



TOWN OF PAONIA
214 GRAND AVENUE
TUESDAY, MARCH 19, 2024
JOINT BOARD OF TRUSTEES AND PLANNING COMMISSION WORK SESSION AGENDA
5:00 PM
[HTTPS://US02WEB.ZOOM.US/J/84306589789](https://us02web.zoom.us/j/84306589789)
MEETING ID: 843 0658 9789

Roll Call

Work Session

Work Session on Short Term Rentals and Accessory Dwelling Units

Adjournment

This session will be live-streamed on the Town of Paonia's YouTube channel but no minutes will be taken.

Find the live stream here: <https://www.youtube.com/channel/UC2mZDPKrwEAf5T-x3Camtow>

The Public is welcome and encouraged to attend and be a part of the conversation. If you have comments about the subject but are unable to attend in person or by Zoom, please put your comments in writing and send to paonia@townofpaonia.com, drop them off at Town Hall at 214 Grand Avenue or mail to Attn: Town Clerk PO Box 460, Paonia CO 81428.

AS ADOPTED BY:
TOWN OF PAONIA, COLORADO
RESOLUTION NO. 2017-10 – Amended May 22, 2018

I. RULES OF PROCEDURE

Section 1. Schedule of Meetings. Regular Board of Trustees meetings shall be held on the second and fourth Tuesdays of each month, except on legal holidays, or as re-scheduled or amended and posted on the agenda prior to the scheduled meeting.

Section 2. Officiating Officer. The meetings of the Board of Trustees shall be conducted by the Mayor or, in the Mayor's absence, the Mayor Pro-Tem. The Town Clerk or a designee of the Board shall record the minutes of the meetings.

Section 3. Time of Meetings. Regular meetings of the Board of Trustees shall begin at 6:30 p.m. or as scheduled and posted on the agenda. Board Members shall be called to order by the Mayor. The meetings shall open with the presiding officer leading the Board in the Pledge of Allegiance. The Town Clerk shall then proceed to call the roll, note the absences and announce whether a quorum is present. Regular Meetings are scheduled for three hours, and shall be adjourned at 9:30 p.m., unless a majority of the Board votes in the affirmative to extend the meeting, by a specific amount of time.

Section 4. Schedule of Business. If a quorum is present, the Board of Trustees shall proceed with the business before it, which shall be conducted in the following manner. Note that all provided times are estimated:

- (a) Roll Call - (5 minutes)
- (b) Approval of Agenda - (5 minutes)
- (c) Announcements (5 minutes)
- (d) Recognition of Visitors and Guests (10 minutes)
- (e) Consent Agenda including Approval of Prior Meeting Minutes (10 minutes)
- (f) Mayor's Report (10 minutes)
- (g) Staff Reports: (15 minutes)
 - (1) Town Administrator's Report
 - (2) Public Works Reports
 - (3) Police Report
 - (4) Treasurer Report
- (h) Unfinished Business (45 minutes)
- (i) New Business (45 minutes)
- (j) Disbursements (15 minutes)
- (k) Committee Reports (15 minutes)
- (l) Adjournment

* This schedule of business is subject to change and amendment.

Section 5. Priority and Order of Business. Questions relative to the priority of business and order shall be decided by the Mayor without debate, subject in all cases to an appeal to the Board of Trustees.

Section 6. Conduct of Board Members. Town Board Members shall treat other Board Members and the public in a civil and polite manner and shall comply with the Standards of Conduct for Elected Officials of the Town. Board Members shall address Town Staff and the Mayor by his/her title, other Board Members by the title of Trustee or the appropriate honorific (i.e.: Mr., Mrs. or Ms.), and members of the public by the appropriate honorific. Subject to the Mayor's discretion, Board Members shall be limited to speaking two times when debating an item on the agenda. Making a motion, asking a question or making a suggestion are not counted as speaking in a debate.

Section 7. Presentations to the Board. Items on the agenda presented by individuals, businesses or other organizations shall be given up to 5 minutes to make a presentation. On certain issues, presenters may be given more time, as determined by the Mayor and Town Staff. After the presentation, Trustees shall be given the opportunity to ask questions.

Section 8. Public Comment. After discussion of an agenda item by the Board of Trustees has concluded, the Mayor shall open the floor for comment from members of the public, who shall be allowed the opportunity to comment or ask questions on the agenda item. Each member of the public wishing to address the Town Board shall be recognized by the presiding officer before speaking. Members of the public shall speak from the podium, stating their name, the address of their residence and any group they are representing prior to making comment or asking a question. Comments shall be directed to the Mayor or presiding officer, not to an individual Trustee or Town employee. Comments or questions should be confined to the agenda item or issue(s) under discussion. The speaker should offer factual information and refrain from obscene language and personal attacks.

Section 9. Unacceptable Behavior. Disruptive behavior shall result in expulsion from the meeting.

Section 10. Posting of Rules of Procedure for Paonia Board of Trustees Meetings. These rules of procedure shall be provided in the Town Hall meeting room for each Board of Trustees meeting so that all attendees know how the meeting will be conducted.

II. CONSENT AGENDA

Section 1. Use of Consent Agenda. The Mayor, working with Town Staff, shall place items on the Consent Agenda. By using a Consent Agenda, the Board has consented to the consideration of certain items as a group under one motion. Should a Consent Agenda be used at a meeting, an appropriate amount of discussion time will be allowed to review any item upon request.

Section 2. General Guidelines. Items for consent are those which usually do not require discussion or explanation prior to action by the Board, are non-controversial and/or similar in content, or are those items which have already been discussed or explained and do not require further discussion or explanation. Such agenda items may include ministerial tasks such as, but not limited to, approval of previous meeting minutes, approval of staff reports, addressing routine correspondence, approval of liquor licenses renewals and approval or extension of other Town licenses. Minor changes in the minutes such as non-material Scribner errors may be made without removing the minutes from the Consent Agenda. Should any Trustee feel there is a material error in the minutes, they should request the minutes be removed from the Consent Agenda for Board discussion.

Section 3. Removal of Item from Consent Agenda. One or more items may be removed from the Consent Agenda by a timely request of any Trustee. A request is timely if made prior to the vote on the Consent Agenda. The request does not require a second or a vote by the Board. An item removed from the Consent Agenda will then be discussed and acted on separately either immediately following the consideration of the Consent Agenda or placed later on the agenda, at the discretion of the Board.

III. EXECUTIVE SESSION

Section 1. An executive session may only be called at a regular or special Board meeting where official action may be taken by the Board, not at a work session of the Board. To convene an executive session, the Board shall announce to the public in the open meeting the topic to be discussed in the executive session, including specific citation to the statute authorizing the Board to meet in an executive session and identifying the particular matter to be discussed “in as much detail as possible without compromising the purpose for which the executive session is authorized.” In the event the Board plans to discuss more than one of the authorized topics in the executive session, each should be announced, cited and described. Following the announcement of the intent to convene an executive session, a motion must then be made and seconded. In order to go into executive session, there must be the affirmative vote of two thirds (2/3) of Members of the Board.

Section 2. During executive session, minutes or notes of the deliberations should not be taken. Since meeting minutes are subject to inspection under the Colorado Open Records Act, the keeping of minutes would defeat the private nature of executive session. In addition, the deliberations carried out during executive session should not be discussed outside of that session or with individuals not participating in the session. The contents of an executive session are to remain confidential unless a majority of the Trustees vote to disclose the contents of the executive session.

Section 3. Once the deliberations have taken place in executive session, the Board should reconvene in regular session to take any formal action decided upon during the executive session. If you have questions regarding the wording of the motion or whether any other information should be disclosed on the record, it is essential for you to consult with the Town Attorney on these matters.

IV. SUBJECT TO AMENDMENT

Section 1. Deviations. The Board may deviate from the procedures set forth in this Resolution, if, in its sole discretion, such deviation is necessary under the circumstances.

Section 2. Amendment. The Board may amend these Rules of Procedures Policy from time to time.



PAONIA HOUSING NEEDS ASSESSMENT AND HOUSING ACTION PLAN

Town Board and Planning Commission Work Session Short-term Rentals (STR) and Accessory Dwelling Units (ADU)

**Tuesday, March 19,
2024**

5 – 7pm

Town Hall

Please review the attached materials prior to the meeting to enable a more productive discussion.

Consultant Presentation/Overview

- Background
- Short-term rentals
 - What is a STR?
 - Overview of first draft of proposed code language, see Attachment 1
- Accessory dwelling units
 - What is an ADU?
 - Overview of first draft of proposed code language, see Attachment 1

Discussion

- What works well in the proposed regulations?
- What does not work well in the proposed regulations?
- What would you change?

Next Steps

- Written public comments will be accepted until the end of the day on Tuesday, March 26th. They can be emailed to shay@urbanruralcontinuum.com or submitted to Town Hall
- Second work session to discussed revised proposal, likely in April

Attachments

1. First Draft of Proposed/Revised Code Language
2. Pages 58-62 of the Town of Paonia Housing Needs Assessment & Housing Action Plan, November 2023. Click [here](#) for the full document.



PAONIA HOUSING NEEDS ASSESSMENT AND HOUSING ACTION PLAN

First Draft of Proposed/Revised Code Language

November 2023

As part of the Housing Needs Assessment and Housing Action Plan project, the Town approved an optional add on task proposed by the consultant team. This add on to the project was to prepare a first draft of proposed/revised code language for up to four of the Colorado Department of Local Affairs' (DOLA) qualifying strategies to include:

- A) The creation of an expedited development review process.
- B) Authorizing accessory dwelling units where appropriate.
- C) Ensuring small square footage residential unit sizes are allowed.
- D) Regulating residential units rented on a short-term basis (30 or fewer days).

To achieve the strategies listed above, the consultant team prepared two documents. Attachment 1 contains applicable municipal code sections showing all proposed additions in [blue underlined text](#) and subtractions in [blue strikeout text](#). Attachment 2 is shows a draft policy specifically to address the creation of an Affordable Housing Expedited Review Policy.

The code edits are based on ample community input received throughout the project, as well as consultant team review of past Town documents, plans, studies, and discussions. While drafting these edits and the policy, the consultant team found it important to:

- Regulate what is most important at this time, keeping in mind that the regulations can always be amended.
- Keep the regulations simple to ensure they can be easily understood by the general public, consistently interpreted and enforced by the Town without large expenditures of time or money, and more likely to be accepted by the community.

This first draft of code edits is intended to help jumpstart the process of adopting code changes. The Town will need to go through its standard procedures to amend the municipal code, including legal review by the Town Attorney. Keep in mind that land use regulations are complicated, and one change can affect more than intended. If the Town wants to significantly alter what is proposed, the consultant team highly recommends hiring an expert in land use codes.

See the next page for a quick overview of the proposed/revised code language. Footnotes are included in the attachments with more specific explanations.

Attachment 1

A) The creation of an expedited development review process.

- See Attachment 2 for a recommended Affordable Housing Expedited Review Policy. This is included as a policy, rather than edits to the Municipal Code to make it easier to amend as needed.
- The language in the policy is aimed at satisfying the requirements in [Proposition 123](#), which creates the Statewide Affordable Housing Fund. To qualify for these funds, the Town must first opt in (which has been completed) and then adopt an expedited review process. DOLA has not yet published detailed guidance as to what must be adopted to meet the requirement, so the proposed policy is written to be a bit more inclusive than what appears to be required. Keep in touch with DOLA to get the most up-to-date information about compliance with Proposition 123 fast-track review requirements.

B) Authorizing accessory dwelling units (ADUs) where appropriate.

- This has been a topic of discussion in the Town for a while and is identified as the Town's second priority in the Housing Action Plan.
- Proposed edits to the municipal code would allow one ADU to every detached single-family dwelling, no matter the zoning.
- A few additional regulations are proposed to help maintain community character and support locals, like a size limit of 800 square feet and the requirement to provide 1 off-street parking spot. There are a lot of other ways to regulate ADUs, but the proposed revisions were purposefully kept simple. Additional regulations can be added later if any major issues arise.
- The Town could restrict the rental of ADUs on a short-term basis but this is not recommended with the STR regulations as proposed. If the Town would like to prohibit the use of ADUs as STRs, add a sentence to the AUD regulations stating, "a minimum of a 90-day rental period shall be required by written lease."
- Keep in mind that changing the code to allow for ADUs legalizes their construction. While this opens up the possibility for numerous ADUs to be built in town, it is unlikely many will be built each year. Building ADUs is not cheap or easy so new ADUs will likely be added to the community slowly over time.
- Water/sewer tap fees and monthly utility bills for ADUs are approached by municipalities in various ways. The consultant team included a suggestion in the proposed edits that focuses on housing affordability and simplicity. The Town will need to adopt what works best at this time given the water tap moratorium, but revisit this topic before the moratorium is lifted in case adjustments need to be made.
 - ADUs help provide housing for the community and the Town can incentivize their construction by reducing tap fee costs. Many communities waive tap fees or charge a small percentage of the tap fees for ADUs.
 - The Town could also consider charging reduced monthly utility fees for ADUs (e.g., this could be a percent of current fees), or even better, set up a fee schedule that is mostly based on water use.

Attachment 1

C) Ensuring small square footage residential unit sizes are allowed.

- Currently, the municipal code does not have many regulations that restrict small square footage residential units so there are not many edits needed to address this strategy.
- The few minor edits proposed include removing the minimum lot coverage requirement in 16-3-30 and reducing the minimum required lot width.
- If the Town desires to take this strategy a step further, here are a few edits that could be considered:
 - Reduce most, if not all, minimum lot area requirements. This allows for smaller lots which then promotes smaller units.
 - Simplify setbacks – do not require larger setbacks for different road types, simply establish a front, side, and rear yard setback for each district. Consider reducing some of the setbacks.
 - Reduce the minimum landscaped open space requirement from 30% to 10% in R-2 and R-3.
 - Ensure that the Town allows for off-site built residential units or portions thereof if they meet the Town’s code, DOLA’s Division of Housing’s adopted code, and/or HUD code. This recommendation is included in the Housing Action Plan, Land Use Regulations Review section, including cleaning up the multiple definitions for related terms throughout the current code and allowing for tiny houses and tiny homes as regulated by DOLA’s Division of Housing.

D) Regulating residential units rented on a short-term basis (30 or fewer days).

- This has been a topic of discussion in the Town for some time and is identified as the Town’s top priority in the Housing Action Plan.
- Proposed edits are to allow STRs in all zones but place a cap on the total number of STRs allowed in town through requiring a license. If the number of STR licenses is capped at about what exists today, about 30, this will stop the creation of new STRs and provide the Town with useful information about the existing inventory. Placing a cap on the total allowed will tend to discourage outside investment in properties for STR purposes.
- Other items proposed to be regulated were those found to be important to maintain community character and support locals. For example, STR licenses should be non-transferable so if a property sells, the license does not go with it. The new owner would need to apply for a license once they own the property.
- Throughout the project the consultant team heard a few people interested in only allowing locals to have STRs. There are a few ways communities are trying to do this, including requiring that the STR be a primary residence or requiring an owner to prove their primary residence is within the Town. Regulations of this type are being challenged legally and are time consuming and difficult to enforce. The consultant team does not recommend attempting to only allow locals to have STRs at this time as it would likely take a lot more effort without much benefit, and legal challenges could arise.
- While the Town may be able to add a tax to STRs, the consultant team recommends first adopting regulations that cap the total number in Town. Adding a tax or regulatory fee is complicated and will take time. The consultant team recommends that this only be considered following the adoption of short-term rental regulations.

Chapter 6

BUSINESS LICENSE REGULATIONS

ARTICLE 5. SHORT-TERM RENTAL LICENSES¹

Sec. 6-5-10. – License required.

- (a) Any person who rents out a dwelling unit or portion thereof on a short-term basis (30 or fewer days) within the Town shall be required to obtain a short-term rental license for each short-term rental listing.
- (b) The total number of short-term rental licenses in the Town shall be limited to thirty (30) at any one time. This limit includes the total of all full dwelling units and any portions thereof.
- (c) Licenses shall be issued for a period of two (2) years and subject to renewal every two (2) years.
- (d) Licenses are nontransferable.
- (e) The Town Administrator is hereby designated as the entity responsible for processing procedures and reviewing licenses for compliance with Town ordinances and regulations. The Town Administrator shall make reasonable rules and regulations in conformity with this Article for the proper administration and enforcement of short-term rental licenses.
- (f) Such license and its corresponding number shall be prominently displayed in all advertising of the short-term rental.
- (g) Applicable sales and lodging tax shall be submitted by the licensee.

Sec. 6-5-20. – License fees.

- (a) The fee for application, licenses, and renewals shall be enacted by resolution of the Town Board and shall be based on the cost incurred by the Town in the administration and enforcement of the regulations in 16-10-10².
- (b) In addition to the above fees, the applicant/licensee shall reimburse the Town for all out-of-pocket costs incurred during review of the application, or license, including legal fees, consultant fees, postage, notice and publishing costs. The Town shall bill the applicant/licensee upon completion of the application or review process and completion of any conditions thereof. No application or license shall be finally approved until the bill is paid. Each bill shall be overdue thirty (30) days after its date. Bills not paid by the due date shall accrue interest at the rate of one and one-half percent per month or part thereof. Such fees may be certified to the County Treasurer for collection as delinquent charges or collected in any other lawful manner.

Sec. 6-5-30. – Revocation of license.

- (a) The Town Administrator may revoke or suspend a short-term rental license upon finding of the following:
 - (1) A holder of a short-term rental license is in violation of the Town Municipal Code;
 - (2) There have been two (2) or more violations of the Town Municipal Code, at the short-term rental; or
 - (3) The holder of the short-term rental license has failed to remit sales and/or lodging taxes.

¹ This is a new article proposed to be added to Chapter 6. It is proposed to be added as a new Article 5, but please change the article number to what is best for the code.

² Reference is to the new short-term rental regulations in Chapter 16. Update if the section number changes.

(b) In the event a licensee wishes to challenge the revocation or a suspension of a license by the Town Administrator, they can request, in writing, a public hearing before the Town Board³ within thirty (30) days of the license being revoked or suspended.

(c) No license shall be issued to any property owner for whom a license has been revoked, until at least one (1) year has elapsed since revocation.

Chapter 16

ZONING⁴

ARTICLE 1. GENERAL PROVISIONS

Sec. 16-1-10. Short title.

This Chapter shall be known as and may be cited and referred to as the "Paonia Zoning Code."
(Ord. No. 83-116, Art. II, 1983; Ord. No. 2000-02, Art. II, 2000; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 16-1-20. Purpose.

This Chapter shall be based upon the Comprehensive Plan of the Town and is intended to alleviate congestion in the streets; to secure safety from fire, panic, floodwaters and other dangers; to promote health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements. This Chapter is drawn with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate uses of land throughout the Town.

(Ord. No. 83-116, Art. I, 1983; Ord. No. 2000-02, Art. I, 2000; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 16-1-30. Authority.

- (a) The Board of Trustees shall have the authority as set forth in Section 31-4-101, C.R.S.
- (b) The Planning Commission, as established in Chapter 2 of this Code, shall prepare a master plan for the development of the Town and, in the preparation thereof, shall make careful and comprehensive surveys and studies of present conditions and future growth of the Town with due regard to its relation to neighboring territory. The plans shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the Town and its environs, which will in accordance with present and future needs best promote health, safety, morals, order, convenience, prosperity and general welfare, as well as efficiency and economy in the process of development, including among other things adequate provision for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of healthful and convenient distribution of population, the

³ [Be sure this follows an established Town procedure.](#)

⁴ [This Chapter 16 Zoning language was downloaded from MuniCode in September 2023. Many ordinances had not been codified at that time.](#)

promotion of good civic design and arrangement, wise and efficient expenditure of public funds and the adequate provision of public utilities and other public requirements.

(Ord. No. 2000-02, Art. I, 2000; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 16-1-40. Interpretation.

In their application and interpretation, the provisions of this Chapter shall be held to be minimum requirements. This Chapter is not intended to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws or with existing provisions of private agreements, except that where this Chapter imposes greater restriction than that imposed by such existing provisions of law, contract or deed, the provisions of this Chapter shall control.

(Ord. No. 2000-02, Art. XXIII, 2000; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 16-1-50. Incorporation of map.

The location and boundaries of the zone districts established by this Chapter are shown upon the "Zone District Map of the Town of Paonia," which is hereby incorporated into this Chapter. Said zoning map, together with all data shown thereon and all amendments thereto, is by reference hereby made a part of this Chapter. The Zone District Map shall be identified by signature of the Mayor, attested by the Town Clerk and bear the seal of the Town and the date of the adoption. Changes in the boundary of any zone district shall be made only upon amendment to the Zoning Ordinance and shall promptly be entered on the Zone District Map with an entry on the map giving the number of the amending ordinance, the date and the signature of the Mayor and attested by the Town Clerk. The Zone District Map shall be located in the office of the Town Clerk.

(Ord. No. 83-116, Art. III, 1983; Ord. No. 2000-02, Art. III, 2000; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 16-1-60. Zone district boundaries.

Except where otherwise indicated, zone district boundaries shall follow municipal corporation limits, section lines, lot lines or right-of-way lines, centerlines of streets or extensions thereof. In property that is not subdivided or where a zone district boundary divides a lot or parcel, the scale of the Zone District Map, unless indicated by dimension, shall determine the location of such boundary. Where a zone district boundary coincides with a right-of-way line and said right-of-way is abandoned, the zone district boundary shall then follow the centerline of the former right-of-way. Land not part of a public railroad or utility right-of-way which is not indicated as being in any zone district shall be considered to be included in the most restricted adjacent zone district even when such district is separated from the land in question by a public railroad or utility right-of-way.

(Ord. No. 83-116, Art. IV, 1983; Ord. No. 2000-02, Art. IV, 2000; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 16-1-70. Zoning of annexed territory.

All territory annexed to the Town shall be zoned according to district classifications of this Chapter. Such classification shall be determined by the Board of Trustees after a recommendation by the Planning Commission. The proposed zoning shall be established in accordance with applicable state statutes.

(Ord. No. 83-116, Art. V, 1983; Ord. No. 2000-02, Art. V, 2000; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 16-1-80. Application of regulation.

Except as hereinafter provided:

- (1) No building or structure shall be erected, any existing building or structure moved, altered or extended, or any land, building or structure be used, designed to be used or intended to be used for any purpose or in any manner, other than as provided for among the uses hereinafter listed in the district regulation for the district in which such land, building or structure is located.
- (2) No building or structure shall be erected, any existing building or structure be moved, altered or extended, or any open space surrounding any building or structure be encroached upon or reduced in any manner, except in conformity with the setback, building site area, building location and height provision hereinafter provided in the regulations for the district in which such building structure or open space is located.
- (3) No lot area, yard, frontage, open space or parking provided about any building for the purpose of complying with provisions of this Chapter shall be considered as meeting the requirements for lot area, yard, frontage, open space or parking for any other building on any other lot unless approved as a PUD or as specifically permitted in the zoning district.

(Ord. No. 83-116, Art. VI, 1983; Ord. No. 2000-02, Art. VI, 2000; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 16-1-90. Rules of construction.

- (a) The word *lot* includes plot/parcel.
- (b) The phrase *used for* shall be construed to include arranged for, designed for, maintained for and occupied for.
- (c) Words used in the singular number include the plural, and words in the plural include the singular, unless the context clearly indicates the contrary.
- (d) The word *shall* is always mandatory. The word *may* is permissive.

(Ord. No. 83-116, Art. VII, 1983; Ord. No. 2000-02, Art. VII, 2000; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 16-1-100. Definitions.

For purposes of this Chapter, the following terms shall have the meanings ascribed to them as follows:

Accessory building, structure or use means a building, structure or use located on the same lot as the principal building, structure or use, which is clearly incidental to and subordinate to and customarily found in connection with the principal building structure or use. ~~Accessory buildings, structures or uses shall not be used for living or sleeping quarters. This definition excludes accessory dwelling units.~~

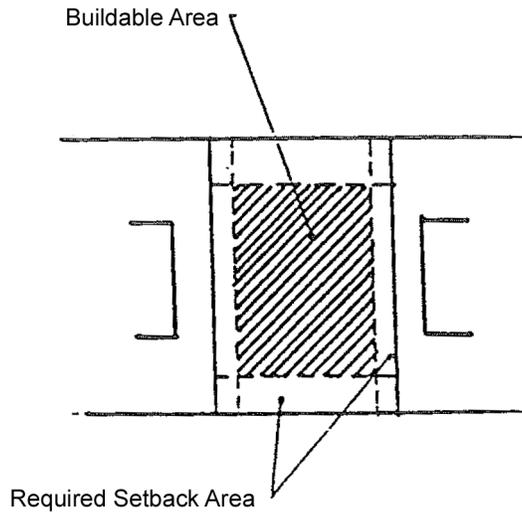
Accessory dwelling unit (ADU) means a dwelling unit located on the same lot as the principal dwelling unit that is clearly incidental to and subordinate to the principal dwelling unit, it can be free-standing, attached, or within the principal dwelling unit.

Alley means a public right-of-way within a block upon which the rear of building lots generally abut. Its use is intended for secondary access to a lot for service purposes and not intended for general travel.

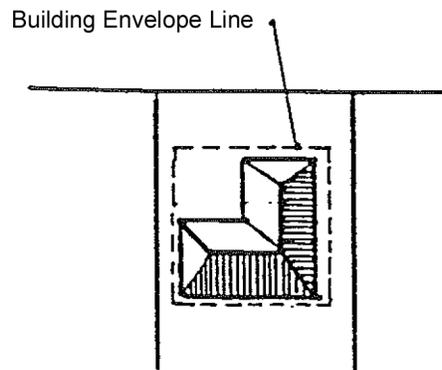
Bed and breakfast establishment means a facility of residential character, which provides sleeping accommodations for hire for two (2) weeks or less, on a day-to-day basis, with one (1) or more meals per day included and a manager residing on the premises.

Boarding or roominghouse means a building other than a hotel, cafe or restaurant where, for compensation, lodging and/or meals are provided for three (3) or more boarders and/or roomers exclusive of the occupant's family. In such facilities, the length of stay is normally thirty (30) days or more.

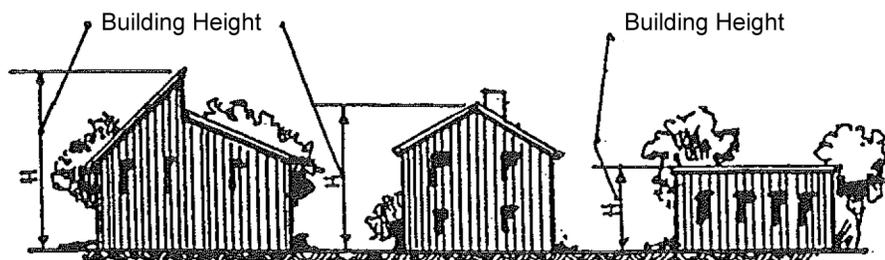
Buildable area means the portion of a lot, parcel or tract of land excluding all required yard area where a building could be located in accordance with provisions of this Chapter.



Building envelope means the two-dimensional space within which a building is proposed to be located on a lot, parcel or tract of land.



Building height means the vertical distance measured from the average finished grade at the setback lines to the highest point of the roof surface exclusive of chimneys, ventilators, pipes and similar apparatus.



Developable lot area means the total area of a lot, tract or parcel less that portion of the lot, tract or parcel that is located in an area with a high flood hazard and is in the floodway as defined by the Federal Emergency Management Agency (FEMA), and less those portions with slopes in excess of twenty-five percent (25%).

Dwelling, multiple-family means a single building used by three (3) or more families living independently of each other in separate dwelling units but does not include motels, hotels, boarding houses or tourist homes.

Dwelling, single-family means a detached building used as a dwelling exclusively by one (1) family as an independent living unit. A single-family dwelling does not include a mobile home. See Section 16-2-30 of this Chapter.

Dwelling, two-family means a single building containing two (2) dwelling units and occupied by two (2) families living independently of each other.

Dwelling unit means [a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.⁵ ~~one \(1\) room, or rooms connected together constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease on a monthly or longer basis. The dwelling unit shall be physically separated from any other rooms or dwelling units that may be in the same structure and served by no more than one \(1\) gas meter, one \(1\) electric meter and one \(1\) water meter and sewer tap.~~](#)

Family means any individual, two (2) or more persons related by blood or marriage or between whom there is a legally recognized relationship, or a group of not more than three (3) unrelated persons occupying the same dwelling unit.

Floor area means the gross area of the building measured along the outside walls of the building, including each habitable floor level and interior balconies but excluding interior courtyards, garages and enclosed parking areas and mechanical areas and one-half (½) of the area used exclusively for storage.

Formula business means a business which is required by contractual or other arrangement to maintain one or more of the following items: standardized ("formula") array of services and/or merchandise, trademarks, logos, servicemarks, symbols, decor, architecture, layout, uniforms, or similar standardized features and which causes it to be substantially identical to more than five other businesses regardless of ownership or location. Formula businesses can include, but are not limited to restaurants, retail stores, banks, real estate sales offices, spas, hair and nail salons, and hotel/motel/inn/B&B.

Group homes and homes for the developmentally disabled means those facilities licensed by the State which serve not more than eight (8) developmentally disabled persons. Developmentally disabled persons means to include, but is not limited to, those persons having cerebral palsy, multiple sclerosis, mental retardation, autism and epilepsy.

Home occupation means a business or profession that is conducted within a dwelling unit, an enclosed garage or accessory building and is in conformance with the provision of Section 16-11-20 of this Chapter.

Lot means a parcel of land occupied or intended to be occupied by a building or use and its accessories, and arranged to meet all the requirements of this Chapter and have at least twenty-five (25) feet of frontage on a public street.

Lot, corner means a lot abutting two (2) or more streets at their intersection.

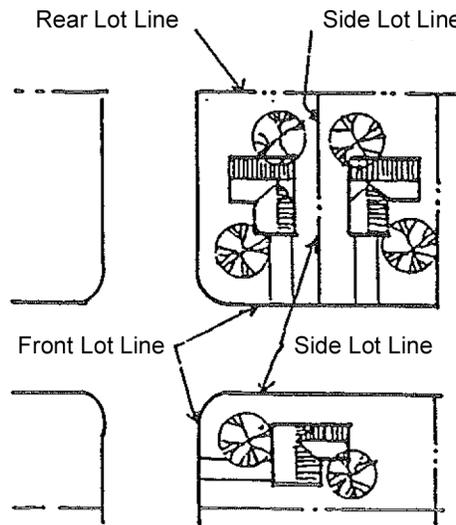
Lot, double-frontage means a lot which is located between two (2) parallel streets so that the front lot line and the rear lot line abut a street.

Lot line, front means the property line dividing a lot from the right-of-way of a street. On a corner lot, the shorter street right-of-way line shall be considered the front lot line.

⁵ [Updated the definition of "dwelling unit" to match the building code. This will also help clarify rules for STRs.](#)

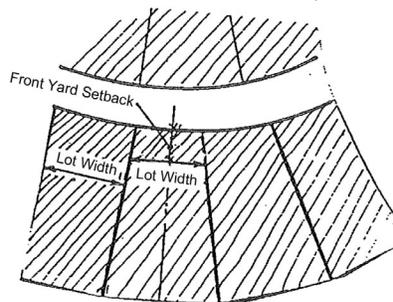
Lot line, rear means the property line opposite the front lot line.

Lot line, side means any lot line other than a front or rear lot line.



Lot width. The lot width shall be determined as follows:

- a. If the side lot lines are parallel, the lot width is the perpendicular distance between the side lot lines;
- b. If the side lot lines are not parallel, the lot width shall be the length of the line measured at right angles to the line or axis connecting the midpoints of the front lot line and the rear lot line. The length of the line shall be measured at the point equal to the front yard setback for the zoning district in which the lot is located.



Manufactured building means a building that is (1) mass produced in a factory, (2) designed and constructed for transportation to a site for installation and use when connected to required utilities and (3) is either an independent individual building or module for construction with other elements to form a building on the site. The term manufactured is synonymous with the term modular.

Manufactured home means a single-family dwelling which is partially or entirely manufactured in a factory and is not less than twenty-four (24) feet in width and thirty-six (36) feet in length. It is installed on a manufactured, designed or engineered permanent foundation, has brick, wood or cosmetically equivalent exterior siding and a three-twelfths ($\frac{3}{12}$) or more pitched roof of asphalt shingle, Pro-panel or cosmetically equivalent material. It is certified pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C., § 5401, et seq., as amended, and is built for the State climate and snow loads according to the

Department of Housing and Urban Development standards established under the provisions of 42 U.S.C., § 5401, et seq., called HUD. (See Article 8)

Manufactured housing unit means a manufactured building or portion of a building designed for long-term residential use. A manufactured housing unit must be built to one (1) of two (2) building codes: the Building Code adopted by the Town or the U.S. Department of Housing and Urban Development Code called HUD.

Mobile home means any wheeled vehicle exceeding eight (8) feet in width or thirty-two (32) feet in length, including towing gear and bumpers, without motor power, built on a permanent chassis designed for long-term residential occupancy or temporary office use, containing complete electrical, plumbing and sanitary facilities and designed to be installed in a permanent or semi-permanent manner without a permanent foundation, and is capable of being drawn over public highways by a motor vehicle. Factory-built homes and manufactured homes shall not be considered mobile homes. The term mobile home shall not include travel trailers, recreational vehicles, campers, self-contained motor homes or camper buses. (See Article 8)

Mobile home or camper sales lot means a plot of land that is used primarily for the sale of mobile homes or campers. Such uses are permitted only in commercially zoned areas and not as part of mobile home parks or subdivisions. This definition does not apply to any mobile home which is being sold by the person actually residing in the unit.

Mobile home park or community means any park, trailer park, trailer court, camp site, lot, parcel or tract of land designed, maintained or intended for the purpose of supplying a rental location or accommodation for any mobile home to be parked, and includes all buildings used or intended for use as part of the equipment where a charge is made. *Mobile home park or community* may include mobile homes which are parked, like a "spec" home for purposes of inspection, for sale or rental within the park.

Mobile home space means a plot of ground within a mobile home park designated for the accommodation of one (1) mobile home and its accessory structures.

Mobile home subdivision means a parcel of land subdivided into lots, each lot individually owned and utilized as the site for placement of single-family mobile homes or manufactured homes. Such a subdivision shall not be included in the definition of a mobile home park.

Neighborhood commercial uses means commercial or business uses that are low intensity of use, have minimal traffic generation and offer convenient shopping for residential areas. Neighborhood commercial uses may include small food stores, artist studios, antique or gift shops, specialty shops and other similar type uses. The maximum floor area for a neighborhood commercial use shall be two thousand (2,000) square feet.

Neighborhood convenience centers means small combinations of neighborhood commercial uses located near residential areas, possibly as a part of a PUD, that offer convenience goods or services. Neighborhood convenience centers should be compatible in scale and materials with surrounding residential areas. The maximum floor area for a *neighborhood convenience center* should be ten thousand (10,000) square feet, with no single neighborhood commercial use with a floor area greater than two thousand (2,000) square feet.

Nonconforming building means a building that was legally constructed prior to the effective date of the initial ordinance codified herein which does not comply with the height, floor area, lot coverage or other provisions of this Chapter.

Nonconforming lot means a legally recorded lot which at the time it was recorded fully complied with all applicable laws and ordinances but which does not fully comply with the lot requirements of this Chapter concerning minimum area, minimum lot width or minimum frontage upon a public street.

Nonconforming use means a use of land that was legally established prior to the effective date of the initial ordinance codified herein which is not in conformance with the use regulations of this Chapter, including the land use, minimum lot area per dwelling unit, off-street parking requirements or open space requirements.

Open space means land retained in an open or unimproved condition, except for agricultural, for the placement of landscape materials, including trees, shrubs, grasses, structures limited to footpaths and bridges, irrigation structures, erosion-protection devices and underground utilities, or improved for park use as defined herein. Ownership of such land may be private with an easement or reservation for open space use by deed restriction. It may be deeded or reserved to a property owner's association, or it may be dedicated to the public. Designation of an open space does not imply the provision of access by the public.

Open space, landscaped means a lot, tract or parcel of land that has been improved by the preservation, rearrangement, installation or planting of different trees, shrubs, grass and decorative materials. Decorative materials means materials which augment and enhance the botanical landscaping, including rocks, gravel, driftwood, bark, ponds, fountains, walls or other landscape design features approved by the Town. Such land may be used for plazas, walkways, arcades and pedestrian areas.

Planned Unit Development (PUD) means an area of land, controlled by one (1) or more landowners, to be developed under the unified control or unified plan of development for residential, commercial, educational, recreational or industrial uses or any combination of the foregoing. A *PUD* is a project designed to provide variety and diversity by allowing greater flexibility than would ordinarily be achieved by strict application of the zoning and subdivision standards. *PUDs* are permitted in all zoning districts and allow density averaging over the entire parcel. A *PUD* may include a combination of different dwelling types, grouping of dwelling units into clusters or a variety of land uses which complement each other and harmonize with existing and proposed land uses in the vicinity.

Principal building or principal use means the main or primary purpose for which a building or parcel of land is designed, arranged or intended, or for which it may be occupied or maintained under this Chapter.

Public building or public use means any building or use open to general use, participation or enjoyment of the public and owned by the Town, County, State or federal government or by a public utility corporation. All public buildings shall conform to the Americans with Disabilities Act.

~~*Rooming unit means a room providing minimum housing accommodations for a roomer, arranged primarily for sleeping and/or study, and which may include a private bath but shall not include a separate kitchen.*~~⁶

School means any building used for educational purposes through the 12th grade by more than ten (10) persons or by ten (10) or fewer persons for more than twelve (12) hours per week or more than four (4) hours in any one (1) day.

Setbacks are measured from the front yard, side yard and rear property lines. Front setbacks are to be measured from the front edge of any porch or wall of a structure excluding an eave with a maximum of a twenty-four-inch projection into the setback area. Rear setbacks are measured from the front edge of any porch or wall of a structure excluding an eave with a maximum of a twenty-four-inch projection into the setback area. Side yard setbacks are measured from the vertical plane of the foundation wall with a maximum of a twenty-four-inch eave projection into the setback area.

~~*Short-term rental means the rental of all or a portion of a dwelling unit for 30 or fewer days. This definition excludes motels, hotels, lodging facilities, rooming houses and bed and breakfasts.*~~

Special review use means a use that is permitted within a zoning district only with the prior review by the Planning Commission and approval by the Board of Trustees in accordance with procedures and requirements stated in Article 4 of this Chapter.

Street means a right-of-way reserved for public or private use which provides vehicular and pedestrian access to adjacent properties, including the designations of road, highway, thoroughfare, avenue, lane, boulevard or alley. Streets shall be further classified as set forth below.

⁶ The term "rooming unit" is not used the code, so it does not need to be defined. It could cause confusion around any new STR regulations.

Street, arterial means a street whose primary function is to facilitate the flow of traffic through the Town. Limited access is provided to adjoining properties. Arterial streets are designed to accommodate higher volumes of traffic than collector or local streets. Arterial streets may be further classified as major arterial and minor arterial, depending on the potential volume of traffic and local conditions.

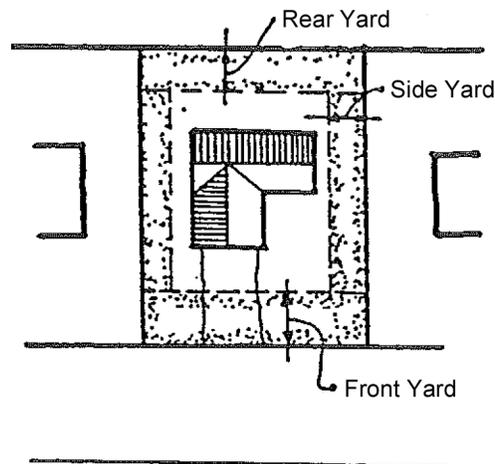
Street, collector means a street with moderate traffic volumes that provide access to residential and commercial areas and to channel traffic from the local streets to the arterial streets. *Collector streets* may be further classified as major collectors and minor collectors depending on the potential volume of traffic and local conditions.

Street, local means a street with low traffic volumes that is intended to provide direct access to adjacent residential or commercial lots.

Structure means anything constructed or erected with a fixed location on the ground above grade.

Travel trailer, camper or recreational vehicle means a portable structure, mounted on wheels and drawn by a stock passenger automobile or designed to be loaded onto or affixed to the bed or chassis of a truck, or portable structure mounted on wheels and constructed with collapsible partial side walls of fabric, plastic or other pliable material which fold for towing by another vehicle and unfold at the campsite to provide for temporary living quarters for recreational camping or travel use. The term travel trailer shall include the units designated as campers, pop-ups, motor homes, camper buses or recreational vehicles.

Yard area, required means the open space area that is not occupied by a principal building with a depth or distance from a property line specified by the setback regulations for the district in which the lot is located.



(Ord. No. 83-116, Art. VIII, 1983; Ord. No. 2000-02, Art. VIII, 2000; Ord. No. 2003-07, § 1, 2003; Ord. No. 2004-01, § 1, 2004; Ord. No. 2014-04, § 1, 1-13-2015; Ord. No. 2019-10, § 2, 8-13-2019)

Sec. 16-1-110. Severability.

If a provision of this Chapter is invalidated by decision of a court of competent jurisdiction, it is hereby declared to be the legislative intent that the effect of the decision shall be limited to the provision which is expressly stated in the decision to be invalid, and the decision shall not affect, impair or nullify this Chapter in its entirety.

(Ord. No. 2000-02, Art. XXVI, 2000; Ord. No. 2014-04, § 1, 1-13-2015)

ARTICLE 2. ZONING DISTRICTS

[no changes proposed]

ARTICLE 3. DISTRICT REGULATIONS

Sec. 16-3-10. Schedules of uses and requirements.

To facilitate public understanding of this Chapter and for convenient reference and use, the following schedules are provided for all districts. These schedules are a part of this Chapter and may be amended as with any other part of this Chapter.

(1) *Schedule of Uses.* The schedule of uses indicates, by district, those uses that are:

- P - Permitted by right
- S - Permitted by special review
- X - Prohibited

Any use that is not specifically permitted shall be deemed to be excluded. If a question arises as to whether a specific use does not fall within the expressed use categories, any person may apply to the Planning Commission for a determination as to whether a specific use is permitted.

(2) *Schedule of Requirements.* The schedule of requirements includes minimum lot areas, setback, density and open space requirements for each residential and commercial zone. Additional requirements are listed for uses permitted by special review.

(Ord. No. 83-116, Art. X, 1983; Ord. No. 2000-02, Art. X, 2000; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 16-3-20. Schedule of uses, residential districts.

**Table 16-1
Schedule of Uses - Residential Districts**

Use	R-1 District	R-2 District	R-3 District	E-1 District	MH District
Single-family dwellings	P	P	P	P	P
Two-family dwellings	X	P	P	S	X
Multiple-family dwellings, apartments/townhouses not exceeding 6 units per lot	X	S	P	X	X
<u>Accessory dwelling unit</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Multiple-family dwellings, apartments/townhouses in excess of 6 units per lot	X	X	S	X	X
Mobile home parks	X	X	X	X	S 1

Mobile home subdivisions	X	X	X	X	P
Parks and recreation areas	P	P	P	P	P
Private schools	S	S	S	S	X
Public or governmental uses	S	S	S	S	X
Group homes for the developmentally disabled	S	S	S	S	S
Churches	S	S	S	S	S
Nursing homes/assisted living apartments	X	S	S	X	X
Rooming houses/bed and breakfasts	X	S	S	S	X
Professional offices 2	X	S	S	X	S
Neighborhood convenience centers 3	S	S	S	S	S
Antenna structures (towers)	S	S	S	S	S
Horses, barns and pastures	X	X	X	P	X
Mobile homes (single unit)	X	X	X	X	P
Neighborhood commercial uses 4	X	X	X	X	P

P – Permit by right

S – Permit by special review

X – Prohibited use

¹ See Article 8 of this Chapter.

² Professional offices as home occupations are permitted in all districts, subject to provisions in Section 16-11-20 of this Chapter.

³ Neighborhood commercial uses may include small food stores, specialty shops, gift, antique shops or similar type uses. Maximum floor area shall be 2,000 square feet total.

⁴ Neighborhood convenience center shall have a maximum total floor area of 10,000 square feet and no single business with a greater total floor area than 2,000 square feet.

(Ord. No. 2000-02, Art. X, 2000; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 16-3-30. Schedule of requirements, residential districts.

**Table 16-2
Schedule of Requirements¹- Residential Districts**

Minimum Lot Area Requirements	R-1 District		R-2 District		R-3 District		E-1 District		MH District	
	Dwelling units	Min. lot area (sq. ft.)	Dwelling units	Min. lot area (sq. ft.)	Dwelling units	Min. lot area (sq. ft.)	Dwelling units	Min. lot area (sq. ft.)	Dwelling units	Min. lot area (sq. ft.)

Residential uses permitted by right	1	6,000	1	6,000	1	6,000	1	3 acres	1	5,000
			2	8,000	2	6,000	2		N/A	N/A
					3	8,000				
					4	10,000				
					5	12,500				
					6	15,000				
Residential uses permitted by special review			3	12,000	Over 6 units	15,000 sq. ft.				
			4	16,000		+				
			5	20,000		2,500 sq. ft.				
			6	24,000		for each unit over 6				

Yard Requirements ²	R-1 District	R-2 District	R-3 District	E-1 District	MH District
All yard areas adjacent to an arterial street major and minor	50 ft.	35 ft.	35 ft.	75 ft.	50 ft.
Front yard setback					
Collector (major and minor)	25 ft.	25 ft.	25 ft.	50 ft.	25 ft.
Local	20 ft.	20 ft.	20 ft.	35 ft.	20 ft.
Side yard	6 ft.	6 ft.	10 ft. ³	20 ft.	6 ft.
Rear yard	10 ft.	10 ft.	20 ft.	20 ft.	15 ft.
Minimum lot width ²	2550 ft.	2550 ft.	2550 ft.	200 ft.	2550 ft.

² Reducing minimum lot widths can help allow for smaller dwelling units like townhouses.

Minimum landscaped open space (% of lot area)	-	20%	20%	30%	-
Minimum lot coverage⁸	30%	30%	30%	20%	50%
Maximum building height	25 ft.	25 ft.	35 ft.	30 ft.	25 ft.

¹ See also the following provisions: 16-3-40 to 16-3-60 pertaining to average lot areas, side yard setback variation and front yard variation.

² ~~See supplementary requirements in Section 16-10-60.~~⁹

³ When a building is 3 stories, a 15-foot setback is required.

(Ord. No. 2000-02, Art. X, 2000; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 16-3-40. Average lot area.

- (a) When a group of ten (10) or more single-family dwellings are proposed for development as a unit, the minimum lot area may be varied in order to achieve flexibility and creativity in design. However, in no case shall:
 - (1) The lot area be less than four thousand five hundred (4,500) square feet;
 - (2) The average lot size for the unit be less than six thousand (6,000) square feet; and
 - (3) More than twenty percent (20%) of the lots be less than six thousand (6,000) square feet.
- (b) When such development procedures are followed, the Town-approved subdivision plat must be on record in the County Clerk and Recorder's office.

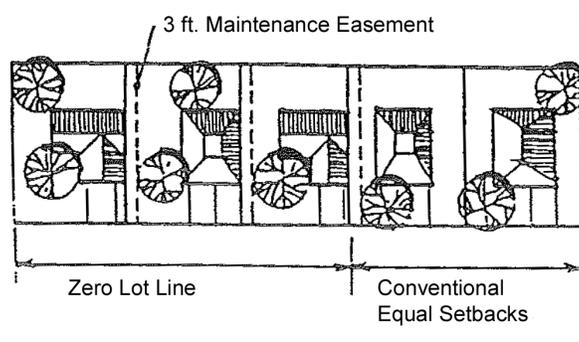
(Ord. No. 2000-02, Art. X, 2000; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 16-3-50. Side yard setback variation.

When a group or cluster of three (3) or more single-family dwellings are proposed for development as a unit, the side yard requirement may be reduced subject to the approval of the Town Administrator. However, the minimum spacing between two (2) structures shall not be less than twelve (12) feet. In the case of zero-lot-line developments, permitted by this provision, a minimum of a three-foot-wide maintenance easement shall be provided on the property adjacent to the wall that is placed along the side lot line.

⁸ ~~Remove minimum lot coverage requirements as they can exclude smaller dwelling units.~~

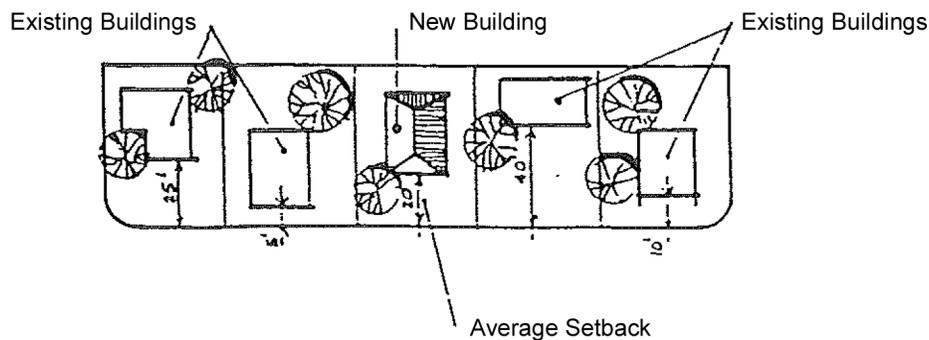
⁹ ~~This section has been removed so a cross reference to it is confusing.~~



(Ord. No. 2000-02, Art. X, 2000; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 16-3-60. Front yard variation.

In areas established and predominantly built out prior to the effective date of the initial ordinance codified herein, the front yard setback shall be equal to the average setbacks for the other buildings on the same block or a maximum of that required by the new regulation as herein provided.



(Ord. No. 2000-02, Art. X, 2000; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 16-3-70. Schedule of uses, commercial and industrial districts.

**Table 16-3
Schedule of Uses - Commercial and Industrial Districts**

Use	C-1 District	C-2 District	I-1 District	I-2 District
Auto sales and service repair	X	S	S	P
Automobile wrecking yards	X	X	X	S
Scrap processing when yard is enclosed by 6-foot screening of wall.				

	(No junk allowed outside of screening)				
Banking, savings and loan	P	P	X	X	
Bulk large storage of flammable liquid gas facilities	X	X	X	S	
500 gallons and under	S	S	S	S	
Campgrounds, recreational vehicle parks	X	S	X	S	
Child care	P	P	S	X	
Churches	S	S	X	X	
Commercial recreational including pool halls, bowling alleys, skating rinks and golf courses	S	S	S	X	
Dental or medical clinics	P	P	S	X	
Drive-up windows for banks, businesses and restaurants	S	S	S	X	
Dwelling units as a part of a business use ¹⁰	S-P	S-P	S	X	
Dwelling units secondary to the business use	P	P	S	X	
Fabricating/manufacturing industry	S	S	S	P	
Fast food and drive-thru restaurants	S	S	S	X	
Fertilizer storage or manufacturing of	X	X	X	S	
Formula businesses	X	S	S	S	
Fruit/packing	X	X	P	P	
Fruit/produce processing	X	X	S	P	
Gas stations	X	S	S	S	
Grain warehouses	X	X	X	P	
Group homes for the developmentally disabled	S	S	X	X	
Livestock areas or barns	X	X	X	S	
Lumber yards	X	S	S	P	

¹⁰ [Permitting dwelling units as part of a business use is similar to allowing for accessory dwelling units. Rather than the unit being accessory to a residence, it is accessory to a business.](#)

Manufacture and storage of explosives	X	X	X	X
Manufacturing	X	X	S	P
Membership clubs	S	S	S	S
Mining of natural resource material	X	X	X	S
Mobile home sales/service	X	S	S	P
Motels, hotels and lodging facilities (including room houses and bed and breakfasts)	S	P	X	X
Multiple-family dwellings	S	S	X	X
Nursing homes	S	P	P	P
Parking lots	P	P	P	P
Parks and recreation areas	P	P	P	P
Personal services shops, including barber, beauty shops, shoe repair, self-service laundries, travel agencies, etc.	P	P	S	X
Professional and business offices when part of permitted light industry	P	P	S	X
Public and governmental facilities	P	P	S	X
Public or private schools	S	S	S	X
Ready-mix concrete and asphalt plants	X	X	X	P
Restaurants	P	P	S	X
Retail businesses	P	P	S	S
Service and keeping of heavy industrial equipment	X	X	X	P
Small animal clinic	X	S	P	X
Storage sheds (rental spaces)	S	S	S	S
Utilities ²	X	X	S	P
Utility substations ⁸	X	S	S	S
Warehouses	S	S	P	P

Wholesale businesses (factory outlets)	S	S	S	S
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P = Permitted by right

S = Permitted by special review

X = Prohibited

(Ord. No. 2000-02, Art. X, 2000; Ord. No. 2014-04, § 1, 1-13-2015; Ord. No. 2016-06, exh. A. 8-23-2016; Ord. No. 2019-10, § 2, 8-13-2019)

Sec. 16-3-80. Schedule of requirements, commercial and industrial districts.

**Table 16-4
Schedule of Requirements - Commercial and Industrial Districts**

Requirements	C-1 District	C-2 District	I-1 District	I-2 District
Minimum Lot Area				
Nonresidential	2,500 sq. ft.	8,000 sq. ft.	8,000 sq. ft.	10,000 sq. ft.
Residential	6,000 sq. ft. ¹	6,000 sq. ft. ²		
Combined residential/commercial	2,500 sq. ft.	8,000 sq. ft.		
Minimum Lot Width	25 ft.	50 ft.	50 ft.	100 ft.
Maximum Building Height	35 ft.	35 ft.	25 ft. 2	35 ft.
Yard requirements				
All yard areas adjacent to an arterial street	0 ft.	50 ft.	50 ft.	75 ft.
Front yard setback				
arterial	0 ft.	50 ft.	50 ft.	75 ft.
collector	0 ft.	25 ft.	35 ft.	50 ft.
local	0 ft.	25 ft.	25 ft.	50 ft.
Side yard setback	0 ft.	10 ft.	10 ft.	20 ft.
Rear yard setback	20 ft.	20 ft.	20 ft.	30 ft.
Minimum landscaped open space	-	10%	10%	10%

² Unless the building is set back at least 150 feet from adjacent lot of lots in the R-1 or R-2 Districts, and if it is determined that the building will not block the view of adjoining R-1 or R-2 developed properties.

(Ord. No. 2000-02, Art. X, 2000; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 16-3-90. Developing Resource District.

- (a) *Permitted uses.* Uses permitted by right in the Developing Resource District include those existing uses of the land at the time of annexation, including:
- (1) Single-family residence.
 - (2) Raising of crops, grain.
 - (3) Ranching.
 - (4) Other agricultural uses.
- (b) *Rezoning required.* No uses other than those existing at the time of annexation shall be permitted on property zoned DR unless the property is rezoned to a zoning district that permits the proposed use.
- (c) *Uses permitted by special review.* New dwelling units shall be permitted by special review.
- (d) *Park dedication requirements and water rights.* The properties that are annexed and zoned DR, Developing Resource, shall not be subject to requirements for park dedications or cash payment in lieu of dedicating park land or for water rights fees or requirements, except as to secured uses by right or permitted uses by special review, until the property is rezoned, wherein full satisfaction of the requirements of this Chapter shall then be due.

(Ord. No. 2000-02, Art. X, 2000; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 16-3-100. Public District.

- (a) *Permitted uses.* Uses permitted by right in the Public District include the following:
- (1) Park recreational areas dedicated to the Town.
 - (2) Public educational facilities existing at the time of adoption of the initial ordinance codified herein.
 - (3) Public building and facilities existing at the time of the adoption of the initial ordinance codified herein.
- (b) *Uses permitted by special review.*
- (1) New public educational facilities.
 - (2) New public buildings and facilities.

(Ord. No. 2000-02, Art. X, 2000; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 16-3-110. Estate Residential District.

On those properties where livestock and poultry are allowed, the following performance standards shall be observed.

- (1) All manure shall be removed periodically or incorporated into the soil on a regular basis such that the manure does not draw flies or other insects or cause obnoxious odors.
- (2) Adequate overflow drainage on drinking facilities shall be provided to prevent the saturation of soil on adjacent property.
- (3) Spillage and leftovers from livestock feedings must be removed or so disposed of as to prevent fly, bird or rodent propagation or creation of odors.

- (4) Any shed, shelter, pen or enclosure for livestock shall not be closer than one hundred (100) feet to any off-property residence or place of business and shall be set back twenty (20) feet from the side lot line and fifty (50) feet from the front lot line.
- (5) All sheds or other shelter for livestock shall be kept reasonably free of rodents and insects and shall be kept in good repair.
- (6) Adequate drainage facilities or improvements shall be constructed to protect any adjacent rivers, streams or other bodies of water from pollution.
- (7) In subdivided areas, all livestock shall be kept within a fenced area.
- (8) Adherence to the Colorado Confined Animal Feeding Regulations, promulgated by the Colorado Department of Public Health and Environment, Water Quality Control Commission shall be observed.
- (9) The maximum number of allowable livestock per lot does not apply to young animals below the weaning age or six (6) months of age, whichever is less.
- (10) The number of livestock permitted shall be two (2) horses, one (1) cow, one (1) llama, three (3) sheep, or three (3) goats per three (3) acres. There shall be twenty-four (24) poultry total allowed.

(Ord. No. 2000-02, Art. X, 2000; Ord. No. 2014-04, § 1, 1-13-2015)

Secs. 16-3-120, 16-3-130. Reserved.

Sec. 16-3-140. Formula business.

- (1) *Intent.* The purpose of these formula business requirements is to maintain and protect Paonia's historic downtown core as the civic, social and business hub of the community, ensure the vitality and diversity of the Town's commercial districts and enhance the quality of life of residents and visitors.
- (2) *Applicability.* These regulations shall apply to formula businesses as defined in Section 16-3-100 of the Code.
- (3) *Related definitions.* For purposes of this Section, the following definitions apply:
 - (a) *Color scheme* means the selection of colors used throughout the business, such as on the walls, furnishings, permanent fixtures or on the building façade.
 - (b) *Décor* means the interior design and furnishings that may include style of furnishings, shelving, display shelving/racks, wall coverings or other permanent fixtures.
 - (c) *Façade* means the principal exterior face or front of a building, including awnings, overhangs, and porte-cocheres that are oriented towards a street, alley or open space.
 - (d) *Servicemark* means a word, phrase, symbol or design or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of a service of one party from those of others.
 - (e) *Signage* means a sign as detailed Section 18-6-10.
 - (f) *Standardized array of merchandize* means fifty percent (50%) or more of the in-stock merchandise is from a single manufacturer or distributor bearing uniform markings.
 - (g) *Standardized array of services* means a substantially similar set of services or food and beverage menus that are priced, prepared and performed in a consistent manner.
 - (h) *Trademark* means a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs legally registered or established by use that distinguishes the source of the product of one party from those of others.

- (i) *Uniform apparel* means standardized items of clothing, including but not limited to standardized aprons, pants, shirts, vests, smocks or dresses, and hat and pins (other than name tags) with standardized colors and fabrics.
- (4) *Exemptions.* The following formula businesses are exempt from these formula business requirements:
 - (a) Formula businesses in operation prior to the effective date of these regulations.
 - (b) Construction work on a pre-existing, approved or exempt formula business that is required to comply with fire and/or life safety standards.
 - (c) Disability access improvements to a pre-existing, approved or exempt formula business.
- (5) *Formula Business Location Requirements.* Formula retail businesses may be permitted as a Special Review in the C-2, I-1 or I-2 zone district.

Formula businesses that are legally in existence as of the effective date of this Ordinance may remain in their current location as a non-conforming use. The same or substantially similar type of use may be transferrable upon sale or transfer of the commercial space or ownership of the business and/or building.

Formula businesses that are legally in existence as of the effective date of this Ordinance may be renovated and/or expanded up to fifteen percent (15%) of the existing gross floor area or a maximum of one thousand five hundred (1,500) square feet, whichever is less.

- (6) *Compliance with the Code.* Formula business shall comply with all applicable standards of the underlying zone district and the applicable regulations of the Town Code.
- (7) *Formula Business Additional Criteria.* No conditional use permit for a formula business shall be approved unless the following criteria are met:
 - (a) The formula business complements existing businesses and promotes quality, diversity and variety to assure a balanced mix of commercial uses and range of local, regional and national goods and services for residents and visitors.
 - (b) The formula business has submitted plans, drawings, renderings, visual simulations or other examples that illustrate how it will be consistent with the historic nature of the Town of Paonia.
 - (c) The formula business does not include any drive-through facilities.

(Ord. No. 2019-10 , § 3, 8-13-2019)

ARTICLE 4. SPECIAL REVIEW APPLICATION REQUIREMENTS AND PROCEDURES

[no changes proposed]

ARTICLE 5. PLANNED UNIT DEVELOPMENT

[no changes proposed]

ARTICLE 6. OFF-STREET PARKING AND LOADING

Sec. 16-6-10. Off-street parking spaces required.

- (a) The following number of off-street parking spaces shall be provided with the construction, addition or change of use, which requires a special review to any of the buildings, and uses listed in Table 16-5 below.
- (b) Parking spaces shall be at least nine (9) feet by nineteen (19) feet, except that up to twenty-five percent (25%) of the required spaces may be designated for compact cars with a minimum space of eight (8) feet by sixteen (16) feet.
- (c) Table 16-5 below sets forth the parking requirements for uses.

**Table 16-5
Off-Street Parking Space Requirements**

Use	Parking Requirements
Residential units:	
Efficiency or one-bedroom	1.5 spaces per unit
Two-bedroom	2.0 spaces per unit
Three-bedroom	2.5 spaces per unit
Four or more bedrooms	3.0 spaces per unit
Additional requirements for multiple-family residential and mobile home parks with 6 or more units (guest parking)	0.25 space for each unit
Multiple-family housing for the elderly or the handicapped	1.0 space per unit
<u>Accessory dwelling unit, in addition to the requirement for the principal dwelling unit</u>	<u>1.0 space per unit</u>
Educational facilities:	
Preschool nurseries or child care centers, Kindergarten and elementary schools and middle schools	1.0 space per classroom plus 1.0 space per employee
High schools	1.0 space per employee, plus 1.0 space for every 4 students, plus 1.0 space for every 4 seats in the principal place of assembly (bench capacity is determined as 1.0 seat per 30")
Commercial uses:	
Animal hospitals	1.0 space for every 300 sq. ft.
Business and professional offices	1.0 space for every 250 sq. ft. of floor space

Drive-thru or fast food restaurants	1.0 space for every 2 seats or 1.0 space for every 100 sq. ft., whichever is greater, plus 1.0 largest work shift
Furniture and appliance stores	1.0 space for every 500 sq. ft. of floor area
Hospitals	1.0 space for every 2 beds plus 1.0 space for every employee in the largest work shift
Indoor restaurants and bars	1.0 space for every 3 seats or 1.0 space for every 200 sq. ft. of floor area, whichever is greater
Libraries	1.0 space for every 400 sq. ft. of floor area plus 1.0 space for every 2 employees
Medical and dental offices and clinics	1.0 space for every 200 sq. ft. of floor space
Motels, hotels, lodges and bed and breakfasts	1.0 space per unit plus 2.0 spaces for the owner or manager's unit
Motor vehicle sales	1.0 space for every 500 sq. ft.
Motor vehicle service and repair	1.0 space for every 300 sq. ft. of floor area
Nursing homes and rest homes	1.0 space per 4 beds plus 1.0 space for each employee
Retail businesses except for furniture and appliance stores	1.0 space for every 300 sq. ft. of floor area
Wholesale businesses and warehouses	1.0 space for every 1,000 sq. ft. (excluding offices) or 1.0 space for every 2 employees, whichever is greater
Industrial uses	1.0 space for every 500 sq. ft. (excluding offices) or 1.0 space for every 2 employees, whichever is greater
Places of public assembly such as churches, auditoriums, meeting rooms, funeral homes	1.0 space for every four seats or benches in the principal place of assembly (Bench capacity is determined as on seat per 30 inches)

(Ord. No. 83-116, Art. XIII, 1983; Ord. No. 2000-02, Art. XIII, 2000; Ord. No. 2003-08, 2003; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 16-6-20. Combinations of uses.

When one (1) building is planned to include a combination of different uses, the minimum parking required will be determined by applying the above requirements based upon the floor area for each use. The minimum number of parking spaces required for the building shall be the sum of the requirements for each separate use.

(Ord. No. 83-116, Art. XIII, 1983; Ord. No. 2000-02, Art. XIII, 2000; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 16-6-30. Parking requirements for uses not listed.

For specific uses not listed, the Planning Commission shall determine the appropriate number of parking spaces required based upon the type of activity, intensity, number of employees and similarity to listed uses.

(Ord. No. 83-116, Art. XIII, 1983; Ord. No. 2000-02, Art. XIII, 2000; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 16-6-40. Off-site parking.

For any business use, the off-street parking requirements may also be met as follows:

- (1) Additional off-street parking spaces may be provided on a site within three hundred (300) feet of the lot that generates the parking requirements, provided that the site is owned by the owner of the parking generating property;
- (2) The owner of the lot generating the need for parking spaces may participate in a parking district or joint venture requiring the payment of a fee in lieu of providing on-site parking. The fees collected by the district or joint venture would be then used to provide off-street parking and assure that the Town's requirements were met. All such parking districts or joint ventures shall be subject to the approval of the Board of Trustees; or
- (3) When a business use is unable to provide the required on-site parking and/or loading requirements, the property owner or applicant shall be required to contribute to the Parking Fund a sum as set forth in Section 16-5-50 below per required parking space.

(Ord. No. 83-116, Art. XIII, 1983; Ord. No. 2003-08, 2003; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 16-6-50. Parking Fund.*

[Suspended.]

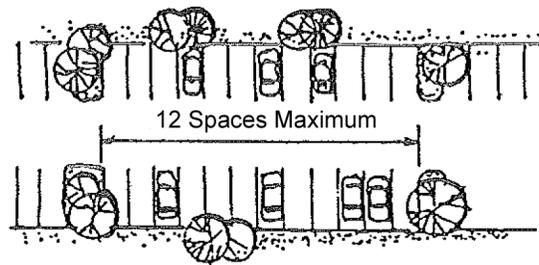
(Ord. No. 83-116, Art. XIII, 1983; Ord. No. 99-02, 1999; Ord. No. 2003-08, 2003; Ord. No. 2014-04, § 1, 1-13-2015)

*The provisions of this Section are suspended indefinitely.

Sec. 16-6-60. Design requirements for parking areas.

- (a) All off-street parking areas shall be unobstructed and free of all other uses.
- (b) All off-street parking spaces shall have unobstructed access to and from a street, except that in single-family areas parking spaces provided on the garage apron or driveway may be counted as a part of meeting off-street parking requirements in addition to parking in garage or a carport.
- (c) All off-street parking areas except those for single-family or two-family dwellings shall be surfaced with asphalt or concrete or other dustless surface approved by the Planning Commission.

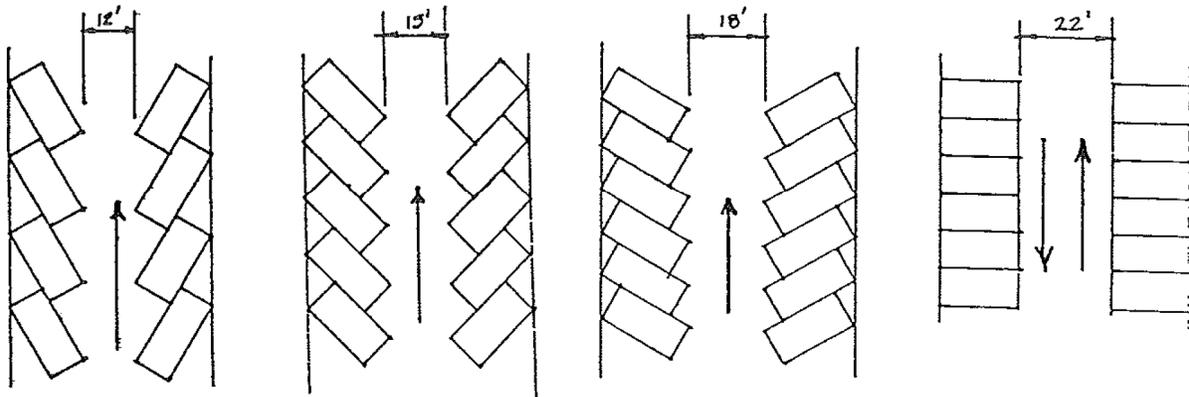
- (d) Off-street parking areas with six (6) or more spaces shall be adequately landscaped with a plan approved by Planning Commission special review.
- (e) Lighting from any parking area shall not be directed toward any adjacent residential area or public street.
- (f) Off-street parking areas may be located to jointly serve two (2) or more buildings or uses, provided that the total number of spaces is not less than that required for the total combined number of buildings or uses.
- (g) Bicycle parking spaces may be acceptable in lieu of vehicle spaces in the ratio of six (6) bicycle spaces for one (1) vehicle space, provided that not more than ten percent (10%) of the off-street parking requirements are met with bicycle parking. A bicycle parking space shall include secured stanchions and racks that enable the bicycle frame, not just a wheel, to be anchored. At least two (2) feet of spacing should be provided between the bicycle racks so that cyclist may place or remove the bikes with minimum risk of damage to other bikes.
- (h) No more than twelve (12) parking spaces shall be permitted in a contiguous row without being interrupted by a landscaped area of at least five (5) feet wide and ten (10) feet long. These areas will provide drainage for runoff, with additional areas as needed.



- (i) In multiple-family areas, areas included in driveways or otherwise required to move cars in and out of parking spaces shall not be considered to meet off-street parking requirements.
- (j) Spacing between rows of parking shall be determined based upon the parking angle in accordance with the following schedule:

Parking Angle	Minimum Aisle Space Between Two Rows
30 degrees	12 feet
45 degrees	15 feet
60 degrees	18 feet
90 degrees	22 feet

Spacing between Rows



- (k) A minimum of one (1) parking space for the handicapped shall be required for each use that requires fifteen (15) parking spaces. For uses requiring more than fifteen (15) spaces, one (1) additional space designated for the handicapped shall be provided for each additional twenty (20) spaces required. Parking spaces for handicapped persons shall be twelve (12) feet wide.

(Ord. No. 83-116, Art. XIII, 1983; Ord. No. 2000-02, Art. XIII, 2000; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 16-6-70. Off-street loading areas.

For all business and industrial uses, off-street loading spaces containing five hundred (500) square feet with no dimension less than ten (10) feet shall be required for new construction or major additions involving an increase in floor area as follows:

- (1) New floor area between five thousand (5,000) and twenty thousand (20,000) square feet: one (1) off-street loading space.
- (2) New floor area in excess of twenty thousand (20,000) square feet: one (1) off-street loading space for each twenty thousand (20,000) square feet or fraction thereof.

(Ord. No. 83-116, Art. XIII, 1983; Ord. No. 2000-02, Art. XIII, 2000; Ord. No. 2014-04, § 1, 1-13-2015)

ARTICLE 7. RESERVED¹¹

Secs. 16-7-10—16-7-100. Reserved.

[Ord 05-2022 Outdoor Lighting - no changes proposed]

¹¹Editor's note(s)—Ord. No. 2017-11, § 2, adopted October 10, 2017, repealed §§ 16-7-10—16-7-100, which pertained to signs. See Code Comparative Table for complete derivation. Subsequently, § 3 of such ordinance added §§ 18-6-10—18-6-100.

ARTICLE 8. MANUFACTURED/MOBILE HOME REQUIREMENTS AND REGULATIONS

[no changes proposed]

ARTICLE 9. RESERVED¹²

Secs. 16-9-10—16-9-410. Reserved.

[no changes proposed]

ARTICLE 10. SUPPLEMENTARY REGULATIONSRESERVED¹³

Section 16-10-10. Short-term rentals.

- (a) Purpose. The purposes of these standards are to mitigate the impacts short-term rentals can have on the community, to maintain and enhance community livability, to ensure the health and safety of renters, and to ensure the compatibility of short-term rentals with the community.
- (b) License required. Short-term rentals shall be licensed per Chapter 6, Article 5 of the Municipal Code. The total number of short-term rental licenses in the Town shall be limited to thirty (30) at any one time. This limit includes the total of all full dwelling units and any portions thereof.¹⁴
- (c) Permitted locations. Short-term rentals are allowed in all zoning districts in all dwelling units or portions thereof in compliance with this section. Short-term rentals are not allowed in any dwelling units that have an affordable housing deed restriction.
- (d) Performance standards for short-term rentals.
- (1) Off-street parking. Off-street parking shall be provided as required by Article 6 – Off-street parking and loading.

¹²Editor's note(s)—Ord. No. 2017-11 , § 2, adopted October 10, 2017, repealed §§ 16-9-10—16-9-130, 16-9-210—16-9-240, 16-9-310—16-9-380, 16-9-410, which pertained to flood damage prevention. See Code Comparative Table for complete derivation. Subsequently, § 3 of such ordinance added §§ 18-7-10—18-7-130, 18-7-210—18-7-240, 18-7-310—18-7-380, 18-7-410.

¹³Editor's note(s)—Ord. No. 2017-11 , § 2, adopted October 10, 2017, repealed §§ 16-10-10—16-10-80, which pertained to supplementary regulations. See Code Comparative Table for complete derivation. Subsequently, § 3 of such ordinance added §§ 18-8-10—18-8-50.

¹⁴ The total number of licenses allowed should be stated in the new licensing procedures in Chapter 6, but is repeated here so it is easily found and seen. If the proposed number changes, be sure it is updated in both locations. The consultant team suggests setting the number of licenses allowed close to what exists in the Town today. This will stop the creation of new STRs, discourage some existing, while allowing those who have already been running an STR to continue.

(2) Health and safety. All short-term rentals must include operable smoke and carbon monoxide detectors, fire extinguishers, and adequate accommodation for trash. Addresses must be clearly posted.

(3) Proximity of owners or owner's agent. All owners or the owner's agent must reside or conduct business within fifteen (15) miles of the short-term rental. The owner or owner's agent shall be provided to the Town.

(e) The burden shall be upon the owner of the STR to provide adequate proof to the Town that the criteria of this Section are met.

Secs. 16-10-~~210~~—16-10-80. Reserved.

ARTICLE 11. ACCESSORY BUILDINGS, STRUCTURES AND USES

Sec. 16-11-10. Generally.

Accessory buildings, structures and uses may include, but are not limited to, the following:

- (1) Home occupations.
- ~~(2) Renting of rooms.~~
- ~~(23)~~ Horses and household pets.
- ~~(34)~~ Fences, hedges and walls.
- ~~(45)~~ Private greenhouses.
- ~~(56)~~ Private swimming pools.
- ~~(77)~~ Storage and merchandise in commercial districts.
- ~~(78)~~ Fallout shelters.
- ~~(89)~~ Detached garages.
- ~~(910)~~ Tennis courts.
- ~~(101)~~ Storage sheds for residential areas.
- (11) Accessory dwelling units.

(Ord. No. 83-116, Art. XVIII, 1983; Ord. No. 2000-02, Art. XVIII, 2000; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 16-11-20. Home occupations.

A home occupation shall be permitted as an accessory use, provided that a home occupation permit is granted by the Town and the criteria for home occupations are met.

- (1) *Permit required.* A person desiring to establish a home occupation within the Town shall apply as follows:
 - (a) An application shall for home occupation shall be made to the Town Administrator, or its designee, in the form provided by the Town and accompanied by the appropriate fee as set by Resolution of the Board of Trustees.

- (b) Upon the receipt of a completed application for a home occupation permit, the Town Administrator, or its designee, shall notify the applicant within ten (10) days that such application is complete.
 - (c) Thereafter the Town Administrator, or its designee, shall notify the applicant and set a date of public hearing before the Town Board of Trustees that will allow time for publication and notification of adjoining property holders.
 - (d) Upon the setting of a public hearing before the Board of Trustees the Town Clerk shall notify the property owners within two hundred (200) feet of the applicant's property by regular mail at the applicant's expense. The notification will include the nature of the application, a copy of this Article and the time and place of a public hearing.
- (2) *Revoke the permit.* A home occupation permit may be revoked by the Town Administrator if at any time the home occupation fails to meet the criteria listed below.
- (3) *Nontransferability.* Home occupation permits are issued to an individual for a specific property and use. Permits are not transferable should the property be sold or rented to other persons.
- (4) *Criteria for home occupations.* A home occupation shall be allowed as a permitted accessory use, provided that the following conditions are met:
- (a) The use must be conducted entirely within a dwelling or accessory structure and carried on by the occupants of the dwelling and no more than one (1) non-occupant employee.
 - (b) The use must be clearly incidental and secondary to the use of the dwelling for dwelling purposes and must not change the residential character thereof.
 - (c) The total area used for such purposes may not exceed twenty-five percent (25%) of the first-floor area of the user's dwelling unit.
 - (d) There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation, including advertising signs or displays or advertising that solicits or directs persons to the address. A wall-mounted identification sign of not more than two (2) square feet shall be permitted.
 - (e) There shall not be conducted on the premises the business of selling inventory, supplies or products, provided that incidental retail sales may be made in connection with other permitted home occupation.
 - (f) There must be no exterior storage on the premises of material or equipment used as a part of the home occupation.
 - (g) No equipment or process shall be used in such home occupation, which creates any glare, fumes, odors or other objectionable conditions detectable to the normal senses off the lot if the occupation is conducted in a single-family dwelling or outside the dwelling unit if conducted in other than a single-family dwelling.
 - (h) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of the home occupation shall be met with additional off-street parking spaces that are not located in a required yard adjacent to a street.
 - (i) Under no circumstances shall any of the following be considered a home occupation: Antique shop, barber shop, a beauty parlor (with more than one [1] chair), clinic, mortuary, nursing home, restaurant, veterinarian's clinic or dance studio.

(Ord. No. 83-116, Art. XVIII, 1983; Ord. No. 2000-02, Art. XVIII, 2000; Ord. No. 2014-04, § 1, 1-13-2015; Ord. No. 2019-06 , § 2, 8-13-2019)

Sec. 16-11-30. Renting of rooms.¹⁵

- (a) ~~Single unit dwellings. The renting of rooms to one (1) or two (2) persons, not members of the family residing in the same single unit dwelling, may be permitted as an accessory use, provided that the following conditions are met:~~
- ~~(1) The total number of unrelated persons, including roomers in any one (1) dwelling unit, must not exceed three (3).~~
 - ~~(2) Quarters used by the roomers must not be more than twenty five percent (25%) of the total floor area of the dwelling unit.~~
 - ~~(3) The dwelling unit must have only one (1) electric meter.~~
 - ~~(4) Where the renting of rooms is to two (2) roomers, at least one (1) additional off-street parking space must be provided per room.~~
- (b) ~~Multi-unit dwellings. The renting of rooms to one (1) or two (2) persons, not members of the family residing in the same multi-unit dwelling, may be permitted as an accessory use, provided that the total number of unrelated persons, including roomers, in any dwelling unit must not exceed three (3). Where the renting of rooms is to two (2) roomers, at least one (1) additional off-street parking space must be provided per room.~~
- (c) ~~In addition to normal residential off-street parking requirements, one (1) additional off-street parking space shall be provided on-site for each lodging room. Ingress and egress shall meet requirements of the IBC and ADA. Separate bath and sanitary facilities from those of the host must be provided for each two (2) guest rooms.~~
- (d) ~~In residential districts, landscaping and screening shall be provided to maintain the residential character of the building and preserve the right of neighboring residents to enjoy a peaceful occupancy of their homes.~~
- ~~(Ord. No. 83-116, Art. XVIII, 1983; Ord. No. 2000-02, Art. XVIII, 2000; Ord. No. 2014-04, § 1, 1-13-2015)~~

Sec. 16-11-40. Reserved.

Editor's note(s)—Ord. No. 2017-11, § 2, adopted October 10, 2017, repealed § 16-11-40, which pertained to fences, hedges and walls. See Code Comparative Table for complete derivation. Subsequently, § 3 of such ordinance added § 18-9-10.

Sec. 16-11-50. Reserved.

Editor's note(s)—Ord. No. 2017-11, § 2, adopted October 10, 2017, repealed § 16-11-50, which pertained to swimming pools, hot tubs, and Jacuzzis. See Code Comparative Table for complete derivation. Subsequently, § 3 of such ordinance added § 18-9-20.

Sec. 16-11-60. Requirements for accessory buildings and uses.¹⁶

- (a) ~~All detached accessory buildings shall be located in the rear one-half (½) of the lot.~~

¹⁵ Remove "Renting of rooms" as an accessory use. Typically, towns do not regulate renting rooms – it is difficult to track and enforce. Also, it could be confused with the new short-term rental regulations.

¹⁶ Remove "Requirements for accessory buildings and uses." Different setbacks and height restrictions are not necessary for accessory buildings. By using the same dimensional standards, the regulations are easier to follow.

- ~~(b) — On an interior lot, the minimum setback from the rear lot line shall be ten (10) feet and from the side yard line shall be six (6) feet if there is no alley or five (5) feet from an existing alley easement line.~~
- ~~(c) — On double frontage lots, the minimum setback from the rear property line shall be the same as the front yard setback for principal uses within that district.~~
- ~~(d) — On corner lots, the accessory building shall not be located closer to the street side property than the required six (6) feet for the principal use.~~
- ~~(e) — Accessory buildings shall not exceed fifteen (15) feet in height.~~
- ~~(f) — The floor area of accessory uses shall be included in the determination of the maximum lot coverage.¹⁷~~

(Ord. No. 83-116, Art. XVIII, 1983; Ord. No. 2000-02, Art. XVIII, 2000; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 16-11-70. Accessory dwelling units.

(a) Accessory dwelling units (ADUs) shall be permitted as an accessory use, provided that the following criteria are met:

- (1) One ADU is permitted as an accessory use only to a detached single family dwelling unit. The ADU must be owned together with the principal single family dwelling unit, and the lot or parcel upon which they are located, in undivided ownership.
- (2) The ADU must be constructed in accordance with the applicable requirements of the Building Regulations. Applicable dimensional requirements per Section 16-3-30 must be met for the premises.
- (3) The ADU shall not exceed eight hundred (800) square feet of floor area.
- (4) Off-street parking shall be provided as required by Article 6 – Off-street parking and loading.
- (5) The property owner, as reflected on record with the County Clerk and Recorder, must occupy either the principal dwelling unit or the ADU.¹⁸
- (6) ADUs shall be designed to complement the principal dwelling unit, such as architectural styling, building form, materials, and colors.
- (7) A dwelling unit constructed on the parcel before a principal single-family dwelling, which meets these criteria, may be converted to an ADU following the construction of a principal dwelling unit.
- (8) Water and sewer service must be provided through the same tap as the principal dwelling unit, unless otherwise approved by the Town. If the existing tap is not large enough, the difference between the cost of the existing tap and upsized tap will be due. Each dwelling unit must have a separate water meter and pay utility rates as established in Chapter 13 – Municipal Utilities of the Municipal Code.¹⁹
- (9) The burden shall be upon the owner of the ADU to provide adequate proof to the Town that the criteria of this Section are met. In the event that the Town determines that the criteria have not been shown to be satisfied, the ADU may not be occupied as a residence.

¹⁷ Lot coverage minimums are proposed to be removed as to not restrict smaller dwelling units. Thus, there is no need to restate that accessory buildings count toward lot coverage.

¹⁸ This regulation can discourage out-of-town investment but can also reduce the total number of rentals available. For maximum flexibility, remove item 5.

¹⁹ The Town may want to review this section carefully to correlate with the many current conversations about taps and rates. Consider that ADUs help provide housing for the community and the Town can incentivize their construction by reducing tap fees.

ARTICLE 12. RESERVED²⁰

Secs. 16-12-10—16-12-40. Reserved.

[no changes proposed]

ARTICLE 13. NONCONFORMING BUILDINGS

[no changes proposed]

ARTICLE 14. AMENDMENT PROCEDURES

[no changes proposed]

ARTICLE 15. ZONING BOARD OF ADJUSTMENT

[no changes proposed]

ARTICLE 16. PUBLIC NOTICE REQUIREMENTS

[no changes proposed]

ARTICLE 17. MISCELLANEOUS PROVISIONS

[no changes proposed]

ARTICLE 18. ENFORCEMENT

[no changes proposed]

²⁰Editor's note(s)—Ord. No. 2017-11 , § 2, adopted October 10, 2017, repealed §§ 16-12-10—16-12-40, which pertained to building permit and site plan review requirements. See Code Comparative Table for complete derivation. Subsequently, § 3 of such ordinance added §§ 18-10-10—18-10-40.

Town of Paonia Affordable Housing Expedited Review Policy

The Town of Paonia's Affordable Housing Expedited Review Policy is adopted for immediate use, as follows:

1. **Purpose.** This policy establishes a procedure to allow for expedited review of qualified affordable housing projects to help facilitate the creation of more affordable housing within the Town of Paonia and to comply with State law, including Proposition 123. This policy does not modify or alter existing regulations in the Town of Paonia Municipal Code, except that it provides an optional expedited review process for qualified affordable housing projects.
 - a. "Affordable housing" means the following¹:
 - i. Rental housing that is affordable to a household with an annual income at or below one hundred percent (100%) of the area median income, and that with the costs of utilities costs the household less than thirty percent (30%) of its monthly income.
 - ii. For-sale housing that could be purchased by a household with an annual income at or below one hundred and forty percent (140%) of the area median income, for which the mortgage payment and utilities cost the household less than thirty percent (30%) of its monthly income.
 - b. "Area median income (AMI)" is the median family income of a household of a given size within a given geographic area that is calculated on an annual basis by the Department of Housing and Urban Development (HUD).
2. **Applicability.** This policy applies to special review, variance, and other development applications, excluding subdivisions, for qualified affordable housing projects within the Town of Paonia, including the redevelopment of existing properties into affordable housing. To qualify for the expedited review process, an applicant must:
 - a. Request the Affordable Housing Expedited Review as part of the application²; and
 - b. Submit an affidavit or agreement acceptable to the Town that certifies that at least fifty percent (50%) of the residential units in the development constitute affordable housing, as defined by this policy, and how those units will remain affordable for a period of at least ten (10) years³.

¹ Proposition 123 defines affordable housing as 60% AMI for rentals and 100% AMI for sale; however, the programs funded by Proposition 123 are using different numbers and there is ongoing discussion at the state level about amending the definitions. The consultant team recommends that this policy defines affordable housing to be a little more inclusive to include units that would be difficult to build without subsidy in Paonia as researched in the Housing Needs Assessment – see the proposed percentages of AMI above. This would open the opportunity for more projects to use this expedited process if desired while still meeting the state requirements if AMI percentages are increased.

² The Town should consider updating handouts and/or applications to include the option to request this Affordable Housing Expedited Review.

³ It is good practice to require some sort of guarantee that the units will remain affordable for a specified period of time in exchange for this expedited process. Proposition 123 does not specify this requirement and something shorter or longer could be considered.

3. ***Procedures and Timeframes.***⁴ Once the Town receives an application requesting expedited review, the applicability criteria listed in section 2 above will be reviewed by the Town. Once the Town approves the application for expedited review, the applicant is responsible for submitting a complete application to the Town in accordance with the Town of Paonia Municipal Code criteria.
- a. If an application has been deemed incomplete, it is the applicant's responsibility to resolve the outstanding requirements and resubmit it to the Town. The Town will not begin review until a complete application has been received.
 - b. Upon determination of a complete application by the Town, a final decision on the application shall occur not more than ninety (90) calendar days after such determination. This shall include all required public hearings, as appropriate.
 - c. The ninety (90) day review timeframe may be extended by the Town in the following circumstances:
 - i. An additional ninety (90) calendar days may be provided:
 1. at the request of the applicant,
 2. for compliance with State law or court order, or
 3. for a review period required by another local government or agency (within the local government or outside) for any component of the application requiring that government's or agency's approval.
 - ii. To provide additional time needed by the applicant to address all Town comments and requirements. Such extension includes an additional thirty (30) calendar days following the applicant's resubmittal addressing all Town comments and requirements.
 - d. It is the applicant's responsibility to address all Town comments and requests within a reasonable time, not to exceed ten (10) business days, or an automatic thirty (30) calendar day extension will be applied to the project review.
 - e. The requirements of this section do not preclude the Town from processing an application in less than ninety (90) calendar days.
4. ***Public Meeting and Hearings.*** Qualified affordable housing expedited review projects will be given first priority for scheduling of all meetings, as applicable, including but not limited to preapplication conferences and public hearings. If an applicant does not respond within the ten (10) business days as outlined in section 3.d. above, the Town cannot guarantee first priority scheduling.

⁴ Most of the timelines in this section are exactly as required by Proposition 123. Do not change the time allowed in this section without review of Proposition 123 requirements.

B. ACTIONS TO START NOW (YEARS 1-2)

Actions to start now, following adoption of this plan and within about 2 years:

- Regulate short-term rentals
- Allow for accessory dwelling units
- Explore public-private partnerships to build Housing for the Community
- Establish partnerships for a sweat equity program
- Use, promote, and build on existing resources

REGULATE SHORT-TERM RENTALS

Overview

Regulating short-term rentals (STRs) was the community’s top priority during 2023 community engagement efforts. This action focuses on updating the municipal code to regulate STRs, which are typically defined as a dwelling unit or portion of a dwelling unit that is rented on a short-term basis, typically 30 days or less. There is some confusion about the Town code already prohibiting STRs, specifically within the definition of a dwelling unit. Establishing clear regulations will help address this confusion and other concerns raised by the community.

In Paonia, there are about 30 documented STRs. Community input received during this project identified pros and cons to having STRs in Paonia. Pros included that STRs provide more lodging options (e.g., for people visiting their families), income for local businesses due to visitor spending, and income for local STR owners. Cons included that STRs reduce the supply of housing for the community, provide income and profit for out-of-town STR owners, and negatively impact community and neighborhood character and residents’ quality of life.

As part of this project, the consultant team will deliver a first draft of proposed code revisions to regulate STRs. This first draft will be based on community input received throughout this project and the

*Regulate short-term rentals! This is the most-obvious, biggest bang-for-buck tool in our kit.
- Open House participant*

consultant teams’ expertise. This draft will jump-start implementation of this action and can be revised through the Town’s typical process for code revisions. Developing clear and easily enforceable regulations is recommended.

An additional fee or tax on STRs, like a regulatory fee or excise tax, could be considered but should not delay adopting regulations. Establishing a new fee or tax requires ample time to analyze the possibilities (which may be limited due to Paonia being a statutory town), conduct legal review, and seek and obtain voter approval if a tax is desired.

Addressing Recurring Themes

Regulating STRs can benefit locals by helping retain the supply of much needed long-term rentals and discouraging out-of-town investment. This can also help maintain community character by regulating things important to the community like parking. Regulating STRs can be implemented quickly by the Town with minimal resources, as long as the regulations are kept simple and easily enforceable.

Time Needed to Complete

4-6 months

Implementation: easy

Impact: medium

Timing of Impact: short term



Implementation

Step	Lead/Partner
1. Discuss and gather feedback on the first draft of proposed code revisions to regulate STRs as delivered by the consultants. This could entail the planning commission (PC) holding a public meeting, the Town hosting an open house, or other methods determined to be the most productive way to deliberate and collect community input.	Town staff, board, PC/citizens
2. Refine the first draft of proposed code revisions based on feedback. Prepare an ordinance to amend the municipal code.	Town staff
3. Go through the Town’s process to review and consider an ordinance to revise the municipal code. Edit the ordinance as needed.	Town staff, board, PC/citizens
4. Finalize and adopt the ordinance.	Town staff, board
5. Publicize the newly adopted regulations to the community, and consider allowing a little time to gain compliance.	Town/STR operators
6. Monitor and enforce the new regulations.	Town

Examples

- There are a lot of different ways to regulate STRs. The Colorado Municipal League published a table with communities’ regulatory approaches to STRs that can be found online: <https://www.cml.org/docs/default-source/uploadedfiles/issues/economic-development/short-term-rental-ordinance-matrix.pdf?sfvrsn=96264f69>. When looking at other communities’ regulations, consider the recurring themes in this document to be sure any new regulations help achieve the community’s overall desires. Also consider the cost and enforceability of the regulations.
- The Colorado Lawyer published a comprehensive article in April 2022 with an overview of STR regulations in Colorado: <https://cl.cobar.org/features/the-state-of-short-term-rentals-in-colorado/>.
- Local Housing Solutions published a brief on regulating STRs: <https://localhousingsolutions.org/housing-policy-library/regulating-short-term-rentals/>.
- Educate the community through a “rent local” campaign—partner with local organizations and businesses to communicate the need for and benefits of renting units to locals rather than as an STR.
- In the future, and if funding is available, consider incentivizing the conversion of STRs to long-term rentals. These programs require ample funding but often result in many conversions. The Town of Winter Park runs an incentive program: <https://wpgov.com/stf/>. Summit County also has an incentive program: <https://www.summitcountyco.gov/1461/Lease-to-Locals>.
- A regulatory fee on STRs could be considered like in Breckenridge, Pagosa Springs, and Estes Park. This can generate funding for affordable housing but is most effective in areas with a lot of tourism and STRs. The fee amount needs to be based on the relationship between STRs and employment generation that leads to the need for affordable housing, which a study will help determine.
- An excise tax could also be implemented on STR stays like in Ouray (15%), Crested Butte (7.5%), and Telluride (2.5%). Note that these examples are all home rule municipalities and Paonia is a



statutory town, which may limit taxing options. Any tax increase must be approved by the voters through an election. This is most productive in areas with high tourism and a lot of STRs.

Resource Needs and Funding

- Town staff, board, planning commission, and attorney time will be needed to prepare and adopt an ordinance. Town staff time will also be needed for ongoing monitoring and enforcement.
- The Town may choose to engage a consultant to assist with drafting and refining the code language.
- Consider implementing a licensing fee that will offset all costs of administering the STR regulations, including staff time to review, monitor, and enforce code compliance. A licensing fee does not require a study or voter approval; it should simply be informed by the staff time and resources needed to implement the regulations.
- STR operators should already be paying 9.5% sales tax and the 2% Delta County lodging tax. Ensure these existing taxes are being remitted.



ALLOW FOR ACCESSORY DWELLING UNITS

Overview

Allowing accessory dwelling units (ADUs) was identified as another top priority by the community. Typically, an ADU is defined as a dwelling unit that is clearly incidental and subordinate to a primary dwelling unit and located on the same property. They are often smaller dwelling units that are rented to smaller households at more affordable prices. In Paonia, there are currently both historical and non-conforming ADUs.

To allow for ADUs, the Town will need to modify the municipal code to establish clear parameters regarding where and under what conditions they are allowed. The Town will want to ensure they contribute to the housing stock while still maintaining the community’s character. The Town will also need to sort out if an ADU will require new taps and/or tap fees.

As part of this project, the consultant team will deliver a first draft of proposed code revisions to allow for ADUs. This first draft will be based on community input received throughout this project and the consultant teams’ expertise. This first draft will jump-start implementation of this action and can be revised through the Town’s typical process for code revisions. The regulations should be kept clear and easily enforceable.

Addressing Recurring Themes

ADUs can help local owners build equity while providing local renters more affordably priced rentals. ADUs can also help maintain community character by adding housing units to the community slowly, without overwhelming the existing building fabric. Items important to maintaining community character can also be regulated. This could be implemented quickly by the Town without significant outside resources.

Time Needed to Complete

4-6 months

Implementation: easy

Impact: medium

Timing of Impact: long term

*More apartments or accessory dwelling units for singles, low-income folks and elderly are needed.
- Open House participant*

Implementation

Step	Lead/Partner
1. Discuss and gather feedback on the first draft of proposed code revisions to allow for ADUs as delivered by the consultants. This could entail the PC holding a public meeting, the Town hosting an open house, or other methods determined to be the most productive way to deliberate and collect community input.	Town staff, board, PC/ citizens
2. Refine the first draft of proposed code revisions based on feedback. Prepare an ordinance to amend the municipal code.	Town staff
3. Go through the Town’s process to review and consider an ordinance to revise the municipal code. Edit the ordinance as needed.	Town staff, board, PC/citizens
4. Finalize and adopt the ordinance.	Town staff, board
5. Publicize the newly adopted regulations to the community, and consider allowing a little time to gain compliance.	Town
6. Monitor and enforce the new regulations.	Town



Examples

- There are a lot of different approaches to allow for and regulate ADUs. For example: <https://accessorydwellings.org/adu-regulations-by-city/>. Consider the recurring themes in this document when making decisions on regulations. Also consider the cost and enforceability of the regulations.
- The Town may consider promoting the ability to have or build an ADU through an informational handout that can be on the Town’s website and provided to anyone interested. Be prepared to share the need and benefits of ADUs and explain the regulations through meetings with property owners, builders, and banks. See Grand Junction’s ADU Toolkit for an example: [https://www.gjcity.org/DocumentCenter/View/8907/ADU-Toolkit?bidId=.](https://www.gjcity.org/DocumentCenter/View/8907/ADU-Toolkit?bidId=)
- The ADU Amnesty program in Durango aimed to catalog the existing ADUs in Town, legal or not. The city asked owners to come forward with their existing ADUs to get logged into the city’s inventory. Owners were asked to pay a fee and sign an affidavit confirming the unit was safe for human occupancy. In return, the city issued an acknowledgement to confirm that the unit could exist and be used.
- Tap fees for ADUs vary across communities: in Ridgway they are waived if the ADU is not used as an STR, in Salida tap fees are 40% of the standard single-family fee, and in Durango tap fees are 50% of the standard single-family fee.
- Partnerships could be created with organizations like Habitat for Humanity and Fertile Edge Community Land Trust to get ADUs built. This can be a shared-equity model, which is typically a partnership between a homeowner and an entity such as one of the above non-profit organizations where the non-profit subsidizes construction costs and shares equity in the property and/or its use for a defined period. The homeowner may contribute time, money, existing assets, or a commitment to rent the ADU at an affordable rate. See CLTPlusOne of Durham Community Land Trust (<https://dclt.org/current-project/clt-plus-one/>) or Y-Help of YardHomes (<https://yardhomesmn.com/y-help>) for examples.
- In the future, if funding is available, consider implementing something like Durango’s “ADUs for Locals” rebate program. This program provides 10 grants of \$8,000 for homeowners to build or legalize an existing non-conforming ADU. The ADUs must then be leased to an individual or family working at least 32 hours a week for a business or organization in La Plata County and must be leased for 6 months or longer. The unit must also remain as a long-term rental. For more information: <https://www.durangogov.org/850/ADU-Program-Information>.

Resource Needs and Funding

- Town Staff, board, planning commission, and attorney time will be needed to prepare and adopt an ordinance. Staff time will also be needed for ongoing monitoring and enforcement.
- The Town may choose to engage a consultant to assist with drafting and refining the code language.
- Consider adjusting the Town’s permit fee schedule to cover the administrative expense of monitoring and enforcement of any new ADU regulations.

