific cross section, including bicycle lanes, on-street parking or other configurations that impact the actual path of turning movements.
 - f. The likelihood that large vehicles will make frequent turning movements at a particular location, compared with the ability of over-sized vehicles or unusual turning movements to safely encroach into other areas of the street.

2. **Sight Distances.** Proper lines of sight shall be maintained at all intersections. The proper line of sight shall be an unobstructed view from the stopping point on the approaching street to all points between 2.5 and 8 feet above the roadway along the centerline of the intersecting street or as otherwise indicated in the Design Standards.

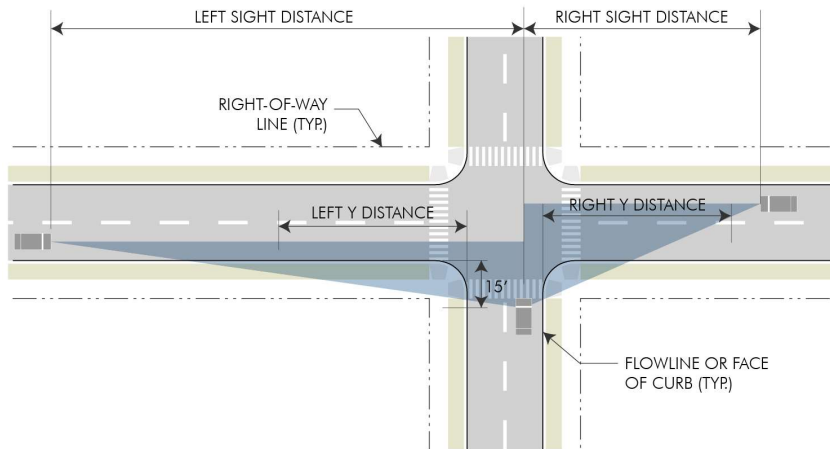


Figure 3-4 Clear Sight Distance. Sight distance is measured from the stopping point of the approaching vehicle to the center of the lane in oncoming traffic, based on the speeds of oncoming traffic. Clearances may be affected by the types of objects in the sight triangle and the control factors of the intersection. See Design Standards for appropriate distance based on speed.

- a. No building or other type of physical obstruction shall be placed or maintained within the triangle created by the centerline of the street intersection or access, the stopping point on the approaching street, and the sight distance specified.



- b. Street trees, light poles or other limited narrow obstructions are allowed within the sight triangle provided they do not have any foliage, limbs, or other obstructions in the clearance area and are no closer than 15 feet to the intersecting street edge.
 - c. Landscape, plants, and groundcover may be planted in the triangle, provided they do not exceed 30 inches from the elevation of the adjacent street surface.
 - d. Fully controlled intersections where signalization establishes and prioritizes safe turning movements may deviate from the above sight triangle standards if site conditions warrant and based upon a recommendation of the Public Works Director.
3. **Crosswalks.** All intersections and crosswalks shall be designed to address conditions at each specific location. In general, sidewalks intersecting with public streets or other vehicle access shall have crossings meeting the Design Standards, as well as the following:
- a. All intersections of collector streets or higher classification shall be considered for enhanced crossings including pavement markings, bulb outs, refuge islands or other traffic-calming measures that are appropriate to the context of the intersection.
 - b. Where blocks exceed more than 600 feet between intersections or at other locations of high pedestrian activity, mid-block crossings shall be considered with appropriate pavement markings and pedestrian signals. Mid-block crossing designs and locations are subject to a specific recommendation and approval of the Public Works Director.
 - c. Any crosswalk over 80 feet, or any other significant pedestrian crossing, may require a pedestrian refuge in the median at the discretion of the Public Works Director.
4. **Turn Lanes.** Turn lanes for left or right turn movements may be required for specific intersections by Public Works Director, based on an approved traffic study. Requirements for turn lanes should be based on careful consideration of the context balancing the impact of crossing distances for pedestrians, vehicle turning speeds, and prioritization of other planning, urban design, and traffic engineering issues. Wherever possible, this space should come from reconfiguration of the space within the roadway width near the intersection (i.e. within median space, narrowing lanes, or limiting on-street parking) rather than claiming space from the pedestrian area or streetscape, or rather than widening the road and right-of-way.
- E. **Traffic Calming.** In order to meet the desired speeds throughout the street network, to manage volumes in association with the street network, and to meet the intent of this section, traffic-calming strategies may be required in street plans. Traffic calming may include bulb outs and curb extensions, medians and islands, neck downs, vertical diverters, enhanced or raised crossings, and other speed management techniques as provided in the Design Standards or other industry guides addressing multi-modal transportation and urban design issues.
- F. **Engineering & Construction Specifications.** All other engineering specifications, horizontal and vertical alignment, design details, and technical or construction specifications for constructing streets, utilities, stormwater, irrigation, and other public improvements shall meet the Design Standards.



17-3-2 Open & Civic Space

- A. **Intent.** The intent of this section is to:
 1. Emphasize open and civic spaces as a key determinant of Johnstown’s community image and unique identity.
 2. Coordinate open and civic spaces with street networks to maximize the civic design and establish valuable development patterns.
 3. Value the design, function, and appropriate location of different types of open space, rather than solely the quantity of space, including distinctions for passive and active spaces.
 4. Consider the context and multiple functions that open spaces can serve to support development including ecological, recreation, aesthetic, and urban design functions.
 5. Promote good civic design and create focal points for the community and development projects.
 6. Integrate natural systems into the design of common or public open spaces to improve stormwater management, protect water resources, preserve natural features, and enhance ecosystems.

B. **Required Open Space.** Subdivision applications and development plans shall provide public or common open space as provided in this section.

- 1. *Required Open Space.* All plat applications shall provide open space according to Table 3-5: Required Open Space.

Table 3-5: Required Open Space		
Context	Public Open Space	Common Open Space
Residential Zoning or Residential uses in non-residential districts	15%	<ul style="list-style-type: none"> ▪ < 3 acres – no requirement ▪ 3 - 20 acres –10% ▪ 20+ acres - 15% ▪
Commercial & Mixed-uses	15%	<ul style="list-style-type: none"> ▪ < 3 acre – no requirement ▪ 1 - 5 acres – 3% ▪ 3+ acres - 5% ▪
Industrial Uses	15%	n/a

* Amount is based on net area excluding streets, alleys and easements. Any excess dedicated public open space accepted by the Town may contribute to the common open space requirement. Common open space may only count to the public open space requirement per Section 17-3-2.B.3.

- 2. *Fee In Lieu of Dedication.* When a subdivision or development plan cannot dedicate land acceptable to meet the public open space requirements of Section 17-3-2 due to circumstances beyond their control, the Town may evaluate the option for the applicant to pay a fee in lieu of dedication. This option shall be at the sole discretion of the Town.
 - a. The fee shall equal the fair market value of the land area required to be dedicated.
 - b. The fair market value shall be established by an appraisal commissioned by the Town at the applicant’s expense, or otherwise agreed to by the two parties.
 - c. The fee shall be due prior to recording of the final plat.
 - d. All fees shall be placed into a park fund to be utilized for the acquisition of land for park, trails and open space purposes, and shall not replace, reduce, or be used as the park fee, required by Section 17-3-5.C.



- 3. **Common Open Space Credit.** Common open space in excess of the amount required in Table 3-5, may be credited to the public open space requirement only upon a finding of all of the following, and approved by the Town Council at final plat:
 - a. There are no spaces within the proposed project that meet public open space standards acceptable to the Town for dedication;
 - b. There is no available open space within the vicinity that will serve the needs of the proposed project, which could be acquired with funds supplied by the fee;
 - c. The common open space amount is sufficient to meet both public and common open space requirements in Table 3-5; and
 - d. The common open space will otherwise remain open and accessible to all property for which the credit is being granted.

- 4. **Ownership and Management.** Open and civic space platted or reserved as part of a development shall require specific designation on the final plat or development as a separate tract or outlot. Ownership of the open space tract shall be in one of the following, subject to all other provisions of this section:
 - a. Dedication to a public entity as part of the rights-of-way, parks, or other community facilities element of the plat according to Section 17-3-5.B.
 - b. Creation of or dedication to a non-profit entity capable of carrying out the ownership and management.
 - c. Creation of a homeowners', leaseholders' and/or property owners' association that owns the space in common and is capable of carrying out the ownership and management.

All open and civic space shall require documentation that outlines the ongoing maintenance plans, and demonstrates the capacity for administrative and financial management of the space according to these standards. Documents such as covenants for a homeowners' association, bylaws or charter for a non-profit entity, or similar agreements and guarantees, shall be filed with the clerk and recorder's office and recorded with the plat designating the open space, prior to any building permits.

- C. **Open & Civic Space System.** The proper arrangement of open and civic spaces shall coordinate with street networks, block and lot layouts, and the landscape and site amenities of individual lots. Such spaces shall be integrated into the design of developments and subdivisions, and provide an appropriate level of service based on service areas noted.
 - 1. **Types.** Table 3-6 specifies the type, size, and service areas of different open and civic spaces that may meet the open space requirement.



Table 3-6: Open and Civic Space Types

Type	Size [1]	Service Area	Bonus Multiplier [2]	Application	
				Public	Common
Natural Open Space / Agriculture Preservation	5-acre min.; 200' min. width; 40+ acre optimal or significant continuity with adjacent areas	n/a	1.0x to 2.0x – Determined by Director based on the community benefit and significance of the space	■	■
Park - Regional	40+ acres	w/in 1.5 miles		■	
Park - Community	10 – 40 acres	w/in 1 mile		■	
Park - Neighborhood	3 – 10 acres	w/in 0.5 mile		■ [3]	■
Park – Small	0.5 – 3 acres	w/in 0.25 mile			■
Trail	20' wide, min. easement.; 8' – 12' min. trail	w/in 1000'		■ [3]	■
Civic Space - Green	1 – 3 acres	w/in 0.25 miles	1.5x		■
Civic Space - Square	5K s.f. – 1 acre	w/in 1,000'	1.5x		■
Civic Space – Plaza / Courtyard	1K – 5K s.f.	abutting lots or on the same block	1.25x		■
Enhanced Streetscape	[see Section 17-3-2.D.]	abutting lots on the same block	1.25x	■ [3].	■

- [1] See Section 17-3.2.D Open Space Design Guidelines for more specifics on the size and design, and service areas of different open space types.
- [2] Areas marked with a bonus multiplier (i.e. 1.5x) can count towards the open space requirement based on the actual area times the multiplier, provided the space is designed according to the Design Guidelines in 17-3-2.D. For example, an 8,000 s.f. Green designed according to 17-3-2.E can count to as 12,000 s.f. (8,000 x 1.5) for the open space requirement for all lots within 0.25 miles.
- [3] Eligibility of Neighborhood Parks, Trails, and Enhanced Streetscape designs as part of the Public open space requirement is at the discretion of the Town, considering parks, trails, and streetscape plans, and subject to acceptance on a final plat.

2. **Location Criteria.** To coordinate open and civic spaces into a system that integrates the public realm with surrounding development, subdivision and development design shall consider the following location criteria for open spaces:
 - a. Connect and integrate open spaces with public streetscapes and other civic destinations, such as schools, to improve visibility and access;
 - b. Provide access for residents, employees, and visitors to recreation opportunities for active living, and ensure that all dwellings are within the service area of at least two types of opens spaces indicated in Table 3-6.
 - c. The opportunity to preserve and integrate natural features (particularly for Natural Open Spaces, Parks or Trails), including protection of groves of trees, prairie, streams, unusual and attractive topography and other desirable natural landscape features and views;
 - d. The opportunity for formal Civic Spaces (Green, Square, Plaza / Courtyard) to serve as gathering places and be a focal point for compact, walkable places, located as an extension of the streetscapes at highly traveled and visible locations;
 - e. The types of spaces that reinforce character of the area or create gateways and transitions to distinct places; and
 - f. Playgrounds, sport courts, and spaces for community gatherings shall be designed to ensure the area is located outside the required setbacks for oil and gas wells and facilities, per Table 5-1 and Table 6-1. These areas may be included in the open space calculations or for trails to traverse, assuming they meet all applicable criteria.



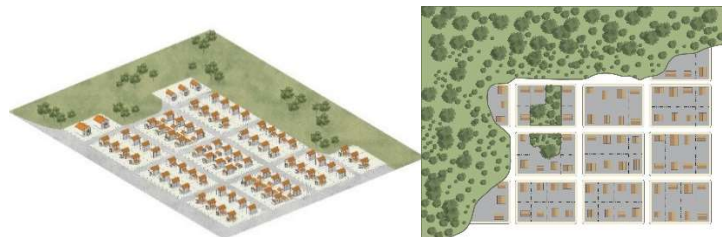
- 3. **Stormwater Facilities.** In addition to stormwater management purposes, such facilities shall be designed and integrated into the street network or open and civic space system in order to avoid redundant and inefficient facilities on individual lots. Any area used for stormwater may be counted towards the open space requirement provided:
 - a. It is integrated into the design of the space in a manner that it is an aesthetic amenity and is consistent with the design character of the space. Examples include:
 - (1) Stream channels for conveyance and filtration;
 - (2) Playing fields, with appropriate size and slopes, within intermittent detention basins;
 - (3) Formal areas when designed with detention as civic art or focal points of the space.
 - b. The design does not impact the utility of the space for either purpose (i.e., stormwater functions do not compromise the use and value of the space as intended open space, and open space designs do not compromise maintenance, management, and performance for stormwater functions).
 - c. The maintenance and management of the portion of the facility serving stormwater functions is clearly identified, whether that is a public dedication or whether it is an obligation of the owner or property owners' association.
- D. **Open & Civic Space Design Guidelines.** Open and civic spaces, as discussed in Table 3-6, shall be designed according to the following guidelines for each specific type:

Natural Open Space / Agriculture Preservation

The size, location and design of a Natural Open Space is dependent on the inherent characteristics of the land and the presence of valuable agricultural, natural amenities, or ecological resources worthy of protection. The ability to provide contiguity with similar features on adjacent sites may be important to the design and location of development and preserved areas.

Size: 5 contiguous acres (min.); 200' wide minimum; ideally, ability to connect 40 + acres of contiguous natural lands or agricultural lands.

Service Area:
1 mile



Design Elements & Guidelines

- ❑ Natural Open Space includes any area of existing or restored open lands such as riparian corridors and wetlands, unique geological formations, important habitats, or substantial groupings of important plant and tree types. The goal is to protect the edges and to maximize intact and undisturbed spaces that provide valuable ecosystem services for the community, support preservation goals, or enhance the aesthetics and amenities of the area. Active recreation such as trails and paths can be a part of these areas provided, they do not disrupt the essential natural character and ecological functions.
- ❑ In the Agriculture Overlay area indicated in the Comprehensive Plan this type of open space may also include preservation of productive agricultural lands, particularly if they are integrated as a focal point of future development.



Park

Size / Service Area

- Regional – >40 acres / 1.5 miles +
- Community – >10 – 40 acres / 1 miles
- Neighborhood – >3 – 10 acres / ½ mile
- Mini – 0.5 – 3 acres / ¼ mile



Design Elements & Guidelines

- Any park planned for public dedication shall be designed according to official plans, policies, and Design Standards of the Town.
- Parks should be at least 200’ wide in all directions (100’ for Mini Park).
- Fronts on 1 or more public streets for 400’ or more (100’ Mini Park); exception to street frontage if designed abutting part of a public trail system.
- One shade tree for every 30’ of street frontage; one shade tree per 50’ of internal trails or paths; 20 shade trees per acre for all other areas beyond 30’ from streets or trails; plus other landscape to support the overall park design.
- Ornamental plantings, concentrations of trees, and other enhanced landscape at gateways, entrances, and prominent corners.
- Between 15% and 50% of the area, depending on context and scale of the park, and at the discretion of the Town, shall be designed for active, programmed or structured recreation such as ball fields, playgrounds or sport courts. The remainder of the area shall be allocated to ground cover, tree areas, gardens, or other natural or formal landscape for passive recreation.

Trail

Size

20’ min. width; 30’ if includes multi-purpose trail
 May be dependent on topography and natural features.
 Requires sufficient continuity to connect with existing and planned pedestrian and bicycle systems outside of project and/or connect meaningful walking and biking destinations (schools, parks, neighborhood centers, etc.)



Service Area

- Internal to development – ¼ mile
- Community trail – 1 mile

Design Elements & Guidelines

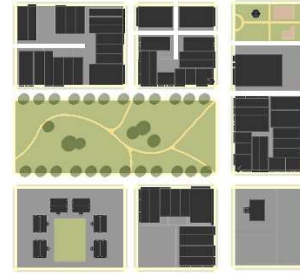
- Any trail planned for public dedication shall be designed according to official plans and policies of the Town.
- Trails corridors should include a paved or otherwise dust-free stabilized surface at least 8’ wide, and 10 to 12’ wide if a shared bike / pedestrian trail.
- The landscape area on each side of the trail should be at least 6’, and wider in places that incorporate natural features or significant vegetation.
- One shade tree for every 50’ of trail length; and one ornamental tree or small evergreen tree for every 25’ of trail length.
- Trails corridors located along rights-of-way may be integrated into the streetscape design to create the optimal multi-modal design for the street and trail, particularly along major and minor arterial streets.



Civic Space

Size / Service Area

Green – 1 – 3 acres / ¼ mile
Square – 5K s.f. – 1 acre / 1,000’
Plaza / Courtyard– 1K - 5K s.f. / abutting lots or on same block.



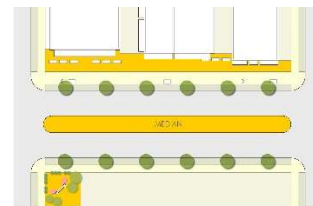
Design Elements & Guidelines

- ❑ Civic space shall have frontage on a public street (or internal access street) with direct pedestrian access to the streetscape and sidewalk, subject to the following;
 - Greens along at least 3 sides and at least 75% of the perimeter,
 - Squares along at least 2 sides and 60% of the perimeter.
 - Plazas along at least 1 side and at least 30% of the perimeter.
 - Courtyards along at least 20% of the perimeter, or an entrance from a gateway and passage along the street.
- ❑ Buildings shall front on and frame the civic space, and be designed with frequent entrances, transparency, and outdoor seating areas to create activity in the space and make physical and visual connections between the buildings and the space.
- ❑ Civic spaces shall have a balance of formal gathering places (hardscape, seating, public art, etc.) and landscape (gardens, lawns, planting beds, etc.). generally, within the following:
 - Green: formal = 15% - 50%; landscape = 85% - 50%
 - Square: formal = 50% - 75%; landscape = 25% - 50%
 - Plaza: formal = 75% - 85% landscape = 15% - 25%
 - Courtyard: formal = 25% - 50%; landscape = 50% - 75%
- ❑ One shade tree for every 25’ of street frontage; and one ornamental or evergreen tree for every 2,000 square feet, located within the space and along the streetscape.

Enhanced Streetscape

Size

Gateway features: 100 s.f. – 1K s.f.
Pedestrian / Landscape Amenity: at least 50% more than required for streets by Section 3.01
Boulevard Median: 12’ collector; 16’ arterial



Service Area

Abutting lots along same block

Design Elements & Guidelines

- ❑ Gateways concentrate landscape and ornamental structures at important intersections or at entrances to distinct neighborhoods or districts. Gateways may be located more frequently throughout a neighborhood or district with smaller, subtle treatments at multiple intersections, creating a hierarchy of streetscape elements that define the character of the area.
- ❑ Gateways landscape: 1 canopy tree per 35’ of street frontage; 1 ornamental tree or evergreen tree per 250 s.f.; 3 shrubs per 100 s.f.
- ❑ Pedestrian and landscape amenity areas at least 50% greater than required by the streetscape design in Section 17-3-1.C. or landscape median of at least 12’ on collector streets or 14’ on arterial streets; may count to common open space.
- ❑ Pedestrian and landscape amenities shall include planting that is at least 50% above the rate required for the street.
- ❑ Streetscape enhancements shall generally be located in separate tracts designated on a plat or require additional right-of-way



17-3-3 Blocks & Lots

A. **Intent.** The intent of the blocks and lots standards is to:

1. Ensure the proper arrangement of blocks and lots in relation to the street network and open and civic spaces.
2. Design subdivisions to be coordinated with adjacent development patterns or future development in terms of street networks, open and civic spaces, and block patterns.
3. Arrange blocks and lots in a manner that is least disruptive to existing topography and capitalizes on inherent natural characteristics of the land as defining features.
4. Coordinate access and utilities for each lot in association with larger systems of streets and infrastructure.
5. Promote appropriate site, building, and frontage designs in relation to streetscapes and open spaces.
6. Ensure that all lots are buildable according to this code and that all non-developed tracts or other parcels serve community functions in relation to the overall development pattern

B. **Block & Lot Arrangement**

1. *General Layout.* All blocks shall be laid out to have two tiers of lots fronting streets on opposite sides, unless dictated by existing development patterns outside of the control of the project or by access management on regional transportation routes. In these cases, streetscape standards and open or civic spaces should be used to create buffers and transitions at the rear of lots.
2. *Block Size & Patterns.* The maximum block length shall be based on the street connectivity standards and specific context as identified in Section 17-3-1.B.
3. *Lot Patterns.*
 - a. Lot size, width, depth, and shape shall meet the applicable zoning district standards and accommodate appropriate building location, orientation, and site design. Corner lots or irregular shaped lots may need additional space.
 - b. All lots shall front on a public street, or on an alternative access or common open space where specifically allowed by these regulations.
 - c. All side lot lines shall be as close as practical to perpendicular to front lot lines, or radial to any curves along the front lot lines. Irregular lot patterns shall only be permitted where they are used to integrate patterns of buildable lots into the overall block structure and to provide consistent relationships of lots and buildings to the streetscape.
 - d. Lots shall be designed to ensure the buildable area of any lot shall not be encumbered by the required setbacks for oil and gas wells and facilities, per Table 5-1 and Table 6-1.
4. *Easements.* All blocks shall include easements for all utilities, required improvements, access, drainage, and open spaces necessary to serve each lot. Easements shall be granted by the owner to the appropriate entity. Easements shall be determined based on the specific needs of a development through development review and granted prior to construction. Unless otherwise specified through the development review process, utility easements shall be as specified in Table 3-7: Easements.



Table 3-7: Minimum Utility Easements	
Common rear lot lines	16', 8' on each lot
Rear lots along an alley	None, provided the alley is at least 20' wide and can accept utilities
Perimeter rear lot lines w/o common boundary	10'
Side easements, where necessary	5'
Front easements (if necessary due to other site / ROW constraints	10'

5. **Drainage.** Where a subdivision is traversed by a natural watercourse, drainageway or stream, blocks shall be laid out in coordination with these features, and they shall be integrated into the open and civic space systems.
 - a. Drainage areas shall be left in a natural state, and no encroachments shall be made on a significant natural drainage channel that impairs its stormwater and ecological function wherever practical.
 - b. A pedestrian or bikeway easement may be required where the block structure is interrupted more than permitted in Section 17-3-1.B, or where the Planning and Zoning Commission or Town Council determines the area is appropriate for active recreation or transportation uses.
 - c. All necessary rights-of-way and easements shall be dedicated to the Town or other public entity to preserve the hydrologic, environmental, or stormwater function of the watercourse, drainageway or stream.

17-3-4 Required Improvements & Dedications

- A. **Intent.** The intent of this section is to:
 1. Ensure that all improvements necessary to serve lots and buildings are constructed, inspected, or otherwise assured of completion prior to the issuance of building permits and other final approvals.
 2. Integrate the design and construction of public, common, and private improvements in the most effective and efficient manner.
 3. Prevent undue burden on public utility systems and community facilities serving other areas from the improper location or design of subdivisions or development projects.
 4. Provide appropriate apportionment of construction and maintenance costs for public facilities serving development.
 5. Protect against subdivisions or development projects where soil, subsoil, or flooding conditions would create potential dangers to property, infrastructure investments, or public health and safety.
 6. Coordinate construction of required improvements with other anticipated improvements and with future growth.
- B. **Applicability.** The standards and procedures of this section are coordinated with other development applications affecting the planning, design, and construction of public or common improvements. Specifically, they apply to:
 1. Preliminary feasibility plans for all required improvements associated with a preliminary plat in Section 17-2-2.D.
 2. Construction plans for all required improvements associated with a final plat in Section 17-2-2.E, a Planned Unit Development and Framework Plan in Section 17-2-4.B.2, or similar development plan.



3. Site plans that are required to provide improvements for any capacity or facility deficiencies are identified in Section 17-2-6.B.2.
 4. Any other common or site improvements that serve beyond a single project or building, or where the Director determines that the procedures and guarantees of this section should apply to specific improvements.
- C. **Subdivision Improvement and Development Agreement.** The Town and the applicant shall enter into a subdivision improvement and development agreement more specifically defines the type, timing, and guarantees for all required improvements. The Director may waive this requirement for any application where the improvements are routine or minor relative to the extent of development.
1. Applicants shall be responsible for the entire cost and installation of improvements necessary to serve the proposed development.
 2. The applicant may contribute its proportionate share to any established participation agreement or for any existing facilities with the capacity to serve the project.
 3. The Town may require oversizing of facilities and establish cost sharing strategies for any improvements where it is determined to serve property in the vicinity or potential future development more efficiently.
 4. The agreement shall be recorded in association with an approved plat or development plan.
- D. **Improvements & Dedications.** The following improvements and dedications are required to be constructed, installed, or dedicated with subdivisions or development projects, except where sufficient facilities exist or will be constructed through other means.
1. **Rights-of-way.** Rights-of-way shall be dedicated meeting the widths specified in Section 17-3-1.C, or any other widths required by the Public Works Director to meet the ultimate planned street classification.
 - a. Additional rights-of-way may be required based on traffic study, long-range transportation plans, or other Town-accepted transportation policy or analysis.
 - b. The dedication of half-streets on the perimeter of a project shall not be accepted unless:
 - (1) The applicant coordinates the dedication of the corresponding half outside the project;
 - (2) The applicant provides sufficient guarantees for the cost of improvements and construction on the corresponding half street; and
 - (3) The applicant establishes acceptable plans for the timing and construction of the full street.Failure to meet perimeter conditions shall not justify an exception to the connectivity or external connection standards of Section 17-3-1.B., or otherwise enable large non-street perimeters of projects.
 2. **Streets.** Streets shall be constructed according to the street types in Section 17-3-1, including travel lanes, parking, bicycle lanes, sidewalks, landscape amenities, and street trees. This shall include all streets internal to the project, and any new streets or street upgrades external to and necessary to serve the project. Additional streetscape elements including streetlights, street name signs, traffic signal lights and signs, and crosswalk designations shall be provided according to Town Design Standards
 3. **Access.** Access shall be provided to all lots. This shall include access and alleys, driveway approaches, and other required vehicle circulation and parking components, and easements where shared or cross-access is proposed or required.



4. **Open & Civic Spaces.** Open and civic spaces, whether public, common, or shared, shall be provided according to Section 17-3-2. In addition, dedication or reservation of areas to serve public or community facility needs according to Section 17-3-5 shall be provided.
 5. **Drainage.** Easements and drainage systems shall be provided to serve the project at the largest practical scale including storm sewer lines, natural and constructed conveyances, retention/detention ponds, and similar facilities. Drainage systems may be incorporated into street and open space systems where they meet the standards and design requirements for each facility.
 6. **Water & Sanitary Sewer.** Easements and utility services shall be provided to serve each lot and principal structure with sanitary sewer and potable water, connecting each lot and principal building to an existing public system.
 - a. An agreement with the Town for service of the subdivision or development defining dedication requirements per the Johnstown Municipal Code, and committing to serve the property with water and sanitary sewer service.
 - b. Raw water dedication and payment of fees is required prior to recordation of a residential plat or prior to issuance of a commercial or multi-family building permit, unless otherwise agreed to in writing with the Town.
 7. **Electric and Communication.**
 - a. Electric power and communication connections and wire shall be placed underground in raceways or conduits.
 - b. Transformers, switching bases, terminal boxes, meters cabinets, pedestal ducts, and other facilities shall be placed underground, or may be placed on the surface provided they are located and adequately screened for safety and concealment.
 - c. Electrical transmission and distribution feeder lines and communication trunk and feeder lines may be placed above ground, if determined to be appropriate by the Public Works Director.
 8. **Fire Hydrants.** Fire hydrants shall be provided at each street intersection, line terminus, and other necessary points to meet Town Design Standards Fire Code, and Fire District requirements.
 9. **Reference Monuments.**
 - a. Permanent reference monuments of stone or concrete, at least 36 inches deep and 6 inches square or round, with a suitable center point shall be located as required by the Town.
 - b. Iron pin monuments at least 24 inches long and flush with the surface shall be placed at all points on boundary lines where there is a change in direction, at all lot and block corners, and at other points required by the Town.
- E. **Timing of Obligations & Improvements.** All required improvements shall be provided through the following steps unless otherwise agreed to in a subdivision improvement and development agreement:
1. **Plan Submittals.** Engineering and construction plans for the entire plat or development plan shall be submitted and approved at one time for improvements in Section 17-3-4.D
 - a. The size, type, and general location of each improvement, and estimated cost shall be included as part of the final plat submittal and review.
 - b. Plans may propose phasing for construction of improvements according to phases approved with an associated plat or development plan. Construction acceptance, financial security, and permits may be approved or released according to an approved phasing plan.



- c. The Johnstown Review Committee may require verification or updates of any technical study required according to Section 17-2-1.J, or other report that verifies adequacy of the required improvements.
2. **Financial Guarantee.** The applicant shall provide a financial guarantee for 110% of the total cost of improvements, based on approved design and construction plans.
 - a. The guarantee shall be in a form approved by the Town Manager and Town Attorney.
 - b. The guarantee is due prior to commencement of construction of any improvement, except that the Public Works Director may authorize limited grading permits where there is no threat to preservation of natural areas and vegetation, adjacent properties, or other elements of the plan that may be subject to change prior to final approval.
3. **Construction & Installation.** Required improvements shall be constructed in accordance the planning and design standards of this code, the engineering and construction requirements of the Town Design Standards, and with plans approved by the Town.
 - a. A preconstruction meeting shall be scheduled to review approved plans, Town Design Standards, required permits, and timing of construction and inspections.
 - b. Construction of improvements shall not commence until notice to proceed, or other authorized permits are issued by the Town.
4. **Inspection & Construction Acceptance.** The applicant shall request inspection and construction acceptance for any completed improvements for a specific phase.
 - a. The Town shall inspect and may issue a letter of construction acceptance for any phase of improvements that comply with the approved plans.
 - b. Certified record drawings of improvements as built shall be submitted to the Town and certified by the contractor, project surveyor, and project engineer.
 - c. The Town may release the financial guarantee for any required improvements that have been accepted and where record drawings are submitted, but shall retain 15% of the cost of improvements as a maintenance and repair warrant.
5. **Maintenance & Repair Warranty.** The applicant shall provide a warranty for maintenance and repair of all improvements at the time of construction acceptance through either a new obligation, or through a limited release and retention of the financial guarantee.
 - a. The maintenance and repair warranty shall be at least 15% of the cost of improvements.
 - b. The warranty shall be for at least 2 years, or until the Town issues final acceptance, whichever is later.
 - c. The applicant shall be responsible for the repair, replacement, and maintenance of any required improvement which fails to function or meet the standards of the Town, prior to final acceptance.
 - d. In the instance of repair or reconstruction of any improvement and prior to final acceptance, the Town may require the extension of the 2-year warranty period.
6. **Permits.** The Town shall not issue building permits until construction acceptance has been issued for all public improvements for the development or applicable phase, except for the following:
 - a. **Detached Houses.** Building permits may be issued for detached houses prior to construction acceptance if limited to the following:
 - (1) No more than 50% of building permits for a particular phase may be issued prior to construction acceptance.



- (2) Required improvements shall be eligible for acceptance other than public landscaping, which may be delayed due to weather or seasonal planting considerations.
 - (3) No certificate of occupancy shall be issued until construction acceptance of all required improvements for the development or phase.
 - b. *Other Limited Permits.* The Director may approve other limited building permits on a case-by-case basis, in consultation with the Public Works Director, Fire Marshal, and other appropriate Town Departments when considering the following:
 - (1) Better phasing or coordination for the timing of construction of public improvements and buildings or other site improvements is proposed;
 - (2) Fire safety and emergency access is sufficiently addressed considering the type of construction; and
 - (3) Any other factors related to public health, safety, and welfare are addressed generally, no certificate of occupancy shall be issued for any part of a phase prior to construction acceptance.
 - c. *Revocation of Permits.* The Town may revoke, withhold, or stop any permits or certificates of occupancy during any period where the improvements are not constructed or maintained as required by this code or a subdivision improvements and development agreement.
- 7. *Final Acceptance.* The Town shall inspect the public improvements at the end of the warranty period, following a written request from the developer, submitted to the Town.
 - a. The applicant shall bring any improvements not meeting approved plans or design standards into compliance.
 - b. If identified deficiencies are not corrected and accepted within 120 days of the end of the warranty period or inspection, the Town may withhold further building permits or certificates of occupancy for the development or applicable phase.
 - c. The applicant shall provide the Town with record drawings for landscaping and irrigation that include designer and contractor certification statements of open and civic spaces. The applicant shall provide a copy of the record drawings to the property owners' association.
 - d. Upon final acceptance the Town may release the 15% maintenance and repair warranty. If final acceptance is not granted, all future maintenance and repair shall remain the responsibility of the applicant until the Town grants final acceptance of the improvements.
- 8. *Use of Guarantee.* With authorization by the Town Manager, the Town may execute and use any financial guarantee or maintenance and repair warranty to provide required improvements where:
 - a. The improvements were not provided as required by this code or a subdivision improvement and development agreement.
 - b. The improvements did not pass inspection and were not corrected within 120 days of notice of failure to pass inspection.
 - c. The improvements fail to be maintained according to standards during the warranty period, and the applicant failed to address or propose an acceptable plan to address the deficiency within 120 days of notice.
 - d. In the case of executing and use of any guarantee, the Towns shall keep all funds. If the actual cost to install or correct the improvements is greater than the amount retained in warranty, the Town may assess all costs against the property.



17-3-5 Community Facilities & Fees

- A. **Intent.** The intent of this section is to:
 - 1. Anticipate and evaluate the incremental and long-term impact of development on broader public and community facility needs.
 - 2. Identify opportunities to integrate plans for public and community facilities into the planning and design of proposed land divisions.
 - 3. Ensure that the most appropriate locations of public and community facilities are identified and considered prior to the premature commitment of these areas to conflicting development patterns.
 - 4. Locate and design public and community facilities in association with the areas they serve, and create gateways and focal points through public investment.
 - 5. Provide the opportunity to negotiate a fair price for land needed to develop public or community facilities beyond the impact of the particular project, or alternatively to provide an incentive to dedicate land where the lack of facilities may otherwise constrain potential future development.
 - 6. Ensure that land benefited by public capital investments share in obligations for construction, operation, maintenance, and replacement of these facilities proportionate to their impacts.
 - 7. Promote fiscal responsibility for all public entities by coordinating the planning, design, and financing of public facilities concurrent with impact the generated from proposed development.

- B. **Dedication and Reservation of Land.** The Planning and Zoning Commission or Town Council may request the dedication or require the reservation of land to the Town or other government entity with jurisdiction over public and community facilities, to facilitate the appropriate location for parks, open space, public safety, schools, utilities, or other public or community infrastructure and facilities.
 - 1. **Dedication.** A request for dedication of land may be initiated by the Town, or on behalf of another public entity having jurisdiction over public and community facilities.
 - a. The dedication may be included on a plat, by deed of dedication, or through a separate agreement with the entity having jurisdiction.
 - b. Inclusion of the dedication on the plat shall be at the discretion of the applicant, except for the following land dedication or fee in lieu specifically required by this code:
 - (1) Open space dedications;
 - (2) School site dedications; and
 - (3) Dedications required for other public entities, such as library, recreation district, fire districts, and similar entities.
 - c. Dedication, or fee in lieu, shall be subject to approval and acceptance by the Town Council, and any other appropriate agency having jurisdiction of the public or community facility.

 - 2. **Reservation.** As an alternative to dedication, the Town may require that the land be reserved to permit negotiation for acquisition by a public entity, according to the following:
 - a. A requirement for reservation shall be based on plans of the entity having jurisdiction over the facility that identify the general location and extent of the facility, or some other documented need for the facility.
 - b. The reservation shall be for a set period of time established by the Planning and Zoning Commission or Town Council but not more than 5 years, unless agreed to by the applicant.
 - c. The reservation may be accompanied by a contingency plat, demonstrating how land will otherwise be developed. The contingency plat may serve as a



- d. preliminary plat should the property not be acquired by the public entity during the reservation period.
 The property shall not be developed until the reservation period expires or the property is acquired, and future development shall follow the applicable procedures in Article 2 of this code.

3. **Development Agreements.** Nothing in this section shall limit the Town’s authority to enter into development agreements with developers and provide dedication of land, fees, or construction of actual public and community facilities on terms different than specified in this Section.

C. **Impact Fees Established.** The following development fees have been established by the Town by specific impact fee ordinances. Fees are payable at the time of building permit issuance, subject to an exemptions, exceptions, or appeal provisions of this section.

Table 3-8: Impact Fees						
Use		Development Fees [1]				
		2023	2024	2025	2026+	
Transportation Facilities Development Fee [2]	<i>Detached House</i>	\$ 3,062	\$ 3,215	\$ 3,375	\$ 3,544	
	<i>Attached House</i>	\$ 2,605	\$ 2,735	\$ 2,872	\$ 3,016	
	<i>Retail</i>	\$ 5.42	\$ 5.70	\$ 5.98	\$ 6.28	
	<i>Office</i>	\$ 3.29	\$ 3.45	\$ 3.62	\$ 3.80	
	<i>Industrial / Other</i>	\$ 2.12	\$ 2.22	\$ 2.33	\$ 2.45	
Parks & Recreation Facilities Development Fee	<i>Detached House</i>	\$ 1,316	\$ 1,382	\$ 1,451	\$ 1,524	
	<i>Attached House</i>	\$ 1,120	\$ 1,176	\$ 1,235	\$ 1,297	
Public Facilities Development Fee	<i>Detached House</i>	\$ 1,752	\$ 1,839	\$ 1,931	\$ 2,028	
	<i>Attached House</i>	\$ 1,491	\$ 1,565	\$ 1,643	\$ 1,726	
	<i>Retail</i>	\$ 0.82	\$ 0.86	\$ 0.90	\$ 0.94	
	<i>Office</i>	\$ 0.82	\$ 0.86	\$ 0.90	\$ 0.94	
	<i>Industrial / Other</i>	\$ 0.82	\$ 0.86	\$ 0.90	\$ 0.94	
Library and Cultural Facilities Development Fee	<i>Detached House</i>	\$ 1,266	\$ 1,329	\$ 1,395	\$ 1,465	
	<i>Attached House</i>	\$ 1,077	\$ 1,131	\$ 1,188	\$ 1,247	
Police Facilities Development Fee	<i>Detached House</i>	\$ 797	\$ 837	\$ 879	\$ 922	
	<i>Attached House</i>	\$ 679	\$ 713	\$ 748	\$ 786	
	<i>Retail</i>	\$ 0.75	\$ 0.79	\$ 0.83	\$ 0.87	
	<i>Office</i>	\$ 0.28	\$ 0.29	\$ 0.30	\$ 0.32	
	<i>Industrial / Other</i>	\$ 0.28	\$ 0.29	\$ 0.30	\$ 0.32	
Loveland Fire and Rescue Authority Fee [2]	<i>Single Family</i>		\$1,000			
	<i>Multi-family</i>		\$ 692			
	<i>Commercial</i>		\$ 0.60			
	<i>Industrial</i>		\$ 0.12			
Front Range Fire Rescue Fire Protection District [3]	<i>Single-family / Two-family</i>		\$ 1,087			
	<i>Multi-family</i>		\$ 692			
	<i>Any Non-residential</i>		\$ 0.60			

[1] Residential Fees are on a per unit basis and apply to any net increase in dwelling units; non-residential fees are on a per square foot basis and apply to any net increase in the square footage of a use or the increment for any change of use.



- [2] The fire and rescue fees are applicable only in the jurisdictional boundaries of the respective fire districts – Loveland Fire and Rescue Authority and Front Range Fire Rescue Fire Protection District.
1. **Annual Inflation Adjustments.** The impact fee shall be automatically adjusted to account for inflationary increases in the cost of provided public facilities on January 1 of each year. The adjustment shall be based on the most recent data from the Engineering News Record Construction Cost Index for the Denver Metropolitan Area. Alternatively, The Town Council may determine appropriate inflation adjustments through the annual review process in Section 17-3-5.G.
 2. **Exemptions.** An applicant may request an exemption from specific impact fees on forms provided by the Town.
 - a. The Town Council shall evaluate the request and may grant an exemption in whole or in part.
 - b. The Town shall deposit funds in the amount of the exemption into the appropriate impact fee account from non-impact fee funds within a time period that is consistent with the Town capital improvements program.
 3. **Development Agreements.** Nothing in this section shall limit the Town’s authority to enter into development agreements with applicants and provide dedication of land, fees, or construction of actual infrastructure improvements.
 4. **Fire and Emergency Services Providers, School District and Special Districts.** The applicant shall confer with the appropriate fire and emergency service provider, school district and any special district to determine whether an impact fee is owed and the amount of the impact fee. The Town shall confer with the provider and may withhold Town permits or approvals until any required fees have been satisfied.
 6. **Appeals.** Appeals of any decision on impact fees by an administrative official may be appealed to the Town Manager by filing a written appeal with the Town Clerk. Appeals of the Town Manager’s decision shall be appealed to the Town Council following the same procedure:
 - a. Appeals shall be on forms provided by the Town and detail the specific grounds for the appeal.
 - b. The applicant shall have the burden of proving the decision was in error.
 - c. Filing and appeal shall not stay the imposition or collection of the impact fee unless a letter of credit or surety for the amount of the fee has been provided to the Town.
 - d. The Town Manager and/or Town Council shall make a decision within 30 days of filing an appeal.
 - e. No building permits or approvals shall be issued until the appeal is resolved and the appropriate fees paid. However, if a letter of credit or other surety for the amount of the fee is provided the Town may choose to issue a permit or approval with an agreement that the appropriate fee shall be paid through subsequent resolution of the appeal and surety.

D. Establishment of Accounts and Funds.

1. **Impact Fee Accounts.** An impact fee account shall be established by the Town for each category of capital improvements for which impact fees are imposed.
 - a. Accounts shall clearly identify the category, account, or fund for which the impact fee has been imposed. Subaccounts may be established for individual impact fee districts.



- b. All impact fees shall be deposited into the appropriate impact fee account or subaccount. Accounts shall be interest-bearing with interest earned credited to and considered funds of the account.
 - c. The funds of each account shall at all times be capable of being accounted for separately from all other Town funds.
 - d. The Town shall establish and implement necessary accounting controls to ensure that the impact fee funds are properly deposited, accounted for, and appropriated in accordance with these provisions and any other applicable legal requirements.
2. **Appropriation of Impact Fee Funds.** Impact fee funds may be appropriated for capital improvements and for the payment of principal, interest, and other financing costs on contracts, bonds, notes, or other obligations issued by the Town or on behalf of other applicable local governmental entities.
- a. All appropriations from impact fee accounts shall be detailed on appropriate forms and filed with the Town Treasurer.
 - b. Impact fees shall be appropriated only:
 - (1) For the particular category of capital improvements for which they were imposed, calculated, and collected; and
 - (2) Within the impact fee district where collected, except as provided in subsection 2.d.
 - c. Impact fees shall not be appropriated for funding maintenance or for operational or personnel expenses associated with the provision of the capital improvements.
 - d. Impact fee funds may be appropriated for a capital improvement located outside of the district of the new land development where collected only if the demand for the capital improvement is generated in whole or in part by the new land development or if the capital improvement will actually serve the new land development.
3. **Procedure for Appropriation of Impact Fee Funds.**
- a. The Town Manager shall annually identify capital improvement projects anticipated to be funded in whole or in part with impact fees. The capital improvement recommendations shall be based upon the annual review in Section 17-3-5.E. and other relevant information, and may be part of the Town's annual budget and capital improvements programming process.
 - b. The recommendations shall be consistent with the intent and standards of this section, the particular impact fee ordinances, other applicable legal requirements, and any guidelines adopted by the Town Council
 - c. Impact fee-funded capital improvements in the Town's annual budget and capital improvements program shall include description, nature, location, capacity to be added, service area, need/demand for, and the anticipated timing of completion of the capital improvement.
 - d. The Town Council may authorize impact fee-funded capital improvements at other times the Town Council determines necessary and appropriate.
 - e. The Town Council shall verify that adequate impact fee funds are or will be available from the appropriate impact fee account for the particular category of capital improvements.
4. **Refunds.**
- a. **Eligibility.** An applicant who has paid an impact fee may be eligible for a refund where:
 - (1) A building permit has expired or has been revoked prior to construction; or



- (2) If construction has been started and abandoned prior to a certificate of occupancy, only if the uncompleted building is completely demolished.
- b. **Applications.** Applications for a refund shall be made in writing to the Town within 60 days of expiration or revocation of a permit. The application shall include:
 - (1) Evidence that the applicant is the property owner or the duly designated agent of the property owner;
 - (2) The amount of the impact fees paid by capital improvements category and receipts for the payments; and
 - (3) Evidence of the expiration or revocation of the building permit or approval of demolition of the structure pursuant to a valid Town-issued demolition permit.

Failure to apply for a refund within 60 days following expiration or revocation of the building permit or demolition of the structure shall constitute a waiver of entitlement to a refund.
- c. **Decision.** The Town shall review the application and supporting relevant evidence and determine whether a refund is due.
 - (1) The Town may, at its discretion, make refunds of impact fees by direct payment, by offsetting refunds against other impact fees due for the same category of capital improvements for new land development on the same property, or by other means subject to agreement with the property owner.
 - (2) A ten-percent administrative fee, not to exceed \$500, shall be deducted from any refund and retained in the appropriate impact fee account to defray the administrative and processing expenses.
 - (3) No interest shall be paid in calculating the amount of the refunds.
- d. **Fire, Emergency and School Services.** Any requests for refunds of the fire, emergency or school service fees shall be made to the service providers, who are solely responsible for deciding and providing refunds.

- E. **Annual Report.** At least once every year, not later than October 15 and beginning October 15, 2001, and prior to the Town Council’s adoption of the annual budget and capital improvements program, the Town Manager shall prepare and submit annual impact fee report to the Board.
 - 1. The annual report may include evaluation of capital improvements planning, analysis of annual development activity and permit statistics, assessment of funds and capital improvements expenditures, recommended updates to the fee schedules and calculation, recommended amendments to the fee ordinances and impact areas, and any other information relevant to or required by specific impact fee ordinances.
 - 2. The Town Council shall receive the annual report and may take any action it deems appropriate based on the information.

- F. **402 Interchange Fee.** Pursuant to the Town’s authority to enact fees to recover costs of providing, maintaining, and improving infrastructure for properties within its jurisdiction, the 402 Interchange Fee is established as a special fee to recover a portion of the costs of the reconstructed interchange at Interstate 25 and State Highway 402, accomplished between approximately 2017 and 2022.
 - 1. **Applicability.** The 402 Interchange Fee shall apply to any request for a building permit on property within the area designated on a map maintained by the Town and publicly available, except:
 - a. Alterations or expansions of existing buildings where no dwelling units are created or no nonresidential square footage added;
 - b. The construction of accessory buildings or structures that do not add dwelling units or square footage to the principal building or use of land; or



- c. The replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same square footage.
- 2. *Establishment of Fee.* The 402 Interchange fee shall be levied and assessed as indicated in the current Town Fee Schedule.
- 3. *Use of Funds.* The revenues from the 402 Interchange Fee shall be remitted to the Street and Alley Fund.
 - a. The funds shall be used solely to reimburse the Town for the cost of improvements to and reconstruction of the Interstate 25 and State Highway 402 interchange.
 - b. The Town shall keep an accurate accounting of the cost of the improvements and revenues collected.
 - c. In the event that the total amount of the fee revenues paid to the Town equal the sum of \$ 2,500,000.00, plus interest from the effective date of the fee at a rate of 2.75% per annum, all property owners in the designated fee area shall be relieved of any further obligation to pay the 402 Interchange Fee.
- 4. *Not An Impact Fee or Development Charge.* The Town Council does not intend that the 402 Interchange Fee be construed as an impact fee or development charge within the meaning of Section 29-20-104.5, C.R.S., as amended, but that the 402 Interchange Fee be a special fee within the home rule authority of the Town. To the extent that the provisions of Section 29-20-104.5, C.R.S., as amended, conflict with the provisions of this section, this section shall control.



Article 4. Districts & Uses

- 17-4-1 Establishment of Zoning Districts
17-4-2 Permitted Uses / Use Table
17-4-3 Specific Use standards
17-4-4 Accessory Uses
17-4-5 District Performance Standards

17-4-1 Establishment of Zoning Districts

A. Intent. To carry out the purposes of this code, the following districts are established, with the intent given for the character of specific areas, the development patterns and context, and the types or intensity of uses and buildings.

Table 4-1: Zoning Districts & Intent. Table with 2 columns: District & Intent, Relationship to Comprehensive Plan. Rows include H-A - Holding / Agriculture, R-E - Rural Estate, R-1 - Single-Family Neighborhood, and R-2 - Mixed-Density Neighborhood.



Table 4-1: Zoning Districts & Intent

District & Intent	Relationship to Comprehensive Plan
<p>R-3 – High Density Neighborhood The R-3 district provides residential living (small- or large-scale residential building types) in a moderate-to high-density pattern in suburban areas or walkable neighborhoods. This district should be located as a transition between lower-density neighborhoods or more intense non-residential uses, and where a high level of accessibility, public amenity and support services are immediately available.</p>	<p>General application in high-intensity areas, or limited applicability at strategic points and transitions to and within Activity Centers</p>
<p>MU-DT – Downtown. The MU-DT district provides an integrated mix of retail, service, entertainment and civic uses, and supporting office and residential uses, in a compact and walkable format. This district preserves the historic “main street” scale and small-town character of Johnstown. It is the vibrant heart of the community with a high level of civic design, walkable urban patterns, and a concentration of diverse, small-scale uses.</p>	<p>General application for Downtown Activity Center.</p>
<p>MU-NC – Neighborhood Commercial. The MU-NC Neighborhood Commercial District provides for small-scale and low-intensity uses that complement, support, and are integrated into surrounding neighborhoods and other higher-intensity commercial areas. It may exist in compact, walkable formats in close proximity to neighborhoods, or alternatively if automobile oriented the impacts of access and operations on adjacent areas are limited and mitigated by the small-scale format and lower intensity of the uses.</p>	<p>Limited application for nodes within the Low Intensity area to provided walkable destinations and supporting services for neighborhoods; General application within Activity Centers or commercial areas in the Moderate Intensity Area.</p>
<p>MU-RC – Regional Commercial. The MU-RC is intended to provide regional commercial, entertainment, and/or employment destinations. While compact, walkable, or transit-served locations and formats are preferred – particularly in areas designated as activity centers, this district may accommodate some higher-intensity and larger format commercial uses – particularly if they are removed from or on the periphery of activity centers or otherwise located to not disrupt walkable patterns.</p>	<p>Limited application within Activity Centers in the Moderate Intensity areas; General application for commercial areas in the High Intensity Area</p>
<p>I-1 –Industrial Light. The I-1 district provides primarily service, employment, manufacturing and distribution uses at a scale, intensity and format that will not have significant impact on adjacent uses, and which can mix with supporting and compatible service and retail uses characteristics of mixed and flex business areas.</p>	<p>General application adjacent to heavier industrial areas, as a transition to less intense uses, and limited application as an employment component of mixed-use or commercial areas in the High Intensity Area.</p>
<p>I-2 Industrial – Heavy. The I-2 district provides primarily manufacturing uses at a scale, intensity and format that could impact adjacent uses or where specific land resources, distribution facilities or other supporting infrastructure is needed. It may include limited applications of support service, employment or distribution uses.</p>	<p>Limited application in the industrial areas for more intense uses that need special siting or other infrastructure support.</p>
<p>PD and PUD – See Section 17-2-4 for the intent and applicability of planned zoning districts.</p>	<p>General application for innovative design concepts applied to a master planned area.</p>

- B. **Official Zoning Map.** The boundaries of the districts are shown on the official Zoning Districts Map on file with the Planning and Development Department. Electronic copies and files of this map shall reference the “Official Copy” on file with the Planning and Development Department, but any copy should be verified with the Department before materially relying on any electronic or other representative copy of the map.
- C. **Transition of Previous Districts.** The zoning districts under the previous code correspond to the zoning districts in this code as specified in Table 4-2. The Official Map under the previous code shall transition and be interpreted according to the corresponding zoning districts in this table, and all further zoning changes shall follow the districts in this code.



Table 4-2: Zoning Districts Transitions	
<i>Prior Code</i>	<i>This Code</i>
<i>H-A Holding Agriculture</i>	<i>H-A Holding Agriculture</i>
<i>SF-1 Single-Family Residential</i>	<i>R-1 Single-family Neighborhood</i>
<i>SF-2 Single-Family Attached Residential</i>	<i>R-2 Mixed-density Neighborhood</i>
<i>MF-1 Multi-Family Residential</i>	<i>R-3 Multi-family Neighborhood</i>
<i>NC – Neighborhood Commercial</i>	<i>MU-NC Mixed-use Neighborhood Center</i>
<i>CB – Central Business District</i>	<i>MU-DT Mixed-use Downtown</i>
<i>Gateway Commercial District</i>	<i>MU-RC Mixed-use Regional Center</i>
<i>Gateway District</i>	<i>I-1 – Industrial - Light</i>
<i>I - Industrial District</i>	<i>I-1 – Industrial - Light</i>
<i>n/a</i>	<i>I -2 Industrial - Heavy</i>
<i>Recreation and Open Space</i>	<i>n/a – integrated into all districts</i>
<i>PUDs</i>	<i>PDs - see Section 17-2-4</i>

17-4-2 Permitted Uses

- A. **Use Table.** To implement the intent of each zoning district, facilitate complementary transitions between districts, and to regulate a variety of compatible uses within zoning districts each district is permitted the uses indicated in Table 4-3. The table identifies uses as:
1. Permitted uses (P) subject to general district development and buildings standards and review procedures.
 2. Uses allowed by special review (S) subject to the review process and criteria for a Use by Special Review in Section 17-2-7.
 3. All uses listed in the table (whether P or S), or more specific types of uses generally enabled in the table, may be subject to specific standards or limits in Section 17-4-3, Specific Use Standards
 4. Other accessory or temporary uses not listed in the table may be permitted according to the standards of Section 17-4-4, Accessory Uses.
 5. Uses in the table are more specifically described in Section 17-11-1, Description of Uses. Where a proposed use is not generally listed or appears to meet the description of more than one use type, the Director shall make an interpretation on the most equivalent described use considering:
 - a. The similarity of the use in terms of scale, impact, and operations to other described uses;
 - b. The typical building format and site design associated with the use based on existing relevant examples; and
 - c. The potential contribution of the use to the intent of the zoning district, and the ability to complement and be compatible with other permitted uses, based on typical formats and site designs.
- Any use that may not be interpreted as equivalent to a use in Table 4-3 is not anticipated by these regulations and may only be allowed by an amendment to the development code.



ARTICLE 4 – DISTRICTS & USES

Item #10.

17-4-2 PERMITTED USES

Table 4-2: Permitted Uses

P = Permitted, subject to general district standards S = Permitted, only by special review and discretionary process = Blank means the use is not permitted		H-A	R-E	R-1	R-2	R-3	MU-NC	MU-DT	MU-RC	I-1	I-2	Specific Conditions
Residential Uses												
Household Living	One-unit Dwelling	P	P	P	P	P						
	Multi-unit Dwelling				P	P						
	Live / Work Dwelling				S	S	P	P	P			17-4-3.A
	Dwelling – Mixed-use					S	P	P	P			17-4-3.B
	Mfgd. / Small Format Home Community				PD	PD	PD	PD	PD			17-5-6
Group Living												
Group Living	Established Residential (all building types)						P	P	P	P	P	
	Group Home – Small	P	P	P	P	P	P	S	S			17-4-3.C
	Residential Care – Limited	S	S	S	S	S	P	S	P			17-4-3.D
	Residential Care – General					S		S	P			17-4-3.D
Public / Institutional Uses												
Assembly	Limited (< 400 capacity / < 2 ac.)	P	P	P	P	P	P	P	P	P		
	General (400–800 capacity / 2 – 5 ac.)					P	P	P	P	P		
	Large (800+ capacity / 5+ acre)								P	P		
Civic & Institutional Buildings	Government and Town	P	P	P	P	P	P	P	P	P		
	Library, public				P	P	P	P	P			
	Museum, cultural						P	P	P			
	School			P	P	P	P	P	P			
Park and Open Space	Athletic Field			S	S	S	S	S	P	P	P	
	Recreation Center or Grounds			S	S	S	S	S	P	P	P	
	Park, Trail, Civic Space (See 17-3-2)	P	P	P	P	P	P	P	P	P	P	
Utilities	Utility Major									S	P	
	Utility – Minor (principal use)			S	S	S	S	S	S	S	S	
Agriculture Uses												
Agri-tourism	Roadside Stands	P	S	S	S	S	S	S	S	P		
	Farmers Market	P	S			S	P	P	P	P		
	Community Farm	P	S	S								
Farming	Farming - Limited	P	S	S								
	Farming - General	P										
	Farming - Industrial	S									S	
	Agriculture Industrial Services									P	P	
Commercial Uses												
Animal Care / Sales	Limited - <3K – no boarding						P	P	P	P	P	
	Small - 3K – 8K or limited boarding	S							P	P	P	
	General -8K – 30K or boarding	S								P	P	
	Large – Outdoor or > 30K)	P								S	P	
Dependent Care	Dependent Care – Limited (< 3K)	S	S	S	S	S	P	P	P	S		
	Dependent Care – General (3K – 8K)				S	P	P	P	P	S		
	Dependent Care – Large (> 8K)						S	S	P	S		
Entertainment & Recreation	Indoor / Limited (< 8K)						S	P	P	P	S	
	Indoor / General (8-30K+)							S	P	P	S	



ARTICLE 4 – DISTRICTS & USES

Item #10.

17-4-2 PERMITTED USES

Table 4-2: Permitted Uses

P = Permitted, subject to general district standards S = Permitted, only by special review and discretionary process = Blank means the use is not permitted		H-A	R-E	R-1	R-2	R-3	MU-NC	MU-DT	MU-RC	I-1	I-2	Specific Conditions
	Indoor / Large (30K+)							S	P	P	S	
	Outdoor							S	S	S	S	
Food & Beverage Service	Restaurant – Limited (< 3K)						P	P	P	P		
	Restaurant – Small (3K – 8K)						S	P	P	P		
	Restaurant – General (> 8K)							S	P	P		
Lodging	Bed & Breakfast (up to 5 rooms)	S	S			S	P	P	P			17-4-3.E
	Inn (6 to 40 rooms)						P	P	P			
	Hotel / Motel (40+ Rooms)							S	P	S		
Medical Service	Limited - < 8K s.f.					S	P	P	P	P	S	
	General – 8K – 30K s.f.								P	P	S	
	Large – Hospital Complex –30K+ s.f.								P	P	P	
Office	Limited (<8K or < 33% of MU project)					S	P	P	P	P	P	
	General (8K – 30K)							P	P	P	P	
	Large (30K+)								P	P	P	
Personal Service	Limited (<3K or < 33% of MU project)					S	P	P	P	P	S	
	Small (3K – 8K)							P	P	P	S	
	Large (>8K)								P	P	S	
Retail	Limited (<3K or <33% of MU projects)					S	P	P	P	S		
	Small (3K-8K)						P	P	P	S		
	General (8K-30K)							S	P	S		
	Large (> 30K)								P	S		
	Retail – Outdoor & Equipment Sales								S	S		
Retail -Grocery Store	Small (< 8K)					S	P	P	P	P		
	General (8K – 30K)							P	P	P		
	Large (30K +)								P	P		
Vehicle & Equipment Uses	Gas Station – Limited (1-8 Pumps)						S	S	P	P	P	17-4-3.G
	Gas Station – General (9-16 pumps)								S	P	P	17-4-3.G
	Gas Station – Large (17+ pumps)								S	P	P	17-4-3.G
	Automobile Repair - Limited						S	S	P	P	P	17-4-3.H
	Automobile Repair - Body Shop									P	P	
	Automobile, RV, Equip. Sales / Rental								S	S		
	Car Wash and Automobile Detailing						S		S	P		
Manufacturing / Industrial Uses												
Industrial Service	Contractors Office & Fleet Services								S	P	P	
	Industrial Service, Light									P	P	
	Industrial Service, Heavy										S	
	Vehicle / Fleet Maintenance Facility									S	P	
Manufacturing	Limited / Artisan						P	P	P	P	P	17-4-3.I
	Brewery, Distillery, or Winery						S	S	S	P	P	17-4-3.J
	Manufacturing - Light								P	P	P	
	Manufacturing - Heavy										S	
Warehouse / Storage	Wholesale & Distribution									P	P	
	Indoor Storage									S	S	17-4-3.K



Table 4-2: Permitted Uses												
P = Permitted, subject to general district standards S = Permitted, only by special review and discretionary process = Blank means the use is not permitted	H-A	R-E	R-1	R-2	R-3	MU-NC	MU-DT	MU-RC	I-1	I-2	Specific Conditions	
	Outdoor storage									S	S	17-4-3.K
Fuel Storage (principal use)									S	S		
Automobile Wrecking / Salvage Yard										S		
Hazardous Waste Handling										S		
Waste / Salvage									S	S		
Recycling Operation, Enclosed									S	S		
Recycling Operation, Unenclosed									S	S		
Waste transfer Station										S		

17-4-3 Specific Use Standards

The following uses may have impacts different than those generally enabled in the zoning districts, and have standards specific to the uses. These standards shall be met whether the use is a generally permitted use, accessory use, or a Use by Special Review according to Table 4-3. The uses in this section may include more specific types or formats of the uses generally enabled in Table 4-3.

- A. **Live-Work Dwelling.** In districts where Live / Work Dwellings are permitted, they shall meet the following standards and conditions to be compatible with the context.
 - 1. Commercial uses shall be limited to those uses that are otherwise permitted in the district, or uses allowable through the Use by Special Review process in Section 17-2-7.
 - 2. Any commercial activity shall occur on the ground floor and be directly accessible from the adjacent public street, sidewalk, or other public space or publicly accessible common area.
 - 3. Commercial activity, and any accessory assembly, production of fabrication shall be scaled and operated in a way that is compatible with other residential uses in the area.
 - 4. The commercial occupancy shall not be considered accessory to the residential dwelling, and therefore not subject to the accessory home occupation standards. However, the resident and the principal occupant of the commercial area shall be the same and the commercial occupancy shall be limited to no more than 50% of the building. Any greater percentage shall be treated as a mixed use or multi-unit building.

- B. **Mixed-use Dwelling.** In districts where mixed-use dwellings are allowed uses, the following standards shall apply:
 - 1. In the mixed-use districts, at least 50 percent of the ground floor of a mixed-use building shall be in a non-residential land use. In the R-3 Zoning District, no more than 50 percent of the total gross floor area of a structure containing a mixed-use, including basement area, shall be devoted to non-residential uses.
 - 2. In the R-3 zone, the use shall be located on a collector street or higher, or otherwise located as a transition between residential and non-residential uses.
 - 3. In the R-3 zone, only commercial uses permitted in the MU-NC district are allowed, and they may be further conditioned, limited, or prohibited through the Use by Special Review process in Section 17-2-7.
 - 4. Mixed-use dwellings in commercial and mixed-use zones may include any commercial use permitted within that zoning district.



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- 5 The design and character of all buildings and sites shall be compatible with the predominant character of the surrounding neighborhood. The operating characteristics of a non-residential land use in a predominantly residential neighborhood shall be compatible with the residential uses. For the purposes of this section, operating characteristics shall include, but not be limited to, hours of operation, number of employees and visitors, lighting, noise and traffic.
- C. **Group Home - Small.** In districts where group homes are enabled, they shall meet the following standards and conditions to ensure they are integrated into neighborhoods, have a non-institutional nature, and maintain the residential character of neighborhoods.
1. Group homes shall meet all of the residential design standards applicable in the particular district, and any alterations to support the group living shall be done in a discrete way in accordance with those standards.
 2. In the R-1 districts, no group home shall be located less than 750 from another existing group home, except that the Director may waive the is requirement if separated streets, parks, civic spaces or other transitions that establish different neighborhoods
 3. Group homes shall be supervised at all times, and may include up to 2 resident care givers.
 4. Group homes shall be licensed by, operated by, or owned by a governmental agency or non-profit qualified to provide care and supervision.
 5. Group homes shall not include alcoholism or drug treatment centers, work release facilities or other housing facilities qualifying as residential care – institutional.
- D. **Residential Care – Limited and General.** When Residential Care – Limited or General uses are located in residential districts, they shall meet the following:
- 1 The use shall be located on a collector street or higher, or otherwise located as a transition between the neighborhoods and non-residential uses.
 2. The building and site shall meet all residential design standards so that the use, building, and site is compatible with the neighborhood in terms of scale and intensity of activity.
 3. Any facilities necessary to serve the residents, guests, or to support the staff, which are non-residential in nature shall be located on the most discrete portions of the site and building, and otherwise designed and screened to mitigate impacts on adjacent property.
- E. **Lodging – Bed & Breakfast.** In districts where lodging – bed & breakfast is allowed; it shall meet the following standards.
1. Except when located in the H-A district or non-residential districts, the use is in or within ¼ mile of a mixed-use center, such that guests may experience the convenience of nearby retail, office, entertainment, and recreation amenities;
 2. The applicant shall occupy a residence on the site and must demonstrate a sufficient ability for site maintenance and property management; If the resident occupant is not the homeowner, the homeowner shall provide a notarized authorization with the permit application.
 3. There shall be no more than 5 guest rooms.
 4. Meals or food served in the bed and breakfast shall be prepared in a central kitchen on-site and served solely for bed and breakfast occupants. Cooking facilities, other than convenient in-room appliances and fixtures shall not be permitted in guest rooms.
 5. One off-street parking space shall be provided per guest room on site, although this provision may be waived by the Director if the context and circumstances of each



dwelling unit prove the space unnecessary. However, all parking and access shall be sited to meet all frontage design and site design standards applicable in the district.

F. Marijuana Uses.

1. *Intent & Findings.* It is the intent of this Section to prohibit certain uses related to medical marijuana, and, in furtherance of its intent, the Town Council makes the following findings:
 - a. The Colorado Medical Marijuana Code, Section 12-43.3-101, et seq., C.R.S., clarifies Colorado law regarding the scope and extent of Article XVIII, Section 14, of the Colorado Constitution.
 - b. The Colorado Medical Marijuana Code specifically authorizes the governing body of a municipality to "vote to prohibit the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers' licenses."
 - c. The Colorado Medical Marijuana Code specifically authorizes a municipality "to prohibit the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers' licenses...based on local government zoning, health, safety, and public welfare laws for the distribution of medical marijuana."
 - d. Based on careful consideration of the Colorado Medical Marijuana Code, Article XVIII, Section 14, of the Colorado Constitution, and the potential secondary effects of the cultivation and dispensing of medical marijuana, and the retail sale, distribution and manufacturing of medical marijuana-infused products, such land uses have an adverse effect on the health, safety and welfare of the Town and its inhabitants.
 - e. As a matter of the Town's local land use and zoning authority, and consistent with the authorization provided by the Colorado Medical Marijuana Code, no suitable location exists within the Town for the operation of medical marijuana centers, medical marijuana cultivation operations or medical marijuana-infused products manufacturing.
 - f. Patients and primary caregivers should otherwise be afforded the protections of Article XVIII, Section 14, of the Colorado Constitution, and Section 25-1.5-106, C.R.S., as further clarified under House Bill 10-1284 adopted by the Colorado Legislature in its 2010 Session and known as the Colorado Medical Marijuana Code.
2. *Authority.* The Town's authority to adopt this Section is found in: the Colorado Medical Marijuana Code, Section 12-43.3-101, et seq., C.R.S.; the Local Government Land Use Control Enabling Act, C.R.S., Section 29-20-101, et seq., C.R.S.; Section 31-23-101, et seq., C.R.S. (municipal zoning powers); and Section 31-15-501, C.R.S., (municipal authority to regulate businesses). The Town Council has authority to prohibit business uses related to recreational marijuana in the Town, deriving from, among other sources, Article XX, Section 6, of the Colorado Constitution, State statutes, including but not limited to C.R.S. § 31-15-401, and Article XVIII, Section 16, of the Colorado Constitution.
3. *Uses Prohibited.* It is unlawful for any person to operate, cause to be operated or permit to be operated any of the following uses:
 - a. Medical marijuana centers, an optional premises cultivation operation or a medical marijuana-infused products manufacturing facility.
 - b. Recreational marijuana establishments
 - c. Marijuana consumption establishments.



4. **Patients and Primary Caregivers.** Nothing in this Section shall be construed to prohibit, regulate or otherwise impair the protections of the use of medical marijuana by patients as provided in Article XVIII, Section 14, of the Colorado Constitution, or the provision of medical marijuana by a primary caregiver to a patient in accordance with Article XVIII, Section 14, of the Colorado Constitution, the Colorado Medical Marijuana Code, and rules promulgated thereunder.
- G. **Gas Stations.** In districts where gas stations are allowed uses, the following standards shall apply:
1. No displays, storage of merchandise, service areas, or other equipment and facilities shall be located closer than 20 feet from the street right-of-way line
 2. If on-site convenience store or other retail or service component is provided, the design, location and operation of these facilities shall meet all applicable non-residential design standards based on the zoning district, building type, and frontage type.
 3. Vehicle circulation shall avoid potential pedestrian/vehicle conflicts on the site and along the streetscape.
 - a. Adequate stacking spaces for automobiles shall be provided on site and outside of setbacks to eliminate any impact on public streets.
 - b. Circulation, stacking and other access issues shall be designed in a manner that has the least impact on pedestrians entering the principal building from public streets and from internal pedestrian or parking areas.
 - c. No access or queuing area or service area shall be provided between the building and the street on any pedestrian oriented streetscape. (Pedestrian Street types in Section 17-3-1 or A Frontages in Section 17-6-3). Use of alleys, internal access streets, and vehicle service areas to the rear of buildings for service areas is required to preserve the streetscape design and development patterns of these areas.
 4. The site shall comply with all landscape and screening standards in Article 8 and the following specific requirements:
 - a. A 6 feet masonry wall shall be installed along property lines where the use abuts residential districts or uses.
 - b. A Type 1 buffer shall be applied along all non-building street edges.
 - c. Any accessory vehicle service areas or entrances shall be setback at least 80 feet from the right-of-way, or screened according to Section 17-8-3.
 5. The maximum height of a canopy shall be 20 feet for flat roofs and 24 feet for pitched roofs.
 - a. Canopies shall be architecturally compatible with the principal building and all other accessory structures on the site with the same or complementary materials, architectural style and colors.
 - b. The material used on the underside of the canopy shall not be highly reflective.
 - c. Setbacks for the canopy shall be measured from the outside edge of the canopy.
 - d. All light sources, including canopy, perimeter and flood lights and lenses, shall be shielded or fully recessed within the roof canopy so that light is contained on-site.
- H. **Automobile Repair – Limited.** In districts where automobile repair – limited is allowed, it shall comply with the following:
1. Motor vehicles being serviced or stored while waiting to be parked in legal parking spaces for that purpose, and shall not be parked on streets, alleys, public sidewalks, or other areas not specifically intended for parking on the approved site plan.



2. All work shall be performed within an enclosed structure.
 3. No equipment, scrap, materials or parts may be deposited or stored on the premises outside of an enclosed structure.
 4. Any area subject to wheeled traffic or storage shall be screened from adjacent or adjoining residential districts by a solid wall or fence, or other buffer that completely screens this area according to Section 17-8-3.
- I. **Manufacturing – Limited / Artisan.** In districts where limited / artisan manufacturing uses are allowed, it shall comply with the following:
1. A retail or service use, such as a display room, sales area, or other sampling is permitted as an accessory use to the manufacturing use.
 2. The total area of the facility shall be less than 10,000 square feet.
 3. No byproducts such as smell, waste, smoke or noise result from the manufacturing that is distinctly different or of greater intensity than other principal commercial uses in the area.
 4. Traffic, customer, and shipping patterns and activities from the manufacturing use are not distinctly different from the principal commercial use in terms of intensity and hours of activity.
- J. **Manufacturing - Breweries, Distilleries, and Wineries.** In districts where breweries, distilleries, and wineries are permitted, they shall comply with the following:
1. In the MU-NC, MU-DT and MU-RC districts these uses shall be permitted only in conjunction with a restaurant, tavern, retails sales, or sales room located on the same premises as the manufacturing of the beverage.
 2. Additional conditions of the site improvement plan or Use by Special Review process may be applied to ensure the use is designed and operated in a manner that does not create nuisance impacts on surrounding uses and is appropriate to the scale, intensity, and character of the district.
- K. **Storage.** In districts where indoor or outdoor storage is permitted by special review, they shall be subject to the following additional conditions:
1. Uses shall be evaluated for whether they are a short-term or interim use of land based on the extent of changes occurring in the area; the type, extent, and character of planned future growth; and the level of investment in the proposed used.
 2. Uses shall be separated from any other indoor or outdoor storage area in the growth management area by at least 3 miles.
 3. Outdoor storage shall be fully screened from adjacent properties.
 4. Security measures are taken to ensure controlled access and 24/7 monitoring of the site, which may require an on-site caretaker residence.

17-4-4 Accessory Uses

- A. **Accessory Uses, Generally.** All principal uses may include accessory uses. All accessory uses, and any accessory use not specifically mentioned in this section, shall be subject to the following general standards:
1. The use and any structure are clearly incidental and subordinate to a principal use and customarily associated with the principal use.
 2. The use is on the same lot as an active principal use.
 3. The use is operated and maintained under the same ownership, or by the same lessee, as the principal use.



4. The use and any structures or other site design elements meet the generally applicable dimension, development, and design standards applicable to the lot.
5. The use is compatible with the general character of the area and comparable in scale and intensity to other uses in the vicinity.
6. Any structures or site design elements to support the use are not significantly different from what is typical for other allowed uses in the district, or where different can be screened or located to minimize impact on adjacent property.
7. No unusual traffic patterns or increases in activity that impact the use and design of streets and public spaces differently than other allowed uses will result.
8. All uses are conducted, and structures are maintained in a way that is conform with the intent and objectives of all other design and development standards applicable to the property, are consistent with the intent of the zoning district, and do not adversely affect adjacent property in a manner different from other permitted principal uses.

B. Accessory Dwelling. In addition to the standards applicable to all accessory uses in Section 17-4-4.A, the following additional standards apply to accessory dwellings:

1. Accessory dwelling units may be permitted when associated with a detached house, as indicated in Table 5-1, Residential Building & Lot Standards.
2. Accessory dwelling units may be located in a detached accessory building or located within the principal building (such as an attic, basement, or rear apartment).
3. The floor area of the accessory dwelling shall not be more than 1,000 square feet or 50% of the principal dwelling unit, whichever is less.
4. One additional parking space per unit shall be provided on site. The Director may waive this requirement if the context and circumstances prove the space unnecessary due to access to transit, availability of on-street parking on the block, or the configuration of parking available for the principal dwelling having additional options.
5. Accessory dwelling units shall meet the development and design standards for the lot in Article 5.
6. The accessory dwelling shall be compatible with principal building, and whether within the principal building or in a detached structure in the following ways:
 - a. The dwelling shall be clearly subordinate to the principal dwelling through the location of access, building entrances, parking, and other design features that accommodate the dwelling.
 - b. Entrances and exterior stairs shall be located towards the interior of the lot or alley, and away from the side lot line of adjacent property.
 - c. Attached accessory structures shall be to the side or rear of the principal structure, or otherwise integrated into the principal dwelling structure.
7. Prior to occupancy of the unit all building and occupancy permits shall be approved, and inspections conducted demonstrating compliance with applicable building and fire safety codes. These approvals may be conditioned on correcting any deficiencies in the primary dwelling and/or accessory dwelling.
8. The applicant shall provide a signed and notarized affidavit to be recorded with the applicable county clerk and recorder, attesting to the following occupancy and use standards.
 - a. An individual holding an ownership interest in at least 50% of the property shall occupy either the principal dwelling or the accessory dwelling as their permanent address demonstrated by two forms of proof of residency
 - b. Occupancy of each unit shall comply with all other rules and standards, though each dwelling may be considered as an independent dwelling unit.
 - c. The owner shall verify compliance with these conditions with the Town on an annual basis.
9. All permitting and impact fees applicable to new construction shall apply to an accessory dwellings, including the provision of additional raw water, per municipal code.



10. Accessory dwellings shall connect to water and sewer lines of the principal dwelling, subject to the requirements of the Town.
- C. **Home Occupation.** In addition to the standards applicable to all accessory uses in Section 17-4-4.A, the following additional standards apply to home occupations:
1. Home occupations are permitted on any property where the principal use is residential dwellings.
 2. The building and site shall retain all appearances as a residence, and no alterations to entrances, storage, window or merchandise displays, parking or other facilities that alter the residential character or clearly indicate non-residential uses shall be permitted.
 3. Employment shall be limited to residents of the principal dwelling and 1 additional non-resident.
 4. The activity shall be operated entirely within the dwelling or accessory buildings, and limited to occupy no more than 50% of the combined floor area of all structures on the property, except permitted home care accessory uses may use the entire space.
 5. No traffic, services, or deliveries shall be generated by the home occupation that is abnormal to a residential neighborhood.
 - a. Activity from deliveries, customer, or patron visits shall generally be limited to between the hours of 7 a.m. and 9 p.m.
 - b. Except for permitted home care accessory uses, customer visits shall be limited to no more than 8 per day and no more than 2 customers at a time.
 - c. All parking necessary for the use shall be confined to the garage, driveway, or street directly in front of the dwelling meeting the applicable Residential Building and Site Design standards in Section 17-5-3.
 6. Sale of any merchandise shall be limited to items that have been made, grown, or prepared on site, or to remote or mail-order sales, where storage and exchange do not happen on site.
 7. No equipment, machinery or operation shall be used in such activities that are perceptible off the premises because of noise, smoke, odor, dust, glare, radiation, electrical interference, or vibration.
 8. In-home dependent care (distinct from commercial buildings and uses), may be permitted subject to all required state licensing and operation provisions.
 9. Home occupations shall not be permitted for the following businesses:
 - a. Animal care or medical services.
 - b. Automobile service, detailing, and repair.
 - c. Food or beverage services.
 - d. Any use involving storage, operation, or parking of equipment and large vehicles such as towing, landscape maintenance, or construction businesses.
 - e. Any use involving the dispensing, use, storage, or processing of hazardous materials.
 - f. Funeral home or mortuary.
 - g. Manufacture or sale of wine, distilled spirits, malt beverages, or similar.
- D. **Outdoor Storage, Residential.** Accessory outdoor storage may be permitted in the residential zoning districts subject to the following standards:
1. *Portable Storage Containers.* Portable storage containers may be permitted subject to the following limitations.
 - a. On lots less than 10 acres, no more than one 40-foot in length container, or two 20-foot in length storage containers, limited to a maximum of 320 square feet and 2,700 cubic feet is allowed
 - b. On lots greater than 10 acres, for each 10-acre increment, one 40-foot in length container, or two 20-foot in length storage containers is allowed.



- c. Containers shall be placed on a paved surface and not over any easement or right-of-way, or otherwise create any sight obstruction.
 - d. Placement is limited to a period reasonably necessary to complete the associated project or task, not to exceed 30 days in one calendar year on the site.
 2. **Recreational Vehicles.** Outdoor storage or parking of recreational vehicles shall be subject to the standards of the Johnstown Municipal Code. Recreational Vehicles do not meet the standards for a dwelling unit, and therefore may not offer long term residential use.
 3. **Other Storage.** All other accessory outdoor storage, other than ordinary and incidental residential accessories, shall either be:
 - a. Completely screened from adjacent property and public streets; or
 - b. Be limited to no more than 72 hours in any 30-day period; or
 - c. Be associated with an active building permit and in which case the storage may extend for the duration of the permit and subject to all other permit conditions.
- E. **Outdoor Storage, Non-residential.** Accessory outdoor storage may be permitted in the non-residential districts subject to the following standards:
 1. In the MU-NC, MU-DT, and MU-RC districts, the storage area shall be located behind the front building line of the principal building.
 2. The storage area shall be fully screened from adjacent properties and public spaces according to the standards and design requirement of Section 17-8-3 and Section 17-8-5, and no materials shall be stacked higher than the screening.
 3. The storage area shall be located in the most remote section of the site or building as possible, but no closer than 20 feet to any street or right-of-way in any in all cases.
 4. Storage areas shall be limited to:
 - a. No more than 200 square feet in the MU-NC district.
 - b. No more than 500 square feet in the MU-DT districts.
 - c. No more than 25% of the building footprint in the MU-RC district.
 - d. No more than 100% of the building footprint in the I-1 district.
 5. The storage area shall be paved per the requirements for parking lots, except a stabilized dust-free and all-weather surface may be used in the I-1 district.
 6. All other outdoor storage shall only be permitted through a Use by Special Review process subject to Section 17-2-7, or where outdoor storage is permitted as a principal use.
- F. **Drive-Through Service Facilities.** In addition to the standards applicable to all accessory uses in Section 17-4-4.A, the following additional standards apply to drive-through service facilities:
 1. Drive-through service facilities may be permitted on any property where the principal use is commercial or service uses.
 2. The service area shall not substantially expand the traffic or vehicle circulation otherwise necessary for the site. In general, the service area shall use the same entrance and exit from the site as the principal use, unless a more remote or discrete service off an alley or secondary street better meets the criteria in this section.
 3. Vehicle circulation shall avoid potential pedestrian/vehicle conflicts on the site and along the streetscape.
 - a. Adequate stacking spaces for automobiles shall be provided on site and outside of setbacks to eliminate any impact on public streets.
 - b. Stacking areas shall generally accommodate at least 3 vehicles for non-food service uses and 8 vehicles for food-service uses, but may be modified for greater or lesser stacking dependent on the use and the context of the site.



- c. Circulation, stacking and other access issues shall be designed in a manner that has the least impact on pedestrians entering the principal building from public streets and from internal pedestrian or parking areas.
 - d. No access or queuing area shall be provided between the building and the street on any pedestrian oriented streetscape. (Pedestrian or Parkway / Bikeway street types in Section 17-3-1 or A Frontages in Section 17-6-3). Use of alleys, internal access streets, and the rear of buildings for drive-through services is required to preserve the streetscape design and development patterns of these areas.
4. Service areas and windows shall be located in the most remote location possible, considering adjacencies to public streetscapes, residential property, or other sensitive adjacencies.
- a. Signs, speakers, or service facilities shall not be visible or audible from the residential property. Operational limitations and additional screening or buffers may be required beyond the standards of Section 17-8-3 to ensure compatibility.
 - b. Signs, speakers, or service facilities shall be located on the side or rear of buildings to minimize impact on streetscapes.
 - c. To the maximum extent practicable, drive-through lanes shall not be located between the principal building and street or other public gathering places. Where this is not possible, they shall be setback at least 20 feet for the right-of-way to permit additional landscape design and impact mitigation.
 - d. Any stacking area, drive-through circulation lanes or drive-through facilities visible from the streetscape shall require enhanced landscape and frontage design elements beyond the standards of Section 17-8-2 and 17-6-3.
5. The Director may require any drive-through service facility that does not clearly meet these standards and criteria to be reviewed subject to the procedures for Use by Special Review in Section 17-2-7.
- G. **Outdoor Display and Service Areas.** In addition to the standards applicable to all accessory uses in Section 17-4-4.A, the following additional standards apply to outdoor display and service areas, such as sidewalk seating and dining or sidewalk sales:
- 1. Outdoor display and service areas may be permitted on any property where the principal use is commercial or service uses.
 - 2. Outdoor display and areas shall be located on the same lot as the principal use or along the street frontage immediately abutting the use in the case of buildings along streets designed to the Pedestrian standards in Section 17-3-1 or A Frontages in Section 17-6-3.
 - 3. The area shall be limited to no more than 50% of the ground floor area of the principal use, or may be subject to special use review for larger areas..
 - 4. Display and service areas shall not be arranged where they interfere with pedestrian movements or building access, or with clear vision areas. At least 5 feet clear or at least 50% of the width any sidewalk, whichever is greater, shall remain clear and unobstructed by any display or service areas located on a sidewalk.
 - 5. The area may be located in parking areas, provided it does not interfere with adequate parking and circulation of the entire site. The permanence of any structures shall be considered in evaluating the impact on adequate parking needs for the site.
 - 6. The display and service area may be excluded from required parking for that retail square footage, up to 40 spaces.
 - 7. The area shall be at least 100 feet from any residential zoning district and screened from view along any property line abutting a residential use.
 - 8. The hours of operation shall be between 7 a.m. and 10 p.m., except where the use is more than 500 feet from any residential district.
 - 9. Any outdoor display or service area beyond these requirements may only be permitted as an allowed outdoor sales principal use or subject to the general accessory use provisions in 17-4-4.A.



H. Small **Renewable Energy Equipment.** Consumer-scale renewable energy equipment may be an accessory use to another permitted use subject to the following additional standards, and provided it meets all other requirements for a building permit. Any renewable energy facility that does not meet the limits of this section shall be considered a public utility service use and only allowed as permitted in Table 4-4 as a principal use of land.

Table 4-4: Accessory Renewable Energy Equipment		
	Accessory Use by Building Permit	Accessory Use through Use by Special Review
Solar		
<i>Building Mounted</i>	<ul style="list-style-type: none"> 8" max. off and parallel with pitched roof 5' max. off a flat roof Any installation projecting more than 3' off a flat roof shall be screened from ground level or adjacent property by a parapet, or other architectural screen integral to the design of the building. 	<ul style="list-style-type: none"> 8' max. off a roof or building wall
<i>Ground Mounted</i>	<ul style="list-style-type: none"> 6' high max 10' setback min. <ul style="list-style-type: none"> Screened from adjacent property and the ROW in the same manner as all other mechanical equipment. 	<ul style="list-style-type: none"> 10' max high
Wind		
<i>Building Mounted</i>	<ul style="list-style-type: none"> 4' max. above roof (residential buildings) 8' max. above roof (non-residential buildings) 	<ul style="list-style-type: none"> 12' max. above roof (residential buildings) 20' max. above roof (non-residential buildings)
<i>Ground Mounted</i>	<ul style="list-style-type: none"> 30' max. height (residential districts) 45' max. height (non-residential districts) 	<ul style="list-style-type: none"> 45' max. height (residential districts) 60' max. height (non-residential districts)

I. **Craft Food & Beverage Manufacturing.** Production, retail sale, and distribution of food and beverages, such as micro-brewery, bakery, or other on-site manufacturing, is allowed accessory to an otherwise permitted restaurant or customer service use, provided:

1. That all manufacturing areas, or any warehousing, shipping and distribution facilities are clearly subordinate to the principal use as a restaurant.
2. No byproducts are generated such as offensive smell, waste, smoke or noise resulting from the manufacturing that is distinctly different or of greater intensity than the principal use or similar permitted principal uses in the district.
3. Traffic, customer, and shipping operations and activities from the manufacturing use are not distinctly different than the principal use, both in terms of intensity and hours of activity.

Otherwise such uses are only permitted as a principal manufacturing use.

J. **Recycling Collection Point.** Small recycling collection areas or similar drop-off kiosks may be accessory use to an existing commercial or industrial land use, limited to the following:

1. Facilities shall not be located within 250 feet of any residential zoning district.
2. Permeant or temporary structures are limited to no more than 300 square feet and shall be setback at least 20 feet from any public right-of-way.
3. Facilities shall permit adequate circulation and access for drop off of materials, and for the periodic removal of materials by larger vehicles.
4. The facility shall be placed on asphalt or concrete and shall not impact any landscaping or landscaped areas.
5. Facilities shall be placed on a more remote portion of the site, appropriately screened from adjacent property or rights-of-ways, and otherwise located in a manner to limit adverse impacts on adjacent property and the public streetscape.
6. The facility shall accept only non-perishable recyclable waste, or may be a collection point for donation of reusable, non-perishable household items such as books or clothing.
7. No processing or other power-driven mechanical devices or facilities are permitted.



8. Containers shall be constructed and maintained with durable waterproof and rustproof material, covered when the site is not attended, and shall have sufficient capacity according to a collection schedule. All material shall be stored in the unit and shall not be left outside of the unit when unattended.
9. The facility shall be maintained in a clean and sanitary manner, free of litter and any other undesirable materials.
10. Containers shall be clearly marked to identify the type of material that may be deposited. The facility shall be clearly marked to identify the name and telephone number of the facility operator and the hours of operation and display a notice stating that no material shall be left outside the containers.

17-4-5 District Performance Standards

A. **General Operation & Performance Standards.** All principal and accessory uses in mixed-use and non-residential districts shall be operated in a manner that meets the performance standards in Table 4-5.

Table 4-5: Non-residential District Performance Standards				
	MU - NC	MU-DT & MU-GC	I-1	I-2
Daytime Noise. Noise levels during business hours (7AM-10PM) [1]	60db	60db	70db	80db
Nighttime Noise. Noise levels during quiet hours (10PM – 7AM) [1]	50db	55db	65db	75db
Impacts Outside the Building. No heat, odor, dust, glare, radiation, vibration, smoke, or fumes shall be produced that is perceptible outside a building and could become a nuisance to adjacent uses shall be produced. [2]	☑	☑		
Impacts Beyond the Property Line. No heat, odor, dust, glare, radiation, vibration, smoke, or fumes shall be produced that is perceptible beyond the property line and could become a nuisance to adjacent uses shall be produced. [2]	☑	☑	☑	
Impacts to Health or Property. No heat, odor, dust, glare, radiation, vibration, smoke, or fumes shall be produced that be damaging to humans or property beyond the property line.[2]	☑	☑	☑	☑
Lighting & Right-of-way. Lighting measured at the property line adjacent to right-of-way	1.0 FC	1.5 FC	1.0 FC	1.0 FC
Lighting & Residential Uses. Lighting measured at the property line adjacent to residential uses	0.1 FC	0.5 FC	0.1 FC	0.1 FC
Lighting & Same or More intense Uses. Lighting measured at the property line adjacent to the same or more intense zoning districts	1.5 FC	2.0 FC	2.0 FC	2.0 FC

[1] Noise standards shall be enforced consistent with the Town noise control standards in the Johnstown Municipal Code. In the hours between 7:00 a.m. and the next 7:00 p.m. the noise levels may be increased by ten dB for a period not to exceed fifteen minutes in any one-hour period.

[2] Pollution and general nuisance standards shall be enforced in accordance all other health, sanitation, and nuisance standards of the Johnstown Municipal Code

B. **Conditions & Compatibility.** The Town may impose conditions upon the approval of any development application or any permit to ensure that it is compatible with adjacent uses and compliant with the district performance standards. Conditions may include:

1. Hours of operation and deliveries.
2. Location, design, and screening of outdoor activity areas or other site activities that generate potential adverse impacts to adjacent uses.



3. Placement of facilities that require regular service of large or utility vehicles, such as trash receptacles or loading areas.
4. Location of outdoor speakers, communication, or other amplification systems.
5. Light height, intensity, shield and design, and hours of partial and full illumination.



Article 5. Residential Development & Design

- 17-5-1 Intent & Applicability
- 17-5-2 Residential Building Types
- 17-5-3 Neighborhood Design
- 17-5-4 Courtyard Pattern
- 17-5-5 Conservation Pattern
- 17-5-6 Manufactured & Small Format Housing District

17-5-1 Intent & Applicability

A. **Intent.** The Residential Development Standards have the following intent.

1. Provide housing variety within neighborhoods and among different neighborhoods, and ensure compatible transitions between different residential building types.
2. Improve the appearance and livability of neighborhoods with good civic design.
3. Design and locate parks, trails and other open spaces as focal points that shape neighborhood character.
4. Design neighborhoods with slow-speed streetscapes, well-connected sidewalks and trails, and shade, and enclosure provided by street trees
5. Reinforce the distinct character of different neighborhoods based on their context:
 - a. Prioritize housing and walkable neighborhoods with convenient access to services, amenities, and destinations.
 - b. Promote lower-density rural neighborhoods with access to large, contiguous open spaces and natural areas.
6. Orient all buildings and lots to the public street or to common open spaces, and locate active social spaces along the streetscape
7. Design buildings with human-scale details such as entry features, windows and doors, massing elements, and ornamental features, particularly where these features create compatibility among a mix of building types.
8. Promote lasting and sustained investment in neighborhoods with quality design.

B. **Applicability**

1. The standards in this Article shall generally apply to all residential development, except where stated that sections only apply to specific building types, specific districts, or specific scales of projects.
2. Modification or additions to buildings or sites shall meet these standards to the extent of the modification or addition, except that the Director may waive any requirement that conflicts with the consistent design of an existing building or conflicts with the prevailing character on the block or immediate vicinity of the project.
3. The standards shall not apply to ordinary maintenance of existing buildings, except that maintenance to any building may not occur in a manner that moves the building further from compliance with these standards.



17-5-2 Residential Building Types

A. **Building Types & Development Standards.** The development standards for residential zone districts shall be based on the different building types permitted in each zone district, specified in Table 5-1, Residential District Building & Lot Standards. The design standards in other sections of this article, or any other adopted design guidelines, may further affect the design and location of each building type in a specific application.

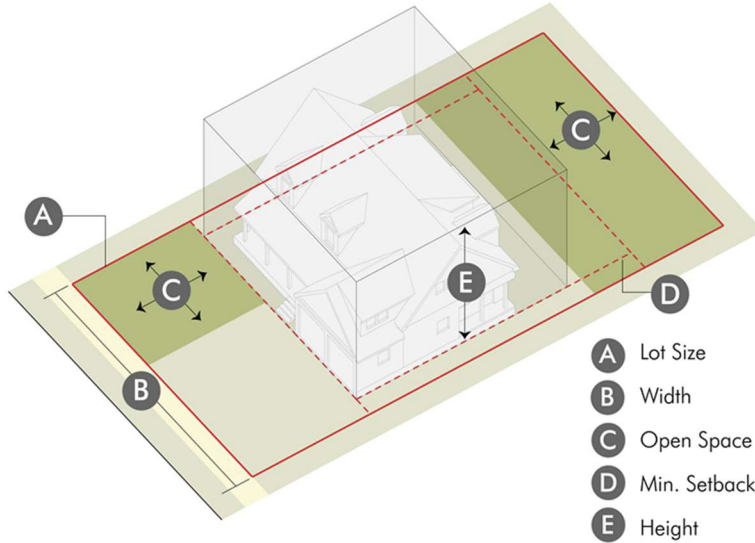


Figure 5-1 Building Types
Building types in Table 5-1 are distinguished based on lot sizes, unit configuration, building footprints, building massing, building placement, and frontage designs. This diagram illustrates these key standards in Table 5-1 applied to a typical lot.



Table 5-1: Residential Building & Lot Standards

Zoning Districts							Building / Lot Types	# of Units		Development Standards							
A	RE	R-1	R-2	R-3	MU	PD-M		Principal	Accessory	Minimum Lot Standards			Minimum Setbacks [4]			Building Height	
									Size	Width [1]	Lot Open Space	Front [2]	Interior Side	Corner Side [1]	Rear		
■	■						Detached House – Farmstead	1	1	40 ac.	200' +	n/a	35'	25'	35'	50'	35' / 2.5 stories
	■	■					Detached House – Estate Lot	1	1	40K s.f.	80' +	n/a	35'	25'	35'	50'	35' / 2.5 stories
		■	■				Detached House – Large Lot	1	1	12K s.f.	65'	50%	25'	7'	15'	20'	35' / 2.5 stories
		■	■	■			Detached House – Standard Lot	1	1	6K s.f.	50'	30%	25'	5'	10'	20'	35' / 2.5 stories
		◇	■	■			Detached House – Small Lot	1	n/a	4K s.f.	35'	20%	15'	4'	10'	8'	35' / 2.5 stories
			◇	◇		■	Detached House – Compact Lot	1	n/a	1.5K s.f.	28'	n/a	15'	4'	10'	8'	24' / 2 stories
			■	■			Duplex / Multi-unit House	2 - 6	n/a	6K s.f.; 2.5K s.f. per unit	50'	25%	25'	5'	10'	20'	35' / 2.5 stories
			■	■	■		Row House	3 - 8	n/a	1.5K s.f. per unit	18' per unit	15%	15'	5' [3]	10'	8'	40' / 3 stories
			□	■	■		Apartment – Small Lot	3 - 12	n/a	5K – 14K s.f.	50' – 100'	Per Table 3-5	15'	5' [3]	10'	20'	40' / 3 stories
				■	■		Apartment – Medium Lot	13 - 24	n/a	14K – 30K s.f.	100' – 200'	Per Table 3-5	25'	5' [3]	10'	20'	50' / 4 stories
				□	□		Apartment – Large Lot / Complex	25 +	n/a	30K + s.f. +	100' +	Per Table 3-5	25'	5' [3]	20'	20'	65' / 6 stories
■	■	■	■	■			Accessory Buildings	see 17-4-3.B		See Residential Accessory Buildings in Section 17-5-2.C							
						■	Small Format Housing Project	See Small Format & Manufactured Housing Projects in section 17-5-6.									

■ Permitted

◇ Limited to Courtyard Pattern only per Section 17-5-4 or to meet the housing diversity requirements of Section 17-5-2.D

□ Limited to locations along Collector or Arterial streets, or otherwise incorporated into lots or blocks that are part of the civic and open space system in Section 17-3-2.

[1] Corner lots shall add at least 5' to the required lot width. Otherwise, all lots shall meet both the minimum width and size specified in the table, and width is determinative of the building / lot type.

[2] Front setbacks may be modified based on context and the Frontage Design standards in Section 17-5-3.A.

[3] Row Houses and Apartments shall have a minimum 10' side setback when abutting lots with a detached house, and at least 6" for every 1' of building height.

[4] Buildings and structures shall be setback from plugged and abandoned wells at least 50 feet; and from oil and gas facilities at least 250 feet.

B. Dimension Exceptions. The following are exceptions to setback and building dimensions standards established in Table 5-1: Residential Building Type & Development Standards.

1. *Lot and Building Configurations.*

- a. Row houses and side-by-side duplexes may have individual units platted on separate lots, provided the building meets the standards in Table 5-1 and each unit meets any per-unit or proportional standards for each lot.
- b. Side lot easements between abutting lots may be granted in association with a plat to have the effect of “zero lot line” patterns. Easements for exclusive use of the side yard may be granted to the abutting owner to meet the lot open space requirements and design standards in Section 17-5-3.C for the grantee yet maintain the required setbacks from the platted lot line for each building in Table 5-1 for the grantor. Easements shall be identified on a recorded plat or in an agreement, and account for all access and maintenance scenarios for the lots, open space, and buildings.
- c. The front setbacks for each building may be modified according to the frontage types and Frontage Design Standards in Section 17-5-3.A.
- d. Lots may be configured in a Courtyard Pattern as provided in Section 17-5-4.
- e. Lots may be configured in a Conservation Pattern as provided in Section 17-5-5.



Figure 5-2 Side Lot Easements

Side lot easements may be used to provide more contiguous areas to meet the lot open space requirements and have the effect of a zero-lot line configuration. (17-5-2.B.1.b.).

2. *Setback Encroachments.*

- The following encroachments into the required setback are permitted, except in no case shall this authorize structures that violate the provisions of any easement.
- a. Primary entrance features such as an open sided front porch may encroach beyond the required front building line, as specified in Section 17-5-3.A.3.
 - b. Structural projections such as bay windows, balconies, canopies, chimneys, eaves, cornices, awnings, open fire escapes, egress wells, or other non-foundational overhangs or projections may extend up to 4 feet from the foundation and encroach into the setback, but no closer than 2 feet from any lot line. This exception shall be limited to no more than 20% of the total area of a building elevation.
 - c. Unenclosed and un-roofed decks or patios at or below the first-floor elevation may extend into the rear or side setback but no closer than 3 feet to any lot line.
 - d. Ground-mounted mechanical equipment, condensers, meters, and utility boxes accessory to the building may be located in the side or rear setback provided that



it extends no more than 6 feet from the principal building, no closer than 3 feet to the lot line, and is screened from public right-of-way by structures or landscape. These limitations do not apply to any utility structures otherwise authorized to be located according to easements or in the right-of-way, which shall follow the location and design standards of those specific authorizations.

3. **Height Exceptions.** The following are exceptions to the height limits in Table 5-1:
 - a. Building elements integral to the design and construction of the building, such as parapet walls, false mansards, or other elements essential to a quality appearance may extend up to 6 feet above the roof deck of a flat roof.
 - b. Architectural features such as chimneys, ornamental towers and spires, and similar accessory elements may extend up to 50% above the actual building height, provided they are integral to the specific architectural style of the building and are less than 15% of the building footprint.
 - c. Functional and mechanical equipment such as elevator bulkheads, cooling towers, smokestacks, roof vents, or other equipment may be built up to their necessary height in accordance with building codes provided they are screened according to the standards of this code.

C. Accessory Buildings - Residential. Accessory buildings shall be permitted in association with and on the same lot as a principal building or use and are subject to the following additional limitations.

1. **Accessory Building Standards.** Accessory buildings shall be permitted based on the lot size and type of structure, subject to the standards in Table 5-2: Residential Accessory Structures:

Table 5-2: Residential Accessory Structures				
Type	Quantity	Size	Height	Setbacks
Minor Structure (small shed, and similar structures)	<ul style="list-style-type: none"> ▪ 1 / lot; ▪ + 1 / each 10k s.f.; ▪ Maximum of 3 	<ul style="list-style-type: none"> ▪ 200 s.f. max each structure 	<ul style="list-style-type: none"> ▪ 12' max 	<ul style="list-style-type: none"> ▪ 5' side or rear ▪ Behind the rear building line of the principal structure
Secondary Building (detached accessory building, garage, etc.)	<ul style="list-style-type: none"> ▪ 1 / lot ▪ 2 / lot, over 40K s.f. ▪ Apartments: Min. Needed to provide parking or storage for units 	<ul style="list-style-type: none"> ▪ 50% of principal building footprint up to 1,000 s.f. max. each structure 	<ul style="list-style-type: none"> ▪ 16' max, ▪ 25' if an ADU or living space is over a functional garage; 	<ul style="list-style-type: none"> ▪ At least 10' behind the front building line of the principal structure ▪ Per Table 5-1
Any building over 10' high or more than 120 square feet shall meet the design standards in Section 17-5-2.C.3.				
Out-building (large storage building, barns, etc.)	<ul style="list-style-type: none"> ▪ 1 / lot over 40K s.f. ▪ + 1 / each 3 ac. ▪ Maximum of 5 	<ul style="list-style-type: none"> ▪ 2,500 s.f. max ▪ No size or height limit in H-A district, provided structure is accessory to agriculture use. 	<ul style="list-style-type: none"> ▪ 25' max 	<ul style="list-style-type: none"> ▪ 10' from side and rear; ▪ 35' from any street side; and ▪ Behind the rear building line of the principal structure

2. **General Standards.**
 - a. All accessory buildings shall be clearly incidental and subordinate to the principal building and use, in terms of scale, location, and orientation.
 - b. Minor accessory structures 200 square feet or less, less than 10 feet high, and not on a foundation or slab should be movable and are subject to meeting all easement conditions.



3. **Secondary Building Standards.** In any residential zone district, secondary buildings over 200 square feet or over 10 feet high shall meet the following massing and design standards to ensure compatibility with the principal structure:
 - a. The wall height shall be no more than 9 feet above each finished floor, except that gables, dormers, or other subordinate walls may support a pitched roof.
 - b. The roof peak or other top of structure shall not exceed 20 feet above finished floor for pitched roofs with a 6:12 pitch or greater, and no more than 16 feet for shed roofs or pitched roofs below a 6:12 pitch.
 - c. The design shall be compatible with the principal building considering materials, architectural details and style, window and door details, and roof pitch and form.
 - d. Secondary buildings with vehicle access directly from an alley or shared easement shall be situated to avoid parking that encroaches in the alley or easement. They may be built with the access 3 feet from the alley or shared easement, or with the access at least 20 feet from the alley or shared easement.

D. **Housing Diversity.** Residential projects shall meet the following housing diversity guidelines based on the scale and context of an overall development. Diversity shall be based on the categories and building types indicated in Table 5-3 and be applied according to Table 5-4.

Table 5-3: Housing Categories & Building Types		
Category I: Detached Houses	Category II: Mixed & Multi-unit Housing	Category III: Multi-family and Mixed Use
<ul style="list-style-type: none"> ▪ Detached House -Large Lot ▪ Detached House -Standard Lot 	<ul style="list-style-type: none"> ▪ Detached House – Small Lot ▪ Detached House – Compact Lot ▪ Duplex / Multi-unit House ▪ Row house ▪ Apartment - Small 	<ul style="list-style-type: none"> ▪ Apartment – Medium ▪ Apartment – Large / Complex ▪ Apartment – Mixed-use Building

Table 5-4: Housing Diversity	
Project Scale	Required Mix
< 40 Units	no requirement
40 – 80 Units	<ul style="list-style-type: none"> ▪ At least 2 building types ▪ No more than 70% of one type
81 - 200 Units	<ul style="list-style-type: none"> ▪ At least 3 building types ▪ No more than 50% of one type ▪ At least 25% Category II
201+ Units	<ul style="list-style-type: none"> ▪ At least 4 building types ▪ No more than 50% of one type ▪ At least 50% from Category II

17-5-3 Neighborhood Design

- A. **Frontage Design.** The design of lot frontages establishes the relationship of buildings and lots to the streetscape. Frontage design includes building placement, lot access, garage extent and location, and entry features. Frontage Types designed according to the standards and design objectives of this sub-section may be used to modify the front setback established in Table 5-1.
1. **Design Objectives.** Frontage types shall be applied to meet the following design objectives:
 - a. Enhance the image of neighborhoods by coordinating streetscape investment with private lot and building investment.
 - b. Design frontages to the context of the neighborhood, block, and street.
 - c. Coordinate development across several lots, considering the cumulative impacts on streetscapes from access, parking, and landscape design.
 - d. Orient all buildings and lot frontages to the streetscape, while still promoting effective transitions from public spaces to private spaces on the lot.
 - e. Limit the impact on the neighborhood streetscape from frontages designed for car access, particularly on narrower lots or walkable streets and neighborhoods.
 - f. Provide outdoor social spaces that activate the streetscape.
 - g. Use front entry features to reinforce neighborhood character, promote unique design, create subtle variation in building patterns, and create a consistent, human-scale connections to the streetscape.
 2. **Frontage Design Standards.** Frontage types shall be designed according to the standards in Table 5-5, Residential Frontage Types & Design Standards. Sub-sections following the table provide specific design strategies and techniques to be used to meet these standards. Where multiple frontage types are permitted, the applied frontages should be similar for all lots on the same block face or gradually transition to different building placement and frontage types on adjacent lots. In general, the front building line (FBL) of adjacent buildings shall not differ by more than 5 feet.

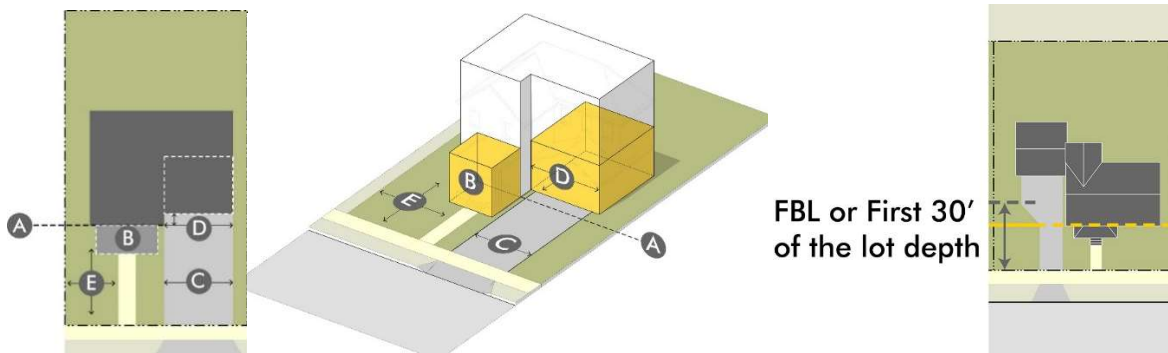


Figure 5-3 Frontage Design Standards

This diagram illustrates the key elements of frontage design in Table 5-5: (A) front building line; (B) front entry features, (C) driveway widths (applies to the first 30' of frontage depth or up to the front building line); (D) garage extent and location, and (E) landscape areas. These elements determine the relationship between the building, the lot, and the streetscape, and affect the character of the area when applied across multiple lots on a block.



Table 5-5: Residential Frontage Types & Design Standards

Frontage Element	Terrace Frontage	Neighborhood Frontage	Suburban Frontage	Buffer Frontage
Illustrative Concept				
Application	A RE R-1 R-2 R-3	■ ■ ■	■ ■	■ Any permitted non-residential building in all residential districts Limited to Apartments – Large/Complex on lots wider than 200'
Front Building Line	10' – 25'	25' – 60'	25' +	35'+
Front Entry Feature	Required, Section 17-5-3	Required, Section 17-5-3	Required, Section 17-5-3	Optional
Driveway Width	15% of lot width, up to 20' maximum	20% of lot width, up to 20' maximum	40% of lot width, up to 27' maximum	25% of lot width, up to 36' maximum
Garage Limitations	<ul style="list-style-type: none"> 20% of front facade; Flush or behind FBL; up to 35% if 12'+ behind FBL 	<ul style="list-style-type: none"> 35% of front facade; Flush or behind FBL; up to 45% if 12'+ behind FBL 	<ul style="list-style-type: none"> 50% of front facade; 12' in front of FBL, max Up to 60% of facade if behind FBL 	<ul style="list-style-type: none"> 45% of front facade; and 12' in front of FBL, max; or No requirement if set back more than 60' from front lot line and behind FBL.
Frontage & Front Yard Landscape [1]	<ul style="list-style-type: none"> 60% minimum landscape; and 40% maximum hardscape. 	<ul style="list-style-type: none"> 75% minimum landscape; and 25% maximum hardscape. 	<ul style="list-style-type: none"> 50% minimum landscape; and 50% maximum hardscape 	<ul style="list-style-type: none"> Type I: 6' + buffer on constrained sites or minor streets. Type II: 15' + buffer generally. Type III: 30' + buffer on sites over 2 acres or major streets.

■ Permitted

[1] Landscape refers to allocation of space between front lot line and front building line. See Section 17-8-2 Landscape Design for planting requirements, standards, and specifications.



3. **Front Entry Features.** Front entry features create human-scale massing elements that relate buildings to the frontages and streetscape, and provide outdoor social spaces that activate the streetscape. The entry feature standards and design techniques in Table 5-6 shall be used where entry features are required by frontage types in Table 5-5, and are otherwise recommended to meet the standards of Table 5-7, Building Design Standards and achieve the design objectives of this Section.

Table 5-6: Front Entry Features			
Design Element	Minimum Width	Minimum Depth	Details & Ornamentation
Porch	10'	7'	<ul style="list-style-type: none"> ▪ Decorative railing or wall 2.5' to 4' high along at least 50% of the perimeter. ▪ Covered by a roof, canopy, pediment, or similar structure.
Stoop	8'	6'	<ul style="list-style-type: none"> ▪ Decorative railing or walls along steps and side of stoop. ▪ Ornamental features accent the front entrance, such as a canopy, pediment, transom windows, enlarged trim and molding, or other similar accents that emphasize the door over other facade features.
Entry Court	12', but not >50% of front facade	8'	<ul style="list-style-type: none"> ▪ Recessed entry within the building footprint. ▪ Ornamental pillars, posts, or landscape accent the pedestrian entrance and create a gateway into the entry court.
General Design			<ul style="list-style-type: none"> ▪ Entry features shall have a sidewalk or path at least 4 feet wide directly connecting the entry feature to the public sidewalk or street or internal civic space. For Suburban or Buffer Frontages this can connect via the driveway. ▪ Entry features shall be integrated into the overall building design including compatible materials, roof pitch and forms, and architectural style and details. ▪ Entry features shall be single-story, so that any roof structure and any ornamentation occur between 8' and 14' above the floor-level of the entry feature. ▪ Entry features meeting these standards may encroach up to 10 feet in front of the front building line, but not closer than 5 feet to a public or common property line, provided they are unenclosed on all sides that project into the setback. ▪ Any building with more than 150 feet of front facade, or any side greater than 200 feet and permitted within 20 feet of the street, shall have 1 entry feature for every 100 linear feet of building frontage on the street.

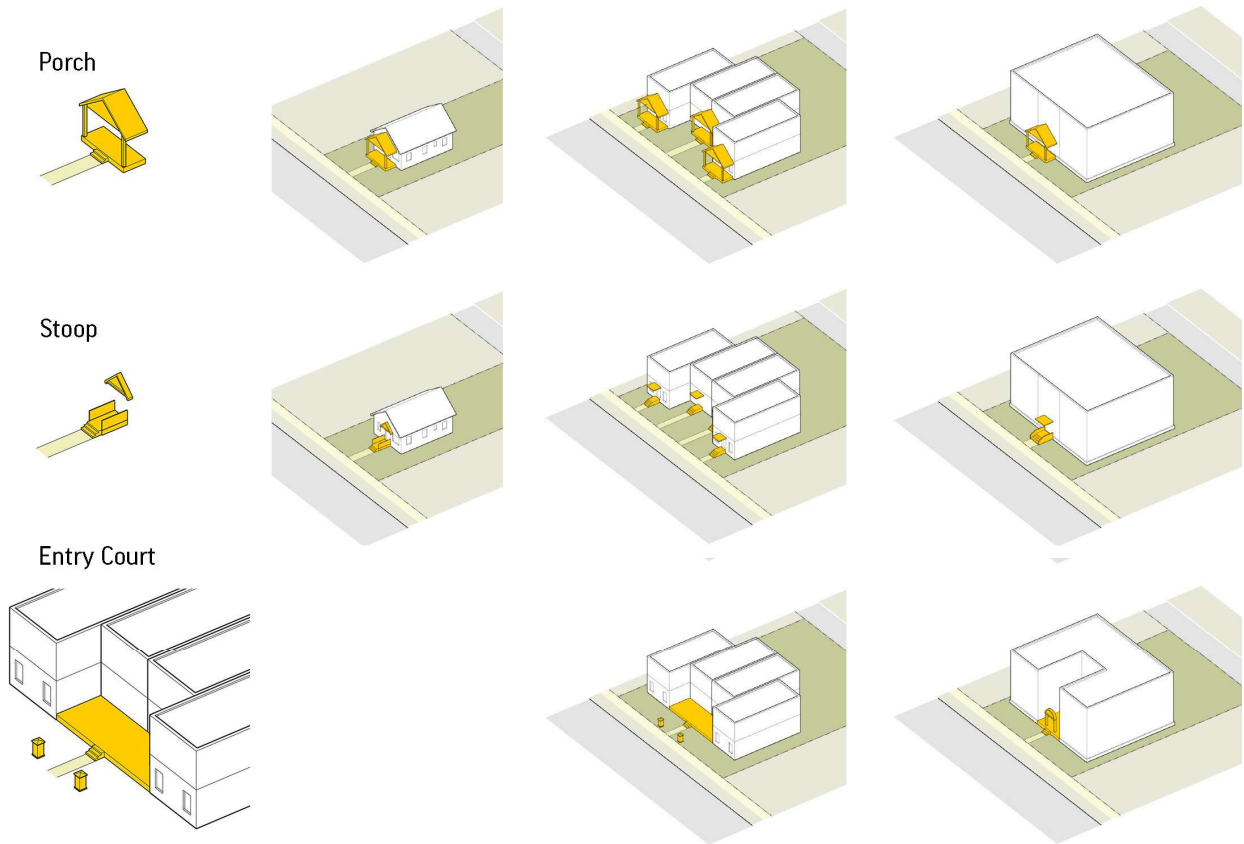


Figure 5-4 Front Entry Features - Types

The porch, stoop, and entry court are three distinct types of entry features that create active, social spaces and human-scale details on the residential frontages. Spaces with a minimum width (A) and depth (B) specified in Table 5-6 provide usable social spaces, activate the streetscape and frontage, and contribute to the massing and modulation required by the building design standards.

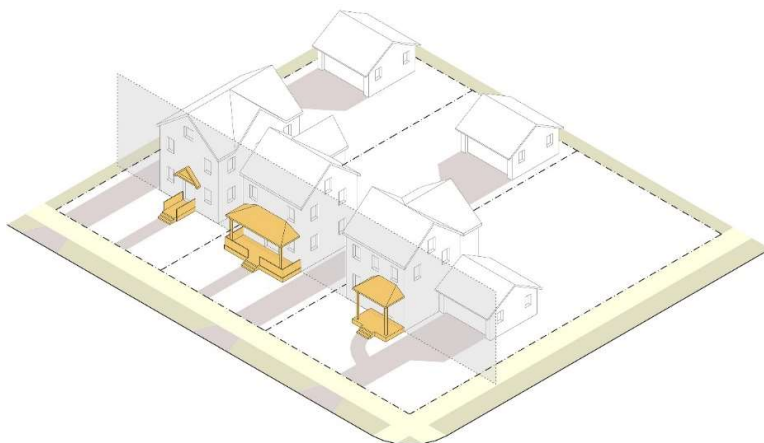


Figure 5-5 Primary Entry Feature - Encroachments

Front entry features meeting the standards of this section create social spaces that help activate streetscapes, and create a variety of human-scale details along blocks. These features may encroach into the front setback to improve the frontages along blocks. (Table 5-6)

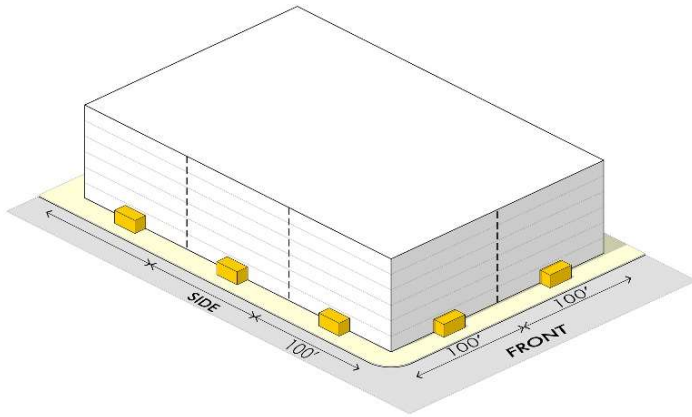


Figure 5-6 Primary Entry Feature - Large Buildings
Front entry features should be more frequently located on larger buildings with wall planes in close proximity to the street. This breaks up the building massing and activates the streetscape. (Table 5-6)

4. **Driveway Limits.** The following driveway standards apply to the driveway limits in Table 5-5: Residential Frontage Types & Design Standards:
 - a. Front driveway access is prohibited for any lot served by an alley. The Director may waive this prohibition in cases where the alley does not provide adequate access and according to alternative compliance criteria in Section 17-5-3.A.6
 - b. Driveway width limits apply to the first 30' of the lot depth, or up to the Front Building Line, whichever is less.
 - c. Any garage meeting the location and design standards may have a driveway expanded to the width of the entry in front of the garage entry, but no closer than 10 feet to the front lot line.
 - d. In cases where standards prohibit front-loaded driveways and garages and on a particular lot, a range of options with different access patterns and garage locations may be used, including detached garages, single-line or shared drives, and internal common lanes or alleys.
 - e. All required parking shall be sited outside of the frontage area.
 - f. Driveways and parking areas are subject to Design Standards for width and access connections to any public right of way or alley.

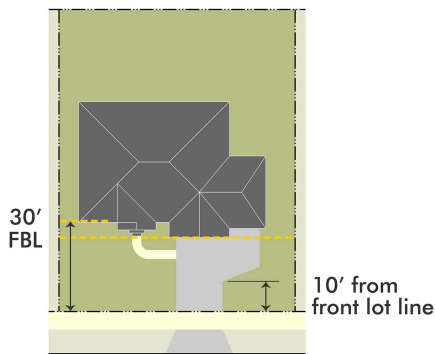


Figure 5-7 Application of Driveway Limits

Driveway limits shall apply to the first 30' or up to the Front Building line, whichever is less; except any front-loaded garage meeting these standards may have a driveway expanded to the width, provided the expanded area is no closer than 10' from the front lot line.



- 5. **Front-Loaded Garage Design.** The following garage design standards apply to the garage limits in Table 5-5: Residential Frontage Types & Design Standards:
 - a. Garage limits apply to front-loaded garages. Alternatives such as detached garages, side- or rear-loaded garages, or attached garages that are accessed from the front but located on the rear of buildings are not subject to the limits.
 - b. Garage limits shall be measured by the exterior walls of the floor plan or other clearly distinguished massing element on the front façade, not including trim.
 - c. Any front-loaded garage permitted to project in front of the main mass of the house shall:
 - (1) Have a front entry feature associated with the non-garage mass of the building that projects in front of or is no more than 4 feet behind the garage entry and is at least 10 feet wide; and
 - (2) Be limited to wall planes of no more than 200 square feet with garage entries, using step-backs of a bay by at least 4 feet and/or ornamental features such as canopies, eyebrows, or cantilevers to break up the wall plane.

- 6. **Alternative Compliance.** Alternative compliance to the frontage design standards established in Section 17-5-3.A, Frontage Design may be authorized according to the process and criteria in Section 17-2-6, Alternative Compliance, and any of the following additional applicable criteria:
 - a. The context presents a clear pattern of existing buildings and lots on the same block and opposite block face with a different arrangement in terms of the front building line, driveway access patterns, and extent and placement of garages.
 - b. An alternative design allows the building, garage, and access to be sited in a way that preserves significant or unique topography or other natural features on the site.
 - c. The specific standard is not practical due to the context and location of the lot or other physical conditions beyond the specific building and site not created by the landowner; and
 - d. In all cases the deviation is the minimum necessary to address the circumstance, the alternative equally or better meets the design objectives of this Section, and there are no negative impacts to other design standards applicable to the building or site.

- B. **Building Design.** Building design refines the scale and form of buildings beyond basic height, setback, and lot coverage standards.
 - 1. **Design Objectives.** The following design objectives shall be used in applying the building design standards in this section.
 - a. Relate buildings to public realm and streetscape in a consistent manner and create compatible massing along the block face.
 - b. Arrange buildings in a way that creates meaningful outdoor spaces on the site, with building designs that define and activate these spaces.
 - c. Blend a variety of building sizes and types and create compatible transitions between adjacent buildings of different scales by mimicking similar massing and proportions nearest to adjacent development.
 - d. Use materials and human-scale architectural features to create depth, texture, variation, and visual interest, particularly on larger facades, along streetscapes, near active open spaces, or near adjacent lots and buildings.
 - e. Encourage unique architectural expression and promote the use of key details and design characteristics inherent in the chosen style for the building.
 - f. Promote enduring investments with the application of durable, quality materials.



2. **Residential Building Design Standards.** Table 5-7, Building Design Standards provides standards for massing and facade design to meet the design objectives. Sub-sections following the table provide specific design strategies and techniques to be used to meet these standards.

Table 5-7: Residential Building Design Standards			
Design Detail	Building Type	Detached House (all), and Multi-Unit House	Row House, Apartment (all)
<p>Wall Plane Limits. Maximum wall plane without a massing variation of 4'+ on at least 25% of elevation.</p>		800 s.f. or 45 linear feet	1,200 s.f. or 70 linear feet
<p>Blank Wall Limits. Maximum wall plane without modulation on at least 20% of the wall plane.</p>		500 s.f. or 30 linear feet	800 square feet or 45 linear feet
<p>Roof Plane Limits. Maximum roof plane without offset of at least 2', complex planes, dormers or gables.</p>		600 s.f. or 35 linear feet	1,000 s.f. or 50 linear feet
<p>Transparency. Minimum window and door openings per elevation</p>		<p>Front – 20% Side – 8% Street-side - 15% Rear - 8%</p>	<p>Front – 20% Side – 8% Street-side - 15% Rear - 8%</p>
<p>Materials</p>		<p>Exterior walls of garages may be excluded from this requirement, provided the wall is not street-facing, and other architectural details and materials are used to meet any applicable blank wall limits.</p> <ul style="list-style-type: none"> Primary Material – 55% - 75% Secondary Material -20% - 30% (limit 2, one of which must be masonry) Accent Material - 5% - 15% (limit 2, which may include architectural decorative metals) Limit – 4 materials total 	

3. **Wall & Roof Plane Limits.** Massing techniques use changes in the building footprint, height, or significant shifts in wall and roof planes to break down the volume of larger buildings. Wall planes that exceed the wall and roof plane limits in Table 5-7 shall have at least 25% of the elevation differentiated by one or more of the following massing techniques:
- Break the building into distinct masses (primary mass, secondary mass, and wings), where portions of the building are offset from the main mass by at least 8 feet or are otherwise noticeably smaller and subordinate to the main mass.
 - Step back portions of the building footprint or upper stories by at least 4 feet in association with meaningful outside space, such as a balcony, deck, patio, or entry court.

- c. Use cantilevers on upper stories that provide at least a 2 feet overhang of other portions of the wall plane.
- d. Provide single-story entry feature that project at least 6 feet from the wall plane.
- e. Articulate rooflines by stepping the roof, using gables and dormers, dropping eaves, and using prominent overhangs to create offsets and projections of at least 2 feet.
- f. Where larger buildings are next to smaller buildings, or are along a block with smaller buildings, step the height of the building or offset secondary masses to create compatible massing nearest to adjacent structures.

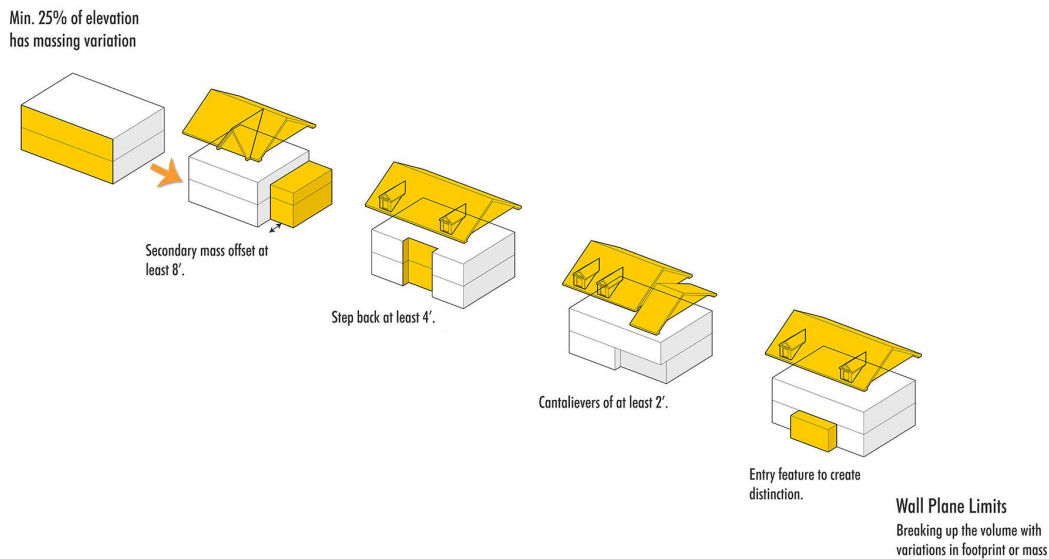


Figure 5-10 Wall Plane Limits

Wall planes over the size specified in Table 5-7 shall be broken up with a range of techniques so that at least 25% of the elevation is differentiated with distinct wall planes. (17-5-3.B.3.).

- 4. **Blank Wall Limits.** Modulation uses materials, ornamental details, and subtle variations in the wall plane to break up blank wall planes. Street-facing wall planes that exceed the blank wall limits in Table 5-7 shall use three or more of the following techniques so that at least 20% of the facade is distinguished by modulation:
 - a. Create projections in the wall planes with bay windows, balconies, awnings, or canopies that project at least 4 feet from the wall plane.
 - b. Create voids in the wall plane with step-backs of upper stories or balconies that recess at least 4 feet from the wall plane.
 - c. Differentiate stories, roofs, or other masses with prominent trim materials and/or incorporate material changes on different modules of the building. Significant trim or ornamentation used to break up blank walls or wall planes shall project between 2 inches and 2 feet from the wall and be at least 8 inches wide.
 - d. Use color changes and accent materials to emphasize distinct components of the facade. Material and color changes should wrap corners and occur at the inside corner of a massing element or occur in association with a significant trim or ornamentation to give a finished and unified appearance to the element.
 - e. Break up remaining large expanses of blank walls with facade composition that considers the location and grouping of windows, doors, or architectural details.



5. **Transparency.** Windows and doors provide transparency, detail, and visual rhythm on the facade, and they break up blank walls with the location, pattern, and proportions of these openings. The following techniques should be used to achieve the design objectives of this sub-section and to meet the windows and doors requirements of Table 5-7, Building Design Standards:
 - a. Create relationships to outdoor spaces near buildings with the location, pattern, and proportions of windows and doors
 - b. Incorporate distinct and visually significant windows and doors (size, orientation, and ornamentation) to emphasize key locations on the facade or to relate to important social spaces.
 - c. Locate windows doors to create a coordinated facade composition considering the entire facade as a whole, and to break up large expanses into different components with the grouping of windows and doors.
 - d. Locate and design windows strategically in relation to privacy concerns in adjacent spaces and buildings but maintain consistent exterior patterns and façade composition. High-bank windows, transom windows, opaque windows, and window treatments that are adaptable and user-controlled are better may be used to deliver privacy as opposed to omitting windows.
 - e. Use windows and doors with projecting trim and ornamentation to create depth, texture, and shadows on the facade; to emphasize openings; or to gang groups of openings. Openings that have projecting trim and casements (at least 1 inch off the facade and 4 inches wide) or that group widows with significant details may count these additional features for up to 25% of the window and door requirement.
 - f. The window requirement may be waived on sides of buildings that are closer than 3 feet to the property line, if necessary to meet applicable building code requirements.

6. **Materials.** Building materials with texture and patterns create visual interest and signify quality construction and detailing. The following techniques should be used to meet the material standards of Table 5-7, Building Design Standards and achieve the design objectives of this section:
 - a. Primary materials shall be natural materials, such as painted or natural finish wood siding (horizontal lap, tongue-and-groove, board and batten or vertical), brick, stone, stucco, ceramic or terra cotta tile. Synthetic alternates to these natural materials may be used if manufacturer specifications and/or precedents for application demonstrate that it will perform equally or better than the principal materials in terms of maintenance, design, and aesthetic goals.
 - b. At least 20% of all materials, whether primary or secondary, shall be masonry, brick, or stone.
 - c. Coordinate changes in color and materials in association with changes in massing and modulation of the building.
 - d. Use changes in color or materials to differentiate the ground floor from upper floors and the main body of the building from the top or roof-structure, particularly on buildings 3 stories or more.
 - e. In multi-building projects, use subtle variations in building materials and colors on different buildings, to create variety among buildings within a consistent palette of materials and colors for the project.
 - f. Percentage coverage shall apply to the façade and any street-facing wall, and shall be measured from the first-floor elevation to the tope eave, not counting the doors and windows or interim roof features, but does include garage doors.

7. **Variations of Buildings.** All projects involving three or more buildings shall provide variations in the elevations from the two buildings on each adjacent side, and the three nearest buildings on the opposite side of a facing block, with at least two of the following:



- a. Variations in the front entry features as indicated in Section 17-5-3.A.3. Variations should include combinations of at least two of the following changes:
 - (1) Different types of entry features: such as porch, stoop, or entry court;
 - (2) Different roof styles associated with the entry feature: such as gable, hip, shed, flat, arched, or no roof;
 - (3) Different locations and extent of the same entry feature: such as centered, shifted left or right, or wrapped; projecting or embedded; and half or full lengths; and/or
 - (4) Different ornamentation or architectural styles that lead to distinct qualities within a similar scale or pattern.
- b. Variations in the facade composition, including massing, modulation, window types and placement, materials, and details and ornamentation, to the extent that the buildings have a distinct appearance;
- c. Variations of the roof forms considering the type of roof, orientation of gables, or use and placement of dormers; or
- d. Variations of the building type or models of the same type with distinctively different floor plans that lead to different massing. Mirror images of the same model and floor plan shall not be used to meet the variation requirement.
- e. In the case of multi-unit buildings:
 - (1) For duplexes / multi-unit houses that are intended to mimic the scale and form of detached houses, a hierarchy of doors and entrances shall be used to create the appearance of a single building, and the variation shall apply between buildings.
 - (2) For row houses and similar buildings that are clearly designed for multiple units, subtle variations in the materials and entry features shall apply to emphasize different units, and the variation shall apply between units in the building.

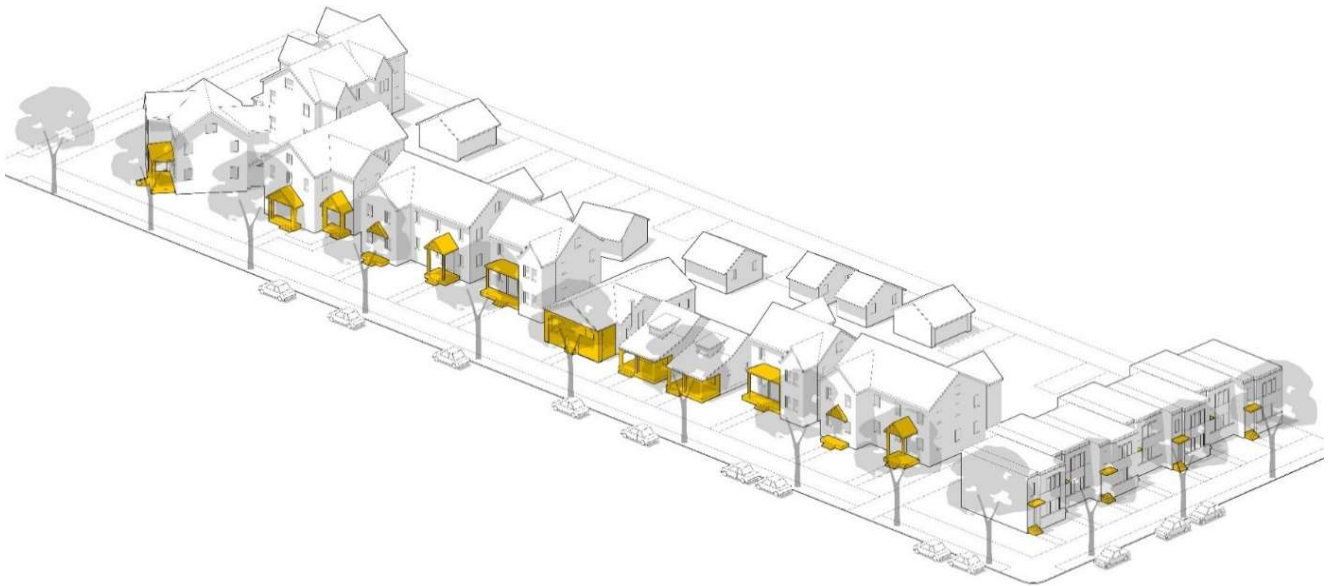


Figure 5-13 Front Entry Features - Variety

Using a wide variety of entry feature types, styles and designs is a way to create subtle distinctions between the same or similar building types and can add common human-scale patterns among different types or scales of buildings. (17-5-3.A.3 and B.7.a)



- 8. **Alternative Compliance.** Alternative compliance to the building design standards established in Section 17-5-3.B, Building Design may be authorized according to the process and criteria in Section 17-2-6, Alternative Compliance, and any of the following additional applicable criteria:
 - a. The requirement is not consistent with the particular architectural style selected for the building based on reputable resources documenting the style.
 - b. The requirement would make the building less compatible with designs or characteristics of other buildings or sites adjacent to the project or that are prevalent throughout the area.
 - c. Deviations from material standards and any simulated products demonstrate a proven performance in terms of maintenance and quality appearance.
 - d. In all cases the deviation is the minimum necessary to address the circumstance, the alternative equally or better meets the design objectives of this Section, and there is no negative impact on other design standards applicable to the building or site.

- C. **Block & Lot Open Space Design.** A system of different types of open spaces shapes the neighborhood character and creates unique identities for different neighborhoods. Block and lot open spaces complement the overall civic and open space system and provide active gathering places and aesthetic enhancements to the buildings and lots.
 - 1. **Design Objective.** The following design objectives shall be used to apply the open space standards Section 17-3-2, Open & Civic Spaces and in Table 5-1, Residential Building & Lot Standards.
 - a. Promote the arrangement of neighborhoods, blocks and lots in a way that responds to the existing natural features.
 - b. Ensure access to a variety of different types of open spaces including natural areas, park and recreation amenities, and formal gathering spaces.
 - c. Use open spaces to create gateways, focal points, connections, and transitions in coordination with the street network, block structure, and lot arrangement.
 - d. Design all unbuilt areas to serve as valuable neighborhood features, considering the aesthetic, ecological, recreation, or community-serving potential of these spaces.
 - e. Require all lots and buildings have access and proximity to usable open space, whether public, common, or private, and whether neighborhood-scale, block-scale, or building- and lot-scale spaces.

 - 2. **Required Site Open Space.** Each building type shall provide the open space specified in Table 5-1, (Residential Building & Lot standards; Lot Open Space) within the lot or project. With the exception of Detached Houses, lots platted through a final plat with common open space may credit the common open space towards the lot open space requirement, provided it meets the following standards:
 - a. The space is public or remains accessible to the public; or
 - b. If private or common space, the lot applying the credit has access to the space through ownership or other agreement, and the space is otherwise dedicated and reserved from future development.
 - c. The space shall be on the same lot, or on the same block within 1,000 feet of the lot, and meet the design standards for one of the open and civic space types in Section 17-3-2.

 - 3. **Lot Open Space Design.** Lot and building open space required for each building type shall create a common or private amenity for the site and building. Buildings and open spaces on a lot shall be arranged to create usable outdoor spaces that meet one or more of the following types:



- a. Public or Common open space designed and platted according to the standards in Section 17-3-2, Open & Civic Space, subject to the limitations in subsection C.2 above;
 - b. Private yards and spaces, including:
 - (1) Frontage areas designed according to Section 17-5-3.A., excluding any driveways, parking areas or other automobile space;
 - (2) Courtyards, meeting the standards of Section 17-5-4;
 - (3) Rear yards provided they are part of an open area of at least 375 square feet and at least 15 feet in all directions; and
 - (4) Private uncovered decks or patios provided they are part of an open area at least 120 square feet and at least 10 feet in all directions. This space is limited to no more than 25% of the requirement for lot and building.
 - c. For apartment or mixed-use buildings, rooftop decks provided they are at least 300 square feet, and at least 15 feet in all directions – this space is limited to no more than 25% of the requirement for the lot and building; or
 - d. For apartment or mixed-use buildings, private balconies or patios, provided they are at 80 square feet, and at least 6 feet in all directions – this space is limited to no more than 25% of the requirement for the lot and building.
4. *Alternative Compliance.* Alternative compliance to the open space design standards established in this Section 17-5-3.C. may be authorized according to the process and criteria in Section 17-2-6, Alternative Compliance, and any of the following additional applicable criteria:
- a. The specific standard is not practical due to the context and location of the lot and meeting the requirement would otherwise result in improper arrangement of the building or site.
 - b. In instances of infill development or a context where a clear pattern of existing buildings and lots on the same block and opposite block face present a different arrangement in terms of buildings and lot open spaces.
 - c. The lot and building have access to at least two different active open spaces within 1,000 feet which meet the design and service area standards in Section 17-3-2, Open & Civic Space.
 - d. In all cases the deviation is the minimum necessary to address the circumstance, the alternative equally or better meets the design objectives of this Section, and there are no negative impacts on other design standards applicable to the building or site.

17-5-4 Courtyard Pattern

- A. **Design Objective.** A courtyard pattern can integrate multi-building projects into the neighborhood pattern by connecting formal open space to the street frontage and using that space as an organizing element for buildings and lots. It is an effective infill strategy or is appropriate on deeper lots and blocks. Residential buildings and lots may be designed to front on a courtyard based on the design standards in this section.
- B. **Applicability.** The courtyard pattern is appropriate where:
 - 1. Courtyards are arranged within the block structure and designed as an extension of the public streetscape and open and civic space system for the neighborhood;
 - 2. Blocks and surrounding lots are deep, allowing a different configuration of buildable lots; or
 - 3. Other developed areas where existing lot patterns in the vicinity warrant use of this pattern to facilitate infill development and compatible building types.



- C. **Eligible Building Types.** The following building types are eligible for this pattern, subject to the limitations stated:
 1. Small Apartments, up to 5 buildings or 36 units, whichever is less.
 2. Row Houses, up to 4 buildings or 24 units, whichever is less.
 3. Duplex/Multi-unit Houses and Detached Houses, up to 10 buildings or 24 units, whichever is less.

- D. **Design Standards & Exceptions.**
 1. The minimum lot size per building may be reduced up to 20%, provided the courtyard is owned in common by all lots or otherwise established as a shared-space amenity.
 2. The courtyard shall be designed according to the standards in Section 17-3-2 and have frontage on a public street or be accessible from the streetscape by a pedestrian passage.
 3. Lots may front on the courtyard, rather than along a street. Building frontage standards shall apply on the courtyard and on the public street frontage.
 4. The front setback may be reduced to 5 feet from the courtyard boundary.
 5. Any buildings fronting on the street, or the sides of any buildings adjacent to the street shall still meet requirements for public frontages and orientation standards in this section.
 6. Vehicle access and parking for each lot shall be coordinated for all lots and buildings, be designed in a way that minimizes the impact the courtyard and lot frontages, and meet all frontage standards along the public street.

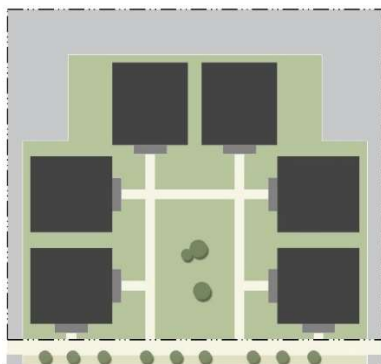
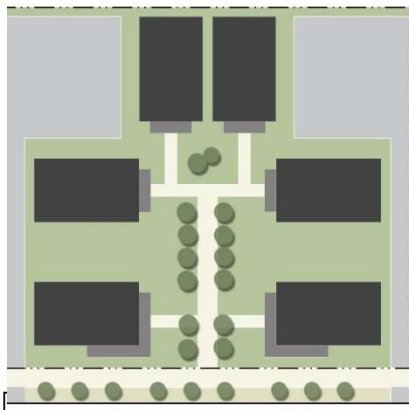




Figure 5-14 Courtyard Pattern

The courtyard pattern allows for a different configuration of buildings in specific contexts. The pattern arranges buildings on smaller lots with a common frontage on the courtyard. The courtyard and the front buildings provide to the streetscape, while other buildings may relate direction to the courtyard. Vehicle access is shared and limited to more remote or discrete portions of the project.

17-5-5 Conservation Pattern

- A. Design Objective. Residential lots and buildings may be arranged around an open space system that will preserve greater amounts of intact open and natural spaces or agricultural uses that are designed as a focal point and community amenity.
B. Applicability. The conservation pattern is appropriate in more remote areas, and specifically is eligible in the A or RE zoning districts. It requires a planned development application as outlined in Section 17-2-4.
C. Density Bonus. The base density and open space required shall be based on a typical and practical layout according to the underlying zoning district (A or RE). The following density bonus may be granted based on the amount of additional intact open space to be preserved in the plan. The "bonus" units shall not require additional open space, other than the space specified in Table 5-8.

Table 5-8: Conservation Design Density Bonus. Table with 6 columns: Preserved Area [1], Bonus Units Above Base Density, Project Size, Base Density Yield, Additional Units, Developed area. Rows show percentages from 20% to >60% with corresponding unit yields and developed areas.

[1] Total percentage of the project area preserved as open space meeting the Natural Open Space, Trail, or preservation of productive agriculture lands criteria in Section 17-3-2.

- D. Lot Sizes & Building Types. The resulting density based on the plan after the density bonus is applied may be allocated in the developed portion of the project with the following building types. No combination of these building types may be used to allow more units than authorized by the density bonus. All other standards applicable to each building type in Table 5-1 shall apply within the developed portion of the plan.
1. Detached house – farmstead, estate lot, large lot, standard lot, small lot, or compact lot
2. Duplex / multi-unit house
3. Row house
E. Open Space. Open space shall meet the design criteria of Section 17-3-2 for Natural Open Space, Trail, or include prime farmland or other existing and productive agriculture lands designed to be a focal point and community amenity. All lots shall have access to the public or



common open space preserved as part of the plan within 1,000 feet, measured along pedestrian or trail routes.



Figure 5-15 Conservation Pattern
 The conservation pattern allows both a greater number of units and a greater concentration of those units in exchange for greater quantities and more coordination of larger open spaces.

17-5-6 Manufactured & Small Format Housing District

- A. **Intent.** The intent of this section is to provide manufactured or other small-format homes in a neighborhood or community that includes common neighborhood amenities, and with site designs that limit impacts on adjacent property and promotes development patterns that are compatible with the surrounding areas.
- B. **Applicability.** Small format home communities are permitted in the Manufactured and Small Format Housing District – PD-M, and implemented as a planned development project according to Section 17-2-4 These standards shall not apply to: (1) mobile homes, trailers or similar temporary buildings used as an interim structure associated with an ongoing construction project under valid permits; (2) interim or temporary housing strategies to address emergencies; or (3) detached houses that are assembled off site and “manufactured,” provided they meet all other design standards of the applicable zoning district.
- C. **Development Standards.** Except as otherwise modified through a development plan according to the approval procedures and criteria in 17-2-4, the general development standards for manufactured and other small format home projects are included in Table 5-9.

Table 5-9: PD-M Development Standards	
Project	Amount of Bonus Units Above Base Density
Project Size:	3 acre minimum, 200' minimum frontage an arterial or collector <i>Exception:</i> The Director may recommend a plan for as small as 2 acres and 100 feet of public street frontage if the plan demonstrates exceptional community design and layout for the common areas within the community, a high-quality and well-designed housing concept, and special attention to integrating and relating the project to surrounding areas.
Project Intensity:	7 units per acre, maximum



Table 5-9: PD-M Development Standards	
	<i>Exception:</i> Up to 15 units per acre for any project with more than 30% of the project area designed as useable open space meeting Open Space types in Section 17-3-2.
Perimeter Setbacks	25' minimum from any street boundary; 15' from any property boundary (See Article 8 – Type III Buffer; or Neighborhood Frontage Type.)
Home Sites	
Lot Size	3,000 s.f. minimum, <i>Exception:</i> 1,500 s.f. minimum for any project with more than 30% of the project areas designed as useable open space meeting the types in Section 17-3-2.
Lot Width	30' minimum, <i>Exception:</i> 24' for projects meeting the open space bonuses above. Frontage shall be on a public street, common internal street, or common open space with street access at the rear of the site.
Setbacks	Front: 10' from the lot/home site line, or 15' from the edge of the internal street, whichever is greater Side: 5', or 3' minimum with 10' between buildings Rear: 10' All buildings shall meet the project perimeter setback.
Height	30' maximum
Site Design	Each home site shall have a private patio, courtyard or similar outdoor amenity of at least 120 square feet. Any structure associated with this outside amenity may be located within 5 feet of the lot or home site boundary. Each home site may have an accessory storage building up to 160 square feet, up to 8 feet tall. The accessory storage building shall be set back at least 50 feet from any public or internal street, or behind the dwelling unit. Accessory buildings shall be separated by at least 5 feet from any other structure.
Parking	Each home site shall have at least one on-site parking space, and at least one excess or guest space within 200 feet of the unit. The excess or guest space may be "on-street" where streets are designed for parking or in a common area.

D **Uses.** In addition to any uses enabled for the PD-M district in Table 4-2, projects may include the following specific uses:

1. Dwelling units consisting of modular homes, mobile homes, or other similar small, detached dwellings.
2. Accessory buildings and uses incidental to those listed above and which support the residential community, including offices, recreation buildings, storage areas, maintenance and utility facilities, or other community services.

E. **Common Areas.** All common areas not dedicated as home sites according to the development standards in subsection C shall be designed as part of the Development Plan (See Section 17-2-4.B, Planned Development procedures). This space shall be allocated to:

1. Internal vehicle circulation for the community, laid out to provide connectivity and continuity through the community and organize the project into blocks and lots so that all home sites and lots are served by streets. There shall be at least two entrance points from public streets for each project. Internal roadways shall be 20' where no parking is permitted, 24' wide where parking is permitted on one side, and 28' wide where parking is permitted on both sides.
2. Open and Civic Space meeting one of the design types specified in Section 17-3-2 at a rate of at least 300 square feet per dwelling or 20% of the overall project, whichever is greater. Projects with more than 30% dedicated to usable open space (non-street, circulation or parking space) may be eligible for exceptions to the standards noted in



Table 5-8. All open and civic spaces shall be designed and located in a manner that ensures adequate accessibility for all units in the community.

3. At least one of these spaces shall include a community building, which is centrally located, for recreation and meeting functions, laundry facilities, or other common amenities. The community building shall be at 1,500 square feet, or 15 square feet per dwelling unit, whichever is greater.
4. Other internal circulation or open space such as walkways, landscape buffers or other site design amenities that improve the quality of the community and its relationship to surrounding areas. Pedestrian connections shall be accounted for on all streets or at greater intervals through a trail or path system.
5. A storm shelter shall be provided which may be included with the clubhouse.
6. A common storage and utility area shall be provided within the plan including at least 100 square feet per unit. This area may be used for storage of large equipment, recreational vehicles, maintenance or other utility functions for the community. This area shall be screened from the project and from surrounding property according to the buffer standards in Article 8.

F. Building Design.

1. All dwellings shall have a front entry feature, such as a porch, stoop, or outside patio relating the home site to the lot frontage or other common open space upon which the dwelling is located.
2. Parking spaces on a home site shall be located to the side or rear of the dwelling. Home sites may include a carport or garage, is no larger than 440 square feet, but in no case larger than the dwelling unit.
3. Any structure shall meet all applicable building and fire codes, and be situated on a permanent foundation.

G. Landscape & Parking Design. The standards of Articles 7 and 8 are generally applicable to PD-M district development plans, except as modified through a development plan based on the approval procedures and criteria in Section 17-2-4.

H. Subdivisions. Each home site may be individually platted if:

1. All lots shall have public utility access as provided in Article 3, including public easements for access to each home site and all other standards and criteria of the subdivision standards are met;
2. There are covenants and restrictions and associations assuring that these provisions for the Development Standards, Common Areas, Building Design and Utilities and Services, as demonstrated on an approved plan, will be maintained through a management entity or common association.



Article 6. Non-residential Development & Design

- 17-6-1 Intent & Applicability
- 17-6-2 Non-residential Development Standards
- 17-6-3 Frontage Design
- 17-6-4 Building Design
- 17-6-5 Open Space Design
- 17-6-6 Specific Frontage & Design Plans

17-6-1 Intent & Applicability

- A. **Intent.** The intent of the Non-residential Development & Design standards is to:
1. Enable a range of compatible buildings and sites that meet the intent of each zoning district.
 2. Improve the appearance and vibrancy of mixed-use, commercial, and employment centers with good civic design.
 3. Promote quality architectural and site design, and use the visual priority of buildings to shape streetscapes and open spaces.
 4. Reinforce the distinct character of different corridors, centers and districts with development patterns and building and landscape design appropriate to the context, and specifically the high intensity, moderate intensity, low intensity, and very low intensity areas of the Comprehensive Plan.
 5. Strengthen the accessibility of places by coordinating site access and internal circulation systems with multi-modal street networks.
 6. Promote lasting and sustained investment in corridors, centers, and districts with quality design.
- B. **Applicability.**
1. The standards in this Chapter shall apply to all non-residential and mixed-use development in the MU-NC, MU-DT, MU-RC, and I districts, except where stated that sections only apply to specific districts or specific situations.
 2. All new structures and development shall comply with these standards.
 3. Modification or additions to existing structures or sites shall meet these standards to the extent of the modification or addition, except that the Director may waive any design standards applied to modifications or additions that:
 - a. Conflict with the consistent design of an existing building;
 - b. Conflict with a desired and prevailing character on the block or immediate vicinity of the project; or
 - c. To otherwise facilitate infill development or adaptive reuse of an existing building.
 4. The standards shall not apply to ordinary maintenance of existing buildings or sites, except that maintenance shall not occur in a manner that brings the building or site to a greater degree of non-conformance with these standards.



17-6-2 Non-residential Development Standards

A. **Non-residential Lot and Building Standards.** The lot and building standards for non-residential uses in the following districts are specified in Table 6-1.

Table 6-1: Non-residential Lot & Building Standards								
Zoning District	Minimum Lot Standards			Minimum Setbacks [5]				Building Height (max)
	Area		Lot Coverage (max.)	Front [1]	Interior Side [2]	Corner Side	Rear [3]	
MU-NC	2K – 40K s.f.		80%	10' – 25'	5'	20'	10'	40' / 3 stories
MU-DT	2K – 30K s.f.		100%	0' – 10'	5'	10' [4]	10'	40' / 3 stories
MU-RC	2.5K s.f.		20%	25'	5'	10' [4]	10'	60' / 5 stories
I-1 & I-2	10K s.f. min.		10%	25'	10'	25'	10'	40' / 3 stories

- [1] Front setback requirements may be modified for a particular street or block, based on the frontage types and design standards in Section 17-6-3.B.
- [2] The interior side setback for buildings which share a party wall is 0'. For any side lot line that abuts a residential use or a district that has a greater side setback requirement, the greater side setback of the abutting district shall apply;
- [3] For any lot where a rear lot line abuts a residential district, a setback of at least 25' shall apply.
- [4] The side setback for corner buildings may be 0' in the MU-NC, MU-DT, or MU-RC districts, provided they meet the Frontage A standards on the lot and building for at least the first 30' from the front corner. [Section 17-6-3].
- [5] Buildings and structures shall be setback from plugged and abandoned wells at least 50 feet; and from oil and gas facilities at least 250 feet.



B. Dimension Standards & Exceptions. The following applies to the lot and building standards established in Table 6-1: Non-residential Lot & Building Standards.

1. Setbacks

- a. In no case shall any setback exception or modification violate the provisions of a recorded easement.
- b. Any structural projections over public rights of way, or any similar area designed for pedestrian circulation, shall be at least 9 feet above the grade, and in no case within 5 feet of any curb for a street, access drive, or other area for vehicles.
- c. Structural projections such as bay windows, balconies, chimneys, eaves, cornices, awnings, open fire escapes, egress wells, or other non-foundational overhangs or projections may extend up to 4 feet from the foundation and encroach into the setback, but no closer than 2 feet from any lot line. This exception shall be limited to no more than 20% of the total area of any single facade.
- d. Ground-mounted mechanical equipment, meters, and utility boxes accessory to the building may be located in the side or rear setback provided that it extends no more than 6 feet from the principal building, no closer than 3 feet to the lot line, and is screened from public right-of-way by structures or landscape. These limitations do not apply to any utility structures otherwise authorized to be located according to easements or in the right-of-way, which shall follow the location and design standards of those specific authorizations.
- e. A lot may have more than one principal building, provided any accessory, secondary, or additional principal building shall be located at least 10 feet from any other building on the same or adjacent lots, or be joined by a party wall meeting all aspects of the building code. All buildings shall cumulatively meet the lot and building requirements in Table 6-1.

2. Height.

- a. Architectural features such as chimneys, ornamental towers and spires, and similar accessory elements may extend up to 50% above the actual building height, provided they are integral to the specific architectural style of the building and encompass less than 15% of the building footprint.
- b. Accessory building elements integral to the design and construction of the building, such as parapet walls, false mansards, or other design elements essential to quality building appearance may extend up to 6 feet above the roof deck on a flat roof.
- c. Functional and mechanical equipment such as elevator bulkheads, cooling towers, smokestacks, roof vents, or other equipment may be built up to their necessary height in accordance with building codes, provided the features are non-reflective and screened by parapet walls, or other design elements according to Section 17-8-3, or otherwise designed in a manner consistent with and integral to the specific architectural style of the building.

C. Accessory Buildings – Non-residential. Accessory buildings shall be permitted in association with and on the same lot as a principal building, subject to the same standards in Table 6-1, Non-residential Lot & Building Standards, and to the following additional limitations.

- 1. Accessory buildings are not subject to the design standards in Sections 17-6-3 and 17-6-4 provided they area under 200 square feet, are setback more than 80 feet from any public right of way or public space, or otherwise not visible due to the location and



- orientation of the principal structure. All accessory buildings shall be at least 10 feet from the principal building, or other distance specified by applicable building codes.
- 2. Any portion of the building or structure over 200 square feet or over 10 feet high, and potentially visible from the street or other public areas shall use materials, colors, and details that are compatible with the principal structure, or otherwise be screened according to Section 17-8-3.
- 3. Any building other building or structure shall be treated as a second principal building and meets all lot and building design standards for a principal building.

17-6-3 Frontage Design

A. **Design Objectives.** Frontage design determines the relationship between private development and the streetscape and affects the character of different streets, blocks, and districts. Application of frontage types is based upon a combination of the character of the district, the streetscape design, and the relationship to adjacent lots The frontage design standards have the following design objectives:

- 1. Enhance the image of the Town by coordinating streetscape investment with private lot and building investment.
- 2. Use buildings to shape streetscapes and public spaces, and orient buildings to these spaces.
- 3. Design frontages based on the scale and context of the area, block, and street, particularly emphasizing landscape areas to buffer sites from higher-volume / higher speed streets and emphasizing social spaces and human-scale features on walkable and multi-modal streets.
- 4. Coordinate development across multiple lots with compatible frontages along block faces, considering building placement, access, parking, landscape, and open space design.
- 5. Strengthen the identity and economic value of distinct places by reinforcing consistent patterns of streetscape, frontage design, and building materials, placement, and form.

B. **Frontage Design Standards.** The frontage types and design standards may modify the front setback established in Table 6-1. Subsections following this table provide specific design strategies and techniques to meet the design objectives and standards.

Table 6-2: Non-residential Frontage Design				
	Frontage A	Frontage B	Frontage C	Frontage D
Front Building Line (build-to range)	0' – 10'	0' – 25'	25' – 80'	80' +
Required Front Building Line (min. % of frontage width)	75%	60%	35%	35%
Parking Setback (min.)	Behind rear of building	Behind front building line	25' min. See Sec.17-7-4	25' min. See Sec.17-7-4
Extent of Parking Frontage (max.)	0%	40%	65%	65%
Landscape	See Sections 17-3-2, 17-7-4, and 17-8-3			



<i>Applicability</i>	<i>MU-DT</i>	■	□	□	-
	<i>MU-NC</i>	■	■	□	□
	<i>MU-RC</i>	■	■	■	□
	<i>I-1 & I-2</i>	□	□	■	■

* Unless otherwise specified in the Johnstown Standards and Specifications manual.
 ■ Permitted by right.
 □ Permitted subject to Alternative Compliance procedures and criteria in this Article and in Section 17-2-6.

C. **Front Building Line.** All buildings shall establish a front building line within the range specified in Table 6-2, Non-residential Frontage Design, based on the appropriate frontage type for the specific street and block. All buildings shall occupy the minimum percentage specified for required front building line with either of the following:

1. Front building facades meeting the design standards in Table 6-3, Non-residential Building Design; or
2. Open spaces meeting the requirements of Section 17-6-5, Open Space Design, provided:
 - a. It is limited to no more than 50 linear feet or 50% of the lot frontage, whichever is greater;
 - b. There are defining vertical features at the extension of the required front building line, such as decorative walls, fences, or landscape features; and
 - c. All building facades fronting the open space meet the building design standards otherwise applicable to the building frontage.
3. Corner lots shall meet the frontage requirement along the side street for at least 30' or 30% of the side street frontage, whichever is greater.

D. **Landscape.** The remainder of the frontage between the streetscape and front building line shall include landscape and open space designs.

1. For frontages with buildings built between 0 and 10 feet from the front lot line, the streetscape design standards in Section 17-3-1, Street Design and Article 8, Landscape Design may satisfy this requirement, or extensions of the streetscape and landscape elements in easements or the private frontage.
2. In all other cases the landscape design shall be according to the requirements of Chapter 7, Access & Parking and Article 8, Landscape Design.
3. On all frontage types, lot open space meeting the standards of Section 17-6-5 may be included in the frontage area.

E. **Alternative Compliance.** Alternative Compliance to the frontage design standards in this Section may be authorized according to the process and criteria in Section 17-2-6, Alternative Compliance and any of the following additional applicable criteria:

1. The context presents a clear pattern of existing buildings and lots on the same block and opposite block face that are different from the requirements and are desirable to maintain.
 - a. Frontages should be similar for all lots on the same block face or gradually transition to different frontage types in situations that enable multiple types.
 - b. Front building lines on adjacent lots should generally not differ by more than 10 feet, unless substantial space exists between the buildings.



- c. Blocks with pedestrian amenities, on-street parking, or designed according to the Pedestrian and Parkway / Bikeway street type standards in Section 17-3-1 are generally appropriate for the Frontage Types A and B standards.
- d. Blocks with higher traffic speeds or volumes, which lack pedestrian amenities, or lack on-street parking are generally appropriate for Frontage Types C and D standards.
- 2. Parking and access that serves a greater area beyond the site and block may deviate from these standards, provided it does not negatively impact development on adjacent lots and it is designed to minimize impacts on streetscapes.
- 3. Civic uses or landmark buildings may deviate from frontage designs provided they are in a location that serves as a focal point for the surrounding area, and the exception is used for improved social space or aesthetic features on the frontage.
- 4. In all cases where a non-building frontage area is permitted with alternative compliance, a strong development edge shall be created along the required frontage by a combination of an ornamental wall or fence that compliments the building design and additional landscape elements that create defined vertical elements.

17-6-4 Building Design

- A. **Design Objectives.** Building design refines the scale and form of buildings beyond the basic setback, height, and lot coverage standards and improves the relationship of buildings to public and active spaces. The building design standards of this Section have the following design objectives:
 - 1. Refine the scale, massing, and design details of buildings to a greater degree of interest and aesthetics the closer they are to the streetscapes and other publicly used spaces.
 - 2. Relate buildings to adjacent development by mimicking similar scale, massing, and proportions through step-backs and secondary masses that break up larger masses.
 - 3. Locate doors and windows in a way that activates space, creates connections to important exterior spaces, and promotes economic activity at the interface of buildings and public spaces.
 - 4. Use materials and human-scale architectural features to create depth, texture, variation, and visual interest, particularly on larger facades, along streetscapes, or near active open spaces or adjacent lots.
 - 5. Emphasize the quality and longevity of investments with materials and colors that are attractive, durable, and have low maintenance requirements.
 - 6. Concentrate architectural and design features on facades that are public-facing.
- B. **Building Design Standards.** The building design standards in Table 6-3 are based on the placement of the building and proximity to the streetscape. Subsections following the table provide specific design strategies and techniques to meet the design objectives and standards.

Table 6-3: Non-residential Building Design			
Front building line	0' – 10'	11' – 25'	26' +
<i>Massing & Modulation</i>	50' l.f. / 500 s.f.	75' l.f. / 1,000 s.f.	100' l.f. / 2,000 s.f.
<i>Entry Feature Spacing</i>	50' max.	100' max	1 per building
<i>First Story Transparency</i>	60% min.	40% min.	40% min. w/in 50' of entry



Table 6-3: Non-residential Building Design			
Front building line	0' – 10'	11' – 25'	26' +
Upper Story Transparency	15% min.	15% min.	15% min. n/a for industrial buildings
Materials	See Section 17-6-4.F / Table 6-4		

- C. **Massing & Modulation.** Wall planes that exceed the linear feet or square footage limits in Table 6-3, Non-residential Building Design shall be interrupted by one or a combination of the following techniques:
1. Emphasize structural bays and vertical breaks of the building exterior at regular intervals, with visible features such as columns, pillars, pilasters, or other details and accents along at least 25% of any public facing façade, and project at least 2 feet from the primary plane of the facade.
 2. Define horizontal elements with projections at least 4 feet from the wall associated with entrance features or differentiating stories, such as balconies, awnings, cantilevers, or similar horizontal elements.
 3. Break the volume of the building into distinct components with:
 - a. Step-backs of upper stories of at least 8 feet;
 - b. Recesses of the building footprint greater than 4 feet; or
 - c. Deviations shall encompass at least 20% wall planes of the entire public-facing elevation.
 4. Horizontal differentiation of a base, body and top of buildings with materials and architectural details.
 - a. For buildings less than 3 stories, this can be a distinct foundation, a facade, and an articulated roof structure, such as eaves and fascia for pitched roofs, or cornices and parapets for flat roofs.
 - b. For buildings 3 stories or more, the first floor should be clearly differentiated from upper stories to establish the base and an embellished roof structure.
 - c. Any belt course or trim band establishing the break in base, body and top shall use a material or pattern distinct from the primary material, 6 to 36 inches wide, off-set from the wall plane 4 to 24 inches; or may be a lessor trim associated with a material change.
 5. Use patterns of windows and doors, meeting the transparency requirements in subsections D. or E., to create a rhythm and balance with vertical and horizontal elements on the elevation.
 6. Use ornamental architectural details, and material and color changes associated with trim or massing elements along areas where there are no windows or doors.
 7. Use varied elevation types to create distinct patterns within and between buildings in a multiple-building complex or development comprised of similar structures.
- D. **Entry Features.** Primary public entrances shall be clearly defined on all front facades with at least two of the following elements and be located at intervals specified in Table 6-3, Non-residential Building Design:
1. An architectural emphasis such as raised parapets, gables, canopies, porticos, overhangs, pediments, arches, or projections or recessions within the wall plane of at least 3 feet.
 2. Transom or sidelight windows that frame and emphasize the entry.



3. Architectural details such as tile work and moldings, columns, pilasters, or other similar material changes.
 4. Integral planters, seating, or wing walls associated with an entry court or plaza that integrates landscape and hardscape designs.
 5. For corner buildings, any entrance feature located on the street corner may count to both sides, and may be considered located at 25' from each corner for the purpose of the required primary entry feature intervals.
- E. **Transparency.** The window and door transparency requirements of Table 6-3, Non-residential Building Design shall be met with one or more of the following techniques:
1. Where expressed as a first story requirement the percentage shall be measured between 2 feet and 8 feet above the sidewalk grade, or within 10 feet above the first-floor elevation if the building is set back more than 10 feet from the street.
 2. Where expressed as an upper story requirement, the percentage shall be measured between the floor level and ceiling of each story.
 3. All first story windows required shall provide direct views to the building's interior or to a lit display area extending a minimum of 3 feet behind the window.
 4. For industrial and civic buildings setback more than 25 feet from the street, clerestory windows may meet the first or upper story window requirements.
- F. **Materials.** Use exterior building materials with a texture and pattern that creates visual interest and signifies quality construction and detailing.
1. The predominant surfaces on building walls shall be one of the primary materials listed in Table 6-4, Non-residential Building Materials.
 2. No more than 4 materials should be used, including the use of secondary and accent materials.
 3. Material changes shall emphasize different elements of the building, in association with the massing and modulation standards in subsection C.
 - a. Where material changes are vertical with different materials stacked one above another, the transition between materials should include a belt course, trim band, sill, cap, frame, roof (if at ceiling height), or similar element to separate the two materials. Heavier and larger materials should be below lighter or smaller materials.
 - b. Where material changes are horizontal with different materials side-by-side, the transition between materials should occur at interior corners or at the trim line, architectural column or pilaster where the change is emphasizing different structural or massing components for a building.
 4. Material colors shall be low reflectance, subtle, classical, neutral or earth tone colors. Primary, secondary, and accent materials shall establish distinct but compatible color palettes. The use of high-intensity colors, metallic colors, black or fluorescent colors is limited to accent areas.
 5. For industrial-style buildings in the I-1 and I-2 districts, only the street-facing facades must meet these requirements.



Table 6-4: Non-residential Building Materials

Primary Materials (40% to 80%)	Secondary Materials (15% to 40%)	Accent Materials (5% to 20%)
<ul style="list-style-type: none"> ▪ Brick ▪ Stone ▪ Slate ▪ Stucco ▪ Exterior Insulation and Finish System (Water-managed EIFS only) ▪ Fluted or split-faced block. 	<ul style="list-style-type: none"> ▪ Any of the primary materials ▪ Wood siding ▪ Architectural tiles ▪ Concrete Masonry Units (CMU - colored and textured only) ▪ Tilt-up concrete panels with brick or stone facing. ▪ Architectural metals (prefinished non-corrugated) ▪ Transparent or tinted glass ▪ Corrugated metal 	<ul style="list-style-type: none"> ▪ Any of the primary or secondary materials ▪ Precast stone ▪ Wood trim or simulated wood ▪ Translucent glass (not on first story) ▪ Canvas or similar durable cloth (awnings only)

* Prohibited materials include: Vinyl siding, concrete block or tilt-up (smooth-faced), barrier-type EIFS, and reflective metal or glass.

G. **Alternative Compliance.** Alternative Compliance to the building design standards in this Section may be authorized according to the process and criteria in Section 17-2-6, Alternative Compliance, and any of the following additional applicable criteria:

1. The requirement is not consistent with the specific architectural style selected for the building based on reputable industry resources documenting the style.
2. The requirement would make the building less compatible with designs or characteristics of other buildings or sites adjacent to the project or that are prevalent throughout the area, and that are desirable to reinforce.
3. The requirement is inconsistent with the principal function of the building when applied to industrial buildings in the I-1 and I-2 districts.
4. Deviations from material standards and any simulated products demonstrate a proven performance in terms of maintenance and quality appearance. Manufacturer specifications and/or precedents for application may be required demonstrate that it will perform equally or better than the allowed material.

17-6-5 Open Space Design

A. **Design Objectives.** The design of open space can reinforce the character of unique districts and distinct places. Design of open space on a lot integrates the unbuilt areas of the site with the public realm design and can mitigate undesirable development impacts. The required lot open space, resulting from the remainder of the maximum lot coverage in Table 6-1, and any other open and unbuilt spaces or uncovered surfaces, shall be designed and located to meet the following design objectives:

1. Coordinate site design with the open space system and public realm design of the area.
2. Use open space as an organizing element for development, creating focal points for buildings or groups of buildings, and create transitions between distinct building sites.
3. Design a hierarchy of gateways, gathering places, parks, and natural features, and integrate these spaces with the system of streets, through drives, trails, and pedestrian passages.
4. Select open space types based on the context, function, and natural amenities of the site; in general, more compact and formal gathering spaces are most appropriate in walkable



- commercial and mixed-use areas, and more spacious and natural areas are most appropriate in large commercial or industrial areas.
5. Use landscape, furnishings, fixtures, art, planters, and other elements of open spaces to complement buildings, coordinate buildings and sites, and distinguish the unique character of different places.
 6. Preserve natural features that can serve as amenities, maintain views to and from important outside spaces, perform ecological functions, or provide important connecting corridors.
 7. Promote active gathering spaces in appropriate locations.
- B. **Lot Open Space Design.** Lot open space required for each building and lot in Table 6-1 shall create an amenity for the site and building. Buildings and open spaces on a lot shall be arranged to create usable outdoor spaces that meet one or more of the following types:
1. Private frontage landscape areas designed according to the frontage design standards in Section 17-6-3., excluding any driveways, parking areas, or other automobile space;
 2. Open space meeting the requirements for public or common open space in Section 17-3-2.
 3. Common rooftop decks provided they are at least 200 square feet, and at least 12 feet in all directions – this space shall be eligible for credit up to 25% of the open space requirement for the lot and building;
 4. Private balconies or patios, provided they are at least 100 square feet, and at least 8 feet in all directions– this space shall be eligible for credit up to 25% of the open space requirement for the lot and building; or
 5. Landscape areas and buffers designed according to the standards of Article 8, which shall only be counted towards the following percent of the open space requirement, even where greater landscape or buffers are required by other sections:
 - a. No more than 25% of the requirement for lot open space in the MU-DT and MU-NC district.
 - b. No more than 50% of the requirement for lot open space in MU-RC ; and
 - c. No limit in the I-1 and I-2 districts.
- C. **Alternative Compliance.** Alternative compliance to the lot open space design standards established in this section may be authorized according to the process and criteria in Section 17-2-6, Alternative Compliance, and any of the following additional applicable criteria:
1. The lot and building have access to at least two different active open spaces on the same block or abutting blocks, each meeting the design and service area standards in Section 17-3-2.
 2. Other designs that promote infill development or rehabilitation of existing buildings and sites in a compact, and walkable context.
 3. Recreation and social spaces are otherwise adequately met appropriate for the building and use by public spaces such as streetscapes, parks and open space, recreation centers, or other common and accessible amenities.
 4. Any screening, buffering, or other non-useable open space needs for the use, site, or building meet the standards of Section 17-8-3.

17-6-6 Specific Frontage & Design Plans

The frontage design, building design, and open space design standards are in this Article. may be refined and further specified based on a specific area plan for multiple properties and owners. The plan shall use the standards in 17-6-3, 17-6-4, and 17-6-5. but specifically apply them on a block-by-block basis. The



plan shall be approved by the Town as a supplement to the comprehensive plan. Alternatively, specific application of frontage types may be based on a plan approved in association with a development proposal, provided it: (1) is at least 10 acres; (2) includes at least 20% of Frontage A frontages; (3) includes at least 60% Frontage A or B standards; and (4) includes no more than 30% Frontage D standards. All plans approved shall be included or cross-referenced in the subsections below.

A. **[Reserved]**

[This section can be used to document and catalogue specific frontage and design plans either as the Town undertakes more specific plans using this concept, or as development proposals meeting these thresholds are proposed.]



Article 7. Access & Parking

- 17-7-1 Intent & Applicability
- 17-7-2 Access & Circulation
- 17-7-3 Required Parking
- 17-7-4 Parking Design

17-7-1 Intent & Applicability

- A. **Intent.** The intent of the Access and Parking standards is to:
1. Emphasize the importance of site access for multiple modes of transportation.
 2. Preserve streetscape design and street functions by coordinating access along block faces and internal to blocks.
 3. Create access and parking standards appropriate to the context of the site, considering surrounding development patterns and street design.
 4. Provide the optimal amount of vehicle parking for individual sites, recognizing that too much and too little parking each have negative impacts.
 5. Ensure appropriate site design features that mitigate the physical and aesthetic impact of parking on streetscapes and surrounding sites.
 6. Maximize opportunities for on-street parking, shared parking, and other strategies to reduce the inefficiency from underutilized and redundant surface parking on adjacent sites.
 7. Promote parking designs that minimize runoff, decrease heat island effects, incorporate low impact design features, and infiltrate storm water into the ground.
- B. **Applicability.** Access and parking shall be shown on site plans, according to the application requirements in Article 17-2. Specifically the standards in this article apply to:
1. All new development, buildings or uses on a site.
 2. A change of use, or additions to existing building, except that
 - a. Additional parking requirements shall only apply to the expanded portions of buildings;
 - b. Additional parking shall only apply to non-residential uses that would require 20% or more additional required parking than the previous condition; and
 3. The parking design standards shall only apply to the newly constructed parking, except when more than 50% of an existing parking area is reconstructed, all parking and access shall comply with this section.
 4. The access standards shall not limit the location of any existing access, except:
 - a. In conjunction with a public streetscape project;
 - b. Where an entire site is redeveloped or when more than 50% of a parking area is added, reconstructed, or similarly impacted by development; or
 - c. Where the existing access is determined by the Town to be a danger to public safety.
 - d. Where an existing access conflicts with an adopted access control plan.



17-7-2 Access & Circulation

A. Design Objectives. The design of access to and internal circulation for sites shall achieve the following design objectives:

- 1. Reduce impacts of driveways and curb cuts on streetscape designs and reduce or eliminate conflicts with pedestrians, bicycles, and vehicles.
2. Promote shared, common, or other vehicle access and loading internal to blocks, particularly on busier streets or where the standards otherwise limit or prohibit access.
3. Coordinate reasonable vehicle access with frontage designs for lots and buildings based on context and according to Sections 17-5-3.A and 17-6-3.
4. Provide safe and convenient bicycle and pedestrian access to buildings and sites at an equal or greater level than vehicles, and in the most direct and safe way possible.

B. Vehicle Access. Vehicle access shall be designed according to the following standards.

- 1. Driveway Location. Except for where shared or common access is permitted and executed through easements, driveways shall be set back from side or rear lot lines as stated in Table 7-1 Minimum Driveway Setbacks.

Table 7-1: Minimum Driveway Setbacks. Table with 4 columns: Access, Setback from side or rear lot line, Setback from street side corner, Separation from other driveways. Rows include Residential access < 6 units, Residential access 7 - 40 units, Nonresidential access and residential access to 41+ units, Shared access, and Alley access.

[1] Driveway spacing may be averaged along a block for residential lots or on local streets to allow the best arrangement considering grades, streetscapes, and building and lot layouts. This may result in two adjacent lots having access near the same lot line on one side (2' side setback on each), while greater separation between driveways is provided between lots on the opposite sides.

- 2. Private Streetscapes. Any single project, lot, or site greater than 5 acres, or lots where access is constrained by driveway standards, shall provide a system of private streetscapes that establish access and circulation within the site. (See Figure 3-2 in Section 17-3-1). Private streetscapes:
a. Shall be laid out to organize the site into smaller internal blocks.
b. Shall be designed to mimic public street cross sections in Table 3-2, including sidewalks, landscape amenities, on-street parking and travel lanes.
c. May be treated as public streets for determining the proper location, orientation and design of sites, buildings, and utilities within the project.
d. Trail, greenway, or pedestrian passages meeting the standards of Section 17-3-2 may account for a portion of this internal circulation network, provided it connects buildings, open spaces, and internal streets with similar networks external to the site and presents a logical connection point for pedestrians and bicycles.



- 3. **General Design Standards.** All accesses shall meet the following design standards.
 - a. Sufficient on-site storage for queued vehicles waiting to park, drive-through, or exit without interfering with street traffic.
 - b. Circulation between adjacent parcels in non-residential areas shall be provided by private streetscapes, cross access easements, and other shared access provisions to protect the function, design, and character of public streets.
 - c. Landscape, buildings, and other site elements at access points shall meet the sight distance requirements of Section 17-3-1.D.2, Sight Distances.

B. Internal Sidewalks.

- 1. **Sidewalk Standards.** Development sites shall include direct sidewalk connections and circulation at the same or greater frequency as provided for vehicles. Sidewalks shall connect public entrances of buildings and sites to the following, in the safest and most direct manner possible:
 - a. Sidewalks in the public streetscape and along private streetscapes.
 - b. Parking areas and perimeter sidewalks, internal walkways, or crosswalks associated with the parking areas.
 - c. Civic or open space, or other common areas designed for active use.
 - d. Transit stops, ride-share, and park and ride location – existing or planned.
 - e. Where the above connections are not practical or would exceed 300 feet, the best alternative pedestrian connection shall be determined in coordination with the staff review.
- 2. **Sidewalk Width.** Internal sidewalks shall meet the requirements of Table 7-2: Internal Sidewalk Widths.

Table 7-2: Internal Sidewalk Widths	
Location	Minimum Width
▪ Residential property < 10 units	5'
▪ Residential property 10 + units	6'
▪ Nonresidential property, site circulation	6'
▪ Nonresidential property, along the front facade or to primary entrance < 10,000 square feet	8'
▪ Other primary pedestrian routes on a site.	
▪ Nonresidential property, along the front façade or to the primary entrance 10,000 + square feet	10'
▪ Along any parking area with vehicle overhangs.	+ 2' to other required width

- 3. **Pedestrian Amenities.** Sidewalks and internal pedestrian circulation shall be separated from moving vehicles with vertical curbs, landscape buffers, curbside parking, or similar elements of the circulation and open space system; except crosswalks or other similar limited segments, which may be distinguished paint, brick, or colored or scored concrete and similar design features that signify pedestrian priority.

C. Bicycle Connections. Nonresidential and multi-unit dwelling projects with 10 or more units shall provide connections between the on-site bicycle parking and the public street or nearest bicycle route, trail or greenway. These connections may be provided by:

- 1. An internal sidewalk meeting Section 17-7-3.E. Sidewalks, where the distance is less than 200 feet and people may be expected to dismount and walk their bicycles;
- 2. A shared use path at least 10 feet wide;
- 3. An internal bicycle trail meeting standards in Section 17-3-2.C; or



4. Private streetscapes utilizing the most applicable public on-street bicycle accommodations in Section 17-3-1.C.
- D. **Alternative Compliance.** Alternative compliance to the access and circulation standards in this Section may be authorized according to the process and criteria in Section 17-2-6, Alternative Compliance, based on the intent and design objectives of this section, and with the following additional applicable criteria:
1. The standards, when applied to a particular project or street, will adversely impact the function of the transportation network in the vicinity of the site.
 2. A specific access management study or plan has altered the application of these standards for the particular street segment, or the guidance for traffic control in the Standards and Specifications manual lead to a different result.
 3. The project warrants a different access design when considering the functional class of the street, the streetscape design on the particular block, and the existing and anticipated adjacent land uses.
 4. In all cases, the alternatives shall be evaluated balancing the streetscape design objectives of the specific street type, traffic conditions of a particular street segment, and bicycle and pedestrian needs.

17-7-3 Required Parking

- A. **Vehicle Parking Rates.** Table 7-3: Required Parking provides minimum parking requirements and general categories apply to all similar uses not specifically listed. The following criteria shall be used in interpreting the table:
1. Employee rates shall consider maximum number of employees likely to be on-site at one time.
 2. Square footage rates shall consider leasable floor area or active area dedicated to the particular use. Where this number is not easily or readily determined, 85% of gross floor area may be used.
 3. A seating or capacity rate shall consider total number of seats based on industry standards for typical layouts of buildings or building codes.
 4. Where uses or sites have components of different uses (i.e. hotel with a restaurant), each component shall be calculated under most applicable rate.
 5. Where a use is not similar to a general use in the table or could meet more than one category, the Director shall determine the appropriate classification based on industry guides and the most similar use in terms of scale, format and operation.



Table 7-3: Required Parking	
Use Category / Specific Use	Minimum Parking Rate
Residential	
<i>Accessory Dwelling</i>	1 / unit
<i>Dwellings (detached, manufactured)</i>	2 / unit
<i>Dwellings (attached, multiple, or mixed)</i>	1 / unit (Studio / 1 bedroom)
	1.5 / unit (2 bedroom)
	1.75 / unit (3 bedroom)
	2 / unit (4 + bedroom) Director may administratively approve 0.5 / unit for micro units (> 400 s.f.)
<i>Senior Living (independent)</i>	0.5 – 0.75 / unit
<i>Senior Living (assisted or nursing)</i>	1 / 4 beds + 1 per employee
<i>Group Home (assisted)</i>	1 / 4 beds + 1 per employee
<i>Group Home (protective or rehabilitative)</i>	1 / 2 bed + 1 per employee
<i>Group Home (emergency shelter)</i>	1 / 8 beds + 1 per employee
Public / Civic	
<i>Assembly</i>	1 / 3 seats
<i>Public Safety / Services</i>	1 / 400 s.f.
<i>Library</i>	1 / 600 s.f.
<i>Museum</i>	1 / 1,000 s.f.
<i>School</i>	2 / class (elementary or junior)
	1 / 4 students + 1 / employee (senior or higher education) OR 1 / 4 seats of all auditorium or even space, whichever is greater
Commercial	
<i>Retail – Small (under 3K)</i>	1 / 500 s.f.
<i>Retail – General (3K+)</i>	1 / 250 s.f.
<i>Lodging - B&B</i>	1 / guest room + 1
<i>Lodging - Hotel / Motel</i>	1 / guest room + 1 / 200 s.f. of restaurant + 1 / 8 seats of meeting space
<i>Medical Care</i>	1 / 200 for all general office and service areas + 1 / bed (admittance permitted)
<i>Office</i>	1 / 300 s.f.
<i>Services (i.e. medical / personal services, day care, bank, vehicle repair, or similar uses with frequent customer service)</i>	1 / 250 s.f.
<i>Restaurant, bar or night club</i>	1 / 100 s.f.
<i>Health and Fitness Center</i>	1 / 150 s.f.
<i>Recreation and Entertainment</i>	1 / 300 s.f. generally
	1 / 4 seats of fixed seating areas
	1 / active patron station (i.e. 4 per lane bowling; 4 per hole golf course; etc.) 1 / 100 s.f. for food and beverage service areas
Industrial	
<i>Manufacturing</i>	1 / 500 s.f. (artisan/limited or light)
	1 / 750 (all others) Director may administratively approve 1 / 1000 s.f. or 1 / employee for any large format manufacturing operations where the s.f. of building or site does not reflect the scale of operations or parking needs
Agricultural	
<i>.All uses</i>	Use combination of residential, public/civic commercial and industrial rates based on type and general nature of agriculture activities.



- B. **Maximum Parking.** Development shall not provide more than 140% of the minimum required parking without documented evidence of actual parking demand based on studies of similar uses in similar contexts. In addition, any parking permitted over 120% of the minimum shall require mitigation of the potential impacts of additional parking through one or more of the following strategies:
1. Utilize eligible parking reductions permitted in Section 17-7-3.C., Parking Reductions.
 2. Provide shared parking for other uses on the block or adjacent blocks according to this Section 17-7-3.D.
 3. Use alternative surfaces designed to infiltrate stormwater, and approved by the Public Works Director.
 4. Provide additional buffers and site open spaces to screen parking with at least a 10% increase in the open space or buffers required for the parking, and at least a 20% increase in the amount of landscape material required for the parking.
 5. Design parking areas over the 120% minimum as dual-purpose space, such as plazas, playgrounds, or similar event areas for regular and active use of the space during non-peak parking times.
 6. Increase the lot open space required for the building and site in Section 17-5-3.C or Section 17-6-5 by an amount equal to the area of parking over the 120% minimum and locate this open space to limit the impact and visibility of parking.
- C. **Parking Reductions.** The parking required by Table 7-3: Required Parking may be reduced depending on context and according to the following strategies:
1. **MU-DT Zone District Exemption.**
 - a. No parking is required in the MU-DT zoning district for nonresidential uses,
 - b. Any permitted residential uses shall meet the requirements in Table 7-3, except residential uses in mixed use buildings which shall meet 50% of the requirement in Table 7-3.
 - c. The Director or Town Council may require parking for any nonresidential use over 10,000 square feet provided the location, accessibility, and design of the parking is consistent with the overall planning and urban design objectives of the downtown area, or for any residential uses where the location, density, and residential building types are likely to have an impact on public or business parking in the vicinity.
 2. **On-street Parking Credit.** On-street parking within 300 feet of any lot frontage shall count towards the parking requirement at a rate of 0.5 spaces for every on-street space.
 3. **Alternative Transportation Credit.** Provision of creative and alternative modes of transportation for a development may be eligible for up to 50% reduction of the required vehicle parking. To be eligible for this credit, the applicant must demonstrate that it is practical to expect significant bicycle access to the site based on: the location and proximity to the broader bicycle transportation network; the design of the site; and the nature of the use and anticipated patrons.
 4. **Administrative Adjustment.** The Director may reduce the required parking for any use by up to 3 spaces or 10% of the required spaces, whichever is greater, due to the nature of a particular use or any unique circumstances on the site.
- D. **Shared Parking.** Required parking may be reduced for any site containing multiple uses, or for adjacent sites with different uses according to Table 7-4, Shared Parking.



1. Any approved shared parking arrangement shall require an agreement and easement among all landowners participating to ensure access, joint use, maintenance, and other operational issues.
2. The agreement shall be recorded with the county clerk and recorder and shall state that it cannot be changed or modified without the approval and signature of the Director.
3. A shared agreement that differs from this table may also be approved based on a joint parking study for the sites and uses demonstrating adequate parking during peak hours for all parties to the agreement.
4. Using Table 7-4, properties shall provide adequate parking for all uses during provided peak hours such that the demand is appropriately accommodated throughout the day.

Table 7-4: Shared Parking					
Use	Percentage of Required Parking by Time Period				
	Weekday		Weekend		All
	6 AM to 5 PM	5 PM to 1 AM	6 AM to 5 PM	5 PM to 1 AM	
<i>Employment</i>	100 %	10 %	5 %	5 %	5 %
<i>Retail or Service</i>	75 %	75 %	100 %	90 %	5 %
<i>Restaurant</i>	50 %	100 %	75 %	100 %	25 %
<i>Entertainment & Recreation</i>	30%	100 %	75 %	100 %	5 %
<i>Place of Worship</i>	5 %	25 %	100 %	50 %	5 %
<i>School</i>	100 %	10 %	10 %	10 %	5 %
<i>Dwellings</i>	25 %	90 %	50 %	90 %	100 %
<i>Lodging</i>	50 %	90 %	75 %	100 %	100 %

- E. **Bicycle Parking.** All nonresidential or multifamily shall provide bicycle parking spaces according to Table 7-5, Bicycle Parking.

Table 7-5 Bicycle Parking	
Activity	Required Spaces
<i>Retail or office uses</i>	10% of the required vehicle spaces.
<i>Recreation and community facilities</i>	15% of the required vehicle spaces
<i>Other institutional, employment, industrial or entertainment uses</i>	5% of the required vehicle spaces.
<i>Multi-unit Residential Buildings</i>	1 per dwelling unit; 2 per dwelling unit with 3 or more bedrooms

Bicycle parking shall be designed according to the following standards:

1. A structure shall be securely anchored to the ground and usable for both U-locks and cable locks, support a bike at two points of contact to prevent damage to wheels or frames.
2. Bicycle parking for nonresidential uses shall be located within 100 feet of the primary entrance unless the Director approves an alternative location.



3. In the MU-DT district, bicycle parking facilities may be located in the right-of-way, in an amenity zone, subject to streetscape design plans and the Town approval. Structures shall be designed with artistic or ornamentation enhancements compatible with the streetscape character at the specific location.
 4. On-site structures that serve another primary function, such as light poles or bollards, but are designed to meet these standards, may count to the bicycle parking requirement.
 5. Alternative standards and specifications based on recognized industry guidance or best practices for bicycle parking may be approved by the Director through development review.
- F. **EV requirements.** Electric vehicle charging stations and readiness are required to be provided on all new parking areas with more than 20 spaces required as the minimum parking requirement. This ratio shall not apply to parking spaces provided above the minimum. The Town supports additional spaces made ready or capable with conduit installed on additional spaces.
1. Residential multifamily developments shall provide a minimum of 5% of the required spaces with installed charging stations, and ensure another 5% of spaces are ready for installation, meaning full circuits are installed at construction for future station additions.
 2. Nonresidential and mixed uses shall provide a minimum of 10% installed; 10% ready.
 3. Existing parking areas that redevelop or expand the area shall apply these rates to the new spaces only.
- G. **Accessible Parking.** Accessible vehicle parking spaces shall be provided in accordance with the applicable building codes and the Americans with Disabilities Act (ADA) guidelines for quantity, design, and location.

17-7-4 Parking Design

- A. **Design Objectives.** The layout, location and design of parking areas shall meet the following design objectives.
1. Locate parking and circulation in ways that minimize negative impacts on public streetscapes or adjacent sites.
 2. Use landscape, building design, and other site design strategies to improve the appearance of parking areas.
 3. Incorporate sustainable practices into parking design to minimize runoff, decrease heat island effects, incorporate low impact design features, and otherwise reduce environmental impacts.
 4. Encourage smaller and more compact parking areas to reduce impacts.
- B. **Landscape Areas.** The landscape area standards in Table 7-6 Parking Lot Landscape are based on the number of spaces and location of the parking area relative to the principal building (front, side, or rear).



Spaces per Parking Block	Front [1]	Side & Rear
151 or more	<ul style="list-style-type: none"> Prohibited – must be broken into smaller parking blocks 	<ul style="list-style-type: none"> 10' perimeter buffer; and 10 spaces per internal island
51 or 150	<ul style="list-style-type: none"> 25' front setback buffer 10' perimeter buffer 10 spaces per internal island 	<ul style="list-style-type: none"> 6' perimeter buffer 15 spaces per internal island
20-50	<ul style="list-style-type: none"> 10' front setback buffer 6' perimeter buffer 15 spaces per internal island 	<ul style="list-style-type: none"> 6' perimeter buffer
Under 20	<ul style="list-style-type: none"> 6' front setback buffer 6' perimeter buffer 	<ul style="list-style-type: none"> 6' perimeter buffer, except where abutting an alley

[1] Any surface parking lot in residential districts shall be behind the front building line or setback at least 30' from the front lot line, whichever is less.

The landscape areas required by Table 7-6 shall be allocated as follows:

1. The perimeter landscape areas shall be continuous, except for perpendicular driveways or sidewalks accessing the parking area.
2. Interior landscape islands shall be either:
 - a. A peninsula extending from the perimeter landscape area at the required intervals, at least 9 feet wide and the depth of adjacent parking spaces.
 - b. An end cap island at the required intervals that is at least 9 feet wide and at least 150 square feet for 1 stall and at least 300 square feet for two stalls; or
 - c. A continuous “center strip” between two opposing stalls along the entire parking bank that is at least 6 feet wide.
3. Perimeter area and center strip that includes a sidewalk shall meet both the sidewalk width and perimeter landscape area width independently, with no landscape area being less than 6 feet wide.
4. Perimeter and internal landscape areas shall include plant materials meeting the requirements of Section 17-8-2.

C **Sidewalks.** In meeting the standards of Sections 17-7-2.B and 17-7-4.B, a sidewalk connection shall be provided from the perimeter of the parking lot to the building entrance or building frontage. For a site or parking area with over 200 spaces, a sidewalk connection shall be provided through the parking areas and to the building frontage at least every 400 linear feet. Sidewalks meeting this standard may be located internal to the parking lot if separated from the surface parking, in perimeter landscape area or landscape median, or along a through access drive.

D. **Parking Dimensions.** Parking areas shall be designed to meet the dimension specifications in Table 7-7: Parking Dimensions.

Parking Angle Width (A)	Width (B)	Length (C)	Depth to Curb (D)	Curb Width (E)	Aisle Width – One-way (F)	Aisle Width – Two-way (G)	Bumper Overhang*
0°	7.0'	22'	7.0'	22'	12'	20'	n/a
30°	8.5'	20'	18'	17'	15'	20'	1.5'
45°	8.5'	20'	20'	12'	15'	20'	1.5'
60°	9.0'	20'	21'	10.5'	18'	24'	2.0'
90°	9.0'	20'	18'	9.0'	20'	24'	2.0'

- * Amount of Depth to Curb dimension that may overhang landscape area or sidewalk other wheel stop block. If overhanging sidewalk, this amount shall be added to the required minimum sidewalk width.

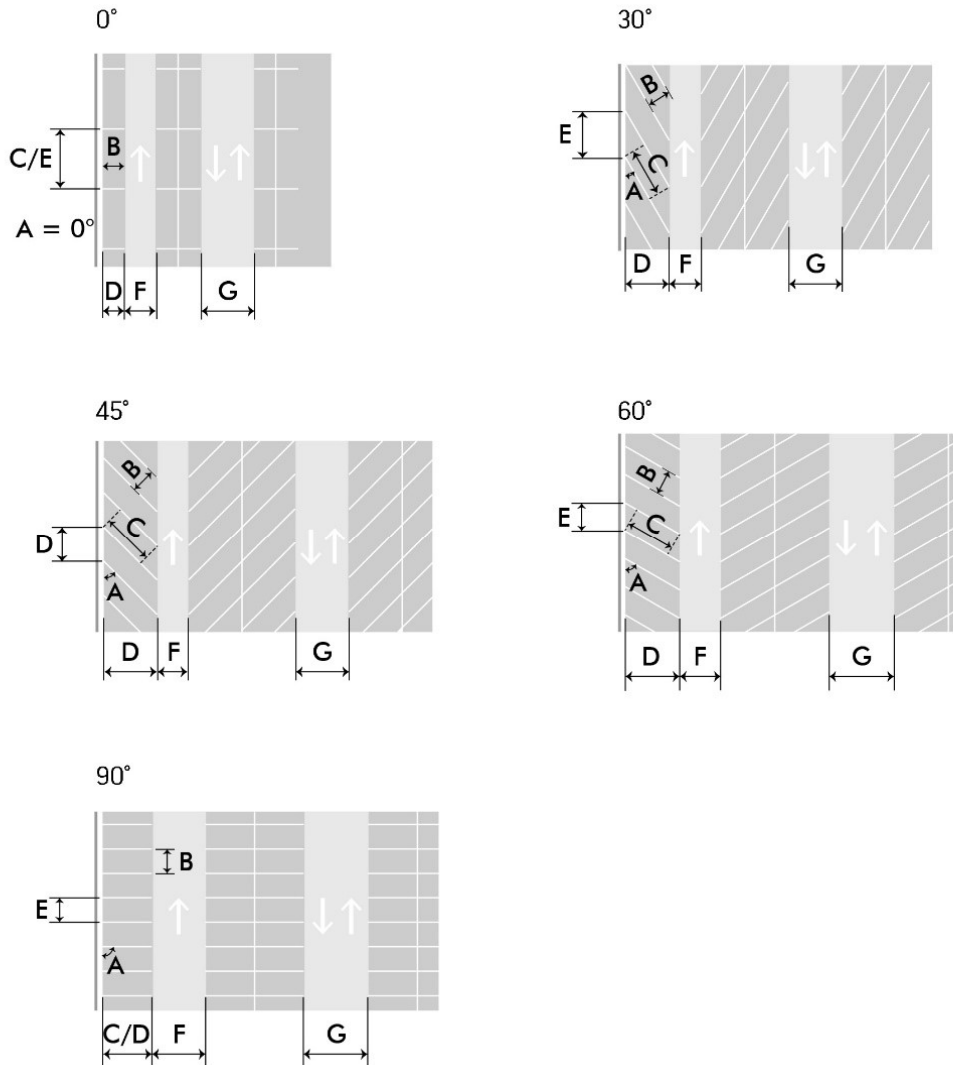


Figure 7-1 Parking Dimensions
 Dimensions standards of Table 7-7, applied to typical parking layouts.

E. General Design Standards.

1. All required parking shall be on-site except as specifically provided in this Article for credits or shared parking sections. Additionally, the Director may allow for a portion of required parking off site through a site plan review subject to the following specific considerations:



- a. It is within 300 feet of the subject site;
 - b. It is in the same or comparable zoning district;
 - c. The presence of the off-site lot does not negatively impact potential development on that lot or in the vicinity.
 - d. There are no pedestrian barriers or other access constraints between the parking and use, and safe connections are provided between each.
 - e. An agreement demonstrating rights and control of the off-site property is provided.
2. No parking space shall be located where it backs into a street or through access drive except:
 - a. Residential parking in driveways, which for driveways accessing buildings and lots with 6 units or less; or
 - b. On-street parking on public streets or private streetscapes according to the standards in Section 17-3-1.C.
 3. Required parking areas shall be used solely for the parking of vehicles in operating condition for patrons, occupants or employees of the use, unless specifically authorized otherwise by provisions in this code.
 4. Up to 25% of the required spaces on a site may be permitted to be designed and signed for compact cars, with no space less than 16’ deep with a 2’ overhang, at 90°. These spaces may not be located along a required emergency access route.
 5. Parking and access areas shall be designed to adequately address drainage and runoff, including curb, gutters and inlets, or other drainage strategy approved by the Public Works Director to support best management practices to minimize runoff and encourage infiltration of storm water.
 6. Off-street parking areas and driveways shall be graded and paved with an all-weather material meeting the Design Standards.

- F. **Loading Requirements.** In mixed-use, commercial, or industrial districts, off-street loading shall be required as indicated in Table 7-8, Loading Areas.
1. The number and size of spaces may be revised based on the operating characteristics of the particular use and determined through site plan review.
 2. Loading areas shall be located on a remote portion of the building and site or internal to the block and buffered by other buildings wherever possible.
 3. Loading areas and activities shall not interfere with the use of walkways, drive aisles, stacking areas, internal access streets or public streets.
 4. Loading shall be screened from public streets or adjacent properties and other public-facing areas in a manner that best limits visibility and mitigates noise, according to the buffer types and design standards in Section 17-8-3.
 5. In areas, projects or zoning districts designed to promote pedestrian activity, or for buildings and sites where more compact building and site design is required, alternate loading standards shall be permitted by the Director. Alternate loading standards may include sharing of loading spaces among multiple smaller tenants, using side streets, on-street parking, or alleys – particularly where there are sufficient spaces during off hours for loading or deliveries per Table 7-8, or other similar strategies that avoid designing sites for large vehicle access.



Table 7-8: Loading Areas	
Gross Floor Area	Required Loading Area and Size
Under 10,000 s.f	N/A, or may be shared per 17-7-4.F.5
10,001 – 25,000 s.f	1 space; 10' x 25'
25,001 – 40,000 s.f.	2 spaces; at least one of which is increased to 10' x 50'
40,001 or more s.f.	3 spaces, plus 1 for every 50,000 s.f. over 100,000; at least every third space shall be increased to 10' x 50'

- G. **Alternative Compliance.** Alternative compliance to the parking design standards in this section may be authorized according to the process and criteria in Section 17-2-6, Alternative Compliance, based on the intent and design objectives of this section, and with any of the following additional applicable criteria:
1. To facilitate infill development or where site constraints hinder the ability to meet the dimensional standards.
 2. To integrate more sustainable practices considering the water quality, air quality, energy efficiency, or other similar environmental impacts.
 3. To better accommodate any non-vehicle or other alternative modes of transportation.
 4. Any exception shall be based on documentation that the proposed dimensions and arrangements will not require unsafe or impractical vehicle maneuvering.



Article 8. Landscape & Site Design

- 17-8-1 Intent & Applicability
 - 17-8-2 Plant Requirements
 - 17-8-3 Buffer & Screens
 - 17-8-4 Plant Specifications
 - 17-8-5 Fences & Walls
-

17-8-1 Intent & Applicability

A. **Intent.** The intent of the landscape and site design standards is to:

1. Improve and maintain the image of the Town and build value with a well-designed public realm, coordinating streetscapes, open spaces, and lot frontages.
2. Emphasize distinct areas throughout the Town with the location and design of landscape areas
3. Coordinate landscape and design amenities across multiple sites with special attention to the consistent relationship of public and private frontages.
4. Strengthen the character, quality, and value of development with landscape design that serves multiple aesthetic, environmental, and social functions.
5. Enhance the ecological function of un-built portions of sites, and protect and integrate established natural amenities into development projects.
6. Screen and mitigate the visual, noise, or other impacts of sites and buildings.
7. Conserve water and shift to water-conscious landscape design that is regionally appropriate and specific to the arid Front Range climate.

B. **Applicability.** The standards of this Section shall apply to all development except:

1. Additions to existing buildings or sites that do not result in an increase in building footprint or impervious surfaces by more than 10%; or
2. Changes in use that do not result in an increase in land use intensity, considering hours of operation, types of activity, or other functional impacts of the use.
3. In cases where the landscape standards apply to existing sites that may redevelop or change use, the intent is to bring the site into full compliance with these standards. For infill and rehabilitation of existing sites the Director may prorate the requirements to the extent of the site work where full compliance is not possible or practical, and only apply the standards to portions of the site subject to development.
4. For existing development with approved landscape plans, continued adherence to and maintenance of those plans is required until such time as it may redevelop or proceed with an amendment.

17-8-2 Plant Requirements

A. **Design Objectives.** Landscape plans shall meet the following design objectives:

1. Frame important streets and emphasize gateways with street trees, landscape massing, and other vertical elements.
 2. Provide comfort, spatial definition and visual interest to active outdoor spaces including walkways, civic spaces, parks, trails or other similar outdoor gathering places
-



3. Improve resource and energy efficiency with landscape arrangements that consider wind blocks, heat gain, water usage, solar access, and other elements inherent to the site.
4. Promote storm water management and prevent erosion through natural landscape elements that intercept, infiltrate, store, or convey precipitation and runoff.
5. Locate plants, landscape features, and site design elements sensitive to seasonal solar and shading conditions, particularly maximizing summer shade and winter sun on active portions of sites.
6. Encourage the protection and preservation of healthy plants and landscape features that can meet current and future needs of the site through development, rather than plant and design new ones.

B. **Landscape Requirements.** The required landscape shall be based on different elements of the site according to Table 8-1, and in accordance with the Design Standards.

Table 8-1: Landscape Requirements			
Site Element	Deciduous Trees	Evergreen Trees	Shrubs
Streetscape: The landscape area in the ROW or along the lot line immediately abutting the right of way.	1 canopy tree per 35' of lot frontage, every 25' to 45' on center. (See Design Standards for use of tree grates in walks)	n/a	n/a
Front Yard & Foundation. The area between the building line and ROW along a street, including street sides of corner lots.	1 ornamental tree per 40' of lot frontage for buildings set back more than 10' from the front lot line; AND 1 canopy tree per 35' of lot frontage for buildings set back more than 40'.	Evergreen trees may be substituted for ornamental trees at a rate of 1 for 1, and for canopy trees at a rate of 2 for 1, for up to 50% of the requirement.	1 shrub per 5' of building frontage. 3 ornamental grasses may be substituted for each shrub up to 50% of the requirement. Seasonal planting beds or pots associated with the entrance may substitute for any building located closer than 10' to the front lot line.
Parking. Areas on the perimeter, or interior of parking.	1 canopy tree per 5 parking spaces	Evergreen trees may be substituted for canopy trees at a rate of 2 for 1, for up to 50% of the requirement	1 shrub per 8' of perimeter. 1 shrub per 5' for any parking area within 25' of any right of way or sidewalk.
	Ornamental trees may be substituted for canopy trees at a rate of 2 for 1 up to 50% of the requirement		3 ornamental grasses may be substituted for each shrub up to 50% of the requirement.
Buffers. Areas of a site that require additional landscape to mitigate potential impacts on streetscape or adjacent property.	See Section 17-8-3.		
Civic and Open Spaces. Areas of the site designed as part of a broader system of formal and natural open spaces.	See Section 17-3-2		
Other Areas	<ul style="list-style-type: none"> ▪ 1 canopy tree; or ▪ 2 ornamental trees; or ▪ 2 evergreen trees and 5 shrubs per 1000 SF of interior lot areas or per 3000 SF of open space/outlot areas All other unbuilt or unpaved areas require ground cover, decorative rock, mulch or other natural and permeable surfaces resulting in 75% coverage of all areas within 3 years of planting.		



- C. **Credits for Existing Vegetation.** Preservation of existing landscape material that is healthy and desirable species may count for landscape requirements provided measures are taken to ensure the survival through construction and all other location and design standards are met.
1. Landscape plans shall provide an inventory of all existing trees or significant woody vegetation including size, health, species, and any proposed for removal.
 2. Existing landscape credits shall only count towards the portion of the site where it is located, according to the site elements in Table 8-1. For example, an existing tree may only count towards the required planting for parking lot perimeters if it remains in the parking perimeter in the final design.
 3. Credits shall be on a 1 for 1 basis provided it meets the minimum specifications for new plants. The Director may approve landscape material that is larger or otherwise established and valuable on a 2 for 1 basis, or may approve plants of exceptional quality due to species, location, maturity, and health on a 3 for 1 basis.
 4. Trees or other existing landscape that contributes to the standard shall be identified on a landscape plan and the critical root zone shall be protected for the entirety of construction by a construction fence. Tree protection measures shall be based on applicable industry standards and best practices to ensure survival of the landscape.
- D. **Design & Location.** The landscape required by Table 8-1 shall be arranged and designed in a way that best achieves the intent of this Article and design objectives of this Section, considering the context and adjacencies proposed on the site. Required plantings shall be planted in the following specific locations on the lot.
1. **Streetscape Trees.** Streetscape and frontage trees shall be located in line with other trees along the block to create a rhythm along the streetscape and promote enclosure of the tree canopy. In the absence of a clearly established line along the block, trees may be planted in the following locations in order of priority.
 - a. Centered between the sidewalk and curb;
 - b. Planted within wider walks on pedestrian-oriented or mixed-use streets located in tree wells with grates meeting the Design Standards;
 - c. 5 to 10 feet from the back of a curb where no sidewalk exists or from the sidewalk in other situations where the sidewalk is attached;
 - d. Within the first 10 feet of the adjacent lot line where significant constraints in the right-of-way would prevent other preferred locations;
 - e. Ornamental trees may be substituted for canopy street trees only in situations where no other alternative is available due to constraints of the site or right-of-way conditions. Ornamental trees may be used where trees are to be located within 10 feet of any overhead wires.
 - f. Shrubs or perennials planted in the streetscape (parkway, medians) shall be placed outside or sized appropriately to avoid impact to any site distance limits in the Design Standards.
 2. **Front Yard & Foundation Trees & Shrubs.** Front yard and foundation plantings shall be located in open spaces near the building and in planting beds along the building frontage.
 - a. Ornamental and evergreen trees shall be located within 25 feet of the building.
 - b. Shrubs and smaller plantings shall be located within 10 feet of the foundation.
 - c. Where planting beds are used within hardscape around a foundation, they should be at least 4 feet wide, at least 60 square feet, and concentrated along at least 50% of the building frontage.
 - d. Foundation plantings are not required in service and loading areas



- e. Utilize larger and vertical landscape elements to frame entries, anchor the corners of buildings, and break up the visual impact of large or long building facades.
 - 3. **Parking Lot Landscape.** Parking lot landscape requirements shall be planted in perimeter buffers and landscape islands planned and designed according to Section 17-7-4, Parking Lot Design.
 - a. There shall be at least one canopy tree per 35 feet of parking lot perimeter, or one ornamental or evergreen tree per 20 feet of perimeter.
 - b. There shall be at least one tree per parking lot island, or one canopy tree or two evergreen or ornamental trees per 300 feet of other internal landscape area.
 - c. Shrubs shall be located to define parking lot edges, screen parking from adjacent sites, or create low barriers along sidewalks and streetscapes.
 - d. Any parking within 25 feet of the right-of-way shall have a Type 1 buffer per Section 17-8-3.
 - 4. **Interior Lot & Common Open Space / Outlot Landscape.** The remaining unpaved, unbuilt area of a lot or any outlot shall be landscaped at the rate indicated in Table 8-1. Plants shall be designed and located to meet the design objectives, unless otherwise approved under subsection E. Alternative Compliance. Stormwater facilities shall not have plantings within the required capacity area of the facility, and landscape required for those areas shall be integrated throughout the site in other appropriate areas.
 - 5. **Sight Distance.** Screens, buffers and landscape shall be located and designed to maintain proper lines of sight at all intersections of streets, alleys, driveways, and internal access streets as provided in the Design Standards.
 - 6. **Specific Applicability.** Where landscape standards for different conditions or elements of a site overlap, effective site and landscape design may enable the space and plants to count toward more than one requirement, based on the greater plant requirement applicable to that area. For example, a buffer area required by Section 17-8-3 may also be along a parking area perimeter, or a parking area perimeter may also be along a streetscape, and the greater planting requirement between these areas can satisfy both requirements. Approval shall be subject to the Director determining that the intent and design objectives of this section are achieved.
- E. **Alternative Compliance.** Alternative compliance to the landscape design standards established in Section 17-8-2, may be authorized according to the process and criteria in Section 17-2-6, Alternative Compliance, and any of the following additional applicable criteria:
- 1. The alternative results in better design of common or civic space on the site;
 - 2. The alternative results in a better allocation of plants in relation to adjacent streetscapes or other public spaces; or
 - 3. The alternative is necessary to improve the longevity or survival of plant materials
 - 4. The alternative protects areas of environmental significance, including habitat, floodplains, and river or riparian corridors.
 - 5. In all cases the deviation is the minimum necessary to address the circumstance, the alternative equally or better meets the design objectives of this Section, and there are no negative impacts on other design standards applicable to the building or site.



17-8-3 Buffers & Screens

- A. **Design Objectives.** Intense land uses or site elements shall be buffered and screened from streetscapes and adjacent property according to the following design objectives. These objectives shall be used in applying the buffer requirements in Table 8-2, Buffer Planting Designs.
 - 1. Mitigate impacts of parking lots or vehicle circulation near streets or property lines with landscape barriers and low-level headlight screening.
 - 2. Use berms, vertical landscape, dense plantings, or other grade or spatial changes to alter views, subdue sound, and change the sense of proximity of incompatible uses, buildings, or site conditions.
 - 3. Soften transitions where changes in development patterns, intensity of land uses, or building scale occur.
 - 4. Screen service and utility areas of buildings and sites from adjacent property or streetscapes with architectural features, fences, or landscape that limit visibility or noise.
 - 5. Utilize three layers of landscape buffers and screens, including: canopy trees (high-level – 30'+); evergreen or ornamental trees (mid-level – 6' to 30'); and shrubs, annuals, perennials, and ground cover (low-level – under 6'), to directly and most effectively mitigate potential impacts and adjacencies.
- B. **Buffer Planting.** The planting requirements in Table 8-2: Buffer Requirements shall be used to buffer and screen more intense uses or elements of sites according to the design objectives of this section. The buffer width is independent of and may include any setback, parking perimeter buffer, or other open space requirement so that the larger requirement controls.

Site Element	Minimum Width [1]	Trees [2]	Screen [2]
Type 1: A low screen used to define the edges of areas, particularly along streets, alleys or walkways.	5'	1 canopy tree per 30' May substitute evergreens or ornamental tree at 2 for 1 for up to 50% of the trees	3' high shrubs at 3' on center; OR 3' high solid decorative wall or fence with shrubs, grasses and perennials along 50%
Type 2: A buffer designed to soften the transition between different uses, scales of buildings, or intensity of uses	10'	1 canopy tree per 30' May substitute evergreens or ornamental tree at 2 for 1 for up to 50% of the trees	6' high shrubs planted 6' on center.
Type 3: A buffer design to create a special and visibility barrier between incompatible situations	15'	1 canopy tree per 30' AND 1 ornamental or evergreen tree per 30'	6' high solid fence or wall with 3' – 6' shrubs and perennials along 50% the exterior fence

[1] The width of a required buffer may be narrower to account for infill situations, or more compact and urban conditions; or may be wider when combined with additional landscape or setback standards. In these cases, a combination of additional plants or structural separation may be required.

[2] Linear dimensions refers to the outside perimeter or linear feet of a use or area requiring the screen or buffer.

Buffer types in Table 8-2 shall be required in the following circumstances.

- 1. **Type 1 Buffers.** Type 1 buffers shall be required:
 - a. Except for driveways of detached houses and multi-unit houses, along the boundaries of any parking located within 25 feet of the public right of way. Parking lots with 50 or more spaces in one area require the use of a decorative wall and plantings.



-
- b. Where parking is located within 100 feet of any pedestrian area, internal sidewalk, or public or common gathering space, with no other screen or visual separation
 - c. Along parking areas located less than 20 feet from an adjacent property unless a shared parking easement exists for the area to be readily interpreted as a single parking area.
2. **Type 2 Buffers.** Type 2 buffers shall be required:
 - a. Between multi-unit projects with 10 or more units and detached houses
 - b. Between commercial and residential uses.
 - c. Between industrial and commercial uses.
 - d. In a common open space along any residential lots that back to a collector or arterial street.
 - e. Along any side or rear boundary of a commercial or industrial use that directly faces a highway or interstate.
 3. **Type 3 Buffers.** Type 3 buffers shall be required.
 - a. Any transition between industrial and residential uses.
 - b. Buffer and screening of any specific high-intensity uses or high-intensity portions of a site abutting or visible for public spaces or active portions of commercial and mixed-use property, as determined necessary through development review.
 - c. Any permitted outdoor storage areas or contractor yard areas.
 - d. Along any residential boundary that directly faces a state highway or interstate.
 4. **Generally.** Any buffer may be required where necessary to meet the design objectives of this section or to achieve the general screening standards of Section 17-8-3.
- C. **General Screening.** All of the following shall be screened from streets or adjacent property by placement of buildings, open space, dense evergreen vegetation, a decorative and durable opaque fence or wall complementing the architectural details and materials of the building, or a combination of these screening strategies. Where design of the building, frontages, open space, buffers and other site requirements do not adequately screen these elements, the Director may require additional planting to achieve the design objectives of this Section.
1. Plantings and other screening features may suffice for:
 - a. Electrical and mechanical equipment such as transformers, air conditioners, or communication equipment and antennas whether ground-, wall- or roof-mounted.
 - b. Large or long blank walls visible from public streets, public or common areas or other sensitive boundaries in association with the buffer standards.
 - c. Utility stations or fixtures.
 2. Solid screening wall or fencing required for:
 - a. Permanent or temporary outdoor storage and transit hub parking areas
 - b. Trash and recycling enclosures.
 - c. Delivery and vehicle service bays.
 - d. Overhead doors and loading docks.
- D. **Alternative Compliance.** Alternative compliance to the buffer and screening standards established in Section 17-8-3, may be authorized according to the process and criteria in Section 17-2-6, Alternative Compliance.



17-8-4 Plant Specifications

- A. **Design Objectives.** The plant specifications have the following design objectives:
 1. Ensure the longevity and survival of landscape investments with proper species, location, installation and maintenance of plants.
 2. Promote regionally appropriate strategies, including limiting risk of disease or infestation through diversity of urban forest on an area- or town-wide basis.
 3. Establish minimum standards that balance immediate conditions with reasonable long-term growth and performance of landscape plans.
 4. Require water efficient strategies in terms of the water needs of landscape plans, and the continued operations and maintenance of sites.

- B. **Species.** All trees, shrubs, and seed mixes shall be selected and planted according to the Johnstown Recommended Plant Materials and other specifications in the Streetscape, Parks, Open Space section of the Design Standards. In addition to any species on these lists, alternatives may be proposed and approved as part of the development review provided they:
 1. Are documented by a landscape architect or other credible information comparable in type and performance to any species on this list;
 2. Are adaptable to the climate of the Front Range region and the specific conditions in which they are proposed; and
 3. Are not invasive or otherwise problematic to the overall health of the landscape.

- C. **Plant Specifications.** All landscape materials shall meet the American Standards for Nursery Stock standards, and be selected for its native characteristics or survival in the climate for the Front Range region. Plants shall meet the following specifications at planting:

Table 8-3: Plant Specifications	
Type	Specification
Canopy Tree	2" DBH; Mature height of at least 30'
Ornamental Tree	2" DBH ; 8' to 10' minimum planting height for multi-stemmed; Mature height of 15' – 30'
Evergreen Tree	6' minimum planting height; Mature height of at least 10'. Evergreens with mature heights of 30' or more may be classified as large trees.
Shrub	24" or 5-gallon minimum container
Perennials	1-gallon container
Ground Cover	Areas designed for vegetative cover shall have 50% ground cover at the time of planting and full coverage within 2 growing seasons
General	Plants used for screening and buffers shall achieve the required opacity and function in its winter seasonal conditions within 2 years following planting.

DBH – Diameter at breast height



D. **Tree Diversity.** The required trees planted shall promote diversity with the following species selection criteria.

Table 8-4: Tree Diversity	
Required Trees	Diversity
1 - 9	No specific requirement, but trees should be diversified from those existing trees in the vicinity.
10 - 39	At least 2 genus; AND At least 3 species No more than 50% of any one species
40+	At least 3 genus; AND At least 4 species No more than 33% of any one species

* Any streetscape master plan or public realm plan may achieve street tree diversity on a broader or block-scale basis while planting the same species on individual segments for the urban design effect.

E. **Water Conservation Guidelines.** All landscape plans shall conserve water with landscape materials and design techniques using the following principles.

1. Incorporate a “zoned planting scheme” to reduce water demand by grouping plants with similar water requirements together in the same hydrozone.
2. Limit high-irrigation turf and plantings to appropriate high-use areas with high visibility and functional needs, and use water-conserving grasses such as fescue sods. Turf and spray-irrigated areas shall be limited to:
 - a. Residential rear yard areas maximum of 50%, up to 2,000 SF for single family homes, except for lots platted prior to January 1, 2024;
 - b. Areas designed for play, sports fields, and similar common or public park areas;
 - c. Achieving specific aesthetic and design objectives at significant gateways, corridors, or entryways to neighborhoods or activity centers, at the discretion of the Town.
3. Use drought tolerant plants, suitable to the region, with low watering and pruning requirements. Water conservation and xeric species may be found and referenced on the plantselect.org website, or similar reputable source acceptable to the Town.
4. Incorporate soil amendments and use of organic mulches that reduce water loss and limit erosion. All planting areas shall receive soil amendments of at least 3 cubic yards per 1,000 square feet. Certification of and proof of amendment may be required.
5. Install efficient automatic irrigation systems that incorporate water conservation measures, including spray heads for ground cover and drip irrigation for shrubs and trees, weather/rain gauges, and high-efficiency or precision nozzles.
6. Native grasses may be used in low-traffic areas and require irrigation to establish. Raw water dedication, per the Johnstown Municipal Code - required with a review for credit at the sole discretion of the Town upon confirmation of the removal or effective disablement of the irrigation system. Seed mix shall be per the Design Standards.
7. Alternative non-potable sources and systems of irrigation water for all common landscape areas is encouraged and shall be required if available in sufficient quantity

F. **Stormwater Treatment.** Landscape amenities that incorporate stormwater treatment are recommended, provided they can meet both the landscape design standards and the stormwater management performance standards. Techniques such as bioswales, water quality ponds, and rain gardens should be used to infiltrate runoff from parking lots, streets, civic spaces, and other impervious surfaces wherever possible.



- G. **Planting & Maintenance.** All landscape plans shall include installation specifications meeting the Design Standards method of maintenance including a watering system and statement of maintenance methods.
 - 1. All plantings shall be properly maintained. Plant materials which fail to grow within a 2-year period or which exhibit evidence of insect pests, disease, and/or damage shall be appropriately treated, and any plant in danger of dying or already dead shall be removed and replaced.
 - 2. All elements of an approved landscape plan including plant materials shall be considered material elements of the project in the same manner as parking, buildings, or other details. Deficiencies of any approved landscape plan at any point may be enforced as a violation of the provisions of this ordinance.

- H. **Alternative Compliance.** Alternative compliance to the plant specification standards established in Section 17-8-4, may be authorized by the Director according to the process and criteria in Section 17-2-6, Alternative Compliance, and any of the following additional applicable criteria:
 - 1. The alternative is necessary to improve the longevity or survival of plant materials.
 - 2. The alternative improves the health or general species mix specific to the context and vicinity of the site.
 - 3. In all cases the deviation is the minimum necessary to address the circumstance, the alternative equally or better meets the design objectives of this Section, and there are no negative impacts on other design standards applicable to the building or site.

17-8-5 Fences & Walls

- A. **Design Objectives.** Fences and walls provide safety and security, screening, and architectural enhancements to sites and buildings and shall meet the following design objectives:
 - 1. Fence and wall designs shall consider the context of the area, the location on the site, and the desired functions.
 - 2. Fences and walls with prominent publicly visible locations require higher design standards, accompaniment of landscape to soften the expanse, or a combination of both.
 - 3. Fences and walls in walkable contexts or nearest pedestrian facilities require a lower profile, more open design, or both.
 - 4. Fences and walls in prominent public places should complement the design of the site and the architecture of the associated building.
 - 5. Fences and walls shall be designed and located sensitive to the massing and design relationship, and other impacts to adjacent property.

- B. **Fence & Wall Standards.** All fences and walls shall meet the following standards.
 - 1. *Height & Location.* Fences shall be located according to Table 8-5: Fence Height and Location.

Table 8-5: Maximum Fence Height and Location		
	Residential	Commercial & Industrial
Front	<ul style="list-style-type: none"> ▪ 3' high if solid ▪ 4' high if at least 50% open 	<ul style="list-style-type: none"> ▪ 3' high if solid ▪ 4' high if at least 50% open
Side & Rear	<ul style="list-style-type: none"> ▪ 6' if behind the front building line 	<ul style="list-style-type: none"> ▪ 8' if behind the front building line



Table 8-5: Maximum Fence Height and Location

<i>Location</i>	<ul style="list-style-type: none"> ▪ All fences or walls shall be located on private property. ▪ Where a property line is not known, installation shall be at least 2 feet from any public or common space sidewalk or trail. ▪ If inadvertently located in any public right of way are subject to removal without replacement, if the area is required for public use or maintenance, repair, or replacement.
<i>Generally</i>	<ul style="list-style-type: none"> ▪ Ornamental enhancements associated with an entry or gateway may be up to 8' high. ▪ All fences or walls located along adjacent lot lines shall be constructed so that either: <ul style="list-style-type: none"> ○ The face of the fence is on the property line, with the finished side facing outward; or ○ The face of the fence is at least 3 feet from the property line. Any areas set back 3 feet or more from the property line, which could become enclosed by other similarly located fences or walls, shall provide at least one gate for access and maintenance equipment. ▪ Fences or walls outside of required setbacks (i.e. in the buildable envelope), and behind front building line can exceed height limits, but may be limited by building codes or other public health and safety standards. ▪ Height includes any retaining wall or berm the fence is built on; however, the Director may grant exceptions where for fences in conjunction with a berm or wall where they equally or better serve the intent and design objectives of this Article.

2. **Permitting and Maintenance.** All fences and walls shall be built to applicable codes, be engineered and permitted where required, and be maintained in good condition regarding both structure and appearance.
3. **Perimeter Fences.** Any fence designed as part of a perimeter fence for multiple properties, as part of a landscape buffer, or any expanse longer than 100 feet and within 30' of a collector or arterial, shall meet the following standards:
 - a. All fencing shall be softened with landscape materials on the street side of fences meeting the buffer standards of Section 17-8-3.
 - b. Expanses of over 300' shall be broken up by either:
 - (1) Offsets to solid fencing required of at least 3 feet on 1/3 of the length for every 300-foot span; or
 - (2) Ornamental designs on at least 1/2 of every 300-foot span that is at least 75% open (i.e. wrought iron); and
 - (3) Masonry columns are required at least every 100 feet.
4. **Sports and Recreation Fences.** Fences for sports and recreation facilities, or for any other similar public facility, may be up to 10 feet generally; or up to 14 feet for tennis, pickleball, or similar sport courts if at least 50% open above 7 feet high; and taller to serve the functional need for backstops or golf course protection.
5. **Materials.** All fences and walls shall be made of the following durable materials:
 - a. Decorative iron;
 - b. Masonry;
 - c. Wood, commercially-available wood intended for fencing;
 - d. Vinyl;
 - e. Vinyl covered chain-link/woven wire may be used in commercial and industrial applications, except prohibited for any front fence or along a public street;



- f. Barbed wire, limited to the top 12" of a fence placed on the side or rear of commercial and industrial uses, not immediately adjacent to a residential use. Fences and only if all portions of barbed wire are above 6 feet high. Razor and concertina wire is prohibited except in special and unique circumstances or in applications for federally-protected facilities.
 - g. Electrical fences are only allowed for permitted agriculture uses.
 - 6. *Construction and Erosion Control Fences.* Temporary fences for construction may be up to 10 feet in height, or as otherwise specified in construction permits.
 - 7. *Drainage Easements.* No fence shall be constructed which could impede the flow of drainage waters. All fences must be installed in a manner that will not constrict the water flow planned for proper drainage of the lots in a subdivision.
 - 8. *Sight Distances.* All fences, walls or screening shall be located out of the sight distances in the Design Standards, or otherwise limited to no more than 3 feet high in these areas.
- C. **Alternative Compliance.** Alternative compliance to the fence and wall standards established in Section 17-8-5, may be authorized by the Director according to the process and criteria in Section 17-2-6, Alternative Compliance.



Article 9. Signs

- 17-9-1 Intent & Applicability
 - 17-9-2 Exempt Signs
 - 17-9-3 Permitted Sign Types & Allowances
 - 17-9-4 Standards for Specific Signs
 - 17-9-5 General Standards – All Signs
 - 17-9-6 Planned Unit Development Signs
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17-9-1 Intent & Applicability

- A. **Intent.** The intent of the sign standards is to:
1. Create an attractive aesthetic environment in the town.
 2. Enhance the quality and civic design of the community through the visual priority of buildings, streetscapes, open spaces, landscapes, and other investments in the public realm.
 3. Ensure that signs preserve and contribute to the unique character and identity of distinct places and districts.
 4. Improve economic viability by assuring that the town is a visually pleasant place to visit, conduct business, and live.
 5. Provide effective identification and communication for businesses, institutions, and other community destinations without excessive competition for visual attention.
 6. Protect property values and investments by minimizing adverse effects from signs on adjacent property.
 7. Promote safety for pedestrians, bicyclists, motorists, or other users of the public rights-of-way with proper location, construction, operation, and maintenance of signs.
 8. Ensure that the constitutionally guaranteed right of free speech is protected through appropriate standards for signs as a way of public communication.
- B. **Applicability.**
1. **General Applicability.** The standards in this Article shall apply to all signs except:
 - a. Legal non-conforming signs, subject to the provisions in Section 17-1-7.F
 - b. Exempt signs, to the extent of the limitations and specifications in Section 17-9-2.
 2. **Permit Required.** All signs shall require a permit to demonstrate compliance with this Article, issued based on an application signed by the property owner or the owner's authorized agent, except the following signs:
 - a. Signs exempt from a sign permit, as specified in Section 17-9-2.
 - b. The change of copy or content, change of sign panels, or similar changes to an existing sign that conforms to these standards, provided there is no change in the size, sign structure, or other essential design characteristics of the sign.
 - c. Ordinary maintenance or repair of existing signs provided no structural changes are made.
 - d. Permits may be required for any sign work to demonstrate compliance with other public safety codes, such as electrical, fire, or building codes.



C. **Sign Measurements.** Sign dimensions shall be interpreted as follows:

1. **General Area Calculation.** All applicants for a sign permit shall provide the surface area of the sign in square feet, providing methods and measurements for the calculation. Signs mounted on or displayed as a standard geometrical shape shall be measured by the standard mathematical formula for that shape. Signs mounted on or displayed as an irregular shape shall be measured by the smallest area of up to two standard geometrical shapes that can encompass the entire sign mounting.
2. **Freestanding Signs.** The area of a sign shall be computed by the entire area of the face of the structure, cabinet, or module encompassing the sign. Bases or supporting structures that include no message may be excluded from the sign area calculation.
3. **Wall, Window or Other Building-mounted Signs.** Any building mounted sign mounted on a background shall be measured by the area of the background. If mounted directly on the wall, the area shall be computed by means of the smallest single and continuous perimeter of up to two standard geometric shapes that enclose the outer limits of the writing, emblem, or other display. Gaps which are greater than two times the height of the sign area, when using the continuous perimeter above, may be subtracted from the calculation of the sign area, but it shall be interpreted as two signs. The area of the wall or window area for the purposes of determining the sign allowance shall be the total surface of the wall or window visible in an elevation view.
4. **Decorative Elements.** Embellishments such as pole housing, framing, decorative roofing and support structures, such as architectural or masonry bases, shall not be included in the area of the measurement if they contain no writing, emblem, or other display.
5. **Double-faced Signs.** Where the sign faces of a double-faced sign are no more than three feet apart at any location, only one face will be measured in computing sign area. If the two faces of a double-faced sign are of unequal area, the area of the sign will be the area of the larger face.
6. **Three-dimensional Objects.** Three-dimensional sign area is measured by the profile surface area that encloses the entire object on each side. This is calculated by the largest two-dimensional elevation of the object, taken from a typical viewing angle.

17-9-2 Exempt Signs

The following signs are exempt from a sign permit provided the sign meets all other applicable requirements of this Article. Unless specifically noted, exempt signs do not count towards the sign allowance specified for each zoning district. Signs beyond the limits of the exemptions may only be permitted by permits meeting the sign standards and allowances of the zoning district.

A. **Property Identification Signs.** Signs that enhance the ability of public safety, emergency services personnel, and the general public to locate a property, and which are visible from the right-of-way or other publicly accessible common areas, are exempt from permits subject to the following limitations:

1. **Address Signs.** Two per address, including suite numbers, up to 2 square feet each, only one of which may be ground-mounted. Address signs on buildings shall be placed between 4 feet and 12 feet high. Ground-mounted address signs shall be no more than 36 inches high, or incorporated into other permitted signs.



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2. **Building Name Plate.** Each building or site may have one name plate sign per frontage on streets or common areas, up to 5 square feet. Building name plate signs shall be associated with the permanence or significance of the building or site, rather than a particular tenant, and include designs such as engraved stone, bronze plates, or similar ornamental detail integrated with the architecture of the building or the site landscape.
- B. **Public Safety, Traffic Control or Public Information.** Signs designed and located to control traffic movement and safety of vehicles and pedestrians according to uniform traffic control device standards; public wayfinding signs for community destinations; signs required by the Town's Building or Fire Code; or signs otherwise required to support any official action or legal obligation of a federal, state, or local government, may be designed and located to meet the public purposes or requirements of other codes.
- C. **Flags.** Flags shall be mounted a building below the building height or mounted on a permanent freestanding pole subject to the height limit of the zoning district and setback from the property line a distance equal to the actual height of the flagpole.
1. **Residential Uses.** Up to three non-commercial flags may be permitted per lot. Total flag area per property shall not exceed 80 square feet and no single flag may be more than 40 square feet. Residential uses may also display non-commercial flags in windows, which will be counted toward the total number and allowable area.
2. **Nonresidential Uses and Mixed-use Projects.** Up to five non-commercial flags may be permitted per lot. Total flag area per property shall not exceed 200 square feet and no single flag may be more than 100 square feet.
- D. **Window Signs.** Signs or window graphics may be mounted to the interior of any first-floor windows in nonresidential districts, provided signs shall not exceed more than 25 percent of the area of all first-floor windows, and at least 50 percent of the window the sign is mounted on remains clear of any visual obstructions.
- E. **Temporary Signs.** Temporary signs are exempt from the sign permit process, and are subject to the standards in Sections 17-9-2 and 17-9-2, and 17-9-4.D.
- F. **Incidental Signs.** Incidental signs for nonresidential uses or multi-family complexes, which are intended to convey messages to guests, patrons, or other users of the property, such as traffic or parking instructions, service or other internal directions, security warnings, or other similar minor accessory signs are limited to:
1. No single sign may be more than 4 square feet, or 12 square feet for lots more than 1 acre.
2. Signs that are over 1.5 square feet are limited to no more than 12 square feet total sign allowance per lot, or 40 square feet per acre, whichever is greater.
3. Signs shall be no more than 6 feet high if ground-mounted or 12 feet high if mounted on a building;
4. Signs shall be setback at least 10 feet from all property lines; and
5. Grouping or arranging incidental signs to have the effect of a larger permitted sign or and increase visibility from rights-of-way or other publicly accessible common area makes all signs in the grouping ineligible for this exemption.
- G. **Construction Signs.** Signs associated with active construction sites are limited to:
1. 80 square feet of total sign allowance per 600 linear feet of public street frontage, calculated on a pro-rata basis;
2. No more than 3 signs per street frontage;



- 3. Signs may be mounted on a building ground-mounted, and shall be limited to 12 feet in height;
- 4. Incidental contractor branding on vehicles, materials, fencing, work trailers, and similar shall be exempt, and not subject to this sign allowance limit; and
- 5. The signs shall only be posted for the duration of a valid permit associated with the project.

These signs are in addition to any other temporary sign allowances in Tables 9-2 and 9-3.

- H. **Special Event Signs.** Signs associated with a temporary special event may be approved through the permitting and approvals for the event. Signs shall generally follow the standards in this Section; however, the event approval process may authorize deviations that generally meet the intent of this Article, or are otherwise based on the short term and special circumstances of the event.
- I. **Interior Signs.** Any sign that is not visible from the right-of-way, from any point along the perimeter of the property or from adjacent property, or from publicly accessible common spaces are exempt from permits and the standards of this Chapter, but may be subject to electrical, fire, or building codes, or subject to other construction and public safety specifications.
- J. **Venue Signs.** Signs associated with a public or common gathering space for events, and which are oriented only towards patrons of the event, such as scoreboards, institutional logos, or similar experience branding are exempt from the permits and standards provided they are approved as part of a site plan for the facility.
- K. **Vehicle Signs.** Signs permanently and professionally affixed via paint, decal, sticker, wrap, or similar technology to the standard exterior of a licensed and functional vehicle, for the clear purpose of identifying the vehicle or service provider for commercial use, and parked in a typical vehicle or service area, or being driven, shall not be subject to this Code. All other signage affixed to a vehicle, trailer, or other mobile object that may be reasonably interpreted to be regularly, or permanently placed for the purposes of providing signage is subject to dimensional and locational elements in this Code.

17-9-3 Permitted Sign Types & Allowances

- A. **Permitted Sign Types.** The following sign types are distinguished for the purposes of determining the total sign allowance for permitted signs for each lot or building.

Table 9-1: Permitted Sign Types	
Sign Type	Description
Building Signs	A sign painted, printed, or attached to the exterior surface of a building, awning, canopy, or other fixed building surface in a permanent manner. Building signs are the principal signs for the building or site and generally have a scale and design legible to vehicles in the public right-of-way or otherwise legible distant from the building (distinguished from Pedestrian Signs below).
Freestanding Signs	A detached sign that is independent from any building. Freestanding signs are the principal signs for the building or site and generally have a scale and design legible to vehicles in the public right-of-way or adjacent drives. (Distinguished from Pedestrian Signs below).
Pedestrian Signs	A sign with a design and scale to be legible to pedestrians in front of or immediately adjacent to the building or site, or to be legible to individuals internal to a site containing multiple buildings. Pedestrian signs may be attached to buildings or mounted on the ground independent to a building in a permanent manner. Typical examples include signs hanging below a covered walk, canopy, or awning, mounted on or projecting from a wall, or freestanding signs associated with a pedestrian entrance or passage.



Temporary Signs	A portable sign which is not permanently embedded in the ground or permanently affixed to a building or structure, and designed or intended to be used for a brief period of time. Temporary signs do not include permanent signs with temporary or changeable messages.
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B. Residential Districts. The following sign types are permitted in residential zoning districts:

Table 9-2: Permitted Signs – Residential Districts		
Sign Type	Standards	
Building Signs	Quantity	<ul style="list-style-type: none"> ▪ Permitted for principal nonresidential or multi-unit residential buildings (i.e. schools, churches, community centers, apartments) ▪ 2 per street-facing building elevation ▪ No more than 1 on any single wall plane
	Maximum Size	<ul style="list-style-type: none"> ▪ 5% of street-facing building elevation or 100 s.f , whichever is less (<i>per sign</i>)
	Height	<ul style="list-style-type: none"> ▪ At least 1 foot below the top of the wall it is mounted on for flat roof buildings. ▪ At least 1 foot below roof deck or eave line for pitched roof buildings.
	Other Standards	See Section 17-9-4.A
Freestanding Signs	Quantity	<ul style="list-style-type: none"> ▪ Permitted for principal nonresidential or multi-unit buildings (i.e. schools, churches, community centers, apartments) ▪ 1 per street frontage; but no more than 2 per lot.
	Maximum Size	<ul style="list-style-type: none"> ▪ 32 s.f. (<i>per sign</i>)
	Maximum Height	<ul style="list-style-type: none"> ▪ 6'
	Other standards	<ul style="list-style-type: none"> ▪ Setback from property lines at least a distance equal to the height See Section 17-9-4.B, Residential property may also be permitted Identity Signs as provided in Section 17-9-4.E
Pedestrian Signs	Quantity	<ul style="list-style-type: none"> ▪ Permitted for principal nonresidential or multi-unit buildings (i.e. schools, churches, community centers, apartments) ▪ 1 per each public building entrance
	Maximum Size (<i>per sign</i>)	<ul style="list-style-type: none"> ▪ 6 s.f; or ▪ 8 s.f. if associated with a primary building entrance
	Maximum Height	<ul style="list-style-type: none"> ▪ 6' if ground-mounted ▪ 12' if mounted on a building
	Other Standards	See Section 17-9-4.C.
Temporary Signs	Total Allowance	<ul style="list-style-type: none"> ▪ 18 s.f., or 0.18 s.f. per 1' of street frontage whichever is greater, but no more than 48 square feet.
	Quantity	<ul style="list-style-type: none"> ▪ N/A; subject to total allowance and duration limits; however the duration and period of multiple signs allowed is limited. See Section 17-9-4.D
	Maximum Size (<i>per sign</i>)	<ul style="list-style-type: none"> ▪ 8 square feet ▪ 24 square feet per sign for lots with over 150' of street frontage.
	Maximum Height	<ul style="list-style-type: none"> ▪ 6' if ground-mounted ▪ 20' or 1' below top of wall plane, whichever is less, if mounted on a building
	Other Standards	See Section 17-9-4.D



C. **Mixed-use & Industrial Districts.** The following sign types are permitted in mixed-use and industrial zoning districts:

Table 9-3: Permitted Signs – Mixed-use & Industrial Districts		
Sign Type	Standards	
Building Signs	Total Allowance	<ul style="list-style-type: none"> 2 s.f. for each 1 linear foot of building frontage for first 100' of building frontage; plus 1 s.f. for each 1 linear of building frontage over 100' of building frontage
	Quantity	<ul style="list-style-type: none"> Single-tenant Buildings: 4 signs per street-facing elevation Multi-tenant Buildings: 1 primary sign per street-facing elevation, on a pro rata basis based upon the linear frontage of the building.
	Maximum Size (per sign)	<ul style="list-style-type: none"> 200 s.f.
	Maximum Height	<ul style="list-style-type: none"> At least 1 foot below the top of the wall it is mounted on for flat roof buildings. At least 1 foot below roof deck or eave line for pitched roof buildings.
	Other Standards	See Section 17-9-4.A
Freestanding Signs	Total Allowance	<ul style="list-style-type: none"> 1 s.f. for each 1 liner foot of building frontage for first 100' of building frontage; plus 0.5 s.f. for each 1 linear of building frontage over 100' of building frontage
	Quantity	<ul style="list-style-type: none"> 1 per 150' of street frontage (minimum 100' separation between signs) 3 per lot or development maximum.
	Maximum Size (per sign)	<ul style="list-style-type: none"> N/A; limited to total allowance
	Maximum Height	<ul style="list-style-type: none"> Single user or 1-3 tenants- 12' Multi-tenants / Other - See Development Identity Signs in Section 17-9-4.E. Signs within 100' of the I-25 right-of-way 50' or 50' higher than adjacent interstate grade, whichever is higher. Signs within 50' of a state or U.S. highway right-of-way - 50'; not permitted in the MU-DT district.
	Minimum Setbacks	<ul style="list-style-type: none"> 50% of the sign height and lot located in any easements
	Other standards	See Section 17-9-4.B Projects over 5 acres may also be permitted Identity Signs as provided in Section 17-9-4.E
Pedestrian Signs	Quantity	<ul style="list-style-type: none"> 1 sign per each 50' of building frontage, or one for each tenant with a separate public entrance; Plus 1 for each building entrance
	Maximum Size (Individual Signs)	<ul style="list-style-type: none"> 6 s.f.; or 8 s.f. if associated with a primary building entrance
	Height	<ul style="list-style-type: none"> 6' if ground-mounted 12' if mounted on a building
	Other Standards	See Section 17-9-4.C
Temporary Signs	Total Allowance	<ul style="list-style-type: none"> 32 s.f. total sign allowance, or 0.25 s.f. for every 1 linear foot of street frontage for lots over 100' of frontage, up to a maximum of 100 s.f.
	Quantity	<ul style="list-style-type: none"> N/A; subject to total allowance and duration limits; however the duration and period of multiple signs allowed is limited. See Section 17-9-4.D.



Maximum Size (Individual Signs)	<ul style="list-style-type: none"> ▪ 12 s.f. ▪ 24 s.f. for lots with 100' to 200' of street frontage ▪ 48 s.f. per sign for lots with over 200' of street frontage.
Height	<ul style="list-style-type: none"> ▪ 6' if ground-mounted ▪ 20' or 1' below top of wall plane, whichever is less, if mounted on a building
Other Standards	See Section 17-9-4.D

17-9-4 Supplemental Standards for Specific Sign Types

The standards in this section are supplemental standards, in addition to the general standards in Tables 9-2 and 9-3 applicable to specific sign types.

A. Building Signs. Buildings signs are subject to the following additional standards:

1. Building signs in the MU-DT district shall be limited to a sign band between the street level storefront and the first story cornice or frieze, or on a first-story awning, except buildings 3-stories or taller may allocate up to 50% of the building sign allowance to a sign located within 8 feet from the top of the facade.
2. No portion of a building wall or other structure may be built above the roofline, which serves no other structural or architectural purpose, other than to mount a sign or expand the sign area allowance. A parapet intended for rooftop mechanical screening or to provide articulation may be used to place building signs.
3. Building signs shall not project more than 15 inches off the wall surface, except projecting signs meeting the following additional limitations:
 - a. Projecting wall signs may extend from and be perpendicular to the wall up to 10 feet, but no closer than 5 feet to the back of the curb.
 - b. Projecting signs shall be at least 8 feet above grade.
 - c. Projecting signs shall be no larger than 2 square feet for every 1 foot of building height, to a maximum of 50 square feet.
 - d. Only one projecting sign is permitted per wall.

B. Freestanding signs. Freestanding signs are subject to the following additional standards:

1. Freestanding signs used in the MU-DT and MU-NC zoning district are permitted only in instances where the front entrance of the primary building is located in compliance with Section 17-6-3, Frontage Design, and is setback from the right of way at least 20 feet.
2. Support structures and bases shall be constructed with durable, high quality architectural materials (such as brick or stone) that complement the building or are integrated into the landscape and other site elements in terms of material, colors, and ornamentation.
3. Freestanding signs shall be accompanied by a landscape or civic space plan that integrates the sign area into the overall site, softens the visibility of the structural elements, and improves the appearance of the sign and property from the streetscape subject to the standards and criteria of Article 8.
4. Any lot or site that uses only building signs (no freestanding signs) may receive a 20% bonus in the permitted building sign allowance.

C. Pedestrian Signs. Pedestrian signs are subject to the following additional standards:

1. Pedestrian signs shall be placed along building frontages where there is direct pedestrian access and circulation



2. Signs may be mounted directly on the surface of the wall, awning, or canopy, or if hanging below, maintains at least 8 feet clearance from the sidewalk below
 3. Pedestrian signs associated with an entrance shall be located within 10 feet of a business entrance.
 4. Portable pedestrian signs (“A frame”, “sandwich board” or “T-frame”) have a limited license to be placed in the public right-of-way for any permitted retail or service use provided:
 - a. Signs are only permitted on Pedestrian Streets meeting the street design standards of Section 17-3-1, or other areas of a site associated with pedestrian circulation and access.
 - b. No more than one sign per public building entrance.
 - c. The sign shall be no more than 8 square and is limited to no wider than 3 feet and not taller than 4 feet.
 - d. The sign is placed within 20 feet of the main entrance of the building or service area of a business, and at least 2 feet from any curb.
 - e. The sign is placed on or near a sidewalk, and otherwise associated with pedestrian routes to and from the business.
 - f. The sign shall maintain at least six feet clear passage for pedestrians on the sidewalk, and is otherwise located to avoid visual obstructions or safety hazards for users of the right-of-way.
 - g. The sign shall be permitted only during business hours of the associated business.
 - h. The sign shall be weighted to remain upright and in place, and removed immediately in periods of high winds or otherwise at the request of the Town.
- D. **Temporary Signs.** Temporary signs are subject to the following additional standards:
1. No temporary sign shall be displayed for more than 120 consecutive days, without 120 days intervening. Relocation of a temporary sign, or removal and replacement with a substantially similar sign does not extend the time period for the temporary sign.
 2. The period when more than 1 temporary sign may be placed on a lot or site shall be limited to no more than 120 days.
 3. The total area allowance for temporary signs in Table 9-2 or 9-3 may be allocated to multiple signs, provided:
 - a. No single sign exceeds the maximum area per sign.
 - b. The limitation periods for a single sign or multiple signs is not exceeded.
 - c. Signs shall not be grouped or arranged to have the effect of a larger permitted sign or otherwise be coordinated as a single sign.
 4. Temporary signs shall not be illuminated or use any light reflecting materials or coating.
 5. Temporary signs shall be constructed of durable material, designed to resist quick deterioration from the elements, and securely anchored to not pose a distraction or hazard. Non-rigid materials (such as banners) shall be secured by a support or frame to avoid distraction or flapping.
 6. The Director may require the removal of any temporary sign that pertains to an expired event, or may refrain from enforcement of the duration or time limits for any temporary sign related to an event that has been extended beyond the control of the owner.
- E. **Identity Signs.** Larger commercial properties and residential neighborhoods may be permitted identity signs as provided in this section.
1. *Nonresidential, Mixed-use or Industrial Identity Signs.* Nonresidential or mixed-use projects over 20 acres and with multiple tenants or buildings are permitted identity signs in addition to the permitted freestanding sign allowances, subject to the following:



- a. Identity signs shall be incorporated into a significant architectural element that reflects the unique character and identity of the area.
 - b. Structures associated with identity features shall generally be subject to height limits of the district, however exceptions may be approved through the site development plan process and based on the context of the site. No exception shall be approved beyond the height limits in Table 9-3.
 - c. No more than two identity signs per entrance and one per corner at the intersection of two perimeter streets.
 - d. Maximum sign area shall be no more than 200 square feet per sign.
 - e. Identity signs shall be located at least 200 feet from any other freestanding sign, except for matching or complimentary identity signs on either side of an entrance.
 - f. Identity signs shall be located on the site of the nonresidential use, or in a common area owned and controlled by a property or business association, provided there is an owners association or similar entity to ensure on-going maintenance of the sign and landscape.
2. **Residential Identity Signs.** Residential projects with more than 20 lots or more than 5 acres are permitted identity signs in addition to the permitted freestanding sign allowances subject to the following standards:
- a. All residential gateway signs shall be monument signs, no higher than 8 feet, unless incorporated into an accessory structure that is an integral part of the landscape design.
 - b. Identity signs shall be limited to no more than 2 per entrance from a collector or arterial street, provided the entrances are separated by at least 300 feet.
 - c. Identity signs shall be limited to:
 - (1) 24 square feet for entrances on a collector street;
 - (2) 48 square feet for entrances on an arterial street.
 - d. Identity signs shall be set back from the lot or parcel line at least 6 feet.
 - e. Identity signs shall be located on the site of the residential use, or in a common area owned and controlled by a property or business association of the residential uses, provided there is a property manager, homeowners association, or other entity to ensure on-going maintenance of the sign and landscape.
3. **Site Development Plan Review.** All identity signs shall require a site development plan review according to the standards and criteria in Section 17-2-5, or may otherwise be incorporated into a broader site development plan in which the subject sign is located.
- F. **Multi-tenant Buildings & Sites.** Any nonresidential building or site with multiple tenants shall be subject to the following:
- 1. A sign plan shall demonstrate coordination of all signs on the building and site, allow sufficient flexibility for the replacement of signs or new tenants without the need for a new sign plan, unless a new sign design concept is proposed for the entire building or site.
 - 2. Building signs may be apportioned to any tenant with a separate exterior entrance and apportioned to their percentage of the street-facing elevation. In the case where all tenants share a common entrance the building signs may be apportioned to no more than two signs per street-facing elevation.
 - 3. Buildings that have multiple wall or freestanding signs, or multiple tenant components on a single sign shall coordinate all signs for the building or site. Coordination may be established by combinations of two or more of the following:
 - a. The same or similar fonts, in terms of color, scale, and style. However, a primary and secondary font may be incorporated into signs.
 - b. The same sign background in terms of material and color or coordinated colors.



- c. The same base or framing in terms of materials and style, provided it is prominent enough to be a visible coordinating element across multiple signs.
 - d. A consistent scale, orientation, shape or placement of signs. For example, all oval signs, or all signs located within a sign band across storefronts.
 - e. Pedestrian signs or portions of principal signs that are less than 33% of the sign areas, may deviate from coordinating elements to account for logos, icons, or branding unique to the tenants.
- G. **Drive-Through Service Facilities.** Drive-through service facilities may have two signs per service area, no more than 32 square feet per sign, and no more than 8 feet high. Drive through service signs may be further limited and located to the accessory use standards in Section 17-4-4, and the site development plan criteria in Section 17-2-5.
- H. **Electronic Message Displays.** Electronic message displays may be incorporated into permitted signs subject to the following additional limitations:
- 1. Only one display shall be permitted for each lot or development.
 - 2. Displays shall only be used for permitted non-residential uses, and shall be setback at least 100 feet from any property zoned for or used exclusively for residential uses.
 - 3. Portions of a sign use for electronic display shall be further limited in the following districts:
 - a. R-1, R-2, R-3, MU-NC and MU=DT districts – 24 square feet maximum.
 - b. All other nonresidential districts – 48 square feet maximum.
 - 4. Only static display is permitted with at least 8 seconds between changes in display and no more than 0.3 second for transitions.
 - 5. Changes may occur only by dissolve, fade or instantaneous change. Scrolling, flashing, rolling, window shading or other similar effects, or any other flashing or appearance of movement is prohibited.
 - 6. Displays shall be equipped with a sensor or other device that automatically determines the ambient illumination and programmed to dim according to ambient light conditions and keep the illumination to no more than 0.3 footcandles over ambient lighting conditions.
 - a. Lighting shall be measured perpendicular to the sign at a distance dependent on the overall sign area.
 - b. Unless standard industry practices dictate a different measure or method, the distance shall be the square root of 100 time the sign area. (i.e. a 50 square foot sign should be measured from 70.7 feet perpendicular to the sign.)
 - 7. Applications for sign permits containing an electronic display shall include the manufacturer's specifications and cd/m² rating.
 - 8. Signs shall not include any business message that is not on the same lot or premises as the sign, and shall not direct attention to a business, produce or service sold or offered off premises.
 - 9. Any sign that malfunctions causing flashing, motion, or other violations of this Chapter shall be turned off as soon as possible, but in no case longer than 24 hours. The sign shall not be turned on again until prepared to operate according to these standards.
 - 10. The Town shall have the right to enter the property and view the programmed specifications of the sign to determine compliance with these provisions in accordance with the sign permit issued for the sign.

17-9-5 General Standards – All Signs

A. Public Health, Safety, & Maintenance.



1. All signs shall be designed, constructed, located, and maintained in a manner that is compliant with all electrical, fire, and building codes, and any other industry standards for public safety of signs, so that the sign does not present any potential risk to public safety in the judgment of the Building Official or the Director.
2. No sign shall be designed and located in a way where it can imitate or be confused with an official government sign for traffic direction or any other public safety symbol.
3. Signs shall not obstruct visibility of pedestrians and vehicles with sight triangles, as defined by Section 17-3-2.D.2.
4. Any sign projecting over a walkway, active area in front of a building, or other area where people may pass shall maintain at least 7.5 feet vertical clearance.
5. No sign shall be located to obstruct any window, door, or other opening used for egress or required for light or ventilation.
6. No sign, sign structure, or associated grounds shall present any dilapidated state or condition that may impact the relationship to or appearance from the public right-of-way or adjacent property.
7. All signs and any surrounding grounds or landscape shall be maintained in good condition, free of any debris, weeds, disrepair, or other unsightly conditions.

B. General Design.

1. *Placement.* The location of all permanent building signs shall be incorporated into the architectural design of the building according to the following principles:
 - a. Placement of signs should be considered part of the overall facade design and composition.
 - b. Sign locations should align with major architectural features such as storefront sign bands, cornices and parapets, entrance features, marquees, windows, canopies, and other similar architectural features.
 - c. Signs shall not be placed where they obstruct any significant building design feature, including windows, architectural details, trim, and ornamentation.
2. *Durability & Appearance.* All permanent signs shall be designed to convey durability and a quality appearance according to the following principles:
 - a. Materials, particularly for the frames, casings or bases of signs, should be chosen to complement the architecture of the building, and coordinate with other accent materials or architectural details of the building and site.
 - b. Simple 2- and 3-color contrasting colors schemes should be used between the color of the background, letters, and accents to ensure legibility and quality appearances. Fluorescent colors should be limited to accents and typically less than 10% of the sign area.
 - c. Buildings and sites that have that have multiple building or freestanding signs should coordinate all signs using one or more consistent coordinating elements, such as similar fonts, colors, sign scale or shapes, backgrounds, or casing and framing material.

C. Specific Designs Prohibited.

1. No sign shall be attached to any public utility pole or installed within the public right-of-way, except:
 - a. Official government signs exempt from these standards according to Section 17-9-2.B;
 - b. Signs attached to and projecting from buildings and meeting all other standards of this Article;
 - c. Portable pedestrian signs meeting the limited license and exception in Section 17-9-4.C; or



- d. Signs otherwise licensed by the city through special events or management of the design and use of the right-of-way, apart from the Development Code.
- 2. No sign shall include balloons, streamers, pennants, or other air activated movements and animated elements such as flashing, blinking, or rotating, whether animated by mechanical, electrical, or environmental means.
 - a. This limitation shall not apply to pedestrian signs, provided any animated element of the sign or structure shall count to the limits of the pedestrian sign allowances.
 - b. This provision shall not apply to prohibit flags, temporary signs, or electronic message displays meeting the standards of this Article, or to signs approved in association with a special event permit.
 - c. This provision shall not apply to temporary holiday displays or works of art, provided there is no commercial message associated with them.
- 3. Materials and design which are prohibited include:
 - a. Vinyl fabric or other material that is not intended as a durable exterior building material.
 - b. Box signs consisting of metal or similar exterior framing, with replaceable translucent panels are not permitted as wall signs. Replaceable panels may be used in the context of a multitenant freestanding sign.
 - c. Exposed framing, wiring, or support posts or poles unless demonstrated to be an intentional and aesthetic part of the architectural design.
- 4. No sign shall be placed on any vehicle, bus, or trailer, or similar objects visible from the right-of-way, where the object is located specifically to function as a sign and to avoid the standards or criteria of this Article.
- 5. Any sign with a business message shall be located on the lot of the business activity and shall not direct attention to a business, produce or service sold or offered off premises, except signs for multi-tenant premises, which must be associated with the site and located in common areas controlled by the businesses or property owners' associations.

D. Illumination.

- 1. Any illumination of a sign shall be designed to eliminate glare or any other negative impacts on surrounding rights-of-way and property. In general, any direct source of light shall not be visible from the public street or adjacent property.
- 2. Light from an illuminated sign shall not spill onto adjacent properties. The light reading from sign lighting at any point within 10 feet from an adjacent property shall be less than one foot-candle. A photometric plan may be required.
- 3. External light sources shall be directed and shielded to conceal the light source and illuminate only the surface of the sign.
- 4. External illumination of a signs 10 feet high or more shall only occur from the top down.
- 5. No light source shall cause any glare, flashing, strobing, movement, or other similar impact off site, or that may be construed to mimic public safety distraction to traffic.
- 6. Exposed lighting where the light source is the sign, shall be limited to window signs mounted to the inside of the building, pedestrian signs, or used as an accent equaling less than 10% of the sign area.

17-9-6 Planned Development Signs

The provisions in this Article shall be used to guide signs within Planned Development (PD) application. Proposed planned developments may include a specific and coordinated sign plan with limited standards that address size, height, design, lighting, color, materials, location and method of construction of all signs planned within the PD. Absent a specific sign plan, the Town shall apply sign standards closest to the zoning district the PD land uses represent. The Town Council may impose alternate standards relating to



signs if it is determined that there are commensurate design trade-offs proposed for signs through the procedures and criteria in Section 17-2-4.



Article 10. Supplemental Standards

- 17-10-1 Wireless Communication Facilities
 - 17-10-2 Floodplain Management & Flood Damage Prevention
 - 17-10-3 Natural Resource Extraction & Energy Development
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17-10-1 Wireless Communication Facilities

- A. **Intent.** In order to accommodate the communication needs of residents and businesses while protecting the public, health, safety and general welfare of the community, the Town Council finds that these regulations are necessary to:
1. Provide for the managed development and installation, maintenance modification and removal of wireless communications infrastructure in the Town with the fewest number of wireless communications facilities (WCFs) to complete a network without unreasonably discriminating against wireless communications providers of functionally equivalent services, including all of those who install, maintain, operate and remove wireless communication facilities;
 2. Minimize adverse visual effects of WCFs through thoughtful design and siting, including, but not limited to, camouflage design techniques, appropriate and effective screening and undergrounding whenever possible;
 3. Encourage the location of towers in areas that minimize the total number of towers needed throughout the Town;
 4. Require the co-siting of WCFs on new and existing sites wherever possible;
 5. Encourage the location of WCFs in areas where the impact to the Town and its residents is minimized;
 6. Enhance the ability of wireless communications service providers to provide wireless services to the community quickly, effectively and efficiently; and
 7. Effectively manage WCFs located in the public right-of-way.
- B. **Applicability.** The requirements set forth in this Section shall apply to all eligible facilities requests and WCF applications for base stations, alternative tower structures, towers, micro cells, small cells and all other wireless facilities, except the following:
1. *Amateur radio antennas.* Amateur radio antennas that are owned and operated by a federally licensed amateur radio station operator or are exclusively receive-only antennas, provided that the height is less than or equal to the distance from the base of the antenna to the property line and meets other applicable provisions of the Code are met.
 2. *Pre-existing WCFs.* Any WCF for which a permit has been properly issued prior to June 3, 2019, shall not be required to meet the requirements of this Section. Notwithstanding the foregoing, any modifications qualifying as an eligible facility request shall be evaluated under this Section.
 3. *Miscellaneous receiving antennas.* Antennas used for reception of television, multi-channel video programming and radio such as over-the-air receiving device (OTARD) antennas, television broadcast antennas, satellite antennas and broadcast radio antennas, provided such antennas are less than 1 meter in diameter, mounted on the ground with a total height less than 5 feet or attached to an existing building. The Director has the authority to approve modifications to the size and height restriction of OTARD



- antennas and OTARD antenna structures, if, in the reasonable discretion of the Director, modifications are necessary to comply with federal law.
4. *Emergency.* A WCF installed upon the declaration of a state of emergency by the federal or state government or by the Town pursuant to written determination, provided prior to the WCF installation or within 72 hours thereafter, that such action is necessary to protect the health, safety and welfare of the public.
 5. *Temporary WCF.* A cell on wheels, or similar temporary WCF, installed for the purpose of providing sufficient coverage for a special event for no more than 1) days, subject to administrative approval by the Town.

C. Operational Standards

1. *Federal Requirements.* WCFs shall meet the standards and regulations of the Federal Aviation Administration, the FCC and any other federal government agency with the authority to regulate WCFs, as amended from time to time. If such standards and regulations are revised, then the owners of the WCF shall bring such facility into compliance with such revised standards and regulations within the time period mandated by the controlling federal agency. Unless preempted by federal law, failure to meet such revised standards and regulations within 30 days of the Town's determination of such failure shall constitute grounds for the removal of the WCF by the Town or by the owner of the WCF at the owner's expense.
2. *Permission to use public right-of-way or public property.*
 - a. *Public right-of-way.* Prior to, or concurrently with, the filing of an application seeking land use approval for the siting of WCF in the ROW, the applicant shall have an executed agreement with the Town, granting the applicant a non-exclusive license to use the ROW. WCFs attached to an existing pole or replacement pole or on a new traffic signal, street light pole or similar structure shall require written evidence of a license, or other legal right or approval, to use such structure by its owner. The applicant shall remain the owner of, and solely responsible for, any WCF installed in the ROW.
 - b. *Public property.* Prior to, or concurrently with, the filing of an application seeking land use approval for a WCF on public property, the applicant shall execute a lease agreement with the Town.
3. *Operation and maintenance.* To ensure the structural integrity of WCFs, the owner and operator of a WCF shall ensure that it is maintained in compliance with the standards contained in applicable local building and safety codes. If, upon inspection, the Town concludes that a WCF fails to comply with such codes and/or constitutes a danger to persons or property, then, upon written notice being provided to the owner of the WCF, the owner shall have 30 days from the date of notice to bring the WCF into compliance. Upon good cause shown by the owner and meeting reasonable safety considerations, the Director may extend such compliance period, not to exceed 90 days from the date of said notice. If the owner fails to bring the WCF into compliance within said time period, the Town may remove the WCF at the owner's expense.
4. *Abandonment and removal.* After the WCF is constructed, if a WCF has not been in use for a period of 3 months, the owner of the WCF shall notify the Town of the non-use and shall indicate whether re-use is expected within the ensuing three months. Any WCF that is constructed and is not operated for a continuous period of 6 months shall be considered abandoned. The Town, in its sole discretion, may require an abandoned WCF to be removed. The owner of such WCF, or the property owner who signed a removal affidavit,



shall remove the same within 30 days of receipt of written notice from the Town. If such WCF is not removed within said 30 days, the Town may remove it at the owner or the property owner's expense and any approved permits for the WCF shall be deemed to have expired. The Town may also, in its sole discretion, decline to approve any new WCF application until the applicant who is also the owner of any abandoned WCF has removed such WCF or provided payment for such removal to the Town.

5. *Hazardous materials.* No hazardous materials shall be permitted in association with WCFs, except those necessary for the operation of the WCF and only in accordance with all applicable laws governing such materials.
6. *Collocation and co-siting.* No WCF owner or operator shall unreasonably exclude a telecommunications competitor from using the same WCF facility or site. When an owner or operator seeks to exclude a telecommunications competitor, upon request from the Director, the owner or operator shall provide written evidence explaining why collocation or co-siting is not possible at the particular facility or site.

D. Review Procedures & Requirements

1. *Timeframe for review.* New WCFs shall be constructed, collocated or co-sited after a written request from an applicant is reviewed and approved by the Town, in accordance with this Section. The Town shall provide an application for WCF submittals, which shall require the provision of information necessary and adequate for the Town to appropriately make a determination with respect to the WCF development request. An application for a WCF that does not comply with the provisions and design standards of this Section may seek *Use by Special Review* approval pursuant to the procedure set forth in the Code.
 - a. *Facilities within public rights-of-way.* Applications for base stations, alternative tower structures, small cell facilities and alternative tower structures within public rights-of-way shall be reviewed by the Director for conformance with this Section, using the design standards in Subsection E. and those otherwise found in the Code. If the Director determines that WCFs in the rights-of-way are found to have a significant visual impact, are not compatible with the structure or surrounding area or do not meet the intent of this Section, the Director may refer such applications to the Planning and Zoning Commission for a *Use by Special Review* determination.
 - b. *WCFs, including towers.*
 1. Applications for towers, other than those defined or excepted in subsection D.1.a., must utilize the *Use by Special Review* procedure (conditional use approval) set forth in the Code, and meet the applicable submittal requirements site development plans in Article 2, unless otherwise directed by the Director.
 2. Applications for towers shall demonstrate that other alternative design options, such as using base stations or alternative tower structures, are not viable options.
 3. Subject to the tolling provisions in Subsection D.3, the Town shall render a decision within 150 days of the date on which an applicant submits a complete *Use by Special Review* application.
 - c. *Eligible facilities requests.*
 1. *Permitted use.* Eligible facilities requests shall be considered a permitted use in all zoning districts and shall be subject to administrative review.



The Town shall prepare an application form requiring submittal of the information necessary for the Town to consider whether a project constitutes an eligible facilities request, including, but not limited to, sufficient information to allow the Town to determine whether the request does not constitute a substantial change and whether it complies with applicable law. The application shall not require the applicant to demonstrate a need or business case for the request.

- 2. *Timeframe.* Subject to the tolling provisions in Subsection D.3, the Director shall render a decision within 60 days of the date on which an applicant submits a complete application.
- 3. *Ineligible requests.* If the Director determines that the applicant's request is not an eligible facilities, the presumptively reasonable timeframe in Section 332(c)(7) of the Telecommunication Act, as prescribed by the Shot Clock, shall begin to run from the issuance of the Town's decision that the application is not a covered request, assuming that the application is deemed to be complete at that time. The Town may request additional information from the applicant to evaluate whether the application is complete, during which time the timeframe for review of the application shall be tolled.

d. *Small cell facilities.*

- 1. *Application.* The Town shall prepare an application form requiring submittal of the information necessary for the Town to consider whether a project constitutes a small cell facility.
- 2. *Timeframe.*
 - (a) *Collocation on existing structure.* Subject to the tolling provisions in Subsection D.3, the Town shall render a decision within 60 days of the date on which an applicant submits a complete application.
 - (b) *New structure.* Subject to the tolling provisions of in Subsection D.3, the Town shall render a decision within 90 days of the date on which an applicant submits a complete application.
- 3. *Batched applications.* If a single application seeks authorization for multiple deployments, all of which may be categorized as either small cell facilities using an existing structure or small cell facilities using a new structure, then the timeframe for review shall be equal to that for a single deployment within that category. If a single application seeks authorization for multiple deployments, the components of which may be a mix of these aforementioned categories (small cell facilities using an existing structure or small cell facilities using a new structure), then the timeframe for review shall be equal to that with the longer review timeframe permitted for all components of that application.

2. *Additional submittal requirements.*

- a. In addition to the requirements contained in the Town-approved applications, the following supplemental items are required for all WCF applications:
 - (1) Applicable submittal requirements for site development plans in Article 2, unless otherwise waived by the Director;
 - (2) Signal non-interference letter;
 - (3) Radio frequency emissions letter;
 - (4) Photo simulations showing before and after conditions;
 - (5) Inventory of sites. Each applicant shall provide a narrative description and a map of the applicant's existing and currently proposed WCFs



within the Town and those within one half-mile of the Town's boundaries. The applicant shall inform the Town generally of the areas in which it believes WCFs may need to be located within the next 3 years. The inventory list shall identify the site name, address or location and a general description of the facility (i.e., rooftop antennas and ground-mounted equipment). This provision is not intended to be a requirement that the applicant submit its business plan, proprietary information or make commitments regarding locations of WCFs within the Town. This information will be used to assist in the Town's comprehensive planning and promote co-siting by identifying areas in which WCFs might be appropriately constructed for multiple users. The Town may share such information with other applicants seeking to locate WCFs within the Town, provided, however, that the Town shall not, by sharing such information, be making a representation that such sites are available or suitable. The inventory of sites shall be updated upon the submission of a new application filed more than 6 months subsequent to the prior application; and

- (6) *Abandonment and removal affidavit.* Affidavits shall be required from the owner of the property and from the applicant acknowledging that each is responsible for the removal of a WCF that is abandoned or is unused for a period of six (6) months.
 - b. Applications must include all necessary information, materials, a business license and completed permit applications for the permits that are required for the construction and installation of the proposed WCF, including, but not limited to, building, electrical or right-of-way permits.
3. *Tolling and reset of the timeframe for review.* The review periods commence to run when a complete application is filed with the Town, and may be tolled by mutual agreement of the Town and the applicant. When the Town determines that an application is incomplete, the timeframe for review will be reset once a complete application is received in the manner set forth herein.
- a. *Tolling for small cell facility applications.* If an application is incomplete, the Town shall provide written notice to the applicant within 10 days of receipt of the application. The Town's timeframe for review shall be reset upon the Town's receipt of a complete amended application from the applicant. If the Town subsequently determines that the amended application is not complete, the Town shall provide a subsequent written notice to the applicant within 10 days of receipt of the amended application. The Town's timeframe for review shall toll until the applicant resubmits a subsequent amended application, and shall commence to run again on the business day following the day on which the applicant submits such subsequent amended application.
 - b. *Tolling for all other WCF applications.* If an application is incomplete, the Town shall provide written notice to the applicant within 30 days of receipt of the application. The Town's timeframe for review shall toll until the applicant submits an amended application, and shall commence to run again on the business day following the day on which the applicant submits such amended application. If the Town subsequently determines that the amended application is not complete, the Town shall provide a subsequent written notice to the applicant within 10 days of receipt of the amended application. The Town's timeframe for review shall toll until the applicant resubmits a subsequent amended application, and



shall commence to run again on the business day following the day on which the applicant submits such subsequent amended application.

- c. *Failure to act.* If an applicant fails to respond and resubmit the information requested by the Town within 14 days of the Town's written notice, the Town may make a determination of denial without prejudice. The applicant may thereafter submit a new application.
4. *Decision.* Any decision to approve, approve with conditions or deny an application shall be in writing and supported by evidence and shall be provided to the applicant. An applicant may appeal an administrative decision in accordance with the Code and may appeal a decision rendered by Town Council in accordance with state and federal law and regulations.
5. *Compliance with applicable law.* Notwithstanding the approval of a WCF application or eligible facilities request, all work must be completed in compliance with applicable building, structural, electrical and safety requirements as set forth in the Code and all other applicable laws and regulations. All applicants shall:
 - a. Comply with permits and licenses issued by a governmental authority with jurisdiction;
 - b. Comply with easements, covenants, conditions and restrictions on or applicable to the underlying real property;
 - c. Maintain the WCF in good working condition and to the standards established at the time of application approval; and
 - d. Ensure the WCF and the site is free from trash, debris, litter, graffiti and other forms of vandalism. Any damage shall be repaired as soon as practicable, and, in no instance, more than 10 days from the time of notification by the Town or after discovery by the owner or operator of the site. Notwithstanding the foregoing, any graffiti on WCFs located in the public rights-of-way or on public property may be removed by the Town, in its discretion, and the owner or operator of the WCF shall pay all costs of such removal within 30 days after receipt of an invoice from the Town.
6. *Fee.* The applicant shall pay a fee with the submission of the application. The fee shall be the maximum amount allowed by the FCC, if at all, or an amount set by Town Council by resolution. The fee shall constitute a reasonable approximation of the Town's costs and shall be imposed on a non-discriminatory basis. The Town may, in its discretion, retain professional consultants to review and assist in the processing of applications. If a professional consultant is retained by the Town, the applicant shall be required to pay the Town's actual costs for the consultant.

E. Design Standards

1. *Applicability.* WCFs shall be designed and located to minimize the impact on the surrounding neighborhood and to maintain the character and appearance of the Town. The design standards set forth herein shall apply to the location and design of all WCFs governed by this Section, unless otherwise exempted by the Town. While the Town anticipates and expects compliance with all the design standards set forth herein, the Town's primary objectives are to ensure that WCFs use camouflage and concealment design techniques to reduce visibility and be co-sited or collocated to minimize the number of facilities.
2. *General design standards for WCFs.*



- a. **Camouflage and concealment.** All WCFs and any transmission equipment shall, to the maximum extent possible, use camouflage and concealment design techniques including, but not limited to, the use of materials, colors, textures, screening, undergrounding, landscaping or other design options that blend the WCF into the surrounding natural setting and built environment.
 - (1) Camouflage design may be of heightened importance where findings of particular sensitivity are made (e.g. proximity to historic, natural or aesthetically significant structures or areas, views or to community features or facilities). In instances where WCFs are located in areas of high visibility, they shall be designed (e.g., placed underground, depressed or located behind earth berms) to minimize their profile.
 - (2) Camouflage design may include the use of alternative tower structures should the Director determine that such design meets the intent of this Section and the community is better served thereby.
 - (3) WCFs shall be constructed out of non-reflective materials (visible exterior surfaces only).

- b. **Co-siting and collocation.**
 - (1) **Co-siting.** WCFs shall be designed and constructed to permit the facility to accommodate WCFs from at least two wireless service providers on the same WCF, to the extent reasonably feasible based upon construction, engineering and design standards, except where such collocation would materially compromise the design intent of the WCF, particularly visually.
 - (2) **Collocation.** If existing eligible facilities are not available in the area to be served, WCFs shall be designed to utilize pre-existing structures, poles and buildings wherever possible.

- c. **Accessibility.** WCFs and associated equipment shall be designed and sited to comply with the Americans with Disabilities Act and all other local, state and federal laws and regulations. WCFs may not be located or maintained in a manner that causes unreasonable interference.

- d. **Height.** The maximum height of a WCF shall be 36 inches unless otherwise approved through a *Use by Special Review* procedure or the applicant provides compelling evidence that a majority of similar, nearby structures are taller and that a taller height is thus compatible. The Director shall determine whether a taller height is acceptable.

- e. **Setbacks.** The following minimum setback requirements shall apply to all WCFs, except for alternative tower structures and small cell facilities in the right-of-way, and shall be the greater of the following:
 - (1) When attached to a structure, the setback for a principal building within the applicable zoning district;
 - (2) 25% of the facility height, including WCFs and related accessory equipment;
 - (3) For sites within 100 feet of residential uses, facilities over 30 feet from ground elevation measured within 5 feet of the base, a setback from all adjacent residential property lines of 1 foot for every foot in height; or
 - (4) 20 feet.

- f. **Lighting.** WCFs shall not be artificially lighted, unless required by the FAA or other applicable governmental authority or the WCF is mounted on a light pole or other similar structure primarily used for lighting purposes. All exterior lighting



within equipment yards shall be mounted on poles or on a building wall below the height of the screen wall or fence.

- g. **Noise.** Noise generated on a site must not be emitted at levels prohibited in the Code or otherwise prohibited by the Director, except that a WCF owner or operator shall be permitted to exceed such noise standards for a reasonable period of time during repairs, not to exceed 2 hours without the prior written authorization of the Director.
- h. **Landscaping.**
 - (1) All landscaping and screening shall adhere to the Town of Johnstown Landscape Standards and Specifications, as amended;
 - (2) WCFs shall be sited in a manner that ensures continued compliance with required landscaping and open areas for the principal uses on the parcel;
 - (3) WCFs, including small cell facilities, unless excepted by the Director for safety considerations, shall provide screening from rights-of-way and adjacent properties, which may, in the Director's discretion, include berms and plant materials; and
 - (4) Where landscaping is required, appropriate irrigation must be installed.
- i. **Screening.**
 - (1) All structures and improvements associated with a WCF shall incorporate adequate safety equipment and aesthetic treatments to be visually compatible with uses in the surrounding area;
 - (2) All equipment not located within the right-of-way and not otherwise addressed herein shall be fully screened within a walled yard or placed in an enclosed building except in cases where the Director determines that a better design alternative exists. The yard shall be enclosed by a solid fence or wall of sufficient height to screen all miscellaneous equipment from view from the right-of-way or adjacent properties and to provide security; and
 - (3) Cables, wires, boxes, transformers and other accessory equipment must be designed to be located internally or otherwise highly-integrated into any structure to the degree feasible to minimize visual clutter and screen.

3. **Additional design standards.**

- a. Building roof-mounted WCFs and equipment shall be set back from the edges of flat roofs, screened, painted, enclosed or otherwise effectively camouflaged and concealed to minimize the visual impact on surrounding properties and rights-of-way. No roof-mounting may occur on gabled or similar roofing structures that provide significant visibility from nearby rights-of-way and properties.
- b. Antennas may only be mounted to the side of a building if camouflage and concealment techniques are utilized to ensure maximum integration and minimal interference with the architectural features of that building. The equipment shall be mounted in a configuration as flush to the wall as technically possible, with a maximum protrusion of six (6) feet, and shall not project above the wall on which it is mounted.
- c. Equipment shall, to the maximum extent feasible, feature the smallest and most discreet components that the technology will allow so as to have the least possible impact on the architectural character and overall aesthetics of the building or structure.



- d. Roof-mounted WCF equipment shall be screened by parapet or screen walls in a manner compatible with the building's design, colors and materials.
 - e. If a replacement pole is being considered, the new pole must match, to the extent feasible, other street light and traffic poles within 528 feet of the site with regard to design, height, width and utility. A replacement pole accommodating internal wiring and cable may be up to 24 inches in diameter at the base.
4. *Design standards in relation to residential uses.*
- a. WCFs shall be sited and designed in a manner that is considerate of the proximity of the facility relative to residential structures, neighborhoods and planned residential areas in order to minimize the visual impacts of WCFs on existing and planned residential areas.
 - b. When placed on or adjacent to residential properties, a WCF shall be placed in close proximity to a common property line between adjoining residential properties, such that the WCF minimizes visual impacts equitably among adjacent and nearby properties.
 - c. For a corner lot, the WCF shall be placed adjacent to a common property line between adjoining residential properties or on the corner formed by two intersecting streets.
5. *Design requirements for specific types of WCFs.*
- a. Alternative tower structures not in the public right-of-way shall:
 - (1) Be designed and constructed to look like a building, facility, structure or other commonplace item typically found in the area;
 - (2) Be camouflaged or concealed consistent with other existing natural or manmade features in or near the proposed location;
 - (3) Be compatible with the surrounding area, including design considerations such as the context, scale, massing, height, articulation, topography and the landscaped environment;
 - (4) Be the minimum size needed to obtain coverage objectives. Height or size of the proposed alternative tower structure should be minimized as much as possible;
 - (5) Be sited in a manner that is sensitive to the proximity of the facility to structures, neighborhoods, special districts, natural areas and residential uses and zoning district boundaries; and
 - (6) Take into consideration the uses on adjacent and nearby properties and the compatibility of the facility to these uses.
 - b. Alternative tower structures and small cell facilities in the public right-of-way are subject to the alternative tower structures design standards in this Section and to the following additional design criteria:
 - (1) Alternative tower structures and associated small cell facilities or micro cell facilities may be deployed in the public right-of-way through the utilization of a street light pole, distribution lines, utility poles, traffic signal or similar structure;
 - (2) To the extent that an alternative tower structure is a vertical structure located in the public right-of-way, its pole-mounted components shall be



- located on or within an existing utility or street light pole serving another purpose whenever technically feasible;
- (3) If the applicant provides evidence that an existing structure is not available in the area where additional coverage is needed, a new pole or structure may be considered;
- (4) With respect to pole components, such components shall be located on or within a new utility pole where other utility distribution lines are aerial and there are no reasonable alternatives, if the applicant is authorized to construct the new utility poles;
- (5) Alternative tower structures shall be consistent with the size and shape of similar pole-mounted equipment installed by communications companies on utility poles in the right-of-way within reasonable proximity the proposed alternative tower structure;
- (6) Alternative tower structures shall be designed such that antenna installations on traffic signal standards are placed in a manner so that the size and appearance of the structure will not be considerably altered and the function of the signal will not be impacted;
- (7) Alternative tower structures shall be sized to minimize the negative aesthetic impacts to the right-of-way and adjacent properties;
- (8) Alternative tower structures shall not alter vehicular circulation or parking within the right-of-way or impede vehicular, bicycle or pedestrian access or visibility along the right-of-way;
- (9) Alternative tower structures may not be more than 5 feet taller (as measured from the ground to the top of the pole) than any existing utility or traffic signal pole within a radius of 528 feet of the pole or structure. A new or freestanding alternative tower structure may not be higher than 36 feet; and
- (10) Alternative tower structures in the right-of-way shall not exceed 24 inches in diameter.

c. Towers that are not alternative tower structures or small cell facilities are subject to the following:

- (1) No new towers, excepting small cell facilities in the right-of-way, shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Director that existing WCFs are not able to accommodate the needs that the applicant proposes to address with its tower application and sufficient separation of towers is achieved. Evidence may consist of the following:
 - (a) No existing WCFs with a suitable height are located within the geographic area required to meet the applicant's engineering requirements;
 - (b) Existing WCFs do not have sufficient structural strength to support applicant's proposed WCF;
 - (c) The applicant's proposed WCF would cause electromagnetic interference with the existing WCFs or the existing WCFs would cause interference with the applicant's proposed WCF; or
 - (d) The applicant demonstrates that there are other limiting factors that render existing WCFs unsuitable for collocation;
- (2) Towers shall either maintain a galvanized steel finish, or, subject to any applicable FAA standards and Town design approval processes, be painted a neutral color so as to reduce visual obtrusiveness;
- (3) Wherever possible, towers shall be located to utilize existing landforms, vegetation and structures to aid in screening the facility from view or to otherwise blend in with the surrounding built and natural environment;



- (4) Monopole support structures shall taper from the base to the tip;
 - (5) All towers shall be enclosed by security fencing or wall and shall also be equipped with an appropriate anti-climbing device;
 - (6) Where the proposed height exceeds that of the zoning district, towers over 90 feet in height shall not be located within one-quarter mile from any existing tower that is over 90 feet in height, unless the applicant has shown to the satisfaction of the Director that there are no reasonably suitable alternative sites in the required geographic area that meet the applicant's needs; and
 - (7) Tower-related accessory equipment shall meet the following standards:
 - (a) All buildings, shelter, cabinets and other accessory components shall be grouped as closely together as technically possible;
 - (b) The total footprint coverage area of the WCF's accessory equipment shall not exceed 350 square feet;
 - (c) No related accessory equipment or accessory structure shall exceed 12 feet in height; and
 - (d) Related accessory equipment, including, but not limited to, remote radio units, shall be fully screened whenever feasible by being located behind parapet walls or within equipment enclosures.
6. *Design standards for ground mounted equipment.* Ground-mounted equipment shall be located in a manner necessary to address both public safety and aesthetic concerns. Wherever feasible, ground-mounted equipment that is otherwise visible from the right-of-way or adjacent properties shall be undergrounded to minimize the visual impact to the area and minimize impacts related to physical access on the site. Where appropriate and to the extent it is reasonably feasible based upon construction, engineering and design standards, the Director may require a flush-to-grade underground equipment vault.
7. *Deviation and interpretation.*
- a. *Deviation.* The Town anticipates and expects compliance with all the design standards set forth in this Section. If an applicant does not utilize the design standards, the applicant shall, in its application, identify the standards that are not utilized and the reason for the deviation.
 - b. *Interpretation.* Where interpretation of the design standards is necessitated by the circumstances, the Director shall make such determination. The applicant may appeal the Director's determination to the Board of Adjustment.

F. **Definitions.** The following terms shall have the specific meaning given when used in this section. All other terms shall have their plain and ordinary meaning unless specifically defined for use throughout this Chapter in Article 11.

Agreement. An executed agreement, and any exhibits, supplements or amendments thereto, between the owner or operator of WCFs and the Town to utilize the public right-of-way or public property to install WCFs and associated equipment.

Alternative tower structure. Man-made trees, clock towers, bell steeples, light poles, buildings and similar alternative design mounting structures that are compatible with the natural setting and surrounding structures and camouflage or conceal the presence of the antennas or towers in a manner designed to make them architecturally compatible with the surrounding area. This term also includes any antenna or antenna array attached to an alternative tower structure. A stand-alone pole in the right-of-way, streetlight



or traffic signal that accommodates small cell facilities is considered an alternative tower structure to the extent it meets the camouflage and concealment standards of this Section.

Antenna. Any device used to transmit or receive radio or electromagnetic waves such as, but not limited to, panel antennas, reflecting discs, microwave dishes, whip antennas, directional and non-directional antennas consisting of one or more elements, multiple antenna configurations or other similar devices and configurations as well as exterior apparatus designed for telephone, radio or television communications through the sending or receiving of wireless communications signals.

Base station. A structure or equipment at a fixed location that enables Federal Communications Commission ("FCC") licensed or authorized wireless communications between user equipment and a communications network. The definition of base station does not include or encompass a tower as defined herein or any equipment associated with a tower. Base station includes, without limitation:

- (a) Equipment associated with wireless communications services such as private, broadcast and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul that, at the time the relevant application is filed with the Town under this Section, has been reviewed and approved under the applicable zoning or siting process or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support; and
- (b) Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small-cell networks) that, at the time the relevant application is filed with the Town under this Section, has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

The definition of base station does not include any structure that, at the time the relevant application is filed with the Town, does not support or house equipment described in paragraphs (a) and (b) above.

Camouflage, concealment or camouflage design techniques. Measures used in designing a WCF to alter or mask its appearance in such a manner as to substantially integrate it into surrounding building designs or natural settings to minimize the visual impacts of the facility on the surrounding uses and ensure the facility is compatible with the environment in which it is located. A WCF site utilizes camouflage design techniques when it:

- (a) is integrated as an architectural feature of an existing structure such as a cupola, spire, chimney, cornice or similar item;
- (b) is integrated in an outdoor fixture such as a utility tower; or
- (c) uses a design which mimics and is consistent with nearby natural features, architectural features (such as a clock tower), or is incorporated into (including without limitation, being attached to the exterior of such facilities and painted to match it) or replaces existing permitted facilities (including without limitation, stop signs or other traffic signs or freestanding light standards), such that the presence of the WCF is not readily apparent.

Cell on wheels. A mobile cell site that consists of an antenna tower and electronic radio transceiver equipment on a truck or trailer designed to boost reception as part of a larger cellular network and is temporary in nature.

Collocation.

- (a) the mounting or installation of transmission equipment on a pre-existing structure (i.e., tower, building, utility pole, street light pole); or
- (b) the modification of a structure for the purpose of mounting or installing an antenna facility on the structure to transmit or receive radio frequency signals for communications purposes, whether or not there is an existing antenna on the structure.



Co-siting. The sharing of a single structure, tower, designated area of land or other facility by more than one antennae or other WCF equipment.

Eligible facilities request. Any request for modification of an existing tower or base station that is not a substantial change.

Eligible support structure. Any tower or base station as defined in this Section, provided that it is existing at the time the relevant application is filed with the Town under this Section.

Existing tower or base station. A constructed tower or base station that was reviewed, approved and lawfully constructed in accordance with all requirements of applicable law as of the time it was built; for example, a tower that exists as a legal, non-conforming use and was lawfully constructed is existing for purposes of this definition.

Micro cell facility. A small wireless facility that is no larger than 24 inches in length, 15 inches in width, 12 inches in height, and that has an exterior antenna, if any, that is no more than 11 inches in length.

Monopole. A single, freestanding pole-type structure supporting one or more antennas.

Over the air receiving device shall mean an antenna used to receive video programming from direct broadcast satellites, broadband radio services and television broadcast stations, but shall not include antennas used for AM/FM radio, amateur ("ham") radio, CB radio, digital audio radio services or antennas used as part of a hub to relay signals among multiple locations.

Pole-mounted small cell facility. A small cell facility with an antenna that is mounted and supported on an alternative tower structure, which structure may be a replacement pole.

Public property shall mean real property owned or controlled by the Town, excluding the public right-of-way.

Radio frequency emissions letter. A letter from the applicant certifying that all WCFs that are the subject of the application shall comply with federal standards for radio frequency emissions.

Replacement pole. An alternative tower structure that is a newly constructed and permitted traffic signal, utility pole, street light, flagpole, electric distribution or other similar structure of proportions and of equal height or such other height that would not constitute a substantial change to a pre-existing pole or structure in order to support a WCF or small cell facility or micro cell facility or to accommodate collocation, and replaces a pre-existing pole or structure.

Shot Clock. The provisions of the Declaratory Ruling and Third Report and Order issued by the FCC on September 28, 2018, related to the timeframe for review and tolling, as may be amended by the FCC from time to time.

Signal non-interference letter. A letter from the applicant certifying that the WCFs that are the subject of the application will be designed, sited and operated in accordance with applicable federal regulations addressing radio frequency interference.

Site for towers (other than towers in the right-of-way and eligible support structures). The current boundaries of the leased or owned property surrounding the tower or eligible support structure and any access or utility easements currently related to the site. A site for other alternative tower structures, base stations, micro cell facilities and small cell facilities in the right-of-way is further restricted to that area comprising the base of the structure and other existing or proposed related accessory equipment deployed on the ground.

Small cell facility or small wireless facility. A WCF where each antenna is located inside an enclosure of no more than 3 cubic feet in volume or, in the case of an antenna that has exposed elements, the



antenna and all of its exposed elements could fit within an imaginary enclosure of no more than 3 cubic feet; and primary equipment enclosures are not larger than 28 cubic feet in volume; and all other wireless equipment associated with the structure, including the wireless equipment associated with the proposed antenna and any pre-existing associated equipment on the structure, is not more than 28 cubic feet in volume, cumulatively.

Small cell facilities are mounted to structures 50 feet or less in height, including their antennas, or are mounted on structures no more than 10% taller than other adjacent structures, or do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10%, whichever is greater. Small cell facility shall also include a micro cell or micro cell facility.

Substantial change. A modification that substantially changes the physical dimensions of an eligible support structure if, after the modification, the structure meets any of the following criteria:

- (a) For towers, other than alternative tower structures or towers in the right-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array, with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than 10 feet, whichever is greater;
- (b) For towers, other than towers in the right-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the side of the structure by more than 6 feet;
- (c) For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed 4 cabinets;
- (d) For towers in the right-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other existing, individual ground cabinet associated with the structure;
- (e) For any eligible support structure, it entails any excavation or deployment outside the current site;
- (f) For any eligible support structure, it would defeat the concealment elements of the eligible support structure; for the purposes of this definition, a change that would undermine the concealment elements of this structure will be considered to defeat the concealment elements of the structure; or
- (g) For any eligible support structure, it does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure equipment, unless the non-compliance is due to an increase in height, increase in width, addition of cabinets or new excavation that would not exceed the thresholds identified in subsections (a), (b), (c) or (d) of this definition. For purposes of determining whether a substantial change exists, changes in height are measured from the original support structure in cases where deployments are or will be separated horizontally, such as on building rooftops; in other circumstances, changes in height are measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to February 22, 2012.

Telecommunications Act. The Federal Telecommunications Act of 1996, 47 U.S.C. §§ 151-614 (1994 & Supp. 1998), as amended.

Toll and tolling. To delay, suspend or hold off on the imposition of a deadline, statute of limitations or time limit.

Tower. Any structure that is designed and constructed primarily built for the sole or primary purpose of supporting one or more FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast and public safety services, as well as unlicensed wireless services and fixed wireless services



such as microwave backhaul, and the associated site. The term includes self-supporting lattice towers, guyed towers, monopole towers, radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures and the like.

Transmission equipment. Equipment that facilitates transmission for any FCC licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

Unreasonable interference. Any use of the right-of-way that disrupts or interferes with the use by the Town, the general public or other person authorized to use or be present upon the right-of-way, when there exists an alternative that would result in less disruption or interference. Unreasonable interference includes any use of the right-of-way that disrupts vehicular or pedestrian traffic, any interference with public utilities and any other activity that will present a hazard to public health, safety or welfare.

Wireless communications facility or WCF. A facility used to provide personal wireless services as defined at 47 U.S.C. § 332 (c)(7)(C), as amended; or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services. A WCF does not include a facility entirely enclosed within a permitted building where the installation does not require a modification of the exterior of the building; nor does it include a device attached to a building, used for serving that building only and that is otherwise permitted under other provisions of the Code. A WCF includes an antenna or antennas, including without limitation, directional, omni-directional and parabolic antennas, base stations, support equipment, alternative tower structures and towers. The term does not include mobile transmitting devices used by wireless service subscribers, such as vehicle or hand held radios/telephones and their associated transmitting antennas, nor does it include other facilities specifically excluded from the coverage of this Title.

17-10-2 Floodplain Management & Flood Damage Prevention

A. Title & Purpose

1. *Statutory authorization.* The Legislature of the State has, in Article 20 of Title 29, C.R.S., delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. The Town, as a home rule municipality, has the inherent authority to adopt land use regulations affecting the public health, safety, and welfare of the Town.
2. *Findings of fact.*
 - a. The flood hazard areas of the Town are subject to periodic inundation, which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the health, safety and general welfare of the public.
 - b. These flood losses are created by the cumulative effect of obstructions in areas of special flood hazard, which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods, which are/may be hazardous to other lands because they are inadequately elevated, floodproofed, or otherwise protected from flood damage and therefore may further contribute to the flood loss.



3. *Statement of purpose.* It is the purpose of this Article to promote public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:
 - a. Protect human life and health;
 - b. Minimize expenditure of public money for costly flood control projects;
 - c. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 - d. Minimize prolonged business interruptions;
 - e. Minimize damage to critical facilities, infrastructure and other public facilities, such as water, sewer and gas mains; electric and communications stations; and streets and bridges located in floodplains;
 - f. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
 - g. Ensure that potential buyers are notified that property is located in a flood hazard area.
 - h. Ensure that those who occupy the floodplain assume the responsibility for their actions;
 - i. Protect the natural areas required to convey flood flows and retain flow characteristics; and
 - j. Obtain and maintain the benefits to the community of participating in the National Flood Insurance Program.

4. *Methods of reducing flood losses.* In order to accomplish its purposes, this Article uses the following methods:
 - a. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
 - b. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
 - c. Control the alteration of natural floodplains, stream channels and natural protective barriers, which are involved in the accommodation of flood waters;
 - d. Control filling, grading, dredging and other development which may increase flood damage; and
 - e. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

B. General Provisions

1. *Lands to which this Article applies.* This Article shall apply to all areas within the jurisdiction of the Town. If a lot or parcel lies partly within a floodplain, floodway, flood fringe, or other designated area, or has been removed from a flood fringe by a LOMR-Fill, the part(s) of such lot or parcel lying within such area or areas shall meet all the standards and requirements applicable to such area as prescribed by this Article. If lands located outside the Town limits are included within a flood hazard area, the requirements of this Article shall apply to such lands upon annexation and thereafter, and any development activities upon such lands after the date of annexation shall comply with this Article.

2. *Basis for establishing the Special Flood Hazard Area.* The Special Flood Hazard Areas identified by the Federal Emergency Management Agency in the most recent scientific and engineering reports entitled, "The Flood Insurance Study for Larimer County, Colorado and Incorporated Areas," dated January 15, 2021, and "The Flood Insurance Study for Weld County, Colorado and Incorporated Areas," dated January 20, 2016, both with accompanying Flood Insurance Rate Maps and any revisions thereto are hereby



adopted by reference and declared to be a part of this Article. These Special Flood Hazard Areas identified by the FIS and attendant mapping are the minimum area of applicability of this Article and may be supplemented by studies designated and approved by the Town Council. The Floodplain Administrator shall keep a copy of the Flood Insurance Study (FIS), DFIRMs, FIRMs and/or FBFMs on file and available for public inspection at Town Hall

3. *Establishment of Floodplain Development Permit.* A Floodplain Development Permit shall be required to ensure conformance with the provisions of this Article.
4. *Compliance.* No structure or land shall hereafter be located, altered or have its use changed within the Special Flood Hazard Area without full compliance with the terms of this Article and other applicable regulations. Nothing herein shall prevent the Town Council from taking such lawful action as is necessary to prevent or remedy any violation. These regulations meet the minimum requirements as set forth by the Colorado Water Conservation Board and the National Flood Insurance Program.
5. *Abrogation and greater restrictions.* This Article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Article and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
6. *Interpretation.* In the interpretation and application of this Article, all provisions shall be:
 - a. Considered as minimum requirements;
 - b. Liberally construed in favor of the governing body; and
 - c. Deemed neither to limit nor repeal any other powers granted under state statutes.
7. *Warning and disclaimer of liability.* The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This Article does not imply that land outside the Special Flood Hazard Area or uses permitted within such areas will be free from flooding or flood damages. This Article shall not create liability on the part of the Town or any official or employee thereof for any flood damages that result from reliance on this Article or any administrative decision lawfully made thereunder.
8. *Severability.* This Article and the various parts thereof are hereby declared to be severable. Should any section of this Article be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Article as a whole or any portion thereof other than the section so declared to be unconstitutional or invalid.

C. Administration

1. *Designation of Floodplain Administrator.* The Director is hereby appointed as Floodplain Administrator to administer, implement, and enforce the provisions of this Article and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.
2. *Duties and responsibilities of Floodplain Administrator.* Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:
 - a. Maintain and hold open for public inspection all records pertaining to the provisions of this Article including the actual elevation (in relation to mean sea



- b. Review, approve or deny all applications for Floodplain Development Permits required by adoption of this Article.
 - c. Review Floodplain Development Permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
 - d. Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334) from which prior approval is required.
 - e. Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this Article, including proper elevation of the structure.
 - f. Where interpretation is needed as to the exact location of the boundaries of the Special Flood Hazard Area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the Floodplain Administrator shall make the necessary interpretation.
 - g. When Base Flood Elevation data has not been provided in accordance with Subsection 17-263(b) of this Article, the Floodplain Administrator shall obtain, review and reasonably utilize any Base Flood Elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of Section 17-265 of this Article.
 - h. For waterways with Base Flood Elevations for which a regulatory floodway has not been designated, no new construction, substantial improvements or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half (½) foot at any point within the community.
 - i. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zone A1-30, AE or AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one-half (½) foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision), fulfills the requirements for such revisions as established under the provisions of Section 65.12 and receives FEMA approval.
 - j. Notify, in riverine situations, adjacent communities and the state coordinating agency, which is the Colorado Water Conservation Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.
 - k. Ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.
3. *Permit procedures.* Prior to any development or construction within any areas of Special Flood Hazard, an application for a Floodplain Development Permit shall be presented to and approved by the Floodplain Administrator. The Town shall provide application forms and submittal checklists, which may include, but not be limited to, plans drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to Special Flood Hazard Area. Additionally, the following information is required:



- a. Elevation (in relation to mean sea level), of the lowest floor, including without limitation the crawl space or basement, heating, cooling or other mechanical components, and garage of all new and substantially improved structures;
 - b. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
 - c. A certificate from a registered Colorado professional engineer or architect that the floodproofing methods meet the floodproofing criteria of Paragraph 17-265(b)(2);
 - d. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development; and
 - e. A written report showing to the satisfaction of the Floodplain Administrator that the floodplain development permit may be issued in compliance with all criteria for approval;
 - f. Specifications for building construction and materials, filling, dredging, grading, channel improvements and changes, storage of materials, water supply and sanitary facilities;
 - g. Detailed information documenting compliance with any specific requirements applicable to the proposed development or activity pursuant to this Article; and
 - h. An emergency response and preparedness plan, if required pursuant to this Article; provided, however, that this requirement may be considered a floodplain development permit condition to be met prior to issuance of a certificate of occupancy, pursuant to Subsection (g) below.
 - i. An application for a floodplain development permit may be subject to a permit application fee plus the applicable review fees for any and all associated analyses.
4. The Floodplain Administrator may require the applicant to furnish such additional information as he or she deems necessary to evaluate the effects of the proposed construction upon any flood hazard areas, which information may include, but shall not be limited to, the following:
- a. Valley cross-sections showing the floodplain surrounding the watercourse, cross-sections of the area to be occupied by the proposed development, and 1% flood maximum water-surface elevation information;
 - b. A profile showing the slope of the bottom of the channel or thalweg of the watercourse;
 - c. A floodplain analysis of the flood profile, base flood elevation and velocity, and floodplain, flood fringe, floodway and erosion buffer zone boundaries, along with boundaries of any other delineated areas, using floodplain modeling guidelines established or approved by the Town Planner, which analysis shall include existing and anticipated uses and shall show the impact the proposed construction or development will have on the elevation of the water-surface of the 1% flood;
 - d. A structural analysis showing that any proposed structures will be adequately designed and constructed to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and scouring; and
 - e. A stability analysis for any proposed development within an erosion buffer zone or for any floodway encroachment or modification.
5. Plans, drawings, specifications or reports for structures, other improvements, features or encroachments, or other impacts of proposed activities shall be prepared and certified by a Colorado registered professional engineer as necessary to provide for an adequate technical basis for floodplain development permit, variance or other decisions under this Article.



6. When reviewing and making a final determination of approval or denial of the application for a floodplain development permit, the Floodplain Administrator shall determine which portions of any flood hazard areas are affected by the particular development request and then shall apply the provisions of this Article as applicable. The Floodplain Administrator also shall determine whether the proposed construction or development is consistent with the need to minimize flood damage and meets the intent of this Article after considering the following factors:
- a. The effects upon the efficiency or capacity of the floodway;
 - b. The effects upon lands upstream, downstream and in the immediate vicinity;
 - c. The effects upon the 1% flood profile and channel stability;
 - d. The effects upon any tributaries to the main stream, drainage ditches, and any other drainage facilities or systems;
 - e. Whether additional public expenditures for flood protection or prevention will be required;
 - f. Whether the proposed use is for human occupancy, and, if so, the impacts to human safety and the extent to which emergency response and preparedness and other measures are required and have been assured in order to reduce safety risk;
 - g. The potential danger to persons upstream, downstream, and in the immediate vicinity;
 - h. Whether any proposed changes in watercourse will have an adverse environmental effect on the watercourse, including without limitation, erosion of stream banks, and streamside trees, vegetation, and wildlife habitat;
 - i. Whether any proposed water supply and sanitation systems and other public utility systems are located and constructed to minimize flood damage and to prevent disease, contamination and unsanitary or hazardous conditions during a flood;
 - j. Whether any proposed facility and its contents will be susceptible to flood damage and the effect of such damage;
 - k. The relationship of the proposed development to elements of the Johnstown Comprehensive Plan and any applicable floodplain management programs;
 - l. Whether safe access is available to the property in times of flood for ordinary and emergency vehicles;
 - m. Whether the cumulative effect of the proposed development with other existing and anticipated uses will increase flood elevations; and
 - n. Whether the expected flood elevations, velocities, duration, rate of rise, channel stability and sediment transport of the floodwaters expected at the site will adversely affect the development or surrounding property, and whether adequate drainage is provided to reduce exposure to flood damage.
7. All floodplain mapping shall meet the requirements set forth in the version of the FEMA publication "Guidelines and Specifications for Flood Hazard Mapping Partners" in effect at the time of the completion of the mapping.
8. If the Floodplain Administrator determines that the application meets the purposes and requirements of this Article, he or she shall issue the permit and may attach such conditions as he or she deems necessary to further the purposes of this Article or to ensure compliance with the same. The Floodplain Administrator may require a deposit of escrowed funds or other means of securing the performance of permit conditions, and may request that the Town building official condition the release of a certificate of occupancy or other final approval upon submission of final documentation of compliance with conditions, as appropriate.



9. A floodplain development permit shall expire three years after its date of issuance if the permittee has not started construction (see definition of *start of construction*) under the permit. If a floodplain use permit is issued in connection with the issuance of a building permit, and the building permit expires, then the floodplain development permit shall be reevaluated based on any new criteria or data established or available since the issuance of the permit, and a new floodplain development permit may be required in connection with a new building permit, if the permit would not comply with this Section in light of such new criteria or data.
10. No person who has obtained a floodplain development permit shall fail to construct in accordance with the approved application and design or terms of said permit.
11. Variance procedures.
 - a. The Town Council shall hear and render judgment on requests for variances from the requirements of this Article.
 - b. The Town Council 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 this Article.
 - c. Any person or persons aggrieved by the decision of the Town Council may appeal such decision in the courts of competent jurisdiction.
 - d. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
 - e. Variances may be issued for the reconstruction, rehabilitation, or restoration of Historic Structures, without regard to the procedures set forth in the remainder of this Article, provided such reconstruction, rehabilitation or restoration will not cause the structure to lose the Historic Structure designation.
 - f. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (½) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the relevant factors in Subsection (c) above have been fully considered. As the lot size increases beyond the one-half (½) acre, the technical justification required for issuing the variance increases.
 - g. Upon consideration of the factors noted above and the intent of this Article, the Town Council may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Section).
 - h. Variances shall not be issued within any designated floodway if any increase (e.g. greater than 0.00' rise) in flood levels during the base flood discharge would result.
 - i. Variances may be issued for the repair or rehabilitation of historic structures 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.
 - j. Prerequisites for granting variances:
 - (1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (2) Variances shall only be issued upon:
 - (a) Showing a good and sufficient cause;
 - (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety,



- extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (3) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the Base Flood Elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- k. Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:
- (1) The criteria outlined in Paragraphs (11)(a. – i.) of this Section are met; and
 - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- Non-conforming structures use may be continued, notwithstanding the provisions of this Article, subject to the following conditions:
- (a) If a non-conforming structure is abandoned for 12 consecutive months, the structure shall conform to the requirements of this Article prior to any future use. Intent to resume active operations shall not affect the foregoing.
 - (b) If any non-conforming structure is substantially damaged (>50% of value) by any means, including floods, such structure shall not be reconstructed, except in conformity with the provisions of this Article.
 - (c) Any substantial improvement to a non-conforming structure in a FEMA basin floodplain shall be made only in conformity with the provisions of this Article.
 - (d) No person shall change the use of a non-conforming structure in any floodway from a nonresidential structure to a residential structure or a mixed-use structure, or to increase the residential use area of a mixed-use structure.
 - (e) No person shall change the use of a non-conforming structure in any flood fringe from a nonresidential structure to either a residential structure or a mixed-use structure with residential use below the regulatory flood protection elevation, or to increase the residential use area of a mixed-use structure below the regulatory flood protection elevation.
 - (f) No person shall change the use of a non-conforming structure or existing structure that is not a critical facility to use as a critical facility contrary to the provisions of this Section, or change the use of a critical facility to another type of critical facility, or increase the physical area in use for a non-conforming critical facility, contrary to the provisions of this Section.
 - (g) A non-conforming structure may not be relocated, except that a non-conforming critical facility may be relocated within the same parcel of land without losing its legal non-conforming status.

12. **Penalties for noncompliance.** No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. A person who



violates the requirements of this Article shall be punished by a fine not exceeding the amount set forth in Article IV of Chapter 1 of the Code. Each day that any such violation continues shall constitute a separate violation and shall subject the perpetrator to a separate penalty. Nothing herein contained shall prevent the Town from taking such other lawful action as is necessary to prevent or remedy any violation.

D. Provisions for Flood Hazard Reduction

1. **General standards.** In all Special Flood Hazard Areas, the following provisions are required for all new construction and substantial improvements:
 - a. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - b. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
 - c. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
 - d. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
 - e. All manufactured homes shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
 - f. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
 - g. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and
 - h. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

2. **Specific standards.** In all Special Flood Hazard Areas where base flood elevation data has been provided as set forth in (i) Subsection B.2; Subsection C.2.g; or (iii) Subsection D.7, the following provisions are required:
 - a. **Residential construction.** New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork), elevated to 1 foot above the base flood elevation. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado professional engineer, architect or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

 - b. **Nonresidential construction.** With the exception of Critical Facilities, outlined in Subsection (h) of this Section, new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement), electrical, heating, ventilation, plumbing and air



conditioning equipment and other service facilities (including ductwork) elevated to 1 foot above the base flood elevation or, together with attendant utility and sanitary facilities, be designed so that, at 1 foot above the base flood elevation, 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 and effects of buoyancy. A registered Colorado professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this Subsection. Such certification shall be maintained by the Floodplain Administrator, as proposed in Subsection D.3 above.

- c. *Enclosures.* New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered Colorado professional engineer or architect or meet or exceed the following minimum criteria:
- (1) A minimum of 2 openings having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (2) The bottom of all openings shall be no higher than 1 foot above grade.
 - (3) Openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- d. *Manufactured homes.* All manufactured homes that are placed or substantially improved within Zones A1-30, AH and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home, electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) are elevated to 1 foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. All manufactured homes placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of the above Paragraph shall be elevated so that either:
- (1) The lowest floor of the manufactured home, electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork), are 1 foot above the base flood elevation; or
 - (2) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and all securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.



- e. **Recreational vehicles.** All recreational vehicles placed on sites within Zones A1-30, AH and AE on the community's FIRM shall either:
- (1) Be on the site for fewer than 180 consecutive days;
 - (2) Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.; or
 - (3) Meet the permit requirements of Subsection D.3 and the elevation and anchoring requirements for manufactured homes in Subsection D.2.d above.
- f. **Prior approved activities.** Any activity for which a Floodplain Development Permit was issued by the Town or a CLOMR was issued by FEMA prior to January 1, 2021 may be completed according to the standards in place at the time of the permit or CLOMR issuance and will not be considered in violation of this Article if it meets such standards.
3. **Standards for areas of shallow flooding (AO/AH zones).** Located within the Special Flood Hazard Area established in Subsection C.2 are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:
- a. **Residential construction.** All new construction and substantial improvements of residential structures must have the lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) elevated above the highest adjacent grade at least 1 foot above the depth number specified in feet on the community's FIRM (at least 3 feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado professional engineer, architect or land surveyor. Such certification shall be submitted to the Floodplain Administrator.
 - b. **Nonresidential construction.** With the exception of Critical Facilities, outlined in Subsection D.12, all new construction and substantial improvements of nonresidential structures, must have the lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) elevated above the highest adjacent grade at least 1 foot above the depth number specified in feet on the community's FIRM (at least 3 feet if no depth number is specified) or, together with attendant utility and sanitary facilities, be designed so that the structure is watertight to at least 1 foot above the base flood level with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads or effects of buoyancy. A registered Colorado professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Subsection D.3, are satisfied. Within Zone AH or AO, adequate drainage paths around structures on slopes are required to guide floodwaters around and away from proposed structures.
4. **Standards for determination of the lowest floor elevation.** The lowest floor elevation of the structure shall be determined based on the type of foundation. If more than one



- foundation type is used, the lowest floor elevation shall be determined separately for each portion of the structure with a different foundation type.
- a. *Slab-on-grade.* The lowest floor elevation of a slab-on-grade structure shall be measured at the top of the slab.
 - b. *Basement.* The lowest floor elevation of a structure with a basement shall be measured at the top of the basement slab.
 - c. *Crawl space.* The lowest floor elevation of a structure with a crawl space shall be measured at the top of the floor of the lowest finished area.
 - d. *Enclosure.* The lowest floor elevation of a structure with an enclosure shall be measured at the lowest interior grade of the enclosure.
5. *Elevation certificate required.* A FEMA elevation certificate, signed and certified by a Colorado registered professional land surveyor, accurately documenting the as-built elevation of the improvements, must be submitted to the Floodplain Administrator and accepted before release of a certificate of occupancy for the structure.
6. *Standards for floodproofing.* Any structure or portion of a structure eligible to substitute floodproofing in lieu of compliance with the applicable elevation requirements of Section 17-265 shall meet the following requirements, which shall be referred to as *floodproofing requirements*:
- a. In order for a structure to be eligible to comply with this Article through these floodproofing requirements:
 - (1) The structure must be a nonresidential structure, a nonresidential use portion of a mixed-use structure, an accessory structure or an attached garage; and
 - (2) The flood depth surrounding the structure must not exceed three (3) feet.
 - b. The structure must be designed and constructed to be floodproofed so that:
 - (1) Below the regulatory flood protection elevation, the structure is watertight with walls substantially impermeable to the passage of water;
 - (2) All structural components are capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy from flooding;
 - (3) The structure complies with the FEMA flood-resistant materials and floodproofing requirements in effect as of the date of the floodplain development permit; and
 - c. The following must be submitted to the Floodplain Administrator and accepted as completed prior to issuance of a floodplain use permit and a building permit:
 - (1) A pre-construction floodproofing certificate, signed and certified by a registered professional engineer or architect, accurately documenting the proposed floodproofing elevation;
 - (2) Detailed plans for floodproofing measures that include:
 - (a) The benchmark used;
 - (b) Design details and locations of the specific floodproofing measures;
 - (c) The direction and distance that all doors swing, in order to show that floodproofing closure shields, if any, cannot block doors from opening when shields are in place; and
 - (d) The signature and certification of a registered professional engineer or architect;



- (3) Manufacturer's specification sheets if using manufactured measures, such as, for example, sealants;
 - (4) Manufacturer's catalog cuts if ordering measures, such as, for example, gates or shields, from a catalog;
 - (5) A statement of the wording of the directions for securing and releasing any gate or closure shield, which directions are required to appear on the back of any gate or closure shield;
 - (6) An emergency action plan that includes:
 - (a) A description of where the floodproofing measures will be stored;
 - (b) A description of who will be responsible for ensuring that the measures are in place, and who will monitor any closure shields, if the structure is an occupied structure; and
 - (c) An annual schedule of when the floodproofing measures will be in use;
 - (7) A statement of the wording of notices to be posted in conspicuous locations on each floor of the structure, in such form, locations and numbers as are reasonably necessary to inform occupants of the structure that the structure is floodproofed and identifying the specific location of any floodproofing equipment requiring human operation in order for the floodproofing to be effective;
 - (8) A plan of the structure showing the location of the required floodproofing notices; and
 - (9) A plan for maintenance and inspection of the floodproofing measures.
- d. A post-construction floodproofing certificate, signed and certified by a registered professional engineer or architect, accurately documenting the as-built elevation of the floodproofing improvements, must be submitted to the Floodplain Administrator and accepted before release of a certificate of occupancy for the structure.
7. *Standards for venting.* Any structure or portion of a structure eligible to substitute venting in lieu of compliance with the applicable elevation requirement in Subsection E. shall meet the following requirements:
- a. The structure must provide 1 square inch of venting for every square foot of enclosed area;
 - b. The structure must provide at least two vents located on different sides of the structure, with one being located on the upstream side of the structure if possible;
 - c. The bottom of required vents must be no higher than 1 foot above grade;
 - d. The required vents must be freely open with no human intervention required;
 - e. The area below the regulatory flood protection elevation must be unfinished and constructed of flood-resistant materials as the same are defined by FEMA. Sheetrock (drywall) used for fire protection is permitted in unfinished areas;
 - f. All ductwork, heating, ventilation and air conditioning systems, electrical and hot water heaters included as part of the structure must be elevated to above the regulatory flood protection elevation;
 - g. The structure must be securely anchored to resist floatation;
 - h. All of the above required features must be shown on the building plans submitted for the floodplain permit and building permit;
 - i. An elevation certificate documenting the venting features included in a structure in a form satisfactory to the Floodplain Administrator must be submitted prior to the issuance of a certificate of occupancy for the structure. For an accessory structure, a certification shall not be required, provided that the structure is



inspected during routine inspection in connection with a building permit or certificate of occupancy.

8. **Floodways.** Floodways are administrative limits and tools used to regulate existing and future floodplain development. The State has adopted floodway standards that are more stringent than the FEMA minimum standard (see definition of *Floodway* in Subsection B.). Located within Special Flood Hazard Area (as established in Subsection C.2) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:
 - a. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway Unless it has been demonstrated through hydrologic and hydraulic analyses performed by a licensed Colorado professional engineer and in accordance with standard engineering practice that the proposed encroachment would not result in any increase (requires a no-rise certification) in flood levels within the community during the occurrence of the base flood discharge.
 - b. If Paragraph D.8.a above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Section.
 - c. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in Base Flood Elevations, provided that the community first applies for a CLOMR and floodway revision through FEMA.

9. **Alteration of a watercourse.** For all proposed developments that alter a watercourse within a Special Flood Hazard Area, the following standards apply:
 - a. Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition and channel migration and properly mitigate potential problems through the project, as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.
 - b. Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.
 - c. Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable federal, state and local floodplain rules, regulations and ordinances.
 - d. Any stream alteration activity shall be designed and sealed by a registered Colorado professional engineer or Certified Professional Hydrologist.
 - e. All activities within the regulatory floodplain shall meet all applicable federal, state and the Town floodplain requirements and regulations.
 - f. Within the regulatory floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a floodway analysis and report, sealed by a registered Colorado professional engineer, that there is not more than a 0.00-foot rise in the proposed conditions compared to existing conditions floodway resulting from the project, otherwise known as a no-rise certification, unless the community first applies for a CLOMR and floodway revision in accordance with Subsection D.4.
 - g. Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.



10. *Properties removed from floodplain by fill.* A Floodplain Development Permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F) unless such new structure or addition complies with the following:
- Residential construction.* The lowest floor (including basement) electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) must be elevated to minimum of 1 foot above the Base Flood Elevation that existed prior to the placement of fill.
 - Nonresidential construction.* The lowest floor (including basement) electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) must be elevated to minimum of 1 foot above the Base Flood Elevation that existed prior to the placement of fill, or, together with attendant utility and sanitary facilities, be designed so that the structure or addition is watertight to at least 1 foot above the base flood level that existed prior to the placement of fill with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads or effects of buoyancy.
 - All fill materials to be used in the floodplain shall be designed to withstand the erosional forces associated with the Base Flood, and shall be certified by a registered Colorado professional engineer prior to placement. Said certification shall be submitted to the Floodplain Administrator for review and approval.
11. Standards for subdivision and development proposals, including the placement of manufactured home parks and subdivisions.
- All subdivision and development proposals, shall be reasonably safe from flooding. If a subdivision or other development proposal is in a flood-prone area, the proposal shall minimize flood damage.
 - All proposals for the development of subdivisions and other applicable development shall meet Floodplain Development Permit requirements of Subsection C.2; D.3; and the provisions of this subsection.
 - Base Flood Elevation data shall be generated for subdivision proposals and other proposed development, which is greater than fifty (50) lots or five (5) acres, whichever is lesser, if not otherwise provided pursuant to Subsection C.2 or Subsection D.2..
 - All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
 - All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical and water systems, located and constructed to minimize or eliminate flood damage.
12. *Standards for Critical Facilities.* A Critical Facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for Regulatory Floodplains in Colorado, that, if flooded, may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.
- Classification of Critical Facilities.* Critical Facilities are classified under the following categories: (i) essential services; (ii) hazardous materials; (iii) at-risk populations; and (iv) vital to restoring normal services. It is the responsibility of the Town Council to identify and confirm that specific structures in their community meet the following criteria:



- (1) Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities and transportation lifelines.
 - (a) These facilities consist of:
 - (i) Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage and emergency operation centers);
 - (ii) Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions and non-ambulatory surgical structures, but excluding clinics, doctors' offices, and nonurgent care medical structures that do not provide these functions);
 - (iii) Designated emergency shelters;
 - (iv) Communications facilities, such as main hubs and control centers for telephone, broadcasting satellite dish systems, cellular systems, television, radio and other emergency warning systems, but excluding towers, poles, lines, cables and conduits);
 - (v) Public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines and service lines); and
 - (vi) Air transportation lifelines (airports [municipal and larger], helicopter pads and structures serving emergency functions and associated infrastructure, such as aviation control towers, air traffic control centers and emergency equipment aircraft hangars).
 - (b) Specific exemptions to this category include wastewater treatment plants (WWTP), non-potable water treatment and distribution systems and hydroelectric power generating plants and related appurtenances.
 - (c) Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the Town Council that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-year floodplain or are compliant with the provisions of this Article, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Town Council on an as-needed basis upon request.
- (2) Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials.
 - (a) These facilities may include:



- (i) Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);
 - (ii) Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;
 - (iii) Refineries;
 - (iv) Hazardous waste storage and disposal sites; and
 - (v) Aboveground gasoline or propane storage or sales centers.
- (b) Facilities shall be determined to be Critical Facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a Material Safety Data Sheet (MSDS) on file for any chemicals stored or used in the work place, AND the chemicals are stored in quantities equal to or greater than the Threshold Planning Quantity (TPQ) for that chemical, then that facility shall be considered to be a Critical Facility. The TPQ for these chemicals is: either 500 pounds or the TPQ listed (whichever is lower) for the 356 chemicals listed under 40 C.F.R. § 302 (2010), also known as Extremely Hazardous Substances (EHS); or 10,000 pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Public Health and Environment. OSHA requirements for MSDS can be found in 29 C.F.R. § 1910 (2010). The Environmental Protection Agency (EPA) regulation "Designation, Reportable Quantities, and Notification," 40 C.F.R. § 302 (2010) and OSHA regulation "Occupational Safety and Health Standards," 29 C.F.R. § 1910 (2010) are incorporated herein by reference and include the regulations in existence at the time of the promulgation the ordinance codified herein, but exclude later amendments to or editions of the regulations.
- (c) Specific exemptions to this category include:
- (i) Finished consumer products within retail centers and households containing hazardous materials intended for household use and agricultural products intended for agricultural use.
 - (ii) Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the local authority having jurisdiction by hazard assessment and certification by a qualified professional (as determined by the local jurisdiction having land use authority) that a release of the subject hazardous material does not pose a major threat to the public.
 - (iii) Pharmaceutical sales, use, storage and distribution centers that do not manufacture pharmaceutical products.
 - (iv) These exemptions shall not apply to buildings or other structures that also function as Critical Facilities under another category outlined in this Article.



- (3) At-risk population facilities include those facilities that house or provide shelter or services to children, the infirm, or other persons requiring special assistance or care or life support:
 - (a) Hospitals;
 - (b) Non-ambulatory surgery center;
 - (c) Residential care and group homes;
 - (d) Elder care;
 - (e) Nursing homes and assisted living;
 - (f) Congregate care ;
 - (g) Public and private schools (pre-schools, K-12 schools), before-school and after-school care serving 12 or more children;
 - (h) Day care and day camps;
 - (i) Other housing and facilities intended to serve those insufficiently mobile to avoid death or injury during a flood without special assistance.
 - (4) Facilities vital to restoring normal services including government operations. These facilities consist of:
 - (a) Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers);
 - (b) Essential structures for public colleges and universities (dormitories, offices and classrooms only).
 - (c) These facilities may be exempted if it is demonstrated to the Town Council that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are compliant with this Section and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Town Council on an as-needed basis upon request.
- b. *Protection for Critical Facilities.* All new and substantially improved Critical Facilities and new additions to Critical Facilities located within the Special Flood Hazard Area shall be regulated to a higher standard than structures not determined to be Critical Facilities. For the purposes of this Article, protection shall include one of the following:
- (1) Location outside the Special Flood Hazard Area; or
 - (2) Elevation of the lowest floor or floodproofing of the structure, together with attendant utility and sanitary facilities, to at least 2 feet above the Base Flood Elevation.
- c. *Ingress and egress for new Critical Facilities.* New Critical Facilities shall, when practicable as determined by the Town Council, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.



E. **Definitions.** The following terms shall have the specific meaning given when used in this section. All other terms shall have their plain and ordinary meaning unless specifically defined for use throughout this Chapter in Article 11.

1-percent (1%) flood. A flood having a recurrence interval that has a one-percent chance of being equaled or exceeded during any given year (one-percent-annual-chance flood). The terms *one-hundred-year flood* and *one-percent-chance flood* is synonymous with the term *100-year flood*. This term does not imply that the flood will necessarily happen only once every 100 years.

1% floodplain. The area of land susceptible to being inundated as a result of the occurrence of a 1% flood.

100-year flood. See “1% flood.”

0.2-percent (0.2%) flood. A flood having a recurrence interval that has a two-tenths percent chance of being equaled or exceeded during any given year (0.2-percent-chance annual flood). The terms *five-hundred-year flood* and *0.2 percent-chance flood* is synonymous with the term *500-year flood*. This term does not imply that the flood will necessarily happen only once every 500 years.

0.2% floodplain. The area of land susceptible to being inundated as a result of the occurrence of a 0.2% flood.

500-year flood. See “0.2% flood”

Abandoned. Any structure that has been used or was intended for use as an occupied structure, in whole or in part, including an accessory building, that has become vacant or unused for a period of at least 365 consecutive days, and meets at least two of the following conditions:

- (1) Is open to casual entry or trespass;
- (2) Is damaged by fire, flood, weather or vandalism to an extent that prevents safe occupation;
- (3) Is the site of loitering or vagrancy;
- (4) Demonstrates a lack of property maintenance and upkeep as evidenced by one or more violations of the International Property Maintenance Code, as adopted in § 5-47 of this Code;
- (5) Is under notice for being in violation of one or more City ordinances;
- (6) Has been secured or boarded up for at least three hundred sixty-five (365) consecutive days;
- (7) Has utilities disconnected or not in use;
- (8) Is subject to a condemnation notice or legal order to vacate;
- (9) Is structurally unsound to an extent that prevents safe occupation; or
- (10) Is a potential hazard or danger to the public.

Accessory structure. A structure that is located on the same parcel of property as the principal structure and is used solely for parking and/or storage.

Addition. Any activity that expands the enclosed footprint or increases the square footage of an existing structure.

Alluvial fan flooding. A fan-shaped sediment deposit formed by a stream that flows from a steep mountain valley or gorge onto a plain or the junction of a tributary stream with the main stream. Alluvial fans contain active stream channels and boulder bars, and recently abandoned channels. Alluvial fans are predominantly formed by alluvial deposits and are modified by infrequent sheet flood, channel avulsions and other stream processes.

Area of shallow flooding. A designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with a one-percent chance or greater annual chance of flooding to an average depth of 1 to 3 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

At-risk population. Children, the infirm, and other persons requiring special assistance or care, or life support.

Base flood. The flood having a one-percent chance of being equaled or exceeded in any given year, whether designated as such by FEMA or by the Town Council in the manner provided in this Article. *Base Flood Elevation (BFE)* means the elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30 and VE that indicates the water surface elevation resulting from a flood that has a one-percent chance of equaling or exceeding that level in any given year.

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

Benchmark. An established monument with a documented elevation in relation to mean sea level.

Channel. The physical confine of a stream or waterway consisting of a bed and stream banks, existing in a variety of geometries.

Channelization. The artificial creation, enlargement or realignment of a stream channel.

Code of Federal Regulations (CFR). The codification of the general and permanent Rules published in the Federal Register by the executive departments and agencies of the federal government. It is divided into fifty titles that represent broad areas subject to federal regulation.

Community. Any political subdivision in the State that has authority to adopt and enforce floodplain management regulations through zoning, including but not limited to cities, towns, unincorporated areas in the counties, Indian tribes and drainage and flood control districts.

Conditional Letter of Map Revision (CLOMR). A letter from FEMA officially commenting on a proposed project, which, if constructed in conformance with the CLOMR submittal contained plans would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in a revision to the effective Flood Insurance Rate Map to show changes in zones, delineations, and flood elevations of floodplains and floodways. A CLOMR does not revise an effective Flood Insurance Rate Map.

Conditional physical map revision (CPMR). A letter from FEMA officially commenting on, but not revising, the effective Flood Insurance Rate Map, for a proposed project that would, upon completion, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in a revision to, and republication of, one or more panels of the effective Flood Insurance Rate Map to show changes in flood risk zones, delineations and flood elevations of floodplains and floodways.

Crawl space. Any unfinished area of a building having its improved or unimproved floor subgrade (below ground level) on all sides and the interior height of which, measured from the lowest interior grade to the highest point of the foundation, is 4 feet or less.

Critical Facility. A structure or related infrastructure, but not the land on which it is situated, as specified in Subsection E.8 that, if flooded, may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood. See Subsection E.8.

Cumulative substantial improvement. Any combination of repairs, demolition, reconstruction, rehabilitation and/or other improvements of a structure taking place during the time the structure has been



located in a designated floodplain, the cumulative cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement, provided that the footprint of the structure is not increased. The term *cumulative substantial improvement* shall include any repair or reconstruction work on structures that have incurred substantial damage. It shall not include any project for improvement of a structure to correct violations of state or local health, sanitary or safety code specifications that have been identified by the local code enforcement official, including only the minimum improvements necessary to assure safe living conditions. Also, *cumulative substantial improvement* shall not include ordinary maintenance activities, such as interior or exterior painting or decoration, replacement of windows, doors or other nonstructural elements, repair or replacement of heating or air conditioning appliances or hot water heaters, reroofing, and utility connections, provided that such improvements shall not be excluded from the overall work when carried out in connection with structural improvements.

Development. Any man-made change in improved and unimproved real estate, including but not limited to: new buildings or other structures, modifications or improvements to existing structures, mining, dredging, filling, grading, paving, land clearing, excavation or drilling operations, or permanent storage of equipment or materials. Development shall also mean any change to, or change of use of, a property or structure that is within the scope of a restriction or equipment set out in this Article.

DFIRM database. A database (usually spreadsheets containing data and analyses that accompany DFIRMs). The FEMA Mapping Specifications and Guidelines outline requirements for the development and maintenance of DFIRM databases.

Digital Flood Insurance Rate Map (DFIRM). A FEMA digital floodplain map. These digital maps serve as "regulatory floodplain maps" for insurance and floodplain management purposes.

Drainageway. A natural or artificial land surface depression with or without perceptibly defined beds and banks to which surface runoff gravitates and collectively forms a flow of water continuously or intermittently in a definite direction.

Elevated building. A non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X and D, to have the top of the elevated floor above the ground level by means of pilings, columns (posts and piers) or shear walls parallel to the flow of the water; and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X and D, *elevated building* also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

Emergency response and preparedness plan. A plan, and related preparations and systems, that are intended to provide both a reasonable measure of preparedness for flooding and other emergencies that may occur in conjunction with flooding, and a reasonable ability to respond to such circumstances so as to avoid and minimize potential harm to persons or property.

Enclosure. An unfinished area below the finished area of a building that is partially or fully shut in by rigid walls, where the lowest interior grade is at or above the outside grade on all sides.

Encroachment. An addition to or change to the physical condition of a specified type of flood hazard area that results in the blockage, diversion or displacement of floodwaters.

Essential services facilities. Facilities for the provision of services needed before, during and after a flood event in order to protect public health and safety.

Existing manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed



(including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or mobile building development. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes or mobile buildings are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads). Installation of a manufactured home or mobile building on a previously improved lot within a manufactured home park or mobile building development shall not be deemed to constitute expansion of manufactured home park or mobile building development.

Federal Register. The official daily publication for Rules, proposed Rules and notices of federal agencies and organizations, as well as executive orders and other presidential documents.

FEMA. The Federal Emergency Management Agency, or successor agency

FEMA floodplain basin. The land in a 1% floodplain designated by FEMA. This includes both areas of a floodplain designated as Zones A, AE, AO, AH and A1—A30 on the Flood Insurance Rate Map and any other areas in a basin for which FEMA has issued a floodplain map that the Town designates as 1% floodplain.

FEMA special flood hazard area. Areas delineated on the Flood Insurance Rate Map and designated as Zones A, AE, AO, AH and A1—A30.

Fill. A deposit of materials of any kind placed by artificial means. **Finished area** shall mean an enclosed area that has more than 20 linear feet of finished walls (paneling, wallboard or other non-flood-resistant material, for example) or that is used for any purpose other than solely for parking of vehicles, building access or storage.

Floatable materials. Any material that is not secured in place or completely enclosed in a structure, so that it could float off site during the occurrence of a flood and potentially cause harm to downstream property owners, or that could cause blockage of a culvert, bridge or other drainage facility. This includes, without limitation, lumber, vehicles, boats, equipment, trash dumpsters, tires, drums or other containers, pieces of metal, plastic or any other item or material likely to float. **Floatable materials** shall not include motor vehicles parked temporarily on property for the purpose of customer or employee parking, or a business's temporary outdoor display of inventory during its usual hours of operation.

Flood or flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (a) The overflow of water from channels and reservoir spillways;
- (b) The unusual and rapid accumulation or runoff of surface waters from any source; or
- (c) Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current).

Flood control structure. A physical structure designed and built expressly or partially for the purpose of reducing, redirecting or guiding flood flows along a particular waterway. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Flood fringe. That portion of the 1% floodplain between the floodway boundary and the upper limits of the base flood. Sheet flow areas with flood depths of less than 1 foot shall not be considered part of the *flood fringe*. Sheet flow areas with flood depths between 1 and t3 feet, inclusive, shall be considered part of the *flood fringe*.



Flood hazard area shall mean the Big Thompson or Little Thompson floodplain, a FEMA basin floodplain, a Town basin floodplain, an area removed from a floodplain by a LOMR-Fill, or an erosion buffer zone.

Flood Insurance Rate Map (FIRM). An official map of a community on which the Federal Emergency Management Agency has delineated both the Special Flood Hazard Areas and the risk premium zones applicable to the community.

Flood Insurance Study (FIS). The official report provided by FEMA. The report contains the Flood Insurance Rate Map, as well as flood profiles and water surface elevation of the base flood.

Floodplain or flood-prone area. Any land area susceptible to being inundated as the result of a flood, including the area of land over which floodwater would flow from the spillway of a reservoir.

Floodplain Administrator. The community official designated by title to administer and enforce the floodplain management regulations.

Floodplain Development Permit. A permit required before construction or development begins within any Special Flood Hazard Area (SFHA). If FEMA has not defined the SFHA within a community, the community shall require permits for all proposed construction or other development in the community including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within flood-prone areas. Permits are required to ensure that proposed development projects meet the requirements of the NFIP and this Article.

Floodplain management. The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations. Floodplain management refers to those activities that are implemented with the intent to promote the public health, safety and general welfare, to minimize public and private losses due to flood conditions and to maintain, enhance and improve the natural and beneficial functions of floodplains.

Floodplain management regulations. Land use and zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing. Any combination of structural provisions, and/or nonstructural additions, changes or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damage to properties, water and sanitary facilities, structures and contents of buildings in a floodplain area.

Floodway (regulatory floodway). The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the base flood water surface elevation more than one-half ($\frac{1}{2}$) foot (six [6] inches). Letters of Map Revision to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation.

Floodway modification. Any alteration to a channel thalweg, bed or banks of a floodway that would change the delineation of the floodway. **Footprint** shall mean the aerial extent and location of a structure at the point at which it meets the ground at grade level, or at which the floor projects horizontally above the ground, to the extent portions of the structure do not meet the ground.

Freeboard. The vertical distance in feet above a predicted water surface elevation, intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the



height calculated for a selected size flood such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.

Functionally dependent use. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes docking facilities, but does not include long-term storage or related manufacturing facilities.

Hardship. The effect of a floodplain designation on the use of a property in light of unusual physical characteristics of the land that are exceptional or peculiar to the property and not shared by adjacent parcels. *Hardship* does not include personal or financial circumstances of the current owner of the land, such as increased costs, inconvenience, aesthetic considerations, physical disability, timing, mistakes by contractors or advisors, personal preferences, or the disapproval of neighbors.

Hazardous materials facilities. Facilities that produce, use or store highly volatile, hazardous, flammable, explosive, toxic and/or water-reactive materials, liquids, gases or solids, as defined under the Hazardous Materials Transportation Act, 49 U.S.C. Secs. 1801-1812, and cemeteries. *Hazardous materials facilities* shall include, but not be limited to: chemical and pharmaceutical plants; laboratories; refineries; hazardous waste storage and disposal sites; gasoline storage or sales facilities; automobile oil and lubrication, repair or paint facilities; warehouses; manufacturing facilities; and propane storage or sales facilities. *Hazardous materials facilities* shall not include retail structures and facilities that only stock and store products in factory-sealed containers.

Highest adjacent grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure. Any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (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 of the Interior to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By an approved state program as determined by the Secretary of the Interior; or
 2. Directly by the Secretary of the Interior in states without approved programs.

Infrastructure. Any facility, excluding structures, of a public or private utility providing electric, telephone, cable TV, fiber-optic, telegraph, water, wastewater, storm sewer or any other public utility service; stormwater improvements identified in any Town-approved drainage master plan; public roads, bridges and culverts; and traffic signaling equipment that is provided, required or authorized by any governmental entity having jurisdiction.

Letter of map amendment (LOMA). A letter from FEMA officially revising the effective Flood Insurance Rate Map that establishes that a property is not located in a FEMA special flood hazard area.

Letter of Map Revision (LOMR). FEMA's official revision of an effective Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs) or the Special Flood Hazard Area (SFHA).



Letter of Map Revision based on Fill (LOMR-F). A letter from FEMA stating that a structure or parcel of land that has been elevated by fill would not be inundated by the base flood.

Levee. A man-made embankment, usually earthen, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding. For a levee structure to be reflected on the FEMA FIRMs as providing flood protection, the levee structure must meet the requirements set forth in 44 CFR § 65.10.

Levee system. A flood protection system which consists of a levee or levees and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest adjacent grade (LAG). The elevation of the natural ground or properly compacted fill that comprises a component of a building's foundation system, sidewalk, patio, deck support or basement entryway immediately next to a structure and after the completion of construction.

Lowest floor. The lowest floor of the lowest enclosed area (including basement), and includes any floor used for living purposes which includes working, storage, sleeping, cooking and eating or recreation, or any combination thereof. This includes any floor that could be converted to such a use, such as a basement or crawl space. The lowest floor is a determinate for the flood insurance premium for a building, home or business. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

Manufactured home. A structure that is used or intended for use as a residential structure that is transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term *manufactured home* does not include a recreational vehicle.

Manufactured home park or subdivision. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Market value. The value of a structure, excluding the value of the underlying land, based upon the market for comparable properties in the local real estate market among willing buyers and sellers. Market value may be established by the County Assessor's assessment of the actual value of the structure, or may be established by an independent certified appraisal consistent with FEMA standards for the appraisal of improvements.

Material Safety Data Sheet (MSDS). A form with data regarding the properties of a particular substance. An important component of product stewardship and workplace safety, it is intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner, and includes information such as physical data (melting point, boiling point, flash point, etc.), toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment and spill-handling procedures.

Mean sea level. For purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

Mixed-use structure. Any structure that is used or intended for use for a mixture of nonresidential and residential uses in the same structure. **National Flood Insurance Program (NFIP)** means FEMA's program of flood insurance coverage and floodplain management administered in conjunction with the Robert T. Stafford Relief and Emergency Assistance Act. The NFIP has applicable federal regulations promulgated



in Title 44 of the Code of Federal Regulations. The U.S. Congress established the NFIP in 1968 with the passage of the National Flood Insurance Act of 1968.

New construction. A new structure (including the placement of a mobile home) or facility or the replacement of a structure or facility which has been totally destroyed. New manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

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

Physical Map Revision (PMR)/ FEMA's formal action whereby one or more map panels of the effective National Flood Insurance Rate Map (FIRM) are physically revised and republished. A PMR is used to show changes in flood risk zones, floodplain and/or floodway delineations, flood elevations, and/or planimetric features.

Reconstruct or reconstruction. To rebuild a structure without increasing its footprint, when the structure has been: (a) partially or completely destroyed by any cause (i.e., fire, wind, flood), or (b) partially or completely torn down. **Reconstruction** that also meets the definition of **redevelopment** shall be regulated hereunder as redevelopment.

Recreational vehicle. A vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projections;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Redevelop or redevelopment.

- (a) To construct any substantial improvement that will result in the removal or replacement of more than 50% of the wall perimeter of any floor of a structure that is completely or partially below the base flood elevation, provided that the footprint of the structure is not increased; or
- (b) To repair or reconstruct any structure that has sustained substantial damage, which damage has caused the removal or replacement of more than 50% of the wall perimeter of any floor of a structure that is completely or partially below the base flood elevation, provided that the footprint of the structure is not increased.

Regulatory flood protection elevation. The elevation above the base flood elevation to which a structure must be elevated, as set forth in the applicable requirements of this Section.

Regulatory floodplain. The floodplain that is regulated by the Town, including the Big Thompson and Little Thompson floodplains and other FEMA or Town-delineated basin floodplains.

Rehabilitation or rehabilitate. To make any improvements and repairs to the interior and exterior of a structure that do not result in any increase in the footprint of the structure. The construction of a vertical addition is considered to constitute **rehabilitation**.

Remodel or remodeling. (See **rehabilitation** or **rehabilitate**.)



Residential structure. Any structure that is used for, or designed as and capable of being used for, the temporary or permanent domicile of persons, including without limitation a dwelling, a boarding house, a hotel, a motel and similarly used structure and a manufactured home. A *mixed-use structure* shall not be deemed to constitute a *residential structure*.

Shallow flooding area. Either: (a) a designated AH or AO zone shown on the Flood Insurance Rate Map; or (b) designated as a shallow flooding area by the City in a 1% floodplain having an average depth of from one 1 to 3 feet, inclusive, 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.

Sheet flow area. A portion of the 1% floodplain that is characterized by undefined flow paths. *Sheet flow areas* with flood depths of less than 1 foot shall not be considered part of the flood fringe. *Sheet flow areas* with flood depths between 1 and 3 feet, inclusive, shall be considered part of the flood fringe.

Special Flood Hazard Area (SFHA). The land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year, i.e., the 100-year floodplain.

Start of construction. The date the building permit was issued, including substantial improvements, provided that the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The *actual start* means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. *Permanent construction* does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the *actual start of construction* means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Storage of floatable materials. Storage outside of any structures of materials, products, equipment, vehicles or any other item that is not a structure, if the stored material or item meets the definition of *floatable material*. *Structure* shall mean a structure with two or more outside rigid walls from floor to roof and a fully secured roof that is affixed to a permanent site, a mobile building or manufactured home or a gas or liquid storage tank that is principally aboveground. An attached garage or addition shall be considered part of the structure to which it is attached.

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% of the market value of the structure (but not of the land where it is located) just prior to when the damage occurred.

Substantial improvement. Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost** of which equals or exceeds 50% of the market value of the structure before start of construction of the improvement. The value of the structure shall be determined by the local jurisdiction having land use authority in the area of interest. This includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions; or
- (b) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.



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

Unfinished area. An enclosed area that is used only for the parking of vehicles, building access or storage purposes and does not meet the definition of finished area.

Vertical addition. An addition to a structure that does not result in an increase in the structure's footprint, provided that the associated work does not constitute redevelopment of the structure.

Variance. A grant of relief to a person from the requirement of this Article when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this Article. (For full requirements, see Section 60.6 of the National Flood Insurance Program regulations.)

Violation. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4) or (e)(5) is presumed to be in violation until such time as that documentation is provided.

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

Water surface profile. A graph that shows the relationship between the vertical elevation of the top of the floodwater and of the streambed with the horizontal distance along the stream channel.

Watercourse. A stream, creek, pond, slough, gulch, reservoir, lake or portion of the floodplain functioning as a natural or improved channel carrying flows, not constituting a flood. The term shall include, but not be limited to, established natural and human-made drainageways for carrying storm runoff, but it shall not include irrigation ditches.

Zone. An area designated on the FEMA Flood Insurance Rate Map, indicating the likelihood and potential extent of flooding:

- (a) **A zone.** An area inundated by the 1% Flood, as shown on the FEMA Flood Insurance Rate Map. Base flood elevations are not determined in an A zone.
- (b) **A1—A30 and AE zone.** Areas inundated by the 1% Flood, as shown on the FEMA Flood Insurance Rate Map. Base flood elevations are determined for these zones.
- (c) **AH zone.** An area of one-hundred-year shallow flooding as shown on the FEMA Flood Insurance Rate Map where depths are between 1 and 3 feet (usually shallow ponding). Base flood elevations are determined for this zone.
- (d) **AO zone.** An area of one-hundred-year shallow flooding as shown on the FEMA Flood Insurance Rate Map where depths are between 1 and 3 feet (usually sheet flow on sloping terrain). Average flood depths are determined for this zone.
- (e) **X zone.** One or more of the following: the area inundated by the 0.2% flood; a sheet flow area inundated by the 1% flood with an average flood depth of less than 1 foot; or an area protected by one or more levees from inundation by the 1% flood.



17-10-3 Natural Resource Extraction & Energy Development

- A. **Intent.** State law recognizes that surface and mineral estates are separate and distinct interests in land and that one may be severed from the other. Additionally, energy development is of community interest and impact. The Town has the responsibility to protect Town infrastructure and resources, manage and mitigate adverse land use impacts, and protect the health, safety, and general welfare of the public, while permitting such uses to be developed in a responsible and compatible manner. This Section has the following intent with regard to the rights of surface and mineral estates as well as energy development:
1. Ensure and monitor compliance with all State and Federal laws and rules;
 2. Enable the right to use that part of the surface estate reasonably for such uses;
 3. Minimize or mitigate adverse land use impacts and protect community interests.
 4. Protect the Town's infrastructure and groundwater resources to ensure these resources are not harmed.
 5. Mitigate potential negative impacts from such development on property owners, adjacent or future land uses, and ecological resources through reasonable regulations for construction, operation and reclamation related to natural resource extraction and energy development.
- B. **Applicability.** The standards and procedures in this Section apply to all natural resource extraction and energy development operations located on surface property in the Town limits.
- C. **Process.** No such development shall be operated, and no site development or equipment shall be located prior to the following:
1. *Use by Special Review* according to the procedures and criteria in Section 17-2-7.
 2. *Site Plan.* Approval of a site plan in association with the *Use by Special Review* approval, or in accordance with the procedures and criteria in Section 17-2-5 for any new or relocated facilities, and provided it is compliance with an approved *Use by Special Review* and the standards of this Section.
 3. *Notice to Proceed.* Prior to commencement of construction operations for which a *Use by Special Review* has been previously granted, a "Notice to Proceed" shall be obtained from the Town. A copy of any necessary state or federal permit issued for the operation shall be provided to the Town.
 4. *Building Permits.* Building permits shall be obtained as required by the Town's adopted Building and Fire Codes and all other applicable codes and regulations.
 5. For natural resource extraction the initial *Use by Special Review* permit shall allow any twinning, sidetracking, deepening, recompleting or reworking of a well and relocation of accessory equipment or gathering and transmission lines so long as all applicable regulations of this jurisdiction and the state are met. If any twinning, sidetracking, deepening, recompleting or reworking of a well, or relocation of accessory equipment or gathering and transmission lines occurs, then the operator shall submit a revised site plan according to the procedures and criteria in Section 17-2-7.
- D. **Site & Development Supplementary Standards.** All natural resource extraction and energy facility development projects shall meet the following supplementary site and development standards:
1. **General Provisions.** Operators shall conform to the following:
 - a. Town, county, state, and federal regulations and standards, including those concerning air quality, water quality, odor and noise and other possible nuisances.
 - b. Town sanitation and environmental standards.



2. **Flow Lines.** All flow lines, including transmission and gathering systems, shall have the legal description of the location recorded with the County Clerk and Recorder within 30 days of completion of construction. Abandonment of any flow lines shall be recorded with the County Clerk and Recorder within 30 days after abandonment.
3. **Impact Mitigation.**
 - a. All equipment and facilities shall be adequately fenced to restrict access by unauthorized persons and mitigate visual clutter and impacts. All facilities and equipment shall be surrounded by a fence at least six feet but no more than 10 feet in height, of noncombustible material and which includes a gate which shall be locked. Fencing surrounding well heads may be an open design. Fencing surrounding oil and gas equipment and production pads shall be a solid and durable material that provides screening.
 - b. All sites shall remain clear of all nonessential equipment and vehicles.
 - c. Where possible, operators shall provide for the development of multiple reservoirs by drilling on existing pads or by multiple completions or commingling in existing well bores.
 - d. Use of electric motors, only, permitted.
 - e. Drilling operations may be subject to noise mitigation and sound walls.
 - f. Noise management plan may be required to identify hours of maximum noise emissions, type, frequency and level of noise to be emitted and proposed mitigation measures.
 - g. Construction of noise-abating structures may be required where facilities create noise and visual impacts which cannot otherwise be mitigated. Based on the duration of anticipated impacts these structures may be temporary or permanent in nature.
 - h. Exhaust from engines, motors, coolers and other mechanized equipment shall be vented in a direction away from all habitable buildings that be reasonably by impacted.
 - i. Exterior lighting shall be down-directional and directed away or shielded from residential areas to eliminate glare.
 - j. Facilities and equipment shall not be located within regulatory flood hazard areas.
 - k. When facilities are located within or in close proximity to any area identified with sensitive ecological features or natural habitat, the Town may require consultation with Colorado Parks and Wildlife and or provide an ecological survey to obtain recommendations for appropriate site specific and cumulative impact mitigation procedures.
 - l. Other measures that may be needed to mitigate impacts to the community or public infrastructure.
- E. **Coordination with COGCC Rules.** In addition to any other standards that are part of a *Use by Special Review* approval, all oil and gas facilities shall comply with the current rules of the Oil and Gas Conservation Commission of the State of Colorado (COGCC). All requisite approvals may be submitted and reviewed concurrently, but shall receive final approvals by the COGCC prior to the Town issuing Notice to Proceed. Evidence of such approvals shall be provided to the Town.
- F. **Supplementary Application Materials – Oil & Gas.** In addition to all submittal requirements for a *Use by Special Review* and site plan required by Section 17-2-7, oil and gas facilities may be required to submit the following:
 1. Copies of all information submitted to the COGCC.
 2. If any of the following is not included on the COGCC information, it shall be incorporated into plans submitted to the Town:



- a. The proposed location of production site facilities or well site facilities. Future development of the resource shall be considered in the location of the tank battery. Existing tank batteries and transmission and gathering lines within 500 feet of the well site shall be shown.
 - b. The location of the drilling equipment and related facilities and structures.
 - c. The following information within a radius of 500 feet of the proposed well or production site:
 - (1) Existing surface improvements;
 - (2) Existing utility easements and other rights-of-way of record; and
 - (3) Existing irrigation or drainage ditches.
 - (4) Names of abutting subdivisions or owners of abutting unplatted property
 - f. Well site or production site's existing lease boundaries, well name and number. .
3. **Other Items.**
- a. The operator's and surface owner's names and addresses, copies of any required COGCC Form 2 and designation of agent, if applicable.
 - b. An operating plan.
 - c. A list of all permits or approvals obtained or yet to be obtained from local, state or federal agencies other than COGCC.
 - d. An emergency response plan that is mutually acceptable to the operator and the appropriate fire district that includes a list of local telephone number of public and private entities and individuals to be notified in the event of an emergency, the location of the well and provisions for access by emergency response entities.
 - e. A plan for minimizing negative impacts, including noise and vibration levels, air and water quality, odor levels, visual impacts, wildlife impacts, waste disposal, traffic and roadway impacts, and public safety.
 - f. A fire protection plan that is mutually acceptable to the operator and the appropriate fire district that includes planned actions for possible emergency events and any other pertinent information.
- G. **Review Criteria.** In addition to all other general criteria in Section 17-2-7 for *Use by Special Review*, the Town shall consider the following for natural resource extraction and energy development facilities:
- 1. The submittal of all necessary information demonstrates compliance with all federal, state and local laws and regulations regarding siting and operating facilities.
 - 2. The site plans demonstrate compliance with all standards in this Section.
 - 3. The site plan or any additional mitigation plans meet the standards, guidelines and criteria for the specific location and context.
 - 4. No other conditions or circumstances exist that will undermine the intent of this Section.
- H. **Inspections.** The operator shall allow inspections of all facilities by Town personnel at any reasonable hour.
- 1. Failure to allow inspections for more than ten days shall result in scheduling a *Use by Special Review* permit revocation hearing before the Town Council. The Town Council's decision on a *Use by Special Review* revocation based on failure to allow inspections shall be final.
 - 2. Each year the operator of any producing oil or gas well shall provide the following to the Town:
 - a. Proof of insurance and bonding required by any Town, county, state or federal law or regulation.
 - b. Certification of compliance with the conditions of this Section, the Uniform Building and Fire Codes, and other applicable regulations.
 - c. Annual inspection fees may be established by the Town to cover inspection costs.



- I. **Defined Terms.** The following terms used in this Section shall have the meaning given below. All terms not listed but that are defined in the Act, or in regulations by the COGCC or CDPHE authorized under the Act, shall defer to those definitions, and any conflicts resolved in favor of the state definitions. All other terms shall have their plain and ordinary meaning unless specifically defined for use throughout this Chapter in Article 11.

Act shall mean the Oil and Gas Conservation Act of the State of Colorado.

Commission or COGCC shall mean the Oil and Gas Conservation Commission of the State of Colorado.

Inspector, Town shall mean any person designated by the Town Manager or by the Manager's designee, who shall have the authority to inspect a well site to determine compliance with this Chapter and other applicable ordinances of the Town.

Operating plan shall mean a general plan which describes an oil and gas exploration and production facility identifying purpose, use, typical staffing pattern, seasonal or periodic considerations, routine hours of operation, source of services/infrastructure, any mitigation plans and any other information related to regular functioning of that facility.

Operator shall mean the person or entity designated by the owner or lessee of the mineral rights as the operator for oil and gas sites.

Operations / Operating shall mean use of the facility, once construction activities are complete and the site is in day-to-day operations.

Production facilities shall mean all storage, separation, treating, dehydration, artificial lift, power supply, compression, pumping, metering, monitoring, flow lines and other equipment directly associated with oil wells, gas wells or injection wells.

Sidetracking shall mean entering the same wellhead from the surface, but not necessarily following the same well bore, throughout its subsurface extent when deviation from such well bore is necessary to reach the objective depth because of an engineering problem.

Surface owner shall mean any person having title or right of ownership in the surface estate of real property or leasehold interest therein.

Twining shall mean the drilling of a well adjacent to or near an existing well when the well cannot be drilled to the objective depth or produced due to an engineering problem, such as a collapsed casing or formation damage.

Well shall mean any oil or gas well, a hole drilled for the purpose of producing oil or gas, or a well into which fluids are injected.

Well site shall mean the areas which are directly disturbed during the drilling and subsequent operation of, or affected by production facilities directly associated with, any oil well, gas well or injection well.

Wellhead shall mean the mouth of the well at which oil or gas is produced.



Article 11. Definitions

- 17-11-1 Description of Uses
 - 17-11-2 Defined Terms
 - 17-11-3 Design & Architecture Terms
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17-11-1 Description of Uses

This section provides descriptions of uses of land and buildings associated with Table 4-2: Permitted Uses. It is organized by categories and types of uses. Categories are general groupings of uses with similar characteristics, and types are based on common physical or operational characteristics, such as typical scale or format. Where a proposed use is not generally listed or appears to meet the description of more than one use type, the Director shall make an interpretation on the most equivalent described use category and/or type, considering:

1. The similarity of the use in terms of scale, impact, and operations to other described uses;
2. The typical building format and site design associated with the use from existing examples; and
3. The potential contribution of the use, in its typical format and design, to the intent of the zoning district, and the ability to complement and be compatible with other permitted uses.

Any uses that may not be interpreted as equivalent to a use in Table 4-2 is not anticipated by these regulations and may only be allowed by an amendment to the development code.

A. Residential Uses

1. *Household Living.* Residential occupancy of a dwelling unit by a single household, with tenancy arranged on a monthly or longer basis. Household living occurs in a variety of types based on the scale and format of buildings and arrangement of dwelling units.

One-unit Dwelling. A residential building designed for one primary dwelling unit. One-unit dwellings include variations based on the lot size.

Multi-unit Dwelling. A residential building designed for two or more principal dwelling units. Multi-unit dwellings include variations based on the building type and scale, including duplexes, multi-unit houses, row houses, or apartments.

Live / Work Dwelling. A combination of residential commercial activity located in a dwelling unit or sharing the same building as a dwelling sharing a common wall or with direct access between the residential and commercial elements, and where each is intended as a principal use.

Mixed-use Dwelling. A residential use in a building designed for street level retail, service or employment uses, and where dwelling units are accommodated on upper stories, or otherwise separated from the principal commercial function of the building.

Manufactured or Small Format Home Communities. A parcel of land planned and designed for multiple home sites for the placement of manufactured, mobile or other small homes, and used for the principal dwelling of households for long-term residency. These communities include internal common areas, circulation systems and accessory



uses and facilities to support the community. Dwellings may either be located on home sites designated within a larger project or on single lots owned through appropriate condominium procedures or platted under certain conditions.

Established Residential (all building types). Any residential building and use, legally established when it originated but where new development of the same use or similar building type is no longer permitted in the zone district. Where permitted, continued use and further investment in the building and use is not discouraged.

2. *Group Living.* Residential occupancy of a structure by a group of people that do not meet the definition of a household, with tenancy arranged on a monthly or longer basis. Group living structures typically have a common eating area for residents, and they may receive some level of care, training, or services associated with their residency. Group living occurs in a variety of types based on the scale and format of buildings, arrangement of dwelling units, and the degree or intensity of associated services.

Group Home- Small. The use of a residential building as a single primary dwelling which provides permanent residence, supervision, and other services for up to 8 unrelated persons with intellectual and developmental disabilities, behavioral or mental health disorders, or who are over the age of 65 years old and need of special care due to physical conditions or infirmities. The group home includes up to 2 residential caregivers, and shall be licensed, operated, or owned by a governmental agency or non-profit qualified to provide care and supervision. Group homes shall not include interim care treatment or rehabilitation facilities, or other housing facilities serving as an alternative to incarceration.

Residential Care – Limited. A residential building or grouping or residential buildings used as the permanent residence of individuals that require a limited level of assistance, medical care, therapy, or supervisions for daily living activities, or where shared social and recreational activities provide a common amenity for residents. Support services are accessory to the residential use and character of the buildings, and do not require 24-hour staffing, other than security. Typical examples include assisted living, co-housing, group homes larger than 8 individuals or that otherwise do not meet the criteria for Group Home - Small, and retirement communities.

Residential Care - General. A residential or institutional building, or group of buildings, designed to provide a primary or interim residence and health care for persons who require care on a full-time basis. Meals, medical support, rehabilitative services, social and recreational activities are provided on site with facilities and professional staff. Typical examples include nursing homes, long-term care facility, treatment centers, continuing care facility, congregate care communities, or hospices.

Residential Care - Institutional. A residential or institutional building, or group of buildings, designed and operated to provide interim or temporary housing, twenty-four-hour care, and supervision for residents who are at risk or in need of special support services. Typical examples include halfway house, rehabilitative residence, protective housing, or shelters.

B. Public / Institutional Uses

1. *Assembly.* An institutional or civic use designed to serve the community for regular or periodic events, including worship, civic, social, recreation, or entertainment, and accessory uses associated with organized activities, including child care, concession



services, education, and recreation events. They can be available to the public at large, by voluntary affiliation, or for private organizations limited by membership.

Assembly – Limited (< 400 capacity and < 2 acre lot). A place of public assembly designed and located to serve immediately adjacent uses and nearby neighborhoods, or be accessory to other uses and typically designed for less than 400 people. All buildings and facilities are located on a lot of less than 2 acres. Examples include a small neighborhood association clubhouse or recreation center, common meeting rooms or meeting hall, or small religious facilities.

Assembly – General (400-800 occupants or 2 to 5 acres). Places of public assembly designed and located to serve community or civic needs of a broad vicinity and typically designed for 400 – 800 people. All buildings and facilities fit on a lot or are arranged in a small campus of between 2 and 5 acres. Examples include a community/recreation center, small event hall or large religious facility.

Assembly – Large (800+ occupants or 5+ acres). Places of public assembly designed and located to serve community or civic needs of the Town or region and typically designed for more than 800 people. Buildings and facilities require large lots or campuses that are difficult to integrate into the surrounding block structure, are disruptive to connected development patterns, and require special siting and civic design considerations. Examples include an auditorium, large event hall, major worship hall or campus, or convention and conference center.

2. *Civic & Institutional Buildings.* The use of land and buildings to serve public or community interest through government or non-profit agencies through cultural, social, or education offerings, or for the administration operations of organizations providing these services.

Government and Town. A public use that supports the community at large by through public health and safety, protective or related services. Examples include police and fire stations, dispatch, and related facilities, or similar government and quasi-government buildings and grounds.

Library, public. A public facility for the use, but not sale, of literary, musical, artistic, or reference materials.

Museum, cultural. A building having public significance by reason of its architecture or former use or occupancy; or serving as a repository for a collection of nature, scientific, or literary curiosities, or objects of interest, or works of art, and accessory sales related to the subject matter or activities on the site (i.e. museum gift shop small scale sit-down restaurants or cafes).

School. Building or group of buildings designed to provide structured, seasonal or year-round education opportunities for the community. Schools are typically integrated into the surrounding context and development pattern as a civic amenity (whether single buildings or a campus), based on the scale of the facilities. Typical examples include elementary or secondary public or private schools, colleges and universities, or other special purpose or specific-need schools that have a course of study and education environment similar to that of public schools.

3. *Park and Open Space.* Any parcel or area of land or water unimproved with any residential, commercial, or industrial uses and dedicated or reserved for public and/or private use and enjoyment, or public lands managed by a public entity for the conservation or stewardship of resources. Specific uses and purposes include



agricultural, recreational, education, cultural, scenic or environmental purposes, and the land is characterized by open or natural landscape features.

Athletic Field. Land, often requiring equipment, owned by a unit of government and designed for outdoor games and sports such as lacrosse, baseball, football, and soccer.

Recreation Center or Grounds. A private or public facility for cultivation of fruits, flowers, vegetables, or ornamental plants by more than one person or household. Examples include a community gym, pool, club, golf course, or similar recreational facilities that serve as an organizing element or focal point for surrounding development.

Park, Trail or Civic Space. A public, common, or private open areas designed and used for both active or passive recreation. (See Section 3-2 for specific designs and types.)

4. *Utilities.* A service use owned by a governmental entity, or any entity defined as a public utility for any purpose by the state public utilities commission, and used in connection with the distribution, collection, or transmission of energy, water, sanitary sewerage, communication, or municipal services on a local level. All utilities may be further limited by site design and landscape standards of this code, or more specifically regulated and permitted by licensing agencies, franchise agreements, or specific conditions and design requirements of any easement authorizing the location of facilities. For the purposes of the development code, utility facilities are further classified as follows.

Minor Utility Facility. Small-scale facilities that provide utilities necessary to support development either within a specific sub-area of the Town or the immediate vicinity of the facility. This use typically involves the construction or installation of only minor structures. Employees typically are not located at the site. Examples include electric transformer stations; gas regulator stations; telephone exchange buildings; well, water, and sewer pumping stations, power lines; storm drainage facilities; pump stations and hydrants; switching boxes; and other structures to serve adjacent properties. A minor utility facility may be either a principal or accessory use of land, but does not include accessory facilities serving the customary needs of uses, buildings, and land in the zoning district through required improvements in easements, rights-of-way, or private service lines

Major Utility Facility. Large-scale facilities typically serving utilities to the region, the entire Town, or a significant sub-area of the Town, which normally entails the construction of new buildings or structures, and that often have employees at the site. Major utility facilities have potential major impacts on an area or Town by virtue of their appearance, noise, size, traffic generation, externalities, or other operational characteristics. Examples include water works, reservoirs, power or heating plants, energy/power transmission lines, power generating plants, and sewage or wastewater treatment plant.

C. Agriculture Uses

1. *Agritourism.* The use of a farm or agricultural resources, process, or products for special events, retail and restaurant activities, or cultural promotion of agricultural heritage in typical agricultural structures or settings, and in association with maintaining and promoting the continued agricultural use and character of the building, property, or general vicinity.

Roadside Stands. A small retail operation selling agriculture products produced on or near a site, typically involving a small kiosk, tent or truck with temporary facilities, or on sites in more rural contexts it may include permanent structures.



Farmers Market. The use of a commercial farm or other permitted non-residential use or open and civic space for the periodic sale of produce from farms and other accessory products, which may include temporary, interim, or permanent structures to facilitate events

Community Farm. A small farm open to the public generally or periodically but on a regular basis for commercial or cultural purposes, such as events, sale of agricultural produce, dining utilizing primarily farm products, or tours that demonstrate agricultural process and practices.

2. *Farming.* A commercial use of property for planting, cultivating, harvesting and storage of grains, hay or plants, and/or the raising and feeding of livestock and poultry. The storage of crops, grains, feeds or other products shall be limited to those raised on or to be consumed on the premises.

Farming – Limited. The primary use of land for small-scale production of field crops or horticulture for food, or raising small animals where limited accessory storage facilities and light machinery is necessary and the land area is typically under 10 acres.

Farming – General. The primary use of land for commercial production of field crops for food or raw materials in other agriculture operations; the raising or breeding of livestock, poultry, fish or other animals; or plant production such as nursery, orchard, vineyard. The land area is typically over 10 acres.

Farming – Large / Industrial. A large-scale farming and agricultural processing operation where heavy machinery, storage of large quantities of byproducts or intensive animal operations occur, such as feedlots or the commercial feeding of offal or garbage to swine or to other animals, commercial production and sale of livestock, or other similar intensive operations.

D. Commercial Uses

1. *Animal Care / Sales.* Commercial service and retail uses that provide the sale, care, or boarding for domesticated animals that is further refined by the scale and intensity of the operations, as follows:

Animal Care - Limited (< 3K, no boarding). A small office or shop providing animal care or sales. The use involves less than 3,000 square feet of commercial area, and all activities occur indoors (except routine daily pet care), Examples include a veterinary office, small pet store, or small pet grooming or training,

Animal Care – Small (3K – 8K or limited boardings). An office or store providing animal care or sales, and where any overnight boarding is limited to that necessary for medical care or observation. The use involves less than 8,000 square feet of commercial space and limited outdoor activity areas necessary to accommodate the care animals. Examples include a veterinary clinic, large pet store, or large pet grooming or training.

Animal Care – General (8K – 30K or boarding). A large office or store providing animal care or sales, or any use offering routine daily care for animals, whether less than 24 hours or overnight boarding. The use involves between 8,000 and 30,000 square feet of commercial space, or all scales of daily animal care with indoor or outdoor space where multiple animals are cared for on a daily basis. Examples include a large pet store, large grooming or training facility, animal hospital, or any animal day care, kennel, or boarding service.



Animal Care – Large (Outdoor or over 30K). A large facility or grounds providing animal care, training, or boarding. The use involves over 30,000 square feet of commercial space, or is of a nature where a substantial amount of care, training, or boarding occurs in outdoor facilities. Examples include large animal hospitals, and large commercial/outdoor kennels, animal shelters, stables, or breeding facilities.

2. *Dependent Care.* A commercial use of nonresidential property for the care of a child away from his/her own home or for any adult in need of supervisory care, for any part of the 24-hour day. This does not include services accessory to schools, religious services, or employment activities, or licensed childcare home occupations accessory to a principal dwelling.

Dependent Care – Limited (< 3K). A dependent care use less than 3,000 square feet of commercial area, within a small building or in a portion of a mixed-use building.

Dependent Care– General (3K –8K). A dependent care use between 3,000 and 8,000 square feet of commercial area, typically within one moderate-sized building or in a portion of a larger mixed-use building.

Dependent Care – Large. (> 8K). A dependent care use with more than 8,000 square feet, typically within one large building or involving more than one building in a campus or multi-building complex.

3. *Entertainment & Recreation.* Commercial service uses engaged in the business of providing daily or regularly scheduled activities for entertainment, leisure, training and instruction, or recreation, offered to the to the public at large, through individual membership, or through group arrangements. This use type is further refined by the scale, format and intensity as follows:

Entertainment & Recreation – Indoor / Limited (< 8K). An indoor entertainment and recreation use that involves a building less than 8,000 square feet. Examples include a small bowling alley, billiard hall, a small theater, or dance or yoga studio.

Entertainment & Recreation - Indoor / General (8K - 30K). An indoor entertainment and recreation use that involves a building that is between 8,000 and 30,000 square feet or more. Examples include a small sports and recreation center, larger arcade or game center, or a moderate sized theater complex,

Entertainment & Recreation - Indoor / Large (30K+). An indoor entertainment and use that involves a building that is 30,000 square feet or more. Examples include a large bowling alley, a sports and recreation center, a large theater or theater complex, or skating rink

Recreation/Entertainment – Outdoor. Any outdoor entertainment and recreation use, where a commercial business offers the grounds use of patrons. Examples include racquet club, miniature golf, driving range, golf course, batting cages, sports and athletic complex, or band shell or amphitheater.

4. *Food & Beverage Service.* A specific service and retail use engaged in the business of serving prepared food and/or beverages to the public for immediate consumption. The serving of alcoholic beverages is accessory to this use but may be further regulated by business and liquor licenses. Whether the use includes drive-through facilities is regulated by the accessory use provisions and site design standards for the district and



street. Food & Beverage Service are further refined by scale, format and intensity based on the following:

Restaurant – Limited (< 3K). An accessory or small-scale restaurant under 3,000 square feet of commercial area, located in a small or mixed-use building or sometimes associated with other uses, such as a cafe, lunch counter, walk-up window or similar small retail sales food outlet.

Restaurant – Small (3K – 8K). A small-scale restaurant between 3,000 and 8,000 of commercial area, and typically includes separate kitchen dining facility, a accessory bar and entertainment areas.

Restaurant – General (> 8K). A moderate- or large-scale restaurant between 3,000 and 8,000 of commercial area, and typically includes separate kitchen dining facility, a accessory bar and entertainment areas, and may include accessory craft manufacturing or packaged retail sales of food and beverages.

5. *Lodging.* Commercial uses providing accommodations for temporary overnight occupancy on a less than monthly basis, and accessory uses associated with typical guest services such as food service, recreation or similar accommodations to support overnight-guests. Lodging is refined to the following scales based on building type, format, and intensity of use:

Bed and Breakfast (up to 5 rooms). A small residential building used for commercial short-term lodging with shared living space between the operator as the primary occupant and the patrons. The use includes no more than 5 bedrooms or 8 guests, and where meals may be offered to overnight guests for compensation.

Inn (6 to 40 rooms). A small commercial or large residential building providing short-term lodging and includes at least 6 but no more than 40 rooms.

Lodging – Hotel / Motel General (40+ Rooms). A large commercial building providing short-term lodging and includes 41 or more rooms.

6. *Marijuana Uses.* Uses involved in the production, distribution, prescription, or sale of cannabis as may be further described in the Colorado State Constitution or Colorado Revised Statutes.

7. *Medical Service.* Commercial services uses providing medical, dental, or physical health or wellness care to the public. This use type is further categorized by the following formats:

Medical Service – Limited (< 8K). A medical care use offering routine outpatient services, that occupies less than 8,000 square feet of diagnostic or treatment area, includes no surgical or in-patient facilities, and operates in normal business hours. Examples include a small doctor or dentist office, eye-care center, or urgent care center that is accessory to a larger retail or pharmacy use.

Medical Service– General (8K – 30K). A medical care use offering routine outpatient services, or provides diagnostic testing, laboratory services, and limited custom fabrication of medical supplies. The use occupies between 8,000 and 30,000 square feet for research, diagnostic, or treatment areas, includes no inpatient facilities, and operates in normal business hours. Examples include a larger doctor or dentist group practice, small clinic or analytical lab, or small outpatient urgent care or surgical center.



Medical Care – Large (> 30K). A medical care use offering a full range of services, that occupies more than 30,000 square feet for diagnostic or treatment areas, and may include emergency care, surgical services, or other inpatient treatment. The use may include accessory retail, food service, pharmacy or wellness/fitness uses. Examples include hospital, large clinic or analytical labs, regional medical campus or centers.

8. *Office.* Commercial uses focused on employment and engaged in the administrative, technical, or management aspects of business or professional services that typically do not have frequent or unscheduled on-premise interaction with the public or clients. Examples include accountants, lawyers, architects, engineers, insurance, or other professional or administrative services. Office uses are further refined by the scale and format of buildings based on the following:

Office – Limited (< 8K or < 33% of mixed-use projects). An office use less than 8,000 square feet of commercial area, within a small building or occupying a portion of a mixed-use building or site with a floor area of all non-residential uses is less than 33%, considering other uses in the building or on the site.

Office – General (8K – 30K). An office use between 8,000 and 30,000 square feet of commercial area, typically within one moderate-sized building.

Office – Large. (> 30K). An office use with more than 30,000 square feet, typically within one large building or involving more than one building in a campus pattern.

9. *Personal Service.* Commercial uses engaged in the business of providing personal or instructional services to the public that may include frequent or unscheduled interaction with clients or customers on-premises. Examples include a barbershop or beauty salon, travel agency, fitness services, tailor, repair of household goods, print shop, delivery outlets, bank, or personal financial services. Personal service uses are further refined by scale, intensity and format based on the following:

Personal Service – Limited (< 3K or < 33% of mixed-use projects). A personal service use less than 3,000 square feet of commercial area, within a small building or occupying a portion of a mixed-use building or site where all nonresidential uses have floor area less than 33%, considering other uses in the building or on the site.

Personal Service– Small (3K – 8K). A personal service use between 3,000 and 8,000 square feet of commercial area, located in a small building.

Personal Service – Large (> 8K). A service use encompassing more than 8,000 square feet, typically in a large-freestanding building or part of a large mixed-use project

10. *Retail.* Commercial uses primarily engaged in the sale, lease, or rental of products to the general public with frequent interaction of patrons or consumers on premises. Retail uses are further refined by scale, intensity, and format based on the following types:

Retail – Limited (< 3K or 33% of mixed-use buildings / projects). A small-scale retail use with under 3,000 square feet of commercial area, or occurring in a building where all nonresidential uses have floor area less than 33%, considering other uses in the building or on the site.



Retail – Small (3K - 8K). A retail use with at least 3,000 but less than 8,000 square feet of commercial area, typically located in a small building or a multi-tenant, mixed-use building.

Retail – General (8K - 30K). A moderate-scale retail use at least 8,000 but less than 30,000 square feet of commercial area, typically located in a moderate free-standing building or a large multi-tenant or mixed-use building.

Retail – Large (> 30K). A large-scale retail use with at least 30,000 square feet of commercial area. in a large-freestanding or part of a part of a large mixed-use project.

Retail – Outdoor & Equipment Sales. A specific retail use where the primary business is associated with merchandise that typically must be displayed outside and on a year-round basis. Examples include a garden center, a greenhouse / nursery, a lumber yard, or a small machine or equipment sales.

11. *Retail – Grocery Store.* A specific retail use selling food, produce, and household products for general household consumption, including a significant portion of inventory in fresh produce, baked goods, meats, or seafood. Accessory sales of prepared food for on-site consumption is limited to no more than 20% of the transactions. These uses often serve as a key anchor for neighborhood and community centers which justifies slightly larger scale than other general retail uses, provided they can still fit into the block structure, development pattern, and public-realm framework of the area. To accommodate this, Retail Grocery Store is further refined by scale and format as follows:

Grocery – Small (< 8K). A small grocery offering limited selection of products or specialty foods or produce in a small-scale format under 8,000 square feet. Examples include a corner store, butcher shop, produce market, or other specialty market.

Grocery – General (8K – 30K). A mid-sized grocery offering a range of food and household products, and limited accessory services in a mid-sized building format, at least 8,000 square feet but less than 30,000 square feet. Examples include a neighborhood market, urban-format groceries

Grocery – Large (> 30K). A large grocery store offering a wide range of food and household products and associated accessory services in a large-scale format. Examples include a conventional full-service grocery store, large-format grocery or supermarket, or a similar function housed within a larger warehouse retail store.

12. *Vehicle & Equipment Uses.* Commercial uses that include the sale, rental, or maintenance of motor vehicles or similar large-scale equipment which have a scale or format oriented to the vehicles and large equipment, typically including large parking areas, and outdoor storage or circulation of vehicles and equipment. Use types include:

Gas Station -Limited (1 - 8 pumps). A commercial use designed to supply motor vehicles with gasoline or other fuel source, oils, greases, and may involve limited accessory sales of convenience goods. This use may be combined with accessory vehicle service and repair uses, subject to the service bay limitations stated below. A limited vehicle gas station includes no more than 8 fueling stations, no more than 2 service islands, no more than 2 accessory vehicle service bays and no more than 1,500 square feet of accessory retail or service areas. Examples include small, neighborhood service stations.

Gas Station -General (9-17 pumps). A vehicle gas station limited to between 9 and 16 fueling stations, no more than 4 service islands, no more than 3 accessory vehicle



service bays and no more than 3,000 square feet of accessory retail or service areas. Examples include general stores and gas stations.

Gas Station - Large (17+ pumps). A vehicle gas station that contains more than 16 fueling stations, more than 4 islands, and up to 4 accessory vehicle service bays and no more than 8,000 square feet of accessory retail or service areas. Examples include a large convenience center and gas station, or truck stops and travel centers.

Automobile Repair – Limited. A commercial use engaged in the repair and maintenance of automobiles, motorcycles, trucks, trailers, or similar vehicles, not including body or fender work. Minor paint or decorative wrap work may be included, however, not including a full paint booth.

Automobile Repair - Body Shop. A commercial use designed for service, repair, and restoration of vehicles, including major repairs, paint, and body work.

Automobile, RV, or Equipment Sales / Rental. A commercial use designed for the display, sale, leasing, or rental of new or used motor vehicles, recreational vehicles, boats, or similar large equipment. Any repair or service work is accessory to the sale, leasing or rental of operable vehicles and equipment.

Car Wash and Automobile Detailing. A commercial service use that washes, cleans, or refurbishes motor vehicles, whether through self-service, mechanical service, or personal service, and whether as a principal use or an accessory use to another commercial use.

D. **Manufacturing / Industrial Uses**

1. *Industrial Services.* A business engaged in service to other businesses and industries, or engaged in services to the general public but where industrial equipment or processes are necessary for service, or where services are dispatched from a central location for storage of vehicles, equipment, or merchandise. Examples include plumbing, exterminators, HVAC repair, utility contractors, janitorial services, commercial laundry services, or other similar business.

Contractors Office or Fleet Services. A small, centralized location for industrial service uses, where administrative offices, dispatch services, and limited on-site storage of equipment and fleet vehicles can occur during non-business hours.

Industrial Services – Light. A small-scale or low-impact industrial service use with limited outdoor storage needs, where surface parking, vehicle storage, and general storage needs are similar to other industrial or commercial uses, and where areas dedicated to storage of equipment and vehicles during non-business hours can occur indoors, or in well-screened areas.

Industrial Services – Heavy. A large-scale industrial service use which may produce a higher degree of adverse impacts (e.g. noise, glare, dust, odor, or vibrations), or which may need substantial outdoor storage, large warehouses, or significant parking and storage for vehicles or equipment.

Vehicle / Fleet Maintenance Facility. An industrial service use that provides mechanical and repair services to commercial vehicles, large equipment, or other similar services, whether the service is offered to other business with large vehicles and equipment or whether it is accessory to the business maintaining its own fleet and equipment.



2. **Manufacturing.** A use engaged processing, fabrication, packaging, or assembly of goods, from raw materials or partially completed secondary materials. Products may be finished or semi-finished, and are typically stored and shipped to other areas for distribution to businesses, consumers or retail outlets, although limited accessory sales, display, or customer service areas may be provided.

Manufacturing – Limited / Artisan. A small-scale manufacturing use producing primarily finished products with limited need for storage of materials or finished products. The use produces no negative byproducts such as smoke, odor, dust or noise discernable from outside of the building, and deliveries and distribution are made by general commercial delivery services requiring no special large truck access. Products or services are often made available to the public on premises generating customer activity. Examples include artists' studios, small bakery, brewpub, or small wood or metal shops.

Brewery, Distillery, or Winery. Any establishment, licensed by the appropriate State and Federal authorities, where malt liquors, fermented malt beverages, spiritous liquors, and vinous liquors are manufactured. This does not include and is distinct from accessory craft food and beverage manufacturing, which is accessory to a permitted restaurant use. However, this manufacturing use may include accessory retail, tasting, or restaurant uses.

Manufacturing – Light. A manufacturing use that produces little or no byproducts such as smoke, odor, dust, or noise discernable from beyond the property; limited outside storage may be necessary, and distribution and delivery or distribution needs require occasional large truck access. Examples include research labs or facilities, small equipment or commodity assembly, non-retail laundry services, commercial bakery, or food and beverage processing.

Manufacturing – Heavy. An industrial manufacturing use, where raw and other materials are made into other materials or finished products. The activities may produce byproducts such as noise, dust, smoke, or odor, but are mitigated to limit impacts beyond the property boundary. Outside storage and activities may be necessary, and distribution and delivery needs involve frequent or large truck access. Examples include large-scale manufacturing or fabrication plants, large equipment assembly, metal fabrication plants, chemical laboratories or other similar high-intensity manufacturing or distribution operations.

3. **Warehousing / Storage.** An industrial or commercial use involved in the temporary keeping of goods and products for interim or long-term periods and for distribution to other businesses and industries, including any logistic services related to this business such as labeling, bulk packaging, inventory control, or light assembling. This use may support their own business, or be offered as a service to other businesses in the chain of production..

Wholesale – Sales & Distribution. An establishment primarily engaged in the sale or distribution of goods and materials in large quantity to retailers or other businesses for resale to individual or business customers, or the sale, storage, and delivery of large items directly to customers from distribution centers.

Indoor Storage. A storage use where all activities occur indoors except for the limited loading and unloading of goods at discrete loading docks. Examples include indoor self-storage and long-term garages.



Outdoor Storage. A storage use where all or a portion of the storage of materials or products occurs outdoors. Examples include boat or RV storage, towing service storage yard, and industrial supply storage yards.

Fuel Storage. Industrial-scale storage of fuels as a principal use of land in above ground or below ground storage containers designed for wholesale distribution or mass consumption.

4. *Waste / Salvage.* A use that receives solid or liquid wastes for disposal on site, or for storage and processing for further distribution of disposed items. Specific use types include:

Automobile Wrecking / Salvage Yard. A business engaged in wrecking and dismantling, storage, sale, or dumping of dismantled, obsolete, or wrecked vehicles.

Hazardous Waste Handling. A facility where the principal use is to collect, store, or processes waste that is ignitable (combustible or flammable), corrosive, reactive (explosive), or toxic and requires special handling to avoid illness or injury to persons or damage to property or the environment, or any other manufacturing or industrial use where the process or byproducts could produce these hazards and otherwise needs to be contained and treated to protect the general public health and safety.

Recycling Operation, Enclosed or Unenclosed. A facility that collects, stores, process and distributed waste materials that can be treaded and returned to a condition in which they may again be used for production or consumption. Recycling operations may be “enclosed” where all activities other than remote and discrete loading areas are indoors, or they may be unenclosed, where a portion of the collection, storage, or processing occurs outside.

Waste Transfer Station. A facility or structure where trash is collected, including appropriate structures and mechanical equipment for the collection, compaction, and/or loading of trash.

17-11-2 Defined Terms

All terms used in this code shall have their plain and commonly accepted meaning, based upon the context of their use in the code. The following terms shall have the meaning given below, unless more specifically described, limited or qualified within the standards of this code. Some Articles have specific definitions where the terms have the given meaning for interpretation of that article.

Accessory Building, Structure or Use. A building, structure or use located or conducted upon the same lot (or on a contiguous lot, under one deed, in the same ownership) as the principal building, structure or use to which it is related, and which is clearly incidental and subordinate to and customarily found in connection with the principal building or use.

Alley. A public or private way at the rear or side of the property, permanently dedicated as a means of vehicular access to the abutting property and generally having less width than a street.

Appeal. A review of a final decision by a higher authority according to the standards and procedures of this code, or as otherwise allowed by other laws.

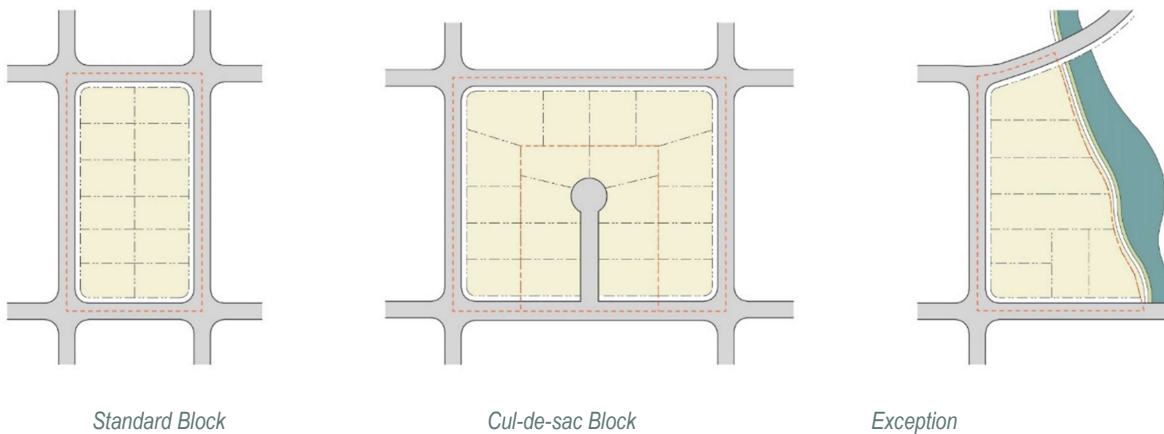


Applicant. The owners or lessees of property, their agent, or persons who have contracted to purchase property, or the city or other quasi-governmental entity that is proposing an action requiring review and approval by one or more of the sections in this title. An applicant may subsequently become the Developer once approval is granted and, in this case, the terms shall be interchangeable.

Art. All forms of original creations of visual art, including, but not limited to, sculpture; mosaics; painting, whether portable or permanently fixed, as in the case of murals; photographs; crafts made from clay; fiber and textiles; wood; glass; metal; plastics; or any other material or any combination thereof; calligraphy; mixed media composed of any combination of forms or media; unique architectural styling or embellishment, including architectural crafts, environmental landscaping; or restoration or renovation of existing works of art of historical significance. Works of art are not intended to be used for commercial advertising purposes.

Basement. The portion of a building between floor and ceiling which is entirely below grade, or partly below and partly above grade but so located that the vertical distance from grade to the floor below is more than the vertical distance from grade to ceiling.

Block. A group of platted lots and tracts connected as a distinct subset of the development pattern, and surrounded by streets or by other features that interrupt the street network such as parks, railroad rights-of-way, or municipal boundary lines; or the perimeter of all lots fronting on the street in the case of a cul-de-sac.



Block face. All lots on one side of a block and fronting on the same street.

Buffer. An area of a site used to promote separation and enhance compatibility between land uses of different intensities, and using space, landscape, or the arrangement of buildings and structures, or any combination of these to create separation or mitigate impacts.

Building. Any structure built for the shelter or enclosure of persons, animals, chattels, property or substance of any kind, excluding fences. The word *building* includes the word *structure*.

Building Floor Area. The maximum horizontal area within the outer perimeter of the building walls.

Building Footprint (building coverage). That area or portion of a lot which is occupied or covered by all buildings on that lot.

Building, Detached. Any single building or building separated from another building on the same lot.



Building, Enclosed. A building separated on all sides from adjacent open space or other buildings by fixed exterior walls or party walls, with opening only for windows and doors, and covered by a permanent roof.

Building Frontage. The area of the lot along the front building line, and when referring to design standards it may include relationship between this area, the streetscape, and the primary facade of the building.

Building Frontage, Principal. The horizontal linear dimension which is designated as the primary facade of that portion of a building occupied by a single use or occupancy for the purposes of allocating signs and other design requirements.

Building Frontage, Secondary. That dimension of a building abutting a public right-of-way other than the principal building frontage for the purposes of allocating signs and other design requirements.

Building Height. The vertical distance from the grade level at the main entrance of a building to the top of the parapet that comprises the majority of the perimeter of the building for a flat roof; or to the mean/average height between the eaves and ridges for pitched roofs. In instances where substantial grading occurs to prepare a site the pre-existing grade or comparable grade in relation to the street may be used. In instances where buildings are integrated into the existing grade, the average grade along the building frontage may be used. In addition to height design standards and story heights may be used to address the relative scale and massing of buildings (See Section 11-3 Design & Architecture Terms)

Building Line. The actual line at which a building is constructed, and the location of other elements on the lot or adjacent lots may refer to this line extended outward from the building to the sides of the lot.

Building Line, Required Front. The portion (usually expressed as a percentage) of the lot frontage required to be occupied by the front facade of a principle structure, or other specifically permitted substitutes which may include accessory structures or landscape associated with the frontage design.

Building, Principal. One building housing the principal (primary or most important) uses permitted for the lot upon which it is located.

Building Setbacks. The minimum required distance between any property line and the building or structure. When front building setbacks are expressed as a range (i.e. 10' to 25'), it shall be interpreted as a front build to" range, within which distance the front building line of the principal structure shall be established.

Building Types. A range or specific category of buildings that share common physical attributed in terms of lot size, lot coverage, height, and building form, scale, or massing. Building types may also be grouped by other attributes that ensure they function or are operated in a compatible manner as other buildings in the vicinity, but are primarily addressing physical compatibility.

Canopy Tree. A large deciduous (foliage that sheds annually) woody plant that normally grows with a main trunk and has a mature height of 30 feet or more and where the understory is clear of branches and leaves below 10 to 15 feet, resulting in shaded usable areas during spring and summer months, and sunlit useable areas during fall or winter months.

Change of Use. A use that substantially differs from the previous use of a building or land and which may affect such things as parking, drainage, circulation, traffic, landscaping, building configuration, utility demands, noise, or lighting. A change of ownership which does not include any of the factors listed above shall not be considered a change of use.

Clearance. The vertical distance from the lowest point of an overhead object to the highest point of the ground or sidewalk directly below the object.



Comprehensive Plan. The Johnstown Comprehensive Plan, as amended. The Comprehensive Plan may include any other plans, policies, or programs officially adopted or approved by the Town under the guidance of that plan, including the Town’s Three Mile Area Plan.

Construction Sign. A temporary sign announcing construction, remodeling or other improvements of a property.

Coverage, Lot. Land area which is covered with impervious surfaces, such as buildings, patios, or decks with roofs, carports, swimming pools, tennis courts, or land area covered by any other type of structure, including parking lots.

Density. The total number of dwelling units on a property, divided by the gross area in acres of such property. Density is typically used to measure planning impacts on broad areas, but is not appropriate for measuring the scale or intensity of development on a particular lot. (See Building Types.)

Design Standards. References the current adopted Johnstown Engineering Specifications and Design Standards, which may also be commonly known as the Standards and Specifications.

Developer. Any person, partnership, joint venture, association, or corporation or other legal entity who or which shall participate as owner, promoter, designer, builder, or sales agent in the planning, platting, development, promotion, sale, or lease of a subdivision. Interchangeable with “Applicant” for the purposes of this code.

Development. The activity of initiating a change of landscape, buildings, access, use, or operation on a property through activities such as grading, filling, paving, excavating, construction, erection, repair, or rehabilitation of or to existing physical elements of property.

Development Pattern. The physical layout of blocks, streets, open spaces, lots and uses where common attributes or associated elements define distinct areas of the community by the scale, intensity, or other physical barriers or transitions.

Drive-through, Accessory. An accessory site design and building design component of any business in which the provision of services or the sale of food or merchandise to the customer in a motor vehicle without the need for the customer to exit the motor vehicle. This definition includes, but is not limited to, bank drive-up tellers and drive-through fast food restaurants.

Driveway. An improved concrete or asphalt path, or other area dedicated to vehicle access to a site or leading directly to one or more Town-approved parking spaces or parking spaces on a lot or within a building.

Dwelling: Any building or portion of building that is used as the residence of one or more households, but not including visitor accommodations, clubs, hospitals, tents, or similar uses providing transient or temporary accommodation.

Dwelling Unit. One or more rooms and a single principal kitchen and at least one bathroom, designed, occupied, or intended for occupancy as separate quarters for the exclusive use of a single household, for household living purposes (i.e., living, cooking, and sanitary purposes), located in a dwelling.

Dwelling Unit, Accessory. A dwelling unit that is subordinate, incidental to, and on the same lot as a principal dwelling unit.

Easement. A right granted by a property owner permitting a designated part of interest in the owner’s property to be used by others for a specific use or purpose.



Household. An individual; 2 or more individuals related by blood, marriage, or legal adoption or guardianship; or a functional household when three or more individuals are not so related, and living as a single housekeeping unit sharing a dwelling. For purposes of this Chapter, a functional household is one that shares the living spaces of a dwelling unit, shares household duties, and regularly shares meals; in contrast, a group of multiple individual households living together may employ individual or non-concurrent leases, lock-out bedrooms; separate entrances; distinct private vs. common areas; or each buying their own groceries.

Façade. The exterior face of a building.

Family. See *Household*.

Flag. A type of sign, typically displayed on a piece of fabric, with a distinctive design.

Frontage. The area of a lot between the front building line and the front lot line that establishes the primary relationship between the building and site and the public streetscape.

Grade (adjacent ground elevation). The average elevation of the graded surface of the ground, paving or sidewalk adjoining the base of a structure, in all directions.

Green. A larger civic gathering space that is primarily landscaped area with formal designed spaces for trails, seating, performance, or other pedestrian activity.

Greenway. A strip of undeveloped land, in an urban or rural area, set aside for recreational use or environmental protection.

Gross Leasable Area (GLA). The area of a building that can be leased to tenants, including storage areas and common areas apportioned to the number of tenants sharing the area. Gross leasable area shall be measured in the same manner of gross floor area, but is apportioned to specific uses or tenants in the building.

Ground Cover. Materials that typically do not exceed one foot in height used to provide cover of the soil in landscaped areas, which may include a combination of, but not limited to river rock, cobble, boulders, concrete pavers, grasses, flowers, low-growing shrubs and vines, and those materials derived from once-living things, such as wood mulch. In no event shall weeds be considered ground cover.

Hazard. A source of danger to persons or damage to property.

Height. Sign height is generally measured from the existing lowest grade directly below the sign. The average grade of all areas directly below the sign may be used, provided the high and low point do not have a differential greater than 10 feet; otherwise the elevation 10 feet above the lowest grade shall be used.

Home Occupation. A business conducted accessory to and within a residence and subject to other standards and procedures of this code to ensure that it is subordinate and customarily incidental to the residence.

Illuminated Sign. A sign lighted by or exposed by artificial light.

Landscape Area. Land set apart for the planting of grass, shrubs, trees, or similar living plants. Such land may include trees and plants arranged in a formal pattern to support outside gathering and include other constructed elements such as a plaza, pedestrian area, fences, walls or nonorganic displays integral to the design of the space.



Lot. A parcel of land, established by a subdivision plat, having the required minimum dimensions, which shall be located on either a public right-of-way or on a legal and perpetual access and which is occupied or designed to be occupied by one or more principal buildings, structures, or uses. (See Outlot, Parcel, and Tract)

Lot Area. The area bounded by the front, rear and side lot lines, or when expressed as a range, it shall be interpreted as a minimum and a maximum.

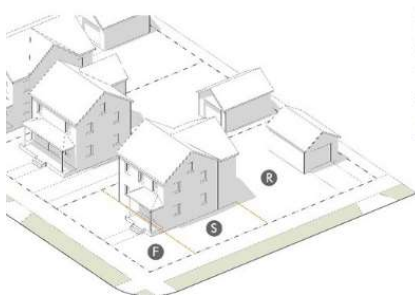
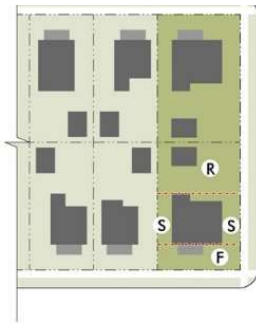
Lot Depth. The horizontal distance between the front and rear lot lines measured at right angles to the front right-of-way lines. Where the front and rear lines are not approximately parallel, the lot depth shall be the average when measured from at least three different points along the front lot line, including the two corners at the front lot line.

Lot Frontage. The portion of the lot that establishes the relationship between the building or site and the public realm or street upon which the lot fronts.

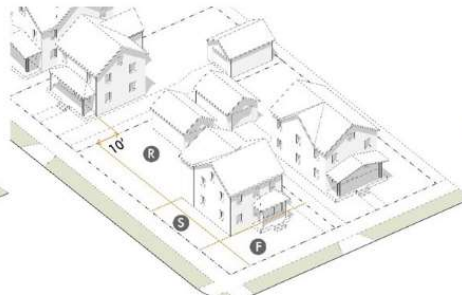
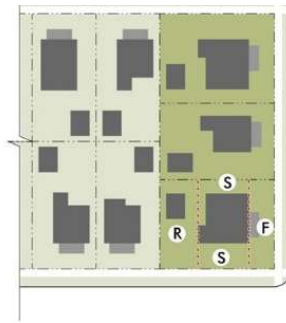
Lot Line. A line dividing one lot from another lot or parcel, or from a street or alley.

Lot Line, Front. The property line dividing a lot from a street or public or common space on which the building and lot orients. On a corner lot, generally the shorter street frontage shall be considered as a front lot line, except that the context of the block and abutting lots may allow the following arrangements:

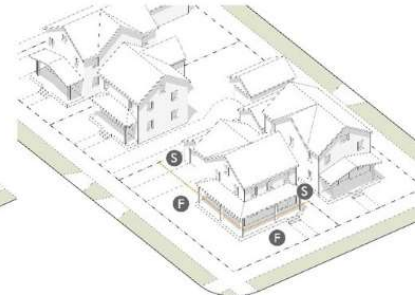
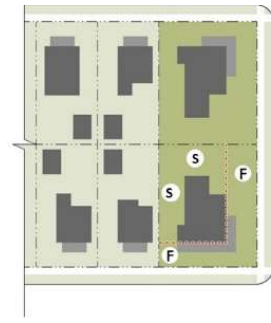
- **Standard Corner.** The building orients to the same front as all other buildings on the same street, and an expanded side setback applies on the other street side of the lot. Side and rear setbacks apply to the remaining sides.
- **Reverse Corner.** The building orients to the end-grain of the block (not the same as other buildings on the interior of the block), and the front setback and frontage design applies to that street. The other street-side setback is the greater of (a) the stated street-side setback for that building type or (b) 10 feet in front of the forward-most point of the front building line of the abutting lot. Side and rear setbacks apply to the remaining sides.
- **Corner Orientation.** The building orients to both streets, with the front setback and frontage design applying on both street sides. The two remaining lot lines are treated as side setbacks and there is no rear setback.



Standard Corner



Reverse Corner



Corner Orientation



Lot Line, Interior Side. A side lot line which is adjacent to a side lot line of another lot.

Lot Line, Rear. The line opposite the front lot line. Where the side lot lines meet in a point, the rear lot line shall be assumed to be a line not less than ten feet long, lying within the lot and parallel to the front lot line.

Lot Line, Side. Any lot lines other than the front or rear lot line.

Lot Line, Street Side, A side lot line which separates the lot from a street.

Lot Width. The horizontal distance between the side lot lines, typically measured at the front lot line, but for irregular lots it may be measured at the front setback line.

Marijuana or Recreational Marijuana. All parts of the plant of the genus *cannabis*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin, including marijuana concentrate. Marijuana includes marijuana products as defined herein. Marijuana does not include industrial hemp, nor does it include fiber produced from the stalks, oil or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other product.

Natural Area. Aquatic or terrestrial habitats or areas which exist in their natural condition, and which have not been significantly altered by human activity or which have been restored to as close to their natural condition if disturbed previously by human activity.

Natural Feature. Features which give an area its general appearance and ecological character and which attract or support the wildlife species that use or inhabit the area.

Nonconforming. A condition of property which was lawfully established or constructed prior to the effective date of this Chapter and which does not conform to the requirements of these regulations.

Nuisance. Activity which arises from unreasonable, unwarranted or unlawful use by a person of his or her own property, working obstruction or injury to a right of another or to the public and producing such material annoyance, inconvenience and discomfort that the law will presume resulting damage.

Official Zoning Map. The Town's official graphic record of the boundaries of zoning districts, as it may be amended from time to time, and containing other information as specified in this Chapter.

Open Space, Common. A common area permanently set aside for the common use and enjoyment of residents or occupants of a development or members of a homeowners' association, which open area may be landscaped and/or left with natural vegetation cover and which may include swimming pools and other recreational leisure facilities; areas of scenic or natural beauty and habitat areas; hiking, riding, or off-street bicycle trails; and landscape areas adjacent to roads which are in excess of minimum required rights-of-way.

Open Space, Private or On-lot. An outdoor area not intended for habitation, directly adjoining a dwelling unit or building, which is intended for the private enjoyment of the residents or occupants of the adjacent dwelling unit or building and which is defined in such a manner that its boundaries are evident. Private or on-lot open space may include lawn area, decks, balconies, and/or patios.

Open Space, Required. That portion or percentage defined by the zoning standards of a lot required to be open and unobstructed. The area must not be covered by any structure or impervious surface, such as sidewalks or driveways, with the exception of required amenities, identity features, or useable open space required pursuant to this code.



Open Space, Usable. That portion of a lot or site available to all occupants of the building or site for recreational and other leisure activities that are customarily carried on outdoors.

Ornamental Tree. A small deciduous tree planted primarily for its ornamental value or for screening and which will typically be smaller than a canopy tree approximately 15 to 30 feet in height.

Outlot. A parcel or parcels of land designated on a plat and intended to be further subdivided before development at some point in the future, but which may be initially created under single ownership through a subdivision process. (See Lot, Parcel, and Tract)

Parcel. A unit or contiguous units of land used by the county assessor to identify taxable property, typically referring to unplatted land, in the possession of, or recorded as the property of one person, partnership, joint venture, association or corporation, or other legal entity. (See Lot, Outlot, and Tract)

Park. Any dedicated and accepted public or private land available for recreational or scenic purposes.

Patio. An unenclosed paved area typically used for seating in a side or rear yard, accessory to a structure.

Porch. A roofed or unroofed open structure projecting from the front, side or rear wall of a building and serving as a primary or secondary entrance into the building.

Primary Entrance. The entrance to a building or structure which is intended to be the main pedestrian or public entrance and which shall typically be located on the front of the building or structure, and therefore includes enhancements and human-scale details to show the priority and importance of the space to the public.

Principal Building, Structure or Use. A primary permitted building, structure or use of land as specified in the district regulations of this Chapter, other than an accessory building, dwelling or use or special use.

Private Streetscape. Access and internal circulation within a site and typically used to organize, break-up, and create transitions within larger sites through transportation and urban design elements that mimic the appearance and function of public streetscapes.

Replacement Value. The amount it would cost to replace a structure or restore a site to its previous condition considering all aspects of the investment at their current market costs. This amount may be based on estimates or where discrepancies exist the average of three independent estimates, in the sole discretion of the Town.

Shrub. A woody plant which consists of a number of small stems from the ground or small branches near the ground and which may be deciduous or evergreen.

Sidewalk. A paved, surfaced, or leveled area, parallel to and usually separated from the street, used as a pedestrian path, or which otherwise provides pedestrian circulation and access to important destinations and principal building entrances within a site.

Sign. Any advertisement, announcement, or direction of communication produced in whole or in part by the construction, erection, affixing or placing of a structure, or produced by painting on or pasting or placing any printed, lettered, pictured, figured or colored materials on any building, structure or surface; provided, however, that signs placed or erected by the Town or the State for the purpose of showing street names or traffic directions or regulations or for other municipal or government purposes shall not be included herein. Not to include public art or murals – see Art.



Sign, Abandoned. A sign which advertises or identifies an out-of-business, moved, or non-existing business, service, or other use of premises.

Sign, Freestanding. A sign which is supported by its own structure not associated with a building.

Sign, Monument. A sign supported by or mounted directly upon the ground by a base that is integral to the entire sign structure and incorporates the sign.

Sign, Portable. A sign that is not permanently affixed to a building, structure, or into the ground, but which have a durable design and stable support to allow placement of the sign on an interim or more permanent basis than temporary signs.

Sign, Temporary. A sign which is not intended as a permanent sign and which is easily relocated or removed.

Sign, Wall. A sign incorporated in, painted on, attached to or erected against the facade of a building.

Sign, Window. A sign painted on or applied to a window.

Square. A civic gathering space with direct pedestrian access to a street or streetscape, with a mix of formal and landscape elements.

Story. The part of a building included between the surface of one floor and the surface of the floor next above, or if there is no floor above the ceiling above. Story heights shall generally be 9 to 10 feet except the following guidelines can be used to address the effective scale and massing of buildings within permitted heights. (See Building Height);

- The first story for residential buildings should be 9 feet to 14 feet;
- The first story in non-residential buildings should be 12 feet to 20 feet;
- Building types or parts of buildings that require high floor-to-ceiling heights, such as a gymnasium, atrium or warehouse, shall have the number of stories calculated as: the finished floor-to-ceiling height divided by 15.
- Any ground story that has more than 4 feet of its height exposed above finished grade along more than 50% of the foundation perimeter shall count as a story.
- A half-story is the space under a sloping roof that has a line of intersection of the roof and exterior wall face not more than 2 feet above the floor level, and where the possible floor area with head room of 7 feet or more is no greater than 60% of the total floor area of the story directly beneath.

Street means a public thoroughfare, dedicated or deeded, for the purpose of providing a principal means of access to abutting property.

Street, Design Type. A reference to the design attributes of a specific segment of the street, regardless of the functional class, and including lane widths, number of lanes, parking, streetscape, and sidewalks. Street design types allow the design of segments of streets to transition and relate better to the context and anticipated abutting land uses, without disrupting the overall role of the street in the functional classification system.

Street, Functional Classification. A system of categorizing streets based on their role in the overall street network, considering traffic volumes, traffic speeds, and continuity of the street. These include arterial, collector, and local.

Street Frontage. The property line which abuts a public right-of-way.



Street Tree. A tree planted in close proximity to a street in order to provide shade over the street and to soften the street environment, typically a canopy tree although ornamental trees may be substituted in specific circumstances.

Streetscape. The scene that may be observed or the area designed for activity along a street, including both natural and non-natural components, including vegetation, buildings, paving, plantings, lighting fixtures and miscellaneous structures.

Structural Alteration. Any change in the support members of a building, such as bearing walls, columns, beams or girders.

Structure. Anything constructed or erected, including a fence, sign or building, with a fixed location on the ground.

Temporary. For a limited period of time, not permanent.

Tract. A parcel of land platted in a subdivision for a specific purpose, which shall be shown on the face of the plat. Specific purposes may include, but are not limited to, drainage areas, stormwater detention or retention areas, parks, open space, or land areas reserved for other public facilities. (See Lot, Outlot, and Parcel)

Transparency. When referring to the design of building facades, transparency is the percentage of windows and doors on the façade, intended (1) to break up the scale and massing of the façade and relate the building to the streetscape and public spaces; and (2) to provide connections – visual and perceived – between the activities on the site and the public streetscape or spaces. Therefore, transparency has two measurements: (1) the extent of transparency, which is the percentage of the overall façade, measured at each story but which includes non-transparent components associated with the opening such as molding, casing or frames; and (2) the degree of transparency, which is typically the clarity of the glass used for the opening. A door may count to this requirement if at least 25% of the door or door assembly meets the clarity requirement with windows in the door, or transom or side light doors alongside of the door. The clarity of the glass in the opening is met by a minimum Visible Light Transmission of 60% (VLT = the percent of total visible light that is transmitted through a glazing system) and a maximum Visible Light Reflectance of 15%. (VLR = the percent of total visible light that is reflected by a glazing system) For upper story windows, these measures may be 40% VLT and 20% VLR.

Yard. That portion of the open area on a lot extending open and unobstructed from the ground upward from a lot line to a principal building.

Yard, Front. That portion of a lot extending across the full width of the lot between the front lot line and the nearest line or point of the principal building.

Yard, Rear. That portion of a lot extending across the full width of the lot between the rear lot line and the nearest line or point of the principal building.

Yard, Required. That portion of the open area on a lot extending open and unobstructed from the ground upward from a lot line for a depth or width specified by the regulations for the zone district in which the lot is located.

Yard, Side. That portion of a lot extending from the front yard to the rear yard between the side lot line and the nearest line or point of the principal building.



17-11-3 Design & Architecture Terms

This section is a glossary of architecture and design terms explains concepts, strategies, and techniques that are used to affect building and site design.

A. **Architectural Style.**

When used generally, architectural style refers to a distinctive manner of expression, fashion or composition of building elements at a specific time.

When used specifically, architectural style refers to a prevalent or historical style that is documented with common or typical patterns in assembling building elements and form, and where variations within the style follow common rules of application for materials, massing or composition of the details. (i.e. Art Deco, Colonial Revival, Craftsman, Mid-Century Modern, Mission, Spanish Colonial Revival, Tudor Revival, Victorian, etc. See *Colorado's Historic Architecture & Engineering Guide*, www.historycolorado.org/colorados-historic-architecture-engineering-guide)

B. **Building Elements.** Buildings are made up of vertical elements, horizontal elements, details, and ornamentation that break up the building elevations into distinct components and establish the form and scale of the building. Building elements include:

1. **Awning.** A sloped or rounded framed projection attached to a wall and extended over a window or door to provide protection from the elements.
2. **Bay (window).** A bump out in the facade typically associated with an element of the interior floor plan but located to provide balance and relief to the massing on the exterior facade. A bay is usually associated with a window.
3. **Belt Course.** A continuous row or layer of stones, brick or other primary building material set in a wall and in line with changes in stories, changes in materials, or window sills. Belt courses make a visually prominent horizontal line to break up a wall plane by using a distinct material and/or implementing a pronounced and distinct pattern of the material.
4. **Bracket.** A projecting support placed under an eave or other projection with design qualities and details that add emphasis to the roof structure or massing element.
5. **Canopy.** A flat roofed projection attached to a wall and extended over a window, door, or walkway, or a freestanding structure over walkway or service area that gives protection from the elements.
6. **Clerestory Window.** A window high on a wall section above eye level and used to permit light or air into areas that otherwise do not have windows due to functional constraints of the building.
7. **Column.** A supporting pillar, especially one consisting of design qualities and details that add emphasis and ornamentation to a portion of the facade, or any roof structure or area it supports.
8. **Cornice.** An ornamental topping projecting from the wall with design qualities and details that crowns a structure along the top near the roof, with an emphasis that is compatible with but more elaborate than other similar details and ornamentation on the building.
9. **Eaves.** An overhang of the roof structure, where larger eaves can increase the prominence of the roof as a “cap” to the building and protect portions of the facade (particularly windows) from the elements.
10. **Entry Feature.** A structural component of the building or building footprint used to emphasize and add interest to the entry into the building, provide active social space protected from elements, contribute human scale to the building elevation, and create transitions from public to private space.
11. **Facia.** The exposed vertical edge of the roof often with design qualities and details that add emphasis and ornamentation to the roof structure.



12. **Foundation.** The base upon which the entire structure sits, designed with stronger, heavier materials, and often includes details and ornamentation to emphasize a building's connection to the ground, a sense of permanence, and transition to the main wall plane for vertical articulation.
 13. **Gable.** The triangular and vertical portion of a wall plane between intersecting roof pitches.
 14. **Lintel.** A horizontal beam, typically over a door, window or storefront to support the structure above it and add accent to the door, window, or storefront.
 15. **Parapet.** A vertical extension of the wall plane above the roof, typically used to hide a flat or low-sloped roof and the rooftop equipment, or function as a firewall for attached structures, and usually including ornamentation to provide a visually prominent “cap” to the building.
 16. **Pediment.** A gable or ornamental tablet or panel, typically triangular or arched, placed above a point of emphasis on a facade and often supported by columns or pilasters.
 17. **Pilaster.** A projecting vertical element on a wall plane used to give the appearance of a supporting column and used to articulate the extent of a wall plane or other component of a facade.
 18. **Sidelight.** A window with a vertical orientation along an opening (door or window) that is narrower than the opening but provides emphasis to the importance of the opening with expanded transparency, additional trim and ornamentation, or other architectural details.
 19. **Transom.** A window above an opening (door or window) built on a horizontal crossbar that may provide light and/or swing open to add ventilation.
- C. **Building Form.** Building form refers to the outward three-dimensional envelope of a building or space affected by the mass, shape, composition, and articulation of building elements.
1. **Mass.** Mass is the volume (height x width x depth or height x building footprint) defined by a structure relative to its surroundings.
 2. **Shape.** Shape affects the massing and refers to the simplicity or complexity of the outer dimensions of surface planes (wall planes or roof planes), and their orientation (horizontal / vertical; symmetrical / asymmetrical).
 3. **Composition.** Composition is how the different building elements or materials are arranged to either distinguish or coordinate a particular shape or mass.
 4. **Articulation.** Articulation is using architectural elements to clearly call out a different portion of the composition, shape, or mass and break the building form into smaller, identifiable pieces.
 - (a) **Horizontal Articulation.** Breaking the mass down through different levels of height on the building, particularly for taller buildings, or by a step back or other voids in the massing.
 - (b) **Vertical Articulation.** Breaking the mass down through different bays or structural components along the length of the building elevation, particularly for longer, larger footprint buildings.
 5. **Altering Form.** Techniques to alter the form of a building and affect the scale include:
 - (a) Main mass and wing or secondary masses;
 - (b) Stepping back in the wall plane, usually larger differences (i.e. 4 feet +) at upper story(ies);
 - (c) Cantilever or overhangs, usually a smaller distance (i.e. 1 to 4 feet) over a lower story;
 - (d) Off-sets or breaks in a wall plane in relation to interior floor plan or outside space, not to the level of creating a wing or secondary mass;
 - (e) Dormers, including a window and sub-roof within roof structure;
 - (f) Projections of an element of the facade composition such as a bay window, entry feature, or eaves; and



- (g) Articulation and composition of the facade in relation to, or in addition to any of the above techniques.

D. Scale.

Scale refers to the perceived or relative size of a form in relation to something else – usually a person, a social space (courtyard, lot, streetscape, etc.), or another building. For example, “human scale” refers to how spaces or objects relate to and are experienced or perceived by people at a close range and a slow pace. Scale can be affected by the mass, shape, composition, or articulation of the form to make an otherwise larger form seem smaller or more relatable based on how the components are perceived.

E. Compatibility. Compatibility refers to the similarity of buildings and sites to adjacent properties or to prevalent patterns and themes in an area. In general, the elements of compatibility will include combinations of the following:

1. Similar proportions of building masses, particularly nearest the property lines and other adjacent buildings;
2. Similar orientation of the building including the relationship to streetscapes, the shaping of open spaces, and the locations and arrangements of the building footprint;
3. Similar window and door patterns, including location, size, and proportions;
4. Similar roof lines (planes, pitches, profiles and details);
5. Similar building materials, particularly primary building materials, or where materials differ they share common textures or color palates;
6. A common architecture style, including the facade composition and materials; however, many styles can allow differences in design within the style.

Note: Compatibility does not necessarily mean the same, but rather a sensitivity to the context, adjacencies, and character of the area. While not all of the above elements are necessary for compatibility, the greater the number that are similar, the greater the compatibility will be; significant departures from any one element should be compensated with either greater similarity of other elements or by similarity of more elements. Where things are not compatible, transitions should occur through space and landscape buffer designs.



Town of Johnstown

TOWN COUNCIL CONSENT AGENDA COMMUNICATIONS

AGENDA DATE: May 1, 2023

SUBJECT: Annexation Agreement for Archdiocese Annexation Nos. 1-3

ACTION PROPOSED: Consider the Annexation Agreement for Archdiocese Annexation Nos. 1-3

ATTACHMENTS: 1. Annexation Agreement with Exhibits

PRESENTED BY: Kim Meyer, Planning & Development Director

AGENDA ITEM DESCRIPTION:

The Archdiocese Annexation Nos. 1-3 were presented to Council at a public hearing on April 17, 2023, and adopted on First Reading of the Ordinance 2023-244. Along with the 2nd reading of that Annexation Ordinance, the Council is asked to consider the attached Agreement, which is based on the Town’s standard template. (Attachment 1.)

Exhibit C of the agreement provides an executed deed of dedication that dedicates additional right of way along Weld County Road 19. No water rights have been identified on the property.

LEGAL ADVICE:

Agreement was prepared by the Town Attorney.

FINANCIAL ADVICE:

NA

RECOMMENDED ACTION:

Approve the Annexation Agreement for the Archdiocese Annexation Nos. 1-3.

Reviewed and Approved for Presentation,

Town Manager

The Community That Cares

johnstown.colorado.gov

P: 970.587.4664 | 450 S. Parish Ave, Johnstown CO 80534 | F: 970.587.0141

**ANNEXATION AGREEMENT
ARCHDIOCESE ANNEXATION NOS. 1-3**

THIS ANNEXATION AGREEMENT (“Agreement”) is made and entered into this _____ day of _____, 2023, by and between THE ARCHDIOCESE OF DENVER, a Colorado corporation sole (“Owner”), and the TOWN OF JOHNSTOWN, a home-rule municipal corporation of the State of Colorado (“Town”).

WITNESSETH:

WHEREAS, Owner desires to annex real property into the Town, situated in the Northeast Quarter of the Northeast Quarter of Section 16, and a Portion of the Northwest Quarter of the Northwest Quarter of Section 15, Township 4 North, Range 67 West of the 6th P.M., County of Weld, State of Colorado, consisting of approximately 47.41 acres more or less, known as the Archdiocese Annexation Nos. 1-3, being more particularly described on Exhibit A, attached hereto and incorporated herein by this reference (“Property”); and

WHEREAS, Owner executed a Petition for Annexation, dated July 27, 2022, a copy of which petition is on file with the Town Clerk; and

WHEREAS, Owner has prepared a zoning map identifying and illustrating its request for Planned Unit Development (“PUD-MU”) zoning of the Property; and

WHEREAS, it is to the mutual benefit of the parties hereto to enter into this Agreement regarding annexation of the Property to the Town and other related matters as set forth herein; and

WHEREAS, Owner acknowledges that, upon annexation, the Property will be subject to all ordinances, resolutions and other regulations of the Town, as amended from time to time; and

WHEREAS, Owner acknowledges that, when development proceeds, the need for conveyances and dedication of certain property to the Town, including, but not limited to, property for rights-of-ways and easements, shall be directly related to and generated by the development within the Property.

NOW, THEREFORE, IN CONSIDERATION OF THE ABOVE PREMISES AND THE COVENANTS AS HEREINAFTER SET FORTH, IT IS AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. ***Incorporation of Recitals.*** The parties confirm and incorporate the foregoing recitals into this Agreement.

2. ***Purpose.*** The purpose of this Agreement is to set forth the terms and conditions of the annexation of the Property to the Town. Except as expressly provided for herein to the contrary, all terms and conditions herein are in addition to all requirements concerning annexation

contained in the Johnstown Municipal Code, the Town's development regulations and Comprehensive Plan, and the Municipal Annexation Act of 1965, as amended, §§31-12-101, *et seq.*, C.R.S. (the "Act").

3. **Owner.** As used in this Agreement, the term "Owner" shall include any of the heirs, transferees, successors or assigns of Owner. In addition to the foregoing and to the extent excluded therefrom, this Agreement shall be binding upon all developers of the Property or any part thereof. All such parties shall be subject to the terms of this Agreement as if they were the original parties thereto.

4. **Further Acts.** Owner agrees to execute promptly upon request of the Town any and all surveys and other documents necessary to effectuate the annexation of the Property and the other provisions of this Agreement. Owner agrees not to sign any other petition for annexation of the Property or any petition for annexation election relating to the Property, except upon request of the Town.

5. **Annexation Documents.** Owner agrees to provide legal documents, surveys, engineering work, newspaper publications, maps, and reports determined by the Town to be necessary to accomplish the annexation.

6. **Zoning and Land Use.** The parties recognize that it is the intent and desire of Owner to develop the Property in a manner generally consistent with the zoning and land uses set forth above. Owner shall take all action necessary to permit zoning by Johnstown of the annexed Property within the time prescribed by state statute.

7. **Non-Conforming Use.** The Town agrees to allow existing non-conforming agricultural use, if any, to continue until such time as the Property is platted, but not at a greater level than at its current level of activity and use.

8. **Water Rights Dedication.** Owner owns the water rights and lateral ditch company rights appurtenant to the Property, if any, that are described on **Exhibit B** attached hereto and incorporated herein by reference. Owner shall dedicate all such water rights and lateral ditch company rights to the Town in accordance with current municipal code procedures at the time of development. Owner specifically agrees that it has not sold or transferred any water rights appurtenant to the Property within the past year nor will it do so during the pendency of this annexation petition and, once annexed to the Town, will not sell or transfer any water rights appurtenant to the Property without the prior written approval of the Town.

9. **Municipal Services.** The Town agrees to make available to the Property all of the usual municipal services provided by the Town in accordance with the ordinances and policies of the Town. Except as otherwise agreed by the Town, Owner shall bear the cost of the delivery of such services.

10. **Public Improvements.** Owner agrees to design and construct all required public improvements to Town standards at Owner's expense. Owner shall provide financial guarantees for construction of all required improvements as set forth in each phase or filing of the development and dedicate to the Town any or all of the improvements required by Town ordinances or as otherwise agreed. The public improvements and financial guarantees shall be set forth in a development agreement, or similar such agreement, for each filing. All overhead utility lines shall be undergrounded.

11. **Roadway Dedication.** On or before June 1, 2023, Owner shall dedicate approximately thirty (30) feet of additional land adjacent to Weld County Road 19 to the Town for right of way by deed of dedication in the form set forth on **Exhibit C** attached hereto and incorporated herein by this reference, which deed of dedication also includes a legal description of the property subject to the right of way dedication. If required by the Town, at its discretion, Owner shall dedicate additional rights of way for roads necessary to support development of the Property at no cost to the Town, which shall be set forth in a subsequent agreement between the Town and Owner.

12. **Land Dedication.** The dedication of parks and open space, flood plains, public easements for utilities, rights-of-way for streets and other public ways and dedications for other public purposes shall be by general warranty deed (to include, except for public easements, mineral interest owned by Owner at the time of annexation) or another appropriate instrument of conveyance acceptable to the Town. Such dedications shall occur when required by the Town. The Town and Owner agree that such dedications are directly related to and generated by the development intended to occur within the Property that no taking thereby will occur requiring any compensation.

13. **Water and Waste Water Utilities.** Owner agrees to construct all on-site and required off-site water and wastewater mains and appurtenances to Town standards at Owner's expense as may be required by development of the Property. The Town and Owner hereby agree to cooperate in good faith with respect to 1) determining reasonable oversizing requirements; 2) locating and securing approvals for installation of utility mains and appurtenances within public rights-of-way; and 3) facilitating installation of off-site infrastructure if the Town and Owner determine that such installation is necessary in connection with orderly development of the Property.

14. **Drainage.** A drainage study of the entire annexation territory shall be provided by Owner to the Town no later than the date of Owner's filing of a preliminary plat with the Town. Improvements shall be made as required by the Town. Historical irrigation and drainage patterns shall be maintained on the property to the extent feasible including no change in the quality, quantity or point of discharge, except to the extent approved by the Town.

15. **Development Fees.** Owner recognizes and agrees that the Property shall be subject to the development fees imposed on other comparable developments in the Town pursuant to the Town's regulations and ordinances.

16. **Conformity with Laws.** Owner agrees that the design, improvement, construction, development, and use of the Property shall be in conformance with all applicable laws and ordinances and that Owner shall comply with all Town ordinances, resolutions and regulations including, without limitation, ordinances, resolutions, and regulations pertaining to annexation, subdivision, zoning, storm drainage, utilities, access to Town streets, and flood control.

17. **Disconnection.** No right or remedy of disconnection of the Property from the Town shall accrue from this Agreement other than that provided by applicable state laws. In the event the Property or any portion thereof is disconnected at Owner's request, the Town shall have no obligation to serve the disconnected Property or portion thereof and this Agreement shall be void and of no further force and effect as to such Property or portion thereof.

18. **Special Districts.** Within thirty (30) days after written request by the Town, Owner shall apply for inclusion of the Property within one or more special districts serving the Town and the Town may request Owner to petition to exclude the Property from another special district. All costs, expenses, attorney fees and judgments for exclusion of the property from any special district shall be borne by Owner. Within thirty (30) days after written request by the Town, Owner shall be required to pay sums due owing from the Town to the Little Thompson Water District, if any, pursuant to an Intergovernmental Agreement between the Town of Johnstown and the Little Thompson Water District dated January 21, 2009.

19. **Future Cooperation.** The parties agree that they will cooperate with one another in accomplishing the terms, conditions, and provisions of the Agreement and will execute such additional documents as necessary to effectuate the same.

20. **No Joint Venture or Partnership/No Assumption of Liability.** Nothing contained in this Agreement is intended to create a partnership or joint venture between the Town and Owner or between the Town and any one or more of the individual owners that may exist and any implication to the contrary is hereby expressly disavowed. It is understood and agreed that this Agreement does not provide for the joint exercise by the parties of any activity, function or service, nor does it create a joint enterprise or an agency relationship. Except as specifically otherwise provided in this Agreement, no party shall in any way assume any of the liability of any other party for any act or obligations of the other party.

21. **Failure to Annex.** This Agreement shall be null and void if the Town fails to approve the annexation of the Property.

22. **No Warranties by the Town.** The Town is entering into this Agreement in good faith and with the present intention, on the part of the present Town Council, to comply with this Agreement. Because certain of the provisions of this Agreement may involve areas of legal uncertainty or be subject to subsequent revisions to the law, the Town does not intend to provide any warranty.

23. **Breach.** In the event of a default or breach by Owner of any term, condition, covenant, or obligation under this Agreement, the Town may take such action as it deems

necessary to protect the public health, safety and welfare; to protect lot buyers and builders; and to protect the citizens of the Town from hardship. The Town's remedies include:

- (I) The refusal to issue any development permit, building permit or certificate of occupancy. This remedy shall not affect sales to bona fide purchasers nor be applied to bona fide purchasers;
- (II) A demand that the security given for the completion of the public improvements be paid or honored;
- (III) The refusal to consider further development plans within the Property; and/or
- (IV) Any other remedy available at law.

Unless necessary to protect the immediate public health, safety and welfare, the Town shall provide Owner ten (10) days' written notice of its intent to take any action under this Paragraph during which ten-day period Owner may cure the breach described in said notice and prevent further action by the Town. In the event the breach or default by Owner is incapable of being cured within this ten-day period, Owner shall not be in default so long as Owner begins action to cure the default within such ten-day period and diligently pursues such cure to completion.

24. **Attorney's Fees.** If Owner breaches this Agreement, Owner shall pay the Town's reasonable costs and attorney's fees incurred in the enforcement of the terms and conditions of this Agreement. Should litigation occur by suit of a third party related to this Agreement, Owner shall reimburse the Town for the Town's attorney's fees, court costs, and witness fees. Rather than require the Town to defend an action brought by a third party alleging that the Property is not subject to annexation or that the technical requirements of the Act were not met, Owner may withdraw the Petition for Annexation. In addition thereto, in the event that any person, corporation, special district, municipal or county government or any other entity asserts a claim against the Town, its officials, or employees pursuant to the provisions of the Act, Owner agrees to reimburse the Town all reasonable costs and attorney's fees incurred by the Town in defense of such claims whether or not such defense is successful; provided, however, that nothing herein shall be interpreted as permitting Owner to act or participate in any manner whatsoever in the defense of such claims, including, but not limited to, selection of legal counsel or settlement of claims. Owner acknowledges and understands that the Town may, in its sole discretion, voluntarily elect not to defend against such an action and may consent to and permit the entry by the court of an order voiding the annexation or reach another means of settlement of claims. In such an event, Owner shall also reimburse to the Town any costs or attorney's fees assessed against the Town by the court, if any.

25. **Assignments.** Within ten days of an assignment, Owner shall provide written notice to the Town of the name, address and telephone number of the assignee and related contact information of the assignee and/or new owner of the Property. Unless otherwise agreed by the Town, Owner's obligations under this Agreement shall not be diminished or reduced by virtue of an assignment or sale.

26. **Design Review Guidelines.** If required by the Town, the Town and Owner shall jointly develop and agree to adopt design review guidelines addressing design considerations,

including architectural, site planning, landscaping, streetscape, and sign elements for land uses within the Property. The design review guidelines shall be applied to all development projects within the Property. The design review guidelines shall not supersede any uniform code of the Town such as the Uniform Building Code, Uniform Fire Code, or any other like code which is applicable to all properties located within the Town.

27. **Notice.** All notices required under this Agreement shall be in writing and shall be: 1) hand-delivered; 2) sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of the parties herein set forth; or 3) sent by electronic mail return receipt requested and received. All notices by hand-delivery shall be effective upon receipt. All notices by mail shall be considered effective seventy-two (72) hours after deposit in the United States mail with the proper address as set forth below. All notices sent by electronic mail shall be considered effective upon confirmation of a read-receipt by the intended recipient. Either party, by notice to be given, may change the address to which future notices shall be sent.

Notice to Town: Town of Johnstown
ATTN: Town Manager
450 S. Parish Avenue
P. O. Box 609
Johnstown, CO 80534
Email: mlecerf@townofjohnstown.com

With copy to: Law Office of Avi S. Rocklin, LLC
Town Attorney
1437 N. Denver Avenue #330
Loveland, CO 80538
Email: avi@rocklinlaw.com

Notice to Owner: The Archdiocese of Denver
Attn: Real Estate Department
1300 South Steele Street
Denver, CO 80210
Email: Jarrett.Laraway@Archden.org

With copy to: Edward J. Blieszner, Esq.
Welborn Sullivan Meck & Tooley, P.C.
1401 Lawrence Street, Suite 1800
Denver, CO 80202
Email: EBlieszner@wsmtlaw.com

28. **Voluntary Annexation; Election.** Owner agrees that it is voluntarily entering into this Agreement. Owner represents and submits that, to the extent an election would be required pursuant to § 31-12-112, C.R.S., to approve the annexation or to impose terms and conditions upon the Property to be annexed, Owner owns one hundred percent (100%) of the Property, excluding public streets and alleys, and would vote to approve the annexation and all terms and conditions as set forth herein.

29. **Cost Reimbursement to Town.** Developer shall reimburse the Town for professional consultants such as engineers, testing companies, planners, and attorneys necessitated by processing and completion of this development.

30. **No Third Party Rights.** This Agreement is made solely for the benefit of the parties hereto and is not intended to nor shall it be deemed to confer rights to any persons or entities not named as parties hereto.

31. **Governing Law.** The laws of the State of Colorado shall govern the validity, performance, and enforcement of this Agreement. Should either party institute legal suit or action for enforcement of any obligation contained herein, it is agreed that the venue of such suit or action shall be in Weld County, Colorado.

32. **Default.** In the event of default by either party hereunder, the non-defaulting party shall notify the defaulting party in writing of such default(s), specifying the nature and extent thereof. If such default is not cured within thirty (30) days and the non-defaulting party desires to seek recourse, the parties shall participate in mediation at a location that is not more than sixty miles from the Property, the costs of which shall be shared equally by the parties. If mediation is not successful after ninety (90) days, either party may then commence a legal action.

33. **Headings.** The paragraph headings in this Agreement shall not be used in the construction or interpretation hereof as they have no substantive effect and are for convenience only.

34. **No Repeal of Laws.** Nothing contained in the Agreement shall constitute or be interpreted as a repeal of existing codes, ordinances or as a waiver of the Town’s legislative, governmental, or police powers to promote and protect the health, safety, and general welfare of the Town or its inhabitants; nor shall this Agreement prohibit the enactment by the Town of any fee which is of uniform or general application.

35. **Amendments to Law.** As used in this Agreement, unless otherwise specifically provided herein, any reference to any provision of any Town ordinances, resolution, regulations, or policy is intended to refer to any subsequent amendments or revisions to such ordinance, resolution, regulations, or policy, and the parties agree such amendments or revision shall be binding upon Owner.

36. **No Vested Rights.** No vested rights shall accrue to Owner by virtue of annexation of the Property or this Annexation Agreement.

37. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of all heirs, transferees, successors and assigns hereof, and shall constitute covenants running with the land. In addition to the foregoing and to the extent excluded therefrom, this Agreement shall be binding upon all developers of the Property or any part thereof. This Agreement shall be recorded with the County Clerk and Recorder of Weld County, Colorado, at Owner’s expense.

Subject to the conditions precedent herein, this Agreement may be enforced in any court of competent jurisdiction.

38. **Entire Agreement.** This Agreement embodies the entire agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein; and this Agreement supersedes all previous communications, representations or agreements, either verbal or written, between the parties related to the subject matter herein.

39. **Amendment.** This Agreement may be amended only by mutual agreement of the Town and Owner. Such amendments shall be in writing, shall be recorded with the County Clerk and Recorder of Weld County, Colorado, shall be covenants running with the land and shall be binding upon all persons or entities having an interest in the Property and/or an interest in water rights referenced in this Agreement.

40. **Severability.** The parties agree that if any part, term, portion, or provision of this Agreement is held by a court of competent jurisdiction to be illegal or in conflict with any law of the State of Colorado or any federal law, the validity of the remaining parts, terms, portions, or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, portion, or provision held to be invalid.

[Remainder of page intentionally left blank.]

ATTEST:

TOWN OF JOHNSTOWN, COLORADO,
A MUNICIPAL CORPORATION

By: _____
Hannah Hill, Town Clerk

By: _____
Gary Lebsack, Mayor

THE ARCHDIOCESE OF DENVER

By: Keith Parsons

Name: Keith Parsons
Title: Attorney in Fact for the Most Rev.
Samuel J. Aquila, S.T.L, Archbishop of
Denver

STATE OF COLORADO)
)ss.
COUNTY OF Denver)

SUBSCRIBED AND SWORN to before me this 13th day of March, 2023, by
Keith Parsons, as the COO of The Archdiocese of Denver.

WITNESS my hand and official seal.

Christina Marie Buches
Notary Public

My commission expires: June 25, 2025

Christina Marie Buches
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID# 20214025358
MY COMMISSION EXPIRES JUNE 25, 2025

EXHIBIT A
PROPERTY

ARCHDIOCESE ANNEXATION No. 1

An area of land being a portion of the Northwest Quarter of the Northeast Quarter (NW1/4NE1/4) of Section Sixteen (16), Township Four North (T.4N.), Range Sixty-seven West (R.67W.) of the Sixth Principal Meridian (6th P.M.), County of Weld, State of Colorado, being more particularly described as follows;

COMMENCING at the North Quarter corner of said Section 16 and assuming the North line of the Northeast at the North Quarter corner of said Section 16 and assuming the North line of the Northeast Quarter (NE1/4) of said Section 16 as monumented by a #6 rebar with a 3.25" aluminum cap stamped LS 7242 at the West aluminum cap stamped LS 7242 at the West end and a 2.5" aluminum pipe with a 3.25" aluminum cap stamped LS 13155 at the East end, as bearing aluminum pipe with a 3.25" aluminum cap stamped LS 13155 at the East end, as bearing aluminum cap stamped LS 13155 at the East end, as bearing South 88°26'46" East, being a grid bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983 (2011), a distance of 2722.98 feet, with all other bearings contained herein being relative thereto.

The lineal dimensions as contained herein are based upon the "U.S. Survey Foot".

THENCE South 01°04'34" East along the West line of the NE1/4 of said Section 16 a distance of 1054.41 feet to the POINT OF BEGINNING;
THENCE South 79°32'21" East a distance of 673.25 feet;
THENCE South 77°23'12" West a distance of 673.25 feet to the Center North Sixteenth corner of said Section 16;
THENCE North 01°04'34" West along the West line of the NW1/4NW1/4 a distance of 269.30 feet to the POINT OF BEGINNING.

Said area of land contains 2.04 Acres (+/-88,822 sq.ft.) and is subject to any rights-of-way or other easements of record as now existing on said described parcel of land.

AND

ARCHDIOCESE ANNEXATION No. 2

An area of land being a portion of the North Half of the Northeast Quarter (N1/2NE1/4) of Section Sixteen (16), Township Four North (T.4N.), Range Sixty-seven West (R.67W.) of the Sixth Principal Meridian (6th P.M.), County of Weld, State of Colorado, being more particularly described as follows;

COMMENCING at the North Quarter corner of said Section 16 and assuming the North line of the Northeast at the North Quarter corner of said Section 16 and assuming the North line of the Northeast Quarter (NE1/4) of said Section 16 as monumented by a #6 rebar with a 3.25"

aluminum cap stamped LS 7242 at the West aluminum cap stamped LS 7242 at the West end and a 2.5" aluminum pipe with a 3.25" aluminum cap stamped LS 13155 at the East end, as bearing aluminum pipe with a 3.25" aluminum cap stamped LS 13155 at the East end, as bearing aluminum cap stamped LS 13155 at the East end, as bearing South 88°26'46" East, being a grid bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983 (2011), a distance of 2722.98 feet, with all other bearings contained herein being relative thereto.

The lineal dimensions as contained herein are based upon the "U.S. Survey Foot".

THENCE South 01°04'34" East along the West line of the NE1/4 of said Section 16 a distance of 1054.41 feet to the POINT OF BEGINNING;
 THENCE South 89°01'10" East a distance of 1357.98 feet;
 THENCE North 00°54'49" West a distance of 756.16 feet;
 THENCE North 90°00'00" East a distance of 376.23 feet;
 THENCE North 00°00'16" East a distance of 274.14 feet to the North line of said N1/2NE1/4;
 THENCE South 88°26'46" East along said North line a distance of 466.38 feet;
 THENCE South 00°44'27" East a distance of 1301.34 feet to the South line of said N1/2NE1/4;
 THENCE North 89°01'10" West along said South line a distance of 2200.27 feet to the Center North Sixteenth corner of said Section 16;
 THENCE North 77°23'12" East a distance of 673.25 feet;
 THENCE North 79°32'21" West a distance of 673.25 feet to the POINT OF BEGINNING.

Said area of land contains 29.24 Acres (+/-1,273,591 sq.ft.) and is subject to any rights-of-way or other easements of record as now existing on said described parcel of land.

AND

ARCHDIOCESE ANNEXATION No. 3

An area of land being a portion of the Northeast Quarter of the Northeast Quarter (NE1/4NE1/4) of Section Sixteen (16) and a portion of the West Half of the Northwest Quarter (W1/2NW1/4) of Section Fifteen (15), both of Township Four North (T.4N.), Range Sixty-seven West (R.67W.) of the Sixth Principal Meridian (6th P.M.), County of Weld, State of Colorado, being more particularly described as follows;

COMMENCING at the North Quarter corner of said Section 16 and assuming the North line of the Northeast at the North Quarter corner of said Section 16 and assuming the North line of the Northeast Quarter (NE1/4) of said Section 16 as monumented by a #6 rebar with a 3.25" aluminum cap stamped LS 7242 at the West aluminum cap stamped LS 7242 at the West end and a 2.5" aluminum pipe with a 3.25" aluminum cap stamped LS 13155 at the East end, as bearing aluminum pipe with a 3.25" aluminum cap stamped LS 13155 at the East end, as bearing aluminum cap stamped LS 13155 at the East end, as bearing South 88°26'46" East, being a grid bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983 (2011), a distance of 2722.98 feet, with all other bearings contained herein being relative thereto.

The lineal dimensions as contained herein are based upon the "U.S. Survey Foot".

THENCE South 88°26'46" East along the North line of the NE1/4 of said Section 16 a distance of 2208.80 feet to the POINT OF BEGINNING;
 THENCE continuing South 88°26'46" East along said North line a distance of 514.19 feet to the Northeast corner of said Section 16;
 THENCE South 89°22'30" East along the approximate North line of said W1/2NW1/4 of Section 15 a distance of 30.01 feet to the East right-of-way line of County Road Nineteen (19);
 THENCE South 00°44'50" East along said East right-of-way line a distance of 1296.39 feet to the Easterly extension of the South line of said NE1/4NE1/4 of Section 16;
 THENCE North 89°01'10" West along said Easterly extension a distance of 30.01 feet to the North Sixteenth corner of said Sections;
 THENCE continuing North 89°01'10" West along said South line of the NE1/4NE1/4 a distance of 514.15 feet;
 THENCE North 00°44'27" West a distance of 1301.34 feet to the North line of said NE1/4NE1/4 of Section 16 and to the POINT OF BEGINNING.

Said area of land contains 16.21 Acres (+/-706,259 sq.ft.) and is subject to any rights-of-way or other easements of record as now existing on said described parcel of land.

PREPARED BY:

Lat40°, Inc.
Professional Land Surveyors
 6250 W. 10th Street, Unit 2
 Greeley, CO 80634
 (970) 515-529

EXHIBIT B
WATER RIGHTS

None identified.

EXHIBIT C

(See Attached)

DEED OF DEDICATION FOR RIGHT OF WAY

KNOW ALL BY THESE PRESENTS, that THE ARCHDIOCESE OF DENVER, a Colorado corporation sole ("Grantor"), for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby dedicate, grant, transfer and convey to the Town of Johnstown, Colorado, a Colorado home rule municipal corporation ("Grantee"), and Grantee does hereby accept on behalf of the public, for use as a public right-of-way for street, road and utility purposes, on, over, across, under, along, and within, the real property located in Weld County, State of Colorado, as described on Exhibit A attached hereto and incorporated herein by this reference, containing a legal description and a depiction of the real property, with all appurtenances (the "Property").

TO HAVE AND TO HOLD the above described, dedicated, granted, transferred and conveyed Property unto said Grantee, its successors and assigns forever.

Grantor warrants and covenants to Grantee that Grantor is the lawful owner of the Property, has good sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and has the right and authority to dedicate, grant and convey said Property as set forth herein, and that the Property is free from all encumbrances and restrictions of any kind, except general taxes for the current or subsequent years. Grantor, its successors and assigns, shall warrant and forever defend the Property in the quiet and peaceable possession of the Grantee, its successors and assigns, against all and every person or persons lawfully claiming the whole or any part thereof.

Acceptance of this conveyance by the Grantee shall not impose upon the Grantee any obligation for the opening, widening, installation, improvement or maintenance of the Property.

IN WITNESS WHEREOF, the parties have executed this document this 13th day of March, 2023.

GRANTOR Keith Parsons

Name: Keith Parsons

Title: Attorney in Fact for the Most Rev. Samuel J. Aquila, S.T.L, Archbishop of Denver

STATE OF Colorado)
) ss.
COUNTY OF Denver)

SUBSCRIBED AND SWORN to before me this 13th day of March, 2023, by Keith Parsons as the COO, Att-in-fact for the of Archdiocese of Denver

WITNESS my hand and official seal. Most Reverend Samuel J. Aquila, Archbishop of Denver

My commission expires: June 25, 2025

Christina Marie Buches
Notary Public

Christina Marie Buches
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID# 20214025358
MY COMMISSION EXPIRES JUNE 25, 2025

EXHIBIT A

PROPERTY DESCRIPTION

A strip of land being the East 60 feet of the North Half of the Northeast Quarter (N1/2NE1/4) of Section Sixteen (16), Township Four North (T.4N.), Range Sixty-seven West (R.67W.) of the Sixth Principal Meridian (6th P.M.), County of Weld, State of Colorado, being more particularly described as follows:

BEGINNING at the Northeast corner of said Section 16 and assuming the East line of the Northeast Quarter (NE1/4) of said Section 16 as bearing South 00°44'50" East as monumented by a 2.5" aluminum pipe with 3.25" aluminum cap LS 13155 on the North end and by a #6 rebar with a 2.0" aluminum cap LS 22097 on the South end, being a grid bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983, a distance of 2592.40 feet with all other bearings contained herein being relative thereto;

The lineal dimensions as contained herein are based upon the U.S. Survey Foot.

THENCE South 00°44'50" East along the East line of said NE1/4 a distance of 1296.20 feet to the calculated North Sixteenth Corner;

THENCE North 89°01'10" West along the South line of the N1/2NE1/4 of said Section 16 a distance of 60.03;

THENCE North 00°44'50" West along a line parallel with and 60 feet West of the East line of the NE1/4 of said Section 16 a distance of 1296.80 feet to the North line of the NE1/4 of said Section 16;

THENCE South 88°26'46" East along said North line a distance of 60.05 feet to the Northeast Corner of said Section 16 and to the **POINT OF BEGINNING**;

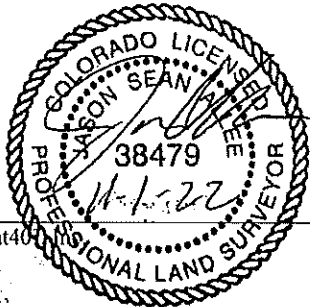
Said strip of land contains 1.79 Acres (+/- 77,790 sq. ft.) and is subject to any rights-of-way or other easements of record as now existing on said described strip of land.

SURVEYORS CERTIFICATE

I, Jason S. Allee, a Colorado Licensed Professional Land Surveyor do hereby state that this Property Description was prepared by me or under my personal supervision and checking, and that it is true and correct to the best of my knowledge and belief.

Sheet 1 of 2

Jason S. Allee -- on behalf of Lat40
Colorado Licensed Professional
Land Surveyor #38479



Lat40°, Inc.
Professional Land Surveyors
6250 W. 10th Street, Unit 2
Greeley, CO 80634
(970) 515-5294



Town of Johnstown

TOWN COUNCIL CONSENT AGENDA COMMUNICATIONS

AGENDA DATE: May 1, 2023

SUBJECT: Water & Sewer Service Agreement – GMX Building with Johnstown 3425, LLC

ATTACHMENTS: 1. Water and Sewer Service Agreement with Exhibits

PRESENTED BY: Kim Meyer, Planning & Development Director

AGENDA ITEM DESCRIPTION:

The Developer, Johnstown 3425, LLC., has received administrative approval of a Site Development Plan for the GMX Building and Site Development Plan, consisting of 13,227 sq. ft. of mixed retail space in the 2534 area.

The annual in-building water demand is estimated at 2.37 acre-feet, with annual permanent irrigation demand at 0.67 acre-feet. These numbers were provided by the Developer and reviewed and accepted by the Town’s contract water engineering firm.

Development Component	Demand (AF/YR)	Consumption (AF/YR)
In-Building	2.37	0.12
Landscape Irrigation (Non-potable)	0.67	0.57
Total	3.04	0.69

Potable water is allocated from the 2534 Master Association Water Bank for both in-building and non-potable irrigation. Evidence of the agreement and allocation of this water is incorporated as Exhibit B.

Water court transfer fees have been paid on water held in this bank.

LEGAL ADVICE:

The Town Attorney drafted the Agreement.

The Community That Cares

www.TownofJohnstown.com

P: 970.587.4664 | 450 S. Parish Ave, Johnstown CO | F: 970.587.0141

FINANCIAL ADVICE:

NA

RECOMMENDED ACTION:

Approve the Water & Sewer Service Agreement for the GMX Building, with Johnstown 3425, LLC.

Reviewed and Approved for Presentation,



Town Manager

**WATER AND SEWER SERVICE AGREEMENT
FOR
GMX SITE DEVELOPMENT PLAN (DEV22-0010)**

THIS WATER AND SEWER SERVICE AGREEMENT is made and entered into this ____ day of _____, 2023, by and between **JOHNSTOWN 3425, LLC**, an Illinois limited liability company duly authorized to conduct business in Colorado (“Developer”), and **THE TOWN OF JOHNSTOWN**, a Colorado municipal corporation, (“Town”), collectively sometimes referred to as the “Parties.”

WITNESSETH:

WHEREAS, the Developer owns an interest in land in Lot 1, Amended Lot 1, Block 1, 2534 Filing No. 4 and Lot 1, Amendment of Lot 2, Block 1, 2534 Filing No. 4 and Lot 1, 2534 Filing No. 4 Second Replat (Rec #20190028268), Larimer County known as 4884 Larimer Parkway, Johnstown, Colorado and more specifically described in the attached Exhibit A (“Subject Property”); and

WHEREAS, the Subject Property has been annexed to the Town and was the subject of an Annexation Agreement dated November 3, 2006; and

WHEREAS, the Subject Property is being developed as an approximately 13,227 square-foot retail space with 0.034 acre of spray irrigated landscape and 0.232 acre of drip irrigated landscape, known as the GMX “Lot 1” 2534 Retail Building (“Project”); and

WHEREAS, the Developer and the Town desire to set forth their agreement concerning water rights dedication, preliminary projections of water and sewer demand and a current commitment by the Town for water and sewer service for the Project.

NOW, THEREFORE, in consideration of the mutual promises hereinafter contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

1. Water and Sewer Demand Studies. In compliance with the Town Water Rights Dedication Ordinance (“Ordinance”), Developer has submitted to the Town a preliminary water and sewer demand analysis for the Project. Said analysis was received by the Town, is on file with the Town and, as modified by the Town’s Water Engineer by memorandum dated January 18, 2023, is hereby accepted by the Town. The analysis provides that the projected water and sewer demand for the Project is as follows:

Development Component	Demand (AF/YR)	Consumption (AF/YR)
In-Building	2.37	0.12
Landscape Irrigation (non-potable)	0.67	0.57
Total	3.04	0.69

2. Water Rights Dedication.

a. Potable Supply. As a result of prior dedications of raw water credit, there is currently a surplus dedication credit with the Town sufficient to supply the potable water demands of the Project from the 2534 Master Association Water Bank. The Gerrard Family Partnership, LLLP and Thompson Ranch Development Company have agreed that this credit shall be applied to meet the potable water demands of the Project. Evidence of the agreement is attached hereto and incorporated herein by reference as Exhibit B.

b. Non-Potable Supply. As a result of prior dedications of raw water credit, there is currently a surplus dedication credit with the Town sufficient to supply the non-potable water demands of the Project from the 2534 Master Association Water Bank. The Gerrard Family Partnership, LLLP and Thompson Ranch Development Company have agreed that this credit shall be applied to meet the non-potable water demands of the Project. Evidence of the agreement is attached hereto and incorporated herein by reference as Exhibit B.

3. Commitment to serve. Subject to Developer's performance of all the covenants contained herein and payment of all required fees, the Town commits to provide to the Project up to 2.37 acre-feet per year of potable water supply together with the corresponding sewer service, up to 0.67 acre-feet per year of non-potable water supply for landscape irrigation.

4. Future review of water usage and dedication requirements. In accordance with the Ordinance, the Town reserves the right to review actual water usage within the Project at a point in time after water usage has been established, to confirm the adequacy of the water demand projections made by the Developer and to require additional water rights dedication and/or cash-in-lieu payments based on actual water usage as measured by the water meter at the Project.

5. Payment of Water Court Transfer fees. The Water Court transfer fee for both the potable water supply and non-potable water supply was previously paid to the Town as part of the 2534 Master Association Water Bank. However, in accordance with the Ordinance, additional fees may be required in connection with future development of any portion of the Subject Property.

6. Notices. All notices, demands, or other documents required or desired to be given, made or sent to either Party under this Agreement shall be made in writing, shall be deemed effective upon receipt, and shall be personally delivered, or mailed postage prepaid, certified mail, return receipt requested, or mailed by reputable overnight mail courier for next business day delivery, or sent by electronic mail on the condition that the recipient acknowledges receipt thereof, as follows:

TO DEVELOPER:

Johnstown 3425, LLC
3000 Dundee Rd., Ste. 408
Northbrook, IL 60062-2422
Attention: Mr. Andrew S. Goodman
Email: asg@gmxre.com and
gmx@taftlaw.com

TO THE TOWN:

Town of Johnstown
c/o Town Clerk
450 S. Parish Ave.
Johnstown, CO 80534
hhill@johnstowncogov

WITH A COPY TO:

Taft Stettinius & Hollister LLP
 111 East Wacker Drive, Suite 2600
 Chicago, Illinois 60601-3713
 Attention: Kenneth Klassman, Esq.
 Email: kklassman@taftlaw.com

WITH A COPY TO
 THE TOWN ATTORNEYS:

Avi Rocklin, Esq.
 Johnstown Town Attorney
 1437 N. Denver Avenue, #330
 Loveland, CO 80538
 avi@rocklinlaw.com

Peter J. Ampe
 Hill & Robbins, P.C.
 3401 Quebec Street, Suite 3400
 Denver, CO 80207
 peterampe@hillandrobbs.com

The addresses for notices may be changed by written notice given to the other Party in the manner provided above.

7. Default. In the event of default by either Party hereunder, the non-defaulting Party shall notify the defaulting Party in writing of such default(s), specifying the nature and extent thereof. If such default is not cured within thirty (30) days after receipt of notice from the non-defaulting Party (or, if such longer period is commercially reasonably needed, then if such cure is not commenced within 30-days' after the receipt of such notice) and the non-defaulting Party desires to seek recourse, the Parties shall participate in mediation, the costs of which shall be shared equally by both Parties. If mediation is not successful after a ninety-day period, either Party may then commence a legal action, and shall be entitled to such remedies as are provided by law, including the Town's ordinances.

8. Successors and assigns. The benefits and burdens of this Agreement shall respectively inure to and be binding upon the successors and assigns of the Parties hereto.

9. Amendment or modification. No amendment or modification of this Agreement shall be of any force or effect unless in writing and executed by the Parties hereto with the same formality as this Agreement.

10. Attorney's fees and costs. If any judicial proceedings may hereafter be brought to enforce any of the provisions hereof, including an action for specific performance and/or damages, the Town, if the prevailing party, shall be entitled to recover the costs of such proceedings, including reasonable attorney's fees and reasonable expert witness fees.

11. Waiver. The waiver of any breach of any of the provisions of this Agreement by either Party shall not constitute a continuing waiver of any subsequent breach by said Party, concerning either the same or any other provision of this Agreement.

12. Headings for convenience only. Paragraph headings and titles contained herein are intended for convenience and reference only and are not intended to define, limit, or describe the scope or intent of any provision of this Agreement.

13. Non severability. Each paragraph of this Agreement is intertwined with the others and is not severable unless by mutual consent of the Parties hereto. Notwithstanding the foregoing, if any term, covenant, or condition of this Agreement or the application thereof to any person or circumstance is, to any extent, invalid or unenforceable, then the remainder of this Agreement or the application of such term, covenant, or condition to persons or circumstances other than those as to which it is held invalid or unenforceable will not be affected by such invalidity or unenforceability, and each term, covenant or condition of this Agreement will be valid and enforced to the fullest extent permitted by law.

14. Choice of laws. This Agreement and the rights and obligations of the Parties hereto shall be governed by the laws of the State of Colorado. Venue for any claim, proceeding or action shall be in Larimer County, State of Colorado.

15. Entire agreement and Authorization. This Agreement constitutes the entire agreement between the Parties related to the subject matter hereof and any prior agreements pertaining thereto whether oral or written have been merged or integrated into this Agreement. Each of the undersigned represents to the others that he/she is authorized by his/her respective entity to execute this Agreement on behalf of that entity.

16. No Presumption. Each Party acknowledges that it has carefully read and reviewed the terms of this Agreement. Each Party acknowledges that the entry into and execution of this Agreement is of its own free and voluntary act and deed, without compulsion. Each Party acknowledges that it has obtained, or has had the opportunity to obtain, the advice of legal counsel of its own choosing in connection with the negotiation and execution of this Agreement and with respect to all matters set forth herein. The Parties agree that this Agreement reflects the joint drafting efforts of all Parties and in the event of any dispute, disagreement or controversy arising from this Agreement, the Parties shall be considered joint authors and no provision shall be interpreted against any Party because of authorship.

18. Recordation. This Agreement shall be recorded by the Town at Developer's expense in the office of the Clerk and Recorder of Larimer County, Colorado. This Agreement shall run with the Subject Property, shall be binding upon the Parties hereto and the permitted successors and assigns of the Parties and shall constitute notice of this Agreement to all persons or entities not parties hereto.

Signatures follow

EXHIBIT A

PROPERTY DESCRIPTION

The Land referred to below is situated in the County of Larimer, State of Colorado, and is described as follows:

Lot 1, Amended Plat of Lot 1, Block 1, 2534 Filing No. 4 and Lot 1, Amended Plat of L2, B1, 2534 Filing No. 4 & Lot 1, 2534 Filing No. 4, Second Replat, County of Larimer, State of Colorado.

For informational purposes only: APN: 8514233001


EXHIBIT B

RAW WATER CREDIT ALLOCATION ACKNOWLEDGMENT

This is to acknowledge and agree that the Town of Johnstown may allocate raw water credit from the Gerrard Family Limited Partnership, LLLP, and Thompson Ranch Development Company raw water credit account held by the Town of Johnstown, known as the "2534 Water Bank," to provide water service to the development known as GMX RETAIL DEVELOPMENT (DEV22-0010) and any successor occupant of the premises at the same location, pursuant to the Water and Sewer Service Agreement between Johnstown 3435, LLC, an Illinois limited liability company, and the Town of Johnstown dated _____, 2023.

The amount of such allocated raw water credit is calculated to be 2.37 acre-feet per year for In-Building Use and 0.67 acre-feet per year for Irrigation Use, subject to adjustment pursuant to the terms of the Water Sewer Service Agreement.


GERRARD FAMILY LIMITED PARTNERSHIP, LLLP



Nathan Gerrard, Partner
Gerrard Family Limited Partnership, LLLP

Dated: 4/10/2023

THOMPSON RANCH DEVELOPMENT COMPANY



Todd Williams, Vice President
Thompson Ranch Development Company

Dated: 2/28/2023

Town of Johnstown
List of Bills - March 23, 2023 - April 19, 2023

<u>Vendor</u>	<u>Description</u>	<u>Dept.</u>	<u>Amount</u>
4990 Ronald Reagan LLC	Police substation lease	PD	1,519.75
Ace Hardware	Supplies	PW	916.78
All Copy Products, Inc	Copier supplies	PD	211.30
APWA Colorado	Training	PW	1,800.00
Aqua Backflow, Inc.	Backflows	PW	60.00
Aqua Engineering	Central WWTP expansion	PW	141,843.56
Arrowhead Scientific Inc.	Lab supplies	PD	986.02
Bell Gould Linder & Scott, P.C.	Legal services	ADM	241.00
BlueWater Engineering Ltd	WTP expansion	PW	31,323.69
Breaching Technologies Inc	Equipment	PD	1,592.32
Browns Hill Engineering & Controls	SCADA	PW	4,371.38
Callyo 2009 Corp	Software	PD	3,540.00
Card Services	Training/travel/supplies	ALL	13,936.26
CB&I Group Storage Tanks Solutions LLC	South Tank project	PW	62,043.46
CDR Propane Services, LLC	Propane	PW	2,940.50
Central Weld County Water District	Interconnects	PW	586.00
CenturyLink	Phone/internet	PW	925.45
Cintas	Mat supplies/service	ALL	827.03
Cirsa	Insurance	ALL	2,826.00
City of Greeley	Victim advocate	PD	3,500.00
Civil Resources	Raw water transmission line	PW	28,862.00
CMC Tire	Supplies	PW	2,498.02
Colorado Analytical Labs	Lab testing	PW	1,869.00
Colorado Department of Transportation	I-25 project	PW	645,288.34
Colorado Greenbelt Management	Snow removal	PW	690.00
Colorado Paving Inc	Charlotte Street project	PW	374,475.42
Connell Resources, Inc.	North Interceptor	PW	1,372,611.45
Consolidated Hillsborough Ditch Co	Sewer and water projects	PW	19,000.00
Core & Main	Water meters	PW	5,440.71
CTL Thompson Inc	Little Thompson Trail project	PW	2,230.00
Denver Industrial Sales & Services Co	Cold patch materials	PW	1,895.94
DES Pipeline Maintenance, LLC	Maintenance	PW	2,700.00
DetectaChem, Inc.	Lab supplies	PD	306.25
Ditesco LLC	Little Thompson Trail project	PW	4,141.04
DPC Industries Inc	Chemicals	PW	28,059.00
E-470 Public Highway Authority	Travel	PD	70.73
Eclipse DOT	CDL training	PW	2,500.00
Education & Training Services	Training	PW	499.00
Elite Printing Group, LLC	Supplies	ADM	60.00
Entenmann-Rovin Co.	Uniforms	PD	1,719.30
Ergomed	Employment screening	ADM	645.00
Everhart & Associates	Training	ADM	4,291.00
Falcon Environmental Corp. At Longmont	Equipment maintenance	PW	5,464.96
Felsburg Holt & Ullevig Inc	Engineering services	ADM	7,247.50

Town of Johnstown
List of Bills - March 23, 2023 - April 19, 2023

<u>Vendor</u>	<u>Description</u>	<u>Dept.</u>	<u>Amount</u>
Ferguson Waterworks	Supplies	PW	971.69
First Armored Services LLC	Supplies	PW	1,278.76
First Class Security Systems	Fire system monitoring	PW	133.80
Flock Safety	Camera tag reader	PD	19,980.00
Frontier Fertilizer & Chemical	Chemicals	PW	257.44
Frontier Self Storage	Storage	PW	280.00
General Air Service & Supply	Supplies	PW	203.24
Glenn A. Jones Library	Library support	ADM	103,786.43
Grainger, Inc.	Supplies	PW	1,129.14
Great Western Railway of CO	Crossing agreement	PW	7,865.20
Greeley Lock and Key	Building maintenance	PW	2,065.80
Ground Engineering Consultants, Inc.	Materials testing	PW	1,140.00
Hays Market Inc	Supplies	PW	49.79
Helton & Williamsen, P.C.	Water legal	ADM	1,176.85
IMEG Corp	Billback - Engineering services	ADM	41,862.50
IMEG Corp	Engineering services	ADM/PW	12,608.00
Indelco Plastics Corp	Maintenance	PW	1,845.23
Infosend, Inc.	Utility bill printing/newsletter	ADM	6,753.48
Insight North America, LLC	Investment services	ADM	3,030.47
Intermountain Sales of Denver, Inc.	Trailer	PW	12,757.00
ION Developer LLC	Reimbursement of use tax	ADM	184.14
Iron Mountain Towing LTD	Vehicle maintenance	PW	175.00
J&D Creations	Uniforms	PW	20.77
J&S Contractors Supply Co.	Street signs	PW	631.20
J-U-B Engineers, Inc.	Billbacks - Engineering	ADM	5,798.00
J-U-B Engineers, Inc.	Engineering services	PW	99,536.98
Kenyon P. Jordan, Ph.D.	Prehire evaluations	PD	275.00
Kenz & Leslie Distributing	Supplies	PD/PW	872.45
Kinsco, LLC	Uniforms	PD	615.88
L G Everist Inc	Paving materials	PW	14,269.74
Language Line Services Inc.	Translation service	PD	22.14
Larimer County Sales Tax Administrator	Use Tax - Reimbursement	ADM	4,665.52
Law Enforcement Systems	Lab supplies	PD	66.00
Law Office of Avi Rocklin LLC	Billback - Legal services	ADM	6,844.00
Law Office of Avi Rocklin LLC	Legal services	ADM	14,805.00
Lazar, Michael	Municipal Court Judge	ADM	1,575.00
Loveland Barricade LLC	Supplies	PW	872.50
Mares Auto Inc.	Vehicle repairs	PW	610.00
McDonald Farms Enterprises Inc	Sludge removal	PW	7,566.50
Michael Maring	Training reimbursement	PW	150.00
Moltz Construction Inc.	Low Point expansion project	PW	2,005,342.33
Mountain States Pipe & Supply	Water meters	PW	27,547.70
Nalco Company LLC	Chemicals	PW	11,983.65
Napa Auto Parts, Inc	Vehicle supplies	PW/PD	1,215.67

Town of Johnstown
List of Bills - March 23, 2023 - April 19, 2023

<u>Vendor</u>	<u>Description</u>	<u>Dept.</u>	<u>Amount</u>
Northern Water	Water assessment	PW	151.65
Office Depot Business Credit	Supplies	ALL	1,361.89
Patriot Petroleum Solutions LLC	Equipment maintenance	ALL	15,521.96
Paul's Plumbing & Heating	Jet services	PW	1,047.50
Pioneer Press of Greeley Inc	Supplies	ADM	371.00
Pitney Bowes	Postage meter lease	ADM	115.11
Pitney Bowes Bank Inc Purchase Power	Postage	ADM/PD	213.90
Poudre Valley REA	Utilities	ALL	17,205.77
Quality of Life & Safety Designs LLC	Fire safety	PW	25.00
Ramey Environmental Compliance Inc.	OCR services	PW	17,147.10
Renewable Fiber	Supplies	PW	4,207.20
Rhinehart Oil Co., Inc.	Fuel	PW	7,636.20
Rocky Mountain Water Environment Assoc.	Training	PW	900.00
SAFEBuilt LLC Lockbox # 88135	Inspection services	PW	25,000.00
Sam's Club MC/SYNCB	Supplies	ALL	407.75
Sanderson Stewart	CO 60 & CR 13 signal	PW	14,569.44
Sarah Crosthwaite	Training reimbursement	ADM	66.30
Security Central, Inc	Alarm monitoring	PW	248.34
Sendas Communications LLC	Translation service	ADM	154.02
Shred Vault Colorado	Shredding	ADM	95.00
Southwest Traffic Solutions LLC	Training	PW	2,100.00
Summit Data Protection LLC	Computer services	ADM	4,755.00
Tait & Associates, Inc.	Design services	PW	13,217.50
TANCO Engineering, Inc.	Tank inspection	PW	13,453.23
TDS	Phones	ALL	1,718.17
TechMedia, LLC	Supplies	ADM	4,252.63
Terracon Consultants, Inc.	Charlotte St project	PW	2,945.00
The Home Depot/GECE	Supplies	PW	511.22
The Tree Guys LLC	Tree removal	PW	3,750.00
Tier One Networking, LLC	Computers	ADM	6,065.98
TimberLAN	IT services	ALL	10,825.00
T-Mobile	Cell phone	PD	32.91
Town & Country Fence Co.	Building maintenance	PW	150.00
Town of Bennett	Equipment	PW	5,000.00
UC Health Medical Group	Lab testing	PD	618.65
United Power, Inc	Utilities	PW	750.10
USA Bluebook	Supplies	PW	2,903.31
Utility Notification Center of Colorado	Locates	PW	1,197.12
Verizon Wireless	Phone/internet	ALL	4,453.53
Waste Connections of Colorado Inc.	Trash services	ALL	79,809.50
Weld County	Dispatch fees	PD	208.00
Weld County Dept of Public	Lab services	PW	596.50
Weld County Public Safety IT	Professional services	PD	930.00
Weld County Public Works Dept	Permit	PW	300.00

Town of Johnstown
List of Bills - March 23, 2023 - April 19, 2023

<u>Vendor</u>	<u>Description</u>	<u>Dept.</u>	<u>Amount</u>
Weld County Sheriff	Jail fee	PD	30.30
William Walters	Training reimbursement	PW	150.00
Xcel Energy	Utilities	ALL	59,048.69
Xtra Air LLC	Equipment rental	PW	4,000.00
YMCA of Northern Colorado	Operating subsidy	ADM	41,666.67
Yost Cleaning	Monthly cleaning service	PW	3,362.66
			<hr/> 5,685,221.39



Town of Johnstown

MEMORANDUM

TO: Honorable Mayor and Town Council Members

FROM: Matt LeCerf, Town Manager

DATE: May 1, 2023

CC: Town Staff
Local Media

SUBJECT: Town Manager's Report

Upcoming Town Council Meetings & Work Sessions – If there are topics that the Council would like Staff to schedule for discussion, please let me know. The following topics are recommended for Council discussion (all meetings will be held in the Town Council Chambers unless otherwise indicated):

- 05/15/2023– Regular Council Meeting
- 06/05/2023 – Regular Council Meeting
- 06/19/2023 - Regular Council Meeting

Administration, Finance, Planning, & Human Resources

- *Town Clerk* – A special event application has been received for BBQ Days for June 3, 2023.
- *Municipal Court* – Staff will begin sending text reminders to defendants prior to their court date in an effort to encourage attendance. 104 cases were processed in Municipal Court in April 2023.
- *Business Licensing* – Staff will start moving forward with BluDot, the current software company utilized by the Economic Development Department, for an online portal for new and renewing business licenses. Communication to local businesses will be sent when the portal is ready to go live.

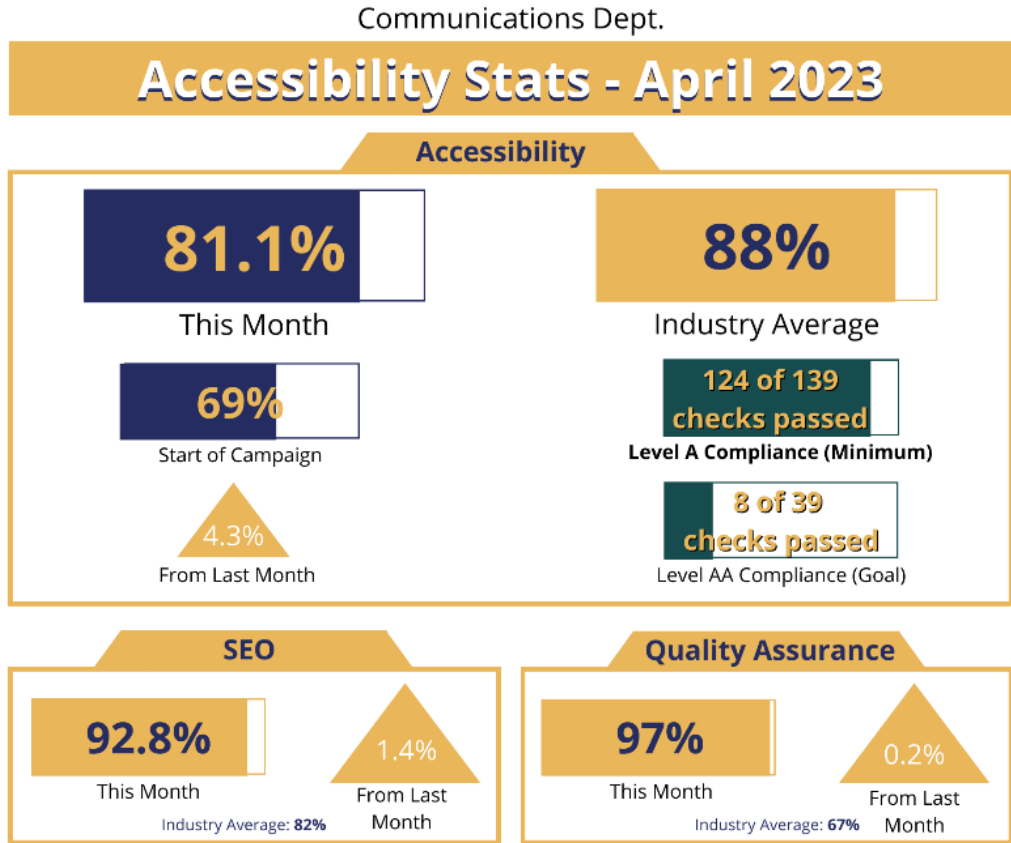
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- *Hiring* – The Town is currently searching for a Public Works Director, Planner I, Planner II, Utility Operator, and more Police Officers. We recently promoted a Public Works Streets Crew Leader from internal staff.
- *Training* – Staff from Public Works and Utilities completed training in several safety and workplace topics through CIRSA.
- *Franchise Agreements* – The Town has been working on a new franchise agreement with Comcast. The agreement will be presented to Council for consideration on May 1.
- *Aquatics Center Feasibility Study* – The first meeting for the committee is scheduled for May 1. The meeting will allow the committee members to introduce themselves, review the purpose and expected deliverables, and nominate a chairperson. The project kickoff meeting with the consultant has been scheduled for May 30.
- *Strategic Planning* – In April, the department heads finished putting together some broad goals for each pillar. The next step in the process is meeting with and collecting feedback from all employees to ensure that nothing has been overlooked.
- *Regional Job Fair* – The Town of Johnstown, in partnership with several communities and partners, is hosting a job fair on May 16 from 4-7 pm at Aims Community College, Windsor Campus. The following Johnstown businesses will be participating:
 - Scheels
 - Five River Cattle
 - Nadora Healthcare
 - Wing Shack
 - YMCA
 - Exodus Moving & Storage
 - Sun Mountain Custom Doors
- *Business of the Month* – Connected Chiropractic was April’s Business of the Month. They are located within the downtown corridor at 32 S. Rutherford Avenue.
- *Biz Walk* – The Town Manager, Deputy Manager, and Economic Development Manager continue to schedule monthly biz walks with our local Johnstown businesses. In April, staff met with FedEx Distribution Center.
- *Downtown Johnstown Branding & Wayfinding Project* – Town Staff presented to Town Council on Monday April 3 the final downtown brand/logo. Staff is currently in Phase 3 of the project which includes designing the wayfinding signage for the downtown that will reflect the adopted brand/logo and developing a Town wide master plan for wayfinding signage.
- *ICSC* – Town Staff and Council will be attending ICSC from May 21-23. ICSC is the largest retail convention that provides deal-making opportunities between retailers, developers, real estate firms, and municipalities. Town Staff is currently prepping for the mission trip and will provide those attending an itinerary closer to the date.
- *508 Compliance and Website Accessibility* – The Communications Office continues to work on 508 website compliance and Town digital environment compliance. Having a website that is 508 compliant and that follows WCAG Guidelines 2.0 is important for the Town of Johnstown because it provides more equal access to information and promotes

transparency. Our department has made significant progress in improving our digital environment, boosting the accessibility rating of the website by more than 10% since the start of the year.



- *Town Communication Tools* – The Town maintains a diverse set of communications tools, including social media, a newsletter, email communications, and the website. Our Facebook and Instagram followings continue to grow steadily, and the past month has seen significantly higher than average engagement with Town social media and the website. The new Town email lists continue to add subscribers and boast fantastic engagement numbers: according to the Town’s email vendor, Constant Contact, the average open rate for government organizations is just 35.45%.

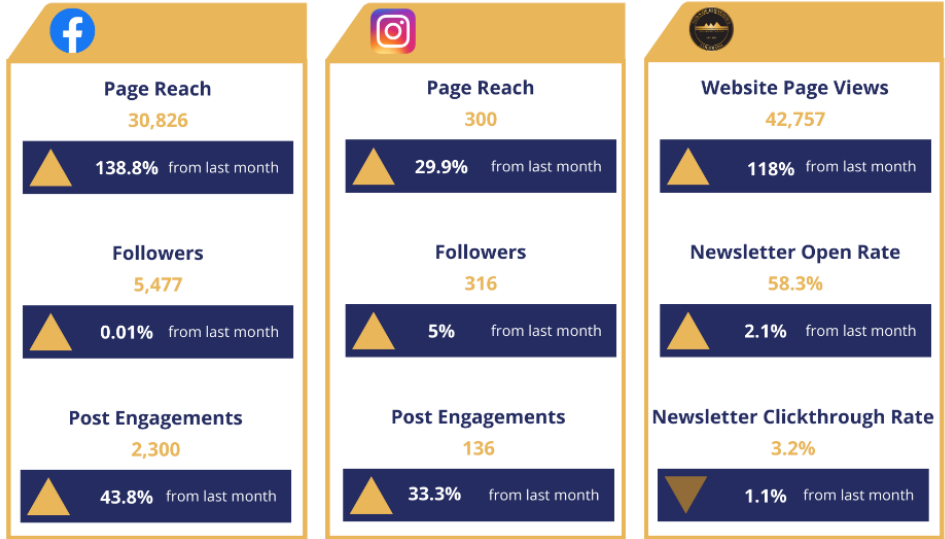
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Communications Dept.

Web Presence Stats - April 2023



Website: johnstownco.gov | **Newsletter:** johnstown.colorado.gov/newsletter
Town Facebook: @TownofJohnstown | **Twitter:** @JohnstownColo | **Instagram:** @Johnstowncolorado
JPD Facebook: @JohnstownPoliceDepartment | **JPD Twitter:** @JohnstownPD

Communications Dept.

Email List Stats - April 2023



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- *Community Engagement Events* – Town Staff engaged with the community in April at the Town Tree Giveaway on April 13, Clean Up Day on April 22, DEA Drug Takeback on April 22, and upcoming events include the May 6 Cinco De Mayo Event in Downtown Johnstown, the Arbor Day Tour with our local 4th graders, and June 3 BBQ Day event. These events serve as a great opportunity for Town Staff and Town Council to engage with residents, businesses, and visitors. Sharing Town information with residents and meeting the community where they are is a priority for the Town and promotes engagement and transparency.
- *Land Use & Development Code* – Public Hearing was held April 17, 2023, and Town Staff continues to clean up housekeeping items for a planned publication and roll out in May, assuming final adoption. Updated worksheets and development guides are in process, with a presentation to developers and designers anticipated in late May.
- *CDOT* – Staff has been actively coordinating with CDOT on a number of projects, including Purvis Farm, Ledge Rock Center, Ridge and Encore, and several prospective developers to ensure the sharing of information and successful facilitation of projects and improvements.
- *Planning & Zoning Commission (PZC)* – The Commission met on April 12 to review the proposed Land Use & Development Code. The next meeting is expected on May 24. New commission members are still sought with applications, available online, accepted until at least May 15.
- *2022 Financial Audit* – Fieldwork for the 2022 Audit began on April 24. The audit work will be completed remotely.
- *2023 Budget* – The 2023 Budget Book has been completed and is available on the Town’s website.

Police Department

Training:

- *Firearms Training and Qualifications* – The entire department participated in state mandated firearms training at the Northern Colorado Training Center. Officers qualified on handgun and rifle and practiced shooting with shields and from behind barriers. Training was instructed by Officer Morgan and Officer Olds
- *Narcotics Interdiction Training* – Officer Olds attended “Criminal Interdiction Class.” This training is designed to instruct officers to look for indicators of criminal activity during traffic stops.
- *Marksmen Training* – Officer Morgan attended “Designated Marksman Training.” This course teaches how to reach marksmen level shooting skills.
- *Overdose Investigations* – Officer Jaramillo completed an Overdose Investigation Course sponsored and instructed by HIDTA. This training provides insight into how to determine what types of things a first responder should look for to make the decision to proceed with an overdose investigation.

Community Policing, Outreach & Miscellaneous Items:

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- *Polar Plunge* – Grace Hamilton, Christy Adair, Detective Grounds, Sergeant Brown, Lieutenant Williams, and Commander Oglesby participated in the Polar Plunge for the Special Olympics. They plunged at Windsor Lake.
- *New Officer* – Officer Kale Mayfield was sworn in as a Police Officer for the Town of Johnstown. He is currently in our mini academy before starting his FTO program.

Public Works

- Crews completed 78 work orders this review period consisting of prep site for spring cleanup, pickup trees for Arbor Day, construction inspections, street sweeping, gravel road grading, filling potholes, road sign repair, installing new woodchips at parks, cemetery cleanup, funerals, and a variety of other streets and grounds related work.
- *Little Thompson Trail* – The contractor has encountered some areas of poor subgrade and repairs are in progress.
- *Charlotte Street Improvements* – The contractor continues to work with the full width street closure from Estes to Greeley. Sanitary sewer pipe and waterline installation have been completed and testing should be completed the week of April 24. The contractor will be installing the storm sewer line next. The three-week look ahead is located on the Town website and updated each week.



- *Buc-ee's* – Attended Consolidated Home Supply Ditch Company realignment walkthrough. Consolidated Home Supply Company approved all installation.
- *Ledge Rock* – Ledge Rock Ditch Realignment Walk Through was completed and approved by the Consolidated Home Supply Company. The Public Works Department requested the installation of erosion control along all new dirt bank construction, which will be inspected by the Town after the completion.

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Utilities

- *Treatment*
 - WTP:
 - Average Daily Flows: 1.423 MGD
 - The Town's new Water Superintendent ORC, John Ferguson, started in April.
 - Town hired a contractor to replace & repair the air release valves on the GAC vessels due to damage incurred during operations in freezing temperatures. GAC vessels will be filled, and leak tested prior to loading carbon for the season.
 - The Contractor, Tanco, on the North Ground Storage Tank project has completed the sand blasting of the inside of the north storage tank, constructed the new fill line, and repairing holes. Coating is anticipated to be completed by the end of the month.



- Operations filled the 2nd treatment basin for the DAF with potable water in preparation for the seasonal increased water demand after its seasonal shutdown for winter flows and maintenance activities.

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- Low Point WWTP:
 - Average Daily Flows: 0.55MGD
 - Operations completed repairs on a gearbox and auger for the Rotary Fan Press that has been down for several weeks. This repair enables Staff to treat solids again onsite and stops the requirement to liquid hauling until repair parts arrived.
 - The integration team had a kickoff meeting on the SCADA system for Low Point to walk through the system and working screens with the Operators.
 - Operators worked together to trouble shoot and fix decanting arm gearbox issues on the south basin of the SBR.
 - Operators rerouted the filtrate from sludge holding tanks to splitter box feeding SBR's to optimize sludge storage volume and remove unnecessary steps to the treatment process.
- Central WWTP:
 - Average Daily Flows: 0.96MD
 - The Town purchased and transported four directional mixers from Bennett CO to improve the treatment occurring in the lagoons.
 - Operations hired a contractor to clear a blockage in the influent line from the splitter box to Pond 1. This clearing allowed for operations to shut the influent line to Pond 2 and route treatment through Pond 1 to increase contact and treatment time.
 - Operations scheduled repairs and maintenance on regen blowers for lagoon aeration on the east side Pond 1.
- *Sewer Collection & Water Distribution*
 - Locates: 681 tickets
 - Meters: 22 new installs, 4 Replacements
 - DES came in and cleaned standing trash and grease from lift stations and is wrapping up video inspections in the 2534 area and Downtown area.
 - A fire hydrant in front of Atlas Storage was struck by a vehicle so the crew had to reinstall new extension and traffic breakaway kit.
 - Indigo Water held a two-day training event for water and wastewater operations.
- *Inspections*
 - 19,332' water main installed and tested
 - 3,523 sewer main installed and tested
 - 19 manholes installed and tested
 - 30 water/sewer inspections
- *GIS*
 - Added 4.1 miles of water pipes into the GIS database.
 - Added 8.0 miles of wastewater pipes into the GIS database.
 - Started a data exchange process with the City of Loveland for fire hydrant info served by the Loveland Fire and Rescue Authority.
 - Utility data collection is nearing completion in the 2534 area per attached map.
- *Capital Projects*

- *Raw Water Transmission*—The design engineer is continuing to work with Town Staff to set the final alignment from Lone Tree to the Water Treatment Plant. The Town is also working with the Home Supply Ditch Company on the location of the new pump station at Lone Tree Reservoir. In addition, meetings are being held with neighboring jurisdictions to determine their review and permitting processes.
- *South Water Tank*— The tank contractor is continuing to work on the interior piping, electrical, and civil site work as weather permits. The contractor is estimating to be completed with the tank in May, weather dependent.
- *South Water Tank Distribution Pipeline* – The contractor is working on completing the last stretch of mainline down WCR42 in May. The contractor was delayed due to the weather towards the end of March, but we will continue to work together as the project is nearing completion. Testing of the water main began in April.
- *Water Treatment Plant Expansion* – Town Staff, the design engineer, the owner’s representative, and the construction manager are working on value engineering as the design continues to progress to 60%. The construction manager has developed an overall project schedule and preliminary cost estimate based on the revised 30% plans. Town staff is actively working with all representatives on the preliminary schedule and cost estimate.
- *North Interceptor* – The contractor has begun pouring the north half of the wet well walls for the lift station and anticipates completing the walls in April. The Hillsborough Ditch and railroad/County Road 17 bores have been completed. The contractor has also completed the installation of mainline from the Central Wastewater Treatment Plant to the north and west that was planned prior to the start of irrigation season. Mainline installation will start back up in September.
- *Low Point Sewer Expansion* – The contractor continues installing equipment in the Membrane Bioreactor (MBR) and Headworks building as it arrives on site. Town Staff and the Contractor are working together to schedule trainings for staff on the new equipment and testing. In addition, Staff is working with the programmer to review the proposed interface to control the plant.
- *Central Plant Design* – A pre-construction meeting was held in April and site grading is underway. Staff will continue to work with the contractor and design engineer throughout construction on permitting and construction progress.
- *State Highway 60 Waterline*— Over the next six months Town Staff will work with the design engineer on final alignment and obtaining all necessary easements and agreements. Town Staff continues to work on alignment options with the Design Engineer.



Town of Johnstown

TOWN COUNCIL AGENDA COMMUNICATIONS

AGENDA DATE: May 1, 2023

SUBJECT: Resolution 2023-21: Adoption of Level 2 Drought Condition Water Conservation Measures

ACTION PROPOSED: Consider Approving Resolution 2023-21 to Adopt Level 2 Drought Condition Water Conservation Measures

ATTACHMENTS: Resolution 2023-21

PRESENTED BY: Ellen Hilbig, Utilities Director

AGENDA ITEM DESCRIPTION:

Enclosed for your review and consideration is Resolution 2023-21 to adopt Level 2 drought condition water conservation measures. Based on the develop that exists currently, the Town saw flows trending to exceed the plants treatment capacity and implemented Level 2 water restrictions at the end of July after routinely experiencing daily flows above 5MGD. With additional development coming online in Johnstown in advance of construction starting on the new 12 MGD Water Treatment Plant, the summer peak water usage season is anticipated to tax the Towns existing water treatment facility. The current plant has a limited treatment capacity of a little less than 6MGD.

The implementation of Level 2 water restrictions is critical to mitigating the peak water demand impacts on operations at the water treatment plant in the summer months until the new water plant is constructed. The Town of Johnstown Municipal Code states the following:

Sec. 13-151. - Levels of drought condition.

(a) There shall be three (3) separate levels of drought conditions as detailed below. The Town Council's decision to determine a restriction level shall be based upon the following criteria:

- 4. Peak water demand usage that may impact the Town's ability to provide adequate water supply and fire flows to the water distribution system; and**
- 5. Any other relevant factor that affects the Town's available water supply.**

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Level two (2) water conservation restrictions are more clearly defined in the attached resolution. While the current watering limits in the code for Level 2 drought conditions provide for only 2 days per week, Staff is recommending starting with the suggested watering schedule in the below table of 3 days per week.

Home	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Even Number			X		X		X
Odd Number		X		X		X	

Operations is working to make irrigation adjustments and efficiencies in the Town’s Parks to mitigate peak flow impacts at the treatment plant. There may be a future need to implement stricter watering requirements as the Town closely monitors the seasonal impact to the treatment volumes at the plant.

LEGAL ADVICE:

The Town Attorney reviewed the Resolution.

FINANCIAL ADVICE:

NA

RECOMMENDED ACTION: Approve Resolution 2023-21 adopting Level 2 Drought Condition Water Conservation Measures

SUGGESTED MOTIONS:

For Approval: Based on findings and analysis presented, I move to approve Resolution 2023-21 adopting Level 2 Drought Condition Water Conservation Measures.

For Denial: Based on information presented, I move to deny Resolution 2023-21

Reviewed and Approved for Presentation,



Town Manager

**TOWN OF JOHNSTOWN, COLORADO
RESOLUTION NO. 2023-21**

DECLARING LEVEL 2 DROUGHT CONDITION

WHEREAS, the Town of Johnstown, Colorado (the “Town”) is a Colorado home rule municipality, duly organized and existing under the laws of the State of Colorado and the Town’s Home Rule Charter; and

WHEREAS, the Town Council is vested with authority to administer the affairs of the Town; and

WHEREAS, the Town anticipates experiencing peak water demand usage that may impact the Town’s ability to provide adequate water supply and fire flows to the water distribution system; and

WHEREAS, pursuant to Article IV of Chapter 13 of the Johnstown Municipal Code, regulating water conservation, the Town Council desires to declare a Level 2 drought condition and impose the water conservation measures set forth in Section 13-151(c); and

WHEREAS, the Town Council finds that this Resolution is in the best interests of the citizens of the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO, THAT:

1. The Town Council hereby finds, determines and declares that a Level 2 drought condition, as described in Section 13-151 of the Johnstown Municipal Code, exists.
2. Persons residing or owning property in the Town are hereinafter required to comply with the watering restrictions set forth in Section 13-151(c) of the Johnstown Municipal Code, as described and modified below:
 1. Spray irrigation and hand-watering shall occur only on the homeowner’s appropriate watering day and only between the hours of midnight to 10:00 a.m. and then from 6:00 p.m. to midnight. The last digit of the address of the property owner shall determine the designated watering day;
 - a. Odd number addresses may irrigate on Mondays, Wednesdays, and Fridays; and
 - b. Even number addresses may irrigate on Tuesdays, Thursdays, and Saturdays; and
 - c. No irrigation shall take place on Sunday.
 2. No person or property owner shall utilize water from the Town's water system for the purpose of washing sidewalks, driveways, patios or similar hardscapes;

- 3. Vehicles may be washed only on a property owner's assigned watering days, but shall be washed with a bucket or a hose running with an automatic shut-off nozzle. If possible, persons are encouraged to park vehicles on their lawns while washing occurs, but such vehicles may be on the lawn only while they are being washed and shall be immediately removed from the lawn upon completion. Commercial vehicle washing facilities are exempt from this regulation;
- 4. Watering of newly planted grass shall only occur subject to a permit issued by the Town;
- 5. Irrigation with well water may occur subject to the premises being clearly posted with a notice visible from the street indicating that irrigation is with well water;
- 6. The Town Manager, when warranted, may provide appropriate measures for watering large areas, such as open space and parks by schools and homeowners associations;
- 7. The foregoing restrictions shall not apply to:
 - a. Irrigation of land used for commercial agriculture;
 - b. Irrigation of land using non-potable water sources that do not directly apply water from the treated municipal water utility system; or
 - c. Town funded public improvement projects.

3. This Resolution shall be effective upon its passage and adoption and shall, absent additional action of the Town Council, expire on October 15, 2023.

PASSED, SIGNED, APPROVED, AND ADOPTED THIS ___ day of May 2023.

ATTEST:

TOWN OF JOHNSTOWN, COLORADO

By: _____
Hannah Hill, Town Clerk

By: _____
Gary Lebsack, Mayor



Town of Johnstown

TOWN COUNCIL AGENDA COMMUNICATIONS

AGENDA DATE: May 1, 2023

SUBJECT: State Highway 60 & CR13/Colorado Boulevard Ultimate Intersection

ACTION PROPOSED: Consider the Appropriate Orientation of State Highway 60 & CR 13/Colorado Blvd. Intersection

ATTACHMENTS: 1. JWO Presentation

PRESENTED BY: Matt LeCerf, Town Manager

AGENDA ITEM DESCRIPTION:

As you may recall, on March 6, 2023, the Town Council was presented with a contract for 30% design services from JWO Engineering for the ultimate design and layout of the State Highway 60 & Colorado Boulevard Intersection. This contract also includes design of an interim improvement of this intersection due to the introduction of both the new Elwell and Roosevelt Schools as well as other development impacts in close proximity. The interim project will consist of left turn lanes on the north and south legs of CR13 and a new signal.

During the award of the design contract on March 6, the presentation included information related to unique aspects attributed to the construction of the ultimate design. Specifically, during the scoping meeting, it was discovered that the existing intersection is skewed as it travels north and south on Colorado Blvd. A skewed intersections occurs when streets intersect at angles other than 90 degrees and can create complicated scenarios for pedestrians, bicyclists, and motorists.

Understanding the ultimate approach alignment of Colorado Blvd. is key to ensuring the correct placement of the interim improvements and the traffic signal pole locations. JWO has been working to identify the design alternatives associated with the intersection’s ultimate layout/design and will be presenting those to Council for consideration this evening. The request for this evening, is to reach a consensus and select the preferred design layout from the alternatives presented. Determining the design layout will ensure that the new signal poles

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associated with the interim improvements are placed at the correct location and prevent relocation of the poles in the future as we approach construction of the ultimate design. Additionally, determining the proper approach of Colorado Blvd. to the Hwy 60 intersection will ensure future development improvements will be performed in a coordinated approach and will result in a properly designed intersection when fully built out.

LEGAL ADVICE:

NA

FINANCIAL ADVICE:

NA

RECOMMENDED ACTION: Staff is recommending that the west shift of the alignment of the Hwy 60 & Colorado Blvd. is selected. While Staff would prefer 12-foot lanes given the major arterial nature of Colorado Blvd and the heavy traffic potentially in the future, 11-foot lanes maybe more preferred in this instance given the property conflicts.

Reviewed and Approved for Presentation,



Town Manager

State Highway 60 & CR13/Colorado Boulevard Ultimate Intersection

Work Session
May 1, 2023



Johnstown
Colorado

Consultant Presenters

Johnny Olson, PE

JWO – Project Principal

John Sabo, PE

Benesch – Senior Project Manager

Matt Salek, PE

Benesch – Project Manager

Johnstown Staff

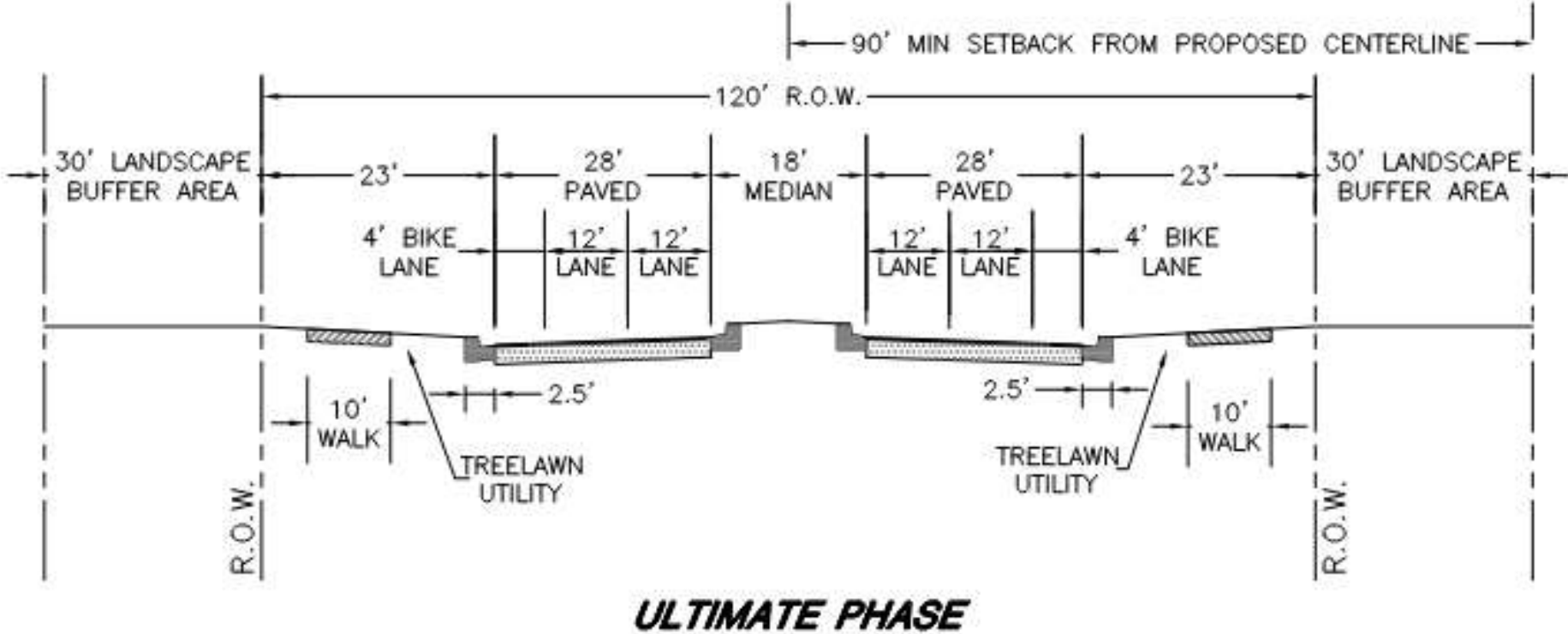
Matt LeCerf

Town Manager

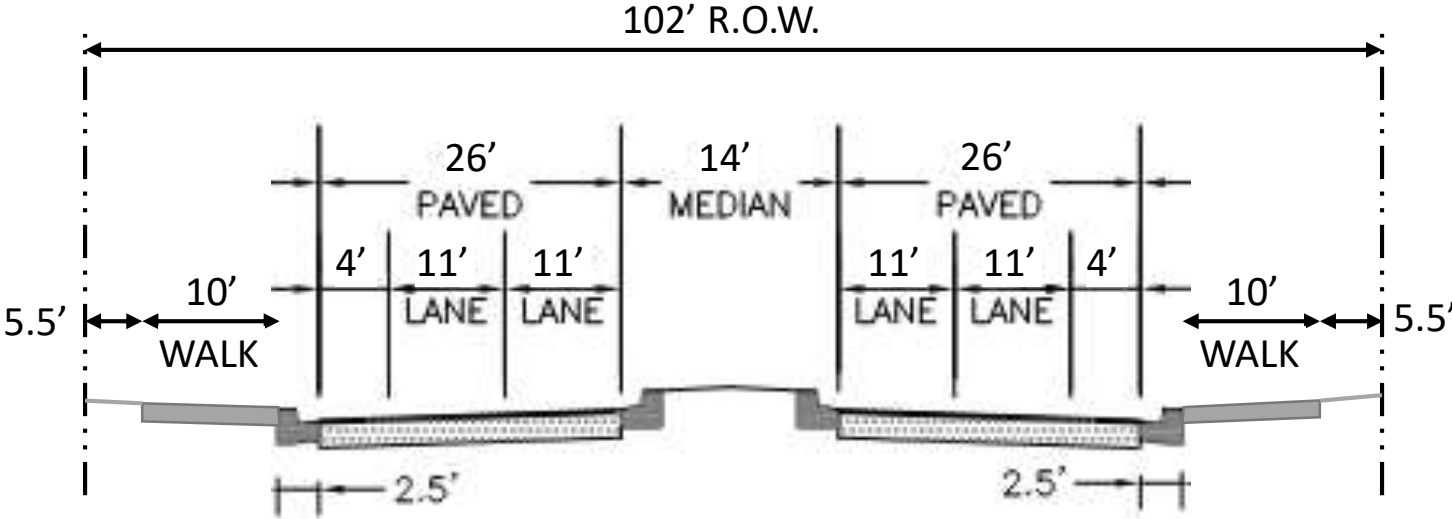
Ultimate Design Overview

- New traffic signal at SH 60 and CR13/Colorado Boulevard
- Johnstown knew the CR13/Colorado Boulevard would need expansion
- Options for CR13/Colorado Boulevard with lane configuration so future development would know the needs
- Interim design to add left turns on CR13/Colorado Boulevard and new signal in ultimate configuration

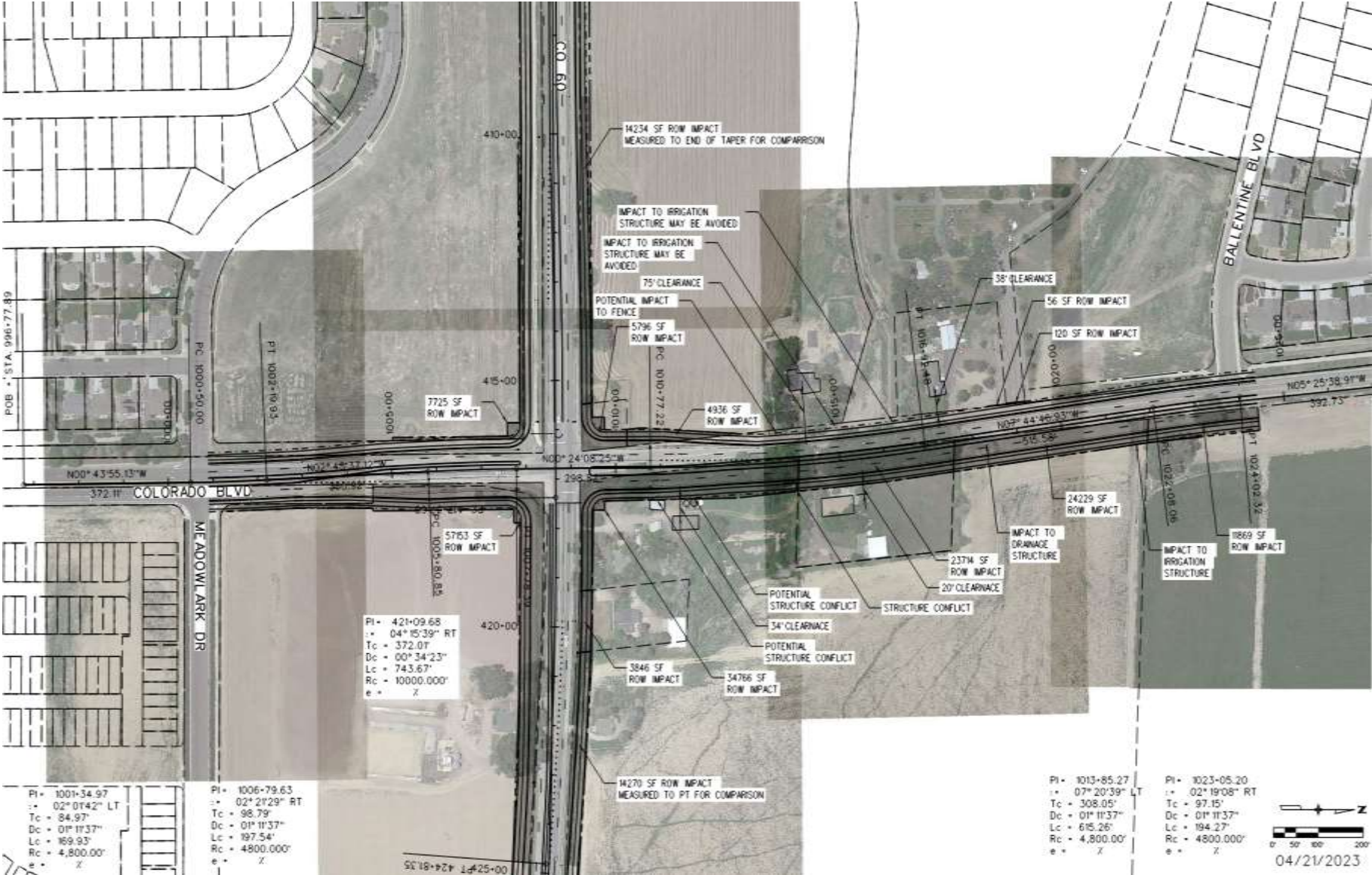
Johnstown Standard Street Section



Narrowed Street Section to Reduce Impacts



Option 1 – Alignment Centered at Intersection



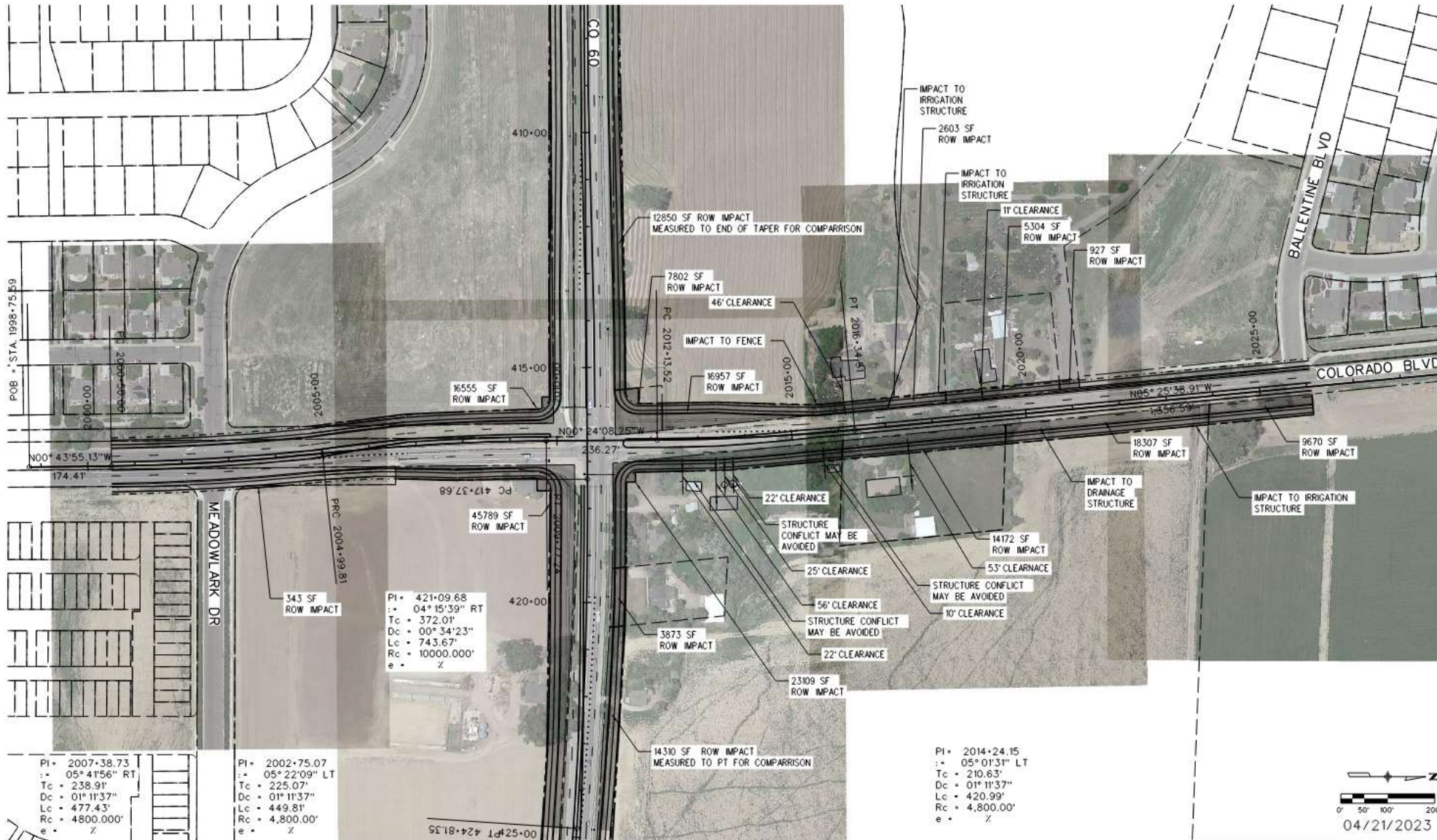
Pros:

1. Keeps Alignment in about same location
2. Hold Towns Design Standards
3. Less Impact to South West Property

Cons:

1. Buys ROW from West and East Side
2. More ROW from South East Corner
3. Only 20 Feet from house in North East corner

Option 2 – Shifted West



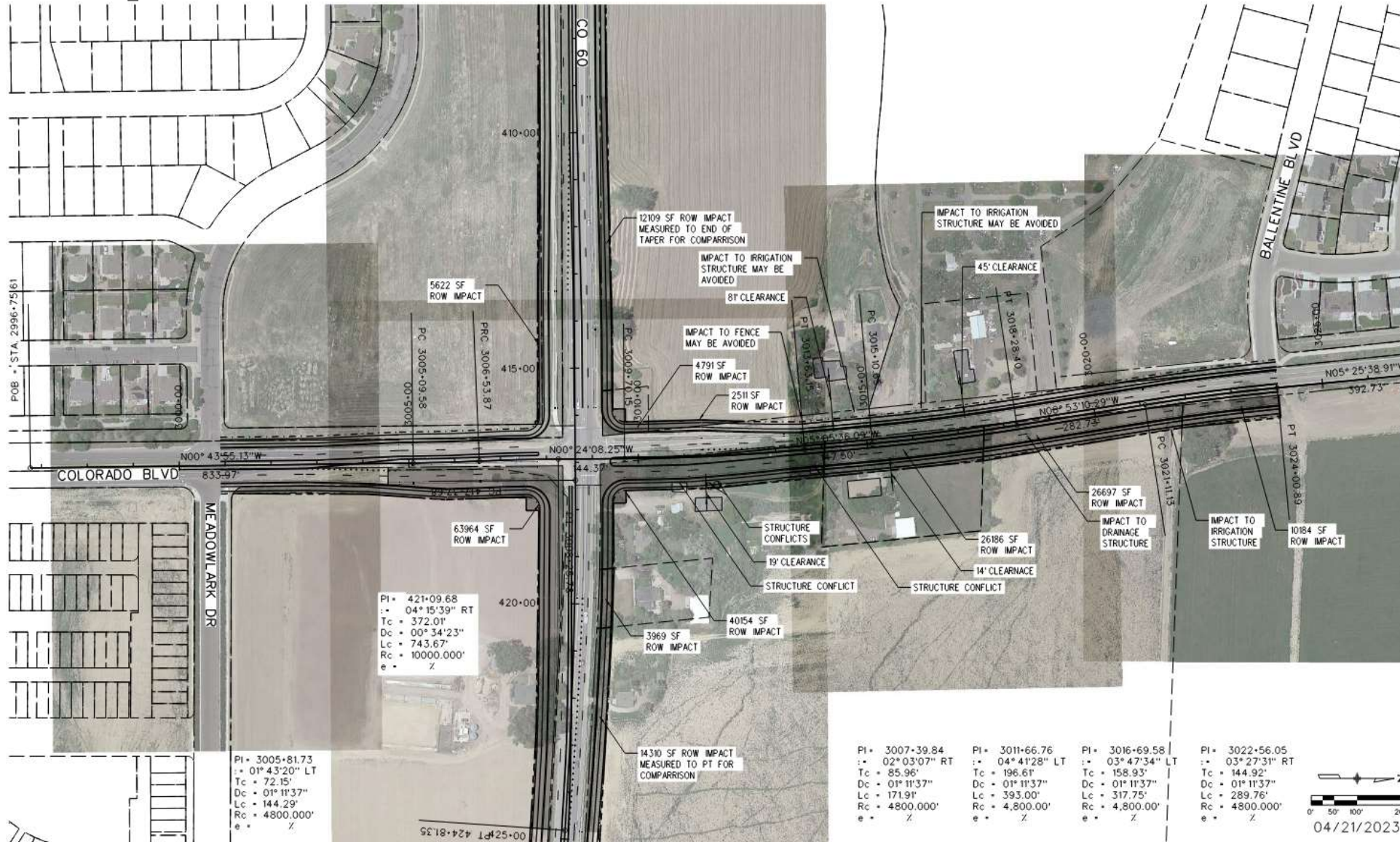
Pros:

1. Alignment moves to the west
2. Hold Towns Design Standards
3. Least impacts to east properties
4. 53 feet from House in North East Quadrant (about 33 feet farther away)

Cons:

1. Buys ROW from West and East
2. More ROW from West corners
3. 46 feet clearance from house in North west (about 29 feet Closer)

Option 3 – Shifted East



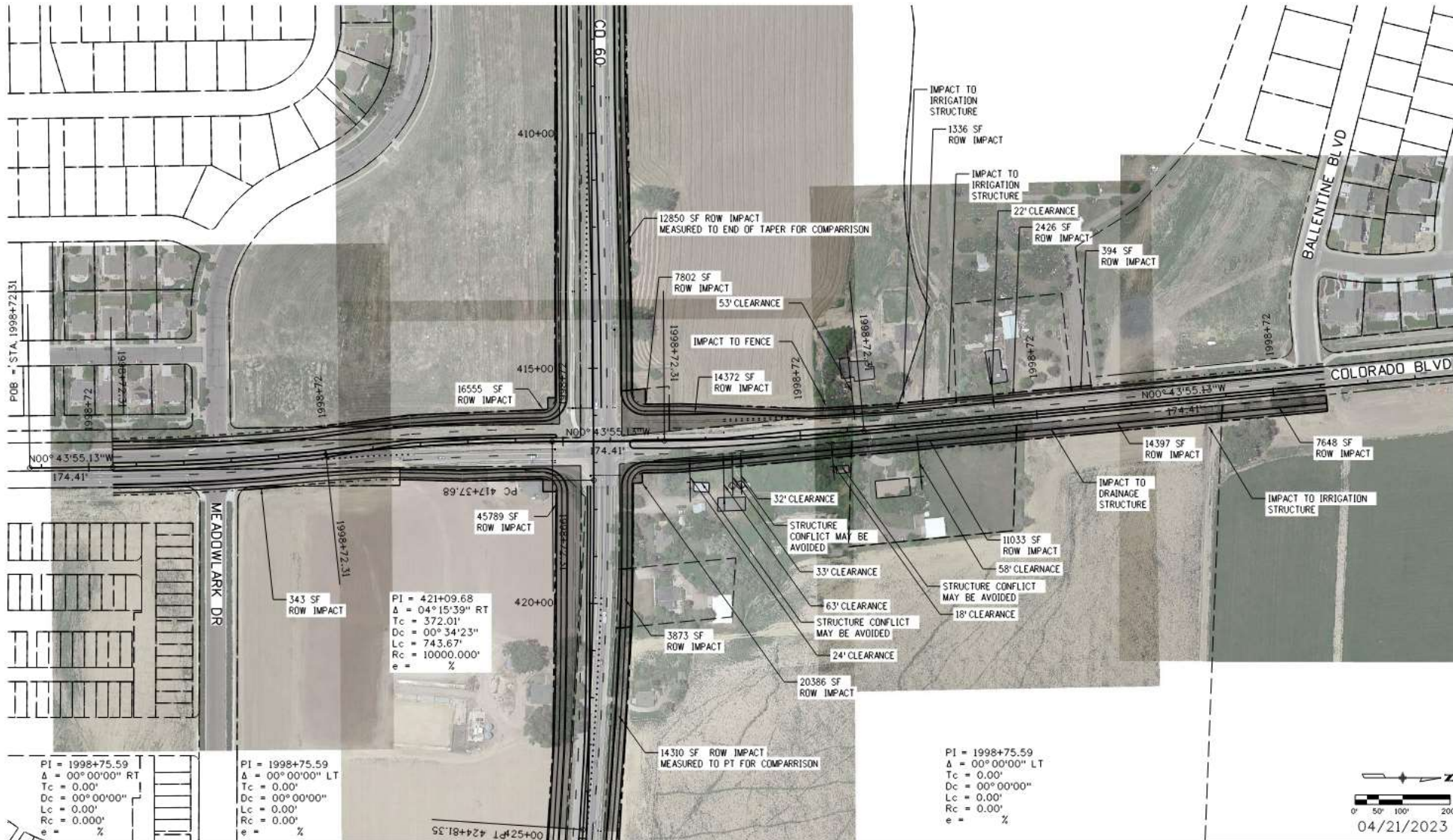
Pros:

1. Alignment moves to the East with less impacts to the West Properties
2. Hold Towns Design Standards
3. 81 feet from House in North West Quadrant
4. Less Acquisition of west properties.
5. Helps with Irrigation Design
6. No curvature on CR13 Colo Blvd. south of intersection

Cons:

1. More ROW from East Corners
2. 14 feet clearance from house in North east House
3. More impacts to structures on East Side

Option 2 – Shifted West with Narrowed Lanes



Pros:

1. Less impacts to East and West Properties
2. 58 feet from House in North East Quadrant
3. 53 Feet from House in North West Quadrant

Cons:

1. More ROW from West corners
2. Reduce Town Streets Standards
3. Loose buffer between the sidewalk and roadway

Option Scoring

ALTERNATIVE		ROW IMPACT			BUILDING CLEARANCE			UTILITY IMPACT			RESULTING SCORE			
		PARCEL	AREA (SF)	SCORE	BUILDING	CLEARANCE	SCORE	FACILITY	IMPACT	SCORE	ROW	CLEARANCE	UTILITY	TOTAL
1 CENTERED ALIGNMENT	North West Corner	Parcel 01			Garage	11	5	Irrigation 1	No		25.142	43	5	363
		Parcel 02	120	0.12	N. House		38	Irrigation 2	No					
		Parcel 03	56	0.06	S. House	75	0	OHE	Yes	5				
		Parcel 04			Fence									
		Parcel 05	4936	4.94										
		Parcel 06	5796	5.80										
		Parcel 07	14234	14.23										
	North East Corner	Parcel 01	11869	11.87	House	20	50	Irrigation	Yes	10	112.694	92	20	
		Parcel 02	24229	24.23	N. Shed	0	10	Drainage	Yes	10				
		Parcel 03	23714	23.71	N. Silo	0	10							
		Parcel 04	34766	34.77	S. Silo	0	10							
		Parcel 05	3846	3.85	Barn	34	2							
		Parcel 06	14270	14.27	S. Shed	0	10							
	South West Corner	Parcel 01	7725	7.73							7.725	0	0	
Parcel 02														
South East Corner	Parcel 01	57153	57.15							57.153	0	0		
	Parcel 02													
2 WEST SHIFT	North West Corner	Parcel 01			Garage	0	10	Irrigation 1	Yes	10	46.443	80	25	
		Parcel 02	927	0.927	N. House	11	50	Irrigation 2	Yes	10				
		Parcel 03	5304	5.304	S. House	46	10	OHE	Yes	5				
		Parcel 04	2603	2.603	Fence	0	10							
		Parcel 05	16957	16.957										
		Parcel 06	7802	7.80										
		Parcel 07	12850	12.85										
	North East Corner	Parcel 01	9670	9.67	House	53	10	Irrigation	Yes	10	83.441	22	20	
		Parcel 02	18307	18.307	N. Shed	10	5	Drainage	Yes	10				
		Parcel 03	14172	14.172	N. Silo	22	2							
		Parcel 04	23109	23.109	S. Silo	25	2							
		Parcel 05	3873	3.873	Barn	56	1							
		Parcel 06	14310	14.31	S. Shed	22	2							
	South West Corner	Parcel 01	45789	45.789							46.132	0	0	
Parcel 02		343	0.343											
South East Corner	Parcel 01	16,555	16.555							16.555	0	0		
	Parcel 02													

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Option Scoring

ALTERNATIVE		ROW IMPACT			BUILDING CLEARANCE			UTILITY IMPACT			RESULTING SCORE			
		PARCEL	AREA (SF)	SCORE	BUILDING	CLEARANCE	SCORE	FACILITY	IMPACT	SCORE	ROW	CLEARANCE	UTILITY	TOTAL
2B WEST SHIFT WITH 11' LANES	North West Corner	Parcel 01			Garage	0	10	Irrigation 1	Yes	10	39.18	50	25	290
		Parcel 02	394	0.394	N. House	22	20	Irrigation 2	Yes	10				
		Parcel 03	2426	2.426	S. House	53	10	OHE	Yes	5				
		Parcel 04	1336	1.336	Fence	0	10							
		Parcel 05	14372	14.372										
		Parcel 06	7802	7.80										
		Parcel 07	12850	12.85										
	North East Corner	Parcel 01	7648	7.648	House	58	10	Irrigation	Yes	10	71.647	21	20	
		Parcel 02	14397	14.397	N. Shed	18	5	Drainage	Yes	10				
		Parcel 03	11033	11.033	N. Silo	32	2							
		Parcel 04	20386	20.386	S. Silo	33	2							
		Parcel 05	3873	3.873	Barn	63	0							
		Parcel 06	14310	14.31	S. Shed	24	2							
	South West Corner	Parcel 01	45789	45.789							46.132	0	0	
		Parcel 02	343	0.343										
	South East Corner	Parcel 01	16,555	16.555							16.555	0	0	
		Parcel 02												
	3 EAST SHIFT	North West Corner	Parcel 01			Garage	17	5	Irrigation 1	No		19.411	15	
Parcel 02					N. House	45	10	Irrigation 2	No					
Parcel 03					S. House	81	0	OHE	No					
Parcel 04					Fence									
Parcel 05			2511	2.511										
Parcel 06			4791	4.79										
Parcel 07			12109	12.11										
North East Corner		Parcel 01	10184	10.184	House	14	50	Irrigation	Yes	10	121.5	95	20	
		Parcel 02	26697	26.697	N. Shed	0	10	Drainage	Yes	10				
		Parcel 03	26186	26.186	N. Silo	0	10							
		Parcel 04	40154	40.154	S. Silo	0	10							
		Parcel 05	3969	3.969	Barn	19	5							
		Parcel 06	14310	14.31	S. Shed	0	10							
South West Corner		Parcel 01	63964	63.964							63.964	0	0	
		Parcel 02												
South East Corner		Parcel 01	5,622	5.622							5.622	0	0	
		Parcel 02												

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Results / Recommendation

- *West Shift with Narrowed Lanes* scores best
- *West Shift* scores second best
- Both result in the road laying in between existing houses and do not have right-of-way Acquisition that include buildings
- *West Shift with Narrowed Lanes* has larger offsets to houses and is the preferred option
- Accept an option as the selected alignment going forward
- Use selected alignment for right-of-way and development planning



Town of Johnstown

TOWN COUNCIL AGENDA COMMUNICATIONS

- AGENDA DATE:** May 1, 2023
- SUBJECT:** Consideration and Public Hearing for Ordinance 2023-250, an Ordinance Granting to Comcast of Colorado IX, LLC, a Nonexclusive Franchise to Construct, Install and Operate a Cable System and Provide Cable Television Service Within the Town and, In Connection Therewith, To Make Reasonable Use of Town Streets and Other Public Places Within the Town.
- ACTION PROPOSED:** Approve Ordinance 2023-250
- ATTACHMENTS:**
1. Ordinance 2023-250
 2. Cable Franchise Agreement
- PRESENTED BY:** Mitzi McCoy, Deputy Town Manager
-

AGENDA ITEM DESCRIPTION:

Enclosed for review and consideration is a Cable Franchise Agreement between the Town of Johnstown and Comcast of Colorado IX, LLC. This agreement will allow Comcast to provide cable services to the residents and businesses in the Town of Johnstown. This agreement is a “competitive” cable franchise as the Town of Johnstown already has a cable franchise agreement with another cable provider. As such, this agreement is somewhat different in that it does not include specific build out provisions, but instead includes requires biannual meetings to discuss anticipated construction and timelines. This agreement is intended to be a 10-year agreement that begins on June 1, 2023, however, if deployment plans change and build out ceases, the agreement term can be shortened to 3 years, allowing the agreement to be renegotiated. This franchise agreement includes a 5% franchise fee.

LEGAL ADVICE:

Ordinance was prepared by the Town Attorney.

The Community That Cares

johnstown.colorado.gov

P: 970.587.4664 | 450 S. Parish Ave, Johnstown CO 80534 | F: 970.587.0141

Consulting counsel, Ken Fellman, Esq. of Kissinger and Fellman P.C. prepared the cable franchise agreement.

FINANCIAL ADVICE:

NA

RECOMMENDED ACTION: Approve Ordinance 2023-250 upon first reading.

SUGGESTED MOTIONS:

For Approval: I move to approve Ordinance No. 2023-250, an ordinance granting to Comcast of Colorado IX, LLC, a nonexclusive franchise to construct, install and operate a cable system and provide cable television service within the Town and, in connection therewith, to make reasonable use of town streets and other public places within the Town.

For Denial: I move to deny Ordinance No. 2023-250, an ordinance granting to Comcast of Colorado IX, LLC, a nonexclusive franchise to construct, install and operate a cable system and provide cable television service within the Town and, in connection therewith, to make reasonable use of town streets and other public places within the Town.

Reviewed and Approved for Presentation,



Town Manager

**TOWN OF JOHNSTOWN, COLORADO
ORDINANCE NO. 2023-250**

**AN ORDINANCE GRANTING TO COMCAST OF COLORADO IX, LLC
A NONEXCLUSIVE FRANCHISE TO CONSTRUCT, INSTALL AND
OPERATE A CABLE SYSTEM AND PROVIDE CABLE TELEVISION
SERVICE WITHIN THE TOWN AND, IN CONNECTION THEREWITH,
TO MAKE REASONABLE USE OF TOWN STREETS AND OTHER
PUBLIC PLACES WITHIN THE TOWN**

WHEREAS, the Town of Johnstown, Colorado (“Town”) is a Colorado home rule municipality, duly organized and existing under the laws of the State of Colorado and the Town’s Home Rule Charter; and

WHEREAS, the Town Council is vested with authority to administer the affairs of the Town; and

WHEREAS, Comcast of Colorado IX, LLC, a Delaware limited liability company (“Comcast”), desires to operate a cable system and provide cable television services to its customers, and, in furtherance thereof, has requested that the Town enter into a non-exclusive franchise for a period of ten (10) years, commencing on June 1, 2023, and terminating on May 31, 2033; and

WHEREAS, having afforded the public notice and opportunity for comment, the Town Council desires to enter into a franchise with Comcast for the construction and operation of a cable system upon the terms and conditions set forth in the negotiated agreement between the Town and Comcast; and

WHEREAS, the Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town, that it is promulgated for the preservation of the public peace, health, safety and welfare and that this Ordinance is in the best interests of the citizens of the Town.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO, AS FOLLOWS:

Section 1. The Cable Franchise Agreement between the Town of Johnstown and Comcast of Colorado IX, LLC, attached hereto and incorporated herein by reference as Exhibit A (“Franchise Agreement”), is hereby approved.

Section 2. Pursuant to the Franchise Agreement, the term of Comcast’s franchise shall be for ten (10) years, from June 1, 2023 to and including May 31, 2033, unless otherwise extended or terminated as provided therein, and the franchise fee shall be five percent (5%) of gross revenues.

Section 3. Severability. If any part or provision of this Ordinance, or its application to any person or circumstance, is adjudged to be invalid or unenforceable, the invalidity or unenforceability of such part, provision, or application shall not affect any of the remaining parts, provisions or applications of this Ordinance that can be given effect without the invalid provision, part or application, and to this end the provisions and parts of this Ordinance are declared to be severable.

Section 4. Publication; Effective Date. This Ordinance, after its passage on final reading, shall be numbered, recorded, published and posted as required by the Home Rule Charter of the Town of Johnstown, Colorado (“Charter”) and the adoption, posting and publication shall be authenticated by the signature of the Mayor and the Town Clerk. This Ordinance shall become effective upon final passage as provided by the Charter. Copies of the entire Ordinance are available at the office of the Town Clerk.

INTRODUCED, AND APPROVED on first reading by the Town Council of the Town of Johnstown, Colorado, this ____ day of _____, 2023.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Hannah Hill, Town Clerk

By: _____
Gary Lebsack, Mayor

PASSED UPON FINAL APPROVAL AND ADOPTED on second reading by the Town Council of the Town of Johnstown, Colorado, this ____ day of _____, 2023.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Hannah Hill, Town Clerk

By: _____
Troy Mellon, Mayor

**COMCAST OF COLORADO IX, LLC, AND
THE TOWN OF JOHNSTOWN, COLORADO**

CABLE FRANCHISE AGREEMENT

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EXHIBIT A: Customer Service Standards

EXHIBIT B: Report Form

**COMCAST OF COLORADO IX, LLC AND
TOWN OF JOHNSTOWN, COLORADO**

CABLE FRANCHISE AGREEMENT

SECTION 1. DEFINITIONS AND EXHIBITS

(A) DEFINITIONS

For the purposes of this Franchise, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Words not defined shall be given their common and ordinary meaning. The word "shall" is always mandatory and not merely directory.

1.1 “Access Programming” means the creation and distribution of video programming and other services and signals where governmental institutions or their designees are the primary users having editorial control over programming and services.

1.2 “Activated” means the status of any capacity or part of the Cable System in which any Cable Service requiring the use of that capacity or part is available without further installation of system equipment, whether hardware or software.

1.3 “Affiliate,” when used in connection with Grantee, means any Person who owns or controls, is owned or controlled by, or is under common ownership or control with, Grantee.

1.4 “Applicable Law” means any statute, ordinance, judicial decision, executive order or regulation having the force and effect of law, that determines the legal standing of a case or issue.

1.5 “Bad Debt” means amounts lawfully billed to a Subscriber and owed by the Subscriber for Cable Service and accrued as revenues on the books of Grantee, but not collected after reasonable efforts have been made by Grantee to collect the charges.

1.6 “Basic Service” is the level of programming service which includes, at a minimum, all Broadcast Channels, all PEG SD Access Channels required in this Franchise, and any additional Programming added by the Grantee, and is made available to all Cable Services Subscribers in the Franchise Area.

1.7 “Broadcast Channel” means local commercial television stations, qualified low power stations and qualified local noncommercial educational television stations, as referenced under 47 USC § 534 and 535.

1.8 “Broadcast Signal” means a television or radio signal transmitted over the air to a wide

geographic audience, and received by a Cable System by antenna, microwave, satellite dishes or any other means.

1.9 “Cable Act” means Title VI of the Communications Act of 1934, as amended.

1.10 “Cable Operator” means any Person or groups of Persons, including Grantee, who provide(s) Cable Service over a Cable System and directly or through one or more affiliates owns a significant interest in such Cable System or who otherwise control(s) or is (are) responsible for, through any arrangement, the management and operation of such a Cable System.

1.11 “Cable Service” means the one-way transmission to Subscribers of video programming or other programming service, and Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

1.12 “Cable System” means any facility, including Grantee’s, consisting of a set of closed transmissions paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within a community, but such term does not include (A) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (B) a facility that serves Subscribers without using any Right-of-Way; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the federal Communications Act (47 U.S.C. 201 et seq.), except that such facility shall be considered a Cable System (other than for purposes of Section 621(c) (47 U.S.C. 541(c)) to the extent such facility is used in the transmission of video programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services; (D) an open video system that complies with federal statutes; or (E) any facilities of any electric utility used solely for operating its electric utility systems.

1.13 “Channel” means a portion of the electromagnetic frequency spectrum which is used in the Cable System and which is capable of delivering a television channel (as television channel is defined by the FCC by regulation).

1.14 “Colorado Communications and Utility Alliance” or “CCUA” means the non-profit entity formed by franchising authorities and/or local governments in Colorado or its successor entity, whose purpose is, among other things, to communicate with regard to franchising matters collectively and cooperatively.

1.15 “Commercial Subscribers” means any Subscribers other than Residential Subscribers.

1.16 “Designated Access Provider” means the entity or entities designated now or in the future by the Grantor to manage or co-manage Access Channels and facilities. The Grantor may be a Designated Access Provider.

1.17 “Digital Starter Service” means the Tier of optional video programming services, which is the level of Cable Service received by most Subscribers above Basic Service, and does not

include Premium Services.

1.18 “Downstream” means carrying a transmission from the Headend to remote points on the Cable System or to Interconnection points on the Cable System.

1.19 “Dwelling Unit” means any building, or portion thereof, that has independent living facilities, including provisions for cooking, sanitation and sleeping, and that is designed for residential occupancy. Buildings with more than one set of facilities for cooking shall be considered Multiple Dwelling Units unless the additional facilities are clearly accessory.

1.20 “FCC” means the Federal Communications Commission.

1.21 “Fiber Optic” means a transmission medium of optical fiber cable, along with all associated electronics and equipment, capable of carrying Cable Service by means of electric lightwave impulses.

1.22 “Franchise” means the document in which this definition appears, *i.e.*, the contractual agreement, executed between the Grantor and Grantee, containing the specific provisions of the authorization granted, including references, specifications, requirements and other related matters.

1.23 “Franchise Area” means the area within the jurisdictional boundaries of the Grantor, including any areas annexed by the Grantor during the term of this Franchise.

1.24 “Franchise Fee” means that fee payable to the Grantor described in subsection 3.1 (A).

1.25 “Grantee” means Comcast of Colorado IX, LLC or its lawful successor, transferee or assignee.

1.26 “Grantor” or “Town” or “Town of Johnstown” is the Town of Johnstown, Colorado, a body politic and corporate under the laws of the State of Colorado.

1.27 “Gross Revenues” means, and shall be construed broadly to include all revenues derived directly or indirectly by Grantee and/or an Affiliated Entity that is the cable operator of the Cable System, from the operation of Grantee’s Cable System to provide Cable Services within the Town. Gross revenues include, by way of illustration and not limitation:

- monthly fees for Cable Services, regardless of whether such Cable Services are provided to residential or commercial customers, including revenues derived from the provision of all Cable Services (including but not limited to pay or premium Cable Services, digital Cable Services, pay-per-view, pay-per-event and video-on-demand Cable Services);
- installation, reconnection, downgrade, upgrade or similar charges associated with changes in subscriber Cable Service levels;

- fees paid to Grantee for channels designated for commercial/leased access use and shall be allocated on a pro rata basis using total Cable Service subscribers within the Town;
- converter, remote control, and other Cable Service equipment rentals, leases, or sales;
- Advertising Revenues as defined herein;
- late fees, convenience fees and administrative fees which shall be allocated on a pro rata basis using Cable Services revenue as a percentage of total subscriber revenues within the Town;
- revenues from program guides;
- Franchise Fees;
- FCC Regulatory Fees; and,
- commissions from home shopping channels and other Cable Service revenue sharing arrangements which shall be allocated on a pro rata basis using total Cable Service subscribers within the Town.

(A) “Advertising Revenues” shall mean revenues derived from sales of advertising that are made available to Grantee’s Cable System subscribers within the Town and shall be allocated on a pro rata basis using total Cable Service subscribers reached by the advertising. Additionally, Grantee agrees that Gross Revenues subject to franchise fees shall include all commissions, rep fees, Affiliated Entity fees, or rebates paid to National Cable Communications (“NCC”) and Comcast Spotlight (“Spotlight”) or their successors associated with sales of advertising on the Cable System within the Town allocated according to this paragraph using total Cable Service subscribers reached by the advertising.

(B) “Gross Revenues” shall not include:

- actual bad debt write-offs, except any portion which is subsequently collected which shall be allocated on a *pro rata* basis using Cable Services revenue as a percentage of total subscriber revenues within the Town;
- any taxes and/or fees on services furnished by Grantee imposed by any municipality, state or other governmental unit, provided that Franchise Fees and the FCC regulatory fee shall not be regarded as such a tax or fee;
- fees imposed by any municipality, state or other governmental unit on Grantee including but not limited to Public, Educational and Governmental (PEG) Fees;

- launch fees and marketing co-op fees; and,
- unaffiliated third party advertising sales agency fees which are reflected as a deduction from revenues.

(C) To the extent revenues are received by Grantee for the provision of a discounted bundle of services which includes Cable Services and non-Cable Services, Grantee shall calculate revenues to be included in Gross Revenues using a methodology that allocates revenue on a *pro rata* basis when comparing the bundled service price and its components to the sum of the published rate card, except as required by specific federal, state or local law, it is expressly understood that equipment may be subject to inclusion in the bundled price at full rate card value. This calculation shall be applied to every bundled service package containing Cable Service from which Grantee derives revenues in the Town. The Grantor reserves its right to review and to challenge Grantee's calculations.

(D) Grantee reserves the right to change the allocation methodologies set forth in this Section 1.29 in order to meet the standards required by governing accounting principles as promulgated and defined by the Financial Accounting Standards Board ("FASB"), Emerging Issues Task Force ("EITF") and/or the U.S. Securities and Exchange Commission ("SEC"). Grantee will explain and document the required changes to the Grantor within three (3) months of making such changes, and as part of any audit or review of franchise fee payments, and any such changes shall be subject to 1.27(E) below.

(E) Resolution of any disputes over the classification of revenue should first be attempted by agreement of the Parties, but should no resolution be reached, the Parties agree that reference shall be made to generally accepted accounting principles ("GAAP") as promulgated and defined by the Financial Accounting Standards Board ("FASB"), Emerging Issues Task Force ("EITF") and/or the U.S. Securities and Exchange Commission ("SEC"). Notwithstanding the forgoing, the Grantor reserves its right to challenge Grantee's calculation of Gross Revenues, including the interpretation of GAAP as promulgated and defined by the FASB, EITF and/or the SEC.

1.28 "Headend" means any facility for signal reception and dissemination on a Cable System, including cables, antennas, wires, satellite dishes, monitors, switchers, modulators, processors for Broadcast Signals, equipment for the Interconnection of the Cable System with adjacent Cable Systems and Interconnection of any networks which are part of the Cable System, and all other related equipment and facilities.

1.29 "Leased Access Channel" means any Channel or portion of a Channel commercially available for video programming by Persons other than Grantee, for a fee or charge.

1.30 "Manager" means the Town Manager of the Grantor or designee.

1.31 "Person" means any individual, sole proprietorship, partnership, association, or corporation, or any other form of entity or organization.

1.32 “Premium Service” means programming choices (such as movie Channels, pay-per-view programs, or video on demand) offered to Subscribers on a per-Channel, per-program or per-event basis.

1.33 “Residential Subscriber” means any Person who receives Cable Service delivered to Dwelling Units or Multiple Dwelling Units, excluding such Multiple Dwelling Units billed on a bulk-billing basis.

1.34 “Right-of-Way” means each of the following which have been dedicated to the public or are hereafter dedicated to the public and maintained under public authority or by others and located within the Town: streets, roadways, highways, avenues, lanes, alleys, bridges, sidewalks, easements, rights-of-way and similar public property and areas.

1.35 “State” means the State of Colorado.

1.36 “Subscriber” means any Person who or which elects to subscribe to, for any purpose, Cable Service provided by Grantee by means of or in connection with the Cable System and whose premises are physically wired and lawfully Activated to receive Cable Service from Grantee's Cable System, and who is in compliance with Grantee’s regular and nondiscriminatory terms and conditions for receipt of service.

1.37 “Subscriber Network” means that portion of the Cable System used primarily by Grantee in the transmission of Cable Services to Residential Subscribers.

1.38 “Telecommunications” means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received (as provided in 47 U.S.C. Section 153(43)).

1.39 “Telecommunications Service” means the offering of Telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used (as provided in 47 U.S.C. Section 153(46)).

1.40 “Tier” means a group of Channels for which a single periodic subscription fee is charged.

1.41 “Town Council” means the Town Council, or its successor, the governing body of the Town of Johnstown, Colorado.

1.42 “Two-Way” means that the Cable System is capable of providing both Upstream and Downstream transmissions.

1.43 “Upstream” means carrying a transmission to the Headend from remote points on the Cable System or from Interconnection points on the Cable System.

(B) EXHIBITS

The following documents, which are occasionally referred to in this Franchise, are formally

incorporated and made a part of this Franchise by this reference:

- 1) *Exhibit A*, entitled Customer Service Standards.
- 2) *Exhibit B*, entitled Report Form.

SECTION 2. GRANT OF FRANCHISE

2.1 Grant

(A) The Grantor hereby grants to Grantee a nonexclusive authorization to make reasonable and lawful use of the Rights-of-Way within the Town to construct, operate, maintain, reconstruct and rebuild a Cable System for the purpose of providing Cable Service subject to the terms and conditions set forth in this Franchise and in any prior utility or use agreements entered into by Grantee with regard to any individual property. This Franchise shall constitute both a right and an obligation to provide the Cable Services required by, and to fulfill the obligations set forth in, the provisions of this Franchise.

(B) Nothing in this Franchise shall be deemed to waive the lawful requirements of any generally applicable Grantor ordinance existing as of the Effective Date, as defined in subsection 2.3. Nothing in this Franchise shall be deemed to waive the right of the Grantee to offer such other services as may be permitted by Applicable Law.

(C) Each and every term, provision or condition herein is subject to the provisions of State law, federal law, the Charter of the Grantor, and the ordinances and regulations enacted pursuant thereto. The Charter and Municipal Code of the Grantor, as the same may be amended from time to time, are hereby expressly incorporated into this Franchise as if fully set out herein by this reference. Notwithstanding the foregoing, the Grantor may not unilaterally alter the material rights and obligations of Grantee under this Franchise.

(D) This Franchise shall not be interpreted to prevent the Grantor from imposing additional lawful conditions for use of the Rights-of-Way.

(E) Grantee promises and guarantees, as a condition of exercising the privileges granted by this Franchise, that any Affiliate of the Grantee directly involved in the offering of Cable Service in the Franchise Area, or directly involved in the management or operation of the Cable System in the Franchise Area, will also comply with the obligations of this Franchise.

(F) No rights shall pass to Grantee by implication. Without limiting the foregoing, by way of example and not limitation, this Franchise shall not include or be a substitute for:

- (1) Any other permit or authorization required for the privilege of transacting and carrying on a business within the Town that may be required by the Grantor's ordinances and laws;
- (2) Any permit, agreement, or authorization required by the Grantor for Right-

of-Way users in connection with operations on or in Rights-of-Way or public property including, by way of example and not limitation, street cut permits; or

(3) Any permits or agreements for occupying any other property of the Grantor or private entities to which access is not specifically granted by this Franchise including, without limitation, permits and agreements for placing devices on poles, in conduits or in or on other structures.

(G) This Franchise is intended to convey limited rights and interests only as to those Rights-of-Way in which the Grantor has an actual interest. It is not a warranty of title or interest in any Right-of-Way; it does not provide the Grantee with any interest in any particular location within the Right-of-Way; and it does not confer rights other than as expressly provided in the grant hereof.

2.2 Use of Rights-of-Way

(A) Subject to the Grantor's supervision and control, Grantee may erect, install, construct, repair, replace, reconstruct, and retain in, on, over, under, upon, across, and along the Rights-of-Way within the Town such wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, pedestals, attachments and other property and equipment as are necessary and appurtenant to the operation of a Cable System within the Town. Grantee, through this Franchise, is granted extensive and valuable rights to operate its Cable System for profit using the Grantor's Rights-of-Way in compliance with all applicable Grantor construction codes and procedures. As trustee for the public, the Grantor is entitled to fair compensation as provided for in Section 3 of this Franchise to be paid for these valuable rights throughout the term of the Franchise.

(B) Grantee must follow Grantor established nondiscriminatory requirements for placement of Cable System facilities in Rights-of-Way, including the specific location of facilities in the Rights-of-Way, and must in any event install Cable System facilities in a manner that minimizes interference with the use of the Rights-of-Way by others, including others that may be installing communications facilities. Within limits reasonably related to the Grantor's role in protecting public health, safety and welfare, the Grantor may require that Cable System facilities be installed at a particular time, at a specific place or in a particular manner as a condition of access to a particular Right-of-Way; may deny access if Grantee is not willing to comply with Grantor's requirements; and may remove, or require removal of, any facility that is not installed by Grantee in compliance with the requirements established by the Grantor, or which is installed without prior Grantor approval of the time, place or manner of installation, and charge Grantee for all the costs associated with removal; and may require Grantee to cooperate with others to minimize adverse impacts on the Rights-of-Way through joint trenching and other arrangements.

2.3 Effective Date and Term of Franchise

This Franchise and the rights, privileges and authority granted hereunder shall take effect on June 1, 2023 (the "Effective Date"), and shall terminate on May 31, 2033 unless terminated

sooner as hereinafter provided.

2.4 Franchise Nonexclusive

This Franchise shall be nonexclusive, and subject to all prior rights, interests, easements or licenses granted by the Grantor to any Person to use any property, Right-of-Way, right, interest or license for any purpose whatsoever, including the right of the Grantor to use same for any purpose it deems fit, including the same or similar purposes allowed Grantee hereunder. The Grantor may at any time grant authorization to use the Rights-of-Way for any purpose not incompatible with Grantee's authority under this Franchise and for such additional franchises for Cable Systems as the Grantor deems appropriate.

2.5 Police Powers

Grantee's rights hereunder are subject to the police powers of the Grantor to adopt and enforce ordinances necessary to the safety, health, and welfare of the public, and Grantee agrees to comply with all laws and ordinances of general applicability enacted, or hereafter enacted, by the Grantor or any other legally constituted governmental unit having lawful jurisdiction over the subject matter hereof. The Grantor shall have the right to adopt, from time to time, such ordinances as may be deemed necessary in the exercise of its police power; provided that such hereinafter enacted ordinances shall be reasonable and not materially modify the terms of this Franchise. Any conflict between the provisions of this Franchise and any other present or future lawful exercise of the Grantor's police powers shall be resolved in favor of the latter.

2.6 Competitive Equity

(A) The Grantee acknowledges and agrees that the Grantor reserves the right to grant one (1) or more additional franchises or other similar lawful authorization to provide Cable Services within the Town. If the Grantor grants such an additional franchise or other similar lawful authorization containing material terms and conditions that differ from Grantee's material obligations under this Franchise, then the Grantor agrees that the obligations in this Franchise will, pursuant to the process set forth in this Section, be amended to include any material terms or conditions that it imposes upon the new entrant, or provide relief from existing material terms or conditions, so as to insure that the regulatory and financial burdens on each entity are materially equivalent. "Material terms and conditions" include, but are not limited to: Franchise Fees and Gross Revenues; insurance; System build-out requirements; security instruments; Public, Education and Government Access Channels and support; customer service standards; required reports and related record keeping; competitive equity (or its equivalent); audits; dispute resolution; remedies; and notice and opportunity to cure breaches. The parties agree that this provision shall not require a word for word identical franchise or authorization for a competitive entity so long as the regulatory and financial burdens on each entity are materially equivalent. Video programming services (as defined in the Cable Act) delivered over wireless broadband networks are specifically exempt from the requirements of this Section.

(B) The modification process of this Franchise as provided for in Section 2.6 (A) shall only be initiated by written notice by the Grantee to the Grantor regarding specified franchise

obligations. Grantee's notice shall address the following: (1) identifying the specific terms or conditions in the competitive cable services franchise which are materially different from Grantee's obligations under this Franchise; (2) identifying the Franchise terms and conditions for which Grantee is seeking amendments; (3) providing text for any proposed Franchise amendments to the Grantor, with a written explanation of why the proposed amendments are necessary and consistent.

(C) Upon receipt of Grantee's written notice as provided in Section 2.6 (B), the Grantor and Grantee agree that they will use best efforts in good faith to negotiate Grantee's proposed Franchise modifications, and that such negotiation will proceed and conclude within a ninety (90) day time period, unless that time period is reduced or extended by mutual agreement of the parties. If the Grantor and Grantee reach agreement on the Franchise modifications pursuant to such negotiations, then the Grantor shall amend this Franchise to include the modifications.

(D) In the alternative to Franchise modification negotiations as provided for in Section 2.6 (C), or if the Grantor and Grantee fail to reach agreement in such negotiations, Grantee may, at its option, elect to replace this Franchise by opting into the franchise or other similar lawful authorization that the Grantor grants to another provider of Cable Services, with the understanding that Grantee will use its current system design and technology infrastructure to meet any requirements of the new franchise so as to insure that the regulatory and financial burdens on each entity are equivalent. If Grantee so elects, the Grantor shall immediately commence proceedings to replace this Franchise with the franchise issued to the other Cable Services provider.

(E) Notwithstanding anything contained in this Section 2.6(A) through (D) to the contrary, the Grantor shall not be obligated to amend or replace this Franchise unless the new entrant makes Cable Services available for purchase by Subscribers or customers under its franchise agreement with the Town.

(F) Notwithstanding any provision to the contrary, at any time that a wireline facilities based entity, legally authorized by state or federal law, makes available for purchase by Subscribers or customers, Cable Services or multiple Channels of video programming within the Franchise Area without a franchise or other similar lawful authorization granted by the Grantor, then:

(1) Grantee may negotiate with the Grantor to seek Franchise modifications as per Section 2.6(C) above; or

(a) the term of Grantee's Franchise shall, upon ninety (90) days written notice from Grantee, be shortened so that the Franchise shall be deemed to expire on a date eighteen (18) months from the first day of the month following the date of Grantee's notice; or,

(b) Grantee may assert, at Grantee's option, that this Franchise is rendered "commercially impracticable," and invoke the modification procedures set

forth in Section 625 of the Cable Act.

2.7 Familiarity with Franchise

The Grantee acknowledges and warrants by acceptance of the rights, privileges and agreements granted herein, that it has carefully read and fully comprehends the terms and conditions of this Franchise and is willing to and does accept all lawful and reasonable risks of the meaning of the provisions, terms and conditions herein. The Grantee further acknowledges and states that it has fully studied and considered the requirements and provisions of this Franchise, and finds that the same are commercially practicable at this time, and consistent with all local, State and federal laws and regulations currently in effect, including the Cable Act.

2.8 Effect of Acceptance

By accepting the Franchise, the Grantee: (1) acknowledges and accepts the Grantor's legal right to issue and enforce the Franchise; (2) accepts and agrees to comply with each and every provision of this Franchise subject to Applicable Law; and (3) agrees that the Franchise was granted pursuant to processes and procedures consistent with Applicable Law, and that it will not raise any claim to the contrary.

SECTION 3. FRANCHISE FEE PAYMENT AND FINANCIAL CONTROLS

3.1 Franchise Fee

As compensation for the benefits and privileges granted under this Franchise and in consideration of permission to use the Grantor's Rights-of-Way, Grantee shall continue to pay as a Franchise Fee to the Grantor, throughout the duration of and consistent with this Franchise, an amount equal to five percent (5%) of Grantee's Gross Revenues.

3.2 Payments

Grantee's Franchise Fee payments to the Grantor shall be computed quarterly for the preceding calendar quarter ending March 31, June 30, September 30, and December 31. Each quarterly payment shall be due and payable no later than forty-five (45) days after said dates.

3.3 Acceptance of Payment and Recomputation

No acceptance of any payment shall be construed as an accord by the Grantor that the amount paid is, in fact, the correct amount, nor shall any acceptance of payments be construed as a release of any claim the Grantor may have for further or additional sums payable or for the performance of any other obligation of Grantee.

3.4 Quarterly Franchise Fee Reports

Each payment shall be accompanied by a written report to the Grantor, or concurrently sent under separate cover, verified by an authorized representative of Grantee, containing an

accurate statement in summarized form, as well as in detail, of Grantee's Gross Revenues and the computation of the payment amount. Such reports shall detail all Gross Revenues of the Cable System.

3.5 Annual Franchise Fee Reports

Grantee shall, within sixty (60) days after the end of each year, furnish to the Grantor a statement stating the total amount of Gross Revenues for the year and all payments, deductions and computations for the period.

3.6 Audits

On an annual basis, upon thirty (30) days prior written notice, the Grantor, including the Grantor's Auditor or his/her authorized representative, shall have the right to conduct an independent audit/review of Grantee's records reasonably related to the administration or enforcement of this Franchise. Pursuant to subsection 1.27, as part of the Franchise Fee audit/review the Grantor shall specifically have the right to review relevant data related to the allocation of revenue to Cable Services in the event Grantee offers Cable Services bundled with non-Cable Services. For purposes of this section, "relevant data" shall include, at a minimum, Grantee's records, produced and maintained in the ordinary course of business, showing the subscriber counts per package and the revenue allocation per package for each package that was available for Grantor subscribers during the audit period. To the extent that the Grantor does not believe that the relevant data supplied is sufficient for the Grantor to complete its audit/review, the Grantor may require other relevant data. For purposes of this Section 3.6, the "other relevant data" shall generally mean all: (1) billing reports, (2) financial reports (such as General Ledgers) and (3) sample customer bills used by Grantee to determine Gross Revenues for the Franchise Area that would allow the Grantor to recompute the Gross Revenue determination. If the audit/review shows that Franchise Fee payments have been underpaid by five percent (5%) or more (or such other contract underpayment threshold as set forth in a generally applicable and enforceable regulation or policy of the Grantor related to audits), Grantee shall pay the total cost of the audit/review, such cost not to exceed five thousand dollars (\$5,000) for each year of the audit period. The Grantor's right to audit/review and the Grantee's obligation to retain records related to this subsection shall expire three (3) years after each Franchise Fee payment has been made to the Grantor.

3.7 Late Payments

In the event any payment due quarterly is not received within forty-five (45) days from the end of the calendar quarter, Grantee shall pay interest on the amount due (at the prime rate as listed in the Wall Street Journal on the date the payment was due), compounded daily, calculated from the date the payment was originally due until the date the Grantor receives the payment.

3.8 Underpayments

If a net Franchise Fee underpayment is discovered as the result of an audit, Grantee shall pay interest at the rate of the eight percent (8%) per annum, compounded quarterly, calculated

from the date each portion of the underpayment was originally due until the date Grantee remits the underpayment to the Grantor.

3.9 Alternative Compensation

In the event the obligation of Grantee to compensate the Grantor through Franchise Fee payments is lawfully suspended or eliminated, in whole or part, then Grantee shall comply with any other Applicable Law related to the right to occupy the Grantor's Rights-of-Way and compensation therefor.

3.10 Maximum Legal Compensation

The parties acknowledge that, at present, applicable federal law limits the Grantor to collection of a maximum permissible Franchise Fee of five percent (5%) of Gross Revenues. In the event that at any time during the duration of this Franchise, the Grantor is authorized to collect an amount in excess of five percent (5%) of Gross Revenues, then this Franchise may be amended unilaterally by the Grantor through the same process that the Franchise was adopted to provide that such excess amount shall be added to the Franchise Fee payments to be paid by Grantee to the Grantor hereunder, provided that Grantee has received at least ninety (90) days prior written notice from the Grantor of such amendment, so long as all cable operators in the Grantor are paying the same Franchise Fee amount.

3.11 Additional Commitments Not Franchise Fee Payments

(A) The PEG Capital Contribution pursuant to Section 9.6, as well as any charges incidental to the awarding or enforcing of this Franchise (including, without limitation, payments for bonds, security funds, letters of credit, insurance, indemnification, penalties or liquidated damage) and Grantee's costs of compliance with Franchise obligations (including, without limitation, compliance with customer service standards and build out obligations) shall not be offset against Franchise Fees. Furthermore, the Grantor and Grantee agree that any local tax of general applicability shall be in addition to any Franchise Fees required herein, and there shall be no offset against Franchise Fees.

3.12 Tax Liability

The Franchise Fees shall be in addition to any and all taxes or other levies or assessments which are now or hereafter required to be paid by businesses in general by any law of the Grantor, the State or the United States including, without limitation, sales, use and other taxes, business license fees or other payments. Payment of the Franchise Fees under this Franchise shall not exempt Grantee from the payment of any other license fee, permit fee, tax or charge on the business, occupation, property or income of Grantee that may be lawfully imposed by the Grantor. Any other license fees, taxes or charges shall be of general applicability in nature and shall not be levied against Grantee solely because of its status as a Cable Operator, or against Subscribers, solely because of their status as such.

3.13 Financial Records

Grantee agrees to meet with a representative of the Grantor upon request to review Grantee's methodology of record-keeping, financial reporting, the computing of Franchise Fee obligations and other procedures, the understanding of which the Grantor deems necessary for reviewing reports and records.

3.14 Payment on Termination

If this Franchise terminates for any reason, the Grantee shall file with the Grantor within ninety (90) calendar days of the date of the termination, a financial statement, certified by an independent certified public accountant, showing the Gross Revenues received by the Grantee since the end of the previous fiscal year. The Grantor reserves the right to satisfy any remaining financial obligations of the Grantee to the Grantor by utilizing the funds available in the letter of credit or other security provided by the Grantee.

SECTION 4. ADMINISTRATION AND REGULATION

4.1 Authority

(A) The Grantor shall be vested with the power and right to reasonably regulate the exercise of the privileges permitted by this Franchise in the public interest, or to delegate that power and right, or any part thereof, to the extent permitted under Federal, State and local law, to any agent including, but not limited to, the CCUA, in its sole discretion.

(B) Nothing in this Franchise shall limit nor expand the Grantor's right of eminent domain under State law.

4.2 Rates and Charges

All of Grantee's rates and charges related to or regarding Cable Services shall be subject to regulation by the Grantor to the full extent authorized by applicable federal, State and local laws.

4.3 Rate Discrimination

All of Grantee's rates and charges shall be published (in the form of a publicly-available rate card) and be non-discriminatory as to all Persons and organizations of similar classes, under similar circumstances and conditions. Grantee shall apply its rates in accordance with Applicable Law, with identical rates and charges for all Subscribers receiving identical Cable Services, without regard to race, color, ethnic or national origin, religion, age, sex, sexual orientation, marital, military or economic status, or physical or mental disability or geographic location within the Town. Grantee shall offer the same Cable Services to all Residential Subscribers at identical rates to the extent required by Applicable Law and to Multiple Dwelling Unit Subscribers to the extent authorized by FCC rules or applicable Federal law. Grantee shall permit Subscribers to make any lawful in-residence connections the Subscriber chooses without

additional charge nor penalizing the Subscriber therefor. However, if any in-home connection requires service from Grantee due to signal quality, signal leakage or other factors, caused by improper installation of such in-home wiring or faulty materials of such in-home wiring, the Subscriber may be charged reasonable service charges by Grantee. Nothing herein shall be construed to prohibit:

(A) The temporary reduction or waiving of rates or charges in conjunction with valid promotional campaigns; or,

(B) The offering of reasonable discounts to senior citizens or economically disadvantaged citizens; or,

(C) The offering of rate discounts for Cable Service; or,

(D) The Grantee from establishing different and nondiscriminatory rates and charges and classes of service for Commercial Subscribers, as allowable by federal law and regulations.

4.4 Filing of Rates and Charges

(A) Throughout the term of this Franchise, Grantee shall maintain on file with the Grantor a complete schedule of applicable rates and charges for Cable Services provided under this Franchise. Nothing in this subsection shall be construed to require Grantee to file rates and charges under temporary reductions or waivers of rates and charges in conjunction with promotional campaigns.

(B) Upon request of the Grantor, Grantee shall provide a complete schedule of current rates and charges for any and all Leased Access Channels, or portions of such Channels, provided by Grantee. The schedule shall include a description of the price, terms, and conditions established by Grantee for Leased Access Channels.

4.5 Cross Subsidization

Grantee shall comply with all Applicable Laws regarding rates for Cable Services and all Applicable Laws covering issues of cross subsidization.

4.6 Reserved Authority

Both Grantee and the Grantor reserve all rights they may have under the Cable Act and any other relevant provisions of federal, State, or local law.

4.7 Franchise Amendment Procedure

Either party may at any time seek an amendment of this Franchise by so notifying the other party in writing. Within thirty (30) days of receipt of notice, the Grantor and Grantee shall meet to discuss the proposed amendment(s). If the parties reach a mutual agreement upon the suggested amendment(s), such amendment(s) shall be submitted to the Town Council for its

approval. If so approved by the Town Council and the Grantee, then such amendment(s) shall be deemed part of this Franchise. If mutual agreement is not reached, there shall be no amendment.

4.8 Performance Evaluations

(A) The Grantor may hold performance evaluation sessions upon ninety (90) days written notice, provided that such evaluation sessions shall be held no more frequently than once every two (2) years. All such evaluation sessions shall be conducted by the Grantor.

(B) Special evaluation sessions may be held at any time by the Grantor during the term of this Franchise, upon ninety (90) days written notice to Grantee.

(C) All regular evaluation sessions shall be open to the public and announced at least two (2) weeks in advance in any manner within the discretion of the Grantor. Grantee shall also include with or on the Subscriber billing statements for the billing period immediately preceding the commencement of the session, written notification of the date, time, and place of the regular performance evaluation session, and any special evaluation session as required by the Grantor, provided Grantee receives appropriate advance notice.

(D) Topics which may be discussed at any evaluation session may include, but are not limited to, Cable Service rate structures; Franchise Fee payments; liquidated damages; free or discounted Cable Services; application of new technologies; Cable System performance; Cable Services provided; programming offered; Subscriber complaints; privacy; amendments to this Franchise; judicial and FCC rulings; line extension policies; and the Grantor or Grantee's rules; provided that nothing in this subsection shall be construed as requiring the renegotiation of this Franchise.

(E) During evaluations under this subsection, Grantee shall fully cooperate with the Grantor and shall provide such information and documents as the Grantor may reasonably require to perform the evaluation.

4.9 Late Fees

(A) For purposes of this subsection, any assessment, charge, cost, fee or sum, however characterized, that the Grantee imposes upon a Subscriber solely for late payment of a bill is a late fee and shall be applied in accordance with the Grantor's Customer Service Standards, as the same may be amended from time to time by the Town Council acting by ordinance or resolution, or as the same may be superseded by Applicable Law.

(B) Nothing in this subsection shall be deemed to create, limit or otherwise affect the ability of the Grantee, if any, to impose other assessments, charges, fees or sums other than those permitted by this subsection, for the Grantee's other services or activities it performs in compliance with Applicable Law, including FCC law, rule or regulation.

(C) The Grantee's late fee and disconnection policies and practices shall be consistent with Applicable Law.

4.10 Force Majeure

In the event Grantee is prevented or delayed in the performance of any of its obligations under this Franchise by reason beyond the control of Grantee, Grantee shall have a reasonable time, under the circumstances, to perform the affected obligation under this Franchise or to procure a substitute for such obligation which is satisfactory to the Grantor. Those conditions which are not within the control of Grantee include, but are not limited to, natural disasters, civil disturbances, work stoppages or labor disputes, power outages, telephone network outages, and severe or unusual weather conditions which have a direct and substantial impact on the Grantee's ability to provide Cable Services in the Town and which was not caused and could not have been avoided by the Grantee which used its best efforts in its operations to avoid such results.

If Grantee believes that a reason beyond its control has prevented or delayed its compliance with the terms of this Franchise, Grantee shall provide documentation as reasonably required by the Grantor to substantiate the Grantee's claim. If Grantee has not yet cured the deficiency, Grantee shall also provide the Grantor with its proposed plan for remediation, including the timing for such cure.

SECTION 5. FINANCIAL AND INSURANCE REQUIREMENTS

5.1 Indemnification

(A) General Indemnification. Grantee shall indemnify, defend and hold the Grantor, its officers, officials, boards, commissions, agents and employees, harmless from any action or claim for injury, damage, loss, liability, cost or expense, including court and appeal costs and reasonable attorneys' fees or reasonable expenses, arising from any casualty or accident to Person or property, including, without limitation, copyright infringement, defamation, and all other damages in any way arising out of, or by reason of, any construction, excavation, operation, maintenance, reconstruction, or any other act done under this Franchise, by or for Grantee, its agents, or its employees, or by reason of any neglect or omission of Grantee. Grantee shall consult and cooperate with the Grantor while conducting its defense of the Grantor. Grantee shall not be obligated to indemnify the Grantor to the extent of the Grantor's negligence or willful misconduct.

(B) Indemnification for Relocation. Grantee shall indemnify the Grantor for any damages, claims, additional costs or reasonable expenses assessed against, or payable by, the Grantor arising out of, or resulting from, directly or indirectly, Grantee's failure to remove, adjust or relocate any of its facilities in the Rights-of-Way in a timely manner in accordance with any relocation required by the Grantor.

(C) Additional Circumstances. Grantee shall also indemnify, defend and hold the Grantor harmless for any claim for injury, damage, loss, liability, cost or expense, including court and appeal costs and reasonable attorneys' fees or reasonable expenses in any way arising out of:

(1) The lawful actions of the Grantor in granting this Franchise to the extent such actions are consistent with this Franchise and Applicable Law.

(2) Damages arising out of any failure by Grantee to secure consents from the owners, authorized distributors, or licensees/licensors of programs to be delivered by the Cable System, whether or not any act or omission complained of is authorized, allowed or prohibited by this Franchise.

(D) Procedures and Defense. If a claim or action arises, the Grantor or any other indemnified party shall promptly tender the defense of the claim to Grantee, which defense shall be at Grantee's expense. The Grantor may participate in the defense of a claim, but if Grantee provides a defense at Grantee's expense then Grantee shall not be liable for any attorneys' fees, expenses or other costs that Grantor may incur if it chooses to participate in the defense of a claim, unless and until separate representation as described below in Paragraph 5.1(F) is required. In that event the provisions of Paragraph 5.1(F) shall govern Grantee's responsibility for Town's attorney's fees, expenses or other costs. In any event, Grantee may not agree to any settlement of claims affecting the Grantor without the Grantor's approval.

(E) Non-waiver. The fact that Grantee carries out any activities under this Franchise through independent contractors shall not constitute an avoidance of or defense to Grantee's duty of defense and indemnification under this subsection.

(F) Expenses. If separate representation to fully protect the interests of both parties is or becomes necessary, such as a conflict of interest between the Grantor and the counsel selected by Grantee to represent the Grantor, Grantee shall pay, from the date such separate representation is required forward, all reasonable expenses incurred by the Grantor in defending itself with regard to any action, suit or proceeding indemnified by Grantee. Provided, however, that in the event that such separate representation is or becomes necessary, and Grantor desires to hire counsel or any other outside experts or consultants and desires Grantee to pay those expenses, then Grantor shall be required to obtain Grantee's consent to the engagement of such counsel, experts or consultants, such consent not to be unreasonably withheld. The Grantor's expenses shall include all reasonable out-of-pocket expenses, such as consultants' fees, and shall also include the reasonable value of any services rendered by the Grantor Attorney or his/her assistants or any employees of the Grantor or its agents but shall not include outside attorneys' fees for services that are unnecessarily duplicative of services provided the Grantor by Grantee.

5.2 Insurance

(A) Grantee shall maintain in full force and effect at its own cost and expense each of the following policies of insurance, but in no event shall occurrence basis minimum limits be less than provided for by C.R.S. §24-10-114(1)(b):

(1) Commercial General Liability insurance with limits of no less than two million dollars (\$2,000,000.00) per occurrence and four million dollars (\$4,000,000.00) general aggregate. Coverage shall be at least as broad as that provided by ISO CG 00 01 1/96 or its equivalent and include severability of interests. Such insurance shall name the

Grantor, its officers, officials and employees as additional insureds per ISO CG 2026 or its equivalent. There shall be a waiver of subrogation and rights of recovery against the Grantor, its officers, officials and employees. Coverage shall apply as to claims between insureds on the policy, if applicable.

(2) Commercial Automobile Liability insurance with minimum combined single limits of two million dollars (\$2,000,000.00) each occurrence with respect to each of Grantee's owned, hired and non-owned vehicles assigned to or used in the operation of the Cable System in the Town. The policy shall contain a severability of interests provision.

(B) The insurance shall not be canceled or materially changed so as to be out of compliance with these requirements without thirty (30) days' written notice first provided to the Grantor, via certified mail, and ten (10) days' notice for nonpayment of premium. If the insurance is canceled or materially altered so as to be out of compliance with the requirements of this subsection within the term of this Franchise, Grantee shall provide a replacement policy. Grantee agrees to maintain continuous uninterrupted insurance coverage, in at least the amounts required, for the duration of this Franchise and, in the case of the Commercial General Liability, for at least one (1) year after expiration of this Franchise.

5.3 Deductibles / Certificate of Insurance

Any deductible of the policies shall not in any way limit Grantee's liability to the Grantor.

(A) Endorsements.

(1) All policies shall contain, or shall be endorsed so that:

(a) The Grantor, its officers, officials, boards, commissions, employees and agents are to be covered as, and have the rights of, additional insureds with respect to liability arising out of activities performed by, or on behalf of, Grantee under this Franchise or Applicable Law, or in the construction, operation or repair, or ownership of the Cable System;

(b) Grantee's insurance coverage shall be primary insurance with respect to the Grantor, its officers, officials, boards, commissions, employees and agents. Any insurance or self-insurance maintained by the Grantor, its officers, officials, boards, commissions, employees and agents shall be in excess of the Grantee's insurance and shall not contribute to it; and

(c) Grantee's insurance shall apply separately to each insured against whom a claim is made or lawsuit is brought, except with respect to the limits of the insurer's liability.

(B) Acceptability of Insurers. The insurance obtained by Grantee shall be placed with insurers with a Best's rating of no less than "A VII."

(C) Verification of Coverage. The Grantee shall furnish the Grantor with certificates of insurance and endorsements or a copy of the page of the policy reflecting blanket additional insured status. The certificates and endorsements for each insurance policy are to be signed by a Person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements for each insurance policy are to be on standard forms or such forms as are consistent with standard industry practices.

(D) Self-Insurance. In the alternative to providing a certificate of insurance to the Grantor certifying insurance coverage as required above, Grantee may provide self-insurance in the same amount and level of protection for Grantee and Grantor, its officers, agents and employees as otherwise required under this Section. The adequacy of self-insurance shall be subject to the periodic review and approval of the Grantor.

5.4 Letter of Credit

(A) If there is a claim by the Grantor of an uncured breach by Grantee of a material provision of this Franchise or pattern of repeated violations of any provision(s) of this Franchise, then the Grantor may require and Grantee shall establish and provide within thirty (30) days from receiving notice from the Grantor, to the Grantor as security for the faithful performance by Grantee of all of the provisions of this Franchise, a letter of credit from a financial institution satisfactory to the Grantor in the amount of twenty-five thousand dollars (\$25,000).

(B) In the event that Grantee establishes a letter of credit pursuant to the procedures of this Section, then the letter of credit shall be maintained twenty-five thousand dollars (\$25,000) until the allegations of the uncured breach have been resolved.

(C) As an alternative to the provision of a Letter of Credit to the Grantor as set forth in Subsections 5.4 (A) and (B) above, if the Grantor is a member of CCUA, and if Grantee provides a Letter of Credit to CCUA in an amount agreed to between Grantee and CCUA for the benefit of its members, in order to collectively address claims reference in 5.4 (A), Grantee shall not be required to provide a separate Letter of Credit to the Grantor.

(D) After completion of the procedures set forth in Section 13.1 or other applicable provisions of this Franchise, the letter of credit may be drawn upon by the Grantor for purposes including, but not limited to, the following:

- (1) Failure of Grantee to pay the Grantor sums due under the terms of this Franchise;
- (2) Reimbursement of costs borne by the Grantor to correct Franchise violations not corrected by Grantee;
- (3) Monetary remedies or damages assessed against Grantee due to default or breach of Franchise requirements; and,

(4) Failure to comply with the Customer Service Standards of the Grantor, as the same may be amended from time to time by the Town Council acting by ordinance or resolution.

(E) The Grantor shall give Grantee written notice of any withdrawal under this subsection upon such withdrawal. Within seven (7) days following receipt of such notice, Grantee shall restore the letter of credit to the amount required under this Franchise.

(F) Grantee shall have the right to appeal to the Town Council for reimbursement in the event Grantee believes that the letter of credit was drawn upon improperly. Grantee shall also have the right of judicial appeal if Grantee believes the letter of credit has not been properly drawn upon in accordance with this Franchise. Any funds the Grantor erroneously or wrongfully withdraws from the letter of credit shall be returned to Grantee with interest, from the date of withdrawal at a rate equal to the prime rate of interest as quoted in the Wall Street Journal.

SECTION 6. CUSTOMER SERVICE

6.1 Customer Service Standards

Grantee shall comply with Customer Service Standards of the Grantor, as the same may be amended from time to time by the Town Council in its sole discretion, acting by ordinance. Any requirement in Customer Service Standards for a “local” telephone number may be met by the provision of a toll-free number. The Customer Services Standards in effect as of the Effective Date of this Franchise are attached as Exhibit A. Grantee reserves the right to challenge any customer service ordinance which it believes is inconsistent with its contractual rights under this Franchise.

6.2 Subscriber Privacy

Grantee shall fully comply with any provisions regarding the privacy rights of Subscribers contained in federal, State, or local law.

6.3 Subscriber Contracts

Grantee shall not enter into a contract with any Subscriber which is in any way inconsistent with the terms of this Franchise, or any Exhibit hereto, or the requirements of any applicable Customer Service Standard. Upon request, Grantee will provide to the Grantor a sample of the Subscriber contract or service agreement then in use.

6.4 Advance Notice to Grantor

The Grantee shall use reasonable efforts to furnish information provided to Subscribers or the media in the normal course of business to the Grantor in advance.

6.5 Identification of Local Franchise Authority on Subscriber Bills

Within sixty (60) days after written request from the Grantor, Grantee shall place the Grantor's phone number on its Subscriber bills, to identify where a Subscriber may call to address escalated complaints.

SECTION 7. REPORTS AND RECORDS

7.1 Open Records

Grantee shall manage all of its operations in accordance with a policy of keeping its documents and records open and accessible to the Grantor. The Grantor, including the Grantor's Auditor or his/her authorized representative, shall have access to, and the right to inspect, any books and records of Grantee, its parent corporations and Affiliates which are reasonably related to the administration or enforcement of the terms of this Franchise. Grantee shall not deny the Grantor access to any of Grantee's records on the basis that Grantee's records are under the control of any parent corporation, Affiliate or a third party. The Grantor may, in writing, request copies of any such records or books and Grantee shall provide such copies within thirty (30) days of the transmittal of such request. One (1) copy of all reports and records required under this or any other subsection shall be furnished to the Grantor, at the sole expense of Grantee. If the requested books and records are too voluminous, or for security reasons cannot be copied or removed, then Grantee may request, in writing within ten (10) days, that the Grantor inspect them at Grantee's local offices. If any books or records of Grantee are not kept in a local office and not made available in copies to the Grantor upon written request as set forth above, and if the Grantor determines that an examination of such records is necessary or appropriate for the performance of any of the Grantor's duties, administration or enforcement of this Franchise, then all reasonable travel and related expenses incurred in making such examination shall be paid by Grantee.

7.2 Confidentiality

The Grantor agrees to treat as confidential any books or records that constitute proprietary or confidential information under federal or State law, to the extent Grantee makes the Grantor aware of such confidentiality. Grantee shall be responsible for clearly and conspicuously stamping the word "Confidential" on each page that contains confidential or proprietary information, and shall provide a brief written explanation as to why such information is confidential under State or federal law. If the Grantor believes it must release any such confidential books and records in the course of enforcing this Franchise, or for any other reason, it shall advise Grantee in advance so that Grantee may take appropriate steps to protect its interests. If the Grantor receives a demand from any Person for disclosure of any information designated by Grantee as confidential, the Grantor shall, so far as consistent with Applicable Law, advise Grantee and provide Grantee with a copy of any written request by the party demanding access to such information within a reasonable time. Until otherwise ordered by a court or agency of competent jurisdiction, the Grantor agrees that, to the extent permitted by State and federal law, it shall deny access to any of Grantee's books and records marked confidential as set forth above to any Person. Grantee shall reimburse the Grantor for all

reasonable costs and attorneys fees incurred in any legal proceedings pursued under this Section.

7.3 Records Required

(A) Grantee shall at all times maintain, and shall furnish to the Grantor upon 30 days written request and subject to Applicable Law:

(1) A complete set of maps showing the exact location of all Cable System equipment and facilities in the Right-of-Way but excluding detail on proprietary electronics contained therein and Subscriber drops. As-built maps including proprietary electronics shall be available at Grantee's offices for inspection by the Grantor's authorized representative(s) or agent(s) and made available to such during the course of technical inspections as reasonably conducted by the Grantor. These maps shall be certified as accurate by an appropriate representative of the Grantee;

(2) A copy of all FCC filings on behalf of Grantee, its parent corporations or Affiliates which relate to the operation of the Cable System in the Town;

(3) Current Subscriber Records and information;

(4) A log of Cable Services added or dropped, Channel changes, number of Subscribers added or terminated, all construction activity, and total homes passed for the previous twelve (12) months; and

(5) A list of Cable Services, rates and Channel line-ups.

(B) Subject to subsection 7.2, all information furnished to the Grantor is public information, and shall be treated as such, except for information involving the privacy rights of individual Subscribers.

7.4 Annual Reports

Within sixty (60) days of the Grantor's written request, Grantee shall submit to the Grantor a written report, in a form acceptable to the Grantor, which shall include, but not necessarily be limited to, the following information for the Grantor:

(A) A Gross Revenue statement, as required by subsection 3.5 of this Franchise;

(B) A summary of the previous year's activities in the development of the Cable System, including, but not limited to, Cable Services begun or discontinued during the reporting year, and the number of Subscribers for each class of Cable Service (*i.e.*, Basic, Digital Starter, and Premium);

(C) The number of homes passed, beginning and ending plant miles, any services added or dropped, and any technological changes occurring in the Cable System;

(D) A statement of planned construction, if any, for the next year; and,

(E) A copy or hyperlink of the most recent annual report Grantee filed with the SEC or other governing body.

The parties agree that the Grantor's request for these annual reports shall remain effective, and need only be made once. Such a request shall require the Grantee to continue to provide the reports annually, until further written notice from the Grantor to the contrary.

7.5 Copies of Federal and State Reports

Within thirty (30) days of a written request, Grantee shall submit to the Grantor copies of all pleadings, applications, notifications, communications and documents of any kind, submitted by Grantee or its parent corporation(s), to any federal, State or local courts, regulatory agencies and other government bodies if such documents directly relate to the operations of Grantee's Cable System within the Town. Grantee shall not claim confidential, privileged or proprietary rights to such documents unless under federal, State, or local law such documents have been determined to be confidential by a court of competent jurisdiction, or a federal or State agency.

7.6 Complaint File and Reports

(A) Grantee shall keep an accurate and comprehensive file of any complaints regarding the Cable System, in a manner consistent with the privacy rights of Subscribers, and Grantee's actions in response to those complaints. These files shall remain available for viewing to the Grantor during normal business hours at Grantee's local business office.

(B) Within thirty (30) days of a written request, Grantee shall provide the Grantor a quarterly executive summary in the form attached hereto as Exhibit B, which shall include the following information from the preceding quarter:

(1) A summary of service calls, identifying the number and nature of the requests and their disposition;

(2) A log of all service interruptions;

(3) A summary of customer complaints referred by the Grantor to Grantee;
and,

(4) Such other information as reasonably requested by the Grantor.

The parties agree that the Grantor's request for these summary reports shall remain effective, and need only be made once. Such a request shall require the Grantee to continue to provide the reports quarterly, until further written notice from the Grantor to the contrary.

7.7 Failure to Report

The failure or neglect of Grantee to file any of the reports or filings required under this Franchise or such other reports as the Grantor may reasonably request (not including clerical errors or errors made in good faith), may, at the Grantor's option, be deemed a breach of this Franchise.

7.8 False Statements

Any false or misleading statement or representation in any report required by this Franchise (not including clerical errors or errors made in good faith) may be deemed a material breach of this Franchise and may subject Grantee to all remedies, legal or equitable, which are available to the Grantor under this Franchise or otherwise.

SECTION 8. PROGRAMMING

8.1 Broad Programming Categories

Grantee shall provide or enable the provision of at least the following initial broad categories of programming to the extent such categories are reasonably available:

- (A) Educational programming;
- (B) Colorado news, weather & information;
- (C) Sports;
- (D) General entertainment (including movies);
- (E) Children/family-oriented;
- (F) Arts, culture and performing arts;
- (G) Foreign language;
- (H) Science/documentary;
- (I) National news, weather and information; and,

8.2 Deletion or Reduction of Broad Programming Categories

(A) Grantee shall not delete or so limit as to effectively delete any broad category of programming within its control without the prior written consent of the Grantor.

(B) In the event of a modification proceeding under federal law, the mix and quality of Cable Services provided by Grantee on the Effective Date of this Franchise shall be deemed

the mix and quality of Cable Services required under this Franchise throughout its term.

8.3 Obscenity

Grantee shall not transmit, or permit to be transmitted over any Channel subject to its editorial control, any programming which is obscene under, or violates any provision of, Applicable Law relating to obscenity, and is not protected by the Constitution of the United States. Grantee shall be deemed to have transmitted or permitted a transmission of obscene programming only if a court of competent jurisdiction has found that any of Grantee's officers or employees or agents have permitted programming which is obscene under, or violative of, any provision of Applicable Law relating to obscenity, and is otherwise not protected by the Constitution of the United States, to be transmitted over any Channel subject to Grantee's editorial control. Grantee shall comply with all relevant provisions of federal law relating to obscenity.

8.4 Parental Control Device

Upon request by any Subscriber, Grantee shall make available a parental control or lockout device, traps or filters to enable a Subscriber to control access to both the audio and video portions of any or all Channels. Grantee shall inform its Subscribers of the availability of the lockout device at the time of their initial subscription and periodically thereafter. Any device offered shall be at a rate, if any, in compliance with Applicable Law.

8.5 Continuity of Service Mandatory

(A) It shall be the right of all Subscribers to continue to receive Cable Service from Grantee insofar as their financial and other obligations to Grantee are honored. The Grantee shall act so as to ensure that all Subscribers receive continuous, uninterrupted Cable Service regardless of the circumstances. For the purposes of this subsection, "uninterrupted" does not include short-term outages of the Cable System for maintenance or testing.

(B) In the event of a change of grantee, or in the event a new Cable Operator acquires the Cable System in accordance with this Franchise, Grantee shall cooperate with the Grantor, new franchisee or Cable Operator in maintaining continuity of Cable Service to all Subscribers. During any transition period, Grantee shall be entitled to the revenues for any period during which it operates the Cable System, and shall be entitled to reasonable costs for its services when it no longer operates the Cable System.

(C) In the event Grantee fails to operate the Cable System for four (4) consecutive days without prior approval of the Manager, or without just cause, the Grantor may, at its option, operate the Cable System itself or designate another Cable Operator until such time as Grantee restores service under conditions acceptable to the Grantor or a permanent Cable Operator is selected. If the Grantor is required to fulfill this obligation for Grantee, Grantee shall reimburse the Grantor for all reasonable costs or damages that are the result of Grantee's failure to perform.

8.6 Services for the Disabled

Grantee shall comply with the Americans with Disabilities Act and any amendments thereto.

SECTION 9. ACCESS

9.1 Designated Access Providers

(A) The Grantor shall have the sole and exclusive responsibility for identifying the Designated Access Providers, including itself for Access purposes, to control and manage the use of any or all Access Facilities provided by Grantee under this Franchise. As used in this Section, such “Access Facilities” includes the services, facilities, equipment, technical components and/or financial support provided under this Franchise, which is used or useable by and for Public Access, Educational Access, and Government Access (“PEG” or “PEG Access”).

(B) Grantee shall cooperate with Grantor in Grantor’s efforts to provide Access programming, but will not be responsible or liable for any damages resulting from a claim in connection with the programming placed on the Access Channels by the Designated Access Provider.

9.2 Support for Access Programming Costs

In recognition of the Grantor’s demonstration of its community needs and interests related to the startup of an online Access Programming operation, Grantee agrees to provide an Access Programming capital equipment grant of twenty thousand (\$20,000) dollars (“Grant”) to the Grantor. The first ten thousand (\$10,000) dollars of the Grant shall be delivered within one hundred twenty (120) days of written request made after the Effective Date. The second ten thousand (\$10,000) dollars of the Grant shall be delivered within one hundred twenty (120) days of written request made after the third anniversary of the Effective Date and such request must be made prior to the seventh anniversary of the Effective Date. Grantee shall be entitled to recover the Grant in any manner consistent with Applicable Law.

9.3 Access Support Not Franchise Fees

Grantee agrees that capital support for Access Costs arising from or relating to the obligations set forth in this Section shall in no way modify or otherwise affect Grantee’s obligations to pay Franchise Fees to Grantor. Grantee agrees that although the sum of Franchise Fees plus the payments set forth in this Section may total more than five percent (5%) of Grantee’s Gross Revenues in any 12-month period, the additional Grant shall not be offset or otherwise credited in any way against any Franchise Fee payments under this Franchise Agreement so long as such support is used for capital Access purposes consistent with this Franchise and federal law.

SECTION 10. GENERAL RIGHT-OF-WAY USE AND CONSTRUCTION

10.1 Right to Construct

Subject to Applicable Law, regulations, rules, resolutions and ordinances of the Grantor and the provisions of this Franchise, Grantee may perform all construction in the Rights-of-Way for any facility needed for the maintenance or extension of Grantee's Cable System.

10.2 Right-of-Way Meetings

Grantee will regularly attend and participate in meetings of the Grantor, of which the Grantee is made aware, regarding Right-of-Way issues that may impact the Cable System.

10.3 Joint Trenching/Boring Meetings

Grantee will regularly attend and participate in planning meetings of the Grantor, of which the Grantee is made aware, to anticipate joint trenching and boring. Whenever it is possible and reasonably practicable to joint trench or share bores or cuts, Grantee shall work with other providers, licensees, permittees, and franchisees so as to reduce so far as possible the number of Right-of-Way cuts within the Town.

10.4 General Standard

All work authorized and required hereunder shall be done in a safe, thorough and workmanlike manner. All installations of equipment shall be permanent in nature, durable and installed in accordance with good engineering practices.

10.5 Permits Required for Construction

Prior to doing any work in the Right-of Way or other public property, Grantee shall apply for, and obtain, appropriate permits from the Grantor. As part of the permitting process, the Grantor may impose such conditions and regulations as are necessary for the purpose of protecting any structures in such Rights-of-Way, proper restoration of such Rights-of-Way and structures, the protection of the public, and the continuity of pedestrian or vehicular traffic. Such conditions may also include the provision of a construction schedule and maps showing the location of the facilities to be installed in the Right-of-Way. Grantee shall pay all applicable fees for the requisite Grantor permits received by Grantee.

10.6 Emergency Permits

In the event that emergency repairs are necessary, Grantee shall immediately notify the Grantor of the need for such repairs. Grantee may initiate such emergency repairs, and shall apply for appropriate permits within forty-eight (48) hours after discovery of the emergency.

10.7 Compliance with Applicable Codes

(A) Grantor Construction Codes. Grantee shall comply with all applicable Grantor construction codes, including, without limitation, the International Building Code and other building codes, the International Fire Code, the International Mechanical Code, the Electronic Industries Association Standard for Physical Location and Protection of Below-Ground Fiber Optic Cable Plant, and zoning codes and regulations.

(B) Tower Specifications. Antenna supporting structures (towers) shall be designed and constructed in accordance with the International Building Code, as adopted by AHJ, and TIA-222. Antenna supporting structures (towers) shall be painted, lighted, erected and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration and all other applicable federal, State, and local codes or regulations.

(C) Safety Codes. Grantee shall comply with all federal, State and Grantor safety requirements, rules, regulations, laws and practices, and employ all necessary devices as required by Applicable Law during construction, operation and repair of its Cable System. By way of illustration and not limitation, Grantee shall comply with all applicable NFPA Standards, including but not limited to the National Electric Code (NFPA 70), and applicable I-Codes as published by the International Code Council and locally adopted.

10.8 GIS Mapping

Grantee shall comply with any generally applicable ordinances, rules and regulations of the Grantor regarding geographic information mapping systems for users of the Rights-of-Way.

10.9 Minimal Interference

Work in the Right-of-Way, on other public property, near public property, or on or near private property shall be done in a manner that causes the least interference with the rights and reasonable convenience of property owners and residents. Grantee's Cable System shall be constructed and maintained in such manner as not to interfere with sewers, water pipes, or any other property of the Grantor, or with any other pipes, wires, conduits, pedestals, structures, or other facilities that may have been laid in the Rights-of-Way by, or under, the Grantor's authority. Further, all clearances from mains must be maintained according to any adopted design standards. The Grantee's Cable System shall be located, erected and maintained so as not to endanger or interfere with the lives of Persons, or to interfere with new improvements the Grantor may deem proper to make or to unnecessarily hinder or obstruct the free use of the Rights-of-Way or other public property, and shall not interfere with the travel and use of public places by the public during the construction, repair, operation or removal thereof, and shall not obstruct or impede traffic. In the event of such interference, the Grantor may require the removal or relocation of Grantee's lines, cables, equipment and other appurtenances from the property in question at Grantee's expense.

10.10 Prevent Injury/Safety

Grantee shall provide and use any equipment and facilities necessary to control and carry Grantee's signals so as to prevent injury to the Grantor's property or property belonging to any Person. Grantee, at its own expense, shall repair, renew, change and improve its facilities to keep them in good repair, and safe and presentable condition. All excavations made by Grantee in the Rights-of-Way shall be properly safeguarded for the prevention of accidents by the placement of adequate barriers, fences or boarding, the bounds of which, during periods of dusk and darkness, shall be clearly designated by warning lights.

10.11 Hazardous Substances

(A) Grantee shall comply with any and all Applicable Laws, statutes, regulations and orders concerning hazardous substances relating to Grantee's Cable System in the Rights-of-Way.

(B) Upon reasonable notice to Grantee, the Grantor may inspect Grantee's facilities in the Rights-of-Way to determine if any release of hazardous substances has occurred, or may occur, from or related to Grantee's Cable System. In removing or modifying Grantee's facilities as provided in this Franchise, Grantee shall also remove all residue of hazardous substances related thereto.

(C) Grantee agrees to indemnify the Grantor against any claims, costs, and expenses, of any kind, whether direct or indirect, incurred by the Grantor arising out of a release of hazardous substances caused by Grantee's Cable System.

10.12 Locates

Prior to doing any work in the Right-of-Way, Grantee shall give appropriate notices to the Grantor and to the notification association established in C.R.S. Section 9-1.5-105, as such may be amended from time to time.

Within forty-eight (48) hours after any Grantor bureau or franchisee, licensee or permittee notifies Grantee of a proposed Right-of-Way excavation, Grantee shall, at Grantee's expense:

(A) Mark on the surface all of its located underground facilities within the area of the proposed excavation;

(B) Notify the excavator of any unlocated underground facilities in the area of the proposed excavation; or

(C) Notify the excavator that Grantee does not have any underground facilities in the vicinity of the proposed excavation.

10.13 Notice to Private Property Owners

Grantee shall give notice to private property owners of work on or adjacent to private property in accordance with the Grantor’s Customer Service Standards, as the same may be amended from time to time by the Town Council acting by Ordinance or resolution.

10.14 Underground Construction and Use of Poles

(A) When required by general ordinances, resolutions, regulations or rules of the Grantor or applicable State or federal law, Grantee's Cable System shall be placed underground at Grantee's expense unless funding is generally available for such relocation to all users of the Rights-of-Way. Placing facilities underground does not preclude the use of ground-mounted appurtenances.

(B) Where electric, telephone, and other above-ground utilities are installed underground at the time of Cable System construction, or when all such wiring is subsequently placed underground, all Cable System lines shall also be placed underground with other wireline service at no expense to the Grantor or Subscribers unless funding is generally available for such relocation to all users of the Rights-of-Way. Related Cable System equipment, such as pedestals, must be placed in accordance with the Grantor’s applicable code requirements and rules. In areas where either electric or telephone utility wiring is aerial, the Grantee may install aerial cable, except when a property owner or resident requests underground installation and agrees to bear the additional cost in excess of aerial installation.

(C) The Grantee shall utilize existing poles and conduit wherever possible.

(D) In the event Grantee cannot obtain the necessary poles and related facilities pursuant to a pole attachment agreement, and only in such event, then it shall be lawful for Grantee to make all needed excavations in the Rights-of-Way for the purpose of placing, erecting, laying, maintaining, repairing, and removing poles, supports for wires and conductors, and any other facility needed for the maintenance or extension of Grantee's Cable System. All poles of Grantee shall be located as designated by the proper Grantor authorities.

(E) This Franchise does not grant, give or convey to the Grantee the right or privilege to install its facilities in any manner on specific utility poles or equipment of the Grantor or any other Person. Copies of agreements for the use of poles, conduits or other utility facilities must be provided upon request by the Grantor.

10.15 Undergrounding of Multiple Dwelling Unit Drops

In cases of single site Multiple Dwelling Units, Grantee shall minimize the number of individual aerial drop cables by installing multiple drop cables underground between the pole and Multiple Dwelling Unit where determined to be technologically feasible in agreement with the owners and/or owner's association of the Multiple Dwelling Units.

10.16 Burial Standards

(A) Depths. Unless otherwise required by law, Grantee, and its contractors, shall comply with the following burial depth standards. In no event shall Grantee be required to bury its cable deeper than electric or gas facilities, or existing telephone facilities in the same portion of the Right-of-Way, so long as those facilities have been buried in accordance with Applicable Law:

Underground cable drops from the curb shall be buried at a minimum depth of twelve (12) inches, unless a sprinkler system or other construction concerns preclude it, in which case, underground cable drops shall be buried at a depth of at least six (6) inches.

Feeder lines shall be buried at a minimum depth of eighteen (18) inches.

Trunk lines shall be buried at a minimum depth of thirty-six (36) inches.

Fiber Optic cable shall be buried at a minimum depth of thirty-six (36) inches.

In the event of a conflict between this subsection and the provisions of any customer service standard, this subsection shall control.

(B) Timeliness. Cable drops installed by Grantee to residences shall be buried according to these standards within one calendar week of initial installation, or at a time mutually-agreed upon between the Grantee and the Subscriber. When freezing surface conditions prevent Grantee from achieving such timetable, Grantee shall apprise the Subscriber of the circumstances and the revised schedule for burial, and shall provide the Subscriber with Grantee's telephone number and instructions as to how and when to call Grantee to request burial of the line if the revised schedule is not met.

10.17 Cable Drop Bonding

Grantee shall ensure that all cable drops are properly bonded at the home, consistent with applicable code requirements.

10.18 Prewiring

Any ordinance or resolution of the Grantor which requires prewiring of subdivisions or other developments for electrical and telephone service shall be construed to include wiring for Cable Systems.

10.19 Repair and Restoration of Property

(A) The Grantee shall protect public and private property from damage. If damage occurs, the Grantee shall promptly notify the property owner within twenty-four (24) hours in

writing.

(B) Whenever Grantee disturbs or damages any Right-of-Way, other public property or any private property, Grantee shall promptly restore the Right-of-Way or property to at least its prior condition, normal wear and tear excepted, at its own expense.

(C) Rights-of-Way and Other Public Property. Grantee shall warrant any restoration work performed by or for Grantee in the Right-of-Way or on other public property in accordance with Applicable Law. If restoration is not satisfactorily performed by the Grantee within a reasonable time, the Grantor may, after prior notice to the Grantee, or without notice where the disturbance or damage may create a risk to public health or safety, cause the repairs to be made and recover the cost of those repairs from the Grantee. Within thirty (30) days of receipt of an itemized list of those costs, including the costs of labor, materials and equipment, the Grantee shall pay the Grantor.

(D) Private Property. Upon completion of the work which caused any disturbance or damage, Grantee shall promptly commence restoration of private property, and will use best efforts to complete the restoration within seventy-two (72) hours, considering the nature of the work that must be performed. Grantee shall also perform such restoration in accordance with the Grantor's Customer Service Standards, as the same may be amended from time to time by the Town Council acting by ordinance or resolution.

10.20 Acquisition of Facilities

Upon Grantee's acquisition of Cable System-related facilities in any Grantor Right-of-Way, or upon the addition to the Grantor of any area in which Grantee owns or operates any such facility, Grantee shall, at the Grantor's request, submit to the Grantor a statement describing all such facilities involved, whether authorized by franchise, permit, license or other prior right, and specifying the location of all such facilities to the extent Grantee has possession of such information. Such Cable System-related facilities shall immediately be subject to the terms of this Franchise.

10.21 Discontinuing Use/Abandonment of Cable System Facilities

Whenever Grantee intends to discontinue using any facility within the Rights-of-Way, Grantee shall submit for the Grantor's approval a complete description of the facility and the date on which Grantee intends to discontinue using the facility. Grantee may remove the facility or request that the Grantor permit it to remain in place. Notwithstanding Grantee's request that any such facility remain in place, the Grantor may require Grantee to remove the facility from the Right-of-Way or modify the facility to protect the public health, welfare, safety, and convenience, or otherwise serve the public interest. The Grantor may require Grantee to perform a combination of modification and removal of the facility. Grantee shall complete such removal or modification in accordance with a schedule set by the Grantor. Until such time as Grantee removes or modifies the facility as directed by the Grantor, or until the rights to and responsibility for the facility are accepted by another Person having authority to construct and maintain such facility, Grantee shall be responsible for all necessary repairs and relocations of

the facility, as well as maintenance of the Right-of-Way, in the same manner and degree as if the facility were in active use, and Grantee shall retain all liability for such facility. If Grantee abandons its facilities, the Grantor may choose to use such facilities for any purpose whatsoever including, but not limited to, Access purposes.

10.22 Movement of Cable System Facilities For Grantor Purposes

The Grantor shall have the right to require Grantee to relocate, remove, replace, modify or disconnect Grantee's facilities and equipment located in the Rights-of-Way or on any other property of the Grantor for public purposes, in the event of an emergency, or when the public health, safety or welfare requires such change (for example, without limitation, by reason of traffic conditions, public safety, Right-of-Way vacation, Right-of-Way construction, change or establishment of Right-of-Way grade, installation of sewers, drains, gas or water pipes, or any other types of structures or improvements by the Grantor for public purposes). Such work shall be performed at the Grantee's expense. Except during an emergency, the Grantor shall provide reasonable notice to Grantee, not to be less than forty-five (45) business days, and allow Grantee with the opportunity to perform such action. In the event of any capital improvement project exceeding \$500,000 in expenditures by the Grantor which requires the removal, replacement, modification or disconnection of Grantee's facilities or equipment, the Grantor shall provide at least sixty (60) days' written notice to Grantee. Following notice by the Grantor, Grantee shall relocate, remove, replace, modify or disconnect any of its facilities or equipment within any Right-of-Way, or on any other property of the Grantor. If the Grantor requires Grantee to relocate its facilities located within the Rights-of-Way, the Grantor shall make a reasonable effort to provide Grantee with an alternate location within the Rights-of-Way. If funds are generally made available to users of the Rights-of-Way for such relocation, Grantee shall be entitled to its pro rata share of such funds.

If the Grantee fails to complete this work within the time prescribed and to the Grantor's satisfaction, the Grantor may cause such work to be done and bill the cost of the work to the Grantee, including all costs and expenses incurred by the Grantor due to Grantee's delay. In such event, the Grantor shall not be liable for any damage to any portion of Grantee's Cable System. Within thirty (30) days of receipt of an itemized list of those costs, the Grantee shall pay the Grantor.

10.23 Movement of Cable System Facilities for Other Franchise Holders

If any removal, replacement, modification or disconnection of the Cable System is required to accommodate the construction, operation or repair of the facilities or equipment of another Grantor franchise holder, Grantee shall, after at least thirty (30) days' advance written notice, take action to effect the necessary changes requested by the responsible entity. Grantee shall require that the costs associated with the removal or relocation be paid by the benefited party.

10.24 Temporary Changes for Other Permittees

At the request of any Person holding a valid permit and upon reasonable advance notice,

Grantee shall temporarily raise, lower or remove its wires as necessary to permit the moving of a building, vehicle, equipment or other item. The expense of such temporary changes must be paid by the permit holder, and Grantee may require a reasonable deposit of the estimated payment in advance.

10.25 Reservation of Grantor Use of Right-of-Way

Nothing in this Franchise shall prevent the Grantor or public utilities owned, maintained or operated by public entities other than the Grantor from constructing sewers; grading, paving, repairing or altering any Right-of-Way; laying down, repairing or removing water mains; or constructing or establishing any other public work or improvement. All such work shall be done, insofar as practicable, so as not to obstruct, injure or prevent the use and operation of Grantee's Cable System.

10.26 Tree Trimming

Grantee may prune or cause to be pruned, using proper pruning practices, any tree in the Grantor's Rights-of-Way which interferes with Grantee's Cable System. Grantee shall comply with any general ordinance or regulations of the Grantor regarding tree trimming. Except in emergencies, Grantee may not prune trees at a point below thirty (30) feet above sidewalk grade until one (1) week written notice has been given to the owner or occupant of the premises abutting the Right-of-Way in or over which the tree is growing. The owner or occupant of the abutting premises may prune such tree at his or her own expense during this one (1) week period. If the owner or occupant fails to do so, Grantee may prune such tree at its own expense. For purposes of this subsection, emergencies exist when it is necessary to prune to protect the public or Grantee's facilities from imminent danger only.

10.27 Inspection of Construction and Facilities

The Grantor may inspect any of Grantee's facilities, equipment or construction at any time upon at least twenty-four (24) hours notice, or, in case of emergency, upon demand without prior notice. The Grantor shall have the right to charge generally applicable inspection fees therefore. If an unsafe condition is found to exist, the Grantor, in addition to taking any other action permitted under Applicable Law, may order Grantee, in writing, to make the necessary repairs and alterations specified therein forthwith to correct the unsafe condition by a time the Grantor establishes. The Grantor has the right to correct, inspect, administer and repair the unsafe condition if Grantee fails to do so, and to charge Grantee therefore.

10.28 Stop Work

(A) On notice from the Grantor that any work is being performed contrary to the provisions of this Franchise, or in an unsafe or dangerous manner as determined by the Grantor, or in violation of the terms of any applicable permit, laws, regulations, ordinances, or standards, the work may immediately be stopped by the Grantor.

(B) The stop work order shall:

- (1) Be in writing;
- (2) Be given to the Person doing the work, or posted on the work site;
- (3) Be sent to Grantee by overnight delivery at the address given herein;
- (4) Indicate the nature of the alleged violation or unsafe condition; and
- (5) Establish conditions under which work may be resumed.

10.29 Work of Contractors and Subcontractors

Grantee's contractors and subcontractors shall be licensed and bonded in accordance with the Grantor's ordinances, regulations and requirements. Work by contractors and subcontractors is subject to the same restrictions, limitations and conditions as if the work were performed by Grantee. Grantee shall be responsible for all work performed by its contractors and subcontractors and others performing work on its behalf as if the work were performed by it, and shall ensure that all such work is performed in compliance with this Franchise and other Applicable Law, and shall be jointly and severally liable for all damages and correcting all damage caused by them. It is Grantee's responsibility to ensure that contractors, subcontractors or other Persons performing work on Grantee's behalf are familiar with the requirements of this Franchise and other Applicable Law governing the work performed by them.

SECTION 11. CABLE SYSTEM, TECHNICAL STANDARDS AND TESTING

11.1 Subscriber Network

(A) Grantee's Cable System shall consist of a mix of fiber to the premises and HFC and shall provide Activated Two-Way capability. The Cable System shall be capable of supporting video and audio. The Cable System shall deliver no less than two hundred (200) Channels of digital video programming services to Subscribers, provided that the Grantee reserves the right to use the bandwidth in the future for other uses based on market factors.

(B) Equipment must be installed so that all closed captioning programming received by the Cable System shall include the closed caption signal so long as the closed caption signal is provided consistent with FCC standards. Equipment must be installed so that all local signals received in stereo or with secondary audio tracks (broadcast and Access) are retransmitted in those same formats.

(C) All construction shall be subject to the Grantor's permitting process.

(D) Grantee and Grantor shall meet, at the Grantor's request, to discuss the progress of the design plan and construction.

(E) Grantee will take prompt corrective action if it finds that any facilities or

equipment on the Cable System are not operating as expected, or if it finds that facilities and equipment do not comply with the requirements of this Franchise or Applicable Law.

(F) Grantee's construction decisions shall be based solely upon legitimate engineering decisions and shall not take into consideration the income level of any particular community within the Franchise Area.

11.2 Technology Assessment

(A) The Grantor may notify Grantee on or after five (5) years after the Effective Date, that the Grantor will conduct a technology assessment of Grantee's Cable System. The technology assessment may include, but is not be limited to, determining whether Grantee's Cable System technology and performance are consistent with current technical practices and range and level of services existing in the fifteen (15) largest U.S. cable systems owned and operated by Grantee's Parent Corporation and/or Affiliates pursuant to franchises that have been renewed or extended since the Effective Date.

(B) Grantee shall cooperate with the Grantor to provide necessary non-confidential and proprietary information upon the Grantor's reasonable request as part of the technology assessment.

(C) At the discretion of the Grantor, findings from the technology assessment may be included in any proceeding commenced for the purpose of identifying future cable-related community needs and interests undertaken by the Grantor pursuant to 47 U.S.C. §546.

11.3 Standby Power

Grantee's Cable System Headend shall be capable of providing at least twelve (12) hours of emergency operation. In addition, throughout the term of this Franchise, Grantee shall have a plan in place, along with all resources necessary for implementing such plan, for dealing with outages of more than four (4) hours. This outage plan and evidence of requisite implementation resources shall be presented to the Grantor no later than thirty (30) days following receipt of a request.

11.4 Emergency Alert Capability

(A) Grantee shall provide an operating Emergency Alert System ("EAS") throughout the term of this Franchise in compliance with FCC standards. Grantee shall test the EAS as required by the FCC. Upon request, the Grantor shall be permitted to participate in and/or witness the EAS testing up to twice a year on a schedule formed in consultation with Grantee. If the test indicates that the EAS is not performing properly, Grantee shall make any necessary adjustment to the EAS, and the EAS shall be retested.

11.5 Technical Performance

The technical performance of the Cable System shall meet or exceed all applicable

federal (including, but not limited to, the FCC), State and local technical standards, as they may be amended from time to time, regardless of the transmission technology utilized. The Grantor shall have the full authority permitted by Applicable Law to enforce compliance with these technical standards.

11.6 Cable System Performance Testing

(A) Grantee shall provide to the Grantor a copy of its current written process for resolving complaints about the quality of the video programming services signals delivered to Subscriber and shall provide the Grantor with any amendments or modifications to the process at such time as they are made.

(B) Grantee shall, at Grantee’s expense, maintain all aggregate data of Subscriber complaints related to the quality of the video programming service signals delivered by Grantee in the Grantor for a period of at least one (1) year, and individual Subscriber complaints from the Grantor for a period of at least three (3) years, and make such information available to the Grantor upon reasonable request.

(C) Grantee shall maintain written records of all results of its Cable System tests, performed by or for Grantee. Copies of such test results will be provided to the Grantor upon reasonable request.

(D) Grantee shall perform any tests required by the FCC.

11.7 Additional Tests

Where there exists other evidence which in the judgment of the Grantor casts doubt upon the reliability or technical quality of Cable Service, the Grantor shall have the right and authority to require Grantee to test, analyze and report on the performance of the Cable System. Grantee shall fully cooperate with the Grantor in performing such testing and shall prepare the results and a report, if requested, within thirty (30) days after testing. Such report shall include the following information:

- (A) the nature of the complaint or problem which precipitated the special tests;
- (B) the Cable System component tested;
- (C) the equipment used and procedures employed in testing;
- (D) the method, if any, in which such complaint or problem was resolved; and
- (E) any other information pertinent to said tests and analysis which may be required.

SECTION 12. SERVICE AVAILABILITY

12.1 Deployment Plans

Grantee has shared with the Grantor its Cable System deployment plans which include the projected dates when deployment of the Cable System will be completed and activated in various parts of the Town, which have been found to be acceptable to the Grantor. Grantee commits to using commercially reasonable efforts to construct its Cable System within the Grantor in accordance with those plans and will meet with the Grantor, at a minimum biannually, to update the Grantor on the current status of construction and anticipated timeline to completion. Nothing in this Franchise, however, requires Grantee to build-out and serve all areas of the Grantor if, in Grantee's good faith estimation, build-out and service activation cannot be completed in a commercially reasonable fashion. Notwithstanding anything to the contrary in Section 2.3, should Grantee cease building out to all areas of the Grantor as provided in this Section 12.1, Grantor at its discretion, may notify Grantee in writing that the term of this Agreement shall expire in three (3) years from the date of such notice, in order that the parties may commence negotiations of appropriate build out obligations to be contained in a franchise renewal agreement.

12.2 Service Availability In General

Once the Cable System construction is complete in a given area within the Town and Cable Service is available, Grantee intends to provide Cable Service within seven (7) days of a request by any Person within the Franchise Area. For purposes of this Section, a request shall be deemed made on the date of signing a service agreement, receipt of funds by Grantee, receipt of a written request by Grantee or receipt by Grantee of a verified verbal request. Except as otherwise provided herein, Grantee intends to provide such service:

- (A) With no line extension charge except as specifically authorized elsewhere in this Franchise Agreement.
- (B) At a non-discriminatory installation charge for a standard installation, consisting of a 125 foot drop connecting to an inside wall for Residential Subscribers, with additional charges for non-standard installations computed according to a non-discriminatory methodology for such installations, adopted by Grantee and provided in writing to the Town;
- (C) At non-discriminatory monthly rates for Residential Subscribers.

12.3 Service to Multiple Dwelling Units

Consistent with this Section 12, once the Cable System construction is complete in a given area within the Town and Cable Service is available, the Grantee intends to offer the individual units of a Multiple Dwelling Unit all Cable Services offered to other Dwelling Units in the Town and shall individually wire units upon request of the property owner or renter who has been given written authorization by the owner; provided, however, that any such offering is

conditioned upon the Grantee having legal access to said unit. The Grantor acknowledges that the Grantee cannot control the dissemination of particular Cable Services beyond the point of demarcation at a Multiple Dwelling Unit.

12.4 Customer Charges for Extensions of Service

Once the Cable System construction is complete in a given area within the Town and Cable Service is available, Grantee intends to extend its Cable System to all persons living in areas with a residential density of twenty (25) residences per mile of Cable System plant. If the residential density is less than twenty (25) residences per 5,280 cable-bearing strand feet of trunk or distribution cable, service may be made available on the basis of a capital contribution in aid of construction, including cost of material, labor and easements. Customers who request service hereunder will bear the remainder of the construction and other costs on a pro rata basis. The Grantee may require that the payment of the capital contribution in aid of construction borne by such potential customers be paid in advance.

SECTION 13. FRANCHISE VIOLATIONS

13.1 Procedure for Remedying Franchise Violations

(A) If the Grantor reasonably believes that Grantee has failed to perform any obligation under this Franchise or has failed to perform in a timely manner, the Grantor shall notify Grantee in writing, stating with reasonable specificity the nature of the alleged default. Grantee shall have thirty (30) days from the receipt of such notice to:

- (1) respond to the Grantor, contesting the Grantor's assertion that a default has occurred;
- (2) cure the default; or,
- (3) notify the Grantor that Grantee cannot cure the default within the thirty (30) days, because of the nature of the default. In the event the default cannot be cured within thirty (30) days, Grantee shall promptly take all reasonable steps to cure the default and notify the Grantor in writing and in detail as to the exact steps that will be taken and the projected completion date. Upon five (5) business days' prior written notice, either Grantor or Grantee may call an informal meeting to discuss the alleged default.

(B) If Grantee does not cure the alleged default within the cure period stated above, or by the projected completion date under subsection (A)(3), or denies the default, each party reserves its rights to pursue any legal or equitable remedy available under this Agreement or Applicable Law.

13.2 Procedures in the Event of Termination or Revocation

- (A) If this Franchise expires without renewal after completion of all processes

available under this Franchise and federal law or is otherwise lawfully terminated or revoked, the Grantor may, subject to Applicable Law:

(1) Allow Grantee to maintain and operate its Cable System on a month-to-month basis or short-term extension of this Franchise for not less than six (6) months, unless a sale of the Cable System can be closed sooner or Grantee demonstrates to the Grantor's satisfaction that it needs additional time to complete the sale; or

(2) Purchase Grantee's Cable System in accordance with the procedures set forth in subsection 13.4, below.

(B) In the event that a sale has not been completed in accordance with subsections (A)(1) and/or (A)(2) above, the Grantor may order the removal of the above-ground Cable System facilities and such underground facilities from the Town at Grantee's sole expense within a reasonable period of time as determined by the Grantor. In removing its plant, structures and equipment, Grantee shall refill, at its own expense, any excavation that is made by it and shall leave all Rights-of-Way, public places and private property in as good condition as that prevailing prior to Grantee's removal of its equipment without affecting the electrical or telephone cable wires or attachments. The indemnification and insurance provisions and the letter of credit shall remain in full force and effect during the period of removal, and Grantee shall not be entitled to, and agrees not to request, compensation of any sort therefore.

(C) If Grantee fails to complete any removal required by subsection 13.3 (B) to the Grantor's satisfaction, after written notice to Grantee, the Grantor may cause the work to be done and Grantee shall reimburse the Grantor for the costs incurred within thirty (30) days after receipt of an itemized list of the costs, or the Grantor may recover the costs through the letter of credit provided by Grantee.

(D) The Grantor may seek legal and equitable relief to enforce the provisions of this Franchise.

13.3 Receivership and Foreclosure

(A) At the option of the Grantor, subject to Applicable Law, this Franchise may be revoked one hundred twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of Grantee whether in a receivership, reorganization, bankruptcy or other action or proceeding, unless:

(1) The receivership or trusteeship is vacated within one hundred twenty (120) days of appointment; or

(2) The receivers or trustees have, within one hundred twenty (120) days after their election or appointment, fully complied with all the terms and provisions of this Franchise, and have remedied all defaults under the Franchise. Additionally, the receivers or trustees shall have executed an agreement duly approved by the court having jurisdiction, by which the receivers or trustees assume and agree to be bound by each and

every term, provision and limitation of this Franchise.

(B) If there is a foreclosure or other involuntary sale of the whole or any part of the plant, property and equipment of Grantee, the Grantor may serve notice of revocation on Grantee and to the purchaser at the sale, and the rights and privileges of Grantee under this Franchise shall be revoked thirty (30) days after service of such notice, unless:

(1) The Grantor has approved the transfer of the Franchise, in accordance with the procedures set forth in this Franchise and as provided by law; and

(2) The purchaser has covenanted and agreed with the Grantor to assume and be bound by all of the terms and conditions of this Franchise.

13.4 No Monetary Recourse Against the Grantor

Grantee shall not have any monetary recourse against the Grantor or its officers, officials, boards, commissions, agents or employees for any loss, costs, expenses or damages arising out of any provision or requirement of this Franchise or the enforcement thereof, in accordance with the provisions of applicable federal, State and local law. The rights of the Grantor under this Franchise are in addition to, and shall not be read to limit, any immunities the Grantor may enjoy under federal, State or local law.

13.5 Alternative Remedies

No provision of this Franchise shall be deemed to bar the right of the Grantor to seek or obtain judicial relief from a violation of any provision of the Franchise or any rule, regulation, requirement or directive promulgated thereunder. Neither the existence of other remedies identified in this Franchise nor the exercise thereof shall be deemed to bar or otherwise limit the right of the Grantor to recover monetary damages for such violations by Grantee, or to seek and obtain judicial enforcement of Grantee's obligations by means of specific performance, injunctive relief or mandate, or any other remedy at law or in equity.

13.6 Effect of Abandonment

If the Grantee abandons its Cable System during the Franchise term, or fails to operate its Cable System in accordance with its duty to provide continuous service, the Grantor, at its option, may operate the Cable System; designate another entity to operate the Cable System temporarily until the Grantee restores service under conditions acceptable to the Grantor, or until the Franchise is revoked and a new franchisee is selected by the Grantor; or obtain an injunction requiring the Grantee to continue operations. If the Grantor is required to operate or designate another entity to operate the Cable System, the Grantee shall reimburse the Grantor or its designee for all reasonable costs, expenses and damages incurred.

13.7 What Constitutes Abandonment

The Grantor shall be entitled to exercise its options in subsection 13.6 if:

(A) The Grantee fails to provide Cable Service in accordance with this Franchise over a substantial portion of the Franchise Area for four (4) consecutive days, unless the Grantor authorizes a longer interruption of service; or

(B) The Grantee, for any period, willfully and without cause refuses to provide Cable Service in accordance with this Franchise.

SECTION 14. FRANCHISE RENEWAL AND TRANSFER

14.1 Renewal

(A) The Grantor and Grantee agree that any proceedings undertaken by the Grantor that relate to the renewal of the Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, unless the procedures and substantive protections set forth therein shall be deemed to be preempted and superseded by the provisions of any subsequent provision of federal or State law.

(B) In addition to the procedures set forth in said Section 626(a), the Grantor agrees to notify Grantee of the completion of its assessments regarding the identification of future cable-related community needs and interests, as well as the past performance of Grantee under the then current Franchise term. Notwithstanding anything to the contrary set forth herein, Grantee and Grantor agree that at any time during the term of the then current Franchise, while affording the public adequate notice and opportunity for comment, the Grantor and Grantee may agree to undertake and finalize negotiations regarding renewal of the then current Franchise and the Grantor may grant a renewal thereof. Grantee and Grantor consider the terms set forth in this subsection to be consistent with the express provisions of Section 626 of the Cable Act.

(C) Should the Franchise expire without a mutually agreed upon renewed Franchise Agreement and Grantee and Grantor are engaged in an informal or formal renewal process, the Franchise shall continue on a month-to-month basis, with the same terms and conditions as provided in the Franchise, and the Grantee and Grantor shall continue to comply with all obligations and duties under the Franchise.

14.2 Transfer of Ownership or Control

(A) The Cable System and this Franchise shall not be sold, assigned, transferred, leased or disposed of, either in whole or in part, either by involuntary sale or by voluntary sale, merger or consolidation; nor shall title thereto, either legal or equitable, or any right, interest or property therein pass to or vest in any Person or entity without the prior written consent of the Grantor, which consent shall be by the Town Council, acting by ordinance/resolution.

(B) The Grantee shall promptly notify the Grantor of any actual or proposed change in, or transfer of, or acquisition by any other party of control of the Grantee. The word "control" as used herein is not limited to majority stockholders but includes actual working control in whatever manner exercised. Every change, transfer or acquisition of control of the Grantee shall

make this Franchise subject to cancellation unless and until the Grantor shall have consented in writing thereto.

(C) The parties to the sale or transfer shall make a written request to the Grantor for its approval of a sale or transfer and furnish all information required by law and the Grantor.

(D) In seeking the Grantor's consent to any change in ownership or control, the proposed transferee shall indicate whether it:

(1) Has ever been convicted or held liable for acts involving deceit including any violation of federal, State or local law or regulations, or is currently under an indictment, investigation or complaint charging such acts;

(2) Has ever had a judgment in an action for fraud, deceit, or misrepresentation entered against the proposed transferee by any court of competent jurisdiction;

(3) Has pending any material legal claim, lawsuit, or administrative proceeding arising out of or involving a cable system or a broadband system;

(4) Is financially solvent, by submitting financial data including financial statements that are audited by a certified public accountant who may also be an officer of the transferee, along with any other data that the Grantor may reasonably require; and

(5) Has the financial, legal and technical capability to enable it to maintain and operate the Cable System for the remaining term of the Franchise.

(E) The Grantor shall act by ordinance on the request within one hundred twenty (120) days of the request, provided it has received all information required by this Franchise and/or by Applicable Law. The Grantor and the Grantee may by mutual agreement, at any time, extend the 120 day period. Subject to the foregoing, if the Grantor fails to render a final decision on the request within one hundred twenty (120) days, such request shall be deemed granted unless the requesting party and the Grantor agree to an extension of time.

(F) Within thirty (30) days of any transfer or sale, if approved or deemed granted by the Grantor, Grantee shall file with the Grantor a copy of the deed, agreement, lease or other written instrument evidencing such sale or transfer of ownership or control, certified and sworn to as correct by Grantee and the transferee, and the transferee shall file its written acceptance agreeing to be bound by all of the provisions of this Franchise, subject to Applicable Law. In the event of a change in control, in which the Grantee is not replaced by another entity, the Grantee will continue to be bound by all of the provisions of the Franchise, subject to Applicable Law, and will not be required to file an additional written acceptance.

(G) In reviewing a request for sale or transfer, the Grantor may inquire into the legal, technical and financial qualifications of the prospective controlling party or transferee, and Grantee shall assist the Grantor in so inquiring. The Grantor may condition said sale or transfer

upon such terms and conditions as it deems reasonably appropriate, in accordance with Applicable Law.

(H) Notwithstanding anything to the contrary in this subsection, the prior approval of the Grantor shall not be required for any sale, assignment or transfer of the Franchise or Cable System to an entity controlling, controlled by or under the same common control as Grantee, provided that the proposed assignee or transferee must show financial responsibility as may be determined necessary by the Grantor and must agree in writing to comply with all of the provisions of the Franchise. Further, Grantee may pledge the assets of the Cable System for the purpose of financing without the consent of the Grantor; provided that such pledge of assets shall not impair or mitigate Grantee's responsibilities and capabilities to meet all of its obligations under the provisions of this Franchise.

SECTION 15. SEVERABILITY

If any Section, subsection, paragraph, term or provision of this Franchise is determined to be illegal, invalid or unconstitutional by any court or agency of competent jurisdiction, such determination shall have no effect on the validity of any other Section, subsection, paragraph, term or provision of this Franchise, all of which will remain in full force and effect for the term of the Franchise.

SECTION 16. MISCELLANEOUS PROVISIONS

16.1 Preferential or Discriminatory Practices Prohibited

NO DISCRIMINATION IN EMPLOYMENT. In connection with the performance of work under this Franchise, the Grantee agrees not to refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any Person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and the Grantee further agrees to insert the foregoing provision in all subcontracts hereunder. Throughout the term of this Franchise, Grantee shall fully comply with all equal employment or non-discrimination provisions and requirements of federal, State and local laws, and in particular, FCC rules and regulations relating thereto.

16.2 Notices

Throughout the term of the Franchise, each party shall maintain and file with the other a local address for the service of notices by mail. All notices shall be sent overnight delivery postage prepaid to such respective address and such notices shall be effective upon the date of mailing. These addresses may be changed by the Grantor or the Grantee by written notice at any time. At the Effective Date of this Franchise:

Grantee's address shall be:

COMCAST OF COLORADO IX, LLC

8000 E. Iliff Ave.
 Denver, CO 80231
 Attn: Government Affairs

The Grantor's address shall be:

Town of Johnstown, Colorado
 P.O. Box 609
 450 S. Parish Avenue
 Johnstown, CO 80534
 Attn: Town Manager

16.3 Descriptive Headings

The headings and titles of the Sections and subsections of this Franchise are for reference purposes only, and shall not affect the meaning or interpretation of the text herein.

16.4 Publication Costs to be Borne by Grantee

Grantee shall reimburse the Grantor for all costs incurred in publishing this Franchise, if such publication is required.

16.5 Binding Effect

This Franchise shall be binding upon the parties hereto, their permitted successors and assigns.

16.6 No Joint Venture

Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties, and neither party is authorized to, nor shall either party act toward third Persons or the public in any manner which would indicate any such relationship with the other.

16.7 Waiver

The failure of the Grantor at any time to require performance by the Grantee of any provision hereof shall in no way affect the right of the Grantor hereafter to enforce the same. Nor shall the waiver by the Grantor of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision, or as a waiver of the provision itself or any other provision.

16.8 Reasonableness of Consent or Approval

Whenever under this Franchise “reasonableness” is the standard for the granting or denial of the consent or approval of either party hereto, such party shall be entitled to consider public

and governmental policy, moral and ethical standards as well as business and economic considerations.

16.9 Entire Agreement

This Franchise and all Exhibits represent the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and supersede all prior oral negotiations between the parties.

16.10 Jurisdiction

Venue for any judicial dispute between the Grantor and Grantee arising under or out of this Franchise shall be in Weld or Larimer County District Court, Colorado, or in the United States District Court in Denver.

IN WITNESS WHEREOF, this Franchise is signed in the name of the Town of Johnstown, Colorado this ____ day of _____, 2023.

ATTEST:

TOWN OF JOHNSTOWN, COLORADO

Town Clerk

Mayor

APPROVED AS TO FORM:

RECOMMENDED AND APPROVED:

Town Attorney

Town Manager

Accepted and approved this ____ day of _____, 2023.

ATTEST:

COMCAST OF COLORADO IX, LLC

Public Notary

Name/Title: _____

EXHIBIT A: CUSTOMER SERVICE STANDARDS

I. POLICY

The Cable Operator should resolve citizen complaints without delay and interference from the Franchising Authority.

Where a given complaint is not addressed by the Cable Operator to the citizen's satisfaction, the Franchising Authority should intervene. In addition, where a pattern of unremedied complaints or noncompliance with the Standards is identified, the Franchising Authority should prescribe a cure and establish a reasonable deadline for implementation of the cure. If the noncompliance is not cured within established deadlines, monetary sanctions should be imposed to encourage compliance and deter future non-compliance.

These Standards are intended to be of general application, and are expected to be met under normal operating conditions; however, the Cable Operator shall be relieved of any obligations hereunder if it is unable to perform due to a region-wide natural emergency or in the event of force majeure affecting a significant portion of the franchise area. The Cable Operator is free to exceed these Standards to the benefit of its Customers and such shall be considered performance for the purposes of these Standards.

These Standards supercede any contradictory or inconsistent provision in federal, state or local law (Source: 47 U.S.C. § 552(a)(1) and (d)), provided, however, that any provision in federal, state or local law, or in any original franchise agreement or renewal agreement, that imposes a higher obligation or requirement than is imposed by these Standards, shall not be considered contradictory or inconsistent with these Standards. In the event of a conflict between these Standards and a Franchise Agreement, the Franchise Agreement shall control.

These Standards apply to the provision of any Cable Service, provided by a Cable Operator over a Cable System, within the Town of Johnstown.

II. DEFINITIONS

When used in these Customer Service Standards (the "Standards"), the following words, phrases, and terms shall have the meanings given below.

"Adoption" shall mean the process necessary to formally enact the Standards within the Franchising Authority's jurisdiction under applicable ordinances and laws.

"Affiliate" shall mean any person or entity that is owned or controlled by, or under common ownership or control with, a Cable Operator, and provides any Cable Service or Other Service.

“Applicable Law” means, with respect to these standards and any Cable Operator’s privacy policies, any statute, ordinance, judicial decision, executive order or regulation having the force and effect of law, that determines the legal standing of a case or issue.

"Cable Operator" shall mean any person or group of persons (A) who provides Cable Service over a Cable System and directly or through one or more affiliates owns a significant interest in such cable system, or (B) who otherwise controls or is responsible for, through any arrangement, the management and operation of such a Cable System. Source: 47 U.S.C. § 522(5).

“Cable Service” shall mean (A) the one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and (B) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service. Source: 47 U.S.C. § 522(6). For purposes of this definition, “video programming” is programming provided by, or generally considered comparable to programming provided by a television broadcast station. Source: 47 U.S.C. § 522(20). “Other programming service” is information that a Cable Operator makes available to all subscribers generally. Source: 47 U.S.C. § 522(14).

“Cable System” shall mean a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include (A) a facility that serves only to retransmit the televisions signals of one or more television broadcast stations, or (B) a facility that serves subscribers without using any public right of way. Source: 47 U.S.C. § 522(7).

“Contractor” shall mean a person or entity that agrees by contract to furnish materials or perform services for another at a specified consideration.

"Customer" shall mean any person who receives any Cable Service from a Cable Operator.

"Customer Service Representative" (or "CSR") shall mean any person employed with or under contract or subcontract to a Cable Operator to assist, or provide service to, customers, whether by telephone, writing service or installation orders, answering customers' questions in person, receiving and processing payments, or performing any other customer service-related tasks.

“Escalated complaint” shall mean a complaint that is referred to a Cable Operator by the Franchising Authority.

"Franchising Authority" shall mean the Town.

"Necessary" shall mean required or indispensable.

"Non-cable-related purpose" shall mean any purpose that is not necessary to render or conduct a legitimate business activity related to a Cable Service or Other Service provided by a Cable

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Operator to a Customer. Market research, telemarketing, and other marketing of services or products that are not related to a Cable Service or Other Service provided by a Cable Operator to a Customer shall be considered Non-cable-related purposes.

“Normal business hours” shall mean those hours during which most similar businesses in the community are open to serve customers. In all cases, “normal business hours” must include at least some evening hours one night per week, and include some weekend hours. Source: 47 C.F.R. § 76.309.

“Normal operating conditions” shall mean those service conditions which are within the control of a Cable Operator. Conditions which are not within the control of a Cable Operator include, but are not necessarily limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Conditions which are ordinarily within the control of a Cable Operator include, but are not necessarily limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods and maintenance or upgrade to the Cable System.

“Other Service(s)” shall mean any wire or radio communications service provided using any of the facilities of a Cable Operator that are used in the provision of Cable Service.

"Personally Identifiable Information" shall mean specific information about an identified Customer, including, but not be limited to, a Customer's (a) login information for the use of Cable Service and management of a Customer's Cable Service account, (b) extent of viewing of video programming or Other Services, (c) shopping choices, (d) interests and opinions, (e) energy uses, (f) medical information, (g) banking data or information, or (h) any other personal or private information. "Personally Identifiable Information" shall not mean any aggregate information about Customers which does not identify particular persons, or information gathered by a Cable Operator necessary to install, repair or service equipment or Cable System facilities at a Customer's premises.

“Service interruption” or “interruption” shall mean (i) the loss or substantial impairment of picture and/or sound on one or more cable television channels.

“Service outage” or “outage” shall mean a loss or substantial impairment in reception on all channels.

“Subcontractor” shall mean a person or entity that enters into a contract to perform part or all of the obligations of another's contract.

"Town" shall mean the Town of Johnstown, Colorado.

“Writing” or “written” as the term applies to notification shall include electronic communications.

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Any terms not specifically defined in these Standards shall be given their ordinary meaning, or where otherwise defined in applicable federal law, such terms shall be interpreted consistent with those definitions.

III. CUSTOMER SERVICE

A. Courtesy

Cable Operator employees, contractors and subcontractors shall be courteous, knowledgeable and helpful and shall provide effective and satisfactory service in all contacts with customers.

B. Accessibility

1. A Cable Operator shall provide customer service centers/business offices (“Service Centers”) which are conveniently located, and which are open during Normal Business Hours. Service Centers shall be fully staffed with Customer Service Representatives offering the following services to Customers who come to the Service Center: bill payment, equipment exchange, processing of change of service requests, and response to Customer inquiries and request.

Unless otherwise requested by the Town, a Cable Operator shall post a sign at each Service Center, visible from the outside of the Service Center, advising Customers of its hours of operation and of the telephone number at which to contact the Cable Operator if the Service Center is not open at the times posted.

The Cable Operator shall use commercially reasonable efforts to implement and promote “self-help” tools and technology, in order to respond to the growing demand of Customers who wish to interact with the Cable Operator on the Customer’s own terms and timeline and at their own convenience, without having to travel to a Service Center. Without limitation, examples of self-help tools or technology may include self-installation kits to Customers upon request; pre-paid mailers for the return of equipment upon Customer request; an automated phone option for Customer bill payments; and equipment exchanges at a Customer’s residence in the event of damaged equipment. A Cable Operator shall provide free exchanges of faulty equipment at the customer's address if the equipment has not been damaged in any manner due to the fault or negligence of the customer.

2. A Cable Operator shall maintain local telephone access lines that shall be available twenty-four (24) hours a day, seven (7) days a week for service/repair requests and billing/service inquiries.

3. A Cable Operator shall have dispatchers and technicians on call twenty-four (24) hours a day, seven (7) days a week, including legal holidays.

4. If a customer service telephone call is answered with a recorded message providing the customer with various menu options to address the customer’s concern, the recorded message

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must provide the customer the option to connect to and speak with a CSR within sixty (60) seconds of the commencement of the recording. During Normal Business Hours, a Cable Operator shall retain sufficient customer service representatives and telephone line capacity to ensure that telephone calls to technical service/repair and billing/service inquiry lines are answered by a customer service representative within thirty (30) seconds or less from the time a customer chooses a menu option to speak directly with a CSR or chooses a menu option that pursuant to the automated voice message, leads to a direct connection with a CSR. Under normal operating conditions, this thirty (30) second telephone answer time requirement standard shall be met no less than ninety (90) percent of the time measured quarterly.

5. Under normal operating conditions, a customer shall not receive a busy signal more than three percent (3%) of the time. This standard shall be met ninety (90) percent or more of the time, measured quarterly.

C. Responsiveness

1. Guaranteed Seven-Day Residential Installation

a. A Cable Operator shall complete all standard residential installations or modifications to service requested by customers within seven (7) business days after the order is placed, unless a later date for installation is requested. "Standard" residential installations are those located up to one hundred twenty five (125) feet from the existing distribution system. If the customer requests a nonstandard residential installation, or the Cable Operator determines that a nonstandard residential installation is required, the Cable Operator shall provide the customer in advance with a total installation cost estimate and an estimated date of completion.

b. All underground cable drops to the home shall be buried at a depth of no less than twelve inches (12"), or such other depth as may be required by the Franchise Agreement or local code provisions, or if there are no applicable Franchise or code requirements, at such other depths as may be agreed to by the parties if other construction concerns preclude the twelve inch requirement, and within no more than one calendar week from the initial installation, or at a time mutually agreed upon between the Cable Operator and the customer.

2. Residential Installation and Service Appointments

a. The "appointment window" alternatives for specific installations, service calls, and/or other installation activities will be either a specific time, or at a maximum, a four (4) hour time block between the hours of 8:00 a.m. and 6:00 p.m., six (6) days per week. A Cable Operator may schedule service calls and other installation activities outside of the above days and hours for the express convenience of customers. For purposes of this subsection "appointment window" means the period of time in which the representative of the Cable Operator must arrive at the customer's location.

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b. A Cable Operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment, unless the customer's issue has otherwise been resolved.

c. If a Cable Operator is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the Cable Operator shall take reasonable efforts to contact the customer promptly, but in no event later than the end of the appointment window. The appointment will be rescheduled, as necessary at a time that is convenient to the customer, within Normal Business Hours or as may be otherwise agreed to between the customer and Cable Operator.

d. A Cable Operator shall be deemed to have responded to a request for service under the provisions of this section when a technician arrives within the agreed upon time, and, if the customer is absent when the technician arrives, the technician leaves written notification of arrival and return time, and a copy of that notification is kept by the Cable Operator. In such circumstances, the Cable Operator shall contact the customer within forty-eight (48) hours.

3. Residential Service Interruptions

a. In the event of system outages resulting from Cable Operator equipment failure, the Cable Operator shall correct such failure within 2 hours after the 3rd customer call is received.

b. All other service interruptions resulting from Cable Operator equipment failure shall be corrected by the Cable Operator by the end of the next calendar day.

c. Records of Complaints.

i. A Cable Operator shall keep an accurate and comprehensive file of any complaints regarding the cable system or its operation of the cable system, in a manner consistent with the privacy rights of customers, and the Cable Operator's actions in response to those complaints. These files shall remain available for viewing by the Franchising Authority during normal business hours at the Cable Operator's business office, and shall be retained by the Cable Operator for a period of at least three (3) years.

ii. Upon written request a Cable Operator shall provide the Franchising Authority an executive summary quarterly, which shall include information concerning customer complaints referred by the Franchising Authority to the Grantee and any other requirements of a Franchise Agreement but no personally identifiable information. These summaries shall be provided within fifteen (15) days after the end of each quarter. Once a request is made, it need not be repeated and quarterly executive summaries shall be provided by the Cable Operator until notified in writing by the Franchising Authority that such summaries are no longer required.

iii. Upon written request a summary of service requests, identifying the number and nature of the requests and their disposition, shall also be completed by the Cable Operator for each quarter and submitted to the Franchising Authority by the fifteenth (15th) day of the month after each calendar quarter. Once a request is made, it need not be repeated and quarterly summary of service requests shall be provided by the Cable Operator until notified in writing by the Franchising Authority that such summaries are no longer required. Complaints shall be broken out by the nature of the complaint and the type of Cable service subject to the complaint.

d. Records of Service Interruptions and Outages. A Cable Operator shall maintain records of all outages and reported service interruptions. Such records shall indicate the type of cable service interrupted, including the reasons for the interruptions. A log of all service interruptions shall be maintained and provided to the Franchising Authority quarterly, upon written request, within fifteen (15) days after the end of each quarter. Such records shall be submitted to the Franchising Authority with the records identified in Section 3.c.ii above if so requested in writing, and shall be retained by the Cable Operator for a period of three (3) years.

e. All service outages and interruptions for any cause beyond the control of the Cable Operator shall be corrected within thirty-six (36) hours, after the conditions beyond its control have been corrected.

4. TV Reception

a. A Cable Operator shall provide clear television reception that meets or exceeds technical standards established by the United States Federal Communications Commission (the "FCC"). A Cable Operator shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Scheduled interruptions shall be preceded by notice and shall occur during periods of minimum use of the system, preferably between midnight and six a.m. (6:00 a.m.).

b. If a customer experiences poor video or audio reception attributable to a Cable Operator's equipment, the Cable Operator shall:

- i. Assess the problem within one (1) day of notification;
- ii. Communicate with the customer regarding the nature of the problem and the expected time for repair;
- iii. Complete the repair within two (2) days of assessing the problem unless circumstances exist that reasonably require additional time.

c. If an appointment is necessary to address any video or audio reception problem, the customer may choose a block of time described in Section III.C.2.a. At the customer's request, the Cable Operator shall repair the problem at a later time convenient to the customer,

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during Normal Business Hours or at such other time as may be agreed to by the customer and Cable Operator. A Cable Operator shall maintain periodic communications with a customer during the time period in which problem ascertainment and repair are ongoing, so that the customer is advised of the status of the Cable Operator's efforts to address the problem.

5. Problem Resolution

A Cable Operator's customer service representatives shall have the authority to provide credit for interrupted service, to waive fees, to schedule service appointments and to change billing cycles, where appropriate. Any difficulties that cannot be resolved by the customer service representative shall be referred to the appropriate supervisor who shall contact the customer within four (4) hours and resolve the problem within forty eight (48) hours or within such other time frame as is acceptable to the customer and the Cable Operator.

6. Billing, Credits, and Refunds

a. In addition to other options for payment of a customer's service bill, a Cable Operator shall make available a telephone payment option where a customer without account irregularities can enter payment information through an automated system, without the necessity of speaking to a CSR.

b. A Cable Operator shall allow at least thirty (30) days from the beginning date of the applicable service period for payment of a customer's service bill for that period. If a customer's service bill is not paid within that period of time the Cable Operator may apply an administrative fee to the customer's account. The administrative fee must reflect the average costs incurred by the Cable Operator in attempting to collect the past due payment in accordance with applicable law. If the customer's service bill is not paid within forty-five (45) days of the beginning date of the applicable service period, the Cable Operator may perform a "soft" disconnect of the customer's service. If a customer's service bill is not paid within fifty-two (52) days of the beginning date of the applicable service period, the Cable Operator may disconnect the customer's service, provided it has provided two (2) weeks notice to the customer that such disconnection may result.

c. The Cable Operator shall issue a credit or refund to a customer within 30 days after determining the customer's entitlement to a credit or refund.

d. Whenever the Cable Operator offers any promotional or specially priced service(s) its promotional materials shall clearly identify and explain the specific terms of the promotion, including but not limited to manner in which any payment credit will be applied.

7. Treatment of Property

To the extent that a Franchise Agreement does not contain the following procedures for treatment of property, Operator shall comply with the procedures set forth in this Section.

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a. A Cable Operator shall keep tree trimming to a minimum; trees and shrubs or other landscaping that are damaged by a Cable Operator, any employee or agent of a Cable Operator during installation or construction shall be restored to their prior condition or replaced within seven (7) days, unless seasonal conditions require a longer time, in which case such restoration or replacement shall be made within seven (7) days after conditions permit. Trees and shrubs on private property shall not be removed without the prior permission of the owner or legal tenant of the property on which they are located. This provision shall be in addition to, and shall not supersede, any requirement in any franchise agreement.

b. A Cable Operator shall, at its own cost and expense, and in a manner approved by the property owner and the Franchising Authority, restore any private property to as good condition as before the work causing such disturbance was initiated. A Cable Operator shall repair, replace or compensate a property owner for any damage resulting from the Cable Operator's installation, construction, service or repair activities. If compensation is requested by the customer for damage caused by any Cable Operator activity, the Cable Operator shall reimburse the property owner one hundred (100) percent of the actual cost of the damage.

c. Except in the case of an emergency involving public safety or service interruption to a large number of customers, a Cable Operator shall give reasonable notice to property owners or legal tenants prior to entering upon private premises, and the notice shall specify the work to be performed; provided that in the case of construction operations such notice shall be delivered or provided at least twenty-four (24) hours prior to entry, unless such notice is waived by the customer. For purposes of this subsection, "reasonable notice" shall be considered:

i. For pedestal installation or similar major construction, seven (7) days.

ii. For routine maintenance, such as adding or dropping service, tree trimming and the like, reasonable notice given the circumstances. Unless a Franchise Agreement has a different requirement, reasonable notice shall require, at a minimum, prior notice to a property owner or tenant, before entry is made onto that person's property.

iii. For emergency work a Cable Operator shall attempt to contact the property owner or legal tenant in person, and shall leave a door hanger notice in the event personal contact is not made. Door hangers must describe the issue and provide contact information where the property owner or tenant can receive more information about the emergency work.

Nothing herein shall be construed as authorizing access or entry to private property, or any other property, where such right to access or entry is not otherwise provided by law.

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d. Cable Operator personnel shall clean all areas surrounding any work site and ensure that all cable materials have been disposed of properly.

D. Services for Customers with Disabilities

1. For any customer with a disability, a Cable Operator shall deliver and pick up equipment at customers' homes at no charge unless the malfunction was caused by the actions of the customer. In the case of malfunctioning equipment, the technician shall provide replacement equipment, hook it up and ensure that it is working properly, and shall return the defective equipment to the Cable Operator.

2. A Cable Operator shall provide either TTY, TDD, TYY, VRS service or other similar service that are in compliance with the Americans With Disabilities Act and other applicable law, with trained operators who can provide every type of assistance rendered by the Cable Operator's customer service representatives for any hearing-impaired customer at no charge.

3. A Cable Operator shall provide free use of a remote control unit to mobility-impaired (if disabled, in accordance with Section III.D.4) customers.

4. Any customer with a disability may request the special services described above by providing a Cable Operator with a letter from the customer's physician stating the need, or by making the request to the Cable Operator's installer or service technician, where the need for the special services can be visually confirmed.

E. Cable Services Information

1. At any time a customer or prospective customer may request, a Cable Operator shall provide the following information, in clear, concise written form, easily accessible and located on Cable Operator's website (and in Spanish, when requested by the customer):

- a. Products and services offered by the Cable Operator, including its channel lineup;
- b. The Cable Operator's complete range of service options and the prices for these services;
- c. The Cable Operator's billing, collection and disconnection policies;
- d. Privacy rights of customers;
- e. All applicable complaint procedures, including complaint forms and the telephone numbers and mailing addresses of the Cable Operator, and the FCC;
- f. Use and availability of parental control/lock out device;

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- g. Special services for customers with disabilities;
- h. Days, times of operation, and locations of the service centers;

2. At a Customer's request, a Cable Operator shall make available either a complete copy of these Standards and any other applicable customer service standards, or a summary of these Standards, in a format to be approved by CCUA and the Franchising Authority, which shall include at a minimum, the URL address of a website containing these Standards in their entirety; provided however, that if the CCUA or Franchising Authority does not maintain a website with a complete copy of these Standards, a Cable Operator shall be under no obligation to do so;

If acceptable to a customer, Cable Operator may fulfill customer requests for any of the information listed in this Section by making the requested information available electronically, such as on a website or by electronic mail.

3. Upon written request, a Cable Operator shall meet annually with the Franchising Authority to review the format of the Cable Operator's bills to customers. Whenever the Cable Operator makes substantial changes to its billing format, it will contact the Franchising Authority at least thirty (30) days prior to the time such changes are to be effective, in order to inform the Franchising Authority of such changes.

4. Copies of notices provided to the customer in accordance with subsection 5 below shall be filed (by fax or email acceptable) concurrently with the Franchising Authority and the CCUA.

5. A Cable Operator shall provide customers with written notification of any change in rates for nondiscretionary cable services, and for service tier changes that result in a deletion of programming from a customer's service tier, at least thirty (30) days before the effective date of change. For purposes of this section, "nondiscretionary" means the subscribed tier and any other Cable Services that a customer has subscribed to, at the time the change in rates are announced by the Cable Operator.

6. All officers, agents, and employees of the Cable Operator or its contractors or subcontractors who are in personal contact with customers and/or when working on public property, shall wear on their outer clothing identification cards bearing their name and photograph and identifying them as representatives of the Cable Operator. The Cable Operator shall account for all identification cards at all times. Every vehicle of the Cable Operator shall be clearly visually identified to the public as working for the Cable Operator. Whenever a Cable Operator work crew is in personal contact with customers or public employees, a supervisor must be able to communicate clearly with the customer or public employee. Every vehicle of a subcontractor or contractor shall be labeled with the name of the contractor and further identified as contracting or subcontracting for the Cable Operator.

7. Each CSR, technician or employee of the Cable Operator in each contact with a customer shall state the estimated cost of the service, repair, or installation orally prior to delivery of the service

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or before any work is performed, and shall provide the customer with an oral statement of the total charges before terminating the telephone call or before leaving the location at which the work was performed. A written estimate of the charges shall be provided to the customer before the actual work is performed.

F. Customer Privacy

1. Cable Customer Privacy. In addition to complying with the requirements in this subsection, a Cable Operator shall fully comply with all obligations under 47 U.S.C. Section 551.

2. Collection and Use of Personally Identifiable Information.

a. A Cable Operator shall not use the Cable System to collect, monitor or observe Personally Identifiable Information without the prior affirmative written or electronic consent of the Customer unless, and only to the extent that such information is: (i) used to detect unauthorized reception of cable communications, or (ii) necessary to render a Cable Service or Other Service provided by the Cable Operator to the Customer and as otherwise authorized by applicable law.

b. A Cable Operator shall take such actions as are necessary using then-current industry standard practices to prevent any Affiliate from using the facilities of the Cable Operator in any manner, including, but not limited to, sending data or other signals through such facilities, to the extent such use will permit an Affiliate unauthorized access to Personally Identifiable Information on equipment of a Customer (regardless of whether such equipment is owned or leased by the Customer or provided by a Cable Operator) or on any of the facilities of the Cable Operator that are used in the provision of Cable Service. This subsection F.2.b shall not be interpreted to prohibit an Affiliate from obtaining access to Personally Identifiable Information to the extent otherwise permitted by this subsection F.

c. A Cable Operator shall take such actions as are necessary using then-current industry standard practices to prevent a person or entity (other than an Affiliate) from using the facilities of the Cable Operator in any manner, including, but not limited to, sending data or other signals through such facilities, to the extent such use will permit such person or entity unauthorized access to Personally Identifiable Information on equipment of a Customer (regardless of whether such equipment is owned or leased by the Customer or provided by a Cable Operator) or on any of the facilities of the Cable Operator that are used in the provision of Cable Service.

3. Disclosure of Personally Identifiable Information. A Cable Operator shall not disclose Personally Identifiable Information without the prior affirmative written or electronic consent of the Customer, unless otherwise authorized by applicable law.

a. A minimum of thirty (30) days prior to making any disclosure of Personally Identifiable Information of any Customer for any Non-Cable related purpose as provided in this subsection F.3.a, where such Customer has not previously been provided the notice and choice

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provided for in subsection III.F.9, the Cable Operator shall notify each Customer (that the Cable Operator intends to disclose information about) of the Customer's right to prohibit the disclosure of such information for Non-cable related purposes. The notice to Customers may reference the Customer to his or her options to state a preference for disclosure or non-disclosure of certain information, as provided in subsection III.F.10.

b. A Cable Operator may disclose Personally Identifiable Information only to the extent that it is necessary to render, or conduct a legitimate business activity related to, a Cable Service or Other Service provided by the Cable Operator to the Customer.

c. To the extent authorized by applicable law, a Cable Operator may disclose Personally Identifiable Information pursuant to a subpoena, court order, warrant or other valid legal process authorizing such disclosure.

4. Access to Information. Any Personally Identifiable Information collected and maintained by a Cable Operator shall be made available for Customer examination within thirty (30) days of receiving a request by a Customer to examine such information about himself or herself at the local offices of the Cable Operator or other convenient place within the Town designated by the Cable Operator, or electronically, such as over a website. Upon a reasonable showing by the Customer that such Personally Identifiable Information is inaccurate, a Cable Operator shall correct such information.

5. Privacy Notice to Customers

a. A Cable Operator shall annually mail or provide a separate, written or electronic copy of the privacy statement to Customers consistent with 47 U.S.C. Section 551(a)(1), and shall provide a Customer a copy of such statement at the time the Cable Operator enters into an agreement with the Customer to provide Cable Service. The written notice shall be in a clear and conspicuous format, which at a minimum, shall be in a comparable font size to other general information provided to Customers about their account as it appears on either paper or electronic Customer communications.

b. In or accompanying the statement required by subsection F.5.a, a Cable Operator shall state substantially the following message regarding the disclosure of Customer information: "Unless a Customer affirmatively consents electronically or in writing to the disclosure of personally identifiable information, any disclosure of personally identifiable information for purposes other than to the extent necessary to render, or conduct a legitimate business activity related to, a Cable Service or Other Service, is limited to:

i. Disclosure pursuant to valid legal process authorized by applicable law.

ii. Disclosure of the name and address of a Customer subscribing to any general programming tiers of service and other categories of Cable Services provided by the Cable Operator that do not directly or indirectly disclose: (A) A Customer's extent of

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viewing of a Cable Service or Other Service provided by the Cable Operator; (B) The extent of any other use by a Customer of a Cable Service; (C) The nature of any transactions made by a Customer over the Cable System; or (D) The nature of programming or websites that a Customer subscribes to or views (i.e., a Cable Operator may only disclose the fact that a person subscribes to a general tier of service, or a package of channels with the same type of programming), provided that with respect to the nature of websites subscribed to or viewed, these are limited to websites accessed by a Customer in connection with programming available from their account for Cable Services.”

The notice shall also inform the Customers of their right to prohibit the disclosure of their names and addresses in accordance with subsection F.3.a. If a Customer exercises his or her right to prohibit the disclosure of name and address as provided in subsection F.3.a or this subsection, such prohibition against disclosure shall remain in effect, unless and until the Customer subsequently changes their disclosure preferences as described in subsection F.9 below.

6. Privacy Reporting Requirements. The Cable Operator shall include in its regular periodic reports to the Franchising Authority required by its Franchise Agreement information summarizing:

- a. The type of Personally Identifiable Information that was actually collected or disclosed by Cable Operator during the reporting period;
- b. For each type of Personally Identifiable Information collected or disclosed, a statement from an authorized representative of the Cable Operator certifying that the Personally Identifiable Information collected or disclosed was: (A) collected or disclosed to the extent Necessary to render, or conduct a legitimate business activity related to, a Cable Service or Other Service provided by the Cable Operator; (B) used to the extent Necessary to detect unauthorized reception of cable communications; (C) disclosed pursuant to valid legal process authorized by applicable law; or (D) a disclosure of Personally Identifiable Information of particular subscribers, but only to the extent affirmatively consented to by such subscribers in writing or electronically, or as otherwise authorized by applicable law.
- c. The standard industrial classification (SIC) codes or comparable identifiers pertaining to any entities to whom such Personally Identifiable Information was disclosed, except that a Cable Operator need not provide the name of any court or governmental entity to which such disclosure was made pursuant to valid legal process authorized by applicable law;
- d. The general measures that have been taken to prevent the unauthorized access to Personally Identifiable Information by a person other than the Customer or the Cable Operator. A Cable Operator shall meet with Franchising Authority if requested to discuss technology used to prohibit unauthorized access to Personally Identifiable Information by any means.

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7. Nothing in this subsection III.F shall be construed to prevent the Franchising Authority from obtaining Personally Identifiable Information to the extent not prohibited by Section 631 of the Communications Act, 47 U.S.C. Section 551 and applicable laws.

8. Destruction of Personally Identifiable Information. A Cable Operator shall destroy any Personally Identifiable Information if the information is no longer necessary for the purpose for which it was collected and there are no pending requests or orders for access to such information under subsection 4 of this subsection III.F, pursuant to a court order or other valid legal process, or pursuant to applicable law.

9. Notice and Choice for Customers. The Cable Operator shall at all times make available to Customers one or more methods for Customers to use to prohibit or limit disclosures, or permit or release disclosures, as provided for in this subsection III.F. These methods may include, for example, online website “preference center” features, automated toll-free telephone systems, live toll-free telephone interactions with customer service agents, in-person interactions with customer service personnel, regular mail methods such as a postage paid, self-addressed post card, an insert included with the Customer’s monthly bill for Cable Service, the privacy notice specified in subsection III.F.5, or such other comparable methods as may be provided by the Cable Operator. Website “preference center” features shall be easily identifiable and navigable by Customers, and shall be in a comparable size font as other billing information provided to Customers on a Cable Operator’s website. A Customer who provides the Cable Operator with permission to disclose Personally Identifiable Information through any of the methods offered by a Cable Operator shall be provided follow-up notice, no less than annually, of the Customer’s right to prohibit these disclosures and the options for the Customer to express his or her preference regarding disclosures. Such notice shall, at a minimum, be provided by an insert in the Cable Operator’s bill (or other direct mail piece) to the Customer or a notice or message printed on the Cable Operator’s bill to the Customer, and on the Cable Operator’s website when a Customer logs in to view his or her Cable Service account options. The form of such notice shall also be provided on an annual basis to the Franchising Authority. These methods of notification to Customers may also include other comparable methods as submitted by the Cable Operator and approved by the Franchising Authority in its reasonable discretion.

G. Safety

A Cable Operator shall install and locate its facilities, cable system, and equipment in compliance with all federal, state, local, and company safety standards, and in such manner as shall not unduly interfere with or endanger persons or property. Whenever a Cable Operator receives notice that an unsafe condition exists with respect to its equipment, the Cable Operator shall investigate such condition immediately, and shall take such measures as are necessary to remove or eliminate any unsafe condition.

H. Cancellation of New Services

In the event that a new customer requests installation of Cable Service and is unsatisfied with their initial Cable Service, and provided that the customer so notifies the Cable Operator of their dissatisfaction within 30 days of initial installation, then such customer can request disconnection of Cable Service within 30 days of initial installation, and the Cable Operator shall provide a credit to the customer's account consistent with this Section. The customer will be required to return all equipment in good working order; provided such equipment is returned in such order, then the Cable Operator shall refund the monthly recurring fee for the new customer's first 30 days of Cable Service and any charges paid for installation. This provision does not apply to existing customers who request upgrades to their Cable Service, to discretionary Cable Service such as PPV or movies purchased and viewed On Demand, or to customer moves and/or transfers of Cable Service. The service credit shall be provided in the next billing cycle.

IV. COMPLAINT PROCEDURE

A. Complaints to a Cable Operator

1. A Cable Operator shall establish written procedures for receiving, acting upon, and resolving customer complaints, and crediting customer accounts and shall have such procedures printed and disseminated at the Cable Operator's sole expense, consistent with Section III.E.1.e of these Standards.
2. Said written procedures shall prescribe a simple manner in which any customer may submit a complaint by telephone or in writing to a Cable Operator that it has violated any provision of these Customer Service Standards, any terms or conditions of the customer's contract with the Cable Operator, or reasonable business practices. If a representative of the Franchising Authority notifies the Cable Operator of a customer complaint that has not previously been made by the customer to the Cable Operator, the complaint shall be deemed to have been made by the customer as of the date of the Franchising Authority's notice to the Cable Operator.
3. At the conclusion of the Cable Operator's investigation of a customer complaint, but in no more than ten (10) calendar days after receiving the complaint, the Cable Operator shall notify the customer of the results of its investigation and its proposed action or credit.
4. A Cable Operator shall also notify the customer of the customer's right to file a complaint with the Franchising Authority in the event the customer is dissatisfied with the Cable Operator's decision, and shall thoroughly explain the necessary procedures for filing such complaint with the Franchising Authority.
5. A Cable Operator shall immediately report all customer Escalated complaints that it does not find valid to the Franchising Authority.

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6. A Cable Operator's complaint procedures shall be filed with the Franchising Authority prior to implementation.

B. Complaints to the Franchising Authority

1. Any customer who is dissatisfied with any proposed decision of the Cable Operator or who has not received a decision within the time period set forth below shall be entitled to have the complaint reviewed by the Franchising Authority.
2. The customer may initiate the review either by calling the Franchising Authority or by filing a written complaint together with the Cable Operator's written decision, if any, with the Franchising Authority.
3. The customer shall make such filing and notification within twenty (20) days of receipt of the Cable Operator's decision or, if no decision has been provided, within thirty (30) days after filing the original complaint with the Cable Operator.
4. If the Franchising Authority decides that further evidence is warranted, the Franchising Authority shall require the Cable Operator and the customer to submit, within ten (10) days of notice thereof, a written statement of the facts and arguments in support of their respective positions.
5. The Cable Operator and the customer shall produce any additional evidence, including any reports from the Cable Operator, which the Franchising Authority may deem necessary to an understanding and determination of the complaint.
6. The Franchising Authority shall issue a determination within fifteen (15) days of receiving the customer complaint, or after examining the materials submitted, setting forth its basis for the determination.
7. The Franchising Authority may extend these time limits for reasonable cause and may intercede and attempt to negotiate an informal resolution.

C. Security Fund or Letter of Credit

A Cable operator shall comply with any Franchise Agreement regarding Letters of Credit. If a Franchise Agreement is silent on Letter of Credit the following shall apply:

1. Within thirty (30) days of the written notification to a Cable Operator by the Franchising Authority that an alleged Franchise violation exists, a Cable Operator shall deposit with an escrow agent approved by the Franchising Authority fifty thousand dollars (\$50,000) or, in the sole discretion of the Franchising Authority, such lesser amount as the Franchising Authority deems reasonable to protect subscribers within its jurisdiction. Alternatively, at the Cable Operator's discretion, it may provide to the Franchising Authority an irrevocable letter of credit

Exhibit A

in the same amount. A letter of credit or cash deposit, with the approval of the Franchising Authority, may be posted jointly for more than one member of the CCUA, and may be administered, and drawn upon, jointly by the CCUA or drawn upon individually by each member; provided however that if such letter of credit or cash deposit is provided to CCUA on behalf of more than one of its members, the letter of credit or cash deposit may, in the sole discretion of CCUA and its effected members, be required in an amount not to exceed one hundred thousand dollars (\$100,000).

The escrowed funds or letter of credit shall constitute the "Security Fund" for ensuring compliance with these Standards for the benefit of the Franchising Authority. The escrowed funds or letter of credit shall be maintained by a Cable Operator at the amount initially required, even if amounts are withdrawn pursuant to any provision of these Standards, until any claims related to the alleged Franchise violation(s) are paid in full.

2. The Franchising Authority may require the Cable Operator to increase the amount of the Security Fund, if it finds that new risk factors exist which necessitate such an increase.

3. The Security Fund shall serve as security for the payment of any penalties, fees, charges or credits as provided for herein and for the performance by a Cable Operator of all its obligations under these Customer Service Standards.

4. The rights reserved to the Franchising Authority with respect to the Security Fund are in addition to all other rights of the Franchising Authority, whether reserved by any applicable franchise agreement or authorized by law, and no action, proceeding or exercise of a right with respect to same shall in any way affect, or diminish, any other right the Franchising Authority may otherwise have.

D. Verification of Compliance

A Cable Operator shall establish its compliance with any or all of the standards required through annual reports that demonstrate said compliance, or as requested by the Franchising Authority.

E. Procedure for Remedying Violations

1. If the Franchising Authority has reason to believe that a Cable Operator has failed to comply with any of these Standards, or has failed to perform in a timely manner, the Franchising Authority may pursue the procedures in its Franchise Agreement to address violations of these Standards in a like manner as other franchise violations are considered.

2. Following the procedures set forth in any Franchise Agreement governing the manner to address alleged Franchise violations, if the Franchising Authority determines in its sole discretion that the noncompliance has been substantiated, in addition to any remedies that may be provided in the Franchise Agreement, the Franchising Authority may:

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- a. Impose assessments of up to one thousand dollars (\$1,000.00) per day, to be withdrawn from the Security Fund in addition to any franchise fee until the non-compliance is remedied; and/or
- b. Order such rebates and credits to affected customers as in its sole discretion it deems reasonable and appropriate for degraded or unsatisfactory services that constituted noncompliance with these Standards; and/or
- c. Reverse any decision of the Cable Operator in the matter and/or
- d. Grant a specific solution as determined by the Franchising Authority; and/or
- e. Except for in emergency situations, withhold licenses and permits for work by the Cable Operator or its subcontractors in accordance with applicable law.

V. MISCELLANEOUS

A. Severability

Should any section, subsection, paragraph, term, or provision of these Standards be determined to be illegal, invalid, or unconstitutional by any court or agency of competent jurisdiction with regard thereto, such determination shall have no effect on the validity of any other section, subsection, paragraph, term, or provision of these Standards, each of the latter of which shall remain in full force and effect.

B. Non-Waiver

Failure to enforce any provision of these Standards shall not operate as a waiver of the obligations or responsibilities of a Cable Operator under said provision, or any other provision of these Standards.

EXHIBIT B

Report Form

Comcast
 Quarterly Executive Summary - Escalated Complaints
 Section 7.6 (B) of our Franchise Agreement
 Quarter Ending _____, Year
 TOWN OF JOHNSTOWN, COLORADO

<u>Type of Complaint</u>	<u>Number of Calls</u>
Accessibility	0
Billing, Credit and Refunds	0
Courtesy	0
Drop Bury	0
Installation	0
Notices/Easement Issues (Non-Rebuild)	0
Pedestal	0
Problem Resolution	0
Programming	0
Property Damage (Non-Rebuild)	0
Rates	0
Rebuild/Upgrade Damage	0
Rebuild/Upgrade Notices/Easement Issues	0
Reception/Signal Quality	0
Safety	0
Service and Install Appointments	0
Service Interruptions	0
Serviceability	0
TOTAL	0

Compliments



Town of Johnstown

TOWN COUNCIL AGENDA COMMUNICATIONS

AGENDA DATE: May 1, 2023

SUBJECT: Public Hearing – Ordinance 2023 - 251: An Ordinance Submitting to the Registered Electors of the Town of Johnstown at the General Municipal Election to be Held On April 2, 2024, A Charter Amendment Adopting A Water Policy for the Town of Johnstown

ACTION PROPOSED: Consider Ordinance 2023-251

ATTACHMENTS: 1. Ordinance 2023-251

PRESENTED BY: Matt LeCerf, Town Manager

AGENDA ITEM DESCRIPTION:

Included for your review and consideration is Ordinance 2023-251. The ordinance presented would authorize and remit a question to the registered voters of the Town of Johnstown for the April 2, 2024 general election cycle. If approved by the voters, the ballot measure would establish a water policy that would be memorialized in the Home Rule Charter. The aspects of the water policy if approved would memorialize the following:

16.4 – Water Policy

A. Any person, legal entity or political body who seeks an extension of water service, annexation of land to the Town or a change in land use, if such change in use will increase the demand for water service, shall dedicate a sufficient amount of acceptable raw water necessary for the increase of water usage to the Town; except that, for good cause shown, as determined by the Town Council, the Town may accept cash-in-lieu of the required raw water dedication in an amount at least equal to the fair market value of the water at the time of the sale.

B. The Town shall protect the Town’s water rights by, when warranted and economically feasible, filing water court actions to change the decreed use of such water to allow for municipal uses and participating in third party cases to protect the Town’s water portfolio.

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C. The Town may provide more raw water credit for the dedication of water rights that, at the time of dedication, allow for municipal uses than water rights that do not allow for municipal uses; except that the Town shall not provide more credit for water rights dedicated to the Town than the water court has previously provided for such, or a similar, water right.

D. The Town shall not transfer or exchange the Town’s water rights unless the Town receives, at a minimum, an equivalent yield on the water transfer or exchange.

E. The Town may sell water rights for use within the Town boundaries in an amount at least equal to the fair market value at the time of the sale to fund capital improvement projects related to the treatment or distribution of water.

F. The Town shall endeavor to retain sufficient treatment water resources above the Town’s annual water demands to ensure that the Town will have adequate water supplies in times of extended drought.

G. The Town shall endeavor to maintain a water portfolio greater than or equal to 1.2 times the acre-foot volume that is committed to be supplied by the Town to serve existing customers and satisfy water bank and contractual obligations. By the affirmative vote of at least five members of the Entire Council, the Town may maintain a water portfolio below 1.2 times the committed acre-foot volume; except that the Town shall, at all times, maintain a water portfolio that is at least equal to 1.1 times the committed acre-foot volume. Water dedicated at the time of annexation without a contractual obligation for the delivery of such water shall not be counted against the total.

H. The Town may create a strategic water reserve to help facilitate major economic development or similar such purposes in the Town. This reserve would be separate from the portfolio referenced in Paragraph G.

LEGAL ADVICE:

The Town Attorney drafted the Ordinance.

FINANCIAL ADVICE:

NA


RECOMMENDED ACTION: Approve Ordinance 2023-251 upon first reading.

SUGGESTED MOTIONS:

For Approval: I move to approve Ordinance No. 2023-251 upon first reading.

For Denial: I move to deny Ordinance No. 2023-251 upon first reading.

Reviewed and Approved for Presentation,



Town Manager

TOWN OF JOHNSTOWN, COLORADO

ORDINANCE NO. 2023-251

AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE TOWN OF JOHNSTOWN AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON APRIL 2, 2024, A CHARTER AMENDMENT ADOPTING A WATER POLICY FOR THE TOWN OF JOHNSTOWN

WHEREAS, the Town of Johnstown, Colorado (“Town”) is a municipal corporation duly organized and existing under its Home Rule Charter adopted pursuant to Article XX of the Constitution of the State of Colorado; and

WHEREAS, the Town Council is vested with authority to administer the affairs of the Town; and

WHEREAS, the Town Council recognizes that the protection, preservation and assurance of reliable and dependable water resources is of paramount importance and essential to the health, safety and welfare of the Town and its current and future citizens and residents; and

WHEREAS, to protect, preserve and ensure reliable and dependable water resources, the Town Council desires to submit a proposed Charter amendment to the registered electors of the Town concerning adoption of a water policy; and

WHEREAS, Section 1.8 of Article 1 of the Charter provides that proceedings to amend the Charter may be initiated by, among other means, the adoption of an ordinance by the Town Council submitting the proposed amendment to a vote of the registered electors of the Town; and

WHEREAS, the Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town, that it is promulgated for the preservation of the public health, welfare, peace, safety and property and that this Ordinance is in the best interests of the citizens of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO, AS FOLLOWS:

Section 1. The Town Council hereby submits and refers to the registered electors of the Town a proposed amendment to Article 16 of the Charter to add Section 16.4 concerning a water policy, to read in its entirety as follows:

16.4 – Water Policy

A. Any person, legal entity or political body who seeks an extension of water service, annexation of land to the Town or a change in land use, if such change in use will increase the demand for water service, shall dedicate a sufficient amount of acceptable raw water necessary for the increase of water usage to the Town; except that, for good cause shown, as determined by the Town Council, the Town may accept cash-in-lieu

of the required raw water dedication in an amount at least equal to the fair market value of the water at the time of the sale.

B. The Town shall protect the Town's water rights by, when warranted and economically feasible, filing water court actions to change the decreed use of such water to allow for municipal uses and participating in third party cases to protect the Town's water portfolio.

C. The Town may provide more raw water credit for the dedication of water rights that, at the time of dedication, allow for municipal uses than water rights that do not allow for municipal uses; except that the Town shall not provide more credit for water rights dedicated to the Town than the water court has previously provided for such, or a similar, water right.

D. The Town shall not transfer or exchange the Town's water rights unless the Town receives, at a minimum, an equivalent yield on the water transfer or exchange.

E. The Town may sell water rights for use within the Town boundaries in an amount at least equal to the fair market value at the time of the sale to fund capital improvement projects related to the treatment or distribution of water.

F. The Town shall endeavor to retain sufficient treatment water resources above the Town's annual water demands to ensure that the Town will have adequate water supplies in times of extended drought.

G. The Town shall endeavor to maintain a water portfolio greater than or equal to 1.2 times the acre-foot volume that is committed to be supplied by the Town to serve existing customers and satisfy water bank and contractual obligations. By the affirmative vote of at least five members of the Entire Council, the Town may maintain a water portfolio below 1.2 times the committed acre-foot volume; except that the Town shall, at all times, maintain a water portfolio that is at least equal to 1.1 times the committed acre-foot volume. Water dedicated at the time of annexation without a contractual obligation for the delivery of such water shall not be counted against the total.

H. The Town may create a strategic water reserve to help facilitate major economic development or similar such purposes in the Town. This reserve would be separate from the portfolio referenced in Paragraph G.

Section 3. The question of amending the Charter for the purposes stated herein shall be submitted to the registered electors of the Town in substantially the following form:

SHALL THE JOHNSTOWN HOME RULE CHARTER BE AMENDED TO INCLUDE SECTION 16.4 ADOPTING A WATER POLICY: (i) REQUIRING THE DEDICATION OF WATER OR CASH-IN-LIEU OF WATER DEDICATION AT THE FAIR MARKET VALUE TO SATISFY WATER DEMANDS; (ii) RECOGNIZING THAT THE TOWN MAY COMMENCE OR PARTICIPATE IN WATER COURT ACTIONS WHEN BENEFICIAL TO THE TOWN; (iii) ACKNOWLEDGING THAT THE TOWN MAY PROVIDE GREATER WATER CREDITS FOR WATER DEDICATED TO THE TOWN THAT IS ADJUDICATED FOR MUNICIPAL USES; (iv) ACKNOWLEDGING THAT THE TOWN MAY ONLY EXCHANGE WATER RIGHTS IF THE TOWN RECEIVES AN EQUIVALENT YIELD; (v) RECOGNIZING THAT THE TOWN MAY SELL WATER TO FUND CAPITAL IMPROVEMENT PROJECTS RELATED TO THE TREATMENT OR DISTRIBUTION OF WATER; (vi) REQUIRING THE TOWN TO

ENDEAVOR TO RETAIN SUFFICIENT TREATMENT WATER RESOURCES TO ENSURE THAT THE TOWN WILL HAVE ADEQUATE WATER SUPPLIES DURING PERIODS OF EXTENDED DROUGHTS; (vii) REQUIRING THE TOWN TO MAINTAIN A WATER PORTFOLIO GREATER THAN THE ACRE-FOOT VOLUME COMMITTED TO BE SUPPLIED BY THE TOWN TO SERVE EXISTING CUSTOMERS AND SATISFY WATER BANK AND CONTRACTUAL OBLIGATIONS; AND (viii) ALLOWING THE TOWN TO CREATE A STRATEGIC WATER RESERVE TO HELP FACILITATE MAJOR ECONOMIC DEVELOPMENT OR SIMILAR SUCH PURPOSES.

___ YES

___ NO

Section 4. The election shall be a general municipal election conducted by mail ballot on April 2, 2024. Pursuant to Section 6.4 of Article 6 of the Charter, the Town Clerk is hereby authorized to be in charge of all activities and duties related to the election. In addition, the officers and employees of the Town are hereby authorized and directed to take all necessary and appropriate action to effectuate the provisions of this Ordinance.

Section 5. If any part or provision of this Ordinance, or its application to any person or circumstance, is adjudged to be invalid or unenforceable, the invalidity or unenforceability of such part, provision, or application shall not affect any of the remaining parts, provisions or applications of this Ordinance that can be given effect without the invalid provision, part or application, and to this end the provisions and parts of this Ordinance are declared to be severable.

Section 6. This Ordinance, after its passage on final reading, shall be numbered, recorded, published and posted as required by the Charter and the adoption, posting and publication shall be authenticated by the signature of the Mayor and the Town Clerk and by the Certificate of Publication. This Ordinance shall become effective upon final passage as provided by the Charter. Copies of the entire Ordinance are available at the office of the Town Clerk.

INTRODUCED, AND APPROVED on first reading by the Town Council of the Town of Johnstown, Colorado, this ____ day of _____, 2023.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Hannah Hill, Town Clerk

By: _____
Gary Lebsack, Mayor

PASSED UPON FINAL APPROVAL AND ADOPTED on second reading by the Town Council of the Town of Johnstown, Colorado, this ____ day of _____, 2023.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Hannah Hill, Town Clerk

By: _____
Gary Lebsack, Mayor



Town of Johnstown

TOWN COUNCIL AGENDA COMMUNICATIONS

AGENDA DATE: May 1, 2023

SUBJECT: Ordinance No. 2023-248 Repealing Articles I-VIII of Chapter 6 and Readopting Articles I-IV of Chapter 6 of the Johnstown Municipal Code

ACTION PROPOSED: Consider Approval of Ordinance No. 2023-248

ATTACHMENTS: 1. Ordinance No. 2023-248

PRESENTED BY: Hannah Hill, Town Clerk

AGENDA ITEM DESCRIPTION:

Enclosed for review and consideration is Ordinance No. 2023-248 that would amend multiple sections of the Municipal Code Chapter 6. These amendments specifically repeal and replace certain sections to remove redundancy, be consistent with other municipal requirements, update and streamline processes. The existing chapters noted in this ordinance have not been significantly updated for several years. The proposed amended sections have been updated to be consistent with modern code which includes a purpose section, definitions, and an appeal process. Other substantive changes include the following:

Article 1- Business Licenses:

Clarification has been provided for what entities are required to hold a business license, taking into consideration new legislation regarding physical presence in Town limits.

Article II and III (proposed to repeal)- Fireworks Permit and Fireworks Public Display Permit:

This has been removed from Chapter 6 and moved to Chapter 10 for consistency and clarification on who the authority is to enforce this Code. An Ordinance noting this proposed amendment is on the agenda for tonight’s meeting.

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Article IV (proposed to repeal) – Auctions and Auctioneers and Article V – Skating Rinks, Merry-Go-Round, Shows and Exhibitions, and Article VI- Coin-Operated Game Machines:

These have been repealed as licensing and enforcing is not sustainable for the number of businesses that can fall into this category. There are, as well, other regulations or inspections that now govern these the majority of these operations.

Article II – Peddlers and Solicitors:

References to Peddlers have been removed, as staff feels that falls under current Outdoor Vendor Code, with the purpose to provide notice to the Town of the persons conducting solicitation activities within the Town boundaries for the health, safety and welfare of the Town’s citizens and residents. By issuance of a solicitor license, the Town does not intend to be, and shall not be, liable for actions or omissions of the solicitor.

Article III- Tree Contractor License:

A requirement has been added into the Code for licensees to hold a valid certification from the International Society of Arboriculture or an equivalent exam, such as a neighboring municipality that requires field testing. This is in an effort to issue licenses to legitimate contractors and protect the community from entities that may be looking to take advantage after a natural disaster.

Article IV - Short Term Rental Licenses:

This new section of Code is proposed in an effort to provide regulation and consistent standards as the popularity of Short-Term Rentals grows. Over the last year, staff has received numerous calls from STR owners looking to receive a permit, and other entities requesting a listing of STRs. Formalizing a licensing process will assist with these requests.

LEGAL ADVICE:

The Town Attorney drafted the Ordinance.

FINANCIAL ADVICE:

NA

RECOMMENDED ACTION: Approve Ordinance No. 2023-248

SUGGESTED MOTIONS:

For Approval: I move to approve Ordinance No. 2023-248 on first reading.

For Denial: I move to deny Ordinance No. 2023-248.

Reviewed and Approved for Presentation,



Town Manager

TOWN OF JOHNSTOWN, COLORADO

ORDINANCE NO. 2023-248

AN ORDINANCE REPEALING ARTICLES I-VIII OF CHAPTER 6 OF THE JOHNSTOWN MUNICIPAL CODE AND READOPTING ARTICLES I-IV OF CHAPTER 6 OF THE JOHNSTOWN MUNICIPAL CODE CONCERNING RESPECTIVELY GENERAL BUSINESS LICENSING, SOLICITOR LICENSING, TREE CONTRACTOR LICENSING AND SHORT-TERM RENTAL LICENSING

WHEREAS, the Town of Johnstown, Colorado (“Town”) is a Colorado home rule municipality, duly organized and existing under the laws of the State of Colorado and the Town’s Home Rule Charter; and

WHEREAS, the Town Council is vested with authority to administer the affairs of the Town; and

WHEREAS, Chapter 6 of the Johnstown Municipal Code (“Code”) regulates business licensing and regulations in the Town; and

WHEREAS, the Town Clerk recommends that Chapter 6 be revised and amended to: (i) reflect new policies and procedures regarding general business, solicitor and tree contractor licensing; (ii) omit fireworks, auction and auctioneer, skating rinks, merry-go-rounds, show and exhibitions and coin-operated game machine licensing; and (iii) add short-term rental licensing; and

WHEREAS, based on the recommendation of the Town Clerk, the Town Council desires to repeal Articles I-VIII of Chapter 6 of the Code and readopt Articles I-IV of Chapter 6 of the Code concerning respectively general business licensing, solicitor licensing, tree contractor licensing and short-term rental licensing; and

WHEREAS, the Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town, that it is promulgated for the preservation of the public health, welfare, peace, safety and property and that this Ordinance is in the best interests of the citizens of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO, AS FOLLOWS:

Section 1. Repeal of Articles I-VIII of Chapter 6. Articles I-VIII of Chapter 6 of the Johnstown Municipal Code are hereby repealed in their entirety.

Section 2. Readoption of Article I-IV of Chapter 6. Articles I-IV of Chapter 6 of the Johnstown Municipal Code are hereby readopted to read in full as follows:

Article I – Business Licenses Generally

Sec. 6-1. - Purpose; administration.

- (a) The purpose of this Article is to require the registration of all businesses with a physical presence in the Town and to provide the Town with information concerning such businesses, including, but not limited to, the nature of the business operation, the number of employees and the place of business, in order to protect the health, safety and welfare of the Town's citizens and residents.
- (b) The Town Clerk is hereby delegated the authority to administer the provisions of this Article and to implement rules and regulations governing business licensing that are not inconsistent with the provisions of this Article.

Sec. 6-2. - Definitions.

For the purposes of this Article, the following definitions shall apply:

Business means and includes all kinds of vocations, occupations, home occupations, professions, enterprises and establishments, any of which are conducted on premises in the Town and/or have a physical presence in the Town.

Owner means the person owning a business, or the operator, manager or lessee of a business.

Physical presence has the meaning ascribed by state law.

Premises means and includes the land and structures connected, used or occupied by a business in the Town.

Sec. 6-3. – License required; term.

- (a) Unless exempted by the Town Clerk, the owner of each business within the Town shall obtain a business license. A separate business license shall be obtained for each premises, regardless of ownership, wherein business is carried on in the Town.
- (b) It is unlawful for an owner to commence, carry on or establish any business within the Town without first obtaining a business license.
- (c) Each business license issued during a calendar year shall remain in effect until the earlier of the following: (i) December 31 of such year, (ii) the business no longer operates within the Town boundaries or (iii) the ownership of the business changes. At the end of each calendar year, the business license may be renewed upon payment of the business license renewal fee and the receipt of additional information, if any, required by the Town Clerk.

Sec. 6-4. - Application for license.

- (a) The owner of each business within the Town shall submit an application to the Town Clerk for a business license on a form supplied by the Town.
- (b) If the Town Clerk determines that the issuance of the business license is consistent with this Article, the rules and regulations promulgated hereunder and the Code, the Town Clerk shall issue the business license. The owner shall thereafter post the business license in a prominent place at the premises.

- (c) If the Town Clerk determines that the issuance of the business license would not be consistent with the requirements of this Article, the rules and regulations promulgated hereunder or the Code, the Town Clerk shall deny the issuance of the license and notify the applicant of such determination in writing with an explanation of the reasons for such denial.
- (d) The Town Clerk may, for good cause, temporarily suspend, permanently revoke or decline to renew any business license.

Sec. 6-5. – License Fee.

Upon the submission of an application for a business license, the owner of each business within the Town shall pay a license fee for the business license in the amount set forth by resolution of the Town Council in the Town Fee Schedule.

Sec. 6-6. Appeal.

- (a) Any person aggrieved by the action of the Town Clerk as set forth in this Article may, within ten (10) days of receipt of written notice from the Town Clerk, file a written appeal to the Town Manager. The Town Manager shall thereafter promptly review the appeal and, after taking action that the Town Manger deems appropriate, provide written notification to the aggrieved person affirming the Town Clerk's decision, affirming the Town Clerk's decision with conditions, or reversing the Town Clerk's decision.
- (b) Within ten (10) days of receipt of written notice from the Town Manager, the aggrieved person may appeal the Town Manager's decision to the Town Council by providing written notice to the Town Clerk. The Town Clerk shall thereafter, as soon as reasonably practicable, set a hearing before the Town Council. The Town Council's decision shall be final and conclusive.
- (c) For purposes of this section, written notice shall be deemed received upon hand delivery, delivery by electronic mail upon confirmation of receipt of the electronic mail or three (3) days after placing the written notification in the U.S. Mail.

Sec. 6-7. Violation.

Any person who violates any provision of this Article or the rules and regulations promulgated hereunder may be punished in accordance with the provisions of Article IV of Article 1 of the Code.

Article II – Solicitor Licenses

Sec. 6-20. Purpose; administration.

- (a) The purpose of this Article is to provide notice to the Town of the persons conducting solicitation activities within the Town boundaries for the health, safety and welfare of the Town's citizens and residents. By issuance of a solicitor license, the Town does not intend to be, and shall not be, liable for actions or omissions of the solicitor.
- (b) The Town Clerk is hereby delegated the authority to administer the provisions of this Article and to implement rules and regulations governing solicitor licensing that are not inconsistent with the provisions of this Article.

Sec. 6-21. Definitions.

For purposes of this Article, the following definitions shall apply:

Solicitor means any person who solicits for the purchase or sale of goods or services of any nature whatsoever from any private residence.

Sec. 6-22. License required; term.

- (a) Unless exempted by the Town Clerk, each person desiring to engage in the solicitor business in the Town shall obtain a solicitor license.
- (b) It is unlawful for any person to engage in the business of solicitor within the Town without first obtaining a solicitor license.
- (c) The term of the solicitor license shall be for one calendar year commencing upon the issuance of the license.

Sec. 6-23. Application for license.

- (a) Applicants for a solicitor license shall file an application with the Town Clerk on a form supplied by the Town.
- (b) If the Town Clerk determines that the issuance of the solicitor license is consistent with this Article, the rules and regulations promulgated hereunder and the Code, the Town Clerk shall issue the solicitor license.
- (c) If the Town Clerk determines that the issuance of the solicitor license would not be consistent with the requirements of this Article, the rules and regulations promulgated hereunder or the Code, the Town Clerk shall deny the issuance of the license and notify the applicant of such determination in writing with an explanation of the reasons for such denial.
- (d) The Town Clerk may, for good cause, temporarily suspend, permanently revoke or decline to renew any solicitor license.

Sec. 6-24. – License Fee.

Upon the submission of an application for a solicitor license, the applicant shall pay a license fee in the amount set forth by resolution of the Town Council in the Town Fee Schedule.

Sec. 6-25. Appeal.

- (a) Any person aggrieved by the action of the Town Clerk as set forth in this Article may, within ten (10) days of receipt of written notice from the Town Clerk, file a written appeal to the Town Manager. The Town Manager shall thereafter promptly review the appeal and, after taking action that the Town Manger deems appropriate, provide written notification to the aggrieved person affirming the Town Clerk's decision, affirming the Town Clerk's decision with conditions, or reversing the Town Clerk's decision.
- (b) Within ten (10) days of receipt of written notice from the Town Manager, the aggrieved person may appeal the Town Manager's decision to the Town Council by providing written notice to the Town Clerk. The Town Clerk shall thereafter, as soon as reasonably practicable, set a hearing before the Town Council. The Town Council's decision shall be final and conclusive.

- (c) For purposes of this section, written notice shall be deemed received upon hand delivery, delivery by electronic mail upon confirmation of receipt of the electronic mail or three (3) days after placing the written notification in the U.S. Mail.

Sec. 6-26. Solicitations prohibited by posting of sign.

It shall be unlawful for any person engaged as a solicitor in the Town to call on or attempt to contact any person, by knocking, ringing the doorbell or any other method, at a premises displaying a “No Solicitation” sign, a “No Trespassing” sign or any other sign or notice which conveys said message with reasonable clarity. This provision shall apply to all solicitations, including, without limitation, those conducted by organizations eligible for tax exemption under Section 501(c) of the Internal Revenue Code.

Sec. 6-27. Violation.

Any person who violates any provision of this Article or the rules and regulations promulgated hereunder may be punished in accordance with the provisions of Article IV of Article 1 of the Code.

Article III – Tree Contractor Licenses

Sec. 6-40. Purpose; administration.

- (a) The purpose of this Article is to regulate and license tree maintenance activities in the Town for the health, safety and welfare of the Town’s citizens and residents.
- (b) The Town Clerk is hereby delegated the authority to administer the provisions of this Article and to implement rules and regulations governing tree contractor licensing that are not inconsistent with the provisions of this Article.

Sec. 6-41. Definitions.

For purposes of this Article, the following definitions shall apply:

Tree maintenance consists of tree pruning, tree removal and all other tree care activities. *Tree maintenance* does not include activities involving tree installations, tree stump grinding or pesticide applications if the business is licensed by the Colorado Department of Agriculture.

Sec. 6-42. License required; term.

- (a) Unless exempted by the Town Clerk, each person desiring to engage in the tree maintenance business in the Town shall obtain a tree maintenance license.
- (b) It is unlawful for any person to engage in the business of tree maintenance within the Town without first obtaining a tree maintenance license.
- (c) The term of the tree maintenance license shall be for one calendar year commencing upon the issuance of the license.

Sec. 6-43. Application for license.

- (a) Applicants for a tree contractor license shall file an application with the Town Clerk on a form supplied by the Town.

- (b) Applicants shall be certified by the International Society of Arboriculture arborists or have equivalent certifications, shall maintain such certification during the term of the tree contractor license and shall provide a copy of such certification to the Town Clerk.
- (c) If the Town Clerk determines that the issuance of the tree contractor license is consistent with this Article, the rules and regulations promulgated hereunder and the Code, the Town Clerk shall issue the tree contractor license.
- (d) If the Town Clerk determines that the issuance of the tree contractor license would not be consistent with the requirements of this Article, the rules and regulations promulgated hereunder or the Code, the Town Clerk shall deny the issuance of the license and notify the applicant of such determination in writing with an explanation of the reasons for such denial.
- (e) The Town Clerk may, for good cause, temporarily suspend, permanently revoke or decline to renew any tree contractor license.

Sec. 6-44. – License Fee.

Upon the submission of an application for a tree contractor license, the applicant shall pay a license fee in the amount set forth by resolution of the Town Council in the Town Fee Schedule.

Sec. 6-45. Appeal.

- (a) Any person aggrieved by the action of the Town Clerk as set forth in this Article may, within ten (10) days of receipt of written notice from the Town Clerk, file a written appeal to the Town Manager. The Town Manager shall thereafter promptly review the appeal and, after taking action that the Town Manger deems appropriate, provide written notification to the aggrieved person affirming the Town Clerk’s decision, affirming the Town Clerk’s decision with conditions, or reversing the Town Clerk’s decision.
- (b) Within ten (10) days of receipt of written notice from the Town Manager, the aggrieved person may appeal the Town Manager’s decision to the Town Council by providing written notice to the Town Clerk. The Town Clerk shall thereafter, as soon as reasonably practicable, set a hearing before the Town Council. The Town Council’s decision shall be final and conclusive.
- (c) For purposes of this section, written notice shall be deemed received upon hand delivery, delivery by electronic mail upon confirmation of receipt of the electronic mail or three (3) days after placing the written notification in the U.S. Mail.

Sec. 6-46. Violation.

Any person who violates any provision of this Article or the rules and regulations promulgated hereunder may be punished in accordance with the provisions of Article IV of Article 1 of the Code.

Article IV – Short Term Rental Licenses

Sec. 6-60. Purpose; administration.

- (a) The purpose of this Article is to regulate and license short term rental activities in the Town for the health, safety and welfare of the Town’s citizens and residents.
- (b) The Town Clerk is hereby delegated the authority to administer the provisions of this Article and to implement rules and regulations governing short term contractor licensing that are not inconsistent with the provisions of this Article.

Sec. 6-61. Definitions.

For purposes of this Article, the following definitions shall apply:

Short-term rental means any rental of a residential dwelling or portion thereof for less than thirty (30) days for residential purposes.

Sec. 6-62. License required; term.

- (a) Unless exempted by the Town Clerk, each person desiring to engage in the short-term rental business in the Town shall obtain a short-term rental license.
- (b) It is unlawful for any person to engage in the business of short-term rental within the Town without first obtaining a short-term rental license.
- (c) The term of the short-term rental license shall be for one calendar year commencing upon the issuance of the license.

Sec. 6-63. Application for license.

- (a) Applicants for a short-term rental license shall file an application with the Town Clerk on a form supplied by the Town.
- (b) If the Town Clerk determines that the issuance of the short-term rental license is consistent with this Article, the rules and regulations promulgated hereunder and the Code, the Town Clerk shall issue the short-term rental license. The license must be posted in a conspicuous location within the short-term rental property.
- (c) If the Town Clerk determines that the issuance of the short-term rental license would not be consistent with the requirements of this Article, the rules and regulations promulgated hereunder or the Code, the Town Clerk shall deny the issuance of the license and notify the applicant of such determination in writing with an explanation of the reasons for such denial.
- (d) The Town Clerk may, for good cause, temporarily suspend, permanently revoke or decline to renew any short-term rental license.

Sec. 6-64. – License Fee.

Upon the submission of an application for a short-term rental license, the applicant shall pay a license fee in the amount set forth by resolution of the Town Council in the Town Fee Schedule.

Sec. 6-65. Appeal.

- (a) Any person aggrieved by the action of the Town Clerk as set forth in this Article may, within ten (10) days of receipt of written notice from the Town Clerk, file a written appeal to the Town Manager. The Town Manager shall thereafter promptly review the appeal and, after taking action that the Town Manger deems appropriate, provide written notification to the aggrieved person affirming the Town Clerk's decision, affirming the Town Clerk's decision with conditions, or reversing the Town Clerk's decision.
- (b) Within ten (10) days of receipt of written notice from the Town Manager, the aggrieved person may appeal the Town Manager's decision to the Town Council by providing written notice to the Town Clerk. The Town Clerk shall thereafter, as soon as reasonably practicable, set a hearing before the Town Council. The Town Council's decision shall be final and conclusive.

(c) For purposes of this section, written notice shall be deemed received upon hand delivery, delivery by electronic mail upon confirmation of receipt of the electronic mail or three (3) days after placing the written notification in the U.S. Mail.

Sec. 6-66. Violation.

Any person who violates any provision of this Article or the rules and regulations promulgated hereunder may be punished in accordance with the provisions of Article IV of Article 1 of the Code.

Section 3. Severability. If any part or provision of this Ordinance, or its application to any person or circumstance, is adjudged to be invalid or unenforceable, the invalidity or unenforceability of such part, provision, or application shall not affect any of the remaining parts, provisions or applications of this Ordinance that can be given effect without the invalid provision, part or application, and to this end the provisions and parts of this Ordinance are declared to be severable.

Section 4. Code revisions. Minor changes such as the format and other changes to unify the revised Code may be necessary. The Town Clerk is hereby authorized to make such changes, provided that neither the intent nor substantive content will be altered by such changes.

Section 5. Publication; Effective Date. This Ordinance, after its passage on final reading, shall be numbered, recorded, published and posted as required by the Home Rule Charter of the Town of Johnstown, Colorado (“Charter”) and the adoption, posting and publication shall be authenticated by the signature of the Mayor and the Town Clerk. This Ordinance shall become effective upon final passage as provided by the Charter. Copies of the entire Ordinance are available at the office of the Town Clerk.

INTRODUCED, AND APPROVED on first reading by the Town Council of the Town of Johnstown, Colorado, this ____ day of _____, 2023.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____ By: _____
Hannah Hill, Town Clerk Gary Lebsack, Mayor

PASSED UPON FINAL APPROVAL AND ADOPTED on second reading by the Town Council of the Town of Johnstown, Colorado, this ____ day of _____, 2023.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____ By: _____
Hannah Hill, Town Clerk Gary Lebsack, Mayor



Town of Johnstown

TOWN COUNCIL AGENDA COMMUNICATIONS

- AGENDA DATE:** May 1, 2023
- SUBJECT:** Public Hearing – First Reading Ordinance 2023-249 amending Article XII of Chapter 10 of the Johnstown Municipal Code, including Sec. 10-44(a)(4) - Harassment, Sec.10-62- Criminal Trespass, Article IX -Fireworks, and Article XII- Tobacco.
- ACTION PROPOSED:** Approve Ordinance 2023-249.
- ATTACHMENTS:** 1. Ordinance 2023-249
- PRESENTED BY:** Brian Phillips, Chief of Police
-

AGENDA ITEM DESCRIPTION:

Article III of Chapter 10 of the Code regulates offenses against the person and Section 10-44 therein prohibits harassment. Due to a recent Colorado Supreme Court ruling, specifically, *People v. Moreno*, 506 P.3d 849 (2022), the Court held that, with respect to the state harassment statute, Section 18-9-111(1)(e), C.R.S., the phrase “intended to harass” when communicating by telephone, telephone network, data network, text message, instant message, computer, computer network, computer system, or other interactive electronic medium is facially overbroad and restricts protected free speech and is thus unconstitutional. Currently, Section 10-44(a)(4) of the Johnstown Municipal Code (“Code”) contains a similar provision so to comply with the Supreme Court’s ruling, Town staff recommends amending Section 10-44(a)(4) of the Code to omit the unconstitutional phrase.

Articles II and III of Chapter 6 and Article IX of Chapter 10 of the Code regulate fireworks in the Town; Town staff recommends that the Town Council consolidate and revise the fireworks regulations to, among other changes, clarify that the possession, display, sale, use, ignition and discharge of fireworks in the Town except by authorized personnel is prohibited.

Article XII of Chapter 10 of the Code regulates the possession, use and sale of tobacco products and provides, in part, that persons may not sell or distribute tobacco products to persons under eighteen (18) years of age. The Colorado General Assembly, by C.R.S. § 18-13-121, raised the minimum age for the sale or distribution of tobacco products from eighteen (18) years of age to twenty-one (21) years of age; and Town staff recommends that the Town Council make a related

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change to Article XII of Chapter 10 of the Code and make other miscellaneous revisions to conform to state law.

Article IV of Chapter 10 of the Code regulates offenses against property and Section 10-62 therein prohibits criminal trespass; and Town staff recommends that the Town Council expand the definition of criminal trespass.

The Town’s criminal trespass ordinance reads as follows: “It shall be unlawful for any person to commit the offense of criminal trespass, as provided in this Section. For purposes of this Section, a person commits the crime of criminal trespass if he or she unlawfully enters or remains in or upon premises, whether enclosed in a manner designed to exclude intruders or fenced or not.” Section 10-62. In the context of a privately owned business, it is arguably “unlawful” to remain upon private property when you have been issued a written trespass notice.

LEGAL ADVICE:

Drafted and reviewed by the Town Attorney.

FINANCIAL ADVICE:

NA

RECOMMENDED ACTION: Approve Ordinance 2023-249 upon first reading.

SUGGESTED MOTIONS:

For Approval: I move to approve Ordinance No. 2023-249, an Ordinance Amending Article XII of Chapter 10 of the Johnstown Municipal Code, including Sec. 10-44(a)(4) - Harassment, Sec.10-62- Criminal Trespass, Article IX -Fireworks, and Article XII- Tobacco upon first reading.

For Denial: I move to deny Ordinance No. 2023-249, an Ordinance Amending Article XII of Chapter 10 of the Johnstown Municipal Code, including Sec. 10-44(a)(4) - Harassment, Sec.10-62- Criminal Trespass, Article IX -Fireworks, and Article XII- Tobacco upon first reading.

Reviewed and Approved for Presentation,



Town Manager

TOWN OF JOHNSTOWN, COLORADO

ORDINANCE NO. 2023-249

AN ORDINANCE AMENDING REGULATIONS CONTAINED IN CHAPTER 10 OF THE JOHNSTOWN MUNICIPAL CODE, INCLUDING SUBSECTION 10-44(a)(4) OF ARTICLE III CONCERNING HARASSMENT, SECTION 10-62 OF ARTICLE IV CONCERNING CRIMINAL TRESPASS, ARTICLE IX CONCERNING FIREWORKS AND ARTICLE XII CONCERNING TOBACCO

WHEREAS, the Town of Johnstown, Colorado (“Town”) is a Colorado home rule municipality, duly organized and existing under the laws of the State of Colorado and the Town’s Home Rule Charter; and

WHEREAS, the Town Council is vested with authority to administer the affairs of the Town.

HARASSMENT

WHEREAS, Article III of Chapter 10 of the Code regulates offenses against the person and Section 10-44 therein prohibits harassment; and

WHEREAS, in *People v. Moreno*, 506 P.3d 849 (2022), the Colorado Supreme Court held that, with respect to the state harassment statute, Section 18-9-111(1)(e), C.R.S., the phrase “intended to harass” when communicating by telephone, telephone network, data network, text message, instant message, computer, computer network, computer system, or other interactive electronic medium is facially overbroad and restricts protected free speech and is thus unconstitutional; and

WHEREAS, Section 10-44(a)(4) of the Johnstown Municipal Code (“Code”) contains a similar provision; and

WHEREAS, to comply with the Supreme Court’s ruling, Town staff recommends amending Section 10-44(a)(4) of the Code to omit the unconstitutional phrase.

CRIMINAL TRESPASS

WHEREAS, Article IV of Chapter 10 of the Code regulates offenses against property and Section 10-62 therein prohibits criminal trespass; and

WHEREAS, Town staff recommends that the Town Council expand the definition of criminal trespass.

FIREWORKS

WHEREAS, Articles II and III of Chapter 6 and Article IX of Chapter 10 of the Code regulate fireworks in the Town; and

WHEREAS, Town staff recommends that the Town Council consolidate and revise the fireworks regulations to, among other changes, clarify that the possession, display, sale, use, ignition and discharge of fireworks in the Town except by authorized personnel is prohibited.

TOBACCO

WHEREAS, Article XII of Chapter 10 of the Code regulates the possession, use and sale of tobacco products and provides, in part, that persons may not sell or distribute tobacco products to persons under eighteen (18) years of age; and

WHEREAS, the Colorado General Assembly, by C.R.S. § 18-13-121, raised the minimum age for the sale or distribution of tobacco products from eighteen (18) years of age to twenty-one (21) years of age; and

WHEREAS, Town staff recommends that the Town Council make a related change to Article XII of Chapter 10 of the Code and make other miscellaneous revisions to conform to state law.

SUMMARY

WHEREAS, to effectuate the foregoing, the Town Council desires to amend Section 10-44(a)(4) of Article III of the Code concerning harassment, Section 10-62 of Article IV of the Code concerning criminal trespass, Article IX of Chapter 10 of the Code concerning fireworks and Article XII of Chapter 10 of the Code concerning tobacco; and

WHEREAS, the Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town, that it is promulgated for the preservation of the public health, welfare, peace, safety and property and that this Ordinance is in the best interests of the citizens of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO, AS FOLLOWS:

Section 1. Subsection 10-44(a)(4) of Article III of the Johnstown Municipal Code shall be amended in full to read as follows:

Sec. 10-44. Harassment.

(a) A person commits harassment if, with intent to harass, annoy or alarm another person, he or she:

...

(4) Directly or indirectly initiates communication with a person or directs language toward another person, anonymously or otherwise, by telephone, telephone network, data network, text message, instant message, computer, computer network, computer system, or other interactive electronic medium in a manner intended to threaten bodily injury or property damage, or

makes any comment, request, suggestion, or proposal by telephone, computer, computer network, computer system, or other interactive electronic medium that is obscene;

....

Section 2. Subsection 10-62 of Article IV of the Johnstown Municipal Code shall be amended in full to read as follows:

Sec. 10-62. Criminal Trespass.

It shall be unlawful for any person to commit the crime of criminal trespass. A person commits the crime of criminal trespass if he or she:

- (a) Enters or remains in or upon the property of another, including public property, in violation of a notice lawfully posted or exhibited on the property, absent authorization to do so;
- (b) Enters or remains in or upon the property of another, including public property, in violation of any notice, warning or protest given by the owner, the Johnstown Police Department or any other authorized person;
- (c) Enters or remains in or upon property of another, including public property, which is enclosed in a manner designed to exclude intruders or is fenced; or
- (d) Enters or remains in or upon the property of another, including public property, to which access is commonly and customarily restricted and the person entering or remaining knows or should know that he or she was not licensed, invited or privileged to do so.

Section 3. Article IX of Chapter 10 of the Johnstown Municipal Code is hereby repealed in its entirety and readopted to read as follows in its entirety:

Article IX – Fireworks

Sec. 10-81 – Definitions

For the purposes of this Article, the following definitions shall apply:

Fireworks

- (i) includes any article, device or substance prepared for the primary purpose of producing a visual or auditory sensation by combustion, explosion, deflagration or detonation, including, without limitation, the following articles and devices commonly known and used as fireworks: blank cartridges, toy pistols, toy cannons, toy canes, toy guns, in which explosives are used; fire balloons (balloons of the type which have a burning material of any kind attached thereto or which require fire underneath to propel them); firecrackers, torpedoes, skyrockets, rockets, roman candles, day-glow bombs, torches or other fireworks of like construction and any fireworks containing any explosive or flammable compound, any tablets or other device containing any explosive substance; and
- (ii) does not include toy pistols, toy cannons or toy guns in which paper caps containing not more than twenty-five one-hundredths (.25) of a grain of explosive compound per cap are used whether such caps are of single roll or tape type, sparklers, trick matches, cigarette loads,

trick noise makers, toy smoke devices, novelty auto alarms, highway flares, railway fuses, smoke candles or other emergency signal devices.

Authorized personnel includes any person who holds a permit, license or other lawful authorization issued by the Town, the Front Range Fire Rescue Fire Protection District or the Loveland Fire Rescue Authority or any other authorized governmental entity to possess, display, sell, use, ignite or discharge fireworks in the Town.

Sec. 10-82 – Prohibited use.

- (a) No person, other than authorized personnel, shall possess, display, sell, use, ignite or discharge any fireworks in the Town.
- (b) No person, other than authorized personnel, shall permit the possession, display, sale, use, ignition or discharge of any fireworks on such person’s property. A person’s property includes property that is owned, leased or rented by such person or property that such person has a lawful right to occupy.

Sec. 10-83 - Evidence.

- (a) The court shall not preclude evidence regarding violations of this Article based solely on the fact that the firework was destroyed by its use, ignition or discharge.
- (b) To the extent this Article conflicts with the provisions of the International Fire Code, as adopted by the Town, this Article shall control.

Section 4. Article XII of Chapter 10 of the Johnstown Municipal Code is hereby repealed in its entirety and readopted to read as follows in its entirety:

ARTICLE XII Possession, Use and Sale of Tobacco Products

Sec. 10-231. Intent.

It is the intent of this Article to protect the public health, safety and welfare by prohibiting the possession and use of tobacco products by persons under eighteen (18) years of age and prohibiting the dissemination and furnishing of tobacco products to persons under twenty-one (21) years of age.

Sec. 10-232. Definitions; presumption.

- (a) As used in this Article, the following words or phrases are defined as follows:

Retailer means any person who sells tobacco products to individuals for personal consumption.

Tobacco product means: (1) a product that contains nicotine or tobacco or is derived from tobacco and is intended to be ingested or inhaled by or applied to the skin of an individual; or (2) any device that can be used to deliver tobacco or nicotine to the person inhaling from the device, including but not limited to a nicotine vaporizer, an electronic cigarette, cigar, cigarillo or pipe.

- (b) It shall be rebuttably presumed that the substance within a package or container is a tobacco product if the package or container has affixed to it a label which identifies the package or container as containing a tobacco product.

Sec. 10-233. Unlawful possession or use of tobacco products by minors.

- (a) It shall be unlawful for any person under eighteen (18) years of age to possess, consume or use, either by smoking, ingesting, absorbing or chewing, any tobacco product.
- (b) It shall be unlawful for any person under eighteen (18) years of age to obtain or attempt to obtain any tobacco product by misrepresentation of age or by any other method.

Sec. 10-234. Unlawful furnishing of tobacco products; retail sales.

- (a) It shall be unlawful for any person to sell, distribute or otherwise furnish a tobacco product to a person under twenty-one (21) years of age.
- (b) Each retailer shall verify by means of photographic identification containing the bearer’s date of birth that a person purchasing a tobacco product is twenty-one (21) years of age or older. It shall be an affirmative defense to a prosecution under this Section that the person furnishing the tobacco product was presented with and reasonably relied upon photographic identification containing the bearer’s date of birth which identified the person receiving the tobacco product as being twenty-one (21) years of age or older.
- (c) It shall be unlawful for any business proprietor, manager or other person in charge or control of a retail business of any kind to engage, employ or permit any person under eighteen (18) years of age to sell tobacco products from such retail business.
- (d) It shall be unlawful for a retailer to sell or offer to sell tobacco products by use of a vending machine or other coin operated machine.

Section 5. Severability. If any part or provision of this Ordinance, or its application to any person or circumstance, is adjudged to be invalid or unenforceable, the invalidity or unenforceability of such part, provision, or application shall not affect any of the remaining parts, provisions or applications of this Ordinance that can be given effect without the invalid provision, part or application, and to this end the provisions and parts of this Ordinance are declared to be severable.

Section 6. Code revisions. Minor changes such as the format and other changes to unify the revised Code may be necessary. The Town Clerk is hereby authorized to make such changes, provided that neither the intent nor substantive content will be altered by such changes.

Section 7. Publication; Effective Date. This Ordinance, after its passage on final reading, shall be numbered, recorded, published and posted as required by the Home Rule Charter of the Town of Johnstown, Colorado (“Charter”) and the adoption, posting and publication shall be authenticated by the signature of the Mayor and the Town Clerk. This Ordinance shall become effective upon final passage as provided by the Charter. Copies of the entire Ordinance are available at the office of the Town Clerk.

INTRODUCED, AND APPROVED on first reading by the Town Council of the Town of Johnstown, Colorado, this ____ day of _____, 2023.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____ By: _____
Hannah Hill, Town Clerk Gary Lebsack, Mayor

PASSED UPON FINAL APPROVAL AND ADOPTED on second reading by the Town Council of the Town of Johnstown, Colorado, this ____ day of _____, 2023.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____ By: _____
Hannah Hill, Town Clerk Gary Lebsack, Mayor



Town of Johnstown

April 18, 2023

Re: EPA Office of Air and Radiation – Notice of Intent to Support Larimer County as a Participant if Awarded the Climate Pollution Reduction Grant (CPRG)

Dear EPA Office of Air and Radiation Representative,

It is with great excitement and a vision for a better future that the Town of Johnstown is pleased to offer its support of Larimer County’s Notice of Intent to Participate (NOIP) for the Climate Pollution Reduction Grant Program. In addition to supporting the NOIP, the Town also intends to participate in the regional effort that would be led by the County.

The Town of Johnstown is currently working with Larimer County as an active participant in its “Climate Smart and Future Ready: Strategies for a Sustainable Larimer County” initiative. It is the first County-wide effort of its kind, geared toward environmental sustainability, and we are currently working to inventory Green House Gas emissions to establish a baseline for future action to reduce emissions. Financial assistance will be critical to helping the County and municipalities develop and implement climate action plans to begin the work necessary to address air quality issues in the region.

We look forward to working with Larimer County in our ongoing efforts, as well as in future efforts related to pollution reduction and environmental sustainability more generally. The Climate Pollution Reduction Grant would provide the support needed to take the next steps. To that end, we fully support and ask for your strong consideration for Larimer County’s NOIP and hope for favorable consideration.

Sincerely,

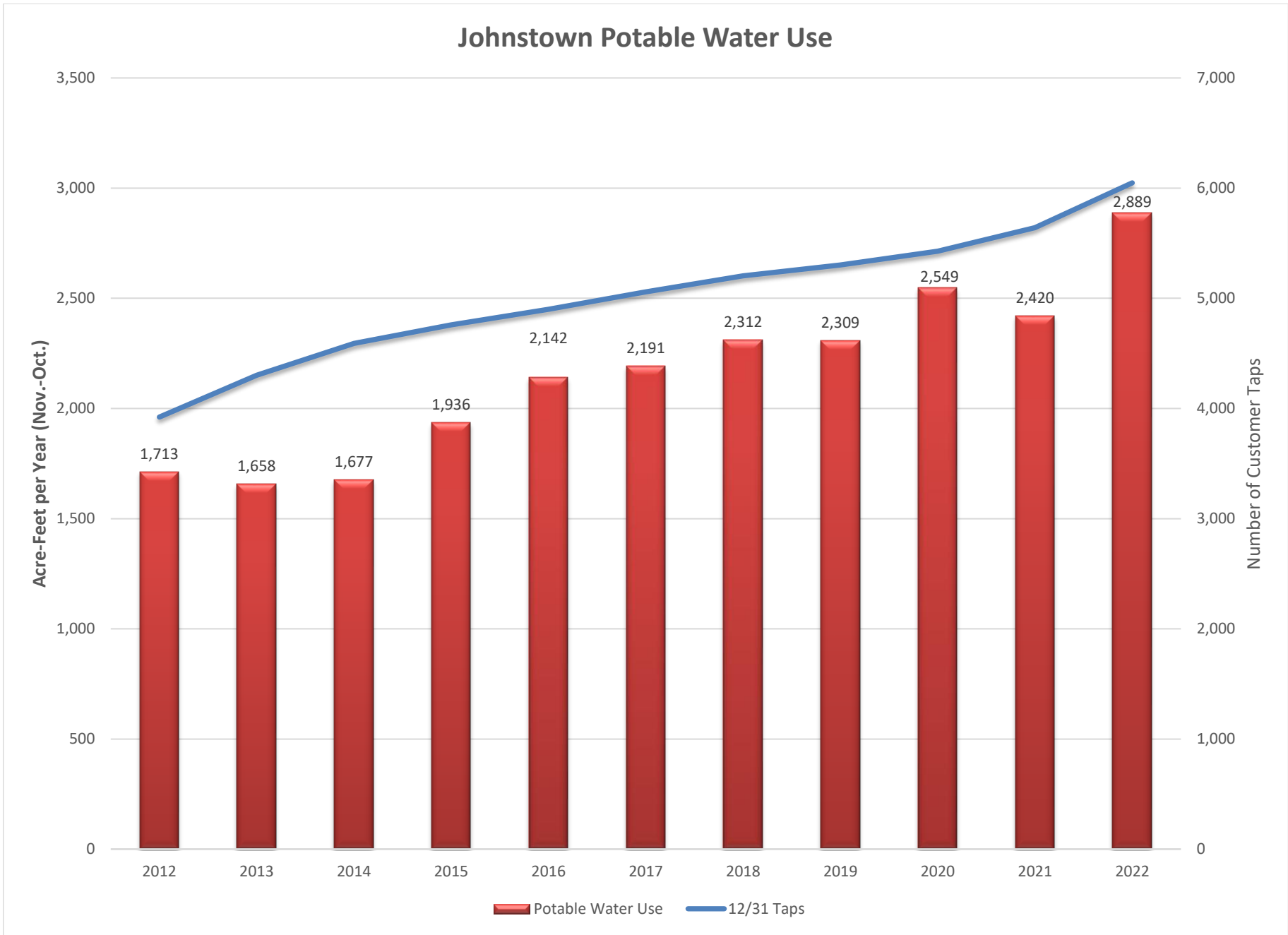


Matt LeCerf
Town Manager

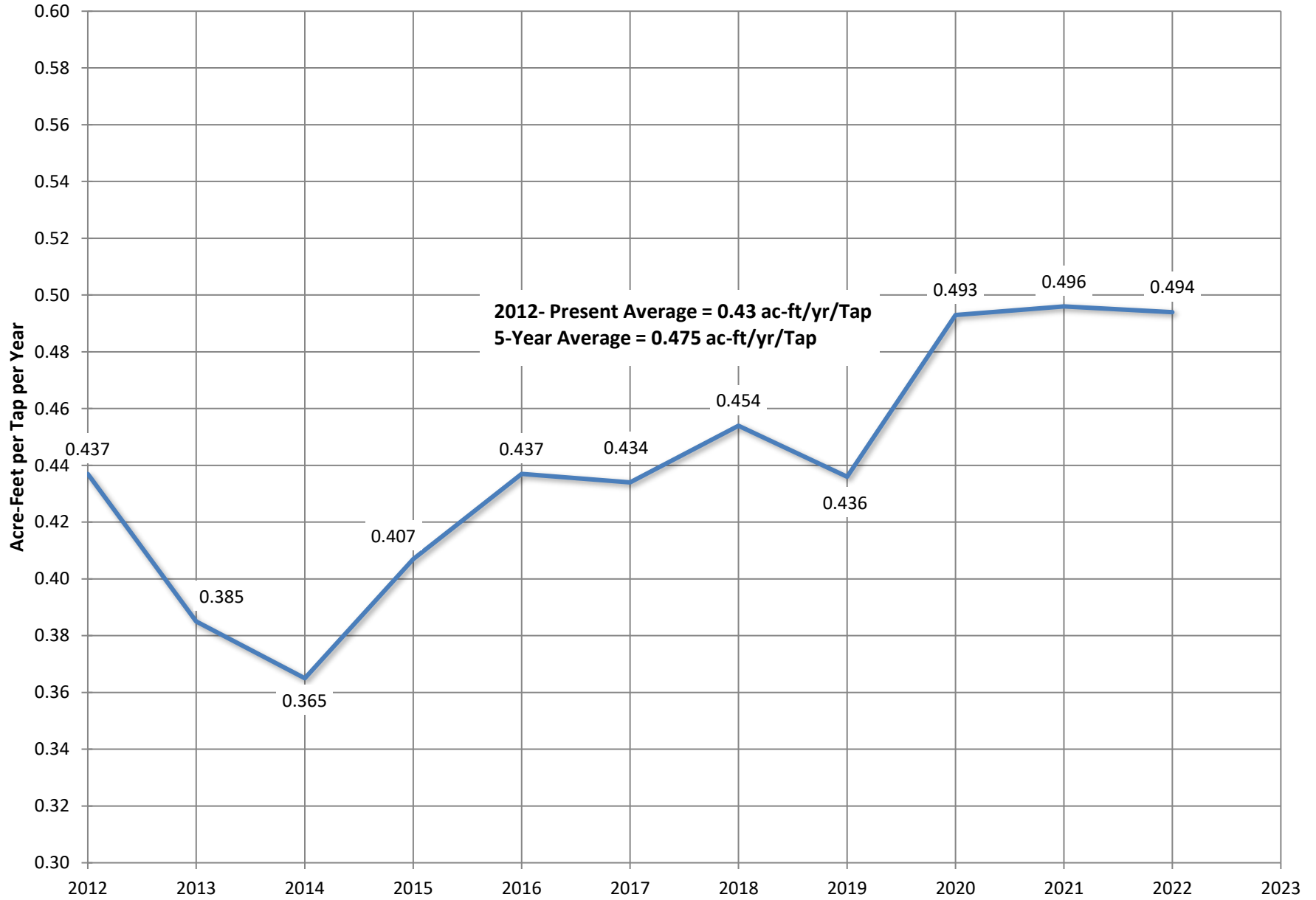
The Community That Cares

johnstown.colorado.gov

P: 970.587.4664 | 450 S. Parish Ave, Johnstown CO 80534 | F: 970.587.0141



Johnstown Annual Use per Tap





Town of Johnstown

PROCLAMATION

In recognition of the service of Mayor Gary Lebsack

- WHEREAS,** Mayor Gary Lebsack is retiring from the Town of Johnstown Town Council after serving the community for 20-years as an Elected Official; and
- WHEREAS,** Mayor Gary Lebsack was first elected in 2004 as a Councilmember and served continuously through 2023 in Councilmember, Mayor Pro Tem and positions; and
- WHEREAS,** during his many years of service in the capacity as an Elected Official, Gary Lebsack has served the Town of Johnstown, its residents and businesses with dedication, integrity and pride; and
- WHEREAS,** the Town of Johnstown acknowledges the many forward advancements enjoyed by the Town during the tenure of Gary Lebsack and wishes to acknowledge the past successes and accomplishments of Gary Lebsack.

NOW, THEREFORE, BE IT RESOLVED BY THE
TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO THAT:

I, Troy Mellon, Mayor of the Town of Johnstown, on behalf of the Town Council, Town Administration, and Staff, and the residents of Johnstown wish to extend our deepest gratitude to Mayor Gary Lebsack for his guidance and leadership during many years of service.

TOWN OF JOHNSTOWN, COLORADO

By: _____
Troy Mellon, Mayor

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