



**TOWN OF PAONIA**  
**THURSDAY, FEBRUARY 27, 2020**  
**PLANNING COMMISSION MEETING AGENDA**  
**5:00 PM**

**Call to Order**

**Roll Call**

1. [Roll Call](#)

**Approval of Agenda**

2. [Approval of Agenda](#)

**New Business**

3. [Minutes –](#)
4. [Amendment to the Building Code – Municipal Code Chapter 18](#)

**Adjournment**

5. [Adjournment](#)

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.

<p>Agenda Item</p> 	<p>Roll Call</p>
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Summary:  
Meeting opening -

Large empty rectangular area for notes or details.

Vote:	Barb Heck:	Bill Bear:	Monica Foguth:
Lucy Hunter:	Charles Stewart:		

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<p>Agenda Item</p> 	<p>Approval of Agenda</p>
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Summary:

Vote:	Barb Heck:	Bill Bear:	Monica Foguth:
Lucy Hunter:	Charles Stewart:		

Agenda Item # CALL

Minutes –



Summary:

A large empty rectangular box for writing the summary of the agenda item.

Vote:	Barb Heck:	Bill Bear:	Monica Foguth:
Lucy Hunter:	Charles Stewart:		

**Minutes**  
**Planning Commission Regular Meeting**  
**Town of Paonia, Colorado**  
**July 31, 2019**

**RECORD OF PROCEEDINGS**

The Regular Meeting of the Planning Commission held Wednesday, June 26, 2019, was called to order at 6:00 PM by Chairperson Barbara Heck, followed by the Pledge of Allegiance.

**Roll Call:**

Commission members present were as follows:

Chairperson Barbara Heck  
 Commissioner Monica Foguth  
 Mayor Charles Stewart  
 Trustee William Bear

Absent Commission members were as follows:  
 Commissioner Lucy Hunter

Town Staff present were as follows:  
 Deputy Clerk Amanda Mojarro

A quorum was present, and Chairperson Barb Heck proceeded with the meeting.

**Approval of Agenda**

Motion made by Mayor Stewart, Supported by Trustee to approve to move item (6) six - Ordinance 2019-TBD - Establishing Temporary Suspension of Processing Applications for Retail Superstores for A Period of Six Months to be addressed as item (4) four on the agenda.

Motion carried unanimously

**Unfinished Business**

Minutes – June 26, 2019

Motion made by Trustee Bear, Seconded by Commissioner Foguth to approve minutes as presented.

Motion carried unanimously.

**Ordinance 2019-TBD - Establishing Temporary Suspension of Processing Applications for Retail Superstores for A Period of Six Months**

Chairperson Barbara Heck opened the meeting to discuss, Ordinance 2019-TBD - Establishing Temporary Suspension of Processing Applications for Retail Superstores for A Period of Six Months

Discussion ensued by Mayor Stewart regarding the referenced Ordinance above. Stated that having a (90) ninety-day period as an alternative to the (6) six-month period would be enough time to allow particulars to go through the normal course and that the (10,000 sq. ft) Ten Thousand Square Feet for commercial building to be reconsidered.

Discussion points:

- Having a (90) Ninety-day period in place of a (6) six-month period.
- (10,000) Ten Thousand square feet for commercial buildings.

Public Comment and Concerns:

- Retain a moratorium for businesses in general for HWY 133 area
- Retain a moratorium formula business specifically due to the zoning changes proposed in the town area.
- Retain a moratorium to remain on the HWY 133 corridor only without affecting the town

Motion made by Mayor Stewart Second by Commissioner Foguth to recommend to the Board of Trustees to approve with (3) three changes, regarding Ordinance 2019-TBD - Establishing Temporary Suspension of Processing Applications for Retail Superstores for A Period of Six Months. (1) One - have caption read (90) ninety days in line with what is in bodied in the text of the Ordinance 2019-TBD. (2) Second - a reference to (10,000 sq. ft) Ten thousand square feet be removed and the Ordinance 2019-TBD be applied to commercial and retail buildings. (3) Third - Change the title to read (90) ninety days. Motion carried unanimously.

**Ordinance 2019-TBD - Creation of the Highway 133 Corridor Overlay District & Highway 133 Corridor Development Submittal Requirements & Design Standards.**

Chairperson Barbara Heck opened the meeting to discuss Ordinance 2019-TBD - Creation of the Highway 133 Corridor Overlay District & Highway 133 Corridor Development Submittal Requirements & Design Standards.

Discussion ensued by Mayor Stewart elucidated the purpose of the above-referenced ordinance, in 2011 the Hwy 133 corridor did not get incorporated into the town's ordinances. Mayor Stewart furthermore elucidated on the provision of Hwy 133 corridor agreement pertains to properties once they are annexed, this is the purpose of the Ordinance 2019-TBD referenced above. Mayor Stewart informed that this is part of Delta County's expansion plan for the Town of Paonia.

Discussion Points:

- Purpose of the referenced above ordinance.
- Highway 133 corridor did not get incorporated into the town's ordinances in 2011.
- Provision of Hwy 133 corridor agreement apply to properties once annexed.
- Delta County expansion plan for the town

Members of the public disagree with being a part of the HWY 133 corridor annexation.

Mayor Stewart elucidated that properties could have an annexation agreement tied to it from previous owners.

Motion by Commissioner Foguth Second by Trustee Bear to recommend to the Board of Trustees approval of Ordinance 2019-TBD - Creation of the Highway 133 Corridor Overlay District & Highway 133 Corridor Development Submittal Requirements & Design Standards.

Main Motion Amended by Mayor Stewart Second by Trustee Bear to recommend to the Board of Trustees, if the Board does not impose a moratorium within Hwy 133 corridor to recommend passing the Emergency Ordinance of the town of Paonia, Colorado.

Motion to Amend, Motion Amended by Commissioner Foguth Second by Trustee Bear if the (90) ninety-day moratorium on Hwy 133 corridor ordinance passes, the suspension period will come into effect. Motion carried unanimously.



### **Ordinance – 2019-TBD – Formula Businesses**

Chairperson Barbara Heck opened the discussion up for Ordinance – 2019-TBD – Formula Businesses.

Mayor Stewart read to the planning board the definition for Formula business under Ordinance – 2019-TBD – Formula Businesses Section 2. Amendment to the Town Code. Sec. 16-1-100 of the Town of Paonia Municipal Code is amended to add a definition for formula businesses.

Motion by Trustee Bear Second by Commissioner Foguth to recommend to the Board of Trustees Ordinance – 2019-TBD – Formula Businesses to be adopted, amending chapter 16 of the Town of Paonia regarding Formula Businesses.

### **Paonia Comprehensive Master Plan Preliminary Update by Vista Intern Evan Bolt**

Chairperson Barbara Heck opened the discussion up for Paonia Comprehensive Master Plan Preliminary Update powerpoint presentation by Vista Intern Evan Bolt. Evan Bolt talked about the importance of keeping the master plan updated for competitive grants.

Discussion points:

- Land use
- Housing
- Utilities (water, sewer, trash and the after-action report from the water incident)
- Transportation
- Economic Development
- Sustainability (Renewable Energy, Environment and Dark Sky)
- Art & Culture
- Parks, Recreation, and Trails

Evan Bolt stated the importance of having the public input whether in-town or out of town for the update of the master plan. (4) Four public meetings will be held throughout the process. (1) First meeting will be in September; the conformation of the date will be announced at a later time.

Discussion points:

- Explanation by Mayor Stewart of why since 1996 there was no comprehensive plan
- Future meetings
- Public input whether you live in or out of town

### **Adjournment**

Motion by Chairperson Heck supported by Trustee Bear to adjourn the meeting. Motion carried unanimously.

The meeting was adjourned by Ms. Heck at 7:15 pm

\_\_\_\_\_  
Amanda Mojarro, Deputy Clerk

\_\_\_\_\_  
Barbara Heck, Chairperson

DRAFT

Agenda Item # CALL

Amendment to the Building Code – Municipal Code Chapter 18



Summary:

A large, empty rectangular box intended for the summary of the agenda item.

Vote:	Barb Heck:	Bill Bear:	Monica Foguth:
Lucy Hunter:	Charles Stewart:		

PAONIA MUNICIPAL CODE

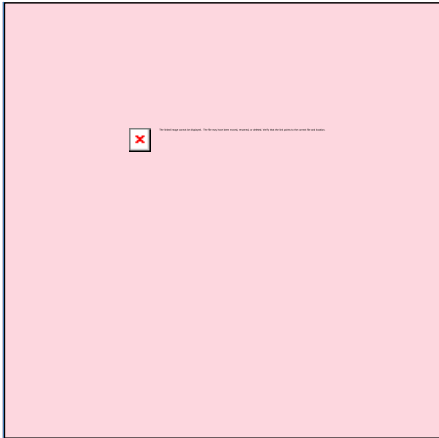
2015

**A Codification of the General Ordinances  
of the Town of Paonia, Colorado**

Updated through Ord. No. 2016-06

**Commented [DR1]:** Update to these entries will be required throughout this document.

**Commented [T2R1]:** Municode updates each time.



# municode

Municipal Code Corporation | P.O. Box 2235 Tallahassee, FL 32316  
info@municode.com | 800.262.2633  
www.municode.com

**Commented [DR3]:** Could this be the Table of Contents? This is not a complete Code. What I have to work with here is pretty much limited to Chapters 16,17 and 18.

**Commented [T4R3]:** It is blank on the web page as well, not sure its intent.

Book No. \_\_\_\_\_

**PAONIA OFFICIALS**

**Commented [DR5]:** UPDATE NAMES???

*Mayor*

Charles Stewart

*Mayor Pro Tem*

David Bradford

*Board of Trustees*

Suzanne Watson

Bill Bear

Bill Brunner

Karen Budinger

*Interim Town Administrator*

Dan J. Dean

*Town Attorney*

David Marek

*Mayor*

Neal Schwieterman

*Mayor Pro Tem*

Larry Wissbeck

*Board of Trustees*

Brian Ayers

Eric Goold

Ross King

Amber Kleinman

Sarah Sauter

*Town Clerk*

Barbara Peterson

*Town Attorney*

James Briscoe

**SUPPLEMENTATION**

Supplements to this Code provide periodic updating through the removal and replacement of pages. This inter-leaf supplementation system requires that each page which is to be removed and replaced is identified so that the updating may be accurately accomplished and historically maintained.

Instructions for supplementation are provided for each supplement, identified by Supplement number, date and inclusive ordinance numbers. The Instructions for posting the removal and replacement of pages must be followed and accomplished in sequence, with the most recent supplementation posted **last**.

When supplementation is completed and the removal and replacement of all pages are accomplished, the Instruction sheet should be placed behind the Supplementation tab, with the most recent Instruction sheet on top. Previous Instructions should not be removed, so that the user may refer to this section to verify whether the code book is fully updated with all supplements included.

The maintenance of a Municipal Code with all supplementation is an important activity which deserves close attention so that the value of the code is maintained as a fully comprehensive compilation of the legislative ordinances of the municipality.

**AMENDMENTS**

Amendments may be made to the Code by additions, revisions or deletions therefrom. Those changes may be made as follows:

**Additions** : Additions may be made by ordinance to the Code as follows:

The Paonia Municipal Code is amended by the addition thereto of a new Section 2-2-20, which is to read as follows:

(Set out full section number, title and contents)

or if the location of the new section number or numbers is undetermined, the Code may be amended as follows:

The Paonia Municipal Code is amended by the addition of the following:

(Set out section title and contents)

**Revisions** : A revision of the Code may be accomplished as follows:

Section 2-2-20 of the Paonia Municipal Code is repealed in its entirety and readopted to read as follows:

(Set out section number, title and entire contents of the readopted code section)

or as follows:

Section 2-2-20 of the Paonia Municipal Code is amended to read as follows:

(Set out section number, title and entire contents of the amended code section)

**Repeal** : Sections, articles and chapters may be repealed as follows:

Section 2-2-20 of the Paonia Municipal Code is repealed in its entirety.

**MUNICIPAL CODE CORPORATION**

**PREFACE**

The Town of Paonia, Colorado, a statutory Town, has published its Municipal Code in a format which features the following:

The *Table of Contents* is the table containing each chapter and article title, with reference to page location. Preceding each chapter is a chapter table of contents, also identifying each article by the subject name provided.

The *three-place section numbering system* places the chapter number first, followed by the article number and section number, separated by hyphens. Each section may be cited by the chapter, article and section number which are in sequence within each chapter.

The *open chapter and page numbering system* creates reserved chapter and page numbers for expansion or revision of the Code without undue complication when changes are made to the Code by supplementation.

The *Code Comparison Table* identifies the sources for the contents of the Code. It provides ordinance numbers in chronological order and location by section number for the present Code contents. Thus, if there is interest in determining whether a prior code section, an ordinance or a portion thereof is contained within the Code, the Code Comparison Table will provide that information.

The *Index* provides references by common and legal terminology to the appropriate code sections. Cross-references are provided with the Index when appropriate.

*Supplements* to the Code provide regular updating of the Code to maintain it as a current compilation of all the legislation which has general and continuing effect. Without regular supplementation, the Code would soon lose its usefulness as a complete source of the general law of the Town. Supplementation is accomplished by the periodic publication of additions and amendments to the Code.

MUNICIPAL CODE CORPORATION;eol> Tallahassee, Florida

MUNICIPAL CODE CORPORATION;eol>

**STATE OF COLORADO**  
**TOWN OF PAONIA, COLORADO**  
**ORDINANCE NO. 2014-04**

AN ORDINANCE OF THE TOWN OF PAONIA, COLORADO, ADOPTING BY REFERENCE AND ENACTING A NEW MUNICIPAL CODE FOR THE TOWN OF PAONIA; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING FOR THE ADOPTION OF SECONDARY CODES BY REFERENCE; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

WHEREAS, the Town of Paonia (the "Town"), is a duly organized and existing statutory municipality of the State of Colorado, created and operating pursuant to the Colorado Revised Statutes; and

WHEREAS, the members of the Board of Trustees of Paonia (the "Board") have been duly elected and qualified; and

WHEREAS, pursuant to 1-16-202, C.R.S, the Town is authorized to enact any ordinance which adopts any code by reference in whole or in part.

NOW, THEREFORE, Be It Ordained by the Board of Trustees of the Town of Paonia, Colorado:

Section 1. *The Code entitled the Paonia Municipal Code published by Colorado Code Publishing Company, consisting of Chapters 1 through 18, with Appendix, Tables and Index, is adopted.*

Section 2. *All ordinances of a general and permanent nature enacted on or before the adoption date of this Ordinance, which are inconsistent with the provisions of the Paonia Municipal Code, to the extent of such inconsistency, are hereby repealed. The repeal established in this Section 2 shall not be construed to revive any ordinance or part thereof that had been previously repealed by any ordinance which is repealed by this Ordinance.*

Section 3. *The following code is hereby adopted by reference and incorporated in the Paonia Municipal Code. One (1) copy is on file in the Town Clerk's office:*

- (1) *The Model Traffic Code for Colorado, 2010 edition, published by the Colorado Department of Transportation, as adopted and amended in Section 8-1-10, et seq.;*

Section 4. *The following codes are adopted by reference and incorporated in the Paonia Municipal Code. One (1) copy of each is on file in the Town Clerk's office:*

**Commented [DR6]:** Update?

**Commented [T7R6]:** We would have an updated ordinance adopting the revisions, but this ordinance would still be referenced as well as the original adopting codified ordinances.

**Commented [DR8R6]:** Understood.



- (1) *The International Building Code*, 2018 edition, published by the International Code Council, Inc., 4051 West Flossmoor Road, County Club Hills, Illinois 60478-5795, as adopted and amended in Section 18-1-10, et seq.;
- (2) *The International Residential Code*, 2018 edition, including Appendix Chapters B, F, H, J, K, M, Q, R and S, published by the International Code Council, Inc., 4051 West Flossmoor Road, County Club Hills, Illinois 60478-5795, as adopted and amended in Section 18-2-10, et seq.;
- (3) *The International Existing Building Code*, 2018 edition, including Resource "A", published by the International Code Council, Inc., 4051 West Flossmoor Road, County Club Hills, Illinois 60478-5795, as adopted and amended in Section 18-3-10, et seq.;
- (4) *The International Energy Conservation Code*, 2018 Edition, as published by the International Code Council, 4051 West Flossmoor Road, County Club Hills, Illinois 60478-5795, as adopted and amended in Section 18-4-10, et seq.;
- (5) *The Installation Handbook for Manufactured Homes and Factory Built Housing*, January 2016 edition published by the Colorado Department of Local Affairs, as adopted and amended in Section 18-5-10, et seq.
- (6) *The International Mechanical Code*, 2018 Edition, as published by the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795; as adopted and amended in 18-6-10, et seq.
- (7) *The International Fuel Gas Code*, 2018 Edition, as published by the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795; as adopted and amended in 18-7-10, et seq.

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Section 5. *The penalties provided by the Municipal Code of the Town of Paonia are hereby adopted as follows:*

- (1) **Sec. 1-4-20. General penalty for violation. (Chapter 1, General Provisions; Article 4, General Penalty)**  
*Any person pleading guilty or convicted of violating a municipal ordinance may be incarcerated for a period not to exceed one (1) year or fined an amount not to exceed one thousand dollars (\$1,000.00), or by both such fine and imprisonment, except as hereinafter provided in Section 1-4-30. In addition, such person shall pay all costs and expenses in the case, including attorney fees. Each day such violation continues shall be considered a separate offense.*
- (2) **Sec. 1-4-30. Application of penalties to juveniles. (Chapter 1, General Provisions; Article 4, General Penalty)**  
*Every person who, at the time of commission of the offense, was at least ten (10) but not yet eighteen (18) years of age, and who is subsequently convicted of or pleads guilty or nolo contendere to, a violation of any provision of this Code, shall be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation or count. Any voluntary plea of guilty or nolo contendere to the original charge or to a lesser or substituted charge shall subject the person so pleading to all fines and/or penalties applicable to the original charge. Nothing in this Section shall be construed to prohibit incarceration in an appropriate facility, at the time of charging, of a juvenile violating any section of this Code.*
- (3) **Sec. 1-4-40. Altering or tampering with Code; penalty. (Chapter 1, General Provisions; Article 4, General Penalty)**

**Commented [DR9]:** Do we still need 18-7-410 which appears to duplicate this? Section 18-7-410 has less detail than what is provided here in these sub-sections

**Commented [T10R9]:** This was the language at the time of the ordinance adoption, codifying our Code. The language would not change in this, the ordinance will be updated with the new ordinance and this will then be recognized as historical reference only.

**Commented [DR11R9]:** You didn't really answer my question. I'll look below in 18-7-410 to see if you made any comment.

Any person who alters, changes or amends this Code, except in the manner prescribed in this Chapter, or who alters or tampers with this Code in any manner so as to cause the ordinances of the Town to be misrepresented thereby, shall, upon conviction thereof, be punished as provided by Section 1-4-20 hereof.

(4) **Sec. 1-4-50. Penalty for violation of ordinances adopted after adoption of Code. (Chapter 1, General Provisions; Article 4, General Penalty)**

Any person who violates any provision of any ordinance of a permanent and general nature passed or adopted after adoption of this Code, either before or after it has been inserted in this Code by a supplement, shall, upon conviction thereof, be punishable as provided by Section 1-4-20, or, in the case of juveniles, as provided by Section 1-4-30, unless another penalty is specifically provided for the violation.

(5) **Sec. 5-2-60. Remittance schedule. (Chapter 5, Franchises; Article 2, Electric Franchise; Division 1, Generally)**

The Company shall remit franchise fee revenues to the Town in monthly installments not more than thirty (30) days following the close of each month. All payments shall be made to the Town. In the event that either the Town or the Company discovers that there has been an error in the calculation of the franchise fee payment to the Town, the error shall be corrected in the next monthly payment. Underpayments shall be subject to one and one-half percent (1.5%) interest per month until paid. In the event an error by the Company results in an overpayment of the franchise fee to the Town, and said overpayment is in excess of five thousand dollars (\$5,000.00), credit for the overpayment shall be spread over the same period of time that the error was undiscovered. If the overpayment is less than five thousand dollars (\$5,000.00), credit shall be taken against the next payment. In no event shall the Town be required to refund any overpayment made as a result of a Company error which occurred more than three (3) years prior to the discovery of the Company error.

**Commented [DR12]:** What happened to the Section for the natural-Gas Franchise? Chapter 5 Article 3 had named Source gas, which I was recommending to be updated to Black Hills Energy, but now I don't see that Franchise? Are there others? Elevate?

**Commented [T13R12]:** This was the language at the time of the ordinance adoption, codifying our Code. The language would not change in this, the ordinance will be updated with the new ordinance and this will then be recognized as historical reference only.

**Commented [DR14R12]:** These seem to be "pasted" replies that are not really answering my questions????

(6) **Sec. 5-2-610. Breach. (Chapter 5, Franchises; Article 2, Electric Franchise; Division 4, Approval and Compliance)**

(a) If the Company fails to perform any of the terms and conditions of this franchise, and such failure is within the Company's control, the Town may require the Company to show cause, at a hearing before the Board of Trustees, why the reasons its rights and privileges under this franchise should not be forfeited or other penalties imposed as provided by this franchise or by law. No such hearing shall be held unless the Company has first been given notice of its failure and reasonable time, not to exceed ninety (90) days, in which to remedy the failures. If the Company does not remedy the failures, the Board of Trustees may determine at such a hearing whether such failure to perform and the Company's failure to remedy the same occurred and, if so, whether such failure to perform is substantial. The Board of Trustees may impose one (1) or more of the following remedies or penalties for a substantial failure to perform.

- (1) A civil penalty of five hundred dollars (\$500.00) for each day or portion thereof in which the Board of Trustees has determined that the failure was committed or continued. The Company understands and agrees that such liquidated damages are intended to compensate the Town for the additional efforts of the Town in administering and enforcing the franchise, for inconvenience to Town operations and to the residents and loss of confidence in government and morale of the Town and its residents when franchise obligations are not met. Such damages are uncertain in amount and difficult to measure and prove accurately. By this franchise, the Company agrees that the liquidated damages specified herein are reasonable in amount and are not disproportionate to actual anticipated damages.
- (2) Forfeiture of all rights under this franchise.
- (3) Any other remedies available to the Town by law.

- (b) *The Town may take action to correct the failure, and the Company shall promptly reimburse the Town for the cost of such action.*
- (c) *In the event of litigation for a breach of this franchise or for an interpretation of this franchise, the prevailing party shall be reimbursed for all costs related thereto, including reasonable attorney's fees, by the non-prevailing party.*

**(7) Sec. 6-3-10. Medical marijuana businesses prohibited. (Chapter 6, Business Licenses and Regulations; Article 3, Medical Marijuana Businesses)**

*Medical marijuana businesses, including medical marijuana centers, optional premises cultivation operations and marijuana-infused products manufacturing operations are prohibited within the Town. In addition to any other penalties that may exist under state federal and local laws, violation of this Section shall be punishable by a fine not exceeding one thousand dollars (\$1,000.00), or by imprisonment not exceeding one (1) year, or by both such fine and imprisonment, each day of violation considered and declared to be a separate violation.*

**(8) Sec. 7-2-170. Automobile junkyards. (Chapter 7, Health, Sanitation and Animals; Article 2, Nuisances)**

- (a) *An automobile wrecking or junkyard, if located in any exclusively or predominantly residential neighborhood within the Town, is hereby defined and declared to be an offensive business or establishment and is hereby prohibited.*
- (b) *An automobile wrecking or junkyard is hereby defined as including a yard or place where wrecked, abandoned or junked automobiles, trucks or other vehicles are stored or kept for dismantling and salvage of parts therefrom.*
- (c) *Any person, corporation or partnership violating any provision of this Section shall be deemed guilty of an offense and upon conviction thereof shall be fined in the sum of not less than one hundred dollars (\$100.00) nor more than three hundred dollars (\$300.00) for each offense. In addition, anyone convicted of violating this Section shall be ordered to abate such offensive business or establishment by removal of such stored or kept automobiles, trucks or other vehicles within ten (10) days from such conviction, and upon failure to do so, such convicted violator of this Section shall be fined an additional twenty dollars (\$20.00) per day for each day after said ten-day period that he or she so fails to abate said offensive business or establishment, and the judgment and order of conviction shall so state. In the alternative, anyone violating this Section may be sentenced to imprisonment not exceeding ninety (90) days. The provisions of this Section with respect to fines and penalties are and shall be deemed severable from each other, and if any such provisions are held or determined to be invalid or unenforceable, the remainder of this Section shall stand unaffected by any such holding or determination.*

**(9) Sec. 7-3-80. Removal of junk by Town; assessment of costs; collection. (Chapter 7, Health, Sanitation and Animals; Article 3, Accumulation of Junk)**

- (a) *If the owner or occupant fails or refuses to remove such junk within twenty (20) days from the date of the notice and order issued in accordance with Section 7-3-60 above, from the notice that negotiations were unsuccessful under Subsection 7-3-60(b) above, or from the decision of the Board of Trustees under Section 7-3-70, above, the Enforcement Officer shall have the authority to remove or cause to be removed such junk, either by and through Town forces, contract or otherwise. If the owner or occupant fails to pay the costs of removal within five (5) days after receipt of invoice, the whole cost thereof, including five percent (5%) for inspection and incidental costs in connection therewith, may be assessed upon the lots and tracts from which such junk has been removed. Any assessment pursuant to this Subsection shall be a lien against such lot or tract of land until paid.*
- (b) *In case the assessment prescribed in Subsection (a) above is not paid within ninety (90) days from the date of the mailing of an invoice for the cost of the removal of such junk by the Town, such assessment may be certified to the County Treasurer who shall collect such assessment, together with a ten-percent penalty for the cost of collection in the same*

**Commented [DR15]:** I don't see Chapter 7 in this "WORD" document offered for editing??

**Commented [T16R15]:** This was the language at the time of the ordinance adoption, codifying our Code. The language would not change in this, the ordinance will be updated with the new ordinance and this will then be recognized as historical reference only.

**Commented [DR17R15]:** These seem to be "pasted" replies that are not really answering my questions????

manner as other taxes are collected. The laws of the State for assessment and collection of general taxes, including the laws for the sale and redemption of property for taxes, shall govern and apply to the collection of assessments pursuant to this Subsection.

(10) **Sec. 7-3-120. Criminal prosecution. (Chapter 7, Health, Sanitation and Animals; Article 3, Accumulation of Junk)**

- (a) Each day that junk continues to exist unremoved from the premises alleged to be in violation after the date of expiration of the applicable twenty-day notice provided for in Subsection 7-3-60(a) herein or, in the event an agreement to mitigate is desired by the owner or applicant and negotiations are deemed unsuccessful, according to Subsection 7-3-60(b) herein, shall constitute a separate violation.
- (b) Any person convicted of violating the provisions of this Article may be fined by the Municipal Court a sum not to exceed one thousand dollars (\$1,000.00).

(11) **Sec. 7-7-50. Vicious animals. (Chapter 7, Health, Sanitation and Animals; Article 7, Animals; Division 1, General Provisions)**

- (a) No person shall own, keep, harbor or allow a vicious animal within the Town.
- (b) Vicious animals shall be impounded as a public nuisance.
- (c) A hearing shall be conducted by the Municipal Judge as soon as possible to determine if a violation of this Section has occurred and what disposition shall occur.
- (d) If such animal is found to be vicious by the Municipal Judge, he or she may order the Animal Control Officer or authorized member of the Police Department to humanely euthanize said animal under the supervision of a licensed veterinarian, and may impose a fine and/or jail sentence, or both, against the owner of such animal as provided by this Code. This disposition provision is in addition to any other terms of disposition provided for in any ordinances of the Town.

(12) **Sec. 8-1-50. Penalties. (Chapter 8, Vehicles and Traffic; Article 1, Model Traffic Code)**

The following penalties, herewith set forth in full, shall apply to this Article:

- (1) It is unlawful for any person to violate any of the provisions adopted in this Article.
- (2) Every person convicted of any violation of any provision adopted in this Article shall be punished in accordance with the provisions of Section 1-4-20 of this Code.

(13) **Sec. 8-3-30. Penalty for violation. (Chapter 8, Vehicles and Traffic; Article 3, Parking Regulations)**

Any person convicted of violating the provisions of this Article shall be punished in accordance with the provisions of Section 1-4-20 of this Code.

(14) **Sec. 10-6-50. Sale of cigarettes and tobacco products. (chapter 10, General Offenses; Article 6, Minors)**

- (a) For purposes of this Code, the following words shall have the meanings ascribed hereafter:

Cigarettes means premanufactured cigarettes and/or hand-rolled cigarettes.

Minor means a person under the age of eighteen (18) years.

Tobacco products means cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine cut and other chewing tobaccos, shorts, refuse scraps, clippings, cutting and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such a manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking.

- (b) Any person who knowingly furnishes to a minor, by gift, sale or any other means, any cigarettes or tobacco products commits an offense and, upon conviction thereof, shall be punished by a fine of two hundred dollars (\$200.00). It shall be an affirmative defense to a prosecution under this Subsection that the person furnishing the cigarettes or tobacco products was presented with and reasonably relied upon a valid state driver's license or other government-issued form of identification which identified the person receiving the cigarettes or tobacco products as being eighteen (18) years of age or older.
- (c) Any minor who purchases or attempts to purchase any cigarettes or tobacco products, and/or is found to be in possession of any cigarettes or tobacco products commits an offense and, upon conviction thereof, shall be punished by a fine of one hundred dollars (\$100.00); except that, following a conviction or adjudication for a first offense under this Subsection, the Court in lieu of the fine may sentence the person to participate in a tobacco education program. The Court may allow such person to perform community service and be granted credit against the fine and court costs at the rate of five dollars (\$5.00) for each hour of work performed, for up to fifty percent (50%) of the fine and court costs.
- (d) No retailer shall sell or permit the sale of cigarettes or tobacco products by use of a vending machine or other coin-operated machine; except that cigarettes may be sold at retail through vending machines only in:
  - (1) Factories, businesses, offices or other places not open to the general public;
  - (2) Places to which minors are not permitted access at any time during the day or night; or
  - (3) Places where the vending machine is under the direct supervision of the owner of the establishment or an adult employee of the owner, including but not limited to establishments holding a valid liquor license issued pursuant to Article 47 of Title 12, C.R.S.
- (e) Any person who sells or offers to sell any cigarettes or tobacco products shall display a warning sign as specified in this Subsection. Said warning sign shall be displayed in a prominent place in the building and on such machine at all times, shall have a minimum height of three (3) inches and a width of six (6) inches, and shall read as follows:

WARNING

IT IS ILLEGAL FOR ANY PERSON UNDER 18 YEARS OF AGE TO PURCHASE CIGARETTES AND TOBACCO PRODUCTS AND, UPON CONVICTION, A \$100.00 FINE MAY BE IMPOSED.

- (f) Any violation of Subsection (e) above shall not constitute a violation of any other provision of this Section.
- (15) **Sec. 10-7-120. Possession of cannabis. (Chapter 10, General Offenses; Article 7, Alcoholic Beverages and Drugs; Division 2, Drugs)**
  - (a) It shall be unlawful for any person to possess one (1) ounce or less of cannabis as hereinabove defined, and upon conviction thereof, he or she shall be punished by a fine of not more than one hundred dollars (\$100.00).
  - (b) Whenever a person is arrested or detained for a violation of Subsection (a) above, the arresting or detaining officer shall prepare a written notice or summons for such person to appear in court. The written notice or summons shall contain the name and address of such arrested or detained person, the date, time and place where such person shall appear and a place for the signature of such person indicating the person's written promise to appear on the date and at the time and place indicated on the notice or summons. One (1) copy of said notice or summons shall be given to the person arrested or detained, one

(1) copy shall be sent to the Municipal Court and such other copies as may be required by the Police Department shall be sent to the places designated by the Police Department. The date specified in the notice or summons to appear shall be at least five (5) days after such arrest or detention unless the person arrested or detained demands an earlier hearing. The arrested or detained person, in order to secure release from arrest or detention, shall promise in writing to appear in court by signing the notice or summons prepared by the arresting or detaining officer.

- (c) Any person who openly and publicly displays, consumes or uses not more than one (1) ounce of marijuana commits an offense and, upon conviction thereof, shall be punished, at a minimum, by a fine of not less than one hundred dollars (\$100.00) or, at a maximum, by a fine of not more than one hundred dollars (\$100.00) and, notwithstanding the provisions of Section 18-13-503, C.R.S., by fifteen (15) days in jail.
- (d) The provisions of this Section shall not apply to any person who possesses or uses marijuana pursuant to the Dangerous Drugs Therapeutic Research Act.

(16) **Sec. 11-1-20. Snow and ice removal from sidewalks. (Chapter 11, Streets, Sidewalks and Public Places; Article 1, Streets and Sidewalks)**

- (a) Every owner or occupant of any premises within the Town having a sidewalk or walkway on or adjacent to the premises shall have the duty to keep the sidewalk clean of snow and ice.
- (b) All snow and ice from such sidewalks and public walkways shall be removed within twenty-four (24) hours of accumulation.
- (c) All snow and ice from sidewalks and public walkways in the C-1, Core Commercial District shall be removed by 9:00 a.m.
- (d) For purposes of this Section, *premises* shall mean any lot, parcel, outlot or other subdivision of real property, whether occupied or not, and whether or not a structure exists on the lot, parcel, outlot or other subdivision.
- (e) If the owner or occupant does not remove the snow and ice as required in this Section, the Town Administrator shall, by certified mail, personal service or posting of a written notice affixed or hung on the door of an occupied residential property, direct the owner, occupant, agent in charge or other person responsible that the snow and ice be removed. Failure to comply with the provisions of this Section within twenty-four (24) hours following issuance of a written warning by the Town shall be a violation for which the property owner may be fined in accordance with the provisions of Section 1-4-20 of this Code.

(17) **Sec. 11-3-30. Glass containers prohibited. (Chapter 11, Streets, Sidewalks and Public Places; Article 3, Public Parks)**

- (a) No person shall use glass containers within the parks of the Town.
- (b) Any group of people using the Town parks shall be responsible for the possession of glass containers by its members.
- (c) The Board of Trustees may allow exemptions to this Section by majority vote.
- (d) Any person violating any of the provisions of this Section shall be deemed guilty of a misdemeanor and be punished in accordance with Section 1-4-20 of this Code, plus any cleanup costs associated with the accidental or intentional breakage of the glass containers.

(18) **Sec. 13-1-20. Rates for water. (Chapter 13, Municipal Utilities; Article 1, Water Regulations)**

...

(i) Billing procedure. Water meters will be read or usage estimated during the last five (5) workings days of the month. Utility bills will be mailed to the address provided by the water user no later than the fifth day of each month. The due date for utility bills shall remain constant on the fifteenth day of the month. A late charge of five dollars (\$5.00) will be added to each bill not paid by the fifteenth of each month. All unpaid utility bills are delinquent after the fifteenth of the month. A shutoff notice shall be sent on the twentieth of the month or the next Monday is the twentieth falls on a weekend, specifying a shutoff time and date. The penalty fee that shall be charged for shutoff for nonpayment is fifty dollars (\$50.00). This penalty fee, which is in addition to the water charges and late fees, also covers the subsequent turn-on service charge once the outstanding bill is paid. A Public Works Department employee may be accompanied by a police officer to terminate service as of the notified date.

- (1) The Town shall notify the water user and property owner of delinquent accounts. Notification shall be deemed issued by placing the shutoff notice in certified U.S. mail, return receipt requested, to the property owner's last known address, as indicated on the County's assessment roll or the Town's utility billing records, or delivered by personal service.
- (2) Restoration of service after a shutoff for delinquent payment will be by a member of the Public Works Department during regular business hours after payment in full of all delinquent and current amounts owed, including all additional charges. Regular business hours for such payment and for requests for resumption of service are between the hours of 8:00 a.m. and 4:30 p.m. in person at the Town Office, Monday through Friday, except holidays. There will be no after-hours, holiday or weekend turn-on when there has been a delinquency shutoff, unless it has been approved by the Town Manager. There will be an additional one-hundred-dollar fee for after-hours, holiday or weekend turn-on.
- (3) If a utility bill shows an unusual increase in water usage and if the water user notified the Town within thirty (30) days of the billing date, a Public Works Department employee will reread the meter. If the original meter reading is in error, the water user will be credited for the amount of the error. If the original meter reading is correct and the water users are served by a master meter, they will be liable for all measured water. If the original meter reading is correct and if the Public Works Department employee determines there is a leak on the water user's side of the meter and so informs the water user, the water user will be credited for the excess usage over the seasonal average usage back to the previous meter reading. No further credit will be made for excess usage after the date the user is informed of the leak, nor will there be any credit for periods preceding the previous meter reading.

...

(l) Unpaid charges a lien. All water charges, sewer charges, garbage collection charges and sewer and water tap fees shall be a lien upon the property furnished with the service, from the date such charges become due until such charges are paid in the full amount. The owner of every building, premises, lot or house shall be liable for the charges or tap fees for any water, sewer or garbage collection service furnished to their premises. Such lien and liability may be enforced by the Town in action at law or in a suit to enforce the lien. The Town shall not be required to look to any person or entity other than the owner for the payment of such charges. No change in ownership or occupation of the premises shall affect the application of this Section. In the event such charges are not paid within thirty (30) days after becoming due, the Town Clerk may certify such delinquent payments, together with accrued interest, to the County Treasurer, such charges to be collected in the same manner as the real property taxes on such premises, plus a ten-percent penalty to defray the costs of collection.

(19) **Sec. 13-1-80. System prohibitions. (Chapter 13, Municipal Utilities; Article 1, Water Regulations)**

- (a) Water system damage. No person shall:
  - (1) Willfully, negligently or maliciously break, damage, destroy, uncover, deface, tamper with or alter any structure, property, appurtenance, equipment or any other item which is part of the water system;
  - (2) Remove any in-Town water meter, water pipe or other water equipment or tools owned by the Town; or
  - (3) Prevent or circumvent a water meter from measuring water supplied by the water system.
- (b) Obtaining water fraudulently. Tampering with water system equipment or stealing water service shall be grounds for discontinuance of water service. Theft of water shall include, but not be limited to, the following:
  - (1) Opening valves at the curb or meter that have been turned off;
  - (2) Breaking, picking or damaging cut-off locks;
  - (3) Bypassing meters in any way;
  - (4) Taking unmetered water from hydrants by unauthorized person or department;
  - (5) Removing, disabling or adjusting meter registers;
  - (6) Connecting to or intentionally damaging water lines, valves or other appurtenances for the purpose of stealing or damaging water system equipment;
  - (7) Moving the meter or extending service without permission;
  - (8) Any other intentional act of defacement, destruction or vandalism to water system property or act that affects water system property; or
  - (9) Any intentional blockage or obstruction of water system equipment.

Water service turned on without permission or by someone not officially designated by the Town to do so, or any unauthorized turn-on, off or tampering with a meter shall subject the user or the property owner to whom the tap is registered to a penalty fee of one hundred dollars (\$100.00) for the first offense and a misdemeanor summons to the Municipal Court for subsequent offenses. All penalties paid will be in addition to the regular costs of connection and service, as well as liability for full damages, repairs, investigations or inspection incurred by their actions. After three (3) prohibition violations by the same user, the matter will be sent before the Board of Trustees for a public hearing and further action, including possible tap revocation.

...

- (f) Unpaid charges.
  - (1) The name that appears on the account for water service shall be billed for payment of all charges. All water charges and fees shall be a lien upon the property furnished with the service from the date such charges become due until such charges are paid in the full amount. Such lien and liability may be enforced by the Town in an action at law or in a suit to enforce the lien. The Town shall not be required to look to any person or entity other than the owner for the payment of such charges. No change in ownership or occupation of the premises shall affect the application of this Section. In the event such charges are not paid within thirty (30) days after becoming due, the Town Clerk may certify such delinquent payments, together with accrued interest, to the County Treasurer, such charges to be collected in the same manner as the real property taxes on such premises, plus a ten-percent penalty to defray the costs of collection.



(2) The Town shall have the right to refuse to provide water service to an applicant or to any member of an applicant's household who is living at the same address whenever such person is delinquent on any payment to the Town or had his or her water service discontinued because of a violation of this Article.

(20) **Sec. 13-3-170. Violation and penalty. (Chapter 13, Municipal Utilities; Article 3, Watershed)**

- (a) Offense. Any person who violates any of the provisions of this Chapter shall be fined in accordance with the provisions of Section 1-4-20 of this Code.
- (b) Remedies. The remedies herein provided shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law. Nothing herein shall be construed a waiver of any civil remedies available to the Town.

(21) **Sec. 13-5-260. Lien. (Chapter 13, Municipal Utilities; Article 5, Sewer System; Division 2, Tap Fees and Service Charges)**

All sewer charges and tap fees shall be a lien upon the property furnished with the service, from the date such charges become due until such charges are paid in the full amount. The owner of every building, premises, lot or house shall be liable for the charges or tap fees for any sewer service furnished to their premises. Such lien and liability may be enforced by the Town in an action at law or in a suit to enforce the lien. The Town shall not be required to look to any person or entity other than the owner for the payment of such charges. No change in ownership or occupation of the premises shall affect the application of this Section. In the event such charges are not paid within thirty (30) days after becoming due, the Town Clerk may certify such delinquent payments, together with accrued interest, to the County Treasurer, such charges to be collected in the same manner as the real property taxes on such premises, plus a ten percent (10%) penalty to defray the costs of collection.

(22) **Sec. 13-6-30. Charges. (Chapter 13, Municipal Utilities, Article 6, Garbage Collection)**

...

- (g) A fine of not more than one thousand dollars (\$1,000.00) for each offense may be levied against a person or business establishment using garbage containers or Dumpsters that they have not themselves contracted for, if they are not registered for and subject to the appropriate fees, if they are not residents of the Town or for any other violation hereof. Any person, agent, corporation or firm violating any Section of this Article shall be deemed guilty of a petty offense and subject to the stated fine. Each day of such violation shall constitute a separate offense.

...

(23) **Sec. 13-6-50. Lien. (Chapter 13, Municipal Utilities; Article 6, Garbage Collection)**

All garbage collection charges shall be a lien upon the property furnished with the service from the date such charges become due until such charges are paid in the full amount. The owner of every building, premises, lot or house shall be liable for the charges for any garbage collection service furnished to his or her premises. Such lien and liability may be enforced by the Town in an action at law. The Town shall not be required to look to any person other than the owner for the payment of such charges. No change in ownership or occupation of the premises shall affect the application of this Section. In the event such charges are not paid within thirty (30) days after becoming due, the Town Clerk shall certify such delinquent payments, together with accrued interest, to the County Treasurer, such charges to be collected in the same manner as the real property taxes on such premises, plus a ten-percent penalty to defray the costs of collection.

(24) **Sec. 13-6-100. Violation and penalty. (Chapter 13, Municipal Utilities; Article 6, Garbage Collection)**

A person using garbage containers or Dumpsters for which he or she has not contracted, if he or she is not registered for and subject to the appropriate fees, if he or she is not a resident of the Town or for any other violation hereof shall be punished in accordance with Section 1-4-20 of this Code. Any person violating any Section of this Article shall be deemed guilty of a petty offense and subject to the stated fine. Each day of such violation shall constitute a separate offense.

(25) **Sec. 16-9-410. Penalties for noncompliance. (Chapter 16, Zoning; Article 9, Flood Damage Prevention; Division 4, Penalties)**

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this Article and other applicable regulations. Violation of the provisions of this Article by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this Article or fails to comply with any of its requirements shall be considered in violation of the Code and ordinances of the Town and shall, upon conviction thereof, be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than ninety (90) days, or both, for each violation and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Town from taking such other lawful action as deemed necessary to prevent or remedy any violation.

(26) **Sec. 16-18-20. Penalty. (Chapter 16, Zoning; Article 18, Enforcement)**

Any person upon conviction of a violation of this Chapter, shall be fined in accordance with the provisions of Section 1-4-20 of this Code.

(27) **Sec. 18-4-40. Penalties. (Chapter 18, Building Regulations; Article 4, Energy Efficiency Standards)**

The following penalty clause is herewith set forth in full and adopted: ;p3; "It shall be unlawful for any person, firm or corporation to erect, construct, renovate, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure in the Town, or cause or permit the same to be done, contrary to or in violation of any of the provisions of the Energy Code. Any person, firm or corporation violating any of the provisions of this Code shall be deemed guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of the Energy Code is committed, continued or permitted, and, upon conviction of any such violation, such person shall be punishable by a fine of not more than three hundred dollars (\$300.00) or by imprisonment for not more than ninety (90) days or by both such fine and imprisonment.

Section 6. Additions or amendments to the Code, when passed in the form as to indicate the intention of the Town to make the same a part of the Code, shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 7. *Ordinances adopted after this Ordinance that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to those provisions of the Code.*

Section 8. This Ordinance shall become effective thirty (30) days after publication thereof.

INTRODUCED this 13th day of January, 2015.

TOWN OF PAONIA , COLORADO

ATTEST:

Neal Schwieterman, Mayor

Commented [DR18]: Update

Commented [T19R18]: This was the language at the time of the ordinance adoption, codifying our Code. The language would not change in this, the ordinance will be updated with the new ordinance and this will then be recognized as historical reference only.

J. Corrine Fergusen, Deputy Town Clerk

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(SEAL)

ADOPTED AND ORDERED PUBLISHED,  
on this 13th day of January, 2015.

TOWN OF PAONIA, COLORADO

ATTEST:

Neal Schwieterman, Mayor

J. Corrine Fergusen, Deputy Town Clerk

Commented [T21]: NOT how you spell either of my names. Municode error

(SEAL)

APPROVED AS TO FORM:

James Briscoe, Town Attorney

Chapter 16 - ZONING

Commented [T22]: This is the actual beginning of the Zoning and Building chapters.

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 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:

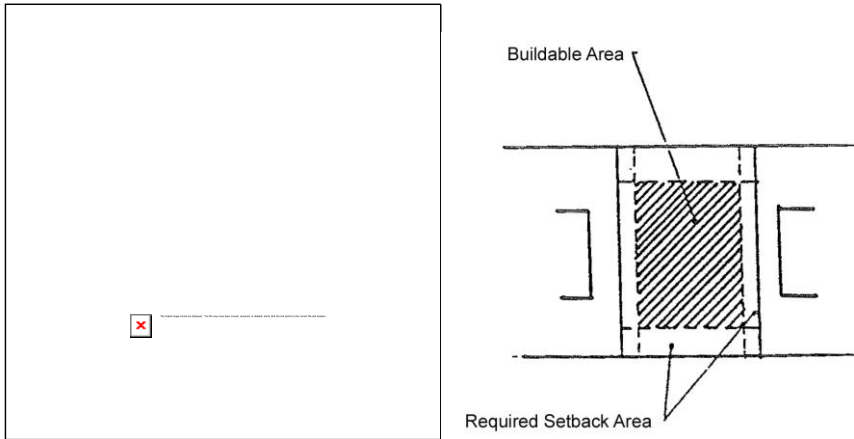
*Accessory building, structure or use* means a building, structure or use located on the same lot as the principal building, structure or use, which is clearly incidental to and subordinate to and customarily found in connection with the principal building structure or use. Accessory buildings, structures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

*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.

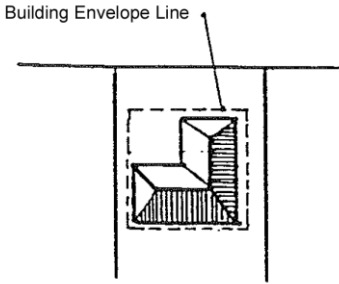
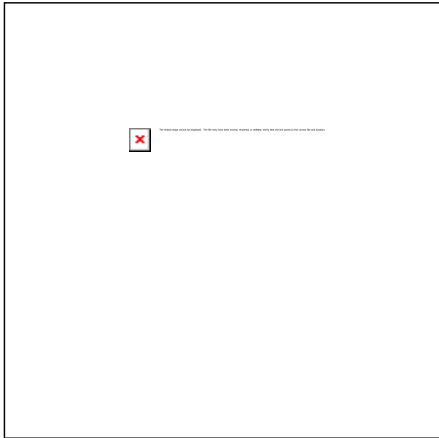
*Bed and breakfast establishment* means a facility of residential character, which provides sleeping accommodations for hire for two (2) weeks or less, on a day-to-day basis, with one (1) or more meals per day included and a manager residing on the premises.

*Boarding or rooming house* 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.

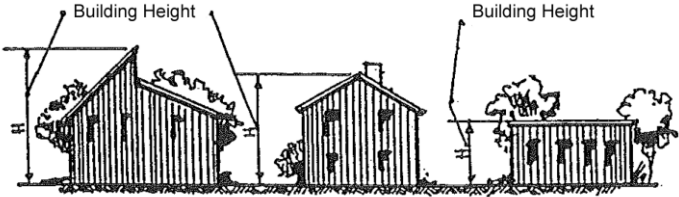
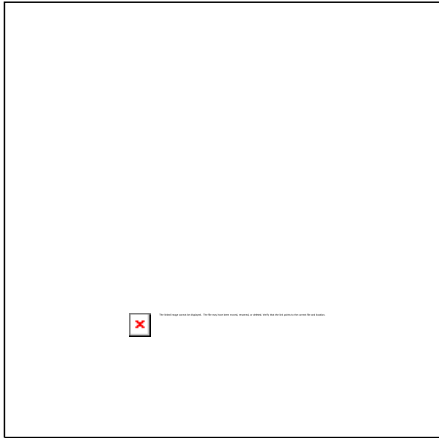


*Building envelope* means the two-dimensional space within which a building is proposed to be located on a lot, parcel or tract of land.



\_\_\_\_\_

*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 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 other dwelling units that may be in the same structure.

*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 (1/2) of the area used exclusively for storage.

*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.

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

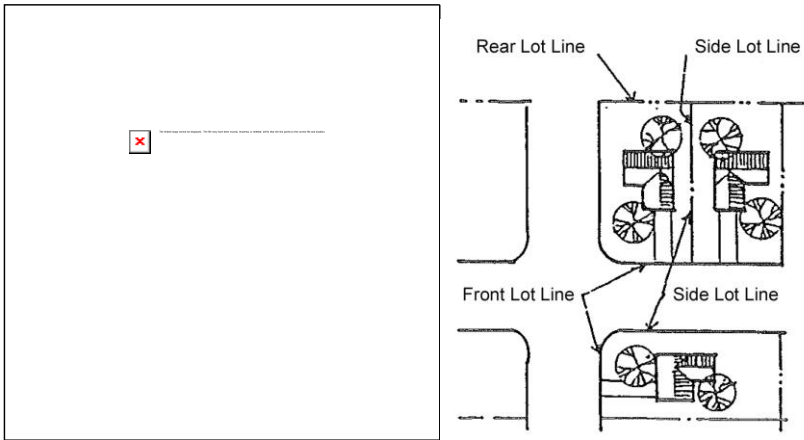
*Lot line, side* means any lot line other than a front or rear lot line.

**Commented [DR23]:** This makes no sense as a one-size-fits-all rule. There must be a more flexible way to define "front".

**Commented [T24R23]:** Remove second sentence?

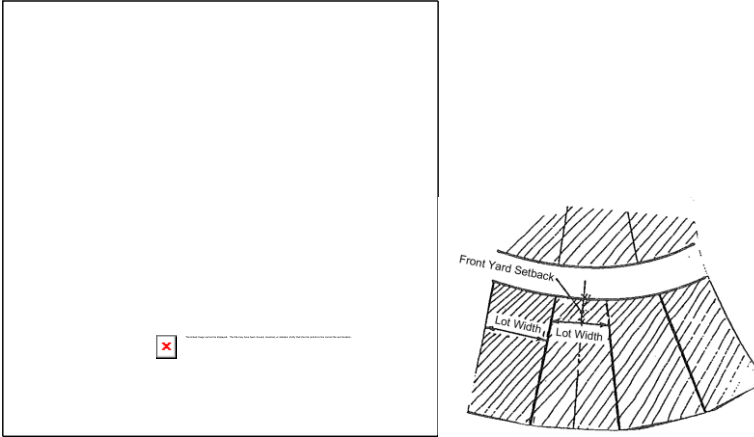
**Commented [DR25R23]:** Your call. This is a Zoning deal and I'm not sure you want me spending time on it? It would be good to remove the second sentence for this definition, but it would still be good to have a way to identify the "front" on a corner lot. See the diagram I am offering that also addresses shed locations mentioned in 16-11-60 page 81.





*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 3:12 or more pitched roof of asphalt shingle, metal-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.

*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.

*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.

*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.

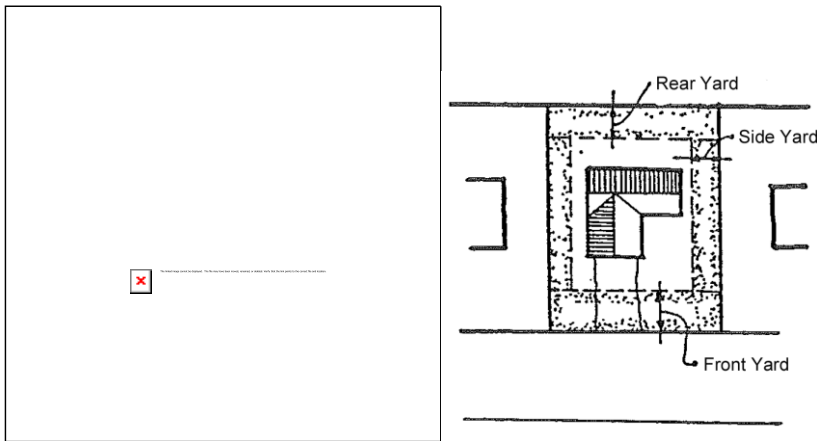
*Street, collector* means a street with moderate traffic volumes that provide access to residential and commercial areas and to channel traffic from the local streets to the arterial streets. *Collector streets* may be further classified as major collectors and minor collectors depending on the potential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

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

Sec. 16-2-10. - Establishment.

In order to carry out the purpose and provisions of this Chapter, the Town is hereby divided into the following zoning districts:

E-1	Estate Residential District
R-1	Low-Density Residential District
R-2	Medium-Density Residential District
R-3	Higher-Density Residential District
MH	Mobile Home Park Subdivision District
MH1	Mobile Home Parks Subdistrict
MH2	Mobile Home Subdivisions Subdistrict
C-1	Core Commercial District
C-2	Community Commercial District
I-1	Light Industrial District
I-2	Industrial District
DR	Developing Resource District
P	Public District

The intent of each zoning district is as described in the following sections.

(Ord. No. 83-116, Art. IX, 1983; Ord. No. 2000-02, Art. IX, 2000)

Sec. 16-2-20. - E-1, Estate Residential District.

It is the intent of this District to provide for orderly development of single-family residential areas on three to ten-acre lots. Farm-type animals, including horses, sheep, llamas, cattle and goats, will be allowed. Other animals will require approval of the Town. This District requires adequate irrigation water rights if the property to be improved has been previously irrigated and water rights were utilized, and must have a plan for distribution (see Section 16-3-110 of this Chapter).

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

Commented [DR26]: Needs to be re-worded for clarity.

Commented [T27R26]: Suggest removal

Commented [DR28R26]: Your call. I believe this was brought up for IVO's development proposal, but only because it is still in the M.C. I suppose.

Sec. 16-2-30. - R-1, Low-Density Residential District.

It is the intent of this District to provide for the orderly development of single-family residential site-built or manufactured built homes, depending on covenants for the area.

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

Sec. 16-2-40. - R-2, Medium-Density Residential District.

It is the intent of this District to allow for the orderly and creative development of attached and detached single-family, two-family and multiple-family dwellings at moderate densities. Such areas are intended to serve as a transition between the lower-density zoning districts and the higher-density residential areas and commercially zoned areas.

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

Sec. 16-2-50. - R-3, Higher Density Residential District.

It is the intent of this District to provide for the orderly and creative development of residential areas with density substantially higher than the Low-Density or Medium-Density Districts yet compatible with the present scale and character of the Town. Higher density residential areas may be appropriately located as a part of planned developments, adjacent to medium-density residential areas, commercially zoned areas, adjacent to the core commercial area or downtown and within close proximity to major collector or arterial streets.

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

Sec. 16-2-60. - MH, Mobile Home Park Subdivision District.

It is the intent of this District to provide orderly development of single-family residential mobile home parks having rented lots and for subdivisions having homeowner lots. Appropriate screening and/or buffer zones from other districts and zones may be required. Mobile homes will be restricted to this District except as specified in Article 8 of this Chapter. (See Article 8 of this Chapter for regulations.)

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

Sec. 16-2-70. - C-1, Core Commercial District.

It is the intent of this District to provide for the orderly development of those commercial and business uses, government, educational and cultural facilities that are characteristic of downtown areas and promote comparison shopping and pedestrian activity in the core area. This District is not intended for businesses and commercial uses that are oriented to the automobile and require extensive ground-level floor area.

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

Sec. 16-2-80. - C-2, Community Commercial District.

It is the intent of this District to augment the commercial and business needs of the community by providing for the orderly development of commercial facilities that, because of their specific nature,

**Commented [DR29]:** site-built or manufactured built homes??

**Commented [T30R29]:** No mobile homes permitted, other homes a go.

**Commented [DR31R29]:** What I've seen done is where IRC homes are allowed anywhere homes are allowed, then HUD homes that are a minimum of 20' wide (meaning it must be a double-wide) are allowed in other specified Zones, and HUD homes less than 20' are allowed only in an MH Zone. I would discuss this with Bo Nerlin.

**Commented [DR32]:** I reworded this to show just one district. Please compare to original for your approval.

require closer access to arterial routes or immediate access to large parking areas or require generally larger ground-level floor areas than the smaller retail shops as encouraged in the core commercial areas.

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

Sec. 16-2-90. ~~I - Industrial District.~~

It is the intent of this District to provide for the development of industrial uses that will enhance the economy of the Town and be designed and planned in a manner that will be compatible with the character of the community and not add pollution or other undesirable effects to the adjoining properties or to the community as a whole.

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

**Commented [DR33]:** Changed from I-1 "Light" industrial. Now just one industrial Zone as requested.

Sec. 16-2-100. ~~Reserved~~

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

**Commented [DR34]:** I removed the I-2 district as requested

Sec. 16-2-110. - DR, Developing Resource District.

It is the intent of this District to provide for the zoning of those areas to be annexed that are eligible for annexation and are designated in the Comprehensive Plan as potentially suitable for urban development but not in the immediate future because of lack of utilities or other public services. DR District zoning should be applied to existing agricultural or open space areas with minimal present development.

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

Sec. 16-2-120. - P, Public District.

It is the intent of this District to provide a special district for those lands that are dedicated for public use for recreational or educational purposes or for other public facilities or services. New construction and development will require special review.

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

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
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

**Commented [T35]:** Should we remove since we don't have any?

**Commented [DR36R35]:** Your call, but we simply removed MH-1 and MH-2 to create one MH Zone, so it seems it should stay.

**Commented [DR37]:** I don't see an MH Zone in the legend for the Zoning map?? Still needs to be addressed.

**Commented [T38]:** No idea what an S-1 is.

**Commented [DR39R38]:** Me neither!???



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

<sup>1</sup> See Article 8 of this Chapter.

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

<sup>3</sup> 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.

<sup>4</sup> 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 Requirements <sup>1</sup> - Residential Districts**

	R-1 District		R-2 District		R-3 District		E-1 District		MH District	
Minimum	Dwelling	Min.	Dwelling	Min.	Dwelling	Min.	Dwelling	Min.	Dwelling	Min.

Lot Area Requirements	units	lot area (sq. ft.)	units	lot area (sq. ft.)	units per story	lot area (sq. ft.)	units	lot area (sq. ft.)	units	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 <sup>2</sup>	R-1 District	R-2 District	R-3 District	E-1 District	MH District
All yard areas adjacent to an arterial street	50 ft.	35 ft.	35 ft.	75 ft.	50 ft.

major and minor setbacks					
Front yard setback					
Collector (major and minor) setbacks	25 ft.	25 ft.	25 ft.	50 ft.	25 ft.
Local setbacks	20 ft.	20 ft.	20 ft.	35 ft.	20 ft.
Side yard setbacks	6 ft.	6 ft.	10 ft. <sup>3</sup>	20 ft.	6 ft.
Rear yard setbacks	10 ft.	10 ft.	20 ft.	20 ft.	15 ft.
Minimum lot width	50 ft.	50 ft.	50 ft.	200 ft.	50 ft.
Minimum landscaped open space (% of lot area)	-	20%	20%	30%	-
Minimum lot coverage (of yards)	30%	30%	30%	20%	50%
Maximum building height	25 ft.	25 ft.	35 ft.	30 ft.	25 ft.

**Commented [DR40]:** This title would be best moved above the Arterial Street row and the title of that row could be changed to simply read "Arterial Street (major and minor)" to help with clarity.

**Commented [DR41]:** Do we define "Landscaping"? Encourage Xeriscaping?

**Commented [T42]:** Lot coverage across zones should be updated to more standard coverage. We think we are too restrictive

**Commented [DR43R42]:** Your call on all of these Zoning issues.

<sup>1</sup> 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.

<sup>2</sup> See supplementary requirements in Section 16-10-60.

<sup>3</sup> When a building is 3 stories, a 15-foot setback is required.

**Commented [DR44]:** 16-10-60 exists only as "Reserved". Could you mean 16-11-50 or .....?

**Commented [T45R44]:** Will ask municode

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

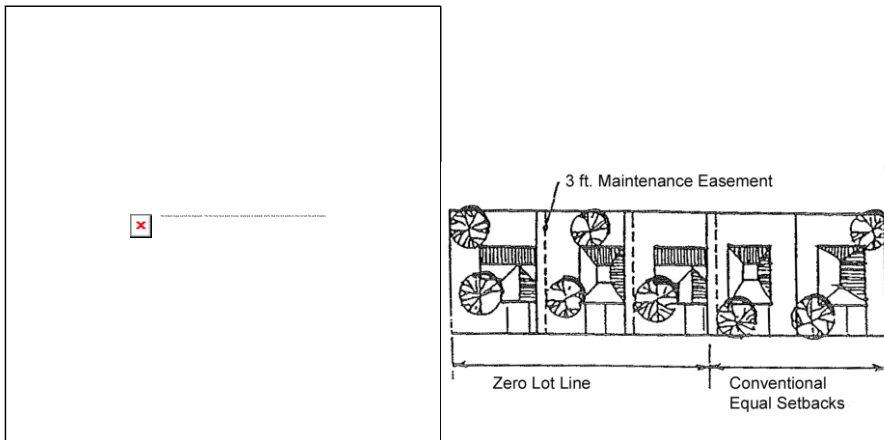
Sec. 16-3-40. - Average lot area.

- (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.

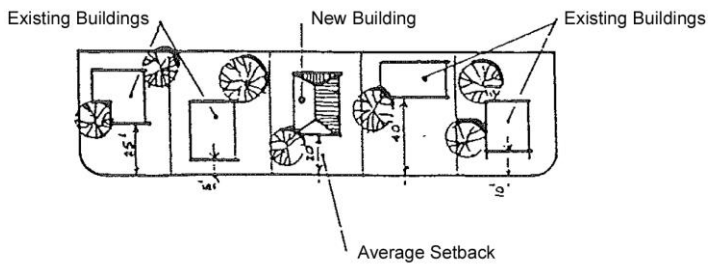
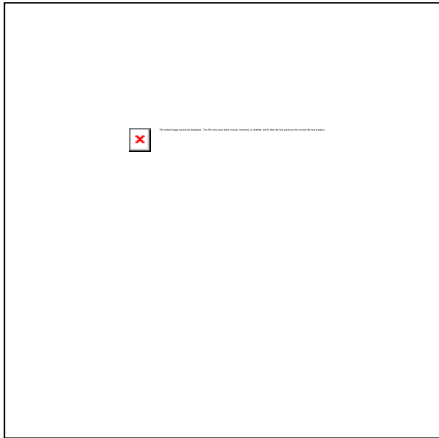
When a group or cluster of three (3) or more single-family dwellings are proposed for development as a unit, the side yard requirement may be reduced subject to the approval of the Town Administrator. However, the minimum spacing between two (2) structures shall not be less than twelve (12) feet. In 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.



(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)				

**Commented [DR46]:** Not shown on the Zoning map!??

**Commented [T47R46]:** remove

**Commented [DR48R46]:** That's fine – does Muni-Code do that? I changed I-1 to just "I" above, so this Table needs to reflect that single Industrial Zone.

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	S	S	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
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
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 <sup>2</sup>	X	X	S	P
Utility substations <sup>8</sup>	X	S	S	S
Warehouses	S	S	P	P
Wholesale businesses (factory outlets)	S	S	S	S

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)

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. <sup>1</sup>	6,000 sq. ft. <sup>2</sup>		
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. <sup>2</sup>	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%

;hg2; <sup>1</sup>For residential development in the C-1 and C-2 acres, the minimum lot sizes shall be the same as the requirements of the R-3 District.

<sup>2</sup>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.

**Commented [DR49]:** I don't see this on the Zoning map!??

**Commented [T50R49]:** remove

**Commented [DR51R49]:** Muni-Code does that? I did NOT remove this from Zoning definitions above – I will leave that to YOU and Muni-Code.

- (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)

ARTICLE 4. - SPECIAL REVIEW APPLICATION REQUIREMENTS AND PROCEDURES

Sec. 16-4-10. - Intent.

Each established zoning district is intended for a specific type or category of land use (e.g., single-family dwelling in an R-1 district). However, there are certain uses, which may or may not be appropriate in a particular district, depending on the situation. For example, the location, nature of the proposed use, character of the surrounding area, traffic capacities of adjacent streets and potential environmental effects all may dictate that the circumstances of the development should be individually reviewed. The special review process is established to provide for these specific uses without establishing numerous separate zoning classifications. It is the intent of this Article to provide a review of such uses so that the community is assured that the proposed uses are compatible with the location and surrounding land uses.

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

Sec. 16-4-20. - When allowed.

Within each zoning district, certain land uses are permitted by right or by special review or prohibited. Special review uses may be permitted in designated districts upon review by the Planning Commission and approval by the Board of Trustees.

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

Sec. 16-4-30. - Site plan and supporting documents.

There shall be filed with each special review application a site plan drawn to scale and an appropriate number of copies as determined by the Town Administrator. The site plan shall be drawn in black ink on Mylar. Following approval by the Board of Trustees, the applicant shall submit a reproducible copy of the original site plan to the Town for the Town's permanent records. The special review application shall include the following:

- (1) The site plan showing the location of all buildings, structures and other improvements to be placed on the real property. A building envelope may be used in lieu of showing the exact building or structure location to allow for minor variations in the location.
- (2) A legal description of the property.
- (3) A list of the names and addresses of all property owners within two hundred (200) feet of the property.
- (4) All off-street parking and loading areas.
- (5) The location of all ways for ingress to and egress from all buildings and parking areas.
- (6) Service and refuse collection areas.
- (7) Major screening proposals.
- (8) The size, shape, height and character of all signs.

- (9) The area and location of all open space and recreation areas.
- (10) The location and type of outdoor lighting.
- (11) The character and type of landscaping to be provided. The landscaping shall be indicated in tabular form showing the type of plant material, minimum size and quantity. The approximate location of landscaping shall be indicated on the site plan.
- (12) The anticipated timetable for completion. If the project is to be completed in phases, then the date for completion of each phase shall be indicated.
- (13) The following agreement will be placed on the original special review site plan, signed by all owners and lienholders of the property: The undersigned agree that the real property described on the site plan shall be developed only in accordance with the approved special review site plan and other provisions of the zoning regulations of the Town of Paonia. The signatures of all owners and lien holders shall be notarized. The agreement shall further designate who is specifically responsible for the proposed improvements.
- (14) In addition to the site plan, a title policy indicating that the property is free and clear of all ownership disputes, liens or encumbrances whatsoever which would impair the use of the property for the uses approved. The title policy shall provide verification that all owners and lien holders have signed the special review site plan. The title policy shall be effective within twenty-four (24) hours after the date of approval by the Board of Trustees. If the title policy is not provided to the Town Clerk within seven (7) days after action by the Board of Trustees, the action by the Board of Trustees shall be automatically voided.
- (15) Other information as needed by the Town to analyze the feasibility and impacts of the special review use, which may include, but are not limited to, traffic analyses, soils or geological reports or drainage and engineering studies.

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

Sec. 16-4-40. - Procedures for securing approval of special review application.

- (a) *Preapplication conference.* The applicant shall schedule a conference with the Town Administrator prior to submitting a formal application. This will serve to better acquaint the applicant with the Town's policies, requirements, procedures and the Master Plan objectives. The preapplication conference should be held before the applicant has entered into binding commitments or incurs substantial expenses in the preparation of plans, surveys and other studies.
- (b) *Filing deadline.* Applications for special review shall be filed at least thirty (30) days in advance of the meeting at which they are to be considered by the Planning Commission. The Town will provide the applicant with a list of filing deadlines and meeting dates. Applications that are incomplete at the time of filing will not be scheduled for review by the Planning Commission.
- (c) *Fees.* All persons filing a special review application shall be charged a fee to cover the cost of advertising and processing. The amount of the fee shall be established by resolution of the Board of Trustees.
- (d) *Review by the Town Administrator.* The Town Administrator shall review the application for compliance with the provisions of this Code, the site plan review criteria and performance standards of this Section and for consistency with the Master Plan. The Town Administrator shall receive comments from all other pertinent Town departments and other agencies and from the Development Review Committee. The Town Administrator may then submit his or her recommendations and comments to the Planning Commission for its consideration at its next regularly scheduled meeting. Copies of staff recommendations shall be available to the applicant prior to the Planning Commission's meeting.

- (e) *Action by the Planning Commission.* At a duly noticed public hearing the Planning Commission shall consider the special review application and the comments and recommendations of the Town Administrator. As a part of their review of the proposed special review use, the Planning Commission shall consider the Special Review Site Plan review criteria and performance standards of Section 16-4-50 below.
- (f) *Action by the Board of Trustees.* Within thirty (30) days after the action by the Planning Commission, the Board of Trustees shall consider the special review request and the recommendations of the staff and the Planning Commission. The Board of Trustees shall then make the final decision to approve the application, approve the application with modifications or deny the application.

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

Sec. 16-4-50. - Site plan review criteria and performance standards.

- (a) The criteria for review and performance standards are as follows:
  - (1) Compliance of the application with this Code in general.
  - (2) The compatibility of the proposed use and site plan with the character of the surrounding area.
  - (3) The desirability and need for the proposed use.
  - (4) The potential for adverse environmental influences that might result from the proposed use.
  - (5) Compatibility of the proposed use and site plan with the policies and guidelines of the Comprehensive Plan.
- (b) Lights and signs shall be located in a manner that will not be distracting to adjoining properties or passing motorists.
- (c) Landscaping shall be provided in areas near the public right-of-way and located with consideration for energy conservation. An acceptable plan must be provided for the maintenance of the required landscaped areas.
- (d) Control of storm drainage shall be provided so as to not damage adjoining properties. The plan must be approved by the Town Engineer.
- (e) Site design and building plans shall include provisions for the needs of handicapped individuals as required by the Building Code or other ordinances of the Town.
- (f) Approved landscaping or solid fencing capable of screening adjacent properties shall be provided where commercial uses abut residential uses.
- (g) Commercial and industrial uses shall conform to the following performance standards:
  - (1) No dust, odor, gas, fumes, glare or vibration shall extend beyond lot lines. Glare pertains to sunlight reflected from windows or other integral portions of buildings, as well as from lighting fixtures and signs.
  - (2) Smoke shall not be emitted at a density greater than #1 on the Ringleman's scale.
  - (3) No particles of fly ash shall exceed two-tenths percent (0.2%) grains per cubic foot of the flue gas at a stack temperature of fifty (50) degrees Fahrenheit.
  - (4) Noise. No noise shall be emitted which exceeds a maximum of seventy-five (75) decibels with a maximum increase of five (5) decibels permitted for a maximum of fifteen (15) minutes in any one (1) hour. In addition, every activity shall be conducted so that no noise produced is objectionable due to intermittence, beat frequency or shrillness.
  - (5) Water pollution. No water pollution shall be emitted by the manufacturing or other processing.

- (6) Outside storage areas that adjoin R-1, R-2 or R-3 Districts must be screened from view with screening of at least eight (8) feet high. The screening shall be constructed of board fencing, screened metal fencing or shrubs.
- (7) Truck traffic to and from the I-1 and I-2 District facilities must be restricted to truck routes. The weight of the trucks is limited to standard highway limits unless otherwise posted.
- (8) Industrial activity within the I-1 District will be restricted to 7:00 a.m. to 9:00 p.m.

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

Sec. 16-4-60. - Effect of special review approval.

- (a) Following approval of a special review application, all real property described in the application must be improved, developed and used in accordance with the approved application, the site plan and any written proposals submitted therewith within the completion date or dates set by the Board of Trustees.
- (b) Any changes or modifications to the special review application or site plan shall be permitted only in accordance with the procedures stated in Section 16-4-70 below.
- (c) It is unlawful for the owner of the property subject to an approved special review application to fail to complete all improvements within the approved completion date set by the Town or to use the property for any use not set forth in an approved special review application. Each day of violation shall be considered as a separate violation of the provisions of this Chapter.

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

Sec. 16-4-70. - Changes or modification to approved application and special review site plans.

Changes or modifications to an approved special review application and site plan shall be permitted by following the procedures of this Chapter for rescinding a special review application and securing approval of the original application, except as follows:

- (1) For minor variations in the location of structures, improvements or open areas caused by engineering or other unforeseen difficulties, the Planning Commission may authorize a modification to an approved site plan without public hearing. Such changes or modifications authorized by this Paragraph shall not modify use, character or density of an approved special review application or site plan. All site plans so modified shall be amended to show the authorized modifications.
- (2) The Planning Commission may also grant, without a public hearing, an extension of the time schedule for a period not to exceed six (6) months. Not more than two (2) such extensions may be granted without a duly noticed public hearing.

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

Sec. 16-4-80. - Termination of approved special review applications.

Approved special review applications may be terminated as follows:

- (1) *By Board of Trustees action.* If construction is not completed and use established on a property subject to an approved special review application in accordance with and within the time

schedule set forth in the application, the Board of Trustees may require the property owner to appear before it and present evidence establishing that he or she has not abandoned the use of the property as approved by the Board of Trustees and that he or she has the ability to complete the development of the property. In the event the Board of Trustees finds that the conditions which existed at the time of the approval of the application have changed so that reasonable questions exist regarding the property owner's ability and intention to comply with the application, it may withdraw its approval. Upon such rescission, all uses permitted by the application shall terminate at its discretion, and for good cause shown, the Board of Trustees may extend the period of time for completion of construction and use of the property as provided in the application.

- (2) *By owner's action.* The owner of a property subject to a special review application may petition the Board of Trustees to rescind its approval of the special review application pertaining to his or her property or any part thereof. Such petition shall be signed and filed with the Town Clerk in the number and within the time provided in this Chapter for special review applications. The petition shall be submitted to the Planning Commission for its consideration. The Planning Commission shall then consider the petition and submit its recommendation to the Board of Trustees. The Board of Trustees shall then consider the petition and determine whether or not to grant the same. If the petition is granted, the Board of Trustees shall rescind its approval of the subject special review application as to the property described in the petition.

(Ord. No. 83-116, Art. XI, 1983; Ord. No. 2000-02, Art. XI, 2000)

ARTICLE 5. - PLANNED UNIT DEVELOPMENT

DIVISION 1. - GENERAL PROVISIONS

Sec. 16-5-10. - Intent.

- (a) It is the intent of these PUD regulations to promote the following objectives on areas of five (5) acres or more to:
  - (1) Permit greater flexibility in the location of buildings, mixtures of land uses, housing types and open space and consequently promote more imaginative design than would generally be possible under conventional zoning requirement. Limited variations to applicable zoning and subdivision requirements may be possible through the PUD process.
  - (2) Allow for a greater diversity in the choice of housing types and provide more economical subdivision design which may assist in creating more affordable housing.
  - (3) Promote a higher level of development design, including greater landscaping, open space, energy efficient design and convenient pedestrian and vehicular circulation.
  - (4) Encourage more innovative land use and site design and to carry out the goals and policies of the Comprehensive Plan.
- (b) Exceptions to development standards. To assist developers in achieving the intent of the PUD as stated above, the Planning Commission may allow modifications and exceptions to said standards, provided that such exceptions are consistent with the intent of this Article and the Comprehensive Plan, and that such actions pose no threat to the property values, health, safety and general welfare of the people of the community and the owners or occupants of adjacent or nearby land.

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

Sec. 16-5-20. - Authority.

The Town hereby adopts the PUD regulations contained in this Article in accordance with Title 24, Article 67, C.R.S. The purposes set forth in Section 24-67-102, C.R.S., are incorporated herein by reference in addition to the statements of intent listed above in Section 16-5-10.

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

Sec. 16-5-30. - Where permitted.

A PUD may be permitted in any zoning district within the corporate boundaries of the Town subject to the review and approval requirements of this Article.

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

Sec. 16-5-40. - Uses permitted.

Within each zoning district, a PUD may include those land uses designated as a permitted use by right or by special review in that district. The Board of Trustees may also allow appropriate mixtures of housing types and supporting neighborhood commercial uses, provided that they are in accordance with the standards and criteria provided in this Chapter and are consistent with the policies of the Comprehensive Plan.

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

Sec. 16-5-50. - Effect of designation.

- (a) Approval of a PUD shall have the effect of overlaying the existing zoning and, therefore, adding to and modifying the existing zoning requirements. If there is a conflict between the provisions of the existing zoning district and the PUD regulations that are applied to a particular development, then the provisions approved for the planned development shall apply.
- (b) When a PUD is approved by the Town, the zoning designation for that lot, tract or parcel on the official zoning shall include the suffix "PUD". An approved site for a PUD that is zoned R-1 would then have the designation "R-1 (PUD)."

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

DIVISION 2. - APPLICATION PROCEDURE

Sec. 16-5-110. - Procedures for securing approval of PUD.

- (a) Preapplication conference. Prior to submittal of a formal PUD application, the applicant is required to hold a preapplication conference with the Town Administrator to present a tentative sketch plan for review. The preapplication conference should address itself to the following:
  - (1) The proper relationship between the proposed project and the Comprehensive Plan and/or stated planning and development objectives.
  - (2) The names, addresses and phone numbers of neighboring property owners within two hundred (200) feet.



- (3) The nature, design and appropriateness of the proposed land use arrangement for the zone and configuration of the property involved.
  - (4) The adequacy of open space areas in existence and as proposed to serve the development.
  - (5) Adequate irrigation water rights if the property to be improved has been previously irrigated and water rights were utilized, with a plan for distribution.
- (b) The conference should be held before the applicant has entered into binding commitments or has incurred substantial expense in the preparation of plans or other studies.

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

Sec. 16-5-120. - PUD sketch plan review; intent.

The purpose of the sketch plan is to acquaint the staff, the Planning Commission and the Board of Trustees with the nature of the proposed PUD and to identify potential problems or conflicts before substantial time and cost are invested by the applicant. This step in the process is optional. For smaller projects, a preapplication conference with the Town Administrator may be sufficient. However, for larger projects or those that may require major policy decisions, a sketch plan review by either the Planning Commission or the Board of Trustees or both may be strongly advisable. The Town Administrator may recommend that a sketch plan be prepared by the applicant prior to proceeding to a more detailed phase of the process. The sketch plan must be submitted to the Town Clerk thirty (30) days prior to the Planning Commission meeting at which it is being considered.

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

Sec. 16-5-130. - PUD master plan and preliminary development plan; intent.

The PUD master plan is intended for those projects that will be developed in more than one (1) phase. The PUD master plan may be submitted and reviewed prior to or simultaneously with the preliminary development plan for the first phase of development.

- (1) *Filing deadline.* Applications for a PUD master plan and preliminary development plan shall be filed at least thirty (30) days prior to the Planning Commission meeting at which time the matter is to be heard. If public hearing is needed, neighboring property owners within two hundred (200) feet shall be notified.
- (2) *Development Review Committee.* Prior to the Planning Commission meeting, the matter shall be reviewed by the Development Review Committee. The applicant or his or her representative shall be invited to attend this review session. The Development Review Committee's comments shall be forwarded to the Planning Commission. See Chapter 17 of this Code.
- (3) *Planning Commission action.* At a public hearing, the Planning Commission shall consider the PUD master plan and/or preliminary development plan and the comments and recommendations of the Development Review Committee. The Planning Commission shall review the application with respect to the criteria and standards for PUD provided in this Article. The Planning Commission may then recommend to the Board of Trustees that the matter be approved, approved with modifications or denied.
- (4) *Board of Trustees action.* At the next scheduled Board of Trustees meeting, the PUD master plan and/or preliminary development plan shall be considered by the Board of Trustees. The Board of Trustees shall consider the recommendations of the Planning Commission and the staff and review criteria and standards for PUD provided in this Article. The Board of Trustees may then approve the plan, approve the plan with modifications or deny the application.
- (5) *Effect of approval.* Once a PUD master plan and/or preliminary development plan is approved, all property within the area described in the application must be developed in accordance with

the plan. No building permits will be issued for the property unless a PUD preliminary development plan and final development plan are approved in accordance with the remaining sections in this Article.

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

Sec. 16-5-140. - Final development plan.

- (a) *Filing deadline.* Final development plans shall be submitted at least thirty (30) days prior to the Planning Commission meeting at which time the matter is to be heard.
- (b) *Development Review Committee.* Prior to the Planning Commission meeting, the matter shall be reviewed by the Development Review Committee. The applicant or his or her representative shall be invited to attend this review session. The Development Review Committee's comments shall be forwarded to the Planning Commission. See Chapter 17 of this Code.
- (c) *Planning Commission action.* At a public hearing, the Planning Commission shall consider the final development plan and the comments and recommendations of the Development Review Committee. The Planning Commission shall review the application with respect to the criteria and standards for PUDs and special review applications and for consistency with the PUD master plan and preliminary development plan.
  - (1) If there are substantial differences between the final development plan and the preliminary development plan, a revised preliminary development plan must be considered under the review process in Section 16-5-120 above.
  - (2) If the Final development plan is consistent with the PUD master plan and/or the preliminary development plan, the Planning Commission may then recommend to the Board of Trustees that the matter be approved, approved with modifications or denied.
- (d) *Board of Trustees action.* Within thirty (30) days after action by the Planning Commission, the final development plan shall be considered by the Board of Trustees. All modifications to the site plan and application as recommended by the Planning Commission shall have been completed prior to the meeting of the Board of Trustees. The Board of Trustees shall consider the recommendations of the Planning Commission and the staff and review standards and criteria for PUDs provided in this Article. The Board of Trustees may then approve the plan, approve the plan with modifications or deny the plan.

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

Sec. 16-5-150. - Determination of completeness.

Upon receipt of a PUD master plan, preliminary or final development plan, the Town Administrator shall review the application to determine whether it is in an acceptable format and includes the requirements of Section 16-5-210 of this Article. If the Town Administrator finds that the application is in the proper format and is complete, he or she shall initiate the process contained herein. If the Town Administrator determines that the application is incomplete, he or she shall notify the applicant of the specific deficiencies. Any notice of deficiency shall be sent to the applicant within fifteen (15) business days after the filing of the application. Formal processing of the application shall not begin until the deficiency is corrected and the application is resubmitted. The date of the resubmission, not the date of the initial application, shall govern the timing of the process.

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

Sec. 16-5-160. - Application fees for PUD.

Application fees for a PUD sketch plan, PUD master plan, preliminary development plan and final development plan shall be established by resolution of the Board of Trustees.

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

DIVISION 3. - APPLICATION REQUIREMENTS

Sec. 16-5-210. - Application requirements.

Applications for a PUD shall include the requirements set out in this Division.

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

Sec. 16-5-220. - PUD sketch plan optional.

If a PUD Sketch Plan is submitted by an applicant for review by the Town staff, the Planning Commission and/or the Board of Trustees, the sketch plan must include at least the following information:

(1) *Written information:*

- a. A statement of the objectives of the PUD.
- b. A description of the proposed uses, including number of dwelling units, square feet of commercial uses and open space.
- c. A statement of how the proposed relates to the Master Plan.
- d. A statement of how utilities are to be provided.
- e. The names of property owners, planner, engineer and surveyor.

(2) *Graphic materials:*

- a. A vicinity map drawn to scale showing the location of the property with respect to the Town limits and the Town street system.
- b. A map drawn to scale of at least 1" = 100' showing the location of the proposed uses, major streets and land subdivisions, if applicable.

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

Sec. 16-5-230. - PUD master plan.

A PUD master plan comprised of written materials and site plans as provided below shall be required for all unit developments to be developed in phases.

(1) *Written information:*

- a. A legal description of the property.
- b. A statement of the existing and proposed zoning.
- c. A list of the names, addresses and phone numbers of all property owners and lien holders.
- d. A list of the names and addresses of all property owners within two hundred (200) feet as on file at the County Assessor's Office.

- e. A statement describing the planning objectives to be achieved by the PUD and the relationship to the Master Plan.
  - f. A statement indicating the owner's intentions with respect to future selling or leasing of all or portions of the unit development, including land area and dwelling units.
  - g. A development schedule indicating the estimated timing and phasing of construction activities. The schedule shall include the estimated area allocations for each land use in each phase of development. The total area of common open space provided at any phase of the development shall be provided.
  - h. Quantitative data shall be provided for the following:
    - 1. The total number and type of dwelling units.
    - 2. The proposed maximum residential density.
    - 3. The maximum area of proposed nonresidential construction.
    - 4. The development intensity expressed as the ratio of the floor area to the gross area of each tract or parcel.
    - 5. The area of open space and the percentage of the open space to the gross site area.
    - 6. The amount of off-street parking for use by residents and guests for residential use, or by employees and customers for business or industrial use.
    - 7. Adequate irrigation water rights, if the property to be improved has been previously irrigated and water rights have been utilized, and a plan for distribution.
  - i. A statement of plans or programs that demonstrate the means by which all open space and recreational areas, walkways and private streets are to be maintained.
  - j. A statement of intent as to the dedication of open space and streets for public use. If streets are to be retained for private ownership and maintenance, an easement shall be reserved for access rights for police, fire and other emergency services.
  - k. The owner's certification of acceptance of the conditions and restrictions set forth in the site plan and accompanying materials.
  - l. Projected impacts on utilities, including water demands; summer and winter average-day, maximum-day and peak-hour flow; fire flows, sewage discharge, flow and type of discharge, demand on electric, gas, irrigation and other utilities, if any.
  - m. Documentation of water rights needed and available for dedication to the appropriate managing agency.
- (2) *Site plans and supporting data.* Site plans and supporting maps or data are required showing the major details, including:
- a. Vicinity map showing the site and the surrounding area within a distance of at least one (1) mile, showing existing zoning, traffic circulation, public facilities and densities of adjacent residential areas.
  - b. The existing site conditions, including topography and unique natural features.
  - c. A site plan drawn at a scale of 1" = 100' on a twenty-four (24) inch by thirty-six (36) inch sheet with date, scale and north arrow, illustrating the general location and proposed floor area of all existing and proposed land uses, including maximum heights, type of dwelling units, density, floor area ratio and type of nonresidential use.
  - d. An eight and one-half (8½) inch by eleven (11) inch reduction of the site plan.
  - e. The location and area of all land to be used for common open space, recreation areas, public parks, school sites or other public uses.

- f. The existing and proposed vehicular circulation system, including arterial, collector and local streets, off-street parking areas, service and loading areas and major points of access to public rights-of-way.
- g. The existing and proposed pedestrian circulation system, including the relationship with the vehicular traffic system indicating proposed treatment at points of intersection.
- h. Information and description of the land areas adjacent to the proposed development with respect to land uses, zoning and traffic patterns.
- i. Preliminary plans for storm drainage and water and sewer service to the proposed development.
- j. Additional material, data or studies as required by the Planning Commission or Board of Trustees which will facilitate an understanding of the PUD master plan and the planning objectives of the unit development. These may include, but are not limited to, fiscal impact evaluations, market studies and transportation studies.

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

Sec. 16-5-240. - Preliminary development plan.

- (a) Contents. A preliminary development plan shall consist of all applicable application requirements set forth above for the master plan and the items set forth in this Section.
- (b) Written information shall include the following.
  - (1) Statement of planning objectives, including the character of the proposed development.
  - (2) Notes to indicate disposition, maintenance responsibility and service responsibility for water and sanitation, energy supplies and other services and areas which will serve the PUD.
  - (3) Referral letters from affected utilities and public agencies.
  - (4) The proposed development schedule indicating:
    - a. The approximate date on which construction of the project can be expected to begin.
    - b. The stages in which the project will be built, the approximate date when the construction of each phase can be expected to begin and the approximate population at each phase.
    - c. Estimate of the anticipated rate of development (i.e., number of units per year, etc.).
    - d. The approximate dates when the development of each of the stages in the development will be completed.
    - e. The area and location of common open space that will be provided at each stage.
  - (5) List of the names, addresses and phone numbers of all property owners and/or authorized agents.
  - (6) Name, address and phone number of the person preparing the plan.
  - (7) Legal description and tie to an accepted survey monument.
  - (8) Copies of any special agreements, conveyances, restrictions or covenants which will govern the use, maintenance and continued protection of the PUD and any of its common areas.
  - (9) Owner's certification of acceptance of the conditions and restrictions as set forth on the Preliminary development plan.
  - (10) A plan to include the proposed form of unified control which shall include identification and description of corporations, partnerships, trusts, owner's associations or other legal entities

having the right to assess individual landowners within the development and identification of the method proposed to enforce the required assessments.

(11) Names and addresses of all property owners within two hundred (200) feet.

(12) Reports concerning the following:

- a. Geologic characteristics of the area significantly affecting the land use.
- b. Soils report including:
  - 1. Special physical and chemical characteristics of the soil.
  - 2. Prediction of stability and erosion potential.
  - 3. Suitability of the soil types for the land use proposed for the PUD.
- c. Preliminary stormwater drainage report.

(13) Data including:

- a. Gross area in acres and square feet.
- b. Total number and type of dwelling units.
- c. Total bedrooms per each dwelling unit type.
- d. Gross residential density.
- e. Floor area ratio.
- f. Total acreage with a breakdown by land use.
- g. Number of off-street parking spaces, including guest parking and common storage for recreational vehicles.
- h. Area in square feet of recreational open space.
- i. Area in square feet of "private" open space and percentage of gross area.

(c) Site plans and supporting documents shall include the following.

- (1) Proposed lot lines and dimensions.
- (2) Tentative location of existing and proposed buildings.
- (3) Location and approximate dimensions for each area designated as common open space and recreational open space.
- (4) Topography at five-foot contour intervals in areas of ten percent (10%) slope or greater and two-foot contour intervals in areas of less than ten percent (10%) slope. Existing contours to be shown in dashed line and proposed contours with solid lines.
- (5) Approximate location, length, width and use of all existing and proposed easements, utility rights-of-way, major utility facilities, intersections, bridges, culverts and drainageways (indicate underground facilities).
- (6) Preliminary utility drawings to include the following:
  - a. Drainage and detention.
  - b. Water and sewer service.
  - c. Flood protection.
  - d. Fire protection.
- (7) Off-street parking areas, service areas, trash receptacles, loading areas and major points of access to public rights-of-way with appropriate dimensions.

- (8) Existing and proposed streets with names. Approximate length of street centerlines, radii of curves, centerline grades and type of curb, gutter and sidewalks. Designation of streets to be private or public.
- (9) Location of temporary model homes, sales office and/or construction facilities, including temporary signs and parking lots. Length of time such temporary facilities will be in place and whether they will require sewer and water taps.
- (10) Location of pedestrian and bicycle paths.
- (11) Location, height and size of proposed project-related or commercial signs, lighting and advertising devices.
- (12) Location of pools, fences or accessory buildings.
- (13) Location of low-income, elderly or other specialized housing.
- (14) Location of land intended to be conveyed, dedicated or reserved for public use as park sites, school sites, etc. Public tracts shall be dedicated by a statement on the plat; responsibility of maintenance of all tracts shall be noted.
- (15) General landscaping plan, including:
  - a. The location, type and size of major existing trees and shrubs and their fate.
  - b. The location, general type, minimum size and quantity of proposed plant material.
  - c. The proposed treatment of the perimeter of the PUD.
  - d. The provisions for control of dust during construction.
- (16) Other graphics.
  - a. Street cross-section schematics for both public and private accessways.
  - b. Architectural intent drawings. Elevations and perspective drawings of all typical structures and improvements, except single-family detached residences and their accessory buildings. The drawings are intended to show the relationship of the proposed structures to the surroundings and need not be the result of final architectural design and need not be in detail. Note: Final architectural drawings will be required when applying for a building permit.

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

Sec. 16-5-250. - Final development plan.

- (a) The final development plan shall be consistent with the preliminary development plan and include all the written and graphic information required for the preliminary development plan. In addition, the following more detailed information is required for the final plan.
- (b) The site plan shall include all information and signatures as required for a use permitted by special review as stated in Article 4 of this Chapter.
- (c) A final summary data chart shall be provided, including the information required for the preliminary development plan. This data must be updated based on the finalized site plan.
- (d) A detail landscape plan shall include the following:
  - (1) The location, type and size of existing trees and major shrubs which are to be retained.
  - (2) The location, type, minimum size and quantity of proposed plant material. Scale shown on the plan for plant materials shall reflect three-quarters ( $\frac{3}{4}$ ) mature size.

(e) Final utility plans shall be provided.

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

DIVISION 4. - REGULATIONS

Sec. 16-5-310. - Time limit for PUD.

The development shall be constructed in a timely manner.

- (1) *Master plan for the PUD.* A Preliminary development plan for all or a portion of the development area shall be filed within twelve (12) months after the approval of a PUD master plan. If no preliminary development plan is filed within the allowed time, the approvals granted for the PUD master plan shall expire. The Planning Commission shall have the authority to extend this time period for good cause for not more than two (2) successive six-month periods. Any further extensions must be considered by the Board of Trustees.
- (2) *Preliminary development plan.* Within a maximum of twelve (12) months of the approval of a preliminary development plan, a final development plan for all or part of the development area must be filed. If no final development plan is filed within the allowed time period, the approvals granted for the preliminary development plan shall expire. The Planning Commission shall have the authority to extend this time period for good cause for not more than two (2) successive six-month periods. Any further extensions must be considered by the Board of Trustees.(3) Final development plans. Each Final development plan shall include a definite timetable for completion. This time period shall be established at the time of approval.

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

Sec. 16-5-320. - Termination of approved PUD application.

The Board of Trustees may rescind approval of a PUD application in the same manner as described for termination of special review uses in Article 4 of this Chapter.

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

Sec. 16-5-330. - Spacing between structures or buildings.

The purpose of specifying space requirements between structures is to ensure adequate privacy, light, ventilation and fire protection while at the same time encouraging more creative design than is normally allowed with conventional setback requirements. It is the intent that primary living spaces should not face directly onto another living space unless there is adequate space between structures.

- (1) *Residential buildings.* If the building walls contain windows for major daytime use, such as entrances, living rooms and dining rooms, the minimum distance between buildings shall be twenty-five (25) feet.
- (2) *Commercial buildings.* The minimum distance between a commercial building and a residential building shall be twenty-five (25) feet. The minimum distance between commercial structures shall be ten (10) feet.



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

Sec. 16-5-340. - Maintenance of open space, recreational areas, walkways and private streets.

- (a) It shall be the responsibility of the property owner to provide an acceptable program for the continuing maintenance of private open space, recreational areas, walkways and private streets within a PUD.
- (b) The developer shall submit a legal instrument setting forth a plan providing for the permanent care and maintenance of open spaces, recreational areas and communally owned facilities and parking lots. The same shall be submitted to the Town Attorney and shall not be accepted until approved as to legal form and effect. If the common open space is deeded to a homeowners' association, the applicant shall file the proposed documents governing the association. Such documents shall meet the following requirements:
  - (1) The homeowners' association, with covenants, must be established before any residences are sold.
  - (2) Membership in the homeowners' association must be mandatory for each residence owner.
  - (3) Open space restrictions must be permanent.
  - (4) The homeowners' association must be made responsible for liability insurance, taxes and maintenance of recreational and other facilities.
  - (5) The homeowners' association, with covenants, will have the power to levy assessments, which can become a lien on individual premises, for the purpose of paying the cost of operating and maintaining common facilities.
- (c) In the event the organization established to own and maintain the open spaces and other common facilities fails to maintain the facilities in accordance with the approved plan, the Board of Trustees shall direct a written notice to the property owners demanding that the deficiencies be corrected within thirty (30) days and that a hearing will be held on the matter within fifteen (15) days after the notice is sent. If the deficiencies are not corrected within the time established by the Board of Trustees, the Town may enter upon the properties and maintain the properties until the owners of the property show cause why maintenance by the Town is not required. The cost of maintenance by the Town shall be a lien against the common facilities of the PUD and the private properties within the development. The Town shall have the right to make assessments against the properties for maintenance of the development on the same basis that the organization responsible for maintenance could make such assessments.
- (d) Any unpaid assessment shall be a lien against the property responsible for the same, enforceable the same as a mortgage against such property. The Town may further foreclose its lien on the common facility by certifying the same to the County Treasurer for collection as in the case of collection of general property taxes.

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

Sec. 16-5-350. - Relationship of PUD process to subdivision regulations.

When applicable, PUDs must comply with the requirements and procedures relative to subdivisions and annexation. However, it is intended that certain requirements and hearing procedures not be duplicative. Therefore, applications may in certain instances be reviewed concurrently.

- (1) A preliminary development plan for a PUD may be accepted as satisfying all requirements for a preliminary plat, provided that all the requirements and provisions of the subdivision regulations are met as part of the PUD application.
- (2) If a PUD involves a subdivision, the final subdivision plat must be approved by the Board of Trustees prior to any sale of land or building permits being issued.
- (3) A Final development plan for a PUD can be considered for final action by the Board of Trustees only if action has previously been taken by the Board of Trustees annexing and zoning the property.
- (4) Any subsequent subdivision and land approved as a PUD must be consistent with the PUD plans as approved. Any major change from the approved PUD shall require that an amended PUD be considered under the same hearing and review process as the original application.
- (5) Annexation of property proposed for a PUD may be finalized at any point in the process by the Board of Trustees, provided that all the requirements for annexation have been met.

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

DIVISION 5. - APPROVAL STANDARDS

Sec. 16-5-410. - Standards and criteria for approval of PUDs.

The findings of the Town staff, Planning Commission and Board of Trustees shall be based upon the following criteria and performance standards and requirements:

- (1) *General considerations.*
  - a. The PUD proposal is consistent with the Comprehensive Plan.
  - b. The plan conforms to the provisions of this Article.
  - c. The proposed development will not have adverse environmental impacts, such as excessively increased traffic hazards or congestion, overload utilities or otherwise be detrimental to the general welfare of the community.
  - d. The proposed development will be compatible with the existing development in the area.
- (2) *Residential density.* The density permitted within a PUD shall generally be the same as that permitted in the underlying zone.
  - a. Provisions of low- or moderate-income housing unit. A low- or moderate-income unit is a unit that is offered for rent or sale to those with incomes that are eighty percent (80%) or less of the median household income for the area as determined by the U.S. Department of Housing and Urban Development. All proposals developed within this provision will be required to demonstrate that they will continue to be available in the future for low- or moderate-income individuals or families.
  - b. Dedications of lands in addition to those required by the park dedication ordinance as adopted by the Town. The additional dedication must clearly be in the public interest and may include potential sites for community facilities, such as for utilities, public easements, river front access, walkways, community parks, school sites or police or fire station sites.

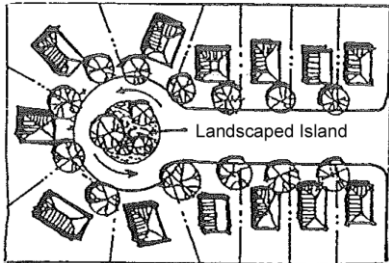
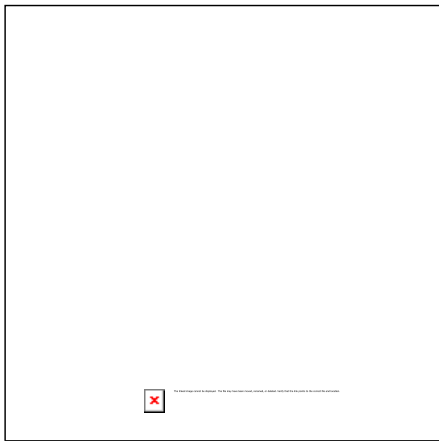
(Ord. No. 83-116, Art. XII, 1983; Ord. No. 2000-02, Art. XII, 2000; Ord. No. 2014-04, § 1, 1-13-2015)

DIVISION 6. - DESIGN STANDARDS AND REQUIREMENTS

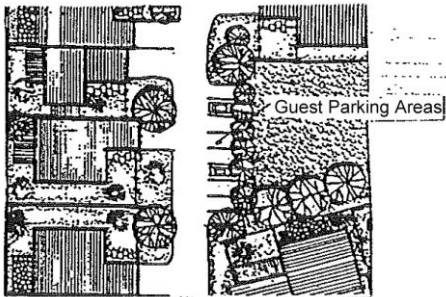
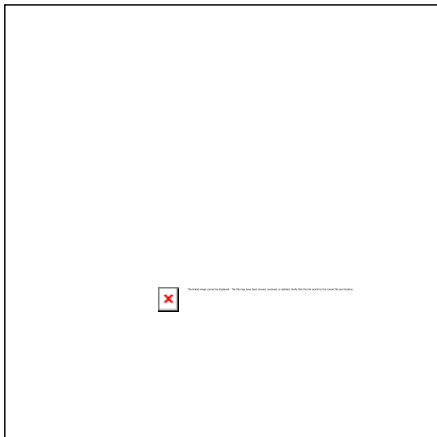
Sec. 16-5-510. - Streets and traffic circulation.

Standards for street design shall be approved as a part of the PUD master plan and may vary from requirements found in the subdivision regulations and the adopted street standards and specifications for the Town. Variation in the adopted street standards for both public and private streets may be granted by the Board of Trustees upon determination that the following performance standards and design requirements are met:

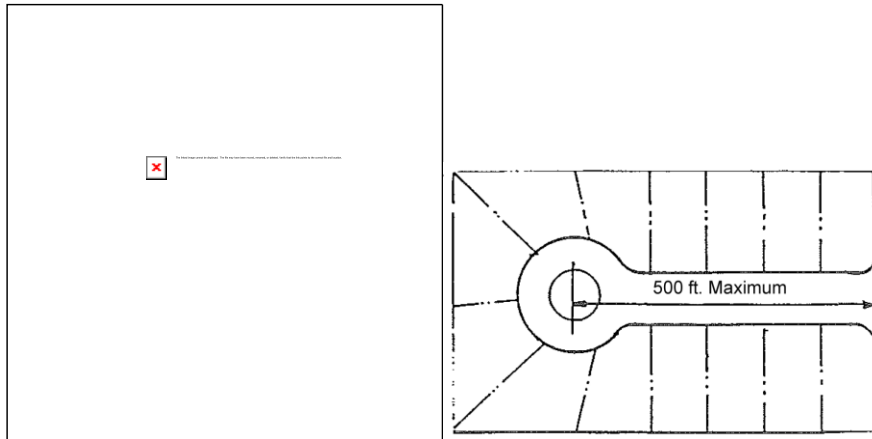
- (1) Ingress to and egress from the internal circulation system to the external circulation system can safely and efficiently accommodate the volumes and types of the traffic both existing and anticipated.
- (2) Points of ingress and egress are designed to discourage through traffic on local streets within the PUD.
- (3) Circulation plans to and from nonresidential PUD uses will not adversely affect other elements of the circulation system.
- (4) The design of the internal system is sensitive and responsive to such points as safety, convenience, access to dwelling units and any nonresidential facilities, emergency and maintenance access, segregation of vehicular and nonvehicular traffic, noise, congestion and overall attractiveness.
- (5) Pedestrian and other nonvehicular elements of the system minimize street crossings and provide safe access to schools, nonresidential facilities and common open space.
- (6) Construction specifications as proposed shall be subject to Town review and approval. Streets shall be dedicated to the Town in accordance with the subdivision regulations, unless the Board of Trustees shall approve ownership of the streets within a PUD by a homeowners' association or other legal entity. The Board of Trustees shall approve ownership of the streets by an entity other than the Town only if it finds that such entity has the legal, financial and managerial ability to maintain such streets in a way consistent with the public health, safety and welfare and with the needs of the residents within the PUD.
- (7) The design of the development should minimize the length of streets.
- (8) When possible, islands created in cul-de-sac areas should be landscaped and maintained by a homeowners' association.



- (9) All streets external to the PUD area must be constructed in accordance with the adopted street standards for the Town.
- (10) Collector streets that are within the boundaries of the PUD may have a minimum of thirty (30) feet of pavement within a fifty-foot right-of-way, provided that the following conditions are met:
  - a. Driveway access to collector streets is prohibited.
  - b. A four-foot sidewalk is placed on at least one (1) side of the street. In areas that are within one (1) mile of a school, sidewalks must be placed on both sides.
  - c. For the minimum width, parallel on-street parking shall be allowed on one (1) side of the street only.
- (11) Local streets that are within the boundaries of a PUD may have a minimum pavement width of twenty-eight (28) feet within a forty-foot right-of-way, provided the following conditions are met:
  - a. The local streets are designed so that use by through traffic is discouraged.
  - b. A four-foot sidewalk is placed on at least one (1) side of the street. In areas that are within one (1) mile of a school, sidewalks must be placed on both sides.
  - c. Parallel on-street parking is not permitted on either side.
  - d. Guest parking areas are dispersed at convenient locations throughout the development.



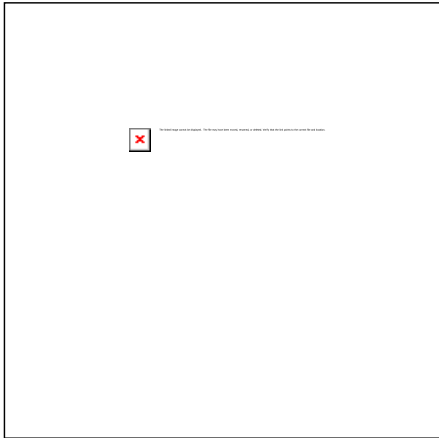
(12) Cul-de-sac streets shall have a maximum length of five hundred (500) feet measured from the right-of-way line of the connecting street to the center of the turn-around area at the closed end of the cul-de-sac. Each cul-de-sac radius shall be fifty (50) feet.



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

Sec. 16-5-520. - Parking.

- (a) Parking areas shall be arranged so as to prevent through traffic to other parking areas and shall be screened by decorative fence, wall, landscape material, landscape berm, natural topography or other materials to provide a buffer strip and appropriate screening that reduces the visual impacts of the parking areas from any public street and residential units.



Landscaped Berm or Screening



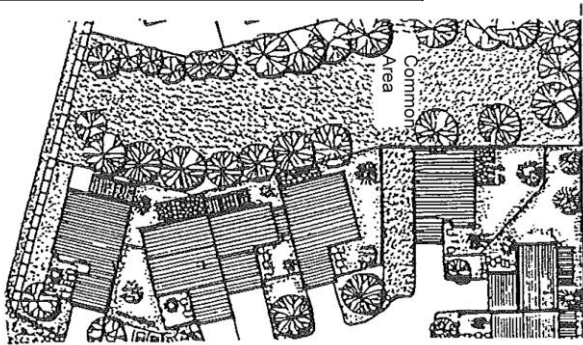
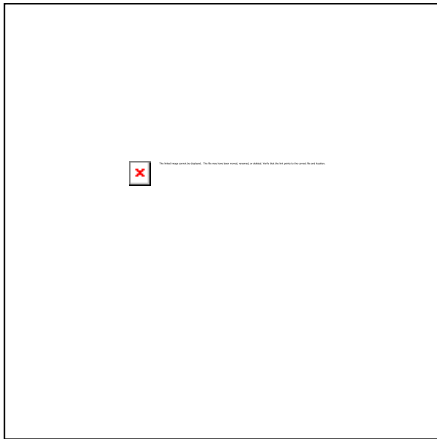
- (b) Guest parking shall be dispersed throughout the development area to be within convenient walking distance to and from the residential areas.
- (c) Provisions of common storage areas for campers, boats, trailers and recreational vehicles are encouraged.
- (d) PUDs shall provide the parking spaces required by Article 6 of this Chapter, including guest parking spaces in the ratio of twenty-five one-hundredths (0.25) spaces per unit located within one hundred (100) feet of the dwellings they are intended to serve. Variations to the required number of parking spaces can only be approved under the following conditions.
  - (1) Where the expected need for off-street parking is lessened due to the unusual characteristics of the use, and comparable data is available to establish that there is a lesser need for the parking.
  - (2) There is a specific plan for joint use of common parking areas, varying time periods of use.

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

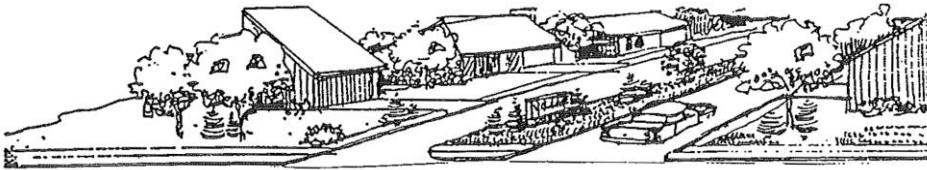
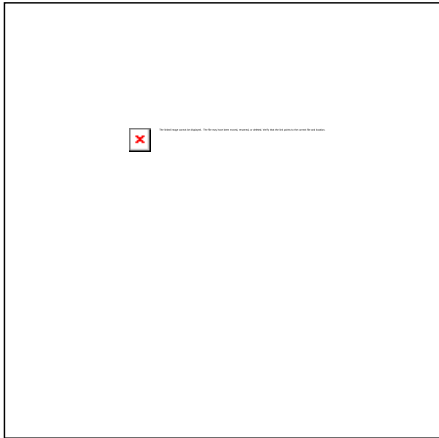
Sec. 16-5-530. - Open space.

- (a) The impacts of development on valuable natural resources and unique natural features, including but not limited to agricultural soils, steep slopes, aquifers and aquifer recharge areas, prime deciduous and prime coniferous tree stands, marshes, swamps and other wetlands, floodplains and such other features as review of a particular site may indicate are worthy of preservation or special protection, shall be minimized by the developer of a proposed PUD through sound environmental planning and careful implementation thereof.

- (b) Open space areas should be easily accessible to all residential areas and should maximize pedestrian use.



- (c) Landscaped areas should include use of native plant materials that require little water or maintenance. While nonvegetative landscape material is permitted, these areas should be small in scale with extensive planted areas interspersed.
- (d) Planted median areas are encouraged, as well as attractive landscaped entryways to the PUD area.

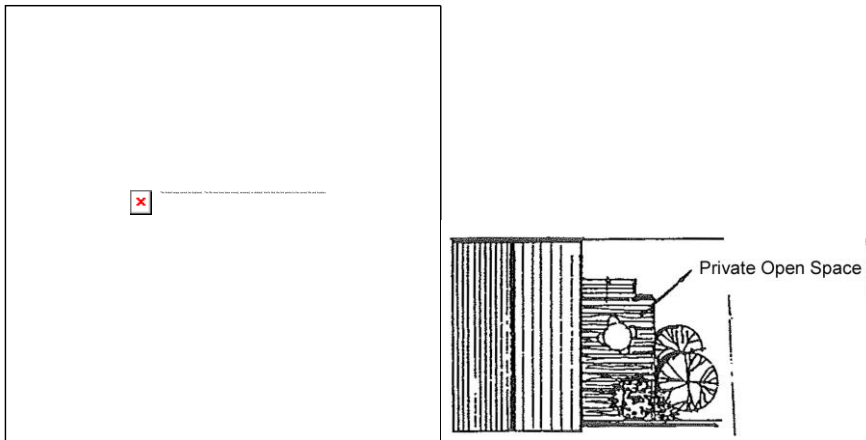


- (e) Open space areas should be designed to provide pedestrian connections to the various areas within and adjacent to the development.
- (f) Common open space. At least twenty percent (20%) of the gross area of a residential PUD and ten percent (10%) of a nonresidential PUD shall remain as open space for the common use of the residents or visitors to the area. In a PUD which contains both residential and nonresidential areas, the open space requirements shall be computed by applying the twenty-percent factor to the portion of the development devoted to residential use and the ten-percent factor to the portion devoted to nonresidential use.
- (g) Recreational open space for residential developments.
  - (1) Recreational open space shall comprise not less than seventy-five percent (75%) of the total required common open space. All areas to be considered recreational open space shall have a minimum dimension of thirty (30) feet, except for bicycle paths. No more than twenty-five percent (25%) of the required recreational open space shall have impervious surfacing.
  - (2) Recreational open space shall not include slopes greater than ten percent (10%).
  - (3) Recreational open space shall not be obstructed except by improvements that enhance its usability. Recreational open space shall provide for organized sports or includes playground apparatus, tennis courts, bicycle paths, swimming pools or similar active areas.
  - (4) All required recreational open space shall be planted in lawn or other appropriate groundcover suitable for foot traffic.



(5) Special consideration and exceptions to the above requirements may be approved by the Planning Commission for open space that provides for public access to the North Fork, Gunnison River and Minnesota Creek.

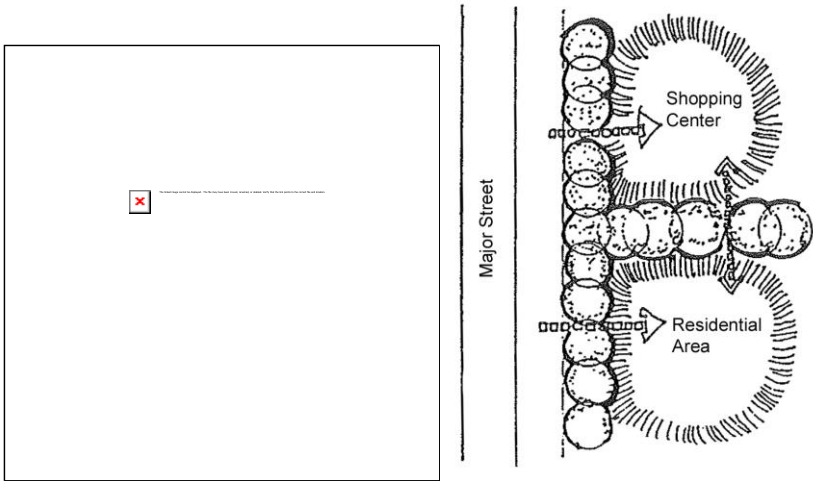
(h) Private open space. At least one hundred fifty (150) square feet of private open space shall be provided for each ground-level dwelling unit. Private open space shall include patios, decks, lawn areas and balconies. At least fifty (50) square feet of private open space shall be provided for above-ground units.



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

Sec. 16-5-540. - Landscaping.

(a) A permanently maintained landscaped buffer zone shall be provided adjacent to arterial and collector streets and parking lots or between residential development and adjacent commercial, industrial or incongruent uses. The minimum width of the buffer zone shall be twenty (20) feet. The Planning Commission may consider reducing the width of the buffer strip when dense landscaping or mature plant materials are provided.



(b) A comprehensive landscaping and irrigation plan shall be submitted designating all existing and proposed species, size and placement. The plan shall specify all irrigation features and a program for continued maintenance. The comprehensive landscaping and irrigation plan shall be reviewed and approved by the Town Administrator and Town Engineer.

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

Sec. 16-5-550. - Energy conservation.

- (a) Solar access shall be preserved as much as possible by orienting streets and buildings for maximum southern exposure for the living spaces.
- (b) Consideration should be given for protection of solar access through solar easements for subdivision lots.

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

Sec. 16-5-560. - Building design.

- (a) The character of the building designs in the PUD should be compatible with and enhance the architectural character and scale of the surrounding neighborhood.
- (b) Accessory buildings, detached garages and fences should be of a design compatible to the architectural character of the project and the surrounding neighborhood.
- (c) The floor plan should be carefully organized to gain maximum daylight and direct access from rear and side yards. The outdoor space should be planned as a practical extension of indoor living space.
- (d) Large amounts of glass should be avoided on the north side of dwelling units, and northern exposures should be protected with berming and landscaping.

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

Sec. 16-5-570. - Application fees for a Planned Unit Development.

Application fees for a PUD Sketch Plan, PUD Master Plan, Preliminary Development Plan and Final Development Plan shall be established by resolution of the Town Board.

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

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
<b>Residential units:</b>	
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
<b>Educational facilities:</b>	

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")
<b>Commercial uses:</b>	
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	1.0 space for every 300 sq. ft. of floor area

appliance stores	
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.

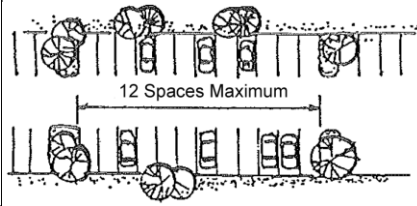
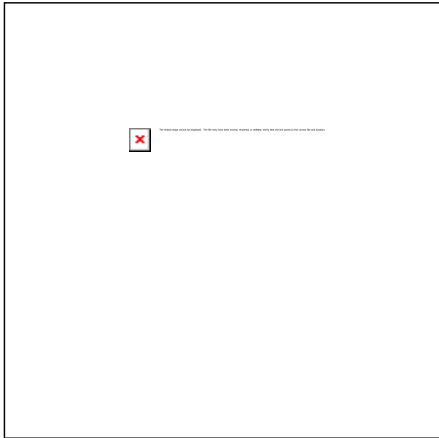
[Suspended.]

(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)

**Editor's note**— \* The provisions of this Section are suspended indefinitely.

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

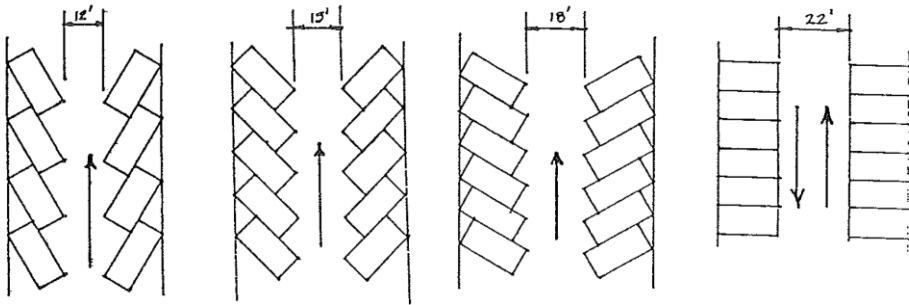
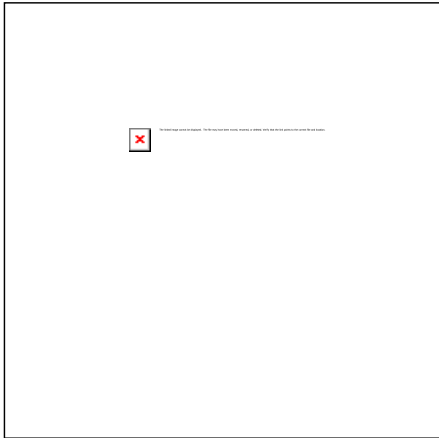
- (a) All off-street parking areas shall be unobstructed and free of all other uses.
- (b) All off-street parking spaces shall have unobstructed access to and from a street, except that in single-family areas parking spaces provided on the garage apron or driveway may be counted as a part of meeting 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. - RESERVED<sup>1</sup>

Footnotes:

--- (1) ---

**Editor's note**— 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.

Secs. 16-7-10—16-7-100. - Reserved.

ARTICLE 8. - MANUFACTURED/MOBILE HOME REQUIREMENTS AND REGULATIONS

DIVISION 1. - GENERAL PROVISIONS

Sec. 16-8-10. - Intent.

It is the intent of this Article to provide for the orderly and creative development of mobile home parks as a part of a MH District in the Town and to regulate standards and requirements of manufactured homes installations. (See Section 16-8-400.) It is further the intent of this Chapter to:

- (1) Encourage a high standard of planning and design for mobile home parks.
- (2) Maintain design standards that are equal to or greater than conventional single- or multiple-family developments.
- (3) Require minimum safety standards for utilities, fire protection and protection from excessive winds, snow and flooding.

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

Sec. 16-8-20. - Definitions.

The following terms shall have the definitions as follows:

*Manufactured home* means a dwelling unit, which is fabricated in one (1) or more sections at a location other than the home site by an assembly line-type production technique or by other construction methods unique to an off-site manufactured process. Every section shall bear a label certifying that it was built in compliance with the Federal Manufactured Home Construction and Safety Standards Act of 1974 (UBC). For mobile homes built prior to June 15, 1976, a label certifying compliance to the Standard for Mobile Homes, NFPA 501, ANSI 225.1 (HUD) in effect at the time of manufacture is required. A manufactured home is designed to be towed on its own chassis or be site delivered by alternative means.

*Manufactured housing:* See Section 16-8-400 of this Article.

*Mobile home* is defined by the following specifications:

- a. The unit shall be a minimum of eight (8) feet in width and thirty-two (32) feet in length, excluding towing gear and bumpers.

- b. The unit shall have a nonmetallic, brick, wood, vinyl or cosmetically equivalent exterior siding and pitched roof of one-twelfth (1:12) or more.
- c. The unit shall be installed on the manufacturer-suggested foundation, poured concrete or precast concrete piers with tie downs and shall meet the requirements of Paragraph 16-9-310(4) of this Chapter and all other applicable flood protection provisions.
- d. The unit shall be no more than five (5) years old.
- e. The landowner shall purge title.

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

Sec. 16-8-30. - Application of regulations.

- (a) *General.* The provisions of this Article shall apply to construction, alteration, extension, location, installation, use and maintenance of all mobile homes in the Town. It shall be unlawful for any person to construct, alter, extend, install, use or maintain a mobile home within the Town except within compliance with this Article.
- (b) *Existing mobile homes; nonconforming uses.*
  - (1) Wherever a mobile home was in existence in the Town on the effective date of the initial ordinance codified herein or was annexed to the Town after such date, and the mobile home was in compliance with the applicable codes, then, in effect, the mobile home shall be legally nonconforming.
  - (2) Legally nonconforming mobile homes shall not be subject to the provisions of this Article except for licensing requirements and provisions relating to utilities when such services are available. However, if the existing mobile home is proposed to be altered or expanded, then the alteration or expansion must be in accordance with this Chapter.
  - (3) If a nonconforming use is discontinued for a period of ninety (90) days or more, then the mobile home shall not be reoccupied until it is in conformance with all applicable regulations herein.
  - (4) A nonconforming mobile home may be replaced with a like mobile home not more than five (5) years old.

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

DIVISION 2. - LICENSES

Sec. 16-8-110. - Licenses required.

- (a) A mobile home park license is required to operate and maintain a mobile home park in the Town. The annual license fee for a mobile home park shall be established by resolution of the Board of Trustees. No license shall be issued without the prior approval of the special review of the property as a mobile home park.
- (b) Applications for a mobile home park license shall be filed with the Town Clerk and such license issued by the Board of Trustees. Said applications shall be in writing, signed by the property owner and applicant and shall contain the following:
  - (1) The names and addresses of the property owner and applicant.
  - (2) The location and legal description of the property.

**Commented [DR52]:** Does the home have to be on a permanent foundation to purge the title? Question for legal department.

**Commented [T53R52]:** Asking legal

- (3) A copy of the approved special review site plan.
  - (4) A request, if applicable, to replace existing mobile home with a new or no more than five-year-old used mobile or manufactured home.
- (c) All mobile home parks in existence upon the effective date of the initial ordinance codified herein shall obtain a license and, in all respects, comply fully with the requirements of this Chapter except as follows:
- (1) Special review approval of existing mobile homes and mobile home developments shall not be required, unless the use is proposed for expansion.
  - (2) Building permits shall not be required for existing units, unless the units are to be moved or altered.

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

Sec. 16-8-120. - Revocation of license.

The Board of Trustees may, after a public hearing, revoke any license to operate and maintain a mobile home park when the licensee has violated any rules or regulations of the Town or any provisions of this Chapter. After such revocation, the licensee may have the license reissued by the Board of Trustees if the circumstances causing such violation have been remedied or corrected.

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

Sec. 16-8-130. - Posting of license.

The license certificate shall be conspicuously posted in the office or premise of the mobile home park at all times.

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

DIVISION 3. - STANDARDS AND DESIGN GUIDES

Sec. 16-8-210. - Mobile home development standards and design guides.

Mobile home developments shall conform to the requirements of the MH District.

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

Sec. 16-8-220. - Location.

- (a) The mobile home park shall be located on a well-drained site and shall be located so that its drainage will not constitute an unreasonable hazard or nuisance to persons, property or water supply in the immediate vicinity of the site. The site shall be free from marshes, swamps or other potential breeding places for insects or rodents.

- (b) Mobile home park sites shall not be subject to undue flooding, fire or safety hazards and shall not be exposed to nuisances, such as undue noise, smoke, fumes or odors. The topography of the site should be favorable to minimum grading, mobile home placement and ease of maintenance.

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

Sec. 16-8-230. - Site design.

The site design shall provide for a desirable residential environment for mobile home residents, which is an asset to the community and the neighborhood in which it is located. Site planning and improvements shall provide facilities and amenities which are appropriate to the needs of the residents; safe, comfortable and sanitary use by the residents under all weather conditions; and practical and efficient operation and maintenance facilities at reasonable costs. Innovative and imaginative design shall be encouraged.

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

Sec. 16-8-240. - Minimum area required.

The minimum area required for a mobile home park or subdivision is four (4) acres. In special circumstances, due to topographical conditions or other unique site conditions, the Planning Commission may approve mobile home developments on a site that is less than four (4) acres.

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

Sec. 16-8-250. - Maximum density.

The maximum gross density for any mobile home park or subdivision is seven (7) units per acre.

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

Sec. 16-8-260. - Recreation area and open space.

Not less than ten percent (10%) of the total site area shall be used for recreation facilities and landscaped open space. All open space areas and recreational areas shall be in convenient locations from mobile home lots or spaces. Recreation areas may include space for community-use facilities and buildings, swimming pools and tennis courts.

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

Sec. 16-8-270. - Mobile home spaces.

- (a) Mobile home spaces within a mobile home park shall be adequate to provide for:
  - (1) A minimum of fifteen (15) feet between mobile homes.

(2) An outdoor living and service area on the mobile home space of not less than three hundred (300) square feet.

(b) In determining the required yard and space areas, the use of doublewide mobile homes and accessory structures shall be taken into consideration. The area required for a mobile home space shall not include additional area required by this Article for access roads, off-street parking and storage areas, service buildings, recreation areas, office and similar mobile-home park's needs.

(c) Paved driveways, the minimum width of which shall be ten (10) feet, shall be provided where necessary for convenient access to the mobile homes.

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

Sec. 16-8-280. - Minimum lot area.

Minimum lot area requirements are set forth in Section 16-3-30 of this Chapter.

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

Sec. 16-8-290. - Reserved storage areas.

Storage areas for boat trailers, travel trailers and detachable pickup campers should be provided within the mobile home park in an amount equal to one hundred (100) square feet per mobile home space. Required areas within the mobile home park for accommodation of travel trailers, campers and the like, on a temporary occupancy basis, shall be provided in a location where the parking, use and occupancy of such vehicles do not constitute a nuisance to other residents of the mobile home park. Travel trailer areas shall be screened from the rest of the mobile home spaces and adjoining residential areas with opaque screening and landscaping in such a manner that undue noise and other disturbances are reduced. Anchors and cables with turnbuckles shall be provided for tying down travel trailers.

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

Sec. 16-8-300. - Setbacks.

(a) Setback requirements are set forth in Section 16-3-30 of this Chapter.

(b) No mobile home shall overhang or obstruct any driveway, access road or walkway.

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

Sec. 16-8-310. - Screening.

All mobile home parks or subdivisions adjacent to other residential, commercial or industrial uses shall be provided with screening such as solid fencing or landscaping along the property boundary separating the mobile home development from the adjacent use.

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

Sec. 16-8-320. - Windbreaks.

Where any mobile home park is located on flat, open land without natural barriers, such as hills, bluffs or large stands of trees to barricade strong winds, windbreaks shall be required to protect mobile homes from the effects of such winds. Windbreak design and location shall be relative to known wind velocities, direction and to the existing and proposed topography; vegetation shall be subject to landscape review and approval by the Planning Commission. Windbreak screening techniques may include landscape buffering, earth berming and fencing.

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

Sec. 16-8-330. - Streets.

- (a) The mobile home park site shall have at least two (2) direct accesses to a public street or highway, and access roads shall be provided to each mobile home space.
- (b) All streets and accessways providing ingress to and egress from the mobile home park and circulation within the mobile home park shall be constructed in accordance with specification of the Town for like streets and accessways on public ways and shall be completed within a period of one (1) year after the date of issuance of the mobile home park license. All such streets and accessways shall include sidewalks, curbs and gutters.

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

Sec. 16-8-340. - Walkways and lighting.

- (a) Paved walkways at least four (4) feet wide shall be provided from all mobile home spaces to service buildings and other community areas and along all access roads.
- (b) Pedestrian circulation areas shall be lighted at night by seven thousand (7,000) lumen lighting standards (equal to 175-watt mercury vapor bulbs) spaced not more than three hundred (300) feet apart with a maximum height of twenty-five (25) feet, or by other lighting methods producing an equivalent level of light at the ground level.

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

Sec. 16-8-350. - Off-street parking.

Parking shall be provided as required by Article 6 of this Chapter.

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

Sec. 16-8-360. - Foundation and tie-down requirements.

- (a) Every owner or occupant of a mobile home within the Town or subject to Town regulations shall secure his or her mobile home against wind and flood damage in accordance with the requirements of Section 18-5-10

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

Sec. 16-8-370. - Minimum clearance for mobile homes.

- (a) A minimum distance of eighteen (18) inches will be maintained between the bottom of the frame rails and concrete footings.
- (b) A minimum of six (6) inches will be maintained from the lowest point of the exterior siding to the finished earth grate.
- (c) An under-floor access opening will be provided. Such opening shall not be less than eighteen (18) inches in the least dimension and not less than three (3) square feet in area and located so that the water and sewer drain connections are accessible.
- (d) The water meter pit will be located to the street side of the mobile home and outside of the footings, stem walls and/or skirting. The Public Works Department will designate this location.

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

Sec. 16-8-380. - reserved

Commented [DR54]: Simply saved Section number so as to not change all following numbers.

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

Sec. 16-8-390. - Compliance.

- (a) All used housing shall otherwise comply with other provisions and requirements of this Code not inconsistent with the requirements of this Article.
- (b) A mobile home that does not meet the requirements of this Article must be brought into compliance prior to the issuance of a certificate of occupancy by the Building Inspector.

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

Sec. 16-8-393. - Revocation of License.

The Town Board may, after a public hearing, revoke any license to operate and maintain a mobile home park when the license has violated any rules or regulations of the Town of Paonia or any provisions of the chapter. After such revocation, the licensee may have the license reissued by the Town Board if the circumstances causing such violation have been remedied or corrected.

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

Sec. 16-8-395. - Posting of license.

The license certificate shall be conspicuously posted in the office or premises of the mobile home park at all times.

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

Sec. 16-8-400. - Manufactured housing.

- (a) Manufactured housing units in Colorado are built to the specifications of one (1) of two (2) building codes, the International Residential Code (IRC) and the so-called "HUD Code" promulgated by the U.S. Department of Housing and Urban Development pursuant to the National Manufacturing Housing Construction and Safety Standards Act of 1974. Zoning ordinances become unnecessarily confusing and cumbersome when they provide separate definitions and uses for single-family dwellings and manufactured or factory-built units. This confusion can typically be avoided if zoning officials include manufactured housing units (both IRC and HUD Code) within the definition of single-family dwelling. When the term single-family dwelling is defined in this fashion, manufactured housing units are, under the applicable schedule of uses, permitted along with site-built homes in any zone which permits single-family dwellings. Under this approach, manufactured homes are treated the same as site-built homes with size, foundation\*, installations and appearance standards adopted by the community for single-family dwellings applying equally to both types of housing. (\*Foundations shall be permanent foundations designed by a Colorado Licensed Engineer except for within the MH Zone in which case foundations shall meet the requirements of the Colorado Division of Housing as detailed in Section 18-5-10 of this Code)
- (b) *Dwelling or residence, single-family* means a detached principal building, other than a mobile home, designed for and used as a single dwelling unit by one (1) family. The term single-family residence includes a manufactured home.
- (c) A manufactured home has the following:
  - (1) A minimum of twenty-four (24) feet in width and thirty-six (36) feet in length.
  - (2) Installation on a manufactured guideline or an engineered permanent foundation.
  - (3) Brick, wood or cosmetically equivalent siding and a three-twelfths (3:12) or more pitched roof of metal-panels or asphalt shingles or any other equivalent material.
  - (4) Is no more than five (5) years old.
  - (5) The title of the manufactured home is purged.
  - (6) May replace an existing mobile home.
- (d) Installation and requirements of manufactured homes.
  - (1) This minimum requirement guideline is intended to assist both professionals and nonprofessionals with the requirements that must be complied with in order to install a manufactured home within the Town limits. It is intended as an informational guideline only. Installations will have specific requirements as to location, grade of lot and floodplain requirements.
  - (2) You will be required to provide to the Town the following items:
    - a. A copy of the bill of sale.
    - b. A copy of the floor plan and a copy of the foundation plan from the manufacturer's guide. See Section 18-5-10 of this Code for specific requirements.
    - c. A plot plan showing the proposed location of home.
    - d. A complete application for a building permit with an accurate cost estimate.
    - e. A completed excavation permit, if required; twenty-five-dollar bond fee.
    - f. A completed floodplain permit, if required; one-hundred-dollar fee.
    - g. A street cutting permit, if required.
    - h. A water and sewer tap.
    - i. All fees shall be paid in full before construction can begin.

**Commented [DR55]:** Are you wanting to say more, such as: " .... of an equal size in it's current location." Or something like that? If not, is this statement necessary?

**Commented [DR56R55]:** Still not resolved.



j. A State permit from the Division of Housing and an affixed Insignia from the State approving the installation is required prior to final approval from the Building official and prior to any utilities being connected to the manufactured home

- (3) The builder/owner of property must have curb, gutter and sidewalk or any street repairs installed according to specifications of the Public Works Department.
- (4) The manufactured home must comply with all single-family dwelling regulations. See Article 3 of this Chapter.

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

Sec. 16-8-410. - Additional regulations.

In addition to the requirements of this Article, all mobile homes and mobile home parks and facilities shall be operated in compliance with the existing laws of the State, ordinances of the Town and such codes and regulations as may be adopted by the Board of Trustees.

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

ARTICLE 9. - RESERVED<sup>[2]</sup>

Footnotes:

--- (2) ---

**Editor's note**— 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.

Secs. 16-9-10—16-9-410. - Reserved.

ARTICLE 10. - RESERVED<sup>[3]</sup>

Footnotes:

--- (3) ---

**Editor's note**— 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.

Secs. 16-10-10—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.
- (3) Horses and household pets.
- (4) Fences, hedges and walls.
- (5) Private greenhouses.
- (6) Private swimming pools.
- (7) Storage and merchandise in commercial districts.
- (8) Fallout shelters.
- (9) Detached garages.
- (10) Tennis courts.
- (11) Storage sheds for residential areas.

(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. Notify the Town Clerk who shall notify the property owners within two hundred (200) feet of the applicant's property by certified 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.
  - b. A date of public hearing before the Planning Commission will be set that will allow time for publication and notification of adjoining property holders.
- (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) *Non-transferability.* 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 (with more than one [1] chair), 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)

Sec. 16-11-30. - Renting of rooms.

- (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 or IRC. 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.

Commented [T57]: Remove all references

Commented [DR58R57]: I will let you edit as you envision this.

Commented [DR59]: Clarify as: "... for each lodging room." As shown below in (c).

Commented [DR60]: Clarify as: "... for each lodging room." as shown below in (c). OR – simply remove this here. It seems to meet the intent by providing one additional parking space PERIOD.

(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**— 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**— 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.

- (a) All detached accessory buildings shall be located in the rear one-half (½) of the lot.
- (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 corner lots, the accessory building shall not be located closer to the street-side property than required for the principal use.

**(d) Storage structures accessory to a single-family dwelling which are exempted from building-permit requirements may be located within setback areas not adjacent to a street provided:**

**i. Any such structure must be located entirely behind the front set-back line and entirely to the rear of the primary structure.**

**ii. Any such structure shall be a sufficient distance from neighboring properties to prevent rain from draining off the roof onto adjacent properties.**

- (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.

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

ARTICLE 12. - RESERVED<sup>[4]</sup>

Footnotes:

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**Commented [DR61]:** Too restrictive for large lots. Suggested to say: "To the rear of the Primary Structure and with regards for Fire Separation distances between structures as per the IBC/IRC."

**Commented [DR62R61]:** No comment??

**Commented [DR63]:** The 6' number that was in there should not have been there to begin with. Please see diagrams offered to clarify corner lots and their setbacks.

**Commented [T64R63]:** Can you add a diagram?

**Commented [DR65R63]:** I will provide some diagrams. This is Zoning stuff, but it's important. Diagram will also address "Corner Lots" and "Front" discussed in Definitions Section 16-1-100.

**Commented [DR66]:** This is highly recommended to allow full use of property. In a worst-case scenario, you would have four sheds of 200 sq. ft. each gathered in a common corner with any fire danger being isolated to a location further from the dwellings.

**Commented [DR67R66]:** No comment? Does that mean you agree?

**Editor's note**— 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.

Secs. 16-12-10—16-12-40. - Reserved.

ARTICLE 13. - NONCONFORMING BUILDINGS

Sec. 16-13-10. - Objectives.

Certain uses of land or buildings, sizes of lots or location or size of structures may be found to be in existence at the time of the passage of the initial ordinance codified herein, which do not meet the requirements of this Chapter. It is the intent of this Article to allow the continuance of such nonconformance but not to encourage its enlargement or to allow its continuance should the use be discontinued for a period of one (1) year. Such nonconformance is declared to be incompatible with other uses in the district. Each situation needs to be considered by the Planning Commission and Board of Trustees on its own merits.

(Ord. No. 83-116, Art. XX, 1983; Ord. No. 2007-05, 2007; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 16-13-20. - Nonconforming lots.

- (a) Some nonconforming lots of record at the time of the passage of the initial ordinance codified herein may be built upon or used after the passage of said ordinance, but only:
  - (1) With a principal use in the zone district; and
  - (2) By approval of the Board of Adjustment.
- (b) No lot that is conforming in size at the time of the passage of said ordinance may be subdivided or reduced in size in such a way that it would become nonconforming or cause any building, space or use to become nonconforming.

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

Sec. 16-13-30. - Alterations and extensions.

- (a) Nonconforming buildings as of the effective date of the initial ordinance codified herein shall not be altered or extended in a way that would increase the degree of nonconformance. Therefore, all new additions, alterations or extensions shall be in accordance with the applicable zoning requirements, including but not limited to setbacks, height, open space and parking. Exceptions to this requirement may be allowed if the following conditions apply:
  - (1) The purpose of the alteration or extension is for repairs to a building or structure that is ordered by a public official to make it safe.
  - (2) The purpose of the alteration is to make maintenance repairs that are needed to keep the building in good condition.
  - (3) There is a special hardship created by strict application of this Code and a variance is granted by the Board of Adjustment in accordance with the provisions of Article 15 of this Chapter.
- (b) Nonconforming uses may be expanded or altered in the same manner as nonconforming buildings, except that the area of a nonconforming use may not be expanded by more than twenty-five percent (25%) of its existing floor area.

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

Sec. 16-13-40. - Restoration.

A nonconforming building or use which is been damaged or destroyed by any calamity, except flood, may be restored to its original condition if such restoration commences within one (1) year from the date of the calamity. If any nonconforming structure is damaged to the extent of fifty percent (50%) of its actual value by flood, said nonconforming structure shall be restored only in compliance with Article 9 of this Chapter.

(Ord. No. 83-116, Art. XX, 1983; Ord. No. 2007-05, 2007; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 16-13-50. - Abandonment.

If any nonconforming use of land, a building or a structure is abandoned for a period exceeding one (1) year, no nonconforming use may be reestablished upon such land or within such building or structure.

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

Sec. 16-13-60. - Previously approved uses.

Any building, use or structure that had been officially approved, or for which a building permit had been issued prior to the passage of the initial ordinance codified herein, may proceed to be constructed or used provided the project is completed prior to expiration of the permit.

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

Sec. 16-13-70. - Change to another nonconforming use.

No nonconforming use of a building or structure may be changed to another nonconforming use except when the new nonconforming use is of a more restrictive nature as may be determined and approved by the Planning Commission.

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

ARTICLE 14. - AMENDMENT PROCEDURES

Sec. 16-14-10. - Authority.

The Town may from time to time amend the number, shape or boundaries of any zone district or any regulation of or within such district or any other provision of this Chapter.

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

Sec. 16-14-20. - Procedures.

Amendments to this Chapter shall be considered by the Board of Trustees only when the following requirements have been observed:

- (1) Requests for amendment may only be presented by a legal title owner of real property within the area proposed for a change, by the Planning Commission or the Board of Trustees. Requests for a change in the boundary of any zone district by a legal title owner of real property within the area proposed for change shall be accompanied by a petition requesting such change signed by owners of at least fifty percent (50%) of the area of the lots included in such change.
- (2) Each amendment shall be submitted to the Planning Commission for its recommendations. Such action by the Planning Commission shall be filed in a report to the Board of Trustees.

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

Sec. 16-14-30. - Board of Trustees public hearing.

Prior to final adoption of any amendment to this Chapter, the Board of Trustees shall hold a public hearing thereon. Notice shall be given as provided in Section 16-16-10 of this Chapter.

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

Sec. 16-14-40. - Fee.

For all proposed amendments to this Chapter, except for amendments proposed by the Board of Trustees or the Planning Commission, a fee shall be charged to cover advertising and processing costs. The amount of the fee shall be established by resolution of the Board of Trustees.

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

Sec. 16-14-50. - Decisions.

In case of protest against an amendment signed by the owners of twenty percent (20%) or more, either of the area of lots included in such proposed amendment or of those immediately adjacent to the area thereof extending one hundred (100) feet therefrom or from those directly opposite thereto extending one hundred (100) feet therefrom or from those opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots, such amendment shall not become effective except by a favorable vote of two-thirds ( 2/3 ) of all the voting members of the Board of Trustees.

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

ARTICLE 15. - ZONING BOARD OF ADJUSTMENT

Sec. 16-15-10. - Procedures.

- (a) Appeals to the Board of Adjustment may be taken by any person aggrieved by his or her inability to obtain a building permit based upon the decision of any administrative officer or agency made in the course of the administration or enforcement of the provisions of this Code. Appeal may be taken by an officer, department, board or bureau of the Town affected by the refusal of a building permit or by

other decision of an administrative officer or agency made in the course of the administration or enforcement of this Code. Appeals to the Board of Adjustment must be made in writing and filed with the Town Clerk no later than 4:30 p.m. of the seventh day following the action or decision from which the appeal is taken. In the event the seventh day falls on a Saturday, Sunday or holiday, the next regular business day of the Town shall be deemed the seventh day. The day of the action or decision shall not be included in the seven-day calculation.

- (b) An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal has been filed with him or her that, by reason of facts stated in the certificate, a stay, in his or her opinion, would cause imminent peril to life and property, in which case proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or a court of record on application, on notice to the officer from whom the appeal is taken and on whom due cause is shown.
- (c) Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of enactment of the initial ordinance codified herein, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation enacted under this Chapter would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of such property, the Board of Adjustment may authorize, upon an appeal relating to said property, a variance from such strict application so as to relieve such difficulties or hardship; provided, however, that:
  - (1) The variance granted is the minimum necessary to alleviate such practical difficulties or undue hardship upon the owner of said property.
  - (2) Such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the general plan or this Chapter.
  - (3) The circumstances found to constitute a hardship were not created by the appellant, are not due to or the result of general conditions in the district and cannot be practically corrected.

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

Sec. 16-15-20. - Hearings.

All hearings on the appeals to the Board of Adjustment shall be held within thirty (30) days of the filing of the appeal. Hearings held in regard to variance from strict application of the provisions of this Chapter shall be conducted at a public hearing following public notice requirements as provided in Article 16 of this Chapter.

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

Sec. 16-15-30. - Fee.

For all applications for a variance or interpretation of this Code, a fee shall be charged to cover the costs of advertising and processing. The amount of the fee shall be established by resolution of the Board of Trustees.

(Ord. No. 83-116, Art. XXI, 1983; Ord. No. 2000-02, Art. XXI, 2000)

Sec. 16-15-40. - Decisions.



The concurring vote of four (4) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or agency or to decide in favor of the appellant.

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

ARTICLE 16. - PUBLIC NOTICE REQUIREMENTS

Sec. 16-16-10. - Required notice.

For special review requests, variance requests, PUD hearings and rezoning requests, the following public notice requirements shall be met:

- (1) A public notice shall be published in a newspaper of general circulation within the Town at least fifteen (15) days in advance of the hearing.
- (2) Notice shall be sent to all property owners within two hundred (200) feet of the property in question at least ten (10) days in advance of the hearing.
- (3) A notice shall be posted on the subject property at least ten (10) days prior to the hearing. The applicant shall be required to post the notice on the property in the manner prescribed by this Article and as directed by the Town Administrator.
- (4) In the case of rezoning of a large area, the entire Town or a portion of the Town initiated by the Planning Commission and Board of Trustees, public notice shall be as follows:
  - a. A public notice shall be published in a newspaper of general circulation within the Town at least fifteen (15) days in advance of the public hearing. Such notice shall include a map of the boundaries of the proposed zone changes.
  - b. Notices shall be posted at several places throughout the areas to be rezoned and along the perimeter of the areas. Such notices shall be posted at least ten (10) days prior to the hearing.
- (5) In determining the time periods for notice requirements, the day of the action or public hearing is not included in the calculation.

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

Sec. 16-16-20. - Notice information.

All notices shall include the following information:

- (1) The name of the applicant or appellant and the description of the property.
- (2) A description of the nature of the request.
- (3) The time, date and place of the public hearing.
- (4) The agency or office and phone number where further information may be obtained.

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

ARTICLE 17. - MISCELLANEOUS PROVISIONS

Sec. 16-17-10. - Certificate of occupancy.

- (a) ~~No vacant land shall be occupied and used, and no building hereafter erected shall be occupied or used, until a certificate of occupancy has been issued by the Building Inspector.~~
- (b) A certificate of occupancy for a new building or the alteration of an existing building shall be applied for coincident with the application for a building permit and shall be issued within ten (10) days after the erection or alteration of such building has been completed in conformity with the provisions of these regulations.
- (c) A certificate of occupancy shall state that the building or land complies with all the building and health laws and ordinances and with the provisions of this Code. A record of all certificates shall be kept on file in the office of the Building Inspector, and copies shall be furnished upon request to any person having proprietary or tenancy interest in the building affected. No fee shall be charged for an original certificate applied for coincident with the application of a building permit.

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

Sec. 16-17-20. - Nonliability for damages.

This Chapter shall not be construed to hold the Town, in any manner, responsible for any damages to persons or property resulting from any inspection as herein authorized, resulting from any failure to so inspect, resulting from the issuance or denial of a building permit as herein provided, resulting from the institution of court action as hereinabove set forth or resulting from the forbearance by the Town to so proceed.

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

Sec. 16-17-30. - Nonliability of officials.

Any Town official or employee charged with the enforcement of this Chapter acting in good faith and without malice on behalf of the Town in the discharge of his or her official duties shall not thereby render himself or herself personally liable for any damages which may accrue to persons or property resulting from any such act or omission committed in the discharge of such duties. Any suit or proceeding instituted against such official or employee stemming from any act or omission performed by him or her in the enforcement or attempted enforcement of any provision of this Chapter shall be defended by attorneys provided by the Town until final termination of the proceedings.

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

ARTICLE 18. - ENFORCEMENT

Sec. 16-18-10. - Violation.

It shall be unlawful to erect, construct, reconstruct or use any building or structure or to use any parcel or tract of land in violation of any provision of this Chapter or amendment thereof. Any person either as owner, lessee, occupant or otherwise, who violates any of the provisions of this Chapter or any amendment thereof or who interferes in any manner with any person in the performance of a right or duty granted or imposed upon him or her by the provisions of this Chapter shall be guilty of a violation of this Chapter.

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

**Commented [DR68]:** I will delete this first part later because if I delete it now the comments go away. I want you to see the comment just below.

**Commented [T69R68]:** Good question, we don't allow occupying of vacant land at all. We DO need to allow short-term use of property with motor home while actively building under our permits. NO connect to services though. (Water sewer)

**Commented [DR70R68]:** Why no utilities?? It should be a REQUIREMENT that they connect to sewer to prevent health violations, then limit the RV deal to one year or something. See suggested wording added as item #5 in 18-10-10.

**Commented [DR71]:** Maybe move this entire Article to the end of Chapter 18??

**Commented [DR72]:** "This Chapter" – being Zoning. Why would Building Code violations be here??

**Commented [T73R72]:** I think these apply

**Commented [DR74R72]:** Your call.

Sec. 16-18-20. - Penalty.

Any person upon conviction of a violation of this Chapter, shall be fined in accordance with the provisions of Section 1-4-20 of this Code.

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

Sec. 16-18-30. - Remedies.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of this Chapter or other regulation made under authority conferred hereby, the Town, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use to restrain, correct or abate such violation to prevent any illegal act, conduct, business or use in or about such premises.

Commented [DR75]: Why is this in Zoning??

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

Chapter 17 - SUBDIVISIONS

ARTICLE 1. - GENERAL PROVISIONS

Sec. 17-1-10. - Purpose.

The purpose of this Article shall be to ensure the health, safety and general welfare of the citizens of the Town and to provide minimum standards for design of improvements and subdivision of land in order to promote a safe and efficient street system, a proper distribution of population and public facilities, adequate public utilities and to protect purchasers from unexpected obligations and assessments.

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

Sec. 17-1-20. - Authority.

These Subdivision Regulations are adopted under the authority granted by Title 31, Article 23, C.R.S. No final subdivision plat shall be approved and accepted by the Board of Trustees unless it conforms to the provisions of this Chapter.

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

Sec. 17-1-30. - Jurisdiction.

This Chapter shall be applicable within the following areas:

- (1) All land located within the boundaries of the Town.
- (2) All unincorporated land within three (3) miles of the corporate boundaries of the Town for major street plan purposes when a major street plan has been approved in accordance with the requirements of state statutes.
- (3) All land that is in the process of annexation to the Town.

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

Sec. 17-1-40. - Applicability and enforcement.

- (a) Whoever divides or participates in the division of a lot, tract or parcel of land into two (2) or more lots, tracts, parcels or other divisions of land for the purpose, whether immediate or future, of sale or building development, whether for residential, industrial, office, business or other use, shall make the transaction subject to the provisions of this Chapter, including the approval of a final subdivision plat by the Board of Trustees. The terms of any such transactions shall include and refer to any division of land previously subdivided or platted.
- (b) Exceptions to the above shall include any division of land to heirs through an estate proceeding and any division of land by virtue of the foreclosure of a deed of trust.
- (c) No final plat of a subdivision located within the area of planned jurisdiction of the Town shall be filed or recorded with the County Clerk and Recorder until said plat has received final approval in writing by the Planning Commission and by the Board of Trustees. Any owner or agent of the owner of any land located within a subdivision who transfers, sells, agrees to sell or negotiates to sell any land by reference to or by use of a plat for a subdivision, before such plat has been recorded or filed in the office of the County Clerk and Recorder, shall be deemed guilty of a misdemeanor. In addition, the Town may enjoin such transfer, sale or agreement by action for injunction brought in any court of equity jurisdiction or may recover the penalty of civil action in a court of competent jurisdiction.

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

Sec. 17-1-50. - Administration.

- (a) *Public notice requirements.* A public hearing shall be required, for consideration of preliminary subdivision plats and annexation maps, by the Planning Commission and, for consideration of final subdivision plats and annexation maps, by the Board of Trustees. The following public notice requirements shall be met:
  - (1) A public notice shall be published in a newspaper of general circulation within the Town at least fifteen (15) days in advance of the hearing.
  - (2) Notice shall be sent to all property owners within two hundred (200) feet of the property in question at least ten (10) days in advance of the hearing. The applicant shall pay postage.
  - (3) A notice shall be posted on the subject project for at least ten (10) days prior to the hearing. The applicant shall be required to post this notice as directed by the Town Administrator.
  - (4) All notices shall include the following information:
    - a. The name of the applicant or appellant and the description of the property.
    - b. A description of the nature of the request.
    - c. The time, date and place of the public hearing.
    - d. The agency or office and phone number where further information may be obtained.
- (b) *Exceptions.*
  - (1) The Planning Commission may recommend the granting of exceptions from the design and improvement standards set forth in Article 4 of this Chapter at a public hearing conducted upon notice as set forth in Subsection (a) above. In recommending the granting of an exception, the Planning Commission can recommend the imposition of any of the conditions set forth in the subdivision agreement. In order to obtain an exception, the applicant must show and the Planning Commission must find all of the following where applicable:
    - a. The strict application of the relevant standards will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of the property in question due to the exceptional shape, topographic condition or other extraordinary and

exceptional situation or condition of the property in question which does not occur generally to other property in the same zone district.

- b. The exception to be granted is the minimum necessary to alleviate the practical difficulties and undue hardship upon the owner of the property.
  - c. The exception to be granted does not substantially impair the intent and purpose of the Comprehensive Plan, this Chapter, Chapter 16 of this Code and the standard from which the exception is sought.
  - d. The circumstances relating to or causing the practical difficulties or hardship upon the owner of the property were not created through or induced by any fault or action of the owner of the property, are not due to or the result of general conditions in the zone district or in the surrounding area outside of the zone district and cannot practicably be corrected by a means other than an exception.
  - e. Notwithstanding the above, an exception to the subdivision regulations may be recommended by the Planning Commission and approved by the Board of Trustees if the exception is considered necessary to achieve the objectives of a PUD.
- (2) The Planning Commission may, in recommending the granting of an exception, recommend the imposition of any conditions set forth in the subdivision agreement or which it deems necessary to carry out the intent of the provisions of this Chapter or any other provision of this Code.
- (3) An exception shall not be allowed until the application for an exception is reviewed and approved by the Board of Trustees. If the Planning Commission recommends an exception with or without conditions, the Board of Trustees shall review and act upon the application for exception after giving the same type of notice as was given prior to the hearing before the Planning Commission. The Board of Trustees may grant, deny or grant with conditions an application for an exception, and the decision of the Board of Trustees shall be final from which an appeal may be taken to a court of law.

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

Sec. 17-1-60. - Word usage.

- (a) The word *lot* includes plot and parcel.
- (b) The phrase *used for* shall be construed to include *arranged for, designed for, intended for, maintained for* and *occupied for*.
- (c) Words used in the singular number include the plural, and the 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. 2000-02, Art. V, 2000; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 17-1-70. - Definitions.

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

*Boundary adjustment* means the relocation of a lot line or lines that does not create new lots or the elimination of a lot line or lines that results in two (2) or more lots being combined into a lesser number of lots provided, however, that no more than ten (10) lot lines may be so adjusted on a Town approved and recorded plat.

*Condominium* means a subdivision in which the interests created are separate fee simple estates in individual air space units of a multi-unit property together with individual fee simple interests in common elements as defined by state statutes.

*Drainage or erosion control structure* means all facilities necessary to control the direction, depth, velocity and volume of water flow within a proposed subdivision and to mitigate the erosion and related water quality impacts resulting from development. Such facilities are considered to be public improvements as defined by this Chapter.

*Driveway* means an access facility between the driveway approach point on a roadway, shared access facility or emergency vehicle access and the abutting property used by vehicular traffic. A driveway is that portion of a lot intended to be the area upon which vehicles travel from a road, public or private, to a dwelling or to other improvements located upon the lot.

*Driveway approach* means any area, construction or facility between the roadway and the driveway, shared access facility or emergency vehicle access serving the abutting property which provide access for vehicular traffic.

*Easement* means a grant of one (1) or more property rights by the property owner to and/or for the use by public, a corporation or another person or entity.

*Lot* means a parcel of land of at least sufficient size, and containing sufficient buildable area, to meet the minimum zoning requirements for use, coverage and area and to provide such yards and other open spaces as are required by the Land Development Regulations. The word *lot* includes the word plot, parcel and shall also mean the same as building site and that portion of a condominium subdivision project designed and intended for separate ownership and/or exclusive use.

*Major street plan* means that portion of the Master Plan of the Town which establishes the general location, character and extent of streets, thoroughfares, bridges, waterways, boulevards, parkways, parks and other public ways, grounds and open spaces that may be necessary for transportation purposes.

*Major subdivision* means any subdivision of land that does not fall within the definition of a *minor subdivision*.

*Minor subdivision* means the division of land that meets at least one (1) of the following conditions:

- a. The division of a parcel of land into three (3) lots or less. A parcel of land may only be subdivided once into three (3) lots or less under the minor subdivision procedures once, but the relocation or adjustment of lot lines may be permitted multiple times on the same parcel of land, provided that such modification conforms to all other applicable provisions of these regulations. Any subsequent subdivision, except for Subparagraph b. below, must follow the procedures for a major subdivision.
- b. The relocation or adjustment of a lot line that does not create new lots.

*Paonia control system* includes the following:

- a. *Horizontal control* means a system of plane coordinates which has been established by the Town Engineer for the purpose of defining and stating the positions or the location of points on the surface of the earth within the Town and surrounding area.
- b. *Paonia Control System Map* means a map on file at the office of the Town Clerk showing the location, coordinates and vertical elevation of the *Paonia control system* or control stations.
- c. *Vertical control* means a vertical elevation system based on the USGS datum of 1929, which has been established by the Town Engineer for vertical control within the Town and surrounding area.

*Parent parcel* means a parcel of land lawfully in existence and through which a private road was extended prior to the effective date of this Section.

*Private road* means a roadway facility in private ownership providing private access and used for travel of vehicles by the owner or those having express or implied permission from the owner, but not other persons. *Private road* also means any road or thoroughfare for vehicular traffic contained within a

private road easement which is privately owned and maintained, and which provides access for up to four (4) parcels abutting the private road easement.

*Private road easement* means an easement which is granted exclusively for a private access for up to four (4) abutting parcels of land and which contains or is intended to contain a private road.

*Public street* means a publicly owned and maintained thoroughfare dedicated for the purpose of traffic circulation and the principal means of access to abutting property.

*Shared access facility* means a privately-owned drivable surface which serves up to and including four (4) lots for access to single-family dwelling units.

*Shared driveway* means a driveway as defined herein but used by two (2) lots.

*Shared driveway easement* means an easement which is granted exclusively for a private access to two (2) abutting parcels of land and which contains or is intended to contain a private driveway.

*Street right-of-way* means land, property or a property interest, usually in a strip, acquired for or devoted to transportation purposes which has been dedicated for public use.

*Subdivide* means any person, partnership, joint venture, association, corporation or other legal entity or legal representative who shall participate in any manner in the division of land or air space for the purpose, whether immediate or future, of sale or building development.

*Subdivision* means the division of a lot, tract, parcel or structure into two (2) or more parcels, building sites, tracts, lots or estates in land for the purpose, whether immediate or in the future, of sale or building development. *Subdivision* includes re-subdivision of a subdivided tract into a greater number of parcels, building sites, tracts, lots or estates in land. *Subdivision* further includes the conversion of existing structures to the condominium form of ownership pursuant to Section 38-33-101, et seq., C.R.S. When appropriate, *subdivision* relates to the process of subdividing or to the lands or territories or structures subdivided.

(Ord. No. 2000-02, Art. V, 2000; Ord. No. 2007-01, § 1, 2007; Ord. No. 2010-03, § 1, 2010; Ord. No. 2014-04, § 1, 1-13-2015)

## ARTICLE 2. - PLANNING COMMISSION AND BOARD OF TRUSTEES

### Sec. 17-2-10. - Planning Commission.

The Planning Commission is responsible for making investigations and reports on the design and improvements of proposed subdivisions and requiring conformity of such subdivisions with the Comprehensive Plan, the state statutes and this Chapter, utilizing the assistance and cooperation of the elected and appointed officials of the Town, the County and the State, as well as the services of consultants when they are required. No plat of a major subdivision of land shall be filed and recorded until the Planning Commission has approved the preliminary plat and the Chair of the Planning Commission has signed the final plat. The final plat must be consistent with the preliminary plat approved by the Planning Commission. If there are major changes or discrepancies between the preliminary plat and the final plat, the final plat must be reviewed by the Planning Commission before the Planning Commission Chair is authorized to sign the final plat. The Town Administrator or Board of Trustees shall make the decision concerning a minor subdivision application, and no final plat thereof shall be filed and recorded without an approval signature thereon on behalf of the Town.

(Ord. No. 2000-02, Art. VI, 2000; Ord. No. 2007-01, § 2, 2007; Ord. No. 2014-04, § 1, 1-13-2015)

### Sec. 17-2-20. - Board of Trustees.

The Board of Trustees has final jurisdiction in the acceptance of lands and improvements proposed for dedication to the Town as a result of the subdivision process, and such approval shall be indicated by the signature of the Mayor on the final plat, which shall be attested by the Town Clerk and dated.

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

Sec. 17-2-30. - Development Review Committee.

- (a) A Development Review Committee shall be established by the Board of Trustees to assist in the technical review of development applications prior to the consideration by the Planning Commission and/or the Board of Trustees. It is intended by the formation of the Development Review Committee to resolve technical details and application deficiencies prior to scheduled formal public hearings and, therefore, to expedite the process. A meeting of the Development Review Committee shall be scheduled, when necessary, to review submittals prior to the time those items are to be considered by the Planning Commission. The comments provided by the Development Review Committee shall be included as a part of the Town Administrator's report on each item.
- (b) The Development Review Committee may be comprised of representatives of the Town staff (e.g., Public Works and Utilities, Building Inspector, Town Administrator, Police and Fire), representatives of utility companies, telephone company, highway department and school district. In the event a member cannot attend a scheduled committee meeting, comments on an application may be conveyed to the Town Administrator prior to the meeting.

(Ord. No. 2000-02, Art. VII, 2000; Ord. No. 2007-01, § 3, 2007; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 17-2-40. - Establishment of fees.

The Board of Trustees shall establish fees for the processing of subdivision and annexation applications. Actual fees shall be established by resolution of the Board and shall be reviewed periodically. Fees shall cover applications for sketch plan review, preliminary plats, final subdivision plats or annexation maps for major and minor subdivisions. Additional fees for consulting services required for proper review of applications shall be determined for specific applications as required.

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

ARTICLE 3. - PLANNED UNIT DEVELOPMENTS

Sec. 17-3-10. - Planned Unit Developments.

- (a) To promote excellence of subdivision design and improvements, the Planning Commission may recommend the approval of a subdivision that departs from the usual design of regular platted lots and blocks devoted to a single classification of land use, but the PUD shall conform to the requirements of Chapter 16 of this Code and the provisions relating to PUDs.
- (b) In the event the land is to be subdivided and developed as a PUD, the person subdividing shall submit, in addition to the required information and documents required in this Chapter, such additional information as may be required in Chapter 16, Article 5 of this Code.
- (c) Simultaneous hearings may be held for the review and approval of a subdivision and PUD involving the same land. In such instances the following may apply.
  - (1) The optional sketch plan requirements for the PUD may also serve as the sketch plan for a subdivision or annexation.



- (2) It is intended that the preliminary plat and preliminary development plan for a PUD be considered concurrently if the PUD is proposed for subdivision. The documents submitted for the PUD preliminary development plan may also serve as the preliminary plat application, provided that the information required for the preliminary plat is submitted.
- (3) Each simultaneous hearing must be preceded by notice consistent with Chapter 16, Article 16 of this Code.
- (4) Because of the complexity and special policy implications of certain PUD applications, the Planning Commission and/or Board of Trustees may require more time for review. In such cases, it may be in the best interest of the Town as well as the applicant to table a matter to allow more time for study and review of application materials. If this is necessary, the person subdividing will be requested to agree in writing to waive the statutory requirements for action on a subdivision request within thirty (30) days.

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

Sec. 17-3-20. - Distribution of application materials.

The Town Administrator shall distribute appropriate sheets of preliminary plats to the following entities for their review and comments:

- (1) All concerned Town departments.
- (2) The school-district.
- (3) All utilities companies serving the area.
- (4) All special districts serving the area.
- (5) The Colorado Department of Public Health and Environment, when new sewage treatment facilities are proposed.
- (6) The County Planning Office.
- (7) The Colorado Department of Transportation when the proposed subdivision or annexation abuts any state highway.

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

Sec. 17-3-30. - Copies required.

A minimum of fifteen (3) copies of all application materials for preliminary and final plats or maps shall be filed with the Town Administrator.

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

Sec. 17-3-40. - Dedication of land for public use.

If the subdivision results in one (1) or more additional dwelling units or building sites, the Town shall require the person subdividing to dedicate a parcel of land, chosen by the Town, from the subdivision area equal to ten percent (10%) of the land area or one (1) acre for every one hundred twenty-five (125) potential residents, or fraction thereof, whichever is greater. At the Town's option, the person subdividing in lieu of dedicating the land shall pay a fee that is equivalent to the cost of acquiring new land for parks, recreation areas or schools in the vicinity of the developing area where the subdivision is located. This fee shall be based upon land values for undeveloped property in the areas adjacent to the Town considering future development-potential and shall be established by a professional appraisal of the property. The applicant shall pay for the appraisal. The dedication requirement shall be based upon the following:

(1) The required land dedication is ten percent (10%) of the total site area or one (1) acre per one hundred twenty-five (125) potential residents, whichever is greater.

(2) Future population shall be based upon the following household occupancy table:

<i>Type</i>	<i>Occupancy</i>
Single-family unit:	3 persons per unit
Duplex unit:	3 persons per unit
Multiple-family unit:	2.5 persons per unit
Mobile home unit:	2 persons per unit

Commented [T76]: Is this even necessary?

Commented [DR77R76]: Yes, probably. Without information to base expected traffic patterns, the land dedication might be even more of a guess.

(3) Dedication requirements for commercial development are based upon ten percent (10%) of the land area.

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

ARTICLE 4. - DESIGN STANDARDS

Sec. 17-4-10. - General provisions.

- (a) All subdivisions shall be designed, developed and improved in accordance with the standards and requirements in this Chapter.
- (b) To the extent these design standards conflict with any other resolution or ordinance of the Town, these design standards shall control.
- (c) If the Town does not have sufficient personnel or expertise in its staff members to properly analyze and review engineering data, land use designs or any other data required to be furnished by a person subdividing by this Chapter, the Town Administrator may select and hire independent experts to conduct such analysis and review for the Town. The initial filing fee shall include an amount to cover the cost of professional assistance, if necessary. In the event all the funds are not needed, the applicant will be refunded the remaining amount.
- (d) If the property to be improved has been previously irrigated and water rights were utilized, the property requires adequate irrigation water rights, and the applicant must have a plan for distribution.

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

Sec. 17-4-20. - Natural hazards.

These standards are intended to assure that new development will not be permitted in areas where the environmental characteristics of the area may create hazardous conditions for new residents or for adjoining property owners.

- (1) Building development is generally discouraged on slopes that exceed twenty-five percent (25%). In special cases, development may be permitted, provided that approved mitigation techniques are employed. All development proposed for sites with slopes in excess of twenty-five percent (25%) must be reviewed under the special review application procedures of Chapter 16, Article 4 of this Code. In such cases, independent professional geologists and engineers must provide analyses.
- (2) Hazards shall include subsidence unstable soils, rockfall hazards and flooding.
- (3) All development shall be subject to the provisions of the floodplain regulations of the Town.
- (4) Mitigation techniques may include, but are not limited to:
  - a. Slope stabilization by landscaping, revegetation or other means.
  - b. Elevation of structures or approved floodproofing.
  - c. Catchment walls for rockfall hazards.
  - d. Control of potential debris diversion structures.

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

Sec. 17-4-30. - Survey information.

- (a) The boundary survey, internal property lines and monumentation as depicted on the final plat shall meet all requirements established under state statute. The Planning Commission prior to approval of the final plat shall review survey data.
- (b) Monuments shall be set to specifications of the Board of Trustees with at least one (1) monument on the boundary established as a permanent benchmark. All survey traverses shall close within an allowable error of no more than one (1) foot in five thousand (5,000) feet.
- (c) No approval of a final plat shall be deemed as assurance, guarantee or representation by the Town that the survey data is accurate.
- (d) The Board of Trustees shall require a survey prepared by a state licensed land surveyor showing the location of proposed improvements prior to the issuance of a building permit in an approved subdivision.
- (e) All final subdivision plats shall bear the seal and signature of a state licensed land surveyor attesting to the following:

I, \_\_\_\_\_ being a licensed land surveyor in the State of Colorado, duly swear that this map or plat, entitled \_\_\_\_\_ has been prepared by me or under my supervision and that the survey is accurately represented on this map and the statements contained thereon are true based upon my knowledge.

Name \_\_\_\_\_

No. \_\_\_\_\_

(SEAL)

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

Sec. 17-4-40. - Street design.

- (a) The street pattern shall be designed to afford safe and convenient access to all lots within the subdivision.

- (b) Streets shall have a logical relationship to the topography and be designed to be parallel to the existing contours as much as possible.
- (c) All streets shall intersect at right angles.
- (d) Streets or alleys shall not be closer than one hundred (100) feet from another street intersection.
- (e) Proposed streets, which are extensions of existing public rights-of-way shall be designed to effect a smooth transition from existing to proposed improvements and shall be named accordingly.
- (f) Where developable but unplatted land is separated by a proposed subdivision from an existing public right-of-way, the street pattern of the proposed subdivision shall include streets extended to the boundary common to both tracts to prevent land locking of the unplatted tract and promote access to future development of adjacent unplatted land.
- (g) Dead-end streets and alleys shall be provided with a cul-de-sac with a minimum radius of fifty (50) feet. The maximum length of a dead-end street shall be five hundred (500) feet measured from the right-of-way line of the connecting street to the center of the turn-around area at the closed end of the cul-de-sac.
- (h) The minimum street gradient shall be five-tenths percent (0.5%) and the maximum street gradient shall be seven percent (7%) for local streets and five percent (5%) for collector and arterial streets. Except where, in the Town's opinion, the terrain requires a greater gradient, streets shall not exceed a gradient of four percent (4%) within one hundred (100) feet of an intersection. Changes in street grades shall be accomplished by vertical curves of sufficient length to maintain safe sight distances.
- (i) Street names. All street names shall be subject to the approval of the Planning Commission. The Planning Commission, subject to the approval of the Board of Trustees, may adopt a uniform street naming policy.
- (j) All public and private streets, curbs and gutters shall be laid out and graded, a base course of gravel installed and an asphalt wearing course installed to the full width of the traveled way, all to the specification of the Town's street design specifications. All alleys shall be laid out and graded, a base-course of gravel installed and an all-weather surface installed to the full width of the traveled way, all to the specification of the Town's street design specifications and the Building Specifications and Standard Construction Specifications, as the same may be from time to time amended.
- (k) Minimum street widths and design characteristics are shown on the schedule of requirements, Table 17-1 below.
- (l) Curbs, gutters and sidewalks are required on all streets of subdivisions.

(Ord. No. 2000-02, Art. XII, 2000; Ord. No. 2003-04, 8-12-2003; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 17-4-50. - Street design; schedule of requirements.

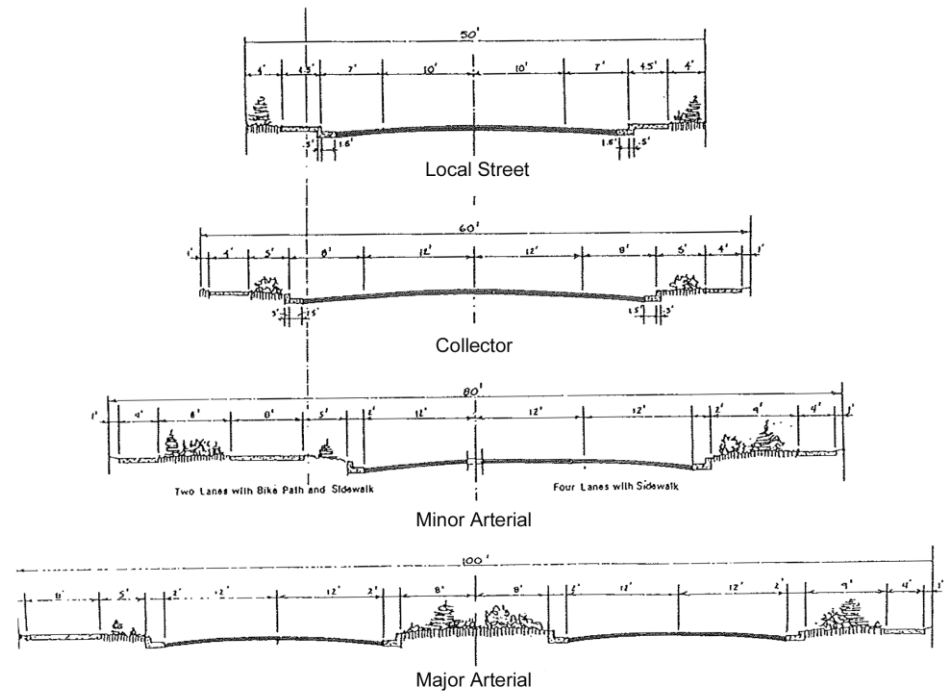
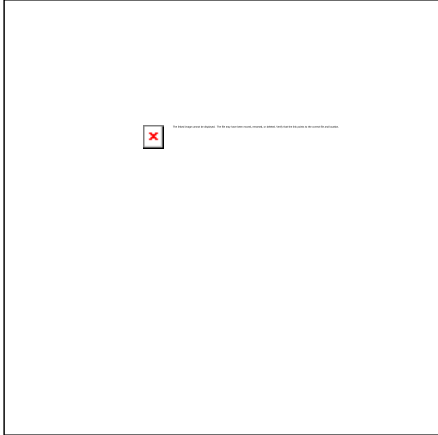
The following Table sets out the requirements for street design:

**Table 17-1  
Street Design - Schedule of Requirements <sup>1</sup>**

	<i>Local Street</i>	<i>Major and Minor Collector</i>	<i>Minor Arterial</i>	<i>Major Arterial</i>	<i>Alleys</i>
Minimum right-of-	50 ft.	60 ft.	80 ft.	100 ft.	25 ft.

way					
Travel lanes	2-10 ft.	2-12 ft.	2 or 4 lanes	12 ft.	25 ft.
On-street parking lanes	2-7 ft.	2-8 ft.			
Minimum pavement width curb to curb	34 ft.	40 ft.	See cross-section		
Sidewalk	Attached curbwalk 2-4 ft.	Detached 2-4 ft.	Detached 2-4 ft.	Detached 2-4 ft.	
Minimum radius of curvature	100 ft.	300 ft.	400 ft.	600 ft.	100 ft.
Maximum % of grade	7%	5%	5%	5%	
Radius of cul-de-sac		50 ft. residential	N/A	N/A	
Minimum paved area right-of-way	45 ft.	60 ft. commercial			
Bicycle path	May be designated on selected streets	Selected streets may include required bicycle paths. Minimum 8-10 ft.			

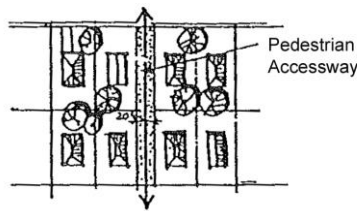
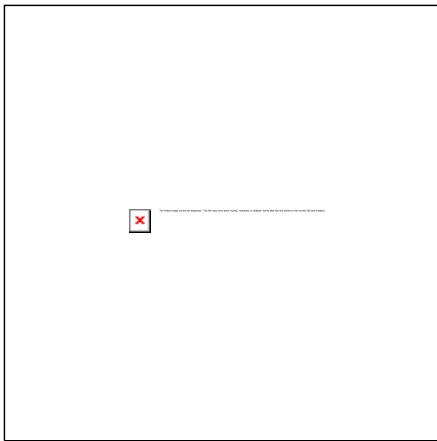
<sup>1</sup> These requirements apply to new developing areas and may not be applicable to older areas of the community. All determinations as to the applicability of these requirements shall be made by the Planning Commission.



(Ord. No. 2000-02, Art. XII, 2000; Ord. No. 2003-04, 8-12-2003; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 17-4-60. - Lot and block design.

- (a) Each lot shall be designed to provide an adequate accessible building site for a structure devoted to the intended use of the land.
- (b) Each lot shall meet or exceed the minimum requirements of the applicable zone district regulations or PUD plan, whichever applies, and shall have a minimum of twenty-five (25) feet of linear footage on a dedicated public street if access to said lot is by a dedicated public street. For multiple-family townhouse PUDs, the Planning Commission may waive the required twenty-five (25) feet of frontage on a public street.
- (c) Blocks shall not exceed one thousand (1,000) feet, unless a pedestrian walkway is provided through the block. The walkway shall consist of a twenty-foot easement near the middle of the block.



- (d) In tracts containing more than one (1) block, the blocks shall be designated in numerical order. Lots shall be designated numerically beginning with the number 1 in each block. Large tracts of land that are not further subdivided into lots and blocks shall be designated alphabetically beginning with the letter A. Outlots shall also be numbered alphabetically.
- (e) Double-frontage or through lots may be permitted, provided that access control restrictions are provided on the plat.

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

Sec. 17-4-70. - Storm drainage.

- (a) Complete drainage systems for the entire subdivision area shall be designed by a professional engineer licensed in the State and qualified to perform such work and shall be shown graphically. All existing drainage features shall be so identified. If the final plat is to be presented in phases, a general drainage plan for the entire area shall be presented with the first phase, and appropriate development stages for the drainage system for each phase shall be indicated.
- (b) The drainage plans shall be designed to permit the unimpeded flow of natural watercourses and to ensure adequate drainage of all low points.
- (c) Drainage plans shall include all proposed surface drainage structures and all appropriate designs, details and dimensions necessary to clearly explain proposed construction materials and elevations.
- (d) The drainage system shall be designed to consider the drainage basin as a whole. All new development shall ensure that surface runoff from the development site shall not, after development, exceed the predevelopment flow for the peak condition of a ten-year storm. Adequate area for

retention, percolation and absorption of all surface runoff generated by the project shall be provided either on the site or in cooperation with similar developments in the vicinity. A qualified engineer shall certify such surface runoff control designs.

- (e) All detention ponds shall be designed so that no standing water will remain beyond five (5) days after the end of the storm. The design of the detention facility must include consideration of the off-site runoff based upon present conditions. Detention facility design shall be in conformance with the requirements of the Town Engineer. Design data shall include, but not be limited to, soil boring logs and soils classifications water table elevations.
- (f) Drainage easements shall be provided to assure the perpetuity of detention areas when constructed as permanent drainage facilities.
- (g) Maintenance of drainage easements, detention areas and other structures shall be determined as a part of the subdivision agreement.
- (h) The developer shall make all practical efforts to assure that the water quality of post-development runoff is not less than the predevelopment runoff.

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

Sec. 17-4-80. - Erosion control and site grading.

- (a) All new development shall ensure that erosion and sedimentation caused during construction and in the post-construction stage is prevented from causing any off-site effects in excess of what occurred in the predevelopment condition. The universal soil loss equation shall be used to calculate the amount of erosion to be generated by construction, and an interim stabilization and final stabilization plan shall be provided by the developer to ensure the containment of wind and water erosion effects on site during and after construction.
- (b) On slopes greater than ten percent (10%), slope stabilization and revegetation will be required. Plans shall include a description of existing vegetation to be planted and other slope-stabilization measures to be installed. New vegetation should be selected and located to be compatible with the surrounding vegetation, soil and ecological characteristics of the area.
- (c) Slopes shall be finished to match or blend with the natural contours of the adjacent terrain by eliminating sharp grade transitions of cut-and-fill slopes.
- (d) All existing trees that are to be retained and are over three (3) inches in diameter measured three (3) feet above grade shall be protected during construction and grading operations by placing fencing outside of the drip line of the tree.

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

Sec. 17-4-90. - Bridges.

Any bridge planned as part of a proposed subdivision shall be designed and constructed and paid for by the subdivider in accordance with American Association of State Highway Officials recommendations, which recommendations are incorporated herein by this reference as if set forth verbatim. Where an existing bridge is a part of a proposed subdivision and does not meet specifications of this Chapter, it is the responsibility of the subdivider to repair or replace such bridge as necessary to meet the requirements of H20 live load prior to acceptance by the Board of Trustees for maintenance. No lot served by such bridge shall be built upon or occupied until such improvements have been completed. The width of such bridge shall not be less than the width of the roadways approaching it on either side.

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



Sec. 17-4-100. - Water systems.

Water distribution systems shall be designed to connect with the Town water system and make water available to each lot and proposed site of use in the proposed subdivision. Fire hydrants shall be located to ensure protection of each lot based on utilization of existing Town firefighting equipment. Design and engineering of the system shall be the responsibility of the subdivider, with all plans subject to approval of the Town. Installation of the system shall be to Town specifications. Financial responsibility for the water distribution system shall belong to the subdivider and shall be subject to existing Town regulations and agreements executed by the Town and the subdivider.

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

Sec. 17-4-110. - Sanitary sewer systems.

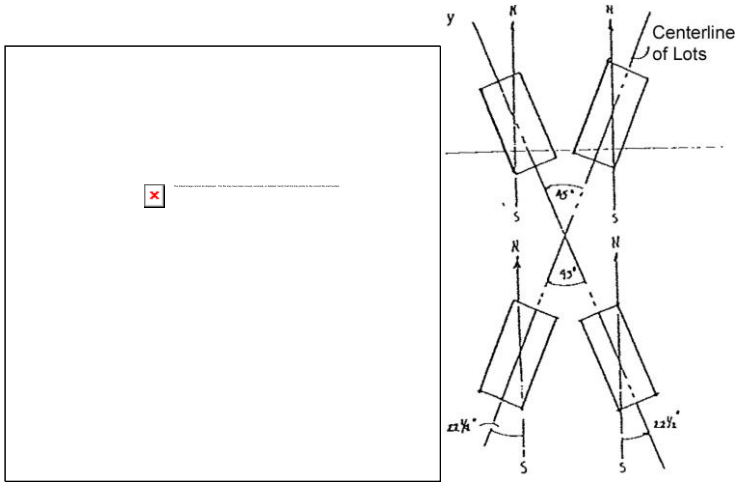
The sanitary sewer system for the subdivision shall be designed to connect with the Town's system and shall provide service for each lot and proposed building site within the subdivision. Design and installation of the system shall be subject to the approval of the Town and in accordance with the specifications of the Town. The developer shall pay for the sanitary sewage collection system subject to all regulations of the Town, State and federal government.

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

Sec. 17-4-120. - Energy conservation.

It is important that special attention be given to the conservation of energy throughout the planning, design and construction of new subdivisions. New subdivisions should be designed to provide for energy efficiency in the orientation of streets, lots and buildings. The following provide guidelines to be considered in the design and review of future subdivisions. While it may not be possible to follow these guidelines in every instance, every subdivision should be based on these fundamental site-planning principles that can result in lower energy costs.

- (1) Take advantage of south-facing slopes for solar orientation, especially for higher density development.
- (2) Lot layouts should emphasize north-south orientation as much as possible.
- (3) Street layout in the design of subdivisions should have an east-west orientation as much as possible within the limits of the topography to allow the proper orientation of buildings with respect to the sun.
- (4) If north-south orientation of streets are necessary, then the lots or buildings should be planned to maximize southern solar access.
- (5) Lot lines should extend from north to south even if streets are necessarily designed at an angle.
- (6) Special consideration should be given to the potential shadows created on a lot by building development and by landscaping.
- (7) Subdivision covenants should encourage building development close to the north property line, therefore allowing greater area to the south for solar access.



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

ARTICLE 5. - APPLICATION REQUIREMENTS

Sec. 17-5-10. - Sketch plan optional.

If an applicant, for review, submits a sketch plan to the Town staff, the Planning Commission and/or the Board of Trustees, the sketch plan must include at least the following information:

- (1) *Written information.* This information shall be provided on the subdivision/annexation summary form including the following information:
  - a. A description of proposed land uses.
  - b. A statement of planning objectives.
  - c. A description of adjoining land uses.
  - d. Existing and proposed zoning.
  - e. An estimate of the proposed number of residential units and an estimate of the population (see Subsection 17-3-40(2) of this Chapter) or square footage of the commercial area.
  - f. The names and addresses of the owner, applicant and the individual who prepared the sketch plan.
  - g. The total site area.
  - h. A statement as to how the development will be served by utilities.
  - i. A general statement describing the geological characteristics of the land, soil types, slope and stability. This information may be based on secondary data available from the Town, soil conservation service or other sources.
- (2) *Site plans and supporting documents.* The sketch plan shall be drawn to a scale of 1" = 100' or larger and include the following:

- a. A vicinity map drawn to a scale of one inch (1" = 2000') showing the general location of the land for consideration and the surrounding area within a one-mile radius.
- b. The topography of the land.
- c. The location of proposed land uses.
- d. The approximate location of proposed public or private open space areas.
- e. The location of existing or proposed water and sewer lines to serve the area.
- f. The proposed lot or block pattern and street layout.

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

Sec. 17-5-20. - Preliminary plat.

- (a) *Purpose.* It is intended that the preliminary plat provide the necessary information to permit the staff, the Planning Commission and the Board of Trustees to properly review the proposal and to resolve potential planning or engineering details that may arise before the final plat is prepared. The preliminary plat, therefore, requires extensive information and engineering studies.
- (b) *Written information.*
  - (1) The names and addresses of the owners and applicants.
  - (2) The names, addresses and telephone numbers of the surveyor, engineer, and planner of the subdivision.
  - (3) The names and addresses of all property owners within a two-hundred-foot radius of the property. All names and addresses shall be as they appear upon the records in the County Assessor's office.
  - (4) All data and information required on the subdivision/annexation summary form and for the optional sketch plan listed in Section 17-5-10 above.
  - (5) A description of any proposed covenants.
  - (6) Proposed terms of reservations and dedications of public rights-of-way, easements and other public lands.
  - (7) Evidence that provision has been made for facility sites, easements and rights of access for electrical and natural gas utility service sufficient to ensure reliable and adequate electric or, if applicable, natural gas service for any proposed subdivision. Submission of a letter of agreement between the subdivider and the utility serving the site shall be deemed sufficient to establish that adequate provision for electric or, if applicable, natural gas service to a proposed subdivision has been made.
- (c) *Plans and supporting data.*
  - (1) A plat of the proposed subdivision shall be drafted in preliminary form to a scale of at least 1" = 100' on a sheet at least twenty-four (24) by thirty-six (36) inches and shall show the information listed below. In addition, an eight and one-half (8 ½) by eleven (11) inch reduction of the plat shall also be provided to the Town.
  - (2) Title, north arrow, graphic and numerical scale and date of preparation.
  - (3) Key diagram if the area requires more than one (1) twenty-four-by-thirty-six-inch sheet.
  - (4) The name of the proposed subdivision which shall be different from any existing recorded subdivision in the County.

- (5) Street layout of the proposed subdivision, including relationship to existing public rights-of-way and the widths and names of proposed streets.
- (6) Lot and block layout of the proposed subdivision, including a block- and lot-numbering system. In the case of a PUD, the types of uses, the supplementary requirements and area setback information on each lot if a variance with otherwise applicable zone district regulations are also required.
- (7) Existing and proposed easements and structures for irrigation, drainage and utilities.
- (8) Contours of the plan proposed by the subdivision at five-foot intervals; however, the Town Administrator may approve ten-foot intervals if the topography is so steep that five-foot-interval contours will be so numerous as to dominate or obscure the other features depicted on the plat.
- (9) Drainage plan. When the plat of a proposed subdivision includes a stream course, a mud flow course or dry wash subject to flood crest or heavy runoff generated by precipitation or rapid spring thaw runoff, a drainage plan based on an engineering analysis of the catchment and the tributary area and detailed drainage easements and structures necessary to accommodate a design one-hundred-year storm, mud flow or flooding shall be provided by an engineer registered in the State.
- (10) Utility plan. A plan corresponding to the preliminary plat showing the line and related facilities' locations, sizes and gradients for the proposed subdivision in relation to existing Town installations and those of any special district. The utility plan shall also indicate that underground distribution of electrical power and communications lines is to be utilized, and a description of the system or systems shall be shown on the plan. If the property to be improved has been previously irrigated and water rights were utilized, the plan requires the provision of adequate irrigation water rights, and must have a plan for distribution.
- (11) Street profile centerline profiles of proposed streets shall be plotted at a horizontal scale consistent with the preliminary plat and a distorted vertical scale with sufficient detail to ensure the proposed streets meet the gradient limitations established by this Chapter and bear a logical relationship to the grade of existing public streets at points of intersection.
- (12) Existing landscaping and trees with a caliper of three (3) inches measured three (3) feet above grade shall be located on the plan.

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

Sec. 17-5-30. - Final plat.

- (a) *Purpose.* The purpose of the final map or plat for an annexation or subdivision is to provide a legal document that will be a part of Town and county records describing the development conditions and land descriptions for the property. The final plat application shall include all binding agreements between the owners and the Town.
- (b) *Written information.* The final plat shall include:
  - (1) All information required for the preliminary plat.
  - (2) The title under which the subdivision is to be recorded.
  - (3) The names and addresses of all property owners within two hundred (200) feet of the property to be annexed or subdivided.
  - (4) A surveyor's certificate signed and sealed by a state-licensed surveyor responsible for the survey and preparation of the final plat.
  - (5) A Planning Commission certificate certifying that the final plan is consistent with the approved preliminary plat and is approved subject to acceptance by the Board of Trustees.
  - (6) A Board of Trustees certificate of approval and acceptance.

- (7) The County Clerk and Recorder's certificate for time and date of recording.
  - (8) Three (3) copies of any protective covenants or restrictions placed on the subdivision.
  - (9) The name and address of the person to whom the notice of public hearing should be sent.
  - (10) A subdivision agreement, to be executed by the Town and by the subdivider, wherein the subdivider covenants and agrees to perform all conditions imposed by the Town. Such conditions and agreement may include, and the Town is empowered to require, the obligation of the subdivider to pay for and install or cause to be installed all required water distribution systems, trash collection facilities and areas, storm drain structures, devices to inhibit access to such structures by children, curbs and gutters, street-base course material, asphalt-wearing course material, bridges, underground wiring, ornamental street lighting, underground communications systems, underground gas distribution systems, underground cable television wiring, fire hydrants, fire street signs, traffic control devices, measures to stabilize soil or to limit floods, mud slides and snow slides as may be required by and according to the specifications of the Town and sanitary sewer collection systems. The subdivision agreement shall include a covenant and agreement by the subdivider to convey ownership to the Town of any or all public improvements or facilities listed above subject to the acceptance of the Town and guarantees as provided in Article 7 of this Chapter.
  - (11) A title policy shall be provided to the Town indicating that the property is free and clear of all encumbrances whatsoever, which would impair the property to be utilized as proposed by the final plat. The title policy shall provide verification that all owners and lien holders have signed the final plat. The title policy shall be effective within twenty-four (24) hours after the date of approval by the Board of Trustees. If the title policy is not provided to the Town Clerk within seven (7) days after action by the Board of Trustees, the approval by the Board of Trustees shall be automatically voided.
- (c) *Final plat; plans and supporting documents.*
- (1) The final map or plat shall be drawn in ink on a permanent, reproducible Mylar sheet that is twenty-four (24) by thirty-six (36) inches. The final map or plat shall be drawn to scale of at least 1" = 100'. If the area requires more than one (1) sheet, then a key diagram shall be provided on each separate sheet. In addition, an eight and one-half (8 ½) by eleven (11) inch reduction of the final map or plat shall be submitted.
  - (2) Accurate dimensions shall be shown for all lines, angles and curves used to describe lot boundaries, streets, alleys, easements, areas to be reserved for public use and other important features. All curves shall be circular arcs and shall be defined by radius, central angle, tangent, arc and chord lengths. All dimensions, both linear and angular, shall be determined by an accurate control survey in the field, which must balance and close within a limit of one (1) in ten thousand (10,000). Approximate dimensions (plus or minus indications) shall not be approved on a final map or plat.
  - (3) The name of adjoining subdivisions shall be shown with dotted lines indicated for abutting lots.
  - (4) All lots or blocks shall be properly numbered in accordance with an approved identification system.
  - (5) Identification of the streets, alleys, easements, parks and other facilities shall be shown on the plat and a dedication thereof to public use. Areas reserved for future public acquisition shall also be delineated on the map or plat.
  - (6) A legal description of the area to be subdivided or annexed with reference to its location in the records of the County shall be provided, together with the total area of each lot created by the subdivision and the names of all streets within the subdivision.
  - (7) A description of all monuments, both found and set, which mark the boundaries of the property and a description of all control monuments used in conducting the survey shall be shown. This shall include a tie to a section corner.

- (8) Final engineering documents prepared by a registered professional engineer in the State for streets, water, sewer and drainage and the engineer's cost estimates for all improvements to be installed by the subdivider in dedicated land, rights-of-way or easements or as may be required by this Chapter.

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

Sec. 17-5-40. - Condominium application requirements.

In addition to the general requirements for a subdivision, a request to develop condominiums shall provide the following:

- (1) *Preliminary plat.*
- a. Lot sizes of each proposed condominium unit and their relation to the overall project.
  - b. Existing and proposed off-street parking areas.
  - c. Existing and proposed facilities, including all buildings and structures.
  - d. Preliminary landscaping plan, including existing and proposed landscaping types, sizes and quantities.
  - e. Plans for ingress to and egress from each condominium unit.
  - f. Building plans indicating compliance with all design, building, fireproofing, soundproofing and utility standards of the Town.
  - g. A copy of the proposed condominium documents, including a copy of the proposed condominium declarations and condominium map, bylaws, the rules and regulations of the condominium or homeowners association and an estimate of the annual budget of the condominium or homeowners association for a period of two (2) years from the conversion or creation of the condominium units. In addition to all other requirements imposed in this Section, the developer shall submit a proposed condominium agreement with the Town setting forth, at a minimum:
    1. Notice procedures shall be outlined for granting existing tenants no less than ninety (90) days' written notice of intent to develop condominiums, which notice shall specify the sale price of the particular unit. A provision whereby each tenant shall have a ninety-day nonassignable option to purchase his or her unit at said specified sale price, which price shall not be varied by more than ten percent (10%) for a period of six (6) months after completion of the condominiums.
    2. The applicant shall state and demonstrate that the supply of low- and moderate-income housing and rental space will not be significantly decreased as a result of condominium construction.
    3. The developer shall state whether or not he or she intends to make special provisions for the elderly or low-income citizens now residing within the structure proposed for condominium living.
- (2) *Final plat requirements.* To the extent possible, the final plat shall correspond with all requirements of this Code.
- (3) *Additional public notice requirements.* In addition to the public notice requirements of Section 17-1-50 of this Chapter, all tenants of a building proposed for condominium restructuring shall be sent notices at least fifteen (15) days prior to the public hearings on the preliminary and final plats.

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

## ARTICLE 6. - APPROVAL OF SUBDIVISION OR ANNEXATION APPLICATION

## DIVISION 1. - GENERAL PROVISIONS

## Sec. 17-6-10. - Preapplication conferences.

Before commencing the annexation or subdivision of any parcel of land, the applicant shall consult with the Town Administrator for general information regarding the Town's regulations, procedures and policies. Any statements made by the Town Administrator or staff concerning a proposed development shall not be binding on the Planning Commission or the Board of Trustees.

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

## Sec. 17-6-20. - Filing deadlines.

All applications, except for a minor subdivision procedure, shall be filed at least thirty (30) days in advance of the Planning Commission meeting at which the matter is to be considered. Applications regarding a minor subdivision procedure shall be filed with the Town Administrator. Final plats shall be filed fifteen (15) days in advance of a scheduled meeting. Applications to be accepted must be complete. If an application is determined to be incomplete, the Town Administrator shall not schedule the matter for review. All application fees must be paid at the time of filing the application.

(Ord. No. 2000-02, Art. XIV, 2000; Ord. No. 2007-01, § 4, 2007; Ord. No. 2014-04, § 1, 1-13-2015)

## DIVISION 2. - MAJOR SUBDIVISION

## Sec. 17-6-110. - Major subdivision procedures.

(a) *Preliminary subdivision plat or annexation map.*

- (1) *Development Review Committee action.* The Town Administrator shall refer the matter to the representatives of the various departments and agencies assigned to the Development Review Committee. Copies of the plan may be mailed to the other agencies or utility companies. Within fifteen (15) days following the filing deadline, the Development Review Committee shall meet to review the application. The applicant shall be notified of the meeting and invited to be in attendance. Based upon the comments of the Development Review Committee, the Town Administrator shall then prepare his or her report and recommendations to the Planning Commission. If the deficiencies in the application warrant additional work by the applicant or require further discussion by the Development Review Committee and the applicant, the Town Administrator may defer sending the matter to the Planning Commission. In such case, the applicant will be requested to waive, in writing, the statutory requirement of review within thirty (30) days. Formal processing of the application shall not begin until the deficiencies are corrected and the application is resubmitted. The date of the resubmission should govern the timing of the process and not the date of the initial submittal.
- (2) *Planning Commission action.* The Planning Commission, at its next regular meeting thirty (30) days after the filing of the complete application, shall hold a public hearing on the application and consider the recommendations of the Town staff and the merits of the proposed annexation or subdivision. The Planning Commission may recommend to the Board of Trustees approval, approval with modifications or denial of the application.
- (3) *Board of Trustees action.* Within thirty (30) days following the Planning Commission action, The Board of Trustees shall consider the application. The Board of Trustees may then approve,

approve with modifications, or deny the application or refer the matter back to the Planning Commission for further study.

(b) *Final subdivision plat or annexation map.*

- (1) *Development Review Committee action.* Once the Board of Trustees has approved the preliminary plan, the final plan may be submitted (unless considered concurrently). Within fifteen (15) days after the filing deadline, the Development Review Committee shall meet to review the final details and to assure that the final plan is consistent with the preliminary plan. The Chair of the Planning Commission will be requested to review the final plat to determine if the final plat is consistent with the preliminary plat approved by the Planning Commission.
- (2) *Board of Trustees action.* Following review by the Development Review Committee, and if all matters are complete, the final plan will be scheduled for a public hearing before the Board of Trustees. The Board of Trustees may then approve, approve with modifications or deny the application. If the final map is an annexation request, the ordinances for annexation and zoning may be considered concurrently in the manner prescribed by state statutes. The order of consideration shall generally be as follows:
  - a. Annexation proceedings;
  - b. Zoning;
  - c. Planned unit development application; and
  - d. Subdivision.

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

Sec. 17-6-120. - Condominium review procedures.

A condominium is defined by these regulations as a subdivision. Therefore, all condominiums shall comply with the provisions of this Chapter insofar as they are applicable. The Board of Trustees may determine that certain provisions are not applicable depending upon the nature of the condominium request. The review procedures shall be the same as for any subdivision. The developer or applicant may file a preliminary and final plat concurrently.

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

Sec. 17-6-130. - Time limits for approvals.

- (a) *Preliminary plat.* Once the Board of Trustees has approved a preliminary plat, the applicant shall have a maximum of one (1) year to file a final plat for the entire plat or for the first portion of a phased project. If more than one (1) year has lapsed, a new preliminary plat must be approved by the Planning Board Commission and Board of Trustees.
- (b) *Final plats.* Final plats shall be approved subject to a development schedule determined at the time of approval. If the final plat is a part of a PUD, the final plat shall be subject to the schedule approved as a part of the PUD. If development of buildings has not occurred in accordance with the approved schedule, the Board of Trustees may rescind its approval of the final plat. Procedures for rescinding approval shall be the same as described for termination of special review applications in Section 16-4-80 of this Code.

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

Sec. 17-6-140. - Recording final map and plats.



Within thirty (30) days following the approval of a final subdivision plat or final annexation map, the applicant shall record the final plat, applicable covenants and restrictions and the subdivision agreement with the County Clerk and Recorder's office in the manner prescribed by that office. A notice providing proof of recording shall then be submitted to the Town Clerk within the thirty-day deadline.

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

#### DIVISION 3. - MINOR SUBDIVISION

Sec. 17-6-210. - Application for minor subdivision review.

All applications for approval of a minor subdivision shall be processed by making an application to the Town Administrator. The application shall include the following minimum information:

- (1) The required application fees.
- (2) The legal description of the property and proof of ownership of the property acceptable to the Town.
- (3) Location Improvement Certificate certified by a Colorado licensed surveyor.
- (4) A plat of the proposed subdivision parcels sufficient to determine the size and area of each proposed parcel, proposed lot line adjustment or lot line elimination in relation to the original lot lines and describing each such parcel, as a portion of a lot, or tract, or parcel, or lots, or tracts, or parcels on the Town Plat. The plat shall also identify the location of all public rights-of-way, the location and size of the vehicular access to each parcel and the location of all utilities and all utility easements.
- (5) A narrative statement describing the following:
  - a. How fire protection will be provided;
  - b. Whether there is any potential for damage to public or private property by fire, flood or erosion and what mitigation measures will be undertaken to minimize such damage;
  - c. How emergency access will be provided;
  - d. How flood protection will be provided; and
  - e. A description of the proposed access to each proposed parcel.
- (6) A copy of the restrictive covenants, if any, that are proposed or have been recorded affecting the lots, tracts, or parcels that are the subject of the subdivision.
- (7) Proof of legal ownership of all property involved, names and addresses of all property owners and any lienholders of all the property involved.
- (8) A current copy of a title commitment (not more than sixty (60) days old) for all the property involved in the application.
- (9) Any other information or documents requested by the Town Administrator that is necessary to render a decision under the criteria hereinafter set forth.

(Ord. No. 2007-01, § 5, 2007; Ord. No. 2014-04, § 1, 1-13-2015; Ord. No. [2018-03](#), 6-26-2018)

Sec. 17-6-220. - Procedure for Town Administrator approval.

The Town Administrator may recommend for approval by the Board of Trustees the subdivision, boundary adjustment or lot line elimination, as a minor subdivision, if he/she determines from the information submitted in accordance with Section 17-6-210 that:

- (1) All such proposed parcels are divided by, or parallel to and part of the original lot, tract or parcel lines on the Town Plat;
- (2) All the developed proposed parcels have the applicable yard setbacks which can be required for the existing structures;
- (3) All structures on proposed parcels do not exceed the maximum coverage area allowed in the subject zone district;
- (4) All of the proposed areas of the proposed parcels conform to the zoned uses and dimensional characteristics of lots or tracts in the applicable Zone District of the Town regulations;
- (5) The minor subdivision application creates no more than three additional parcels;
- (6) None of the proposed parcels violates any section of the Town regulations;
- (7) The minor subdivision complies with the criteria in Section 17-6-250;
- (8) The application has been referred to all affected Town departments and utility companies for review and comment at least fifteen (15) days prior to a decision on the application;
- (9) Minor subdivision applications shall not be available more than one time on the same lot or adjacent lots under the same ownership.

Based on the review criteria as outlined in this Section 17-6-220, the Town Administrator shall issue a recommendation as to whether to approve or disapprove of the minor subdivision. The decision shall be in writing, shall list the reasons for the decision and shall be sent to the applicant no more than thirty (30) days after receipt of a complete and conforming application in accordance with Section 17-6-210. The applicant shall then inform the Town Administrator within fourteen (14) days as to whether they want the determination to be sent to the Board of Trustees for final determination. The Town Administrator's decision shall be referred to the Board of Trustees for a final determination of the minor subdivision at the next regular meeting after the fourteen (14) period except for when the applicant requests additional time, or if the applicant withdraws the application.

(Ord. No. 2007-01, § 5, 2007; Ord. No. 2014-04, § 1, 1-13-2015; Ord. No. [2018-03](#), 6-26-2018)

Sec. 17-6-230. - Application for review by Board of Trustees.

If the Town Administrator denies the application, the applicant may request review of the application by the Board of Trustees. The request must be in writing and directed to the Town Clerk. The Town Clerk shall schedule the review at a regular meeting of the Board of Trustees no less than thirty (30) days after receipt of the request for review, and shall send notice to all property owners within two hundred (200) feet of the property in question at least ten (10) days in advance of the hearing. The Town Clerk shall cause the notice of review to be posted.

(Ord. No. 2007-01, § 5, 2007; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 17-6-240. - Procedure for Board of Trustees review.

- (1) No minor subdivision shall be approved unless the Board of Trustees finds that it complies with all of the criteria in Section 17-6-250. If the subdivision does not comply with Section 17-6-250, it shall either be approved with conditions which assure compliance with all such criteria, continued to a date certain, or it shall be denied.
- (2) Recording of final plat. The Final Plat must be approved by the Town Attorney and be certified by the Town Administrator or the Board of Trustees as being in compliance with the requirements hereof and shall be recorded within thirty (30) days of the final decision, by the Town Clerk, in the real property records of the office of the Clerk and Recorder for Delta County.

(Ord. No. 2007-01, § 5, 2007; Ord. No. 2014-04, § 1, 1-13-2015; Ord. No. [2018-03](#), 6-26-2018)

Sec. 17-6-250. - Criteria for review and approval of minor subdivision.

No minor subdivision shall be approved unless the Board of Trustees finds that it complies with all of the following criteria. The minor subdivision must:

- (1) Comply with all applicable zoning requirements of the zone district in which the minor subdivision is located;
- (2) Have a front parcel line on a street only, and such parcel access shall have the following characteristics:
  - a. Said front parcel line must be at least twenty-five (25) feet long or the minimum lot width for the applicable zone district, whichever is shorter;
  - b. The vehicular access to any primary structure on a parcel shall be from a street, must be a minimum of twenty-five (25) feet wide along its entire length, and must be owned in fee simple by the owner of the parcel being accessed;
  - c. Vehicular access to a primary structure from an alley, including the access required pursuant to this Subsection, may be approved by the Board of Trustees only if either one (1) of the following conditions exists:
    - 1. The primary vehicular access existed from an alley prior to the filing of the application for a minor subdivision approval; or
    - 2. The division between subdivision parcels is a stream or similar physical barrier preventing vehicular access from the street (in such case, the applicant shall provide additional land to create an alley at least twenty (20) feet wide from the subject parcel to the nearest Town street and upgrade the alley to Town standards or in the absence thereof, to the approval of the Town Public Works Director); or
    - 3. No street access exists.
- (3) Provide for underground utilities upon each building site;
- (4) Provide for adequate fire and flood protection and emergency access;
- (5) Not increase the potential for breach of the public safety, or damage to public or private property by fire, flood or erosion;
- (6) Not create congestion, automotive or pedestrian safety problems or other traffic hazards;
- (7) To be designed in a manner that directs the placement of roads, utilities and structures away from any unstable soils, or mitigates the effect of unstable soils, geologic hazards, and other site conditions so as to minimize the potential for breach of the public safety, or damage to public or private property;
- (8) Not create significant adverse effects to public facilities, rights-of-way or utilities;
- (9) Not create significant adverse impacts on the use of adjacent property;
- (10) Otherwise be consistent and comply with the objectives purposes, conditions and requirements of these subdivision regulations and the zoning ordinance of the Town regulations; and
- (11) If deemed appropriate by the Town Administrator or the Board of Trustees, execute a subdivision improvements agreement memorializing the applicant's obligation and agreement to construct, at the applicant's cost and expense, all public and private utility and street improvements in accordance with the Town's utility and street standards. The guaranty that such will be timely completed to the Town's satisfaction shall be secured by a bond or other security acceptable to the Town, in the sole discretion of the Board of Trustees, equal to one

hundred fifty percent (150%) of the estimated cost of completion of such improvements, as determined by the Board of Trustees.

(Ord. No. 2007-01, § 5, 2007; Ord. No. 2014-04, § 1, 1-13-2015; Ord. No. [2018-03](#), 6-26-2018)

Sec. 17-6-260. - Minor subdivision procedures.

- (a) *Application for minor subdivision review.* All applications for approval of a minor subdivision shall be processed by making an application to the Town Administrator. The application shall include the following minimum information:
- (1) The required application fee.
  - (2) The legal description of the property, and proof of ownership of the property acceptable to the Town.
  - (3) Location Improvement Certificate certified by a Colorado licensed surveyor.
  - (4) A plat of the proposed subdivision parcels sufficient to determine the size and area of each proposed parcel, proposed lot line adjustment or lot line elimination in relation to the original lot lines and describing each such parcel, as a portion of a lot, or tract, or parcel, or lots, or tracts, or parcels on the Town Plat. The plat shall also identify the location of all public rights-of-way, the location and size of the vehicular access to each parcel and the location of all utilities and all utility easements.
  - (5) A narrative statement describing the following:
    - a. How fire protection will be provided;
    - b. Whether there is any potential for damage to public or private property by fire, flood or erosion and what mitigation measures will be undertaken to minimize such damage;
    - c. How emergency access will be provided;
    - d. How flood protection will be provided; and
    - e. A description of the proposed access to each proposed parcel.
  - (6) A copy of the restrictive covenants, if any, that are proposed or have been recorded affecting the lots, tracts, or parcels that are the subject of the re-subdivision.
  - (7) Proof of legal ownership of all property involved, names and addresses of all property owners and any lienholders of all the property involved.
  - (8) A current copy of a title commitment (not more than sixty [60] days old) for all the property involved in the application.
  - (9) Any other information or documents requested by the Town Administrator that is necessary to render a decision under the criteria hereinafter set forth.
- (b) *Procedure for Town Administrator approval.* The Town Administrator may approve the re-subdivision, boundary adjustment or lot line elimination, as a minor subdivision, if he/she determines from the above information that:
- (1) All such proposed parcels are divided by, or parallel to and part of the original lot, tract or parcel lines on the Town Plat;
  - (2) All the developed proposed parcels have the applicable yard setbacks which can be required for the existing structures;
  - (3) All structures on proposed parcels do not exceed the maximum coverage area allowed in the subject zone district;

- (4) All of the proposed areas of the proposed parcels conform to the zoned uses and dimensional characteristics of lots or tracts in the applicable Zone District of the Town regulations.
- (5) The minor subdivision application creates no more than three parcels.
- (6) The minor subdivision application results in the elimination of not more than ten (10) lot lines.
- (7) None of the proposed parcels violates any Section of the Town regulations.
- (8) The minor subdivision complies with the criteria in Subsection e, below.
- (9) The application has been referred to all affected town departments and utility companies for review and comment at least fifteen (15) days prior to a decision on the application.
- (10) Property has been posted notifying meeting with the Development Review Committee. Said sign to be at least two (2) feet by two (2) feet (2' x 2') and posted for at least fifteen (15) days prior to said meeting.
- (11) Minor subdivision applications shall not be available more than one time on the same lot or adjacent lots under the same ownership.

The Town Administrator's decision shall be in writing, shall list the reasons for the decision and shall be sent to the subdivider no more than thirty (30) days after receipt of a complete and conforming application. The Town Administrator in his or her sole discretion may refer a boundary adjustment or lot line elimination to the Board of Trustees for review in accordance with the provisions of Subsection c, below.

- (c) *Application for Board of Trustees review.* If the Town Administrator denies the application, the applicant may request review of the application by the Board of Trustees, provided the applicant pays a deposit of seventy-five dollars (\$75.00), and agrees to pay all costs related to the review process in excess of such deposit on or before the review schedule date. The request must be in writing, directed to the Town Clerk. The Clerk shall schedule the review, at a regular meeting of the Board of Trustees, no less than thirty (30) days after the receipt of the request for review and shall send notice to all property owners within two hundred (200) feet of the property in question at least ten (10) days in advance of the hearing. The Clerk shall cause the notice of review to be posted.
- (d) *Procedure for Board of Trustees review.*
  - (1) No minor subdivision shall be approved unless the Town Administrator or the Board of Trustees finds that it complies with all of the criteria in Subsection E., set forth below. If the re-subdivision does not comply with all of the above referenced criteria, it shall either be approved with conditions which assure compliance with all such criteria, continued to a date certain, or it shall be denied.
  - (2) Recording of final plat. The Final Plat must be approved by the Town Attorney and be certified by the Town Administrator or the Board of Trustees as being in compliance with the requirements hereof and shall be recorded within thirty (30) days of the final decision, by the Town Clerk, in the real property records of the office of the Clerk and Recorder for Delta County.
- (e) *Criteria for review and approval of minor subdivision.* No minor subdivision shall be approved unless the Town Administrator or Board of Trustees finds that it complies with all of the following criteria. The re-subdivision must:
  - (1) Comply with all applicable zoning requirements of the zone district in which the re-subdivision is located;
  - (2) Have a front parcel line on a street only, and such parcel access shall have the following characteristics:
    - a. Said front parcel line must be at least twenty-five (25) feet long or the minimum lot width for the applicable zone district, whichever is shorter;

- b. The vehicular access to any primary structure on a parcel shall be from a street, must be a minimum of twenty-five (25) feet wide along its entire length, and must be owned in fee simple by the owner of the parcel being accessed;
- c. Vehicular access to a primary structure from an alley, including the access required pursuant to this Subsection, may be approved by the Board of Trustees only if either one (1) of the following conditions exists:
  - 1. The primary vehicular access existed from an alley prior to the filing of the application for a minor subdivision approval; or
  - 2. The division between re-subdivision parcels is a stream or similar physical barrier preventing vehicular access from the street (in such case, the applicant shall provide additional land to create an alley at least twenty (20) feet wide from the subject parcel to the nearest Town street and upgrade the alley to Town standards or in the absence thereof, to the approval of the Town Public Works Director);
  - 3. No street access exists.
- (3) Provide for underground utilities upon each building site;
- (4) Provide for adequate fire and flood protection, and emergency access;
- (5) Not increase the potential for breach of the public safety, or damage to public or private property by fire, flood or erosion;
- (6) Not create congestion, automotive or pedestrian safety problems or other traffic hazards;
- (7) To be designed in a manner that directs the placement of roads, utilities and structures away from any unstable soils, or mitigates the effect of unstable soils, geologic hazards, and other site conditions so as to minimize the potential for breach of the public safety, or damage to public or private property;
- (8) Not create significant adverse effects to public facilities, rights-of-way or utilities;
- (9) Not create significant adverse impacts on the use of adjacent property;
- (10) Otherwise be consistent and comply with the objectives purposes, conditions and requirements of these subdivision regulations and the zoning ordinance of the Town regulations; and
- (11) If deemed appropriate by the Town Administrator or the Board of Trustees, execute a subdivision improvements agreement memorializing the subdivider's/owner's obligation and agreement to construct, at the subdivider's/owner's cost and expense, all public and private utility and street improvements in accordance with the Town's utility and street standards. The guaranty that such will be timely completed to the Town's satisfaction shall be secured by a bond or other security acceptable to the Town, in the sole discretion of the Board of Trustees, equal to one hundred fifty percent (150%) of the estimated cost of completion of such improvements, as determined by the Board of Trustees.

(Ord. No. 2010-03, § 2, 2010; Ord. No. 2014-04, § 1, 1-13-2015)

#### ARTICLE 7. - PUBLIC IMPROVEMENTS ACCEPTANCE AND GUARANTEES

##### Sec. 17-7-10. - Installation.

Prior to the issuance of any building permit in any area within any addition or subdivision, all improvements and any other conditions and requirements imposed by this Code or by the Board of Trustees must be installed in a manner acceptable to the Town, or a satisfactory guarantee of such installation or performance must be made by the property owner in compliance with the plans and specifications approved by the Town Engineer.

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

Sec. 17-7-20. - Improvement guarantees.

- (a) The Board of Trustees shall require that the costs of providing all public improvements applicable to the subdivision shall be paid prior to the issuance of the first building permit for the subdivision. The costs shall include all improvements described in the subdivision agreement. The improvement guarantee may be provided with a surety bond, cash, acceptable collateral or an acceptable letter of credit.
- (b) All guarantees shall be deposited with the Town Clerk in an amount not less than the estimate of the entire amount of the uncompleted public improvements required by the subdivision agreement. The cost estimates shall be prepared by a professional engineer registered in the State and subject to the approval of the Town Engineer.

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

Sec. 17-7-30. - Time for completion; release of bond.

The time for completion or performance of all such improvements shall be eighteen (18) months from the date of the application for the first building permit. The Board of Trustees may extend the time period for completion or performance. Upon completion or performance of such improvements, conditions and requirements within the required time and the approval of the Town Administrator, the bond, deposit of escrow or letter of credit shall be released within thirty (30) days of written notice that the required improvements are completed or performed. If the improvements are not completed within the required time, the monies may be used to complete the improvements. The Town Administrator may cause a portion of the improvement guarantees to be released as specific improvements are completed and approved. Such release shall be within thirty (30) days after receiving written notice that the improvements are completed.

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

Sec. 17-7-40. - Development area boundaries established.

For developments containing ten (10) lots or less, all required improvements must be completed, or the entire estimated cost of improvement must be guaranteed as specified below, before a building permit can be issued. For larger subdivisions, the subdivider may establish boundaries for areas containing at least ten (10) lots. The cost of improvement for this area must be guaranteed prior to the issuance of the first building permit.

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

Sec. 17-7-50. - Acceptance of public improvements.

At the time of the conveyance, the subdivider shall supply a statement of the costs of the facilities conveyed, mechanic's lien waivers from all involved contractors, subcontractors, suppliers and existing as-built specifications and other available data concerning the location, construction, operation and maintenance of such facilities. The subdivider shall also warrant the conveyed facilities to be fit for the purpose intended and of merchantable quality and to be free for one (1) year from the date of conveyance from all defects in materials and workmanship. All warranties of vendors or suppliers of such facilities or components shall be assignable upon demand to the Town, and the subdivider shall notify the vendors and suppliers that the warranties are to be assigned to the Town. Nothing herein shall limit the right of the

Town as to any expressed or implied warranties concerning such facilities from persons manufacturing, selling or installing the facilities.

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

Chapter 18 - BUILDING REGULATIONS

ARTICLE 1. - BUILDING CODE

Sec. 18-1-10. - Adoption.

Pursuant to Title 31, Article 16, Part 2, C.R.S., there is adopted as the building code of the Town, by reference thereto, the 2018 Edition of the International Building Code with appendix chapters and referenced codes, as published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795, for the control of building and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of the building code are hereby referred to, adopted and made a part hereof, as if fully set out in this Article, with additions, insertions, deletions and changes, if any, as set forth in Section 18-1-30 below. The subject matter of the adopted code includes comprehensive provisions and standards regulating the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area and maintenance of buildings and structures for the purpose of protecting the public health, safety and general welfare, and providing for the issuance of permits and collection of fees therefore.

Commented [DR78]: Check with Legal Department to see if this statute (shown throughout) is still the valid reference.

(Ord. No. 2006-03, 2006; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 18-1-20. - Copy on file.

At least one (1) copy of the International Building Code, certified to be a true copy, on file in the office of the Town Clerk and may be inspected by any interested person between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, holidays excepted.

(Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 18-1-30. - Amendments.

The code adopted herein is hereby modified by the following amendments:

- (1) References to jurisdiction in Section 101.1 and elsewhere mean the Town of Paonia.
- (2) Section 101.4.1 is amended to read: The provisions of the International Fuel gas Code as amended and adopted by the State of Colorado Plumbing Board (per 3 CCR 720-1 of the Code of Colorado Regulations.)
- (3) Section 101.4.3 is amended to read: The provisions of the International Plumbing Code as amended and adopted by the State of Colorado Plumbing Board (per 3 CCR 720-1 of the Code of Colorado Regulations).
- (4) Section 101.4.4 is hereby deleted.
- (5) Sections 104.10.1, 1612.3 and 1612.4 are amended to read: Consideration of Flood Hazard Areas shall be as adopted by Chapter 18 Article 9 of this Municipal Code.



(6) Section 105.2 is amended to exempt the following from permit requirements:

- 1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses provided the floor area cannot exceed 200 square feet. Such structures shall be located in accordance with Section 705.3 with respect to other structures on the same lot and in accordance with Chapter 16 Zoning Regulations.
- 2. Fences not over 6 feet high; however, all fence-plans must be reviewed and approved as per Municipal Code Section 18-11-10
- 14. Item 14 is added and reads: Window and door replacement provided no structural changes are needed or proposed.
- 15. Item 15 is added and reads: Decks not exceeding 200 square feet (18.58 m2) in area, that are not more than 30 inches (762 mm) above grade at any point; a site-plan is required and subject to approval with regards to setback requirements.
- 16. Item 16 is added and reads: Re-siding without alteration of wall structure provided, however, the proposed weather barrier is not a stucco-type product\*. (\*If the stucco-type product will be applied over an existing masonry or concrete surface it too shall be exempt from requiring a permit).

(7) Section 109.2 is amended to read: Fees shall be assessed as established by Resolution of the Town Board.

(8) Section 109.6 is amended to read: Refunds shall be determined as established by Resolution of the Town Board.

(9) Section 109.4 is amended to read: Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a fee established by Resolution that shall be in addition to the required permit fees. The amount of the fee shall be equal to the permit fee or \$100, whichever is greater. Payment of this fee does not constitute approval of work already completed and does not assure that a permit will be issued for the project under consideration.

(10) Section 113 is amended to read: Means of Appeal shall be initiated and addressed as per Municipal Code section [?????]

(11) Section 114 is amended to read: Violations shall be processed as outlined in Municipal Code Section [????]

(12) Section 310.4.1 is hereby deleted

**Commented [DR79]:** It is recommended that you have one location in the M.C. for all appeals and variances. 16-15-10 is very close to being able to serve that need, but it is specific to Zoning in paragraph "c".

**Commented [DR80]:** Again, one central location for all considerations would be helpful. You'll see right now that 16-18-10 is in Zoning but discusses Building Code Violations. Maybe just move 16-18-10 to the end of Chapter 18.

(13) All foundations submitted for habitable structures or additions to habitable structures, excluding patio covers and carports shall be site specific, stamped and signed by an engineer registered in the State of Colorado.

(Ord. No. 2014-04, § 1, 1-13-2015)

ARTICLE 2. - RESIDENTIAL CODE

Sec. 18-2-10. - Adoption.

Pursuant to Title 31, Article 16, Part 2, C.R.S., there is adopted as the residential code of the Town, by reference thereto, the International Residential Code, 2018 edition, and all appendices, tables and examples thereto, published by the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795. The purpose of the adopted code is to protect the health, safety and lives of the residents of the Town. The Residential Code provides the standards for the design, erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area and maintenance of one and two-family dwellings and townhouses, and providing for the issuance of permits and collection of fees therefore.

(Ord. No. 2006-03, 2006; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 18-2-20. - Copy on file.

At least one (1) copy of the International Residential Code, certified to be a true copy, is on file in the office of the Town Clerk and may be inspected by any interested person during regular office hours

(Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 18-2-30. - Amendments.

The code adopted herein is hereby modified and amended by the following:

- (1) Chapters 33-43 are hereby deleted.
- (2) References to jurisdiction in Section R101.1 and elsewhere shall mean the Town of Paonia.
- (3) R104.10.1, R105.3.1.1, R301.2.4, R309.3, and R322 are amended to read: Consideration of Flood Hazard Areas shall be as adopted by Chapter 18 Article 9 of this Municipal Code.
- (4) Section R105.2 is amended in part and with items added to read as exempt from permit requirements:

Building:

- 2. Fences not over 6 feet high; however, all fence-plans must be reviewed and approved as per Municipal Code Section 18-11-10
- 10. Decks not exceeding 200 square feet (18.58 m2) in area, that are not more than 30 inches (762 mm) above grade at any point; a site-plan is required and subject to approval with regards to setback requirements.

11. Item 11 is added and reads: Window and door replacement provided no structural changes are needed or proposed.

12. Item 12 is added and reads: Re-siding without alteration of wall structure provided, however, the proposed weather barrier is not a stucco-type product\*. (\*If the stucco-type product will be applied over an existing masonry or concrete surface it too shall be exempt from requiring a permit).

Electrical:

All exemptions are subject to the laws established by the Colorado State Electrical Board.

Plumbing:

All exemptions are subject to the laws established by the Colorado State Plumbing Board.

(5) Section R105.5 is amended to read:

R105.5 Expiration:

- a. Work must commence within 180 days of issuing the permit.
- b. Unless determined otherwise by the Building Official because of the size or complexity of the project, each inspection must be completed within 180 days of the previous mandated inspection according to the following schedule:
  - i. Reinforcement in footings or structural (monolithic) slab.
  - ii. Reinforcement in stem-wall or basement-wall.
  - iii. Wall and roof sheathing (as required by AHJ)
  - iv. Framing (which implies that plumbing, electrical and mechanical have already passed inspection or will be inspected at the time of the framing inspection).
  - v. Insulation.
  - vi. Drywall or other interior wall coverings.
  - vii. All final inspections.

(6) Section R108.2 is amended to read: Fees shall be assessed as established by Resolution of the Town Board.

(7) Section 108.5 is amended to read: Refunds shall be determined as established by Resolution of the Town Board.

(8) Section R108.6 is amended to read: Work commencing before permit issuance. Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a fee established by Resolution that shall be in addition to the required permit fees. The amount of the fee shall be equal to the permit fee or \$100, whichever is greater. Payment of this fee does not constitute approval of work already completed and does not assure that a permit will be issued for the project under consideration.

(9) Section R112 is amended to read: Means of Appeal shall be initiated and addressed as per Municipal Code section [???

(10) Section R113 is amended to read: Violations shall be processed as outlined in Municipal Code section [????

(11) All foundations submitted for habitable structures or additions to habitable structures, excluding patio covers and carports shall be site specific, stamped and signed by an engineer registered in the State of Colorado.

(12) Amend Exceptions to Section R302.1 to read:

- 2. Exception #2 is hereby deleted.
- 3. Exception #3 is hereby deleted.

(13) Amend Table R301.2(1) Manual J Design Criteria

Elevation: 5,682

Latitude: 38

Winter Heating 3

Summer Cooling 87

Altitude Correction Factor: .84

Indoor Design Temperature: 70

Design Temperature Cooling:75

Heating Temperature Difference: 67

Cooling Temperature Difference: 12

Wind Velocity Heating: N/A

Wind Velocity Cooling: N/A

Coincident Wet Bulb: 58

Daily Range H

Winter Humidity: 30%

**Commented [DR81]:** It is recommended that you have one location in the M.C. for all appeals and variances. 16-15-10 is very close to being able to serve that need, but it is specific to be for Zoning in paragraph "c".

**Commented [DR82]:** Again, one central location for all considerations would be helpful. You'll see right now that 16-18-10 is in Zoning but discusses Building Code Violations. Maybe just move 16-18-10 to the end of Chapter 18.

Summer Humidity: 50%

Ground Snow Load: 33 psf

Wind Speed: 115 mph Ultimate / Exposure C

Topographic Effects: N.A.

Special Wind Region: N.A.

Windborne Debris Zone: N.A.

Seismic Design Category: C

Weathering: Severe

Frost Line Depth: 24"

Termite: Moderate

Winter Design Temp.: 3 degrees F

Ice Barrier Underlayment: No

Flood Hazards: See footnote g and have GIS fill in

Commented [DR83]: Still needs to be clarified.

Air Freezing Index: 1500

Mean Annual Temp.: 49 degrees F

- (14) Q. Section R326.1 is hereby deleted.
- (15) Add a new subsection R908.7 to read as follows:  
 R908.7 Attic ventilation shall be made to be in compliance with Section R806 when possible.
- (16) Section G2445 is amended to read: Unvented Room heaters are prohibited.
- (17) Section G2406.2 is amended to delete Exceptions #3 and #4.
- (18) Section G2425.8 is amended to delete item #7.
- (19) Section N1102.4.1.2 is deleted.
- (20) Section N1103.3.3 is deleted.
- (21) Section N1103.3.4 is deleted.
- (22) Section N1103.5.1 is amended as follows: When these systems are installed, heated water circulation systems shall be in accordance with Section R403.5.1.1. Heat trace temperature maintenance systems shall be in accordance with Section R403.5.1.2. Automatic controls, temperature sensors and pumps shall be accessible. Manual controls shall be readily accessible.
- (23) Section N1103.5.2 is amended as follows: When installed, demand recirculation water-systems shall have controls that comply with both of the following:

1. The controls shall start the pump upon receiving a signal from the action of a user of a fixture or appliance, sensing the presence of a user of a fixture or sensing the flow of hot or tempered water to a fixture fitting or appliance.
2. The controls shall limit the temperature of the water entering the cold-water piping to not greater than 104°F (40°C).

(24) Section N1103.5.4 is amended as follows: When installed, drain water heat recovery units shall comply with CSA B55.2. Drain water heat recovery units shall be tested in accordance with CSA B55.1. Potable water-side pressure loss of drain water heat recovery units shall be less than 3 psi (20.7 kPa) for individual units connected to one or two showers. Potable water-side pressure loss of drain water heat recovery units shall be less than 2 psi (13.8 kPa) for individual units connected to three or more showers.

(Ord. No. 2006-03, 2006; Ord. No. 2014-04, § 1, 1-13-2015)

ARTICLE 3. - EXISTING BUILDING CODE

Sec. 18-3-10. - Adoption.

Pursuant to Title 31, Article 16, Part 2, C.R.S., there is adopted as the existing building code of the Town, by reference thereto, the International Existing Building Code, 2018 edition, including Resource "A", published by the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795. The purpose of the adopted code is to protect the health, safety and lives of the residents of the Town. The Existing Building Code provides the standards for the alteration, repair, addition, moving, change of occupancy and relocation of existing buildings, and providing for the issuance of permits and collection of fees therefore.

(Ord. No. 2006-03, 2006; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 18-3-20. - Copy on file.

At least one (1) copy of the International Existing Building Code, certified to be a true copy is on file in the office of the Town Clerk and may be inspected by any interested person between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, holidays excepted.

(Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 18-3-30. - Amendments.

- (1) Reference to "jurisdiction" in Section 101.1 and elsewhere shall mean the Town of Paonia.
- (2) Section 108.2 is amended to read: Fees shall be assessed as established by Resolution of the Town Board.
- (3) Section 108.6 is amended to read: Refunds shall be determined as established by Resolution of the Town Board.

(4) Section 112 is amended to read: Means of Appeal shall be initiated and addressed as per Municipal Code section ???

(5) Section 113 is amended to read: Violations shall be processed as outlined in Municipal Code Section ???

**Commented [DR84]:** It is recommended that you have one location in the M.C. for all appeals and variances. 16-15-10 is very close to being able to serve that need, but it is specific to Zoning in paragraph "c".

**Commented [DR85]:** One central location somewhere in the M.C. Section 16-18-10 is close but needs to be at the end of Chapter 18

The code adopted herein is hereby modified by the following amendments: IEBC Section 108 is amended by the establishment of fees as set forth in the Fee Schedule adopted by the Board of Trustees by resolution.

(Ord. No. 2006-03, 2006; Ord. No. 2014-04, § 1, 1-13-2015)

ARTICLE 4. - ENERGY EFFICIENCY STANDARDS

Sec. 18-4-10. - Adoption.

There is hereby adopted for the purpose of providing minimum standards to protect persons and property The International Energy Conservation Code, 2018 Edition , as published by the International Code Council, 4051 West Flossmoor Road, County Club Hills, Illinois 60478-5795; the subject matter of which is regulations governing energy efficient building envelopes and installation of energy efficient mechanical, lighting and power systems

(Ord. No. 376, § 1, 1978; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 18-4-20. - Copy on file.

At least one (1) copy of the International Energy Conservation Code, certified to be a true copy, is on file in the office of the Town Clerk and may be inspected by any interested person during regular office hours.

(Ord. No. 376, § 3, 1978; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 18-4-30. - Amendments.

The code adopted herein is hereby modified by the following amendments:

Commercial

- (1) Section C101.1 is amended as follows: This code shall be known as the Energy Conservation Code of Town of Paonia, Colorado, and shall be cited as such. It is referred to herein as "this code."

Residential

- (1) Section R101.1 is amended as follows: This code shall be known as the Energy Conservation Code of Town of Paonia, Colorado, and shall be cited as such. It is referred to herein as "this code."
- (2) Section R402.4.1.2 is deleted.
- (3) Section R403.3.3 is deleted.

- (4) Section R403.3.4 is deleted.
- (5) Section R403.5.1 is amended as follows: When these systems are installed, heated water circulation systems shall be in accordance with Section R403.5.1.1. Heat trace temperature maintenance systems shall be in accordance with Section R403.5.1.2. Automatic controls, temperature sensors and pumps shall be accessible. Manual controls shall be readily accessible.
- (6) Section R403.5.2 is amended as follows: When installed, demand recirculation water systems shall have controls that comply with both of the following:
  - 1. The controls shall start the pump upon receiving a signal from the action of a user of a fixture or appliance, sensing the presence of a user of a fixture or sensing the flow of hot or tempered water to a fixture fitting or appliance.
  - 2. The controls shall limit the temperature of the water entering the cold-water piping to not greater than 104°F (40°C).
- (7) Section R403.5.4 is amended as follows: When installed, drain water heat recovery units shall comply with CSA B55.2. Drain water heat recovery units shall be tested in accordance with CSA B55.1. Potable water-side pressure loss of drain water heat recovery units shall be less than 3 psi (20.7 kPa) for individual units connected to one or two showers. Potable water-side pressure loss of drain water heat recovery units shall be less than 2 psi (13.8 kPa) for individual units connected to three or more showers.
- (8) R403.6 – append this Section by adding: Automatic controls for heating incoming-air shall be provided.

(Ord. No. 376, § 2, 1978; Ord. No. 2014-04, § 1, 1-13-2015)

**Sec. 18-4-40. - Penalties.**

The following penalty clause is herewith set forth in full and adopted: "It shall be unlawful for any person, firm or corporation to erect, construct, renovate, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure in the Town, or cause or permit the same to be done, contrary to or in violation of any of the provisions of the Energy Code. Any person, firm or corporation violating any of the provisions of this Code shall be deemed guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of the Energy Code is committed, continued or permitted, and, upon conviction of any such violation, such person shall be punishable by a fine of not more than three hundred dollars (\$300.00) or by imprisonment for not more than ninety (90) days or by both such fine and imprisonment.

(Ord. No. 376, § 4, 1978; Ord. No. 2014-04, § 1, 1-13-2015)

**ARTICLE 5. - MANUFACTURED HOUSING INSTALLATION**

**Sec. 18-5-10. - Adoption of Guidelines.**

The Installation Handbook for Manufactured Homes and Factory Built Housing, January 2016 edition, published by the Colorado Department of Local Affairs is hereby adopted as the Manufactured Housing Code of the Town, by reference, pursuant to statute, for regulating the installation of manufactured homes

**Commented [DR86]:** As suggested for ALL books, Violations such as shown in 16-18-10 could be moved to the end of Chapter 18 and referenced for all adopted codes.



in the Town and each and all of the regulations, provisions, conditions and terms of such Guidelines referenced above, are hereby referred to, adopted and made a part hereof as if fully set out in this Code. The purpose of the adopted code is to protect the health, safety and welfare of the residents of the Town.

(Ord. No. 97-03, § 1, 1997; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 18-5-20. - Copy on file.

At least one (1) copy of the Installation Handbook for Manufactured Homes and Factory Built Housing, January 2016 edition published by the Colorado Department of Local Affairs, certified to be a true copy, is on file in the office of the Town Clerk, and may be inspected by any interested person between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, holidays excepted.

(Ord. No. 97-03, § 1, 1997; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 18-5-30. - Amendments.

The Installation Handbook adopted herein is hereby modified by the following amendments: none.

(Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 18-5-40. - Definitions.

For purposes of this Chapter, the following definitions will apply:

*Dependent mobile home* means a mobile home which does not have a flush toilet and a bath or shower.

*Independent mobile home* means a mobile home which has a flush toilet, a bath or a shower and a sink.

*Mobile home* means any vehicle, trailer coach, house trailer or similar portable structure designed or constructed to permit occupancy for dwelling or sleeping purposes and designed to be transported on wheels.

*Modular home* means a factory-built or prefabricated structure designed for residential occupancy which is wholly or in substantial part made, fabricated, formed or assembled by a manufacturer for installation or assembly and installation on a residential building site.

(Ord. No. 337, § 1, 1974; Ord. No. 2014-04, § 1, 1-13-2015)

Sec. 18-5-50. - Permit for location and installation.

- (a) It shall be unlawful for any person to use or occupy a dependent mobile home for human habitation within the limits of the Town.
- (b) It shall be unlawful for any person to install, erect, use or occupy any independent mobile home or modular home that has less than six hundred (600) square feet of living space.
- (c) It shall be unlawful for any person to install, erect, use or occupy any independent mobile home or modular home for human habitation within the limits of the Town without first obtaining a permit therefor upon written application on a form to be furnished by the Town Clerk. Each such application shall describe the land on which the installation is to be made, shall be accompanied by plans and specifications of the foundation for the proposed installation showing its location on the building site, shall be signed by the applicant, shall be accompanied by evidence of application for a State Permit

from the Colorado Department of Housing and shall give such other information as may be required by the Building Official. The application plans and specifications shall be checked by the Building Official, and if he or she is satisfied that the installation therein described will conform to the requirements of Paragraphs (1) through (6) below, he or she shall issue a permit therefor to the applicant. Fees for the permit shall be a minimum of \$300.00 or otherwise in accordance with the Permit Fee Rate Schedule adopted by Resolution based on the value of the foundation, exterior stairs, landings, porches and any other added feature exterior to the Manufactured Structure. Thereafter, the Building Official shall make such inspections as reasonably necessary to determine that all requirements of paragraphs (1) through (6) below are complied with, and he or she shall either approve the installation at each inspection or notify the permit holder when it fails to comply with said requirements. No mobile home or modular home shall be used or occupied until the Building Official has issued a certificate of occupancy which shall be issued to the permittee after final inspection of the installation and approval of the same by the Building Official in accordance with the foregoing. The certificate of occupancy shall contain the permit number, the address of the installation, the name of the owner, a statement that the mobile home or modular home installation complies with the requirements of this Article, the date issued and the signature of the Building Official.

- (1) The proposed location shall be in compliance with Chapter 16 of this Code. No mobile home or modular home shall be located or placed on or within an area of less than five thousand (5,000) square feet.
- (2) No mobile home or modular home shall be located closer than twelve (12) feet to any building and shall also be located as to comply with all requirements as to setback lines and side and rear yards as now or hereafter provided for dwelling structures by Chapter 16 of this Code.
- (3) The plumbing and electrical connections shall be in accordance with the provisions of this Code and in accordance with State Law as shown in paragraph (6) below.
- (4) All mobile homes or modular homes using liquefied petroleum gas, kerosene, gasoline or fuel oil for heating or cooking purposes shall have their stoves properly vented with flues of adequate size and construction; and, with the exception of a supply container for each mobile home, no gasoline, kerosene or fuel oil shall be stored on the premises. Said supply container must be approved by the Fire Chief. Every connection between a liquefied petroleum gas container and its appliance shall be of metal pipe. No liquefied petroleum gas container shall be permitted inside of any mobile home. All mobile homes and modular homes shall comply with the regulations of the Colorado State Department of Public Health and Environment controlling carbon monoxide poisoning.
- (5) Every mobile home and modular home shall be supported on solid masonry or concrete footings which shall be of sufficient size to safely support the loads imposed as determined from the character of the soil. The foundation walls or piers shall extend at least six (6) inches above the finished grade adjacent to the wall at all points. The foundation walls or piers shall be directly below the load-bearing beams of the mobile home or modular home. If piers are used, they shall be installed as per requirements of the home manufacturer and as per State Laws, except that design and specifications shall be provided by a Colorado Licensed Engineer for all "permanent foundations". Every mobile home and modular home shall be anchored in such a way as to resist wind loads established per the IRC and approved as per State Laws, except that design and specifications for anchoring shall be provided by a Colorado Licensed Engineer for all "permanent foundations". Foundations for all mobile homes and modular homes shall be level or shall be stepped so that both top and bottom of such foundation are level. After such foundations have been constructed, each mobile home or modular home shall have a wood or metal skirt firmly attached to all exterior walls and extended to the ground along the entire outside perimeter.
- (6) As per the Laws of the State of Colorado, Department of Housing, no permanent utilities are to be released to the home prior to the affixing of the installation-insignia, and Occupancy of the structure is prohibited prior to affixing the installation-insignia.

(Ord. No. 355, § 2, 1976; Ord. No. 2014-04, § 1, 1-13-2015)

ARTICLE 6. - INTERNATIONAL MECHANICAL CODE

Sec. 18-6-10. - Adoption.

There is hereby adopted for the purpose of providing minimum standards to protect persons and property The International Mechanical Code, 2018 Edition, as published by the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795; the subject matter of which is regulations governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems and the issuance of permits and collection of fees therefore, as adopted and amended in 18-6-10, et seq.

Sec. 18-6-20. - Copy on file.

At least one (1) copy of the International Mechanical Code, certified to be a true copy, is on file in the office of the Town Clerk and may be inspected by any interested person between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, holidays excepted.

~~(Ord. No. 2014-04, § 1, 1-13-2015)~~

**Commented [DR87]:** New ordinance number needed

Sec. 18-6-30. - Amendments.

The code adopted herein is hereby modified by the following amendments:

- (1) Reference to "jurisdiction" in Section 101.1 and elsewhere shall mean the Town of Paonia.
- (2) Section 106.5.2 is amended to read: Fees shall be assessed as established by Resolution of the Town Board.
- (3) Section 106.5.3 is amended to read: Refunds shall be determined as established by Resolution of the Town Board.
- (4) Section 108 is amended to read: Violations shall be processed as outlined in Municipal Code Chapter ????
- (5) Section 109 is amended to read: Means of Appeal shall be initiated and addressed as per Municipal Code Chapter ????

**Commented [DR88]:** One central location somewhere in the M.C. Section 16-18-10 is close but needs to be at the end of Chapter 18.

ARTICLE 7. – INTERNATIONAL FUEL GAS CODE

Sec. 18-7-10. - Adoption.

There is hereby adopted for the purpose of providing minimum standards to protect persons and property The International Fuel Gas Code, 2018 Edition, as published by the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795; the subject matter of which is regulations governing fuel gas systems and gas-fired appliances and the issuance of permits and collection of fees therefore.

Sec. 18-7-20. - Copy on file.

At least one (1) copy of the International Fuel Gas Code, certified to be a true copy, is on file in the office of the Town Clerk and may be inspected by any interested person between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, holidays excepted.

~~(Ord. No. 2014-04, § 1, 1-13-2015)~~

**Commented [DR89]:** New Ordinance number needed.

Sec. 18-7-30. - Amendments.

The code adopted herein is hereby modified by the following amendments:

- (1) Reference to "jurisdiction" in Section 101.1 and elsewhere shall mean the Town of Paonia.
- (2) Section 106.6.2 is amended to read: Fees shall be assessed as established by Resolution of the Town Board.
- (3) Section 106.6.3 is amended to read: Refunds shall be determined as established by Resolution of the Town Board.
- (4) Section 108 is amended to read: Violations shall be processed as outlined in Municipal Code Chapter ????
- (5) Section 109 is amended to read: Means of Appeal shall be initiated and addressed as per Municipal Code Chapter ????
- (6) Section 621 is amended to read: Unvented Room Heaters are hereby prohibited.

**Commented [DR90]:** Central location somewhere in the M.C. Section 16-18-10 is close but needs to be at the end of Chapter 18.

ARTICLE 8 - SIGNS

Sec. 18-8-10. - Intent.

It is the intent of these regulations to provide for the proper control of signs in the Town. It is recognized that signs are a necessary means of visual communication for the convenience of the public and also for the benefit of businesses. It is intended to provide for a reasonable balance between the right

of the individual to identify his or her business and the right of the public to be protected against visual discord and clutter resulting from the unrestricted proliferation of signs. It is further intended that the public be protected from signs that are structurally unsafe or obscure the vision of motorists or conflict with necessary traffic signals and signs.

(Ord. No. [2017-11](#), § 3, 10-10-2017)

Sec. 18-8-20. - Scope.

The provisions of this Article shall apply to the display, construction, erection, alteration, use, maintenance and location of all signs within the Town. All signs displayed, constructed, erected or altered after the date of the adoption of the initial ordinance codified herein shall be in conformance with the provisions of this Code. All signs that are existing at such time shall not be altered or enlarged without being in conformance with this Code. The Building Official is hereby authorized and directed to enforce the provisions of this Article.

(Ord. No. [2017-11](#), § 3, 10-10-2017)

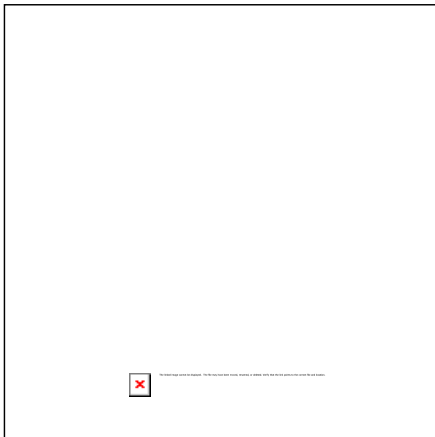
Sec. 18-8-30. - Definitions.

For purposes of this Chapter, the following terms shall be defined as follows:

*Awning sign* means a sign that is written on the face or edge of an awning.

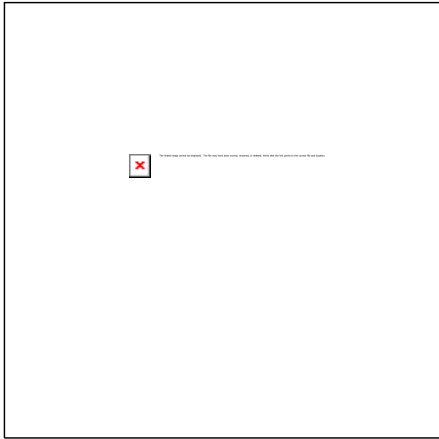
*Building frontage* means the horizontal, linear dimension of that side of a building which abuts a street, parking area or other circulation area open to the general public. Where more than one (1) use occupies a building, each such use having a public entrance or main window display shall be considered to have its own building frontage, which shall be the front width of the portion of the building occupied by that use.

*Business sign* means a sign which identifies and directs attention to the business, service, profession or activities conducted.



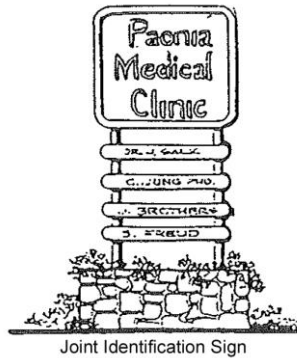
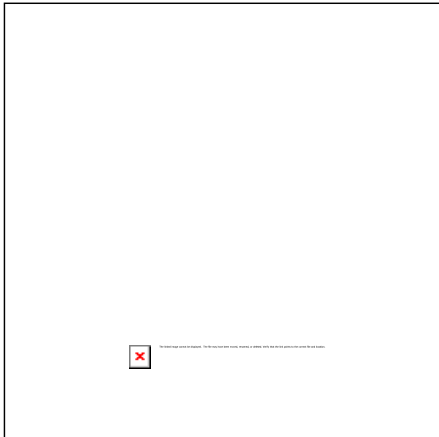
*Construction sign* means a temporary sign identifying a subdivision, development or property improvement by a builder, contractor or other person furnishing materials, labor or services to the premises.

*Freestanding sign* means a sign that is supported by one (1) or more columns, uprights or poles extended from the ground or from an object on the ground, or a sign that is erected on the ground. No part of the sign may be attached to a building.

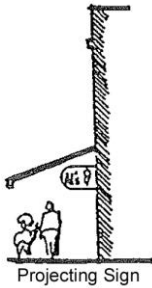
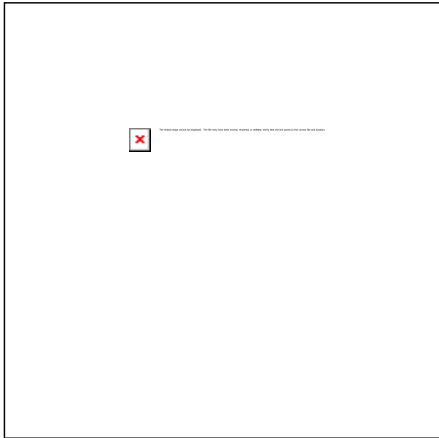


*Identification sign* includes name plates, signs or symbols establishing the identity of a building, combination of name and street address, landmark or natural features or plaques that are an integral part of the structure.

*Joint identification sign* means a sign that serves a common or collective identification for two (2) or more businesses or industrial uses.



*Projecting sign* means a sign attached to a building and extending in whole or in part fifteen (15) inches or more horizontally beyond the surface of the building to which the sign is attached.



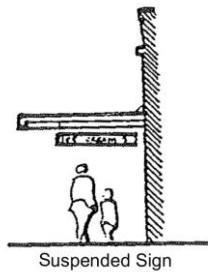
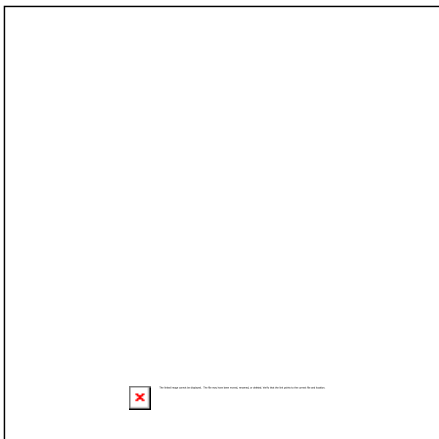
*Real estate sign* means a sign indicating the availability for sale, rent or lease of a specific lot or building.

*Sign* means any written, pictorial representation, form, emblem, flag, banner or figure of similar character which has one (1) or more of the following characteristics:

- a. Is a structure or part thereof.
- b. Is written, printed, projected, painted, constructed or otherwise placed or displayed upon or designed into a building canopy, awning or vehicle.
- c. *Is designed to attract attention or used as a means of identification or advertisement.*

*Sign face* means the surface of a sign upon, against or through which the message is displayed or illustrated.

*Suspended sign* means a sign suspended from the ceiling of an arcade, marquee or canopy.



Wall sign means a sign displayed upon or against the wall of an enclosed building where the exposed face of the sign is in the plane parallel to the plane of the wall and extended not more than fifteen (15) inches from the face of the wall.

Window sign means a sign that is printed on glass only. Window signs are allowed in commercial and industrial zones only.

(Ord. No. 2017-11, § 3, 10-10-2017)

Sec. 18-8-40. - Exemptions.

The following signs shall be exempt from the provisions of this Article:

- (1) Official government notices posted by government officers in the performance of their duties to control traffic or to provide warning. Identification signs or bulletin boards accessory to government buildings are not exempt from the provisions of this Article.
- (2) Temporary decorations or displays which are clearly incidental to and are customarily associated with any national, local or religious holiday or celebration.
- (3) Temporary or permanent signs erected by a public utility company or construction company to warn of dangerous or hazardous conditions.
- (4) Political signs for temporary use during an election. To be erected no more than 180 days prior to elections and removed within 30 days of final election results.
- (5) Temporary yard sale signs posted on the property where the sale is to take place.

Commented [DR91]: These two comments are just suggestions.

Commented [DR92R91]: Are you good with these??

(Ord. No. 2017-11, § 3, 10-10-2017)

Sec. 18-8-50. - Prohibited signs.

- (a) There shall be no flashing lights connected to or a part of any sign.
- (b) There shall be no freestanding signs placed at the intersection of two (2) streets within the triangular area defined by a line extending from a point thirty (30) feet from the intersection of curb lines along one (1) street to a point thirty (30) feet from the intersection along the other curb line.
- (c) There shall be no signs with visible moving, revolving or rotating parts, other mechanical movement or apparent movement achieved by electrical, electronic or mechanical means, except for time-temperature-and-date signs.
- (d) Signs shall be prohibited that are structurally unsafe or constitute a hazard to safety or health by reason of inadequate maintenance or dilapidation.
- (e) Signs shall be prohibited that create an unsafe visual distraction or obstruct the view of motor vehicle operators.
- (f) Roof signs shall be prohibited.

Commented [DR93]: This seems to be unnecessary since Section 18-8-60 clearly addresses placement of freestanding signs, but I suppose it can't hurt to stay here?

Commented [DR94R93]: Your guidance??

(Ord. No. 2017-11, § 3, 10-10-2017)

Sec. 18-8-60. - Setback requirements for freestanding signs.

Freestanding signs in any zoning district shall be set back from the property line the following distances:

Commented [DR95]: "Roof signs" should be clearly defined above – these can become quite contentious.

Commented [DR96R95]: Will you offer a clear definition??



Zone	Minimum Setback
R-1, R-2, E-1	10 ft.
R-3, MH	10 ft.
C-1	0 ft.
C-2	15 ft.
I-1, I-2	25 ft.

No portion of any sign shall extend into the sidewalk area.

(Ord. No. [2017-11](#), § 3, 10-10-2017)

Sec. 18-8-70. - Permits required.

- (a) It shall be unlawful to display, erect, relocate or alter any sign without first obtaining a sign permit from the Building Official, except as provided in Section 18-8-40 above.
- (b) Once a sign permit has been issued, it shall be unlawful to change, modify or deviate from the terms or conditions of the approved permit without the consent of the Building Official.
- (c) The application for a sign permit shall be made by the owner, tenant or the authorized agent of the owner or tenant of the property on which the sign is to be placed. The application shall be made on forms provided by the Building Official and shall be signed by the applicant.
- (d) The application shall include applicable information as to the size, character, construction, height and proposed location of the sign.
- (e) Permit fees shall be established by the Board of Trustees.
- (f) Any sign erected without a permit shall have imposed a fine of one hundred dollars (\$100.00) unless the sign is removed within thirty (3) days.
- (g) For the procedure for variances to the provisions of this Article refer to Section [18-9-240](#) of this Chapter.

**Commented [DR97]:** 18-7-240 (now 18-9-240) discuss variances for Floodplain regulations? I suppose this needs to be another number altogether – suggestion??

(Ord. No. [2017-11](#), § 3, 10-10-2017)

Sec. 18-8-80. - Structural requirements.

Signs and structures for signs shall be designed in conformity with the building code adopted by the Town, including but not limited to consideration for wind loads, seismic loads, allowable stresses, materials and anchorage requirements.

(Ord. No. [2017-11](#), § 3, 10-10-2017)

Sec. 18-8-90. - Existing nonconforming signs.

All previously approved existing signs that are not in conformance with the provisions of these regulations may be continued and shall be maintained in good condition but shall not be:

- (1) Changed to another nonconforming sign.
- (2) Structurally altered so as to prolong the life of the sign except for safety reasons.
- (3) Altered or expanded so as to increase the degree of nonconformity of the sign.
- (4) Continued in use after cessation or change of business or activity to which the sign pertains.
- (5) Re-established after damage or destruction if the estimated cost or reconstruction exceeds fifty percent (50%) of the appraised value (as determined by the Building Official).

(Ord. No. [2017-11](#), § 3, 10-10-2017)

**Commented [DR98]:** All Ordinance numbers to change.

Sec. 18-8-100. - Sign regulations; schedule of requirements.

The following table sets forth the schedule of requirements for sign regulations.

Zoning District	Functional Type	Structural Type	Maximum Area	Maximum Number of Signs	Maximum Height of Freestanding Signs
R-1, R-2, E-1, MH	Identification	Wall	2 sq. ft.	1 per dwelling	-
	Real estate	Freestanding	4 sq. ft. per face	1 per dwelling	4 ft.
R-3	Identification	Wall	Maximum area 10 sq. ft. for each permitted sign	1 wall sign per street footage	
	Real estate or construction (temporary)	Freestanding	4 sq. ft. per face a total of 8 sq. ft.	1 per dwelling	4 ft.
R-1, R-2, R-3, E-1, MH	Permanent subdivision identification	Freestanding	15 sq. ft.	1 per project	4 ft.
Churches	Identification/information	Wall/freestanding	20 sq. ft.	2 per church	5 ft.

		g			
Home occupation	Identification/information	Wall	2 sq. ft.	1 per dwelling (See Subparagraph 16-11-20(4)d.)	
C-1	Business or identification	Wall	Wall sign or canopy sign shall not exceed 1 sq. ft. of building frontage with a maximum area of 50 sq. ft.	1 sign per building except for corner buildings which may have 2 separate signs; provided that the total area does not exceed 75 sq. ft.	
	Business	Projecting or suspended	Area shall not exceed 6 sq. ft. per face or a total of 12 sq. ft. if internally illuminated or 9 sq. ft. per face or total of 18 sq. ft. if not illuminated	1 sign per building	
	Real estate or construction (temporary)	Freestanding	4 sq. ft. per face or a total of 8 sq. ft.	1 sign per lot	4 ft.
C-2	Business	Wall	Wall sign or canopy signs shall not exceed 1 sq. ft. for each linear ft. of building frontage or a maximum of 50 sq. ft. per business	1 sign per business except for corner buildings which may have 2 separate signs, provided that the total area does not exceed 75 sq. ft.	-

**Commented [DR101]:** Why are you limiting the number of signs? It seems that you would want your businesses to be successful – they are limited by how much frontage they have. The Print Shop on the SW corner of 1<sup>st</sup> and Grand is a prime example of a large lot with lots of frontage, and very limited advertising space.

**Commented [T102R101]:** agree

**Commented [DR103R101]:** OK – I’ll let you and Muni-Code reword this as you want to see it.

**Commented [DR99]:** Why limit it if a business has 200 feet of frontage? It seems that what should be done is allow at least 30 sq. ft. (40?, 50?) no matter how little frontage one might have.

**Commented [DR100R99]:** Again – your deal to change and reword with Muni-Code if you wish.

**Commented [DR105]:** See above – think about that throughout this chart.

**Commented [DR104]:** See above – think about that throughout this chart.

	Business	Freestanding	Freestanding individual identification signs shall be limited to 25 sq. ft. per face or a maximum of 50 sq. ft.	1 sign per business	10 ft.
	Joint identification	Freestanding	Freestanding signs for community shopping centers shall not exceed 50 sq. ft. per face or a total of 100 sq. ft. When permitted, no other freestanding sign shall be permitted in the shopping center.	1 sign per shopping center	20 ft.
	Business	Projecting or suspended	Area shall not exceed 6 sq. ft. per face or a total of 12 sq. ft. if sign is internally illuminated and 9 sq. ft. per face or a total of 18 sq. ft. if not illuminated	1 sign per business	-
	Real estate or construction (temporary)	Freestanding	16 sq. ft. per face or a total of 32 sq. ft.	1 sign per street frontage	20 ft.
I-1, I-2	Business or identification	Wall	Wall signs shall not exceed 1 sq. ft. for each linear ft. of building frontage or a maximum of 100 sq. ft. per	1 sign per business, except for corner buildings which may have 2 separate signs,	-

			business	provided that the total area does not exceed 100 sq. ft.	
	Business	Freestanding	25 sq. ft. per face or a max of 50 sq. ft.	1 sign per business	10 ft.
	Joint identification	Freestanding	For an industrial park or center, a freestanding joint identification sign shall not exceed 75 sq. ft. per face or a total of 150 sq. ft.	1 freestanding sign per industrial park or center	20 ft.
	Real estate or construction (temporary)	Freestanding	16 sq. ft. per face or a total of 32 sq. ft.	1 sign per street frontage	20 ft.

(Ord. No. [2017-11](#), § 3, 10-10-2017)

ARTICLE 9. - FLOOD DAMAGE PREVENTION

DIVISION 1. - GENERAL PROVISIONS

Sec. 18-9-10. - Statutory authorization.

The Legislature of the State has, in Title 29, Article 20, C.R.S., delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Board of Trustees hereby adopts the following floodplain management regulations.

(Ord. No. [2017-11](#), § 3, 10-10-2017)

Sec. 18-9-20. - Findings of fact.

- (a) The flood hazard areas of the Town are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

- (b) These flood losses are created by the cumulative effect of obstructions in floodplains, which cause an increase in flood heights and velocities, and by the occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

(Ord. No. [2017-11](#), § 3, 10-10-2017)

Sec. 18-9-30. - Statement of purpose.

It is the purpose of this Article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
- (7) Ensure that potential buyers are notified that property is in a flood area.

(Ord. No. [2017-11](#), § 3, 10-10-2017)

Sec. 18-9-40. - Methods of reducing flood loss.

In order to accomplish its purposes, this Article uses the following methods:

- (1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels and natural protective barriers, which are involved in the accommodation of floodwaters;
- (4) Control filling, grading, dredging and other development which may increase flood damage; and
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood-waters or which may increase flood hazards to other lands.

(Ord. No. [2017-11](#), § 3, 10-10-2017)

Sec. 18-9-50. - Definitions.

Unless specifically defined below, words or phrases used in this Article shall be interpreted to give them the meaning they have in common usage and to give this Article its most reasonable application.

*100-year flood* means a flood having a recurrence interval that has a one-percent chance of being equaled or exceeded during any given year (1-percent-annual-chance flood). The terms one-hundred-

year flood and one-percent-chance-flood are synonymous with the term 100-year flood. The term does not imply that the flood will necessarily happen once every one-hundred (100) years.

*100-year floodplain* means the area of land susceptible to being inundated as a result of the occurrence of a one-hundred-year flood.

*500-year flood* means a flood having a recurrence interval that has a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-chance annual flood). The term does not imply that the flood will necessarily happen once every five hundred (500) years.

*500-year floodplain* means the area of land susceptible to being inundated as a result of the occurrence of a five-hundred-year flood.

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

*Alluvial fan flooding* means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport and deposition; and unpredictable flow paths.

*Apex* means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

*Area of shallow flooding* means a designated Zone AO, AH or VO on a community's Flood Insurance Rate Map (FIRM) with a one-percent chance or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

*Area of special flood hazard* means the land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, A1-99, VO, V1-30, VE or V.

*Base flood* means the flood having a one-percent chance of being equaled or exceeded in any given year.

*Base flood elevation (BFE)* means the elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30 and VE that indicates the water surface elevation resulting from a flood that has a one-percent chance of equaling or exceeding that level in any given year.

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

*Channel* means the physical confine of a stream or waterway consisting of a bed and stream banks, existing in a variety of geometries.

*Channelization* means the artificial creation, enlargement or realignment of a stream channel.

*Code of Federal Regulations (C.F.R.)* means the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government. It is divided into fifty (50) titles that represent broad areas subject to federal regulation.

*Community* means any political subdivision in the State that has authority to adopt and enforce floodplain management regulations through zoning, including but not limited to cities, towns, unincorporated areas in the counties, Indian tribes and drainage and flood control districts.

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

*Critical facility* means a structure or related infrastructure, but not the land on which it is situated, as specified in Section 18-7-380 of this Article, that, if flooded, may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood. See Section 18-7-380 of this Article.

*Critical feature* means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

*Development* means any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

*DFIRM database* means a database, usually spreadsheets containing data and analyses, that accompany DFIRMs. The FEMA Mapping Specifications and Guidelines outline requirements for the development and maintenance of DFIRM databases.

*Digital flood insurance rate map (DFIRM)* means a FEMA digital floodplain map. These digital maps serve as "regulatory floodplain maps" for insurance and floodplain management purposes.

*Drain way* means a natural or artificial land surface depression with or without perceptively defined beds and banks to which surface runoff gravitates and collectively forms a flow of water continuously or intermittently in a definite direction.

*Elevated building* means a non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers) or shear walls parallel to the floor of the water; and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X and D, elevated building also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In the case of Zones V1-30, VE or V, elevated building also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls if the breakaway walls met the standards of Section 60.3(e)(5) of the National Flood Insurance Program regulations.

*Existing construction* means, for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. Existing construction may also be referred to as existing structures.

*Existing manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

*Expansion to an existing manufactured home park or subdivision* means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).

*Federal Register* means the official daily publication for Rules, proposed Rules and notices of federal agencies and organizations, as well as executive orders and other presidential documents.

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

*Fill* means a deposit of materials of any kind by artificial means.

*Flood or flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- a. The overflow of inland or tidal waters;



- b. The unusual and rapid accumulation or runoff of surface waters from any source; or
- c. Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas, such as earth carried by a current of water and deposited along the path of the current.

*Flood control structure* means a physical structure designed and built expressly or partially for the purpose of reducing, redirecting or guiding flood flows along a particular waterway. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

*Flood fringe* means that portion of the floodplain inundated by the 100-year return frequency flood not within the floodway.

*Flood insurance rate map (FIRM)* means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

*Flood insurance study (FIS)* means the official report provided by the Federal Emergency Management Agency. The report contains flood profiles and water surface elevation of the base flood, as well as the Flood Boundary-Floodway Map.

*Flood profile* means a graph or longitudinal profile showing the relationship of the water surface elevation of a flood event to location along a stream or river.

*Flood protection system* means those physical structural works for which funds have been authorized, appropriated and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a special flood hazard and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

*Floodplain or flood-prone area* means any land area susceptible to being inundated by water from any source. See definition of Flooding.

*Floodplain Administrator* means the community official designated by title to administer and enforce the floodplain management regulations.

*Floodplain development permit* means a permit required before construction or development begins within any special flood hazard area (SFHA). If FEMA has not defined the SFHA within a community, the community shall require permits for all proposed construction or other development in the community, including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within flood-prone areas. Permits are required to ensure that proposed development projects meet the requirements of the NFIP and this Article.

*Floodplain management* means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

*Floodplain management regulations* means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance or erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

*Floodproofing* means any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

*Floodway (regulatory floodway)* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

*Freeboard* means the vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood, such as debris blockage of bridge openings, and the increased runoff due to urbanization of the watershed.

*Functionally dependent use* means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers and ship building and ship repair facilities but does not include long-term storage or related manufacturing facilities.

*Highest adjacent grade* means the highest natural elevation of the round surface prior to construction next to the proposed walls of a structure.

*Historic structure* means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  1. By an approved state program as determined by the Secretary of the Interior; or
  2. Directly by the Secretary of the Interior in states without approved programs.

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

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

*Levee* means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

*Levee system* means a flood protection system which consists of a levee or levees and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

*Lowest floor* means the lowest floor of the lowest enclosed area (including basement). Lowest floor also means an unfinished or flood-resistant enclosure usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

*Manufactured home* means a structure transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term manufactured home does not include a recreational vehicle.

*Manufactured home park or subdivision* means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

*Material safety data sheet (MSDS)* means a form with data regarding the properties of a particular substance. An important component of product stewardship and workplace safety, it is intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner, and includes information such as physical data (melting point, boiling point, flash point, etc.), toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment and spill-handling procedures.

*Mean sea level* means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

*National Flood Insurance Program (NFIP)* means FEMA's program of flood insurance coverage and floodplain management administered in conjunction with the Robert T. Stafford Relief and Emergency Assistance Act. The NFIP has applicable federal regulations promulgated in Title 44 of the Code of Federal Regulations. The U.S. Congress established the NFIP in 1968 with the passage of the National Flood Insurance Act of 1968.

*New construction* means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

*New manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

*No-rise certification* means a record of the results of an engineering analysis conducted to determine whether a project would increase flood heights in a floodway. A no-rise certification must be supported by technical data and signed by a registered Colorado professional engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the flood insurance rate map (FIRM) or flood boundary and floodway map (FBFM).

*Physical map revision (PMR)* means FEMA's action whereby one (1) or more map panels are physically revised and republished. A PMR is used to change flood risk zones, floodplain and/or floodway delineations, flood elevations and/or planimetric features.

*Recreational vehicle* means a vehicle which is:

- a. Built on a single chassis;
- b. Four hundred (400) square feet or less when measured at the largest horizontal projections;
- c. Designed to be self-propelled or permanently towable by a light duty truck; and
- d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

*Regulatory flood datum* means the reference elevation above mean sea level, which represents the peak elevation of the 100-year return-frequency flood.

*Regulatory flood protection elevation* means the elevation one and one-half feet above the regulatory flood datum.

*Special flood hazard area* means the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year, i.e., the 100-year floodplain.

*Start of construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348))*, includes *substantial improvement* and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation,

addition, placement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

*Structure* means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

*Substantial damage* means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

*Substantial improvement* means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before start of construction of the improvement. This includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions; or
- b. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

*Variance* means a grant of relief to a person from the requirement of this Article when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this Article. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

*Violation* means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4) or (e)(5) is presumed to be in violation until such time as that documentation is provided.

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

(Ord. No. [2017-11](#), § 3, 10-10-2017)

Sec. 18-9-60. - Lands to which this Article applies.

This Article shall apply to all special flood hazard areas and areas removed from the floodplain by the issuance of a FEMA letter of map revision based on fill (LOMR-F) within the jurisdiction of the Town.

(Ord. No. [2017-11](#), § 3, 10-10-2017)

Sec. 18-9-70. - Basis for establishing areas of special flood hazard.

The special flood hazard areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Delta County, Colorado," dated August 19, 2010, with accompanying flood insurance rate maps and/or flood boundary-floodway maps (FIRM and/or FBFM), and any revisions thereto, are hereby adopted by reference and declared to be a part of this Article. These special flood hazard areas identified by the FIS and attendant mapping are the minimum area of applicability of this Article and may be supplemented by studies designated and approved by the Town. The Floodplain Administrator shall keep a copy of the flood insurance study (FIS), DFIRMs, FIRMs and/or FBFMs on file and available for public inspection.

(Ord. No. [2017-11](#), § 3, 10-10-2017)

Sec. 18-9-80. - Establishment of development permit.

A floodplain development permit shall be required to ensure conformance with the provisions of this Article. The fee for such a permit shall be as established by Resolution.

(Ord. No. [2017-11](#), § 3, 10-10-2017)

Sec. 18-9-90. - Compliance.

No structure or land shall hereafter be located, altered or have its use changed within the special flood hazard area without full compliance with the terms of this Article and other applicable regulations. Nothing herein shall prevent the Town from taking such lawful action as is necessary to prevent or remedy any violation. These regulations meet the minimum requirements as set forth by the Colorado Water Conservation Board and the National Flood Insurance Program.

(Ord. No. [2017-11](#), § 3, 10-10-2017)

Sec. 18-9-100. - Abrogation and greater restrictions.

This Article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions; however, where this Article and another ordinance, resolution, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. No. [2017-11](#), § 3, 10-10-2017)

Sec. 18-9-110. - Interpretation.

In the interpretation and application of this Article, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. No. [2017-11](#), § 3, 10-10-2017)

Sec. 18-9-120. - Warning and disclaimer of liability.

The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur and flood heights may be increased by man-made or natural causes. This Article does

not imply that land outside the special flood hazard area or uses permitted within such areas will be free from flooding or flood damages. This Article shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this Article or any administrative decision lawfully made thereunder.

(Ord. No. [2017-11](#), § 3, 10-10-2017)

Sec. 18-9-130. - Severability.

This Article and the various parts thereof are hereby declared to be severable. Should any section of this Article be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Article as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

(Ord. No. [2017-11](#), § 3, 10-10-2017)

DIVISION 2. - ADMINISTRATION

Sec. 18-9-210. - Designation of Floodplain Administrator.

The Building Official of the Town is hereby appointed the Floodplain Administrator to administer and implement the provisions of this Article and other appropriate sections of 44 C.F.R. (National Flood Insurance Program Regulations) pertaining to floodplain management. The Town Administrator may appoint a designee to assist, facilitate and enforce the provisions hereof.

(Ord. No. [2017-11](#), § 3, 10-10-2017)

Sec. 18-9-220. - Duties and responsibilities of Floodplain Administrator.

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

- (1) Maintain and hold open for public inspection all records pertaining to the provisions of this Article, including the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and any floodproofing certificate required by Section 18-9-230 below.
- (2) Review, approve or deny all applications for floodplain development permits required by adoption of this Article.
- (3) Review floodplain development permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
- (4) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
- (5) Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this Article, including proper elevation of the structure.
- (6) Where interpretation is needed as to the exact location of the boundaries of the special flood hazard area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.

- (7) When base flood elevation data has not been provided in accordance with Section 18-9-70 of this Article, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of Division 3 of this Article.
- (8) For waterways with base flood elevations for which a regulatory floodway has not been designated, no new construction, substantial improvements or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half ( $\frac{1}{2}$ ) foot at any point within the community.
- (9) Under the provisions of 44 C.F.R. Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE and AH on the community's FIRM which increases the water surface elevation of the base flood by more than one-half ( $\frac{1}{2}$ ) foot, provided that the community first applies for a conditional FIRM revision through FEMA (conditional letter of map revision), fulfills the requirements for such revisions as established under the provisions of Section 65.12 and receives FEMA approval.
- (10) Notify, in riverine situations, adjacent communities and the state coordinating agency, which is the Colorado Water Conservation Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.
- (11) Ensure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

(Ord. No. [2017-11](#), § 3, 10-10-2017)

Sec. 18-9-230. - Permit procedures.

- (a) Application for a floodplain development permit shall be presented to the Floodplain Administrator on forms furnished by him or her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:
  - (1) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
  - (2) Elevation, in relation to mean sea level, to which any nonresidential structure shall be floodproofed;
  - (3) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Paragraph 18-9-320(2) of this Article;
  - (4) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development; and
  - (5) Maintain a record of all such information in accordance with Section 18-9-220 above.
- (b) Approval or denial of a development permit by the Floodplain Administrator shall be based on all of the provisions of this Article and the following relevant factors:
  - (1) The danger to life and property due to flooding or erosion damage;
  - (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (3) The danger that materials may be swept onto other lands to the injury of others;

- (4) The compatibility of the proposed use with existing and anticipated development;
- (5) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (6) The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
- (7) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
- (8) The necessity to the facility of a waterfront location, where applicable;
- (9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (10) The relationship of the proposed use to the comprehensive plan for that area.

(Ord. No. [2017-11](#), § 3, 10-10-2017)

Sec. 18-9-240. - Variance procedures.

- (a) The Appeal Board, as established by the community, shall hear and render judgment on requests for variances from the requirements of this Article.
- (b) The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision or determination made by the Floodplain Administrator in the enforcement or administration of this Article.
- (c) Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
- (d) The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- (e) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places, without regard to the procedures set forth in the remainder of this Article.
- (f) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (½) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the relevant factors in Section 18-7-230 above have been fully considered. As the lot size increases beyond the one-half (½) acre, the technical justification required for issuing the variance increases.
- (g) Upon consideration of the factors noted above and the intent of this Article, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Article.
- (h) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (i) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (j) Prerequisites for granting variances:
  - (1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - (2) Variances shall only be issued upon:



- a. Showing a good and sufficient cause;
  - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws, resolutions or ordinances.
- (3) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (k) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:
- (1) The criteria outlined in Subsections 18-9-240(a)—(i) of this Section are met, and
  - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(Ord. No. [2017-11](#), § 3, 10-10-2017)

#### DIVISION 3. - PROVISIONS FOR FLOOD HAZARD REDUCTION

##### Sec. 18-9-310 - General standards.

In all areas of special flood hazards, the following provisions are required for all new construction and substantial improvements:

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

(Ord. No. [2017-11](#), § 3, 10-10-2017)

Sec. 18-9-320. - Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 18-9-70, Paragraph 18-7-220(7) or Section 18-9-370 of this Article, the following provisions are required:

- (1) *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to at least one (1) foot above the base flood elevation. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado professional engineer, architect or land surveyor. Such certification shall be submitted to the Floodplain Administrator.
- (2) *Nonresidential construction.* With the exception of critical facilities outlined in Section 18-7-380, new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood elevation or, together with attendant utility and sanitary facilities, be designed so that below the one (1) foot above base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered Colorado professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this Section. Such certification shall be maintained by the Floodplain Administrator, as proposed in Section 18-9-230 of this Article.
- (3) *Enclosures.* New construction and substantial improvements with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered Colorado professional engineer or architect or meet or exceed the following minimum criteria:
  - a. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
  - b. The bottom of all openings shall be no higher than one (1) foot above grade.
  - c. Openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- (4) *Manufactured homes.*
  - a. All manufactured homes that are placed or substantially improved within Zones A1-30, AH and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
  - b. All manufactured homes placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of Subparagraph a. above shall be elevated so that either:

1. The lowest floor of the manufactured home is one (1) foot above the base flood elevation; or
  2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- (5) *Recreational vehicles*. It is required that recreational vehicles placed on sites within Zones A1-30, AH and AE on the community's FIRM, shall either:
- a. Be on the site for fewer than one hundred eighty (180) consecutive days;
  - b. Be fully licensed and ready for highway use; or
  - c. Meet the permit requirements of Section 18-9-230 and the elevation and anchoring requirements for "manufactured homes" in Paragraph (4) above. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security-devices and has no permanently attached additions.

(Ord. No. [2017-11](#), § 3, 10-10-2017)

Sec. 18-9-330. - Standards for subdivision proposals.

- (a) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall be consistent with Sections 18-9-20, 18-7-30 and 18-9-40 of this Article.
- (b) All proposals for the development of subdivisions, including the placement of manufactured home parks and subdivisions, shall meet development permit requirements of Section 18-9-80 of this Article and the provisions of Division 3 of this Article.
- (c) Base flood elevation data shall be generated for subdivision proposals and other proposed development, including the placement of manufactured home parks and subdivisions which are greater than fifty (50) lots or five (5) acres, whichever is lesser, if not otherwise provided pursuant to Section 18-9-70 or Paragraph 18-9-220(8) of this Article.
- (d) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood hazards.
- (e) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have public utilities and facilities, such as sewer, gas, electrical and water systems, located and constructed to minimize or eliminate flood damage.

(Ord. No. [2017-11](#), § 3, 10-10-2017)

Sec. 18-9-340. - Standards for areas of shallow flooding (AO/AH zones).

Located within the areas of special flood hazard established in Section 18-9-70 of this Article are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

- (1) *Residential construction*. All new construction and substantial improvements of residential structures must have the lowest floor (including basement) elevated above the highest adjacent grade at least one (1) foot above the depth number specified in feet on the community's FIRM (at least three (3) feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado

professional engineer, architect or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

- (2) *Nonresidential construction.* With the exception of critical facilities, outlined in Section 18-9-380 of this Division, all new construction and substantial improvements of nonresidential structures must have the lowest floor (including basement) elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three (3) feet if no depth number is specified), or, together with attendant utility and sanitary facilities, be designed so that the structure is watertight to at least one (1) foot above the base flood level with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered Colorado professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Section 18-9-230 of this Article, are satisfied.

Within Zones AH or AO, adequate drainage paths around structures on slopes are required to guide floodwaters around and away from proposed structures.

(Ord. No. [2017-11](#), § 3, 10-10-2017)

Sec. 18-9-350. - Floodways.

Floodways are administrative limits and tools used to regulate existing and future floodplain development. The state has adopted floodway standards that are more stringent than the FEMA minimum standard (see definition of Floodway in Section 18-9-50 of this Article). Located within special flood hazard areas established in Section 18-9-70 of this Article are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris, potential projectiles and erosion potential, the following provisions shall apply:

- (1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway, unless it has been demonstrated through hydrologic and hydraulic analyses performed by a Colorado professional engineer in accordance with standard engineering practice that the proposed encroachment would not result in any increase (requires a no-rise certification) in flood levels within the community during the occurrence of the base flood discharge.
- (2) If Paragraph (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Division.
- (3) Under the provisions of 44 C.F.R. Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a CLOMR and floodway revision through FEMA.

(Ord. No. [2017-11](#), § 3, 10-10-2017)

Sec. 18-9-360. - Alteration of watercourse.

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

- (1) Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition and channel migration, and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.
- (2) Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.

- (3) Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable federal, state and local floodplain rules, regulations and ordinances.
- (4) Any stream alteration activity shall be designed and sealed by a registered Colorado professional engineer or certified professional hydrologist.
- (5) All activities within the regulatory floodplain shall meet all applicable federal, state and Town floodplain requirements and regulations.
- (6) Within the regulatory floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a floodway analysis and report, sealed by a registered Colorado professional engineer, that there is not more than a 0.00-foot rise in the proposed conditions compared to existing conditions in the floodway resulting from the project, otherwise known as a no-rise certification, unless the community first applies for a CLOMR and floodway revision in accordance with Section 18-9-340 above.
- (7) Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

(Ord. No. [2017-11](#), § 3, 10-10-2017)

Sec. 18-9-370. - Properties removed from floodplain by fill.

A floodplain development permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA letter of map revision based on fill (LOMR-F), with a lowest floor elevation placed below the base flood elevation with one (1) foot of freeboard that existed prior to the placement of fill.

(Ord. No. [2017-11](#), § 3, 10-10-2017)

Sec. 18-9-380. - Standards for critical facilities.

- (a) A *critical facility* is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for Regulatory Floodplains in Colorado, that, if flooded, may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.
  - (1) Classification of critical facilities. Critical facilities are classified under the following categories: (a) essential services; (b) hazardous materials; (c) at-risk populations; and (d) vital to restoring normal services. It is the responsibility of the Town to identify and confirm that specific structures in their community meet the following criteria:
    - a. Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities and transportation lifelines.
      - 1. These facilities consist of:
        - a) Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage and emergency operation centers);
        - b) Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory surgical structures, but excluding clinics, doctors' offices and non-urgent care medical structures that do not provide these functions);
        - c) Designated emergency shelters;

**Commented [DR106]:** Reminder – all Ordinance numbers will need to be updated unless not required when simply changing Article numbers (from 7 to 9)

- d) Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio and other emergency warning systems, but excluding towers, poles, lines, cables and conduits);
  - e) Public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines and service lines); and
  - f) Air transportation lifelines (airports [municipal and larger], helicopter pads and structures serving emergency functions, and associated infrastructure [aviation control towers, air traffic control centers, and emergency equipment aircraft hangars]).
2. Specific exemptions to this category include wastewater treatment plants (WWTP), nonpotable water treatment and distribution systems and hydroelectric power generating plants and related appurtenances.
  3. Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the Town that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-year floodplain or are compliant with the provisions of this Article and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Town on an as-needed basis upon request.
- b. Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials.
1. These facilities may include:
    - a) Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);
    - b) Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;
    - c) Refineries;
    - d) Hazardous waste storage and disposal sites; and
    - e) Aboveground gasoline or propane storage or sales centers.
  2. Facilities shall be determined to be critical facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a material safety data sheet (MSDS) on file for any chemicals stored or used in the workplace, and the chemicals are stored in quantities equal to or greater than the Threshold Planning Quantity (TPQ) for that chemical, then that facility shall be considered to be a critical facility. The TPQ for these chemicals is: either five hundred (500) pounds or the TPQ listed (whichever is lower) for the three hundred fifty-six (356) chemicals listed under 40 C.F.R., § 302 (2010), also known as Extremely Hazardous Substances (EHS); or ten thousand (10,000) pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Health and Environment. OSHA requirements for MSDS can be found in 29 C.F.R., § 1910 (2010). The Environmental Protection Agency (EPA) regulation, "Designation, Reportable Quantities, and Notification," 40 C.F.R., § 302 (2010) and OSHA regulation, "Occupational Safety and Health Standards," 29 C.F.R., § 1910 (2010) are

incorporated herein by reference and include the regulations in existence at the time of the promulgation of this Article, but exclude later amendments to or editions of the regulations.

3. Specific exemptions to this category include:

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

These exemptions shall not apply to buildings or other structures that also function as critical facilities under another category outlined in this Article.

c. At-risk population facilities include medical care, congregate care and schools. These facilities consist of:

- 1. Elder care (nursing homes);
- 2. Congregate care serving twelve (12) or more individuals (day care and assisted living);
- 3. Public and private schools (preschools, K-12 schools), before-school and after-school care serving twelve (12) or more children;

d. Facilities vital to restoring normal services, including government operations.

1. These facilities consist of:

- a) Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers);
- b) Essential structures for public colleges and universities (dormitories, offices and classrooms only).

2. These facilities may be exempted if it is demonstrated to the Board of Trustees that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are compliant with this Article and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Board of Trustees on an as-needed basis upon request.

(b) *Protection for critical facilities.* All new and substantially improved critical facilities and new additions to critical facilities located within the special flood hazard area shall be regulated to a higher standard than structures not determined to be critical facilities. For the purposes of this Article, protection shall include one (1) of the following:

- (1) Location outside the special flood hazard area; or
- (2) Elevation or floodproofing of the structure to at least two (2) feet above the base flood elevation.

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

(Ord. No. [2017-11](#), § 3, 10-10-2017)

DIVISION 4. - PENALTIES

Sec. 18-9-410. - Penalties for noncompliance.

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this Article and other applicable regulations. Violation of the provisions of this Article by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this Article or fails to comply with any of its requirements shall be considered in violation of the Code and ordinances of the Town and shall, upon conviction thereof, be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than ninety (90) days, or both, for each violation and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Town from taking such other lawful action as deemed necessary to prevent or remedy any violation.

**Commented [DR107]:** This may be left here, but it forces one to take all violations to court. You will see proposals within the individual Code Books for penalties that can be handled in house

(Ord. No. [2017-11](#), § 3, 10-10-2017)

ARTICLE 10.- SUPPLEMENTARY REGULATIONS

Sec. 18-10-10. - Temporary uses.

Upon application to the Town Clerk and approval by the Board of Trustees, a temporary use permit may be issued for the following uses for the period of time indicated. Such permits shall be valid only for the period of time specified. Extension of time may be granted by the Board of Trustees.

- (1) Construction office and yards incidental thereto from construction on the premise: Nine (9) months.
- (2) Carnivals, circuses, bazaars and fairs: One (1) week.
- (3) Tent meetings and crusades: Two (2) weeks.
- (4) Parking for authorized temporary uses.

**(5) Occupation of an RV in other than an RV Park when used as temporary housing during construction provided:**

**Commented [DR108]:** Added to address comments in Section 16-7-10 by Corinne. Subject to review of Town Board and staff.

- a) It is occupied by the owner’s family only and only after a building permit has been issued.**
- b) It is connected to water and sewer for which appropriate tap-fees have been paid.**
- c) Occupation is limited to no more than 12 months.**

(Ord. No. [2017-11](#), § 3, 10-10-2017)

Sec. 18-10-20. - Exceptions to maximum height requirements.



The following uses may be excepted from the maximum height requirements, provided that written approval is granted by the Planning Commission, which shall have found that the use would not injure the value of or use of or prevent the proper access of light and air to, adjacent properties or be out of harmony with the intent and purpose of this Chapter:

- (1) Radio and television towers and antennae.
- (2) Church towers.
- (3) Water tanks.
- (4) Elevator enclosures.
- (5) Parapet walls which may exceed height limitation by four (4) feet.
- (6) Public utility poles and towers.
- (7) Monuments.
- (8) Chimneys, cupolas and vanes.

(Ord. No. [2017-11](#), § 3, 10-10-2017)

Sec. 18-10-30. - Building on slopes greater than 25 percent.

Any building proposed for a site with a slope of twenty-five percent (25%) or greater shall be subject to the special review requirements of Article 4. (See Section 17-4-20 of Chapter 17 of this Code.)

(Ord. No. [2017-11](#), § 3, 10-10-2017)

Sec. 18-10-40. - Utilities.

Nothing in this Article shall be construed to prevent the construction or installation of public utilities transmission facilities, including mains or distribution lines, in any zone district. Substations for a public utility, storage, maintenance facilities and business offices shall be restricted to their appropriate zone district. Location of power transmission lines with a capacity of one hundred (100) kW or over shall be subject to review by the Planning Commission.

(Ord. No. [2017-11](#), § 3, 10-10-2017)

Sec. 18-10-50. - Solar access protection.

- (a) When a solar energy collection system (including an active or passive system) has been constructed or installed on a lot, the principal building, accessory structures or vegetation on abutting lots shall not be located so as to block the solar access to the solar collector between the hours of 9:00 a.m. and 3:00 p.m. This Section does not apply to principal buildings, accessory structures and vegetation existing on an abutting lot at the time of installation of the solar energy collection system or on the effective date of the initial ordinance codified herein, whichever is later. A statement that a solar energy collection system is installed in the lot may be filed and recorded with the County Clerk and Recorder, and the date of installation shall be the date of recording such notice.
- (b) If application of this provision requires more restrictive height, setback or area requirements than stated in the district requirement, the provisions of this Section shall apply.
- (c) In the event the strict application of this provision results in undue hardship upon an individual property owner, the aggrieved party may appeal to the Board of Trustees for an exception to the requirements. The Board of Trustees may approve, approve with conditions or deny the exception.

**Commented [DR109]:** Such Boards are called Board of Adjustment elsewhere. Code books typically call such Boards, the Board of Appeals.

- (d) All determinations of the solar access shall be based upon standard references for sky space and shadow data for December 21 (Winter Solstice) at the latitude for the area.
- (e) Airspace easements may be purchased, reserved, granted or otherwise obtained.

(Ord. No. [2017-11](#), § 3, 10-10-2017)

ARTICLE 11. - ACCESSORY BUILDINGS, STRUCTURES AND USES

Sec. 18-11-10. - Fences, hedges and walls.

Fences, hedges and walls may be permitted in the required yard areas of any district, subject to the following conditions and requirements:

- (1) All fences and walls are subject to the applicable sections of the IBC or IRC.
- (2) No fence, hedge or wall may extend beyond or across a property line unless with the joint agreement of the abutting property owners. It shall be the responsibility of the property owner to locate all property lines.
- (3) No fence, hedge or wall shall encroach upon a public right-of-way.
- (4) No barbed wire, sharp-pointed or electrically charged fence shall be permitted in the R-1, R-2, R-3, MH, C-1 or C-2 District.
- (5) Fences, hedges or walls shall not exceed four (4) feet in height from the front edge of the house to the property line. Rear yard fences, hedges or walls shall not exceed six (6) feet in height in the R-1, R-2, R-3 or MH District. The height shall be measured at the finished grade on the side of the fence nearest the street or abutting property.
- (6) On corner lots, no fence, hedge or wall exceeding thirty-six (36) inches in height shall be placed in a triangular area formed by three (3) points as established by:
  - a. The intersection of the property lines at the corner (Point A); and
  - b. Points B and C measured thirty (30) feet along the property lines from Point A.

**Commented [DR110]:** Do you propose NO height limit at all for other zones such as I-1, I-2, P, DR? It seems to me that if you allowed fences (with a permit as required) to be 8' or 10' high you might want to require engineering to resist wind loads?

**Commented [DR111R110]:** Still needs to be discussed. A decision for Planning Commission and/or Town Board.

(Ord. No. [2017-11](#), § 3, 10-10-2017)

Sec. 18-11-20. - Swimming pools, hot tubs and Jacuzzis.

- (a) Swimming pools, hot tubs and Jacuzzis may be located in any zoning district as an accessory use, provided that such pools are situated on a lot, tract or parcel in a manner which is not detrimental to the health, safety and welfare of the users of the pool or the adjacent property owners.
- (b) All new swimming pools, hot tubs and Jacuzzis shall be completely enclosed with a minimum of a six-foot-high fence or be elevated at least four (4) feet above the ground level.
- (c) Gates, ladders or entrances to the swimming pool, hot tub and Jacuzzi area shall be kept closed, locked and made inaccessible without the knowledge and consent of the owner.

**Commented [DR112]:** Confusing!?? The pool and Spa code simply calls for a 48" fence and would be considered a "recognized" standard of safety.

(Ord. No. [2017-11](#), § 3, 10-10-2017)

ARTICLE 12. - SITE PLAN REVIEW REQUIREMENTS

Sec. 18-12-10. - Site plan required.

All applications for building permits shall include a site plan drawn to scale in a form acceptable to the Town Administrator and showing the following information:

- (1) The actual dimensions of the lot to be built upon.
- (2) The location of all buildings and structures with respect to the property lines.
- (3) The location of off-street parking areas.
- (4) Ingress and egress points to and from all public streets.
- (5) The size, location and height of all signs.
- (6) The location and intensity of exterior lighting, including height and type.
- (7) The location, type and size of landscaping and a statement as to how the landscaping is to be maintained.
- (8) A site drainage plan.
- (9) Tabulations showing the area of the site, number of dwelling units, number of parking spaces and percentage of open space provided.

(Ord. No. [2017-11](#), § 3, 10-10-2017)

Sec. 18-12-20. - Review standards.

The site plan shall be reviewed for conformity with site plan review standards as delineated for special review application as listed in Section 16-4-50 of Chapter 16. The site plan shall be reviewed by the Town Administrator.

(Ord. No. [2017-11](#), § 3, 10-10-2017)

Sec. 18-12-30. - Record of site plans and applications.

A careful record of site plans and applications shall be kept in the office of the Building Inspector. Notice of approval of a building permit shall be posted on the property within twenty-four (24) hours of such approval.

(Ord. No. [2017-11](#), § 3, 10-10-2017)

Sec. 18-12-40. - Variance.

When a permit application indicates the need for a variance, the Building Inspector or Town Administrator shall refer the variance application to the Planning Commission. The applicant shall be directed to apply for a variance.

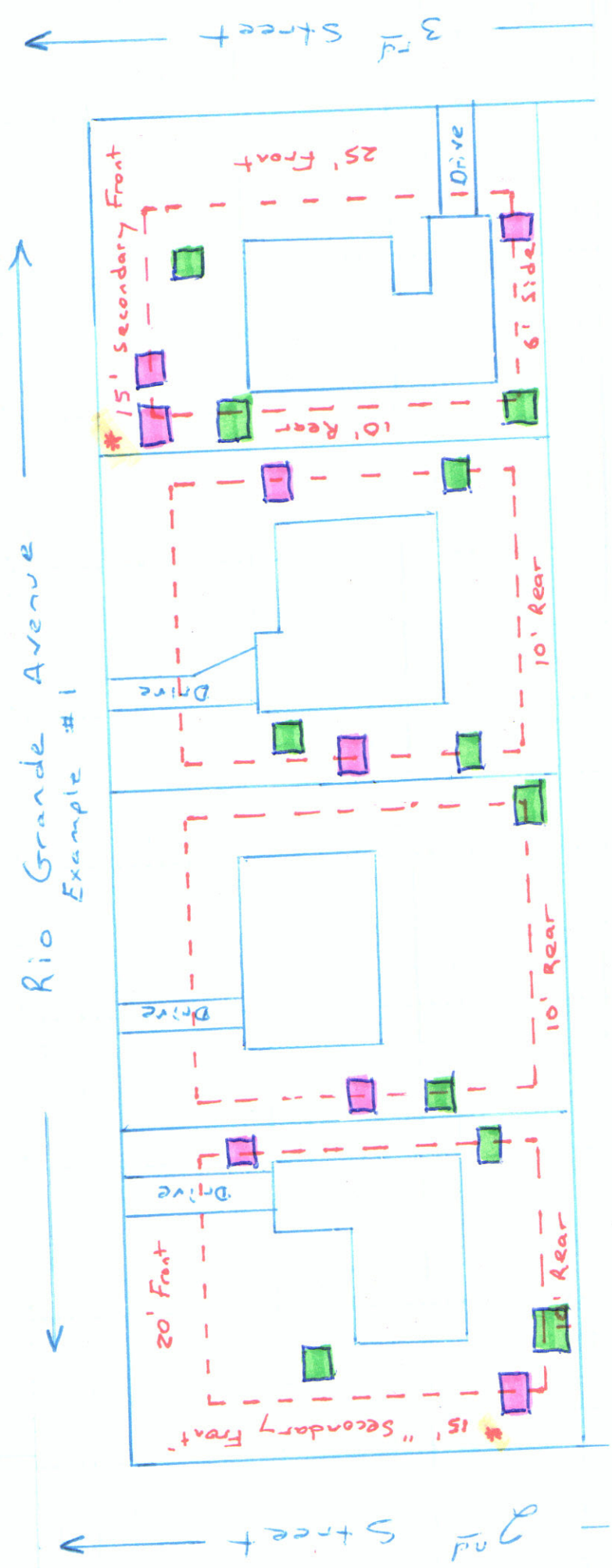
- (1) The application for special review/ variance will be provided by the Town Clerk in conjunction with a copy of the provisions of this Chapter that apply.
- (2) The Planning Commission shall hold a hearing within thirty (30) days of the application and payment of the application fee (as set by the Board of Trustees). Variance from strict application of this Chapter shall be considered at a public hearing following public notice as required in Article 16 of Chapter 16.
- (3) The Planning Commission will recommend final approval or denial to the Board of Trustees, which will act on the request.

(Ord. No. [2017-11](#), § 3, 10-10-2017)

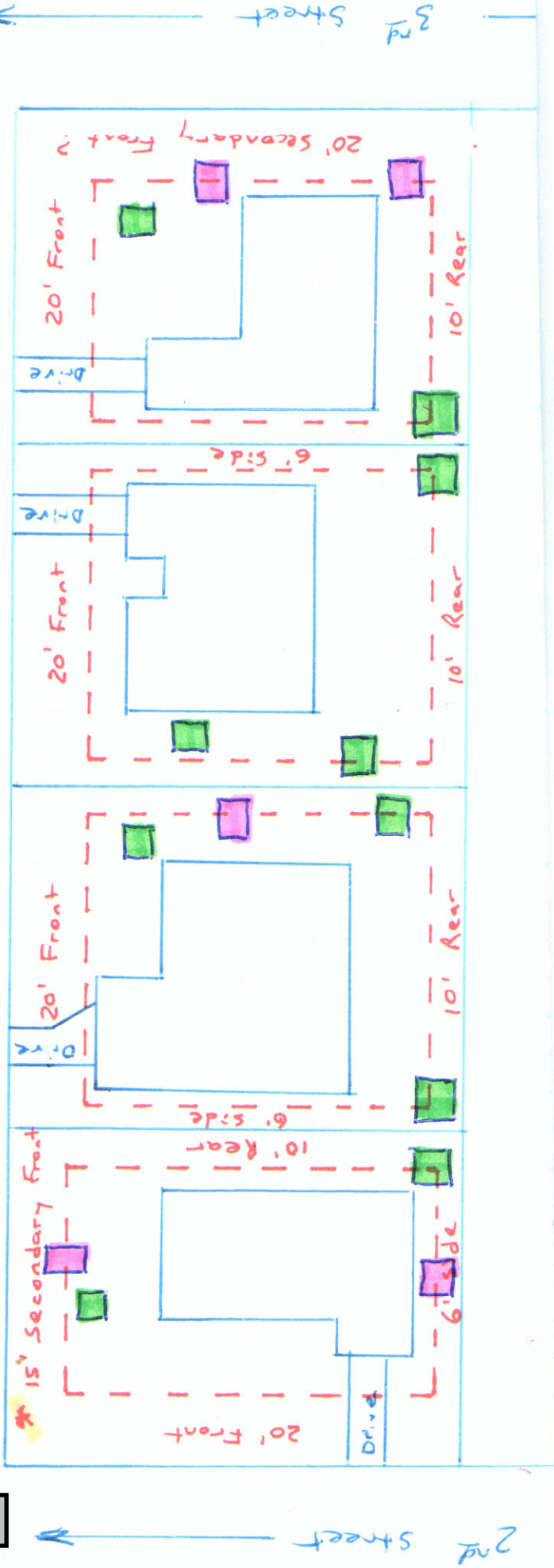
See Comments In Section 16-11-60 Items "c" & "d"  
 Location of Accessory Structures when No Permit Is Required  
 (i.e.  $\leq 200$  Sq. Ft. / Garden Shed)

4.

KEY: Acceptable Per my Proposal (Green)  
 Not Acceptable (Pink)

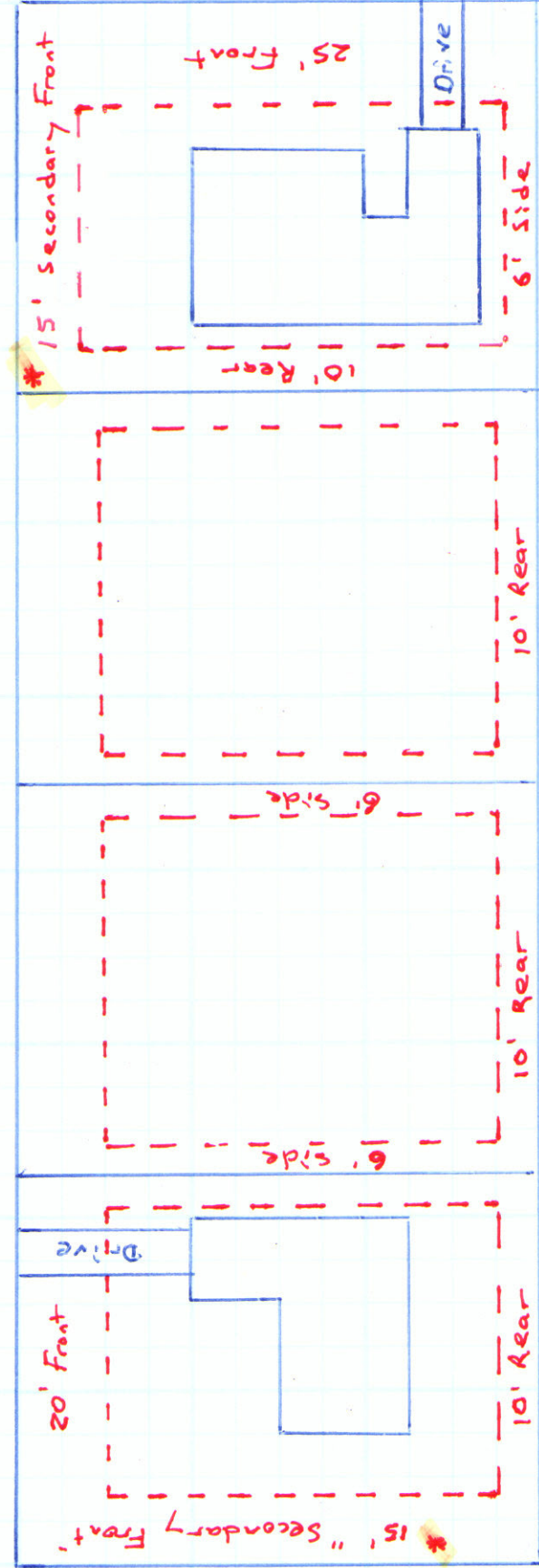


Rio Grande Avenue Example #2



Key: Acceptable As Per my Proposal (Green)  
 Not Acceptable (Pink)

Location of Accessory Structures (when No Permit Is Required)  
 See Comments In Section 16-11-60 Items "c" & "d"



R-1 Zone  
If 3<sup>rd</sup> Street Is A "Collector" It's A 25' Front Setback

If 2<sup>nd</sup> Street Is A "Local" It's A 20' Front Setback

If Rio Grande Is A "Local" It's Also A 20' front.

Definition & Diagram for Corner Lots And "Front" Need

To Be Better Defined In Section 16-1-100

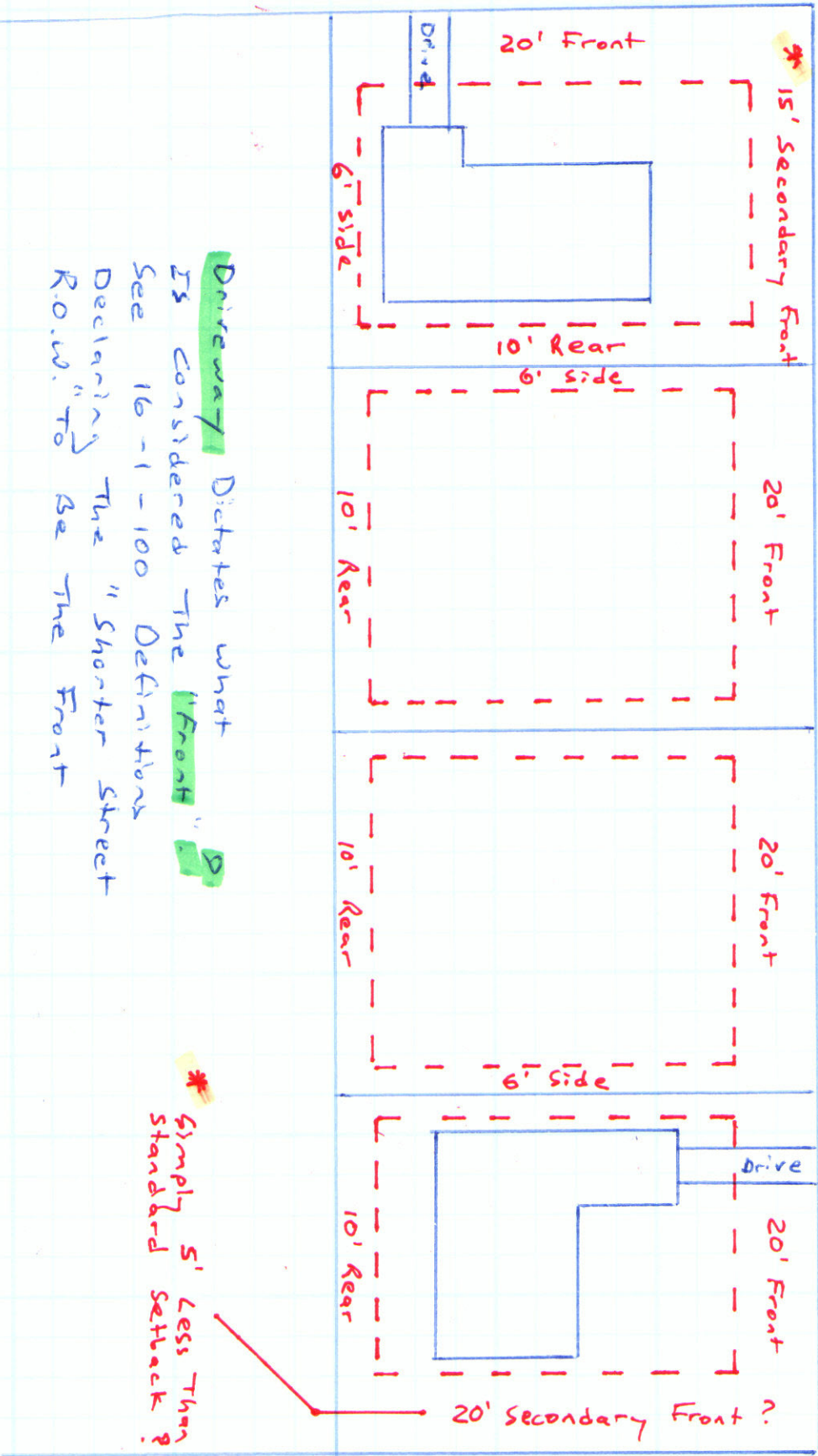
"Front" Could Simply Be: The Property Line Parallel To The Street with Driveway Access.

25' "Front" Setback Might Be Reduced To 20' for "Secondary Front"

20' "Front" Goes To 15' For "Secondary Front" ???

\* Maybe ALL "Secondary Fronts Are Simply Reduced 5' From The? Standard Setback For That Street."

2<sup>nd</sup> Street



**Driveway** Dictates what is considered the "Front". See 16-1-100 Definitions Declaring The "Shorter Street R.O.M." to be the Front

\* Simply 5' Less Than Standard Setback?

Rio Grande Avenue  
Example #2

\* Maybe ALL "Secondary Fronts Are Simply Reduced By Standard Setback For That Street."

3<sup>rd</sup> Street

Agenda Item # CALL

Adjournment



Summary:

A large empty rectangular box intended for a summary of the agenda item.

Vote:	Barb Heck:	Bill Bear:	Monica Foguth:
Lucy Hunter:	Charles Stewart:		