

**TOWN OF SEVERANCE
ORDINANCE NO. 2025-15**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SEVERANCE,
COLORADO, REPEALING AND REPLACING CHAPTER 16 OF THE SEVERANCE
MUNICIPAL CODE CONCERNING LAND USE AND DEVELOPMENT
REGULATIONS**

WHEREAS, the Town Council of the Town of Severance has determined that the current organization and formatting of Chapter 16 of the Severance Municipal Code, titled the Land Use Code, no longer meets the needs of the community for clarity, usability, and consistency; and

WHEREAS, the Town has undertaken a comprehensive review and reorganization of Chapter 16 to improve the usability of the Land Use Code and better implement the goals and objectives of the Town's Comprehensive Plan; and

WHEREAS, the Town Council finds that repealing the existing Chapter 16 in its entirety and adopting a new Chapter 16 will promote the public health, safety, and general welfare by enhancing the administration of land use and development regulations within the Town; and

WHEREAS, this ordinance is adopted pursuant to the Town's home rule authority under Article XX, Section 6 of the Colorado Constitution and the Town's general police powers; and

WHEREAS, the Town Council finds that this ordinance was considered in accordance with all applicable procedures and requirements of the Severance Municipal Code and Colorado law.

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

Section 1. The Town Council makes and adopts the determinations and findings contained above.

Section 2. Chapter 16 of the Severance Municipal Code, titled the Land Use Code, is hereby repealed in its entirety.

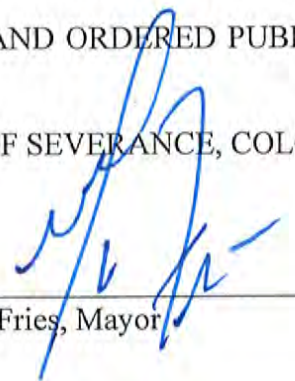
Section 3. The codifier of the Severance Municipal Code is hereby authorized to replace the repealed Chapter 16 with the new Chapter 16 as set forth in **Exhibit A**, and to make any formatting or numbering changes necessary to maintain Code consistency.

Section 4. If any article, section, paragraph, sentence, clause, attachment, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The Town Council hereby declares it would have passed this ordinance, or the adopted code, and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

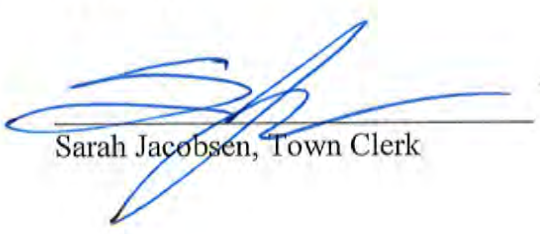
Section 5. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portions hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, ADOPTED, APPROVED, AND ORDERED PUBLISHED IN FULL this 12th day of August, 2025.

TOWN OF SEVERANCE, COLORADO


Matthew Fries, Mayor

ATTEST:


Sarah Jacobsen, Town Clerk



AFFIDAVIT OF PUBLICATION

STATE OF COLORADO)
)
COUNTY OF WELD)

I, Sarah Jacobsen, Town Clerk for the Town of Severance, Colorado do solemnly swear and affirm that I published in full a true and correct copy of Ordinance No. 2025-15 enacted by the Town Council on August 12 2025, on the Town of Severance's website, <https://www.townofseverance.org/255/Ordinances>, on the 15 day of August, 2025.

Witness my hand and seal this 15 day of August, 2025.

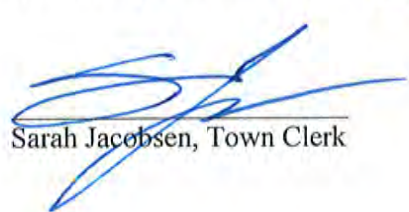

Sarah Jacobsen, Town Clerk

Exhibit A

Article 1 – General Provisions

Section 16.1.10. Overview.

- (a) *Title.* This Chapter 16 is known as the Severance Land Use Code. References to “this Code,” “the Development Code,” or “these regulations” shall be considered a reference to the Severance Land Use Code. This Code establishes the regulations and standards governing the use and development of land within the Town. Included are provisions for the annexation, subdivision, and zoning of land, as well as the administrative procedures governing the submission of applications, administrative and public reviews, and appeals. Also included are Town standards for site and building design, landscaping, parking, and public infrastructure.
- (b) *Authority.* This Code is adopted pursuant to the purposes and authority contained in the Colorado Revised Statutes (CRS) and the Colorado Constitution, Article XX, and the Severance Charter, independent of and in addition to the CRS, Title 31, Article 23. This title also supersedes any state legislative enactments which are, by their terms, subject to being superseded by adopted home rule charters or ordinances. Whenever a section of the CRS cited in this Code is later amended or superseded, this Code shall be deemed amended to refer to the amended section or sections that most nearly corresponds to the superseded section. Additional statutory authority may exist for specific types of land use regulations.
- (c) *Jurisdiction.* This Code shall apply to all structures and land within the Town's corporate boundaries, as depicted on the official zoning map. The Town's planning jurisdiction includes all land within the corporate limits and, where applicable, the lands within the Growth Management Area (GMA) as defined in the adopted Comprehensive Plan. Maps showing these and other regulatory boundaries shall be available for public inspection with the Town. For purposes of zoning and subdivision, this Code only applies to lands within the Town's corporate boundaries. It shall be unlawful to conduct any development or use of land until all specified development review processes have been followed, all applicable standards have been fulfilled, and all required approvals, permits or other authorizations have been issued.
- (d) *Purposes.* This Code is adopted to promote the public health, safety, and general welfare for the Town and its’ citizens and businesses. The regulations have the following purposes.
 - (1) Create a vital, cohesive, well-designed community to enhance the Town’s character and further the citizen’s vision, goals, and objectives.
 - (2) Implement adopted plans, policies, and programs, including the current Comprehensive Plan.
 - (3) Promote the physical, social, and economic well-being of the Town and its’ citizens and businesses.
 - (4) Invest public funds effectively and efficiently, and in a manner that creates lasting value for the community.
 - (5) Promote innovative, quality community planning and design that creates distinct places and unique elements that enhance the character of the community.

- (6) Provide parks, trails, and civic spaces that help organize development around systems of connected open spaces.
- (7) Promote the proper arrangement and design of streets to shape efficient neighborhood development patterns to improve access and circulation patterns.
- (8) Coordinate with existing and planned streets to improve access and circulation patterns that support abutting land uses.
- (9) Divide the community into zoning districts that promote the character and development patterns of distinct places identified in the Comprehensive Plan.
- (10) Regulate the development and use of structures and land within each zoning district to create compatible development patterns.
- (11) Promote appropriate transitions to adjacent properties.
- (12) Provide a variety of housing opportunities for all citizens.
- (13) Facilitate the adequate and efficient provision of public and private infrastructure to support the Town's adopted vision and values.
- (14) Direct new development into areas with adequate public and private infrastructure and to areas that conserve environmentally sensitive lands and protect citizens from environmental hazards and dangers.
- (15) Facilitate clear and consistent development procedures for all citizens and businesses.

Section 16.1.20. Interpretation.

The provisions of this Code shall be interpreted and applied as the minimum requirements for the promotion of public health, safety, and welfare. Whenever the requirements of this Code are at variance with the requirements of any other lawfully adopted rules, regulations, or sections, the more restrictive or that imposing the higher standard shall govern.

(a) *General Rules.* The following rules shall apply to the application and interpretation of these regulations, unless otherwise stated within this Code.

- (1) The singular includes the plural, and the plural includes the singular.
- (2) The words "must," "shall," and "will" are mandatory; whereas the words "may," "can," "should" and "might" are permissive but recommended as a way to best meet the standard or achieve the intent of the standard.
- (3) The word "lot" shall include the words "building site," "site," "plot," or "tract of land."
- (4) A building or structure includes any part thereof.
- (5) The present tense includes the future tense, and the future tense includes the present tense.
- (6) Lists of examples prefaced by "including the following," "such as," or other similar clauses shall not be construed as exclusive or exhaustive and shall not preclude an interpretation of the list to include other similar and non-mentioned examples.
- (7) The conjunctive "and" in a list means that all apply; the conjunctives "or" and "and/or" mean the provisions may apply singly or in any combination; and the conjunctive "either ... or" means the provisions apply individually but not in combinations.

- (8) When calculations to determine a requirement result in a fraction that cannot be divided (*i.e., parking spaces, trees, dwelling units, etc.*) it shall be rounded up to the nearest whole number.
 - (9) Any references to “Town Manager,” “Manager,” or any other official may also include any designee of the Town Manager.
 - (10) For processes and procedure timeframes that specify a certain number of “days,” it shall be assumed to mean “calendar days,” unless otherwise specified.
 - (11) Any reference to other official local, state, or federal government rules or regulations shall include the most current versions of those rules or regulations.
 - (12) References to a person shall include the individual, a partnership, association, agency, corporation, or other legal entity and their associated representatives.
- (b) *Interpretation of the Zoning Map.* Where uncertainty exists with respect to any boundary on the official zoning map, the following rules shall apply.
- (1) Property Lines. Zoning district boundaries shall be interpreted as following platted or official legal property lines unless these lines have been substantially altered.
 - (2) City Limits. Zoning district boundaries shall be interpreted as following the official Town limits.
 - (3) Other Features. Zoning district boundaries shall be interpreted as following the centerline of streets, rights-of-way, rivers, or other similar features.
- (c) *Official Interpretations of this Code.* The Town Manager or their designee may make official interpretations in cases where there is uncertainty to the criteria of this Code. Such interpretations shall be made in writing to applicants and documented at the Town. When making an official interpretation, the following criteria shall be used.
- (1) Rational professional and technical planning principles.
 - (2) Town adopted goals and policies of the Comprehensive Plan and other adopted plans and policies.
 - (3) The purposes, intent, or criteria applicable to this Code and the specific article or sections related to the interpretation.
 - (4) Applicable and available resources, guidelines, or industry standards.
 - (5) The context and physical characteristics of the surrounding neighborhood and/or environment.
 - (6) If the interpretation could be applied in a similar circumstance or situation.
- (d) *Non-regulatory Provisions.* Purpose statements, development, and design criteria, supporting tables and/or graphics, and analysis such as captions or notes to figures and tables provide additional guidance or simplification to an interpretation of the Code criteria. In the event of a conflict, the specific written criteria shall control.
- (e) *Resources, Guides, and Industry Standards.* Reputable professional and technical planning resource guides and industry “best practice” standards may be used by the Town to supplement

this Code, as determined by the Town Manager and/or their designee. These resource guides and/or standards should only be used to clarify the adopted criteria or the purposes of this Code. They shall not be used to conflict with any adopted criteria but may be used in text amendments by the Town.

Section 16.1.30. Relationship to existing regulations and adopted plans.

All existing ordinances, resolutions, or motions of the Town Council in conflict with this Code are, to the extent of such conflict, hereby superseded and repealed, provided that no such repeal shall repeal the clauses of such section, resolution, or motion, nor revive any section, resolution, or motion thereby. The adoption of this Code shall not adversely affect the Town's right to seek remedies for any violation of previous sections that occurred while those sections were in effect.

- (a) *Comprehensive Plan and Advisory Documents.* It is the intent of the Town that this Code implements the planning policies adopted in the Comprehensive Plan, its' GMA, and all other adopted Advisory Documents. While this relationship is reaffirmed, it is the intent of the Town that neither this Code nor any amendment to it may be challenged on the basis of any alleged nonconformity with the Comprehensive Plan and/or adopted Advisory Documents, nor may any action taken in conformity with this Code be challenged on the basis of claimed inconsistency with the Comprehensive Plan and/or adopted Advisory Documents.
- (b) *Requirement for Comprehensive Plan amendment.* Where a development proposal does not conform with the Comprehensive Plan, an amendment to the Comprehensive Plan will be required before any zoning or subdivision approvals. The process for a Comprehensive Plan amendment can be found in Article 2 of these regulations.

Section 16.1.40. Severability.

- (a) If any court of competent jurisdiction invalidates any provision of this Code, then such judgment shall not affect the validity and continued enforcement of any other provision of this Code.
- (b) If any court of competent jurisdiction invalidates the application of any provision of this Code, then such judgment shall not affect the application of that provision to any other building, structure, or use not specifically included in that judgment.
- (c) If any court of competent jurisdiction judges invalid any condition attached to the approval of an application for development approval, then such judgment shall not affect any other conditions or requirements attached to the same approval that are not specifically included in that judgment.

Section 16.1.50. Administration.

- (a) *Administrative Authority on Certain Land Use Applications.* Notwithstanding any other provision of this Code and subject to any limitations established by state statute, the Town Manager or such official's designee may act administratively, without resorting to the Town Council or the Planning Commission with respect to minor modifications as provided for in Article 2 of these regulations.
- (b) *Town Manager.* The Town Manager may delegate their authority to a department or staff position (designee) to administer and interpret certain or all aspects of this Code. Other department heads and staff may serve in an advisory role under this Code. In addition to the direct authority granted by the Charter and local ordinances, the Town Manager shall have specific review responsibilities and final administrative decisions referring to the Town Manager under the procedures and standards of these regulations. The Town Manager may bring forward amendments to the Comprehensive Plan, Zoning Map, and these regulations. The Town Manager and/or their designee shall assume the role as the administrator, the principal interpretation and enforcement official of these regulations, and may consult with Town staff or relevant outside agencies to coordinate any plans, policies, and programs that impact these regulations or adopted plans and policies. Such responsibilities shall include the following.
 - (1) Prepare and provide development application forms and administer the requirements and review of submittals.
 - (2) Oversee the application, review, and administration processes and prepare presentations and reports for review bodies.
 - (3) Issue official interpretations and approve the use of other resources, guides, and industry standards used in administering this Code.
 - (4) Make final interpretations and final administrative decisions under the procedures and standards of these regulations.
- (c) *Planning Commission.* The Planning Commission is the appointed body responsible for long-range and comprehensive planning. The Planning Commission is established according to the Town Charter. In addition to all other general planning authorities granted by the Charter, statutes, and local ordinances, the Planning Commission shall have the specific review responsibilities and final authority referred to the Planning Commission under the procedures and standards of these regulations, as appointed by the Town Council.
- (d) *Town Council.* The Town Council is the elected and governing body responsible for all legislative decisions that affect the implementation of adopted plans, regulations, and policies. In addition to other general authorities granted by law, the Town Council shall have the final decision authority as outlined under the procedures and standards of these regulations.
- (e) *Board of Adjustments.* The Board of Adjustments (BOA) shall act in accordance with the same rules and procedures that govern the Planning Commission and Town Council. Pursuant to

Section 31-23-307(1), CRS, and as amended, the Town Council hereby appoints itself to serve as the BOA. The BOA shall hear and decide major variance and appeal requests.

- (1) The BOA shall have the following powers and duties, all of which shall be subject to and in compliance with the laws of the State, in harmony with the purpose and intent of this Code and the most appropriate development of the neighborhood.
 - a. To hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with enforcement of the provisions of this Code, as identified in procedures Article of this Code.
 - b. To review and decide on major variance requests from the terms of this Code in accordance with the major variance review criteria and procedures of this Code.

Section 16.1.60. Enforcement.

- (a) *Responsible enforcement entity.* The Town Manager and/or their designee shall be responsible for enforcing the provisions of this article.

(b) *Violations and enforcement procedures.*

- (1) Violations. It shall be unlawful to violate any provision of this Code.
- (2) Specific activities violating this Code. It shall be a violation of this Code to undertake any of the following activities.
 - a. Activities inconsistent with Code. Erecting, constructing, reconstructing, remodeling, altering, maintaining, expanding, demolishing, moving, using any building, structure, or sign, or engaging in development or subdivision of any land in contravention of any zoning, subdivision, sign, or other regulation of this Code, including terms and conditions of all required approvals.
 - b. Land-disturbing activities inconsistent with the Code. Excavating, grading, cutting, clearing, or undertaking any other land disturbance activity contrary to the provisions of this Code or without first obtaining all requisite land use approvals required by this Code or other applicable regulations.
 - c. Nonconforming uses or structures inconsistent with Code. Creating, expanding, replacing, or changing a nonconforming use, structure, lot, or sign, except in compliance with this Code.
 - d. Making lots or setbacks nonconforming. Reducing or diminishing the lot area, setbacks or open space below the minimum required by this Code.
 - e. Increasing intensity of use. Increasing the intensity of use of any land or structure, except in accordance with the procedural and substantive standards of this Code.
 - f. Activities inconsistent with permit or approval. Engaging in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approval or other form of authorization required to engage in such activity, whether issued under or required by this Code.

- g. Activities inconsistent with conditions of approval. Failing to comply with any terms, conditions or limitations placed by the Town upon any final development Plan, subdivision plat, permit, or other form of approval by the Town.
 - h. Agreements to convey. Making any agreement to convey or conveyance of any lot or undivided parcel of land, contrary to the provisions of this Code or prior to approval of a final plat by the Town; it shall be a separate violation for each lot or parcel of land sold or agreed to be sold.
 - i. Activities inconsistent with the order of Town. Failing to comply with any stop work order, abatement order or any other order issued by the Town pursuant to this Code.
- (3) Separate violations. Any person who violates or causes the violation of any of the provisions of this Code shall be guilty of a separate offense for every day or portion thereof during which a violation is committed, permitted, or continues.
- (4) Remedies and enforcement powers. The Town Manager and/or their designee shall have the following remedies and powers to enforce this Code.
 - a. Civil remedies and enforcement powers.
 - 1. Deny/withhold entitlements. The Town Manager and/or their designee may deny or withhold all entitlements, including certificates of occupancy, or other forms of authorization to use or develop any land, structure, or improvements, until an alleged violation, associated civil penalty, and/or liens resulting from a previous final order related to such property, use, or development is corrected. This provision shall apply whether the current owner or applicant for the permit or other approval is responsible for the violation.
 - 2. Revoke entitlements. Any entitlement or other form of authorization required under this Code may be revoked when the Town Manager and/or their designee determines one or more of the following.
 - i. There is a departure from the approved plans, specifications, limitations, or conditions as required under the entitlement.
 - ii. The entitlement was procured by false representation.
 - iii. The entitlement was issued in error.
 - iv. There is a violation of any provision of this Code.
 - 3. Upon revoked entitlements. Written notice of revocation shall be served upon the property owner, agent, applicant, or other person to whom the entitlement was issued, or such notice may be posted in a prominent location at the place of violation. No work or construction shall proceed after service of the revocation notice. An entitlement shall only be revoked by way of a procedure that is equivalent (in terms of due process) to the proceeding that originally granted the entitlement.
 - 4. Stop-work orders.
 - i. Whenever any building or structure or site or part thereof is being demolished, constructed, reconstructed, altered, or

- repaired in a hazardous manner, in substantial violation of any State or local Building Codes, or in a manner that endangers life or property, the Town Manager and/or their designee has the authority to issue a stop-work order for the specific part of the work that is in violation or presents the hazard.
- ii. With or without revoking permits, the Town Manager and/or their designee may issue an order to stop work on any property on which there is an uncorrected violation of either a provision of this Code or a provision of an entitlement or other form of authorization issued under this Code.
 - iii. The stop-work order shall be in writing and posted at the site of the work and shall specify the provisions of this Code or other law allegedly in violation. After any such order has been posted, no work shall proceed on any building, other structure, or tract of land covered by such order, except to correct such violation or comply with the order.
 - iv. Once conditions for resumption of the work have been met, the Town Manager and/or their designee shall rescind the stop-work order.
5. Civil penalties. Violation of this Code may be punishable through imposition of a civil penalty as set forth in the Town's Municipal Code.
 6. Injunctive relief. The Town Manager and/or their designee may seek injunctive relief or other appropriate relief in district court or other court of competent jurisdiction against any person who fails to comply with any provision of this Code, or any requirement or condition imposed pursuant to this Code. In any court proceedings in which the Town seeks a preliminary injunction, it shall be presumed that a violation of this Code is a real, immediate, and irreparable injury to the public; that the public will be irreparably injured by the continuation of the violation unless the violation is enjoined; and that there is no plain and adequate remedy at law for the subject Code violation.
 7. Abatement. The Town may abate the violation pursuant to the procedures set forth in Chapter 7 of the Town's Municipal Code. Unless the notice is appealed, pursuant to Article 2 of these regulations, to the Board of Adjustment within 10 days of service of the notice, the Town Manager and/or their designee shall proceed to abate the violation.
- b. Criminal remedies and enforcement powers.
 1. Misdemeanor. A person shall be guilty of a misdemeanor upon conviction in any case where a violation of this Code exists, where notice of violation, including any stop-work, enforcement, or compliance order has been properly served, and where such person

fails to comply with such notice stop-work, enforcement, or compliance order.

2. **Penalty.** Failure to comply with all the provisions of this Code shall constitute a misdemeanor and, upon conviction, is punishable as set forth in Article 4 (General Penalty) of Chapter 1 of the Town's Municipal Code. Each day that such violation continues to exist shall be considered a separate offense.
- (5) **Persons responsible.** The owner, tenant or occupant of any building or land or part thereof, as well as any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this Code, may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.
- (6) **Cumulative remedies.** The remedies provided for violations of this Code, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law or equity and may be exercised in any order. Each 24-hour period or portion thereof is considered a separate violation under this Code.
- (7) **Continuation of prior enforcement actions.** Nothing in this Code shall prohibit the continuation of previous enforcement actions undertaken by the Town pursuant to previous regulations.
- (8) **Liability of Town.** This Code shall not be construed to hold the Town responsible for any damages to persons or property by reason of the inspection or reinspection or failure to inspect or reinspect, by reason of issuing a building permit or by reason of pursuing or failing to pursue an action for injunctive relief.
- (9) **Violations.** Violations of this Code may be enforced in the municipal court or any other court with jurisdiction, by any appropriate equitable action, by abatement, by issuance of stop work orders, by injunction and restraining order, by revoking any permits or approvals issued and by assessing any amounts due or delinquent fines as taxes. Any one or any combination of the foregoing penalties and remedies may be used to enforce this Code.
- (10) **Costs and attorney fees for enforcement for abatement** are to be paid to the Town. Costs and attorney fees associated with said abatement shall be charged to the owner of the property on which said violation has occurred and any other person responsible for the violation, as defined in this Code.

Division 1 – Nonconforming Structures and Uses

Section 16.1.110. General provisions.

- (a) *Purpose.* The purpose of this Article is to regulate and limit the development and continued existence of zoned legal uses, structures, lots, signs, and use characteristics such as parking and landscaping, established prior to the adoption of this Code, or the adoption of future amendments to this Code, that no longer conform to the requirements of this Code. All such situations are collectively referred to in this Article as “nonconformities.” While nonconformities may continue, the provisions of this Article are designed to curtail substantial investment in nonconformities to bring about their eventual elimination to preserve the integrity of this Code and the character of the Town.
- (b) *Authority to Continue.*
 - (1) *Generally.* Any nonconformity that lawfully existed as of the adoption of this Code and that remains nonconforming, and any nonconformity that is created as a result of any subsequent rezoning or amendment to the text of this Code, may be continued or maintained as a nonconformity only in accordance with the terms of this Article.
 - (2) *Exception Due to Variances or Minor Modifications.* This Article shall not apply to any development standard or feature that is the subject of a variance or minor modification granted under this Code. Where a variance or minor modification has been granted that results in a development standard or feature that does not otherwise conform to the requirements of this Code, that development standard or feature shall be deemed conforming.
- (c) *Determination of Nonconformity Status.* In all cases, the burden of establishing the existence of a legal nonconformity shall be solely upon the owner of the nonconformity, not the Town.
- (d) *Nonconformities Created Through Government Action.* If a structure, use of land, use of structure, or characteristic of use does not comply with the requirements of this Code solely as a result of an acquisition of land or other action by a government agency for a public purpose, then such structure, use of land, use of structure, or characteristic of use on land not acquired by the government shall be deemed conforming. For purposes of this Section the word “land” means fee simple interest in real estate.
- (e) *Change of Ownership or Tenancy.* Changes of ownership, tenancy, or management of property with an existing nonconformity are permitted but such nonconformities shall continue to be subject to the provisions of this Article.
- (f) *Damage or Destruction.*
 - (1) If a nonconformity is damaged or destroyed by any means to an extent greater than 50 percent of its floor area or its actual value at the time of damage or destruction (as determined by the Weld County Assessor), then such nonconformity shall not be re-

established or restored to its original condition unless it is made to conform to the requirements of this Code.

- (2) Where a nonconforming building is damaged less than 50 percent of its floor area or its actual value at the time of damage or destruction (as determined by the Weld County Assessor), it may be repaired or restored, provided any such repair or restoration is started within six months and is completed within 18 months from the date of partial destruction.

(g) *Maintenance and Minor Repair.*

- (1) Minor repairs or maintenance of nonconformities that are required to keep structures or sites in a safe condition are permitted, provided that the minor repair or maintenance does not increase the extent or degree of the nonconformity. For purposes of this Section, “maintenance or minor repair” shall mean the following.
 - a. Repairs that are necessary to maintain and to correct any damage or deterioration to the structural soundness or interior appearance of a building or structure without expanding or altering the building or structure;
 - b. Maintenance of land areas to protect against health and environmental hazards and promote the safety of surrounding land uses; and
 - c. Repairs that are required to remedy unsafe conditions that cause a threat to public safety.

- (h) *Improvements Triggering Upgrades in Nonconforming Characteristics.* If an application is filed for a building permit or for reconstruction, remodeling, expansion, or other improvements of a multi-family, commercial, industrial, or mixed-use structure, and (b) the value of the proposed improvements total more than 25 percent of its replacement cost of the primary structure(s) on the property, the applicant shall be required to address the following nonconformities prior to, or as part of the improvements authorized by, such land use permit or building permit, unless the Town determines that such nonconformities have no significant adverse impact on surrounding properties taking into account the following features.

- (1) Screening of mechanical equipment;
- (2) Screening walls or fences (for parking areas or storage areas);
- (3) Driveway surfacing;
- (4) Landscaping;
- (5) Parking; and
- (6) Lighting.

Section 16.1.120. Nonconforming uses of land.

- (a) *Limitations on Continuation of Nonconforming Uses of Land.* Nonconforming uses of land or structures may continue, subject to the general provisions of this Article and the following limitations.

- (1) No nonconforming use of land shall be expanded, enlarged, or increased. An expansion of a nonconforming use shall include, but is not limited to, any change that results in any of the following.
 - a. An increase in usable floor area or an increase in percentage of the use of the parcel or lot, of a non-residential use.
 - b. The addition of a dwelling unit to a residential use. Any nonconforming use on a lot or portion thereof may be altered to decrease its nonconformity.
 - (2) No nonconforming use of land shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of the regulations that make the use nonconforming.
 - (3) Any nonconforming use may be extended throughout any parts of a building that were manifestly arranged or designed for such use at the time of adoption or amendment of the applicable regulations, but no such use shall be extended to occupy any land outside such buildings.
 - (4) No additional structure not conforming to the requirements of this Code shall be erected in connection with the nonconforming use of land or structure.
- (b) *Change of Use.* A nonconforming use permitted under this Code shall not be changed or replaced with a different nonconforming use.
- (c) *Abandonment or Cessation of Use.* If a nonconforming use ceases for any reason, except when government action impedes access to the premises, on a lot or any portion of a lot for a period of more than six consecutive months, the nonconforming use shall be considered abandoned. Once abandoned, the prior legal nonconforming status of the use shall be considered terminated, and re-establishment of the use shall be prohibited. Any subsequent use of the property shall comply with all applicable provisions of this Code.

Section 16.1.130. Nonconforming structures.

- (a) *Continuation of Nonconforming Structures Generally.* Nonconforming structures may continue, subject to the general provisions of this Article and the following limitations.
- (1) No nonconforming structure may be enlarged or altered in a way that increases its nonconformity, including but not limited to any new construction in violation of required setbacks or building height in the applicable zone district; but any structure or portion thereof may be altered to decrease its nonconformity. This Subsection shall not be construed to allow the expansion of a nonconforming use of structure.
 - (2) Should a nonconforming structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the zoning district in which it is located after it is moved.
 - (3) Structural changes to a nonconforming building that have the effect of increasing the life of the nonconforming building shall not be permitted, unless the building official

determines that such change is necessary to rectify a hazardous condition or safety concern.

Section 16.1.140. Nonconforming lots of record.

- (a) Unless otherwise provided in this Code, single-family residences and customary accessory buildings may be erected on any legally created single lot of record existing at the time of adoption of this Code. Such a lot must have been in separate ownership and not of continuous frontage with other lots under the same ownership. This provision shall apply even though such lot fails to meet the requirements of the district in which it is located for area, width or both area and width; provided however, that the minimum setback requirements of the district shall be met unless a variance has been granted as provided herein.
- (b) If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of adoption of this Code, and part or all of said lots do not meet the requirements of the zone district in which they are located as to minimum area or width, or both minimum area and width, for the purpose of this Article, the lands shall be considered to be an undivided parcel, and no portion of said parcel shall be sold or used in a manner which diminishes compliance with the lot area and width requirements established in this Code.

Section 16.1.150. Nonconforming signs.

- (a) *Termination of Legal, Nonconforming signs.*
 - (1) The purpose of amortization is not only to provide a reasonable grace period during which the owner is permitted to continue a legal, nonconforming sign, and to recover its economic investment, but also to assure that the district in which the nonconforming sign exists will eventually benefit from a substantial uniformity of permanent and conforming signs.
 - (2) A nonconforming sign shall be removed and brought into compliance with this Code upon verification that any of the following conditions have been met.
 - a. The use to which such non-conforming sign refers has been abandoned for a continuous period of 180 days;
 - b. Such sign is damaged or destroyed, and the cost to repair, restore or replace the sign exceeds 50 percent of the cost of a new sign; or
 - c. The regulation or amendment to the Code that made the sign nonconforming has been in effect for ten years or more.
- (b) *Extension of Time to Comply.* The time for a sign to be brought into compliance with the requirements of this Code may be extended at the request of the sign owner or lessee. In evaluating the extension of time for a nonconforming sign, the Town shall consider the following factors to determine whether the owner of the sign has had a reasonable amount of time to recoup the initial investment.

- (1) The value of the sign at the time of construction and the length of time the sign has been in place;
 - (2) The life expectancy of the physical structure and its salvage value, if any;
 - (3) The amount of depreciation and/or amortization of the sign already claimed for tax or accounting purposes;
 - (4) The length of the current tenant lease or expected occupancy compared to the date the sign is to be brought into compliance;
 - (5) The extent to which the sign is not in compliance with this article;
 - (6) The degree to which the Town determines that the sign is consistent with this Code and its purposes; and
 - (7) Whether the sign has historical or landmark significance and should, therefore, be exempt from amortization.
- (c) *Maintenance, Alteration, Reconstruction or Replacement of Nonconforming Signs.* All legal, nonconforming signs shall be maintained in good condition and shall not be any of the following.
- (1) Changed to another nonconforming sign;
 - (2) Structurally altered;
 - (3) Altered to increase the degree of nonconformity of the sign;
 - (4) Expanded;
 - (5) Re-established after discontinuance for 90 consecutive days of the use to which the sign pertained;
 - (6) Continued after a change of the use or activity to which the sign pertains; or
 - (7) Re-established after damage or destruction if the estimated cost of reconstruction exceeds 50 percent of the cost of replacement.

Division 2 – Vested Property Rights

Section 16.1.210. Purpose.

This article specifies procedures necessary to implement Article 68 of Title 24, CRS, which establishes a vested property right to undertake and complete development of real property under the terms and conditions of an approved site-specific development plan. No vested rights shall be created within the Town except through a site-specific development plan. For purposes of this Article of Code, a site-specific development plan shall be limited to the following: preliminary subdivision, final subdivision, site plan, and/or a development agreement that creates a vested property right and is adopted as a legislative act of the Town. Zoning and annexation shall not result in the creation of vested property rights, other than as accompanied by the approval of a site-specific development plan. For all other development application types of this Code, applicants should reference the Lapse of Approval criteria and application specific Effect of Decision criteria of this Code.

Section 16.1.220. General provisions.

- (a) *Request for site-specific development plan approval.* Landowners wishing for the creation of vested property rights pursuant to Article 68 of Title 24, CRS shall request such approval in writing at least 30 days prior to the date that the approval is to be considered. Failure of the landowner to request such an approval renders the plan not a “site-specific development plan” and no vested property rights shall be deemed to have been created.
- (b) *Notice and hearing.* No site-specific development plan shall be approved until the Town publishes notice of such a hearing in accordance with the applicable development application notification requirements of Article 2 of this Code. Such notice may, at the Town’s option, be combined with any other required notice. At such a hearing, all interested persons shall have an opportunity to be heard.
- (c) *Approval, conditional approval, effective date, amendments, referendum, and review.*
 - (1) A site-specific development plan shall be deemed approved upon the effective date of the Town action granting final approval of the plan. The vested property right shall attach to and run with the applicable property and shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the site-specific development plan, including any amendments thereto.
 - (2) The Town Council may approve a site-specific development plan with terms and conditions as may be necessary to protect the public health, safety, and welfare. Such conditional approval will result in a vested property right, although failure to abide by all such terms and conditions shall result in a forfeiture of the vested property right.
 - (3) In the event amendments to a site-specific development plan are approved, the effective date of such amendments, for purposes of duration of a vested property right, shall be the date of the approval of the original site-specific development plan unless the Town

Council specifically finds to the contrary and incorporates such findings in its approval of the amendment.

- (4) The approval of vested property rights shall be subject to all rights of referendum and judicial review.
- (5) The approval of vested property rights shall be subject to all rights of referendum and judicial review, except that the period of time permitted by law for the exercise of such rights shall not begin to run until the date of publication of a notice to the general public of the site-specific development plan and creation of vested property rights.

(d) Notice of approval.

- (1) Each plat or site plan constituting a site-specific development plan by this Code shall contain proper notice. Failure to contain this statement shall invalidate the creation of the vested property right. The notice shall state the following.
 - a. *"This plan constitutes a site-specific development plan as defined in Article 68 of Title 24, C.R.S. and as adopted as part of the Land Use Code by the Town of Severance, Colorado."*

(e) Duration of vested property rights. A property right that has been vested as provided herein shall, upon compliance with the terms and conditions of the approval thereof, remain vested for a period of two years, except that the Town Council may, in its sole discretion, grant vested property rights for a longer period within a final plat, site plan, and/or development agreement when warranted in light of all relevant circumstances, including but not limited to the size and phasing of the development, economic cycles and market conditions. The vesting period shall not be extended by any amendments to a site-specific development plan unless expressly authorized by the Town Council in an ordinance approving such amendments. For purposes of this Code, completion of a development shall include installation of all engineered improvements (i.e., water, wastewater, streets, curb, gutter, sidewalks, fire hydrants and storm drainage improvements) in accordance with the Town rules and regulations.

(f) Extensions. A vested property right may be extended for periods of one year by the Town Council. The property owner must request an extension in writing not later than 30 days prior to the date of expiration of the vested right. Prior to the expiration of the original vesting timeframe or the extension timeframe, an applicant may formally request an additional extension if substantial progress has been made on installation of public improvements. In considering whether to grant an extension, the Town Council shall apply the following criteria.

- (1) That there is no conflict with this Code or any conflict with the Code can be corrected by an amendment to the plan, which shall be presented with the request for extension.
- (2) That the applicant has demonstrated that the plan continues to be compatible with adjacent properties and the surrounding areas or that compatibility may be established by an amendment to the plan, which shall be presented with the request for an extension.

- (3) That the applicant has demonstrated that the plan is consistent with the Town's Comprehensive Plan.
- (g) *Other provisions unaffected.* Approval of a site-specific development plan shall not constitute an exemption or waiver of any other provisions or requirements of this Code or the Town pertaining to the development or use of property, adopted or applicable before or after the approval of the site-specific development plan.
- (h) *Payment of costs.* In addition to all other fees and charges imposed by this Code, the applicant for approval of a site-specific development plan shall pay all costs incurred by the Town related to such application, including but not limited to publication of notices, public hearing costs, county recording fees and third-party review costs.
- (i) *Limitations.* This Article is enacted pursuant to the provisions of Article 68 of Title 24, C.R.S. In the event of the repeal of said Article or a judicial determination that said Article is invalid or unconstitutional, this Article shall be deemed to be repealed and the provisions hereof no longer effective.
- (j) *Disclosure of previously granted vested property rights and hazards.*
- (1) Any petition for annexation to the Town shall describe all vested property rights approved by any local government in effect at the time of the petition, if any, and shall be accompanied by all site-specific development plans approved by any local government. Failure to so identify any previously approved vested property right and to provide all approved site-specific development plans shall constitute a waiver of the vested rights created by any other local government upon annexation to the Town, unless specifically provided otherwise in the ordinance of annexation adopted by the Town.
 - (2) The applicant shall be required to include with any plan submitted for approval as a site-specific development plan notice of any natural or human-made hazards on or in the immediate vicinity of the subject property that are known to the applicant or could be discovered at the time of submission of the plan. Should a hazard on or in the immediate vicinity of the property be discovered subsequent to the approval of a site-specific development plan, which would impose a serious threat to the public health, safety and welfare and is not corrected by the applicant, the vested property right created by such site-specific development plan shall be forfeited by the applicant.

Division 3 – Definitions

Section 16.1.310. Definitions.

As used in this Code, the following words shall have the following definitions ascribed to them, unless otherwise provided for in this Code.

- *Accessory building* means a subordinate building or structure, the use of which is customarily incidental to that of the main building or to the main use of the land, which is located on the same lot (or on a contiguous lot in the same ownership) with the main building or use. Accessory buildings are only permitted when they are incidental or accessory to an existing and permitted principal or special use.
- *Accessory dwelling* or *ADU* means an internal, attached, or detached dwelling that provides complete independent living facilities for one or more individuals; is located on the same lot as the proposed or existing primary residence; and includes facilities for living, sleeping, eating, cooking, and sanitation. An ADU may also be known as an “accessory apartment”, “secondary suite”, or “mother-in-law apartment.”
- *Accessory use* means a subordinate use, incidental and related to the main structure, building or main use of land, which is located on the same lot (or on a contiguous lot in the same ownership) as that of the main building or to the main use of the land.
- *Active open space* means an open space area developed primarily for community access and recreation including sports, exercise, or active play. These areas may include hardscape or landscape areas that have been formally designed and constructed.
- *Adjacent* means meeting or touching at some point or separated from a lot or parcel by one of the following: a street, alley, other right-of-way, lake, stream, or open space.
- *Adjacent on-street parking* means on-street parking that is located directly next to a proposed development. At least 50 percent of the length of the proposed space must be within the dimensions of the proposed development to be eligible as an adjacent on-street space.
- *Adjacent property owner* means an owner of record of any estate, right or interest in real property adjacent to or within a 300-foot radius of the subject property.
- *Adult-oriented use* means a use of property where the principal use, or a significant or substantial adjunct to another use of the property, is the sale, rental, display or other offering of live entertainment, dancing or material that is distinguished or characterized by its emphasis on depicting, exhibiting, describing or relating to specified sexual activities or specified sexually related anatomical areas as the primary attraction to the premises. For purposes of this Code, the definition of *adult-oriented use* shall not include a use of property where a medical practitioner, psychologist, psychiatrist or similar professional licensed by the State engages in a medically recognized practice, including but not limited to sexual therapy.

- *Affordable housing unit for rent* means a dwelling unit that is available for rent on terms that would be affordable to households earning 80 percent or less of the median income of Town residents, as adjusted for family size as determined by the U.S. Department of Housing and Urban Development, and paying less than 30 percent of their gross income for housing, including rent and utilities. The unit must be occupied by and be affordable to such low-income households for a period of at least 20 years or permanently.
- *Affordable housing unit for sale* means a dwelling unit that is available for purchase on terms that would be affordable to households earning 80 percent or less of the median income of Town residents, as adjusted for family size, and paying less than 38 percent of their gross income for housing, including principal, interest, taxes, insurance, utilities and homeowners' association fees. The unit must be occupied by, reserved, or marketed for occupancy and affordable to such low-income households for a period of at least 20 years or permanently.
- *Agricultural land* means real property that is being used for one or more agricultural activities.
- *Agriculture, noncommercial or noncommercial agriculture* means home-based agricultural activity focusing on raising livestock, food, etc. for noncommercial purposes.
- *Agriculture, commercial or commercial agriculture* means farming, including plowing, tillage, cropping, use of best management practices, seeding, cultivating, or harvesting for the production of food and fiber products; the grazing or raising of livestock (except in feedlots); sod production; orchards, tree farms and nurseries and the cultivation of products for commercial purposes.
- *Alley* means a minor or secondary way that is used primarily for vehicular service access to the back or side of a property or properties otherwise abutting a street.
- *Alley loaded unit* means an attached or detached single-family dwelling unit which has a garage that is accessed from an alley and not from a street.
- *Alteration* means any change, addition or modification in construction, occupancy, or use.
- *Amusement center*. See *Recreation facility, indoor*.
- *Amusement park* means an outdoor enterprise with the main purpose of providing the general public with recreational entertainment activities and where tickets are sold, or fees are collected for such activities. Examples of such recreational entertainment activities include but are not limited to miniature golf courses, outdoor arcades, ferris wheels, children's rides, roller coasters, skateboard parks, go-cart tracks, water parks and similar uses.
- *Animal Boarding* means the operation of an establishment in which domesticated animals other than household pets are housed, groomed, bred, boarded, trained, or sold. This term shall not include the operation of a kennel.
- *Applicant* means the owner of land, the owner's authorized representative or the optionee of the land who is submitting an application for consideration and approval by the Town for annexation, subdivision, zoning, development, or other land use requiring approval.

- *Appurtenances* means the visible, functional, or ornamental objects subordinate to the use of property.
- *Aquifer recharge area* means an area where water is absorbed into a natural aquifer, adding to the zone of saturation.
- *Automotive repair, major* means an establishment primarily engaged in the repair or maintenance of commercial and heavy truck-oriented motor vehicles, trailers, and similar large mechanical equipment, including paint, body and fender and major engine and engine part overhaul, provided that activities are conducted within a completely enclosed building. Such use shall not include the sale of fuel, gasoline, or petroleum products.
- *Automotive repair, minor* means an establishment primarily engaged in the repair or maintenance of passenger and light truck-oriented motor vehicles, trailers and similar mechanical equipment, including brake, muffler, upholstery work, tire repair and change, lubrication, tune-ups and transmission work, car washing, detailing, polishing or the like, provided that activities are conducted within a completely enclosed building. Such use shall not include the sale of fuel, gasoline, or petroleum products.
- *Awning* means a roof-like cover of canvas or other material extending in front of a doorway or window or over a deck to provide protection from the sun or rain.
- *Awning sign* means a wall sign that is painted, stitched, sewn, or stained onto the exterior of an awning.
- *Bar or tavern* means an establishment primarily providing or dispensing fermented malt beverages and/or malt, vinous or spirituous liquors and in which the sale of food products, such as sandwiches or light snacks, is secondary.
- *Beacon, revolving* means a rotating source of light.
- *Bed and breakfast* means an establishment operated in a private residence or portion thereof, which provides temporary accommodations to overnight guests for a fee, and which is occupied by the operator of such establishment.
- *Bike trail* means a path or trail designed for use by bicyclists, which may be used by pedestrians.
- *Block* means a unit of land or a group of lots bounded by streets or by a combination of streets and public lands or other rights-of-way other than an alley, waterway, or any barrier to the continuity of development, or land that is designated as a block on any recorded subdivision tract.
- *Boarding and rooming house* means a building or portion thereof that is used to accommodate, for compensation, two or more Boarders or roomers, not including members of the occupant's immediate family who might be occupying such building. The word *compensation* shall include compensation in money, services, or other items of value.

- *Building* means any permanent structure built for the shelter or enclosure of persons, animals, chattels, or property of any kind, which is governed by the following characteristics.
 - (1) It is permanently affixed to the land.
 - (2) It has one or more levels and a roof.
- *Building Code* means the set of standards that must be followed in the construction and remodeling of buildings and structures, as adopted by the Town in Chapter 18 of the Municipal Code.
- *Building Façade Lighting* means the lighting of a building facade for architectural, aesthetic, or decorative purposes.
- *Building frontage* means the horizontal, linear dimension of that side of a building that abuts a street, parking area, mall, or other circulation area open to the public and has either a main window display or a public entrance to the building.
- *Building height* means the vertical distance from the average curb elevation to the highest roof surface.
- *Building permit* means a document signed by the building administrator as a condition precedent to the commencement of the erection, construction, reconstruction, restoration, alteration, conversion, or installation of a building, which acknowledges that such structure complies with the provisions of this Code.
- *Caliper* means the American Association of Nurserymen standard for trunk measurement of nursery stock, as measured at six inches above the ground for trees up to and including four-inch caliper size and as measured at 12 inches above the ground for larger sizes.
- *Canopy sign* means a wall sign that is permanently affixed to a roofed shelter attached to and supported by a building, with columns extending from the ground or with a combination of a building and columns.
- *Cash-in-lieu* (also known as *fee-in-lieu*) means an amount of money to be paid by the applicant to the Town at the determination of the Town Council, instead of dedication or other requirements.
- *Cemetery* means land used or intended to be used for the burial of the dead.
- *Child care center* means a facility, by whatever name known, that is operated for the whole or part of a day for the care of five or more children, who are 18 years of age or younger and who are not related to the owner, operator, or manager thereof, whether the facility is operated with or without compensation for such care and with or without stated educational purposes. The term includes, but is not limited to, facilities commonly known as child care centers, school-age child care centers, before- and after-school programs, kindergartens, preschools, outdoor nature-based preschool programs, day camps, and summer camps, and includes those facilities for children under six years of age with stated educational purposes operated in conjunction with a public, private, or parochial college or a private or parochial school; except that the term

does not apply to any kindergarten maintained in connection with a public, private, or parochial elementary school system of at least six grades.

- *Cluster homes* means single-family homes formally planned, constructed, and managed by an association for maintenance-free living in a park-like atmosphere with private, accessible natural areas and privacy being the dominant features. Land ownership is generally, but not exclusively, held in common ownership.
- *Common equestrian stabling and grazing* means shared pastures and/or common barns for horses that are owned and maintained by a homeowners' association.
- *Community facility* means a publicly owned facility or office building that is primarily intended to serve the recreational, educational, cultural, administrative or entertainment needs of the community as a whole.
- *Company vehicle* means a vehicle that is used solely for the purposes of the business. It is assumed that the vehicle will be parked at the proposed development during off-hours of the business. Company vehicles do not include semi-trucks or other large vehicles used for transportation of freight.
- *Compatibility* means the characteristics of different uses or activities or design that allow them to be located near or adjacent to each other in harmony. Some elements affecting compatibility include but are not limited to, height, scale, mass, and bulk of structures. Other characteristics include but are not limited to pedestrian or vehicular traffic, circulation, access, and parking impacts. Additional factors that affect compatibility are landscaping, lighting, noise, odor, and architecture. *Compatibility* does not necessarily mean *the same as*; rather, *compatibility* refers to the ability of a development proposal to complement the character of existing development.
- *Comprehensive Plan* means the Plan that was most recently adopted by the Planning Commission and Town Council in accordance with Section 31-23-206, C.R.S. to guide the future growth, protection, and development of the Town, affording adequate facilities for housing, transportation, comfort, convenience, public health, safety, and general welfare of its population.
- *Condominium or condo* means a single dwelling unit in a multiple-unit structure, which is separately owned, and which may be combined with an undivided interest in the common areas and facilities of the property.
- *Conservation easement* means a nonpossessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic, or open space values of real property, assuring its availability for agricultural, forest, recreational or open space use and protecting natural resources or maintaining air or water quality.
- *Convenience center* means a shopping and service center located in a complex that is Planned, developed, and managed as a single unit and located within and intended to primarily serve the consumer demands of adjacent employment areas and residences.

- *Convenience retail store* means a retail store containing less than 5,000 square feet of gross floor area that sells everyday goods and services, which, without limitation, may include ready-to-eat food products, groceries, over-the-counter drugs, and sundries.
- *Covenants* means a private written agreement between property owners outlining regulations specific to a development.
- *Critical plant communities* means vegetation essential to the conservation of threatened or endangered species that may require special management considerations or protection.
- *Crosswalk* means a pathway marked off for pedestrians to cross a street.
- *Cul-de-sac* means a local street having only one outlet and the other end for the reversal of traffic movement.
- *Cultural assets* means buildings, locations and other features considered by the Town as historically, culturally, or socially significant to the community.
- *Deck* means a roofless outdoor space built as an aboveground platform projecting from the wall of a building and connected by structural supports at grade or by the building structure.
- *Dedication* means any grant by a property owner of a right to use land for the public, involving a transfer of property rights and acceptance of the dedicated property by the appropriate public agency.
- *Density* means the overall average number of dwelling units located on the gross or net residential acreage (as applicable) contained within a development and calculated on a per-acre basis. Gross density is calculated by dividing the total number of units by the total acreage. Net density is calculated by dividing the total number of units by the difference between the total acreage, less all publicly dedicated land.
- *Detention basin* means a human-made or natural water collection facility designed to collect surface and subsurface water in order to control its flow and release the same gradually at a rate not greater than that prior to the development of property into natural or human-made outlets.
- *Developer* means any person, partnership, joint venture, limited liability company, association or corporation who participates as owner, promoter, developer or sales agent in the planning, platting, development, promotion, sale, or lease of a development.
- *Development* means the carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land or the dividing of land into two or more parcels. When appropriate in context, *development* shall also mean the act of developing or the result of development. Development shall include any of the following activities.
 - (1) Any construction, placement, reconstruction, alteration of the size or material change in the external appearance of a structure on land.

- (2) Any change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on a tract of land or a material increase in the intensity and impacts of the development.
- (3) Any change in use of land or a building.
- (4) Any alteration of a shore or bank of a river, stream, lake, pond, reservoir, or wetland.
- (5) The commencement of drilling oil or gas wells, mining, stockpiling of fill materials, filling, or excavation on a parcel of land.
- (6) The demolition of a building.
- (7) The clearing of land as an adjunct of construction.
- (8) The deposit of refuse, solid or liquid waste or fill on a parcel of land.
- (9) The installation of landscaping within the public right-of-way, when installed in connection with the development of adjacent property.
- (10) The construction of a roadway through or adjoining an area that qualifies for protection as a wildlife or natural area.

Development shall not include the following.

- (1) Work by a highway or road agency or railroad company for the maintenance or improvement of a road or railroad track if the work is carried out on land within the boundaries of the right-of-way.
 - (2) Work by any public utility for the purpose of inspecting, repairing, renewing or constructing on established rights-of-way any mains, pipes, cables, utility tunnels, power lines, towers, poles or the like, provided that this exemption shall not include work by a public entity in constructing or enlarging mass transit or fixed guideway mass transit depots or terminals or any similar traffic-generating activity.
 - (3) The maintenance, renewal, improvement, or alteration of any building if the work affects only the interior or the color of the structure or the decoration of the exterior of the structure.
 - (4) The use of any land for an agricultural activity.
 - (5) A change in the ownership or form of ownership of any parcel or building.
 - (6) The creation or termination of rights of access, easements, and covenants concerning development of land or other rights in land.
- *Development plan* means the written and graphical documents that detail the provisions for development. A site-specific development is a type of development plan. The provisions of a development Plan may include easements, covenants and restrictions relating to use; location and bulk of buildings and other structures; intensity of use or density of development; utilities,

private and public streets, ways, roads, pedestrian areas and parking facilities and common open space and other public facilities.

- *Duplex unit* (See *Dwelling, single-family attached*).
- *Dwelling* means a building or portion thereof used for residential occupancy, including but not limited to single-family dwellings, two-family dwellings, and multi-family dwellings.
 - *Dwelling, multi-family* means a building or portion thereof designed to contain three or more dwelling units. Each unit typically does not have direct access to the outside, and each unit is attached to another unit at one or more party walls and at either the floor or the ceiling. Multi-family does not include single-family attached units such as Townhomes and/or duplexes, nor does it include hotels, motels, and similar group accommodations.
 - *Dwelling, single-family* means a building designed to exclusively contain one dwelling unit for occupancy by one family but not including mobile homes, otherwise provided for herein.
 - *Dwelling, single-family attached* means a building containing dwelling units, each of which has primary ground floor access to the outside and which are attached to each other by party walls without openings. The term is intended primarily for such dwellings as Townhomes, duplexes, and zero-lot-line homes.
 - *Dwelling, single-family detached* means a single-family dwelling that is not attached to any other dwelling or building by any means, excluding mobile homes, otherwise provided for herein.
 - *Dwelling, two-family* means a building designed for and occupied by two families living independently of each other.
- *Dwelling unit* means one or more rooms, a single kitchen and at least one bathroom designed, occupied, or intended for occupancy as separate quarters for the exclusive use of a single family for living, cooking and sanitary purposes, located in a single-family, two-family, or multi-family dwelling or mixed-use building.
- *Easement* means a right to land commonly established by means of a real estate deed or agreement or on a recorded plat to permit the use of land by the public, a corporation or particular persons for specified uses.
- *Eave* means the overhanging lower edge of a roof.
- *Elevation* means the external vertical Plane of a building. Building elevations are considered to be different if they have different roof lines, building materials, details, color, and overall stylistic expression.
- *Entertainment facility* and *theater* means a building or part of a building devoted to showing motion pictures or dramatic, musical, or live performances.

- *Environmentally sensitive areas* means aquifer recharge areas, significant wildlife habitat and migration corridors, unique vegetation and critical Plant communities and ridgelines.
- *Family* means one or more persons living together on the premises of a dwelling unit. The total number of persons living together shall not exceed the maximum number permitted by the current building and fire codes adopted by the Town of Severance, by any applicable state or federal law or regulation, or by any affordable housing guidelines applicable to the dwelling unit.
- *Family child care home* means a facility for child care a facility for child care operated with or without compensation or educational purposes in a place of residence of a family or person for the purpose of providing less than 24-hour care for children under the age of 18 years who are not related to the head of such home. *Family child care home* may include infant-toddler child care homes, large child care homes, experienced provider child care homes and such other types of family child care homes designated by rules of the State Department of Social Services pursuant to Section 26.5-5-314(2)(n), C.R.S, and as amended.
- *Farm animals* means animals commonly raised or kept in an agricultural rather than urban environment, including but not limited to pigs, sheep, goats, horses, cattle, llamas, alpacas, emus, ostriches, donkeys, and mules. Also referred to as *livestock*.
- *Feedlot* means a tract of land or structure, pen, or corral, wherein farm animals, including but not limited to cattle, horses, sheep, goats, emus, ostriches, or swine, are maintained in close quarters for the purpose of fattening such farm animals for final shipment to market.
- *Floodplain or flood hazard area* means any area designated by the Federal Emergency Management Administration (FEMA) as a Special Flood Hazard Area with a one percent or more annual chance of flooding, or any area designated by the Colorado Water Conservation Board as susceptible to inundation by water from any source.
- *Flood-prone* means areas subject to flooding that have not been designated by the Colorado Water Conservancy Board or FEMA.
- *Floodway* means the channel of a river or other watercourse and the adjacent land areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
- *Floor area*, also called *gross floor area*, means the total square footage of the building measured along the outside walls of the building and including each floor level but not including exterior open balconies, garages or other enclosed automobile parking areas and basement storage areas and not including one-half of all storage and display areas for durable goods.
- *Floor Area Ratio (FAR)* means the amount of gross floor area of all principal buildings on a lot or block, as the case may be, divided by the total area of such lot, or the block size, respectively, on which such buildings are located. For mixed-use blocks, the residential square footage shall be added to the commercial development for a total block FAR.

- *Footcandles* means one lumen per square foot of site area. Primary measurement of illumination in the Town of Severance.
- *Footprint*, also called *ground level footprint*, means the outline of the total area that is covered by a building's perimeter at ground level.
- *Freestanding sign* means a sign that is supported by a structure or braces extended from the ground or that is erected on the ground. These include monument signs but do not include signs attached to building structures.
- *Fully Shielded Fixture* means a fixture with a solid barrier (cap) at the top of the fixture in which the lamp (bulb) is located. The fixture is angled so the lamp is not visible below the barrier (i.e., no light visible below the horizontal angle).
- *Functional open space* means open space that is large enough to serve a practical purpose, such as recreation, wildlife habitat or preservation of areas of agricultural, archaeological, or historical significance and shall exclude areas used for off-street parking, off-street loading, service driveways and setbacks from oil and gas wells or their appurtenances or other hazards to the public.
- *Gable* means the triangular portion of a wall enclosing the end of a pitched roof from the cornice or eaves to the ridge.
- *Garage, split* means a building with at least two separate garages that are oriented in different directions.
- *Garage, tandem* means a garage that allows for the parking of one car in front of another.
- *Gasoline station* means any building, land area, premises, or portion thereof, where gasoline or other petroleum products or fuels are sold and light maintenance activities, such as engine tune-ups, lubrication, minor repairs, and carburetor cleaning, may be conducted. *Gasoline station* shall not include premises where heavy automobile maintenance activities, such as engine overhaul, automobile painting and body fender work, are conducted.
- *Grade* means the following two situations.
 - (1) The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and a property line or, when the property line is more than five feet from the building, the lowest point of such finished surface elevation within the area between a building and a line five feet from the building.
 - (2) The degree of rise or descent of a sloping surface.
- *Grade, natural* means the elevation of the ground surface in its natural state before human-made alterations.
- *Grocery store* means a retail establishment primarily selling food as well as other convenience and household goods, which occupies a space of at least 5,000 square feet but not more than

25,000 square feet. A large grocery store, greater than 25,000 square feet, is synonymous with a *supermarket*.

- *Gross Square Footage (GSF)* means the total floor area designed for occupancy and use, including basements, mezzanines, stairways, and upper floors, if any, expressed in square feet and measured from the centerline of joint partitions and from outside wall faces.
- *Group home* means a residence operated as a single dwelling, which is licensed by or operated by a government agency for the purpose of providing special care or rehabilitation due to age, physical condition or illness, mental condition or illness, social, behavioral or disciplinary problems, or homelessness provided that authorized supervisory personnel are present on the premises.
- *Historic site* means a structure or place of historical significance. Such structure or place may be designated a historic site by local, state or federal government and given official status and protection.
- *Home-based business* means any occupation, profession, activity, or use conducted within a residential dwelling unit that is clearly incidental and secondary to the use of a residential dwelling unit, which does not change the exterior of the property or affect the residential character of the area, and which meets the provisions of this thereof.
- *Illumination, direct* means lighting by means of an unshielded light source, including but not limited to neon tubing, which is effectively visible as a part of a sign where light travels directly from the source to the viewer's eye.
- *Illumination, indirect* means lighting by means of a light source directed at a reflecting surface in a way that illuminates a sign from the front or a light source that is primarily designed to illuminate an entire building facade upon which a sign is displayed. *Indirect illumination* does not include lighting that is primarily used for purposes other than sign illumination; e.g., parking lot lights or lights inside a building that may silhouette a window sign but are primarily installed to serve as inside illumination.
- *Illumination, internal* means lighting by means of a light source that is within a sign having a translucent background, silhouetting opaque letters or designs or that is within letters or designs that are themselves made of a translucent material.
- *Indoor recreation facility* means a place where recreation activities occur completely within an enclosed structure, including but not limited to bowling alleys, skating rinks, pool halls and video and pinball parlors.
- *Industrial, heavy* means uses engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, a use engaged in storage of or manufacturing processes using flammable or explosive materials or storage or manufacturing processes that potentially involve hazardous conditions. *Heavy industrial* also means those uses engaged in the operation, parking and maintenance of vehicles, cleaning of equipment or work processes involving solvents, solid waste or sanitary waste transfer stations, recycling

establishments and transport terminals (truck terminals, public works yard and container storage).

- *Industrial, light* means uses engaged in the manufacturing, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, or distribution of such products. Further, *light industrial* means uses such as the manufacture of electronic instruments, preparation of food products, pharmaceutical manufacturing, research and scientific laboratories or the like. *Light industrial* shall not include uses such as mining and extracting industries, petrochemical industries, rubber refining, primary metal, or related industries.
- *Infrastructure* means improvements such as streets, water systems, wastewater and solid waste disposal systems, storm drainage systems, electric, gas or other utilities, bridges, roadways, trail systems and sidewalks, bus stops and so forth, which serve the common needs of the population and provide the basic framework for urban daily life.
- *Junkyard* means an industrial use contained within a building, structure or parcel of land or portion thereof that is used for collecting, storing, or selling wastepaper, rags, scrap metal or discarded material or for collecting, dismantling, storing, salvaging, or demolishing vehicles, machinery or other material and including the sale of such material or parts thereof.
- *Kennel* means a facility that is licensed to house dogs, cats, or other household pets and/or where grooming, breeding, Boarding, training, or selling of animals is conducted as a business.
- *Landscaping* means any combination of living plants, such as trees, shrubs, plants, vegetative ground cover or turf grasses, and may include structural features such as walkways, fences, benches, works of art, reflective pools, fountains, or the like. *Landscaping* shall also include irrigation systems, mulches, topsoil use, soil preparation, revegetation or the preservation, protection, and replacement of existing trees.
- *Large retail establishment* means a retail establishment or any combination of retail establishments in a single building that occupies more than 25,000 gross square feet of floor area, except that no supermarket shall be deemed to be a large retail establishment.
- *Laundry and dry-cleaning retail outlet* means a laundry or dry-cleaning business that consists primarily of serving retail customers, provided that any laundry and dry-cleaning processing that occurs on the premises is limited to items that are brought directly to the premises by the retail customer.
- *Light Trespass* means light that illuminates surfaces or that is visible beyond the property line of any lot.
- *Livestock* (See *Farm animals*).
- *Lodging establishment* means a building or guest room(s) within a building intended and used for occupancy as a temporary abode for individuals who are lodged with or without meals.

- *Lot* means a designated parcel, tract or area of land established by plat or subdivision or otherwise permitted by law, occupied, or intended to be occupied by such uses and structures permitted under these rules and regulations together with required open spaces, and which has direct access onto a public or private street.
- *Lot area* means the total horizontal area within the boundary lines of a lot.
- *Lot depth* means the average distance between the front lot line and the rear lot line.
- *Lot, double frontage* means a lot that fronts on one public street and backs onto another public street.
- *Lot, flag* means a lot shaped and designed so that the main building site area is set back from the street on which it fronts and includes an access strip connecting the main building site with the frontage street.
- *Lot line, front* means the property line dividing a lot from a street. On a corner lot, only one line (the line with the shortest street frontage) shall be considered as a front line, and the line with the longer street frontage shall be considered a side lot line.
- *Lot line, rear* means the property line opposite the front lot line.
- *Lot line, side* means any property line other than the front lot line or rear lot line.
- *Lot, reverse corner* means a corner lot, the side lot line of which is substantially a continuation of the front lot line to the rear lot line.
- *Lot size* means the total horizontal area within the property lines of a lot; this is synonymous with *lot area*.
- *Lot width* means the distance parallel to the front lot line, measured at the front building setback line. *Lot width on a curving front lot line* means the distance parallel to the tangent of the front lot line at the building setback line. The lot width and the lot frontage may have different lengths on an irregularly shaped lot as they are measured at different points on the lot.
- *Lumen* means the unit of light measurement. Used in the Town of Severance for lighting that does not illuminate a surface (i.e., light that is projected upwards towards the sky).
- *Manufactured home* means a single-family dwelling that meets the following.
 - (1) It is partially or entirely manufactured in a factory.
 - (2) It is at least 24 feet wide and 36 feet long.
 - (3) It is permanently affixed to and installed on an engineered, permanent foundation.
 - (4) It has a pitched or cosmetically equivalent roof and brick, wood, wood composite, vinyl, metal, or stucco exterior siding.

- (5) It complies with Housing and Urban Development (HUD) standards or standards of the adopted building Code, as applicable, or meets or exceeds equivalent requirements and performance engineering standards.
- *Manufacturing* means a business that makes products by hand or by machinery.
- *Maximum service capacity* means the maximum number of patrons that may visit a restaurant or similar establishment at any given time, as set by the fire department or other public safety entities.
- *Maximum Uniformity Ratio* means the ratio of maximum-to-minimum illumination levels. This is calculated by dividing the maximum light level by the minimum light level.
- *Mixed use* means the development of a lot, tract or parcel of land or building with two or more different uses, including but not limited to residential, office, retail or public uses, personal service or entertainment uses that is designed, planned, and constructed as a unit.
- *Mixed-use building* means a building designed, planned, and constructed as a unit, used partially for residential use and partially for commercial uses, including but not limited to office, retail or public uses, personal service, or entertainment uses.
- *Mixed-use dwelling unit* means the dwelling unit in a mixed-use building. For purposes of calculating residential density, each mixed-use dwelling unit shall count as one-half dwelling unit.
- *Mobile home* means a single-family dwelling unit partially or entirely manufactured in a factory, built on a permanent chassis, and designed to be transported on streets to the place where it is to be occupied as a dwelling unit. A mobile home shall conform to the following design and installation standards.
 - (1) It is not less than 12 feet wide and 36 feet long.
 - (2) It is partially or entirely manufactured in a factory.
 - (3) It is designed for longer-term residential use.
 - (4) It meets or exceeds, on an equivalent performance engineering basis, standards established by the Town's adopted building Code.
 - (5) It is certified pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended.
- *Modified grid pattern* means a grid pattern of streets and blocks adapted to the topography, unique natural features, environmental constraints, and peripheral open space areas.
- *Motor vehicle service and repair* (See *Automotive repair*).
- *Natural area* means an area of land that may include one or more floodplains and floodways, natural drainage and waterways, significant native trees and vegetation, wildlife travel corridors, special habitat features such as raptor nest sites, key nesting, breeding or feeding areas for birds,

fox and coyote dens, prairie dog colonies over 25 acres in size, remnant native prairie habitat, plains cottonwood galleries and any wetland greater than one-quarter acre in size.

- *Neighborhood commercial center* means an area containing businesses that are intended to provide goods and services to the immediate neighborhood (within a walkable radius of approximately one-half mile).
- *Nightclub* means a bar or tavern containing more than 100 square feet of dance floor area.
- *Nonconforming building* means a building, structure, or portion thereof that does not conform to the regulations of this Chapter but was lawfully constructed under the regulations in force prior to adoption of this Chapter.
- *Nonconforming use* means a use that does not conform to the use regulations of this Chapter.
- *Off-street parking area* means all off-street areas and spaces designed, used, required or intended to be used for the parking, storage, maintenance, service, repair, display or operation of motor vehicles, including driveways or access ways in and to such areas but not including any outdoor storage area used principally as a recreational vehicle, boat or truck storage use, storage areas for landscaping and other bulk items or public streets and rights-of-way.
- *Oil and gas operation* means any structure, facility or activity that is constructed on or disturbs land in association with oil or gas drilling, production or waste treatment and disposal, including but not limited to wells, tanks or tank batteries, pits, access roads for ingress and egress and pipelines.
- *Open space* means any land or water area with its surface open to the sky that serves specific uses of providing park and recreation opportunities, conserving natural areas and environmental resources, structuring urban development form, and protecting areas of agricultural, archaeological, or historical significance. *Open space* shall not be considered synonymous with vacant or unused land but serves important urban functions. Usable open space shall exclude areas used for off-street parking, off-street loading, service driveways and setbacks from oil and gas wells and their appurtenances or other hazards to the public.
- *Outdoor storage* means the keeping, in an unroofed area, of any equipment, goods, junk, material, merchandise or vehicles in the same place for more than 24 hours. Containers and semi-trailers may not be used for residential uses or storage uses except on construction sites.
- *Outlot* means a measured piece of land contained within subdivided land that is not a building lot. An *outlot* may be conveyed to the public for open space or other public purposes, be retained by the developer for later subdivision or be conveyed to an owners' association.
- *Owners' association* means the association set up to enforce the covenants and maintain all common areas and buildings for a development. In the case of a residential development, such association may also be known as a *homeowners' association*.
- *Parcel* means a tract, lot, or plot of land.

- *Park* means a tract of land designated and used by the general public or membership (if privately owned) for active and passive recreation and education.
- *Parking lot* means an off-street parking area or vehicular use area.
- *Passive open space* means an open space area development primarily for leisure, relaxation, or the preservation of nature. These areas may include landscaped garden beds, wildlife habitats, native planting areas, or similar spaces within the community.
- *Patio home* means an attached or detached single-family dwelling unit that typically maxes out at one or one and one-half stories. Units tend to be much smaller in their overall footprint, lot size, and typically include narrower setbacks which result in lower maintenance costs.
- *Pedestrian accessway* means a facility used for on-foot travel by patrons, including without limitation, sidewalks, crosswalks, pathways, whether or not located in the right-of-way.
- *Pedestrian scale*, also known as *human scale*, means the proportional relationship between the dimensions of a building or building element, street, outdoor space or streetscape element and the average dimensions of the human body, considering the perceptions, and walking speed of a typical pedestrian.
- *Phase* means a portion of property that is being platted and engineered for development at the same time.
- *Plat* means a map of certain described land giving form, detail and substance to a development plan or site plan and prepared in accordance with the requirements of this Code and Section 38-51-106, C.R.S., as an instrument for recording of real estate interests with the County Clerk and Recorder.
- *Playground zone area* means a designated safety area surrounding each item of playground equipment that must be kept free and clear of other structures, decorations, or similar devices.
- *Porch* means a roofed or otherwise covered projection from a main wall of a dwelling entrance and open on three sides, except for wire screening. A porch shall not be considered open if enclosed by glazing.
- *Prime farmland* means land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber and oilseed crops and other agricultural crops with minimum inputs of fuel, fertilizer, pesticides, and labor and without intolerable soil erosion, as determined by the Secretary of Agriculture. *Prime farmland* includes land that possesses the above characteristics but is currently being used to produce livestock and timber. It does not include land already in or committed to urban development or water storage.
- *Private property rights* means the rights of a property owner within the Town to use his or her property within the legal parameters set forth in this Code and subject to applicable local, state, and federal regulations.

- *Professional office* means an office for professionals such as physicians, dentists, lawyers, architects, engineers, artists, musicians, designers, teachers, accountants, and others who through training are qualified to perform services of a professional nature and where no storage or sale of merchandise exists, except as accessory to the professional services.
- *Proof of ownership* means ownership as specified in a current title insurance commitment, policy or certification of title issued by a title insurance company licensed to do business in the State.
- *Property* means all real property subject to development regulation by the Town.
- *Public areas* means streets, parks, open spaces and other property designated or described for public use on a map or plat of the Town for which fee title is vested in the Town, another public body or a special district as defined in Section 32-1-103, C.R.S.
- *Public hearing* means a meeting called by a public body for which public notice has been given and which is held in a place where the general public may attend to hear issues and express their opinions.
- *Public improvement* means any irrigation or drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, landscaped open space, off-street parking area, lot improvement or other facility that is intended for primary benefit to the public.
- *Public open space* means open space area conveyed or otherwise dedicated to the Town, county, state or other public body for recreational or conservation uses. Public open spaces are to be unencumbered by oil and gas operations, their appurtenances, or other hazards to the public.
- *Recreation facility, indoor* means a recreational land use that is conducted entirely within a building, with or without seating for spectators, and that provides accommodations for a variety of individual, organized or franchised events, including but not limited to arcade, arena, art gallery, art studio, art center, auditorium, athletic center, bowling alley, community center, exhibit hall, game center, gymnasium, library, museum, performance theater, skating rink, swimming pool, tennis court and support facilities.
- *Recreation facility, outdoor* means a recreational land use conducted in open or partially enclosed or screened facilities, including but not limited to athletic fields, driving ranges, miniature golf, swimming pools, racquet courts, basketball courts, skate parks, bike parks, motorized model airplane facilities and motorized cart tracks.
- *Recycling facility* means a building or site used for the collection and/or processing of recyclable material. *Processing* means the preparation of material for efficient shipment by such means as baling, compacting, flattening, grinding, crushing, mechanical sorting or cleaning. Such a facility, if entirely enclosed within a building, shall be considered a warehouse.

- *Resource extraction, processes and sales* means removal or recovery by any means whatsoever of sand, gravel, soil, rock, minerals, mineral substances, or organic substances other than vegetation, from water or land on or beneath the surface thereof, exposed or submerged.
- *Restaurant, drive-through* means an establishment in which the principal business is the sale of food and beverages to the customer in a ready-to-consume state and in which the design or principal method of operation of all or any portion of the business is to allow food or beverages to be served directly to the customer in a motor vehicle through a window.
- *Restaurant, fast-food* means an establishment in which the principal business is the sale of food and beverages to the customer in a ready-to-consume state intended to be fast and convenient and may include a drive-through.
- *Restaurant, standard* means an establishment in which the principal business is the sale of food and beverages to customers in a ready-to-consume state, generally for consumption on the premises.
- *Re-subdivide* means the changing of any existing lot or lots, street rights-of-way or easements of a subdivision plat previously recorded with the County Clerk and Recorder.
- *Retention basin* means a pond, pool or basin used for permanent storage of water runoff.
- *Ridgeline* means a line connecting the highest points along a ridge and separating drainage basins or small-scale drainage systems from one another.
- *Right-of-way* means a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main or for another special use. The usage of the term *right-of-way* for land-platting purposes shall mean that every right-of-way established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains or any other use involving maintenance by a public agency shall be dedicated to public use on the plat on which such right-of-way is established.
- *Roadway* means that portion of the street between the regularly established curb lines.
- *Sanitary facilities* means amenities such as toilets, urinals, lavatories, showers, utility sinks and drinking fountains and the service buildings containing these units.
- *Sanitary waste station* means a facility used for removing and disposing of waste from self-contained camping vehicle sewage-holding tanks.
- *Septic system* means individual sewage disposal systems as defined by the Weld County Department of Public Health and Environment.
- *Service building* means a structure housing toilet, lavatory, bath, laundry, service sink and other such sanitary facilities as may be required.

- *Setback* means the required unoccupied open space between the nearest projection of a building or specific part thereof and the nearest property line of the lot on which the structure is located.
 - *Setback, front yard* means the distance a building or structure must be placed from the front lot line.
 - *Setback, rear yard* means the distance a building or structure, excluding an open deck, must be placed from the rear lot line.
 - *Setback, side yard* means the distance a building or structure must be placed from the side lot line.
- *Shared parking* means parking that is utilized by two or more businesses in the immediate vicinity.
- *Shopping center* means a group of retail and service establishments located in a complex that is Planned, developed, owned, or managed as a unit with off-street parking provided on the property.
- *Short-term rental* means the rental offered for less than 30 consecutive days of any property or portion of a property that is available for lodging, whether a whole house, a private room or space in a house, or shared accommodations; except that the term excludes a hotel or motel unit.
- *Sight distance triangle* means the area at the four corners of an intersection that is to be kept free of shrubs, groundcover, berms, fences, structures or other materials or items greater than 36 inches in height. Trees shall not be planted in the triangular area. The size of the sight distance triangles is determined as follows.
 - (1) At the intersection of any two streets or where a street intersects with an alley, a triangle measuring 30 feet along each curb or edge of roadway from its point of intersection, the third side being a diagonal line connecting the first two.
 - (2) At the intersection of a driveway or private access and a street, a triangle measuring 15 feet in length along the edge of the driveway and along the curb or edge of roadway from its point of intersection, the third side being a diagonal line connecting the first two.
- *Sign, window* means a sign that is painted on, applied to, or attached to a window or that can be read through the window from the public right-of-way.
- *Significant wildlife habitat and migration corridors* means areas designated by the Colorado Division of Wildlife and/or the Colorado Natural Diversity Information Source as areas of landscape that provide food, cover and water sufficient to meet the needs of a given species to survive and reproduce.
- *Site plan* means a scale drawing that shows proposed uses and structures for a parcel of land. Included are the actual measurements of lot lines, lot area, streets, private roadways, the size

and location of any existing or proposed buildings, the location of the lot in relation to abutting streets and other details, such as parking areas and spaces, access points, landscaped area, setbacks from lot lines, building heights, floor areas, densities, utility locations and easements. A site plan is a more detailed representation of a proposed development than is shown on a plat and may also include statistical data as required.

- *Site-specific development plan* means the final plat of a subdivision or final development plan when approved by the Town Council pursuant to Article 2 of this Code.
- *Small animal boarding* (See *Kennels*).
- *Small lot detached development* means a division or redivision of land to create single-family detached dwelling units in appropriately zoned property. Each unit is located on its own fee-simple lot, typically surrounded by common open space which is often managed by an association or similar entity.
- *Street furniture* means constructed objects, such as outdoor seating, kiosks, bus shelters, sculpture, tree grids, trash receptacles, fountains, and telephone booths, which have the potential for enlivening and giving variety to streets, sidewalks, plazas, and other outdoor spaces open to and used by the public.
- *Streetscape* means the distinguishing character of a particular street within the public right-of-way, including paved materials, and the adjacent space extending along both sides of a street, including landscaping, sidewalks, medians, lighting, street furniture and signage.
- *Subdivision* means the division or re-division of land into one or more lots, tracts, or other parcels of land, or other division or re-division for the purpose, whether immediate or future, of transfer of ownership or sale of ownership of real estate or property. The term “subdivision” shall not apply to any division of land which creates parcels of land each of which comprises thirty-five or more acres of land and none of which is intended for use by multiple owners or any other exemption granted in Section 30-28-101(10)(b), C.R.S.
- *Subsidence* means a local mass movement that involves the downward settling or sinking of the solid earth surface, commonly known as a sinkhole. Subsidence may be due to natural geologic processes or human activity such as mineral extraction.
- *Supermarket* means a retail establishment primarily selling food as well as other convenience and household goods, which occupies a space greater than 25,000 square feet.
- *Temporary use* means a prospective use intended for limited duration to be located in a zoning district that does not permit such use. Such use may not exceed 180 days unless renewal, limited to one time, is granted by the Town Council and the use does not involve the construction of any permanent structure. Temporary uses are regulated in this Code. A *temporary use* shall not include continuing a nonconforming use or building.
- *Title commitment* means a formal documentation from a title company, listing the name of the owner of the property, the legal description of the property and any items of public record

affecting title to such property, including easements, secured interests, liens or other items, appurtenances, and encumbrances.

- *Town Council* means the governing Board of the Town.
- *Townhome unit* means a single-family attached dwelling of three or more units but not more than six dwelling units per structure. Each unit has direct access to the outside, and the units are attached to each other by party walls. No unit is located over another unit.
- *Tree lawn (tree way)* means a strip of landscaping within the right-of-way, generally between the roadway and adjacent sidewalk.
- *Trip* means a single or one-way vehicle movement to or from a property or study area. Trips can be added together to calculate the total number of vehicles expected to enter and leave a specific land use or site over a designated period of time.
- *Unshielded Lighting* means lighting that does not have a barrier preventing horizontal or vertical light trespass. Such lighting shall only be used in the Town of Severance for security purposes or as otherwise specified in code.
- *Vehicle major repair, servicing and maintenance* means any building, land area, premises, or portion thereof where heavy maintenance activities, such as engine overhauls, automobile or truck painting, body or fender work, welding, or the like, are conducted. Such use shall not include the sale of fuel, gasoline, or petroleum products.
- *Vehicle minor repair, servicing and maintenance* means the use of any building, land area, premises, or portion thereof where light maintenance activities, such as engine tune-ups, lubrication, carburetor cleaning, brake repair, car washing, detailing, polishing or the like, are conducted.
- *Vested property right* means the right to undertake and complete the development and use of property under the terms and conditions of a site-specific development plan, pursuant to and in accordance with Article 1 of this Code and other applicable laws, ordinances, or regulations.
- *Walkway* means a right-of-way dedicated to public use that is not within a street right-of-way, to facilitate pedestrian access through a subdivision block by means of a hard surface path or any portion of a parking lot area restricted to the exclusive use of pedestrian travel.
- *Warehouse and distribution* means a use engaged in storage, wholesale, and distribution of manufactured products, supplies or equipment, including accessory offices or showrooms or incidental retail sales but excluding bulk storage of materials that are inflammable or explosive or that create hazardous or commonly recognized offensive conditions.
- *Warehousing* means a business storing or stocking merchandise or commodities.
- *Wireless communication equipment* means equipment used to provide wireless telecommunication service that is not affixed to or contained within a wireless communication facility but is instead affixed to or mounted on an existing building or structure that is used for

some other purpose. *Wireless communication equipment* also includes a ground-mounted base station used as an accessory structure that is connected to an antenna mounted on or affixed to an existing building.

- *Wireless communication facility* means any freestanding facility, building, pole, tower, or structure used to provide only wireless communication services and that consists of, without limitation, antennae, equipment and storage and other accessory structures used to provide wireless communication services.
- *Wireless communication services* means services providing for the transmission of wireless communications utilizing frequencies authorized by the Federal Communications Commission for paging systems, enhanced specialized wireless communication, personal communication services or cellular telephones.
- *Workshop and custom small industry* means a facility wherein goods are produced or repaired by hand using hand tools or small-scale equipment, including small engine repair, furniture making and restoring, upholstering, restoration of antiques and other art objects or other similar uses.
- *Yard* means that portion of the open area on a lot extending open and unobstructed from the ground upward from a lot line for a depth or width specified by the regulations for the zoning district in which the lot is located.
- *Yard, front* means a yard extending across the full width of the lot between a front lot line and the nearest line or point of a building.
- *Yard, rear* means a yard extending across the full width of a lot between the rear lot line and the nearest line or point of a building, not including an open deck.
- *Yard, side* means a yard extending from the front yard to the rear yard between the side lot line and the nearest line or point of the building.
- *Zero lot line Townhouse development* means the division of land to create single-family attached dwelling units, as defined in this Code, with common (or “party”) walls. Each unit is located on a lot in such a manner that one or more of the dwelling’s sides rests on a lot line. Each unit has its own entrance opening to the outdoors (to the street, alley, or private tract) and, typically, each house is a complete entity with its own utility connections. Although most Townhouses have no side yards, they have front and rear yards. The land on which the Townhouse is built, and any yard, is owned in fee simple.
- *Zoning district* means a designation of zoning category by the Town as set forth in this Code.
- *Zoning map* means the official map adopted by the Town, as amended from time to time, depicting the location of zoning districts throughout the area of property within the Town's municipal boundaries.

Article 2 – Application Procedures and Review Criteria

Division 1 – General Application Review Procedures

Section 16.2.110. Land use review procedures.

Applications and land use procedures shall be processed in accordance with the following Table 16.2.110 and review processes outlined in this Article 2.

(a) *Table of review procedures interpretation.* The following list of terms are abbreviated, as listed here, within Table 16.2.110.

- Planning Commission is abbreviated as PC
- Town Council is abbreviated as TC
- Board of Adjustments is abbreviated as BOA
- When a meeting or action is required, an X is used in the cell
- When a meeting or action is required at the direction of the Town, an O is used in the cell
- For attributes or requirements that are not applicable, the abbreviation n/a is used
- When a public hearing is required, an H is used in the cell
- Reviewing and recommending authority is denoted with a R
- Decision making authority is denoted with a D
- Having the ability to appeal a decision is denoted with an A

Table 16.2.110. Land Use Review Procedures

Procedures	An Owner can Apply	Town Council can Apply	Neighborhood Meeting Required	Pre- Application Required	Staff Review Authority	Planning Commission Review Authority	Town Council Review Authority	Board of Adjustment Review Authority	Final Plans to be Recorded	Mailed Notices Required	Posted Notices Required	Publicized Notices Required
Concept Review	X	X	n/a	X	R	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Annexation	X	X	X	X	R	H / R	H / D	n/a	X	X	X	X
Land Development Code (Text) Amendment	n/a	X	n/a	n/a	R	H / R	H / D	n/a	n/a	n/a	n/a	X
Comprehensive Plan Amendment	X	X	O	X	R	H / R	D	n/a	n/a	O (see Table 16-2-140)	O (see Table 16-2-140)	X
Major Subdivision Preliminary Plat	X	n/a	X	X	R	H / R	H / D	n/a	n/a	X	X	n/a
Major Subdivision Final Plat	X	n/a	O	O	R	n/a	D	n/a	X	X	X	n/a
Minor Subdivision Plat	X	X	n/a	O	D	n/a	n/a	A	X	n/a	n/a	n/a
Minor Plat Amendments	X	X	n/a	O	D	n/a	n/a	A	X	n/a	n/a	n/a
Initial Zoning and Rezoning	X	X	X	X	R	H / R	H / D	n/a	X	X	X	X
Site Plan	X	n/a	O	X	R	R	D	n/a	n/a	O	O	n/a
Use by Special Review	X	n/a	X	X	R	H / R	H / D	n/a	O	X	X	X
Variance	X	n/a	n/a	X	R	n/a	n/a	H / D	O	X	X	X
Administrative Adjustments	X	n/a	n/a	X	D	n/a	n/a	A	With the formal plan	n/a	n/a	n/a
Appeals	X	X	n/a	n/a	n/a	n/a	n/a	H / D	n/a	n/a	n/a	X
ROW Dedication	X	X	n/a	O	R	n/a	D	n/a	X	O	n/a	n/a
Easement Dedication	X	X	n/a	O	R	n/a	D	n/a	X	O	n/a	n/a
ROW Vacation	X	X	n/a	O	R	n/a	D	n/a	X	X	n/a	X (Ordinance)
Easement Vacation	X	X	n/a	O	R	n/a	D	n/a	X	X	n/a	X (Ordinance)

Section 16.2.120. General criteria for applications.

(a) Eligible Applicants.

Unless otherwise specified in this Code, applications for review and approval may be initiated by the following list of entities. When an authorized agent files an application under this Code on behalf of a property owner, the agent shall provide the Town with written documentation that the owner of the property has authorized the filing of the application. When a review or decision-making body initiates action pursuant to this Code, it does so without influencing the approval or denial of the application.

- (1) The owner of the property that is the subject of the application; or
- (2) The owner's authorized agent; or
- (3) The Town Council acting on its' own initiative or through recommendations brought to it by staff or the Planning Commission; or
- (4) Other entities that have rights provided by law.

(b) Application Forms.

Applications required under this Code shall be submitted to the Town in a form and format specified by the Town Manager and/or their designee. The Town is authorized to establish submittal requirements and procedures to ensure all applications can be evaluated for conformance with this Code.

- (1) *Modification.* The Town Manager and/or their designee may waive or modify certain requirements for specific information at the time of application due to the routine nature of the application or due to the context of the application making the information inapplicable for review against the standards and criteria of this Code.
- (2) *Supplement.* The Town Manager and/or their designee may require further submittals or information, provided the request is required to evaluate compliance with this Code and/or adopted plans and policies.

(c) Development Review Fees.

- (1) Fees shall be paid in accordance with the adopted and published Town fee schedule. The fee schedule may be revised and adopted annually by resolution of the Town Council and is available for review at the Town.
- (2) Applicants shall submit fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters. Development review deposit fees will be charged to applicants for processing, reviewing, and administering applications such as but not limited to building permits, subdivision plats, rezoning requests, site plans, annexations, sign permits, variances, and all other administrative functions. In addition to the standard fees, the applicant and the owner of the property that is the subject of the application shall be required to pay any actual costs and fees incurred by the Town

for review of the application by consultants and staff, including but not limited to engineering, surveying, legal and planning. Such fees shall include the hourly cost for any contracted professionals engaged by the Town for review of the application.

- a. The Town may require a deposit from applicants to offset the Town's costs for review prior to consideration of any application submittal pursuant to this Code.
- b. The Town shall not continue the processing of any application for which the applicant or the property owner has refused to deposit the funds to cover the Town's cost of review.

(d) Concurrent Applications.

When a project requires approvals under more than one type of application, the Town Manager and/or their designee may determine that each application may be submitted and reviewed concurrently based on the similarity of information needed and interrelationship between the applications.

- (1) Subdivision Plat and Site Plan applications may be processed concurrently with annexation and initial zoning applications; however, such applications shall only be given final approval after annexation and initial zoning of the subject property are effective.
- (2) Site plans shall only be given final approval after a final plat approval is granted.

(e) Withdrawal of an Application.

- (1) The applicant may request to withdraw their application. Such request shall be in writing, either digital or print. Annexation applications with an approved resolution initiating annexation proceedings may only be withdrawn subject to approval by the Town Council.
- (2) After withdrawal, the Town will take no further action on the application.
- (3) The applicant may resubmit an application which shall be treated as a new application for purposes of review, scheduling, and payment of the application fees.
- (4) A request for withdrawal of an application from a noticed agenda is subject to the discretion of the decision-making body.

(f) Inactive Application.

If the applicant fails to submit requested application materials within 180 days of the request, the application shall become void, and the re-submittal of a new application and fees shall be required. The Town Manager and/or their designee may grant no more than two extensions of time to this provision, of no more than six months each, upon a written request by the applicant.

(g) Lapse of Approvals.

Approvals of land use applications shall be null and void and shall automatically lapse if not completed or recorded within the approval time frames established by the procedures of this Code. A lapse of approval is different from vesting as established in statute and specified in Division 2 of Article 1 of this Code. If applicable, the lapse of approval time frames established by the procedures of this Code may be extended only when all the following conditions exist.

- (1) The provisions of this Code must expressly allow the extension;
- (2) An extension request must be filed prior to the applicable lapse-of-approval deadline;
- (3) The extension request must be in writing and include justification; and
- (4) Unless otherwise noted, authority to grant extensions of time shall rest with the decision-making body that granted the original approval.

Section 16.2.130. Application steps.

This section is intended to outline typical development review steps administered by the Town for both administrative review and public hearing review applications, as identified in Table 16.2.110 of this Code. This information is not intended to reflect review timeframes or unique aspects of every application, including but not limited to the number of reviews required, situations beyond the Town's control, or individual approval requirements.

(a) Public hearing decision.

The typical workflow for processing an application with public hearings is as follows.

- (1) Pre-application conference required unless waived by the Town Manager and/or their designee.
- (2) Concept review by the Town as requested by the Town or applicant.
- (3) Formal application submittal and completeness review by the Town.
- (4) Development application review by the Town.
- (5) Neighborhood meetings are managed by the applicant, required unless waived by the Town Manager and/or their designee.
- (6) Application is revised and resubmitted by the applicant and reviewed by the Town.
- (7) Planning Commission action or recommendation.
- (8) Town Council action.
- (9) Recording of approved document(s), if applicable.

(b) Administrative decision.

The typical workflow for processing an administrative application is as follows.

- (1) Pre-application conference required unless waived by the Town Manager and/or their designee.
- (2) Concept review by the Town as requested by the Town or applicant.
- (3) Formal application submittal and completeness review by the Town.
- (4) Development application review by the Town.
- (5) Neighborhood meetings are managed by the applicant, required unless waived by the Town Manager and/or their designee.
- (6) Application is revised and resubmitted by the applicant and reviewed by the Town.
- (7) Town Manager and/or their designee action.
- (8) Recording of approved document(s), if applicable.

(c) Step 1: Pre-Application Conference.

This step provides an informal evaluation of the applicant's proposal and provides an opportunity to familiarize the applicant and the Town with the applicable provisions of this Code, the Town's Comprehensive Plan, and other documents as may be appropriate including the Town's corridor plans, infrastructure requirements, and any other items that may affect the applicant's proposal. This step is required for most application types and may be waived by the Town Manager and/or their designee depending on the unique characteristics of the development proposal. When required, the applicant shall submit the information required in accordance with the application and submittal requirements maintained by the Town.

- (1) The applicant shall submit a request on a form or in a manner approved by the Town. Staff will coordinate a meeting with the applicant once all requested items have been submitted for the discussion.
- (2) The meeting is an informal discussion of the preliminary development proposal with Town staff. The applicant shall submit the required information to facilitate discussion on the following topics.
 - a. How the proposal meets the goals of the Comprehensive Plan and/or other adopted plans or policies related to the application.
 - b. The proposed use(s), general site layout, conceptual or anticipated design of the structure(s), and how the project relates to surrounding sites and public spaces.
 - c. How the project will contribute to the area and further the intent of the existing or proposed zoning district.
 - d. How the project addresses the applicable review criteria for the proposed development application type.
 - e. Impacts to infrastructure planning including timing, phasing, or the need for technical studies or outside agency coordination and review.

- f. Necessary public improvements as part of the proposal, including but not limited to public and private utilities, sidewalks and/or trails, road improvements, parks, landscaping, or other improvements warranted by the proposed development.
 - g. Opportunities to improve designs, layout, and overall function to meet Town goals and policies.
- (3) The informal evaluation provided at the conference is not binding upon the applicant or the Town but is intended to serve as a guide to the applicant in making the development application and advising the applicant in advance of the development application of items that may be presented to the appropriate decision-making body.
- (4) After a pre-application conference has been held, a formal application must be submitted within six months. If an application is not filed within such a timeframe, a new pre-application conference shall be required prior to filing a formal application, unless waived by the Town Manager and/or their designee.

(d) Step 2: Concept Review.

For a fee, at the request of the Town or an applicant, any applicant may opt to have a more thorough technical review of a proposed land use concept beyond the pre-application conference review. The informal evaluation provided through a concept review is not binding upon the applicant or the Town but is intended to identify major problems which must be resolved, to assess the overall feasibility of the proposal, or to provide additional guidance to the applicant in preparing the development application of issues that may be presented to the appropriate decision-making body. The applicant will be responsible for reimbursing the Town for consultant fees incurred by the Town for such review. Reimbursement must be made as a condition of further review or acceptance of an application (see Step 3).

(e) Steps 3 and 4: Application Submittal and Review.

Upon receipt of a development application and payment of the required fee, the Town will take the following steps:

- (1) *Completeness Review.* The Town shall determine if an application is complete. An application shall be considered complete if it is submitted in the required form, includes all submittal information specified by the Town Manager and/or their designee, and is accompanied by the applicable application fee(s).
 - a. If an application is deemed complete, it shall be processed for formal review.
 - b. If an application is determined to be incomplete, the Town shall notify the applicant of the deficiencies. No further processing or review of the application will occur until the deficiencies are corrected as requested and the application is re-submitted.

- (2) *Additional information.* Town staff may require additional application-specific information as necessary and appropriate to evaluate fully whether an application complies with the requirements of this Code.
- (3) *Referral review.* After determining that a development application is complete, staff shall distribute the submittal to designated referral agencies for the opportunity to review and comment on an application. Referral agencies include but are not limited to adjacent or other local governments, state agencies, public and private utility providers, ditch companies, school districts, and other special districts such as the fire district. Referral agencies shall provide comments to the Town within 30 calendar days of receiving a referral packet, unless otherwise specified by the Town in the referral announcement. The applicant is encouraged to meet with referral agencies prior to the end of the referral period. The applicant is required to pay fees assessed by referral agencies.
- (4) *Staff Review and Comments.* The Town shall coordinate a staff review and may provide the applicant with the following information in writing.
 - a. Comments or recommended change(s) based on the review of referral agencies, staff, and comments from neighborhood meeting(s).
 - b. Supplemental information required to support the application and address comments or the recommended changes.
- (5) *Resolution of issues.* Staff shall compile and review all referral comments and provide a copy of all comments to the applicant. The applicant shall resolve outstanding issues to the maximum extent reasonably practicable. The applicant shall provide the Town with written responses addressing all referral and staff comments. At the discretion of the Town Manager and/or their designee, referral comments requiring significant changes to a development application, plan, or proposal may require re-referral to referral agencies.

(f) Step 5: Neighborhood Meeting.

The purpose of a neighborhood meeting is to provide a less formal opportunity to inform surrounding neighborhood residents and landowners of the details of a proposed development application, how the applicant intends to meet the standards contained in this Code, and to receive public comment and encourage dialogue at an early stage in the review process. Attendance at the meeting by Town Staff is not required.

- (1) A neighborhood meeting may be required as follows.
 - a. In accordance with Table 16.2.110. Land Use Review Procedures of this Code; or
 - b. During the review of the application, the Town Manager and/or their designee may require an additional neighborhood meeting in situations such as the following.

1. The characteristics of the project are complex and present the potential for significant changes and unanticipated impacts on nearby or adjacent property; or
 2. The proposal is likely to raise questions or concerns from adjacent property owners, beyond the typical allowances under the zoning district and/or the adopted plans or policies.
- (2) Neighborhood meeting procedure.
 - a. Timing. In most instances, the Neighborhood Meeting should occur after the applicant has received the first round of referral responses as outlined in this Code, unless otherwise directed by the Town Manager and/or their designee.
 - b. Responsibility. The applicant shall be responsible for scheduling the meeting, coordinating the meeting, and for retaining an independent facilitator if needed.
 - c. Notice. The applicant shall send mailed notice of the neighborhood meeting to property owners. The applicant shall submit an affidavit to the Town affirming that the notice requirement has been met.
 - d. Summary. The applicant shall prepare a written summary of the neighborhood meeting, including a list of attendees, meeting notes, and a list of comments from the public. The written summary shall be provided to Town staff prior to the next steps in the review process and shall be included in the case record.
- (3) No Determination. No official determination or decision regarding the application will be made at the neighborhood meeting.

(g) Step 6: Applicant Resubmits Revised Plans and Supporting Documents.

Following the initial review by the Town and referral agencies and completion of a neighborhood meeting, as applicable, the applicant is responsible for resubmitting revised plans and supporting documents that address comments received from the Town and referral agencies.

- (1) If the applicant chooses not to address specific comment(s) or recommended change(s), a written explanation shall be included with the resubmittal that demonstrates a good faith effort to address the item or justify why the comment was not addressed.
- (2) Failure to address a comment or recommended change without explanation may be grounds for rejection of the revised application resubmittal.
- (3) Steps 3, 4, and 6 repeat until the application is deemed ready for the next step in the process by the Town Manager and/or their designee.
- (4) The applicant has 180 days to resubmit their proposal for review or risk their application expiring. If an application is not resubmitted within such a timeframe, the project is expired and a new application and associated fee(s) shall be required, unless waived by the Town Manager and/or their designee.

(h) Step 7 (Administrative): Town Manager or Designee Action.

For administrative applications, after consideration of the development application and staff and referral comments (as applicable), the Town Manager and/or their designee shall approve, approve with conditions, or deny the application based on its compliance with the applicable application type review criteria, adopted plans and policies, and the recommendation of professional staff.

(i) Step 7 (Public Hearing): Planning Commission Recommendation or Action.

For public hearing applications, the Planning Commission may serve in one of the following two capacities.

- (1) As a recommending body that reviews the application against the criteria of this Code, adopted plans and policies, and the recommendation of professional staff, and provides a recommendation to the Town Council for approval, approval with conditions, or denial of the application.
- (2) As a deciding body that reviews the application against the criteria of this Code, adopted plans and policies, and the recommendation of professional staff, and makes a final decision to either approve, approve with conditions, or deny an application.

(j) Step 8 (public hearing): Town Council Action.

For public hearing applications, the Town Council serves as the decision body for certain application types, as specified in Table 16.2.110. Following review of the proposal against the criteria of this Code, adopted plans and policies, and the recommendation of the Planning Commission (as applicable) and professional staff, the Town Council may approve, approve with conditions, or deny the application, or refer the application back to the Planning Commission for further review.

Section 16.2.140. Public hearing and notification requirements.

(a) Public Hearing(s).

Public hearing(s), if required under this Code, shall be conducted according to the following procedures.

- (1) A hearing shall be scheduled within a reasonable time as allowed by the schedules of the Town officials and staff. The Town Manager and/or their designee is responsible for the scheduling of all public hearings.
- (2) The hearing shall be open to the public and any person may appear at a public hearing and submit evidence, either individually or as a representative of a person or an organization. Each person who appears at a public hearing shall provide their name, address and, if appearing on behalf of a person or organization, the name and mailing

address of the person or organization being represented. The decision-making body conducting the public hearing may exclude testimony or evidence that it finds to be irrelevant, immaterial, or unduly repetitious.

- (3) Continuation of Public Hearing. The body conducting the public hearing may, on its own motion or at the request of any person, continue the public hearing to a fixed date, time, and place. All continuances shall be granted at the discretion of the body conducting the public hearing.
- (4) Record. An audio recording shall be made of all hearings, and transcripts of such hearings may be requested within 30 calendar days of the close of the hearing. Transcripts will be provided within a reasonable time after deposit of the cost of the preparation of the transcript with the Town.
- (5) Modification of an application at the hearing.
 - a. In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Town Council, Planning Commission, or Board of Adjustment (BOA), the applicant may agree to modify their application, including the plans and specifications submitted.
 - b. Unless such modifications are so substantial or extensive as to materially change the plans, the hearing body may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed-upon changes are submitted to the Town for review and approval as an administrative act.

(b) Notice Requirements.

Notice shall be provided for each application as indicated in Table 16.2.110 and detailed below in Table 16.2.140. The applicant shall be responsible for all costs of such notices.

- (1) *Annexations.* Annexation notifications shall be completed in accordance with the Municipal Annexation Act, Sections 31-12-101 et seq., C.R.S., as may be amended.
- (2) *Mailed Notice.* Where mailed notice is required under this Code, the following requirements shall be met.
 - a. Content. The mailed notice shall include a description of the proposal, the date, time, and location of the meeting or hearing, and information regarding public comments.
 - b. Mailing List. Where required by statute or this Code, the mailed notice shall be sent to the following groups.
 1. All record landowners within a set distance of the outer boundary of the property associated with the application no later than 15 calendar days before the hearing (unless otherwise specified by state statute or the Town Manager and/or their designee).

2. To other interested property owners, such as mineral interest owners of record, mineral and oil and gas lessees for the property, and appropriate ditch companies no later than 15 calendar days before the hearing (unless otherwise specified by state statute or the Town Manager and/or their designee).
 3. To other parties of interest or referral agencies as determined by the Town Manager and/or their designee no later than 15 calendar days before the hearing (unless otherwise specified by state statute).
 - c. Affidavit of Compliance. The applicant shall submit a notarized affidavit affirming compliance with the mailed notice requirements to the Town prior to the meeting or public hearing to which the notice relates. Failure to provide the affidavit for a public hearing shall result in continuation of the public hearing.
 - d. Surface Development Notification. Notices shall be mailed to the mineral estate owners of record no later than required by state statute, see C.R.S. § 24-65.5-103.
- (3) *Posted.* If notice by posting of the property is required by statute or this Code, such notice shall occur by prominently posting signs on the property that is the subject of the proposed action. Such signs shall be posted no less than 15 calendar days prior to the hearing (unless otherwise specified by state statute) and shall be easily legible from the nearest public streets. The sign shall be in the format available from the Town.
 - a. Affidavit of Compliance. An affidavit affirming that the property was posted within the specified time, and a photograph of the posting on the property, shall be provided as required by the Town.
 - b. When an applicant has made all reasonable and good faith efforts to maintain posted notice, failure of the posted notice will not be grounds to invalidate the application.
- (4) *Published.* The Town Clerk shall give notice of any public hearing required as follows.
 - a. Unless otherwise specified in this Code or as required by state statute or other applicable law, notice shall be given to potentially interested persons not less than 15 calendar days prior to the hearing by either publishing a notice one time in the newspaper of general circulation in the Town, or on the Town's official website or other publicly accessible website designated by the Town for the publication of legal notices, which shall be accessible through a direct link from the homepage, conspicuously placed.
 - b. The notice shall state the date, time, and place of the hearing, identify the lot, parcel, or property that is the subject of the application or appeal, and give a brief description of the action requested or proposed. Proof of publication shall be made part of the record at the time of the public hearing.

Table 16.2.140. Notification Timeframes and Requirements

The following list of terms are abbreviated, as listed here, within Table 16.2.140.

- Planning Commission is abbreviated as PC
- Town Council is abbreviated as TC
- Board of Adjustments is abbreviated as BOA
- For requirements that are not applicable or required, the abbreviation n/a is used
- When a public hearing is required, an (H) is used in the cell

Application Type	Meeting Type	Mailed Notice	Posted Sign	Publication
Annexation	PC (H) TC to set date TC (H) annexation	Owners within 1,000 feet and 15 calendar days prior to the PC hearing	15 calendar days prior to PC hearing	Once a week for four consecutive weeks in the newspaper of general circulation and 30 days prior to the statutory hearing, per Sec. 31-12-108(2), C.R.S.
Land Development Code (Text) Amendment	PC (H) TC (H)	n/a	n/a	15 calendar days prior to the hearing
Comprehensive Plan Amendment	PC (H) TC	Each governing body of territory affected, and 15 calendar days prior to the hearing	Periodic update is n/a. Specific amendment is 15 calendar days prior to the hearing.	15 calendar days prior to the hearing
Major Subdivision Preliminary Plat	PC (H) TC (H) PC hearing per Sec. 31-23-215, C.R.S.	Owners within 1,000 feet; 15 calendar days prior to PC hearing	15 calendar days prior to the PC hearing	n/a
Major Subdivision Final Plat	TC	Owners within 1,000 feet and 15 calendar days prior to the meeting	15 calendar days prior to the meeting	n/a
Initial Zoning and Rezoning	PC (H) TC (H)	Owners within 1,000 feet and 15 calendar days prior to the hearing	15 calendar days prior to the hearing	15 calendar days prior to the hearing
Use by Special Review	PC (H) TC (H)	Owners within 500 feet (or up to 1,000 feet per Town Manager and/or their designee), and 15 calendar days prior to the hearing	15 calendar days prior to the hearing	15 calendar days prior to the hearing
Variance	BOA (H)	Owners within 300 feet (or up to 1,000 feet per Manager and/or their designee), and 15 calendar days prior to the hearing	15 calendar days prior to the hearing	15 calendar days prior to the hearing
Appeals	BOA (H)	n/a	n/a	15 calendar days prior to the hearing
ROW Vacation	TC	Owners of property abutting the right-of-way	n/a	15 calendar days prior to the hearing
Easement Vacation	TC	Owners of property abutting the easement	n/a	15 calendar days prior to the hearing
ROW Dedication	TC	n/a	n/a	n/a
Easement Dedication	TC	n/a	n/a	n/a

Division 2 – Review Process for All Application Types

Section 16.2.200. Comprehensive plan amendments.

(a) *Purpose.*

An amendment to the Town's official comprehensive plan may include any of the following.

(1) *Specific amendment.*

- a. *Comprehensive plan text amendment.* An amendment to the text of the plan.
- b. *Comprehensive plan land use amendment.* An amendment to the plan's land use designation for specific properties or transportation system as referenced in the plan. A land use amendment may be necessary in conjunction with rezoning requests and occasionally with annexation requests. A comprehensive plan amendment may be processed concurrently with a related development application at the direction of the Town Manager and/or their designee.

(2) *Periodic update to comprehensive plan.* An amendment to make periodic updates to the comprehensive plan's land use designations, plan framework, plan policies, growth management area, or other major updates to the comprehensive plan, or the adoption of a new or restated comprehensive plan.

(b) *Submittal Requirements.*

- (1) Requests for a specific amendment may only be presented by the owner of the real property that is the subject of the requested amendment or the owner's designated representative, Town staff, the Planning Commission, or the Town Council. Requests for periodic updates may be submitted by Town staff, the Planning Commission, or the Town Council.
- (2) The owner of real property that is the subject of a specific amendment, or the owner's designated representative, shall submit an application and fee.
- (3) Proposed text amendment, if applicable.
- (4) Proposed land use amendment, including proposed map amendment, if applicable.
- (5) Narrative justifying the request for the comprehensive plan amendment and addressing the review criteria in this section.

(c) *Review Criteria.*

When considering a specific amendment or periodic update to the comprehensive plan, the Town requires an applicant to evaluate and provide justification for the following minimum criteria. Additional criteria based on the unique characteristics of a request may be required by the Town.

- (1) The proposed amendment is consistent with the vision, intent, and applicable policies of the comprehensive plan and other adopted plans, policies, and guidelines.
- (2) The proposed amendment serves a public purpose and will not be substantially detrimental to the surrounding lands.
- (3) The proposed amendment considers the nature and degree of impacts on neighboring lands and takes mitigation measures based on industry best practices and protection of public health, safety, and welfare.
- (4) The proposed amendment considers the nature and degree of impacts on the Town's existing and planned infrastructure and addresses mitigation measures that address public health, safety, and welfare of the Town and its inhabitants.
- (5) The proposed amendment is necessary to address substantially changed conditions since adoption.
- (6) The proposed amendment furthers an important policy adopted by the Town.

(d) *Review Procedures.*

In addition to the general procedures found in this Code, the following requirements apply to requests for specific amendments or periodic updates to the comprehensive plan:

- (1) Following review by staff and referral agencies, and any necessary resubmittal(s), the Town shall schedule a review of the amendment request by the Planning Commission during a public hearing.
- (2) The Town shall provide written notice of the Planning Commission public hearing at which the proposed amendment to comprehensive plan is to be considered and a copy of the proposed amendment to Weld County and to any county or municipality that is located within three miles of any boundary of the Town, in accordance with C.R.S. § 24-32-3209(2)(a), as amended. Such neighboring jurisdictions may review the proposed amendment and submit comments to the Town prior to the hearing on such amendment by the Planning Commission.
- (3) The Planning Commission shall hold a public hearing and adopt a resolution by the affirmative vote of a majority of the entire membership of the Planning Commission recommending that the Town Council approve, approve with conditions, or disapprove the proposed amendment.
- (4) After receiving the recommendation of the Planning Commission, the Town Council shall approve, approve with conditions, or disapprove the proposed amendment by resolution.

(e) *Effect of Decision.*

Upon approval of the comprehensive plan amendment by the Town Council, the Town shall cause an appropriate revision of the official comprehensive plan document and associated maps to be prepared. If the applicant initiated the request, the applicant shall pay the Town's cost for the preparation of the revision to the comprehensive plan and associated maps. The Town shall make a copy of the updated comprehensive plan, along with any maps and descriptive text, available at Town Hall during regular business hours. The Town Manager and/or their designee shall arrange for the filing of the same with the Division of Local Governments in the Colorado Department of Local Affairs.

Section 16.2.205. Land development code (text) amendments.

(a) *Purpose.*

The Town Council, Planning Commission, or Town staff may initiate amendments to the text of these regulations. Whenever the zoning district map is in any way to be changed or amended incidental to or as part of a general revision of the zoning code, whether such revision is made by repeal of the existing zoning code and enactment of a new zoning code or otherwise, the requirement of an accurate survey map or other sufficient legal description thereof, and the notice to and listing of names and addresses of owners of real property in the area of the proposed change, shall be waived. However, the proposed zoning map shall be available for public inspection at the Town during regular business hours for 15 days prior to the public hearing on such amendments.

(b) *Review Criteria.*

A text amendment shall be reviewed according to the following criteria.

- (1) The amendment furthers the purposes of the Code.
- (2) The amendment improves the efficiency and effectiveness of administering the Code.
- (3) The amendment is consistent with the Comprehensive Plan and other adopted plans and/or policies.
- (4) The amendment incorporates innovations in land use and development practices that were not envisioned at the time the Code was written.
- (5) The amendment promotes the public health, safety, and welfare of the Town's residents.

(c) *Review Procedures.*

In addition to the general procedures found in this Code, the following requirements are specific to text amendment requests.

- (1) Requests may run concurrently with a related Comprehensive Plan or other adopted plan amendment if the amendment or plan has met the legal and policy requirements for approvals independently of the proposed code amendment.

- (2) Amendments require the recommendation of the Planning Commission to the Town Council.
- (3) The Town Council may refer the request back to the Planning Commission for further review or request additional information prior to acting on the request.

(d) *Effect of Decision.*

Amendments to the text of this Code shall be approved by the Town Council as an ordinance and be effective after the date specified in the ordinance. The Town shall incorporate the approved amendments into this Code.

(e) *Annual Review.*

Town staff may provide a summary report of any formal issues, concerns, or suggested updates regarding this Code to the Planning Commission for review and consideration on an annual basis or as needed. The Planning Commission may direct action, additional research, or investigation into elements of this Code that may need modification. The intent of the annual review is to provide an opportunity to keep the Code current and ensure its viability and responsiveness over time.

Section 16.2.210. Annexation.

(a) *Purpose.*

Annexation is a discretionary, legislative act. Accordingly, the Town shall never be compelled to annex, unless otherwise required by state law, even if all annexation requirements have been satisfied. The purpose of this Section is to establish a procedure to bring land under the jurisdiction of the Town in compliance with the Municipal Annexation Act of 1965, Sections 31-12-101 et seq., C.R.S. (hereafter referred to as "Act"), as amended. This Article, in part, provides supplemental requirements for annexation pursuant to the Act and is not to be construed as altering, modifying, eliminating, or replacing any requirement set forth in that Act or any requirements set forth in other portions of this Code. In the event of a conflict between the Act, the provisions of this Section, or any requirements set forth in other portions of this Code, it is the expressed intent of the Town Council that the more stringent provision shall control.

(b) *Submittal requirements.*

An annexation application is necessary for the Town to evaluate the impact to the Town of annexing the property identified in the application and negotiating an annexation agreement. The applicant shall submit a letter of intent, application form, annexation plat, related fees, and supporting documents that may include plans, reports, and studies provided by the applicant consistent with the application checklist requirements available through the Town and as discussed during the pre-application conference. An incomplete submission shall not be processed, nor shall it be referred to the Town Council for a determination of substantial compliance. The annexation application shall include the following minimum requirements.

- (1) A complete land use application form and checklist with appropriate fees paid.
- (2) The written letter of intent shall serve as a cover letter to the formal petition, introducing the applicant to the Town Council, requesting annexation of the petitioner's property and describing the development plans for the property if it is annexed.
- (3) The applicant shall submit a petition for annexation that complies with the requirements of Section 31-12-107, C.R.S. The Town will provide the applicant with the standard form of this petition.
- (4) The annexation plat drawing shall comply with the technical drawing requirements of the Town. The plat shall be accompanied by a metes and bounds legal description of the property.
- (5) The applicant shall submit proof of ownership in the form of a current ownership and encumbrances report issued by a title insurance company licensed by the State, whose effective date shall be less than 30 days prior to the date of submittal of the annexation petition. Ownership must match the ownership listed in the petition. If the legal description of the area to be annexed as shown on the annexation map does not match the legal description of the property owned because of road rights-of-way or other reasons, then the title policy must certify that the property owned is wholly contained within the described area on the annexation map. If the applicant is not the owner, there shall be provided a notarized affidavit by the owner stating that the applicant is authorized by the owner to make application for annexation.
- (6) The applicant shall provide a copy of the prior year's property tax statement and paid receipt for all property to be annexed.
- (7) If zoning is requested simultaneously with annexation, the petitioner must submit a completed zoning application form, including a zoning map, for the property. If zoning is approved, the applicant must amend the official zoning map and pay all application, mapping, and recording fees. If zoning is not requested simultaneously with annexation, the property is required by statute to be brought under compliance with this Code and the zoning map within 90 days of the completion of the annexation process.
- (8) The application is to be accompanied by a narrative report assessing the effect of the proposed annexation upon the community and existing services and facilities. It shall detail the need for any expansion of those services and facilities to accommodate the development proposed for the property being annexed. The narratives shall be one or more paragraphs in length and shall be adequate to fully explain the needs, concepts, and proposed solutions for each of the following themes.
 - a. The economic impact to the community.
 - b. The impact on schools, including an estimate of the number of students to be generated by development of the property.

- c. The anticipated sources of water, sanitary sewer, and other utilities to be used to serve the property and the impact on the water and sanitary sewer systems anticipated to serve the property.
- d. The impact on the existing transportation system.
- e. The compatibility of the proposed development with the Comprehensive Plan and any plan amendments that may be necessary for the proposed development.
- f. A review of existing and adjacent land uses, areas of compatibility or conflict and possible mitigation measures that may be required for the proposed development.

(c) Review Criteria.

The Town shall evaluate annexations according to the following criteria.

- (1) The annexation complies with the Municipal Annexation Act of 1965, as amended (Sections 31-12-101 et seq., C.R.S.).
- (2) The proposed annexation complies with the Comprehensive Plan goals and objectives, other adopted plans and policies, and any other relevant information in determining whether it is in the best interests of the Town to grant or deny the petition for annexation.
- (3) The proposed annexation promotes geographical balance of the Town's land use pattern.
- (4) Adequate facilities and services are or will become available to support the current or future development within the annexation area. Certain public facilities and amenities are necessary and must be constructed as part of any territory annexed to the Town for the public needs to be served by such facilities (including but not limited to streets, bridges, public parks and recreation areas, water and sanitary sewer facilities, school sites, fire and police station sites and storm drainage facilities).
- (5) The annexation shall be shown not to create any additional cost or burden on the then-existing residents of the Town.
- (6) The applicant has demonstrated that the proposed annexation follows all pertinent intergovernmental agreements to which the Town is a party.
- (7) The applicant acknowledges and agrees that it is the applicant's responsibility to apply for exclusion from any applicable special districts.
- (8) The proposed annexation is needed to accommodate future land use requirements.
- (9) Unless otherwise agreed to, the landowner has waived in writing any preexisting vested property rights as a condition of annexation.

(d) *Review Procedures.*

In addition to the specific notice and review procedures required by state statutes at the time of annexation, and in accordance with the general procedures section of this Code, the following specific procedures apply to annexations.

- (1) Pre-application. Annexation pre-application conference with Town staff to determine the feasibility of the annexation request. The applicant may opt for a concept review for a more in-depth review of proposed plans.
- (2) Petition. A petition for annexation shall be submitted to Town staff, along with the annexation application items required by this Section and documentation of the supporting the eligibility of the property to be annexed according to the requirements set forth in the Article 31, The annexation petition shall be signed by more than 50 percent of the landowners in the area and owning more than 50 percent of the land area of the proposed annexation.
- (3) Eligibility hearing. Upon staff's determination that the petition and supporting documentation are complete and in compliance with C.R.S. and this Code, staff shall refer the petition to Town Council. The Town Council shall take the appropriate steps to determine if the petition is in substantial compliance with C.R.S.
 - a. If the petition is found to be in substantial compliance with C.R.S. and this Code, the Town Council may set the annexation and zoning for public hearing on a specified date, time, and place, not less than 30 days nor more than 60 days from the effective date of the resolution.
 - b. If the petition is found not to comply with C.R.S. and this Code, no further action shall be taken except that the determination shall be made by resolution of the Town Council.
- (4) Notice. The published and posted notice of the public hearings shall be provided as required by Sections 31-12-101 and 31-12-108 et seq., C.R.S., as amended.
 - a. Notice of the public hearing for annexation set by the resolution of substantial compliance shall be published and given to the county and to any special district or school district having territory within the area to be annexed in accordance with State law.
 - b. A copy of the published notice, together with the letter of intent provided with the application and the annexation maps, shall be sent by the Town by U.S. mail to the owners of real property, irrigation ditch companies whose rights-of-way traverse the property to be annexed and to the mineral estate owners and their lessees of the property to be annexed, as outlined in Section 16.2.140 of this Code. Notice provided by the Town to the owners of the mineral estate and their lessees shall not relieve the petitioners of the responsibility to provide notice as required by Sections 24-65.5-101 et seq., C.R.S. In the case of a "flagpole"

annexation, the Town shall also provide notice to abutting property owners as specified in Section 31-12-105, C.R.S.

- c. *Notice to mineral estate owners and lessees.* Upon notice of complete application by Town Staff, the petitioner shall be responsible for providing notice of each public hearing (Planning Commission and/or Town Council) to the owners of the mineral estate on the property to be annexed and to their lessees, as required by Sections 24-65.5-101 et seq., C.R.S. The petitioner shall certify to the Town the petitioner's conformance with this notice requirement, not less than 15 days prior to the date of the public hearings.
- (5) An annexation impact report conforming to Section 31-12-108, C.R.S., is required for areas of 10 or more acres.
- (6) The annexation assessment report is necessary for the Town to evaluate the feasibility and impacts of the proposed annexation on the Town's infrastructure, including but not limited to the ability to serve with streets, water, sanitary sewer, storm sewer, parks and recreation, schools, police, and fire protection; compliance with the Comprehensive Plan; sources of revenue from the property; the Town's costs to serve the proposed development and other related matters.
- (7) Planning Commission review and recommendation.
 - a. The Planning Commission shall hold a public hearing to review the annexation application at a regular or special meeting prior to the date of the public hearing before the Town Council. The Planning Commission will make a recommendation to the Town Council by motion regarding the overall annexation of the property to the Town. The Planning Commission motion may be to recommend approval, approval with conditions, or denial of the annexation request.
 - b. At this same hearing, the Planning Commission may review the requested zoning of the property. Notice of the Planning Commission review of zoning shall be given in accordance with the requirements for an initial zoning and rezoning request. The Planning Commission shall recommend to the Town Council approval with or without conditions or recommend denial of the requested zoning.
- (8) Town Council public hearing and action on the annexation.
 - a. The Town Council shall hold the public hearing on the petition for annexation (and zoning, if requested in conjunction with the annexation). The petitioners shall present evidence in support of the petition and zoning, if applicable. Town staff shall present the elements required by statute to be present for annexation and any comments received from governmental entities affected by the annexation. Any person may appear at the hearing and present evidence on any

matter related to the annexation petition as determined by the Town Council. The Town Council may continue the hearing to another date without additional notice as provided by applicable law. At the conclusion of the public hearing, the Town Council shall adopt a resolution containing the findings of fact and conclusions, including the following.

1. Whether the requirements of Sections 31-12-104 and 31-12-105, C.R.S., and this section have been met.
 2. Whether additional terms and conditions are to be imposed.
 3. Whether an election is required, either because of a petition for election or the imposition of additional terms and conditions.
- b. If the Town Council finds that the area proposed for annexation does not comply with the requirements of Sections 31-12-104 and 31-12-105, C.R.S., the annexation proceeding will be terminated.
- c. If the Town Council finds the following, then the Town Council may annex the land by ordinance without election and approve any annexation agreement. The zoning of the property, if requested with annexation, shall be approved by separate ordinance.
1. The annexation complies with the requirements of Sections 31-12-104 and 31-12-105, C.R.S., and the provisions of section 30 of Article II of the Colorado Constitution.
 2. An election is not required under Section 31-12-107(2), C.R.S., or Section 30(1)(a) of Article II of the Colorado Constitution.
 3. No additional terms and conditions are to be imposed.

(e) Effect of Decision.

Town action on the annexation application shall not become final unless all requirements of the annexation ordinance and state statutes have been satisfied, as certified by the Town Manager and/or their designee. When all requirements have been satisfied, the ordinance, the annexation agreement, and the annexation map shall be recorded with the Weld County Clerk and Recorder.

(f) Three-Mile Plan.

The Severance Comprehensive Plan shall serve as and shall constitute the "plan in place" referenced in Section 31-12-105(1)(e), C.R.S., unless a different plan, supplement or revision is expressly adopted to serve as a plan in place. The plan in place may also be commonly referred to as the "Three-Mile Plan" and such plan shall be deemed automatically updated annually on January one of each year without further action by the Town unless a change or modification is necessary and is adopted by resolution or ordinance by the Town Council.

- (1) The absence of a specific reference in such plan to a particular parcel of land proposed for annexation shall not be interpreted as a statement of intent to not annex such parcel of land; it is the plan and intent of the Town Council to evaluate and to consider for potential annexation all property within three miles of the Town's then-existing municipal boundaries upon submission of a petition or as otherwise permitted by this Article and the Municipal Annexation Act of 1965.
- (2) The absence in the plan of a specific reference to any character or extent of streets, subways, bridges, waterways, waterfronts, parkways, playgrounds, squares, parks, aviation fields, other public ways, grounds, open spaces, public utilities and terminals for water, light, sanitation, transportation and power to be provided by the Town, and the proposed land uses for the area shall not be interpreted as a failure to comply with Section 31-12-105(1)(e), C.R.S., but shall be interpreted as a plan by the Town to determine the appropriate character or extent of land uses and services through the Town's applicable processes of annexation, planning and development approvals on a case-by-case basis.
- (3) The plan in place may also be amended or modified to identify the character or extent of land uses and services more specifically at any time or contemporaneously with any annexation.

(g) *Water resources required at annexation.*

All surface and sub-surface water rights appurtenant to or underlying the territory to be annexed shall be dedicated and conveyed to the Town as a condition to approval of the annexation. The Town Council in its sole discretion may require either: one, the annexation agreement contain terms allowing the dedication and conveyance to be delayed until approval of a final plat for a subdivision or similar final approval for a development not requiring a subdivision; or two, the severance of ownership or control of the appurtenant water rights from the annexed property shall preclude its annexation. The Town may also require as a condition of annexation the dedication and conveyance of all supplemental water resources in such amounts as necessary to support full development of the territory to be annexed.

- (1) The Town Manager and/or their designee shall administratively approve the required deed form and title assurances for the conveyance of all water rights to the Town. Such conveyance shall require, at a minimum, the warranty of title given by the grantor in a special warranty deed. The grantor shall provide Town with an opinion of title from a qualified water rights attorney that grantor has good and marketable title to the water rights. All reasonable costs incurred by the Town in reviewing the opinion shall be borne by the grantor. The annexation agreement and/or deed shall provide that, in the event it is determined after the recordation of the deed that the deed did not vest in the Town marketable title to the water rights, the development entitlements granted in reliance on the dedication shall be suspended until the title

defect is cured or alternative water rights are conveyed to and accepted by the Town in accordance with this Code.

- (2) It shall be the responsibility of the landowner, at their sole expense, to obtain a final decree to any water rights, or for approval of an augmentation plan for not-non-tributary groundwater, prior to conveyance to the Town. Under special circumstances, as determined by the Town Council in its absolute discretion, the Town may participate in such adjudications or accept un-adjudicated groundwater, provided that the cost of adjudication and yield from the subsequent adjudication are addressed in the applicable development agreement or annexation agreement.

(h) *Payments.*

The Town may require as a condition of annexation the payment of additional amounts by the petitioners or others deemed necessary, beneficial, or advantageous by the Town including but not limited to payments to offset anticipated costs or expenses of providing services to the annexed property or residents of the annexed area, to mitigate anticipated impacts to the annexed area or to surrounding lands, to upgrade infrastructure within the Town, or to defray any costs or expenses of the Town.

(i) *Annexation agreement.*

Except for Town-owned property, Town-initiated annexation of enclaves, annexations upon election, or when waived by the Town Manager and/or their designee, an annexation agreement is required for all annexation applications and before the annexation may be approved. The Town will provide the applicant with a draft agreement to review and finalize as part of the development review process. The annexation agreement in a form approved by the Town Attorney must be executed by the property owner(s) prior to scheduling the public hearings on the annexation proceedings. The annexation application is reviewed and considered by the Town Council as part of the overall annexation request.

Section 16.2.215. Initial zoning and rezoning.

(a) *Purpose.*

The procedure for establishing or changing the boundaries or area of any zone district, or for establishing or changing the zoning classification of any parcel of land within the Town, as shown on the official zoning map of the Town, shall be as provided in this Section. An official map amendment may be necessary for one of the following purposes.

- (1) Establish initial zoning with an annexation application;
- (2) Correct a manifest error in an ordinance;
- (3) Implement the Comprehensive Plan goals and policies;
- (4) Implement a change in the regulations and restrictions of an area;

- (5) To account for changed or changing conditions in a particular area or in the Town generally; and/or
- (6) To reflect or implement a change in public policies with respect to development.

(b) *Submittal Requirements.*

The submittal requirements, as established by the Town and listed on the application checklist, shall include at a minimum the following items, unless waived by Town staff.

- (1) A complete land use application form and checklist with appropriate fees paid.
- (2) A written letter of intent for the requested zoning or rezoning request. Include documentation and rationale for the zoning or rezoning request based on the review criteria of this Section.
- (3) Property documentation and proof of ownership, in a form acceptable to the Town. Proof of ownership shall be current as of 30 calendar days from the time of application submittal.
- (4) A zoning map drawing in a format as required by the Town and meeting the Town's minimum standards as may be amended, including but not limited to the following.
 - a. Full extent of the property boundaries, consistent with the associated subdivision plat boundaries and descriptions.
 - b. Existing and proposed zoning of all properties associated with the zoning or rezoning request.
 - c. Existing zoning of adjacent properties.

(c) *Review Criteria.*

No application for rezoning of property shall be approved unless the following criteria is met.

- (1) The proposed zoning bears a reasonable relationship to the general welfare of the community; and
- (2) At least one of the following additional factors exists.
 - a. The proposed zoning is consistent with or promotes the goals and/or policies of the Comprehensive Plan, and any other applicable Town adopted plans and/or policies; or
 - b. If the proposed zoning would conflict with the goals or policies of the comprehensive plan, the proposed rezoning demonstrates an improvement over the existing zoning in implementing the goals or policies of the comprehensive plan; or
 - c. The property to be rezoned was previously zoned in error; or

- d. There has been a material change in the character of the neighborhood or in the Town, such that the proposed zoning would be in the public interest and consistent with the change; or
- e. The proposed zoning serves a community need or amenity that was not considered at the time of the initial zoning of the property.

(d) Review Procedures.

In addition to the general procedures found in this Code, the following requirements are specific to rezoning applications.

- (1) The application shall include a written statement describing the proposal and addressing the following points.
 - a. Rationale for the proposed rezoning.
 - b. Present and future impacts on the existing adjacent zone districts, uses and physical character of the surrounding area.
 - c. Impact of the proposed zone on area access and traffic patterns.
 - d. Availability of utilities for any potential development.
 - e. Present and future impacts on public facilities and services, including but not limited to fire, police, water, sanitation, roadways, parks, schools, and transit.
 - f. The relationship between the proposal and the Comprehensive Plan.
 - g. Public benefits arising from the proposal.
 - h. The applicant shall provide contact information to the Town with mineral interest owners of record, mineral and oil and gas lessees for the property, and appropriate ditch companies.
- (2) The application is encouraged to be accompanied by an illustrative site plan. The illustrative site plan is intended to supply enough information about any proposed development for the Town to evaluate and for the Town Council to make a decision on the rezoning application. The information to be supplied will be determined by the Town Manager and/or their designee as part of the pre-application review but should indicate the feasibility and design characteristics of the proposal of the property.
- (3) Applications for rezoning may run concurrently with related development applications at the direction of the Town Manager and/or their designee.
- (4) Following review by staff and referral agencies, and any necessary resubmittal(s), the Town shall schedule review of the rezoning request by the Planning Commission and Town Council during a public hearing.
- (5) The Planning Commission shall hold a public hearing and make a recommendation on the rezoning application to the Town Council.

- (6) The Town Council shall hold a public hearing and make a final decision on the rezoning application by ordinance.

(e) *Effect of Decision.*

Upon approval of a rezoning request to the official zoning map by the Town Council, the Town shall cause an appropriate revision of the official zoning map to be prepared. If the applicant initiated the rezoning request, the petitioner shall pay the Town's cost for the preparation of the revision to the official zoning map. The Town shall record a copy of the official zoning map amendment and ordinance with the Weld County Clerk and Recorder.

(f) *General rezoning of the Town.*

Whenever the zoning district map is in any way to be changed or amended incidental to or as part of a general revision of the zoning code, whether such revision is made by repeal of the existing zoning code and enactment of a new zoning code or otherwise, the requirement of an accurate survey map or other sufficient legal description thereof, and the notice to and listing of names and addresses of owners of real property in the area of the proposed change, shall be waived. However, the proposed zoning map shall be available for public inspection with the Town for 15 days prior to the public hearing on such amendments.

(g) *Zoning of annexed territory.*

The procedure for the initial zoning of property annexed or to be annexed to the Town shall follow, to the extent practicable, the procedures applicable herein to rezonings. In such circumstances, the zoning procedures may be instituted at any time after a resolution of intent to annex is adopted pursuant to C.R.S. § 31-12-106, as amended, or after a petition for annexation or a petition for annexation election has been found to be valid in accordance with C.R.S. § 31-12-107, as amended.

1. The proposed zoning ordinance shall not be passed before the date when the annexation ordinance is passed.
2. Any annexed area shall be initially zoned by the Town within 90-days from the effective date of the annexation ordinance, despite any legal review that may be made challenging the annexation. During such 90-day period, or such portion thereof as is required to zone the territory, the Town shall not issue a building permit for any portion(s) of the newly annexed area.

Section 16.2.220. Minor subdivision plat.

(a) *Purpose.*

Minor subdivision plats establish or alter legal boundaries of parcels consistent with the Town's regulations and design criteria of this Code. They do not significantly alter the character of the subdivision nor adversely affect the functions of transportation, utilities, drainage, and other

services and providers. The Town Council expressly delegates and grants to the Town Manager and/or their designee the authority to review and approve through the administrative process lot line adjustments and minor subdivision plats, as defined by this Code. The authority granted and delegated hereby shall include the authority to execute and file with the office of the county clerk and recorder a subdivision plat conforming to the requirements of this Section. The authority granted and delegated hereby is subject to the following conditions and limitations.

- (1) The alteration or creation of legal boundaries for five or fewer lots, blocks, tracts, and/or outlots;
- (2) The resulting lots can be served by municipal services through existing public improvements or through the construction of public improvements;
- (3) The resulting lots meet the minimum lot size requirements of the zone district in which the lots are located;
- (4) The lot line adjustment or minor subdivision is not being utilized to circumvent the regular process of review or other provisions of the subdivision design standards, particularly as it pertains to the number of lots created by the process itself, the impacts of the development or improvements, or in conjunction with other lot line adjustment or minor subdivision applications;
- (5) The establishment of land as a condominium common interest community, as defined in the Condominium Ownership Act, or the Colorado Common Interest Ownership Act, as appropriate; and
- (6) The establishment of zero lot line Townhouse and small lot detached developments, as defined in this Code, and that do not exceed five acres in aggregate size or involves the creation and dedication of any public rights-of-way to the Town.

(b) Submittal Requirements.

The submittal requirements, as established by the Town and listed on the application checklist, shall include at a minimum the following items, unless waived by Town staff.

- (1) A complete land use application form and checklist with appropriate fees paid.
- (2) A written letter of intent for the requested minor subdivision.
- (3) Property documentation and proof of ownership, in a form acceptable to the Town. Proof of ownership shall be current as of 30 calendar days from the time of application submittal.
- (4) A minor subdivision plat meeting the requirements of this Code. The plat shall comply with the Town's minimum standards, as may be amended, including, but not limited to the following.

- a. The plat shall be prepared by or under the direct supervision of a registered land surveyor, shall be signed and stamped by said surveyor and shall meet applicable state requirements.
 - b. Except for parcels separated by public rights-of-way, public tracts or railroads, parcels not contiguous with each other shall not be included in one plat, nor shall more than one plat be made on the same sheet. Contiguous parcels owned by different parties may be included on one plat, provided that all owners join in the dedication and acknowledgment.
 - c. Lengths shall be shown to the nearest hundredth of a foot, and bearings shall be shown in degrees, minutes and seconds.
 - d. The perimeter survey description of the proposed subdivision shall include at least one tie to an existing section monument of record and a description of monuments. The survey shown shall not have an error greater than one part in 10,000.
 - e. Bearings, distances and curve data of all perimeter boundary lines shall be indicated outside the boundary line, not inside, with the lot dimensions.
 - f. Names and signatures of all owners of equitable interest in the property shall be on the plat and shall be made in black drawing ink.
- (5) Engineering reports and studies, as appropriate and as requested by the Town, which may include drainage, utility, and soils/geotechnical reports prepared by a registered professional engineer and meeting all applicable engineering standards and specifications adopted by the Town.
- (6) Supporting materials as determined by the Town.

(c) *Review Criteria.*

The Town Manager and/or their designee shall approve a lot line adjustment or minor subdivision plat if it meets the following criteria, as applicable.

- (1) The minor plat or lot line adjustment complies with all applicable use, development, and design standards set forth in this Code;
- (2) The minor plat or lot line adjustment is consistent with the terms and conditions of any previously approved development plan;
- (3) Existing or proposed utility facilities and services within the service area for the proposed subdivision are currently or will be adequate to meet the expected impact on and use of utility facilities and services by all possible uses of the proposed subdivision, and such uses will not compromise the overall operation of the applicable Town utility enterprise or other utility service provider or the quality of service to be provided to existing customers of the applicable Town utility enterprise or other utility service provider; and

- (4) The plat will not result in significant adverse impacts on adjacent properties, or such impacts will be substantially mitigated.

(d) *Review Procedures.*

In addition to the specific review procedures required in accordance with the general procedures section of this Code, the following specific procedures apply to minor subdivision applications.

- (1) The Town Manager and/or their designee shall review each application relative to the applicable approval criteria.
- (2) If the Town Manager and/or their designee determine at any point in the process that the application is no longer eligible to continue or does not meet the criteria as a minor subdivision, they may deny the application or allow the applicant to reclassify as a preliminary subdivision according to additional required information or fees.
- (3) All construction plans for subdivision-related public improvements shall be referred to the Town and appropriate referral agencies for review and approval.
- (4) After staff and referral agency review, and any necessary resubmittals to address all outstanding review comments, the Town Manager and/or their designee shall act to approve, approve with conditions, or deny the lot line adjustment application or proposed minor subdivision plat. The Town Manager and/or their designee shall make a final decision on the lot line adjustment plat or minor subdivision plat.

(e) *Effect of Decision.*

If approved, the Town shall have the signed plat recorded with the County Clerk and Recorder.

- (1) A recorded minor subdivision plat shall create a vested property right for two years as specified in the vested property rights section of this Code, unless otherwise specified in a fully executed agreement.
- (2) If no activity occurs within the two-year timeframe, the minor subdivision plat shall be deemed expired.

Section 16.2.225. Minor plat amendment.

(a) *Purpose.*

The Town Manager and/or their designee may approve and record minor amendments to approved plats without requiring a plat vacation. These amended plats will supersede the original. Approval may be granted by receiving a signed application and the amendment serving one of the following purposes.

- (1) Correct an error in a course or distance shown on the preceding plat;
- (2) Add a course or distance that was omitted on the preceding plat;
- (3) Correct an error in a real property description shown on the preceding plat;

- (4) Correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
- (5) Correct an error in courses and distances of lot lines between two adjacent lots if the following are met.
 - a. Both lot owners join in the application for amending the plat;
 - b. Neither lot is abolished;
 - c. The amendment does not attempt to remove recorded covenants or restrictions; and
 - d. The amendment does not have a material adverse effect on the property rights of the owners of the plat.
- (6) Relocate a lot line to eliminate an inadvertent encroachment of a building, structure, or other improvement on a lot line or easement; or
- (7) Relocate or remove one or more lot lines between one or more adjacent lots if all the following have been met.
 - a. The owners of all lots join in the application for amending the plat;
 - b. Lots must be combined so that no lot is created as a non-conforming lot, and no existing non-conforming lot remains; and
- (8) The amendment does not attempt to remove recorded covenants or restrictions.
- (9) Add one lot line between two adjacent lots if, at the Town Manager's and/or their designee's discretion, the lot line does not alter the character of the subdivision nor adversely affect the functions of transportation, utilities, drainage, and other services and providers.

Section 16.2.230. Major subdivision overview.

(a) Purpose.

The purpose of the major subdivision review process is to ensure compliance with the subdivision standards and requirements set forth in this Code, while encouraging quality development generally consistent with the goals, policies, and objectives found in the Town's Comprehensive Plan.

(b) Applicability.

- (1) General. The procedures of this Section, and the standards and requirements set forth in this Code, shall apply to all that are not lot line adjustments or minor subdivisions, including subdivisions or re-subdivisions created by an exercise of the power of eminent domain by an agency of the state or Town, unless specifically excluded by state statute.
- (2) Subdivision approval is a prerequisite to other approvals. Except with respect to property which is platted as a lot or part of a subdivision approved in accordance with the provisions of this Code (or prior law, if applicable), no building permit or certificate

of occupancy shall be issued for any of the following and no person shall perform any of the following.

- a. Construction of any new principal building or structure;
- b. Enlargement of any principal building used for nonresidential purposes by more than 25 percent of the existing floor area of such building; or
- c. An act which changes the use of any building.

(c) *Restriction on sale or transfer of subdivided land without an approved plat.*

Any person who transfers or sells any land located within the Town by reference to a plat that has not been approved by the Town and recorded by Weld County shall be guilty of a violation of this Code. The Town also may enjoin such transfer or sale by filing an action for an injunction.

(d) *Construction work.*

No construction work shall begin on the proposed improvements in the proposed subdivision prior to approval of the final plat; however, the subdivider may undertake certain ground excavations for grading and drainage purposes if the Town issues proper permits, at the subdivider's risk.

(e) *Public improvements.*

Subdivisions may require on-site and off-site improvements or contributions to off-site improvements to ensure the proposed development will be served by adequate water, sewer, and storm drainage facilities. Necessary improvements shall be required as a condition of approval. Applicants shall be required to pay for and construct all on-site and off-site public improvements and common facilities that are required to adequately serve the proposed development or are deemed necessary to address the impact caused by the proposed development. Payment for and construction of such on-site and off-site public improvements and common facilities shall be a condition of the approval of a final plat. Dedications, agreements, and construction standards are found in Article 4 of this Code.

(f) *Subdivision agreement.*

The public improvements and common facilities required to be paid for and constructed as part of the proposed development shall be governed by a separate agreement pursuant to Article 4 of this Code. The Mayor or other authorized Town representative shall sign any related subdivision agreement.

(g) *Improvements guarantee.*

The subdivider shall provide any required guarantee to the Town prior to the recording of the final plat unless otherwise authorized by the Town Council. Improvement guarantees shall be in

a form specified and subject to the requirements and conditions detailed within Article 4 of this Code, the Town's adopted Standards and Specifications, and the approved and executed agreement.

Section 16.2.231. Preliminary plat.

(a) Purpose.

The preliminary plat application is the first step in the major subdivision process, followed by the final plat application as outlined in this Code. The preliminary subdivision process provides a detailed planning review of development patterns, street networks, block and lot layout, and preliminary engineering for future development prior to the preparation of detailed construction and engineering plans.

(b) Submittal Requirements.

The submittal requirements, as established by the Town and listed on the application checklist, shall include at a minimum the following items, unless waived by Town staff.

- (1) A complete land use application form and checklist with appropriate fees paid.
- (2) A written letter of intent for the requested preliminary subdivision plat and documentation addressing compliance with the Town's adopted plans.
- (3) Property documentation and proof of ownership, in a form acceptable to the Town. Proof of ownership shall be current as of 30 calendar days from the time of application submittal.
- (4) A preliminary plat meeting the requirements of this Code. The preliminary plat shall comply with the Town's minimum standards, as may be amended, including, but not limited to the following.
 - a. The plat shall be prepared by or under the direct supervision of a registered land surveyor, shall be signed and stamped by said surveyor and shall meet applicable state requirements.
 - b. Except for parcels separated by public rights-of-way, public tracts or railroads, parcels not contiguous with each other shall not be included in one plat, nor shall more than one plat be made on the same sheet. Contiguous parcels owned by different parties may be included on one plat, provided that all owners join in the dedication and acknowledgment.
 - c. Lengths shall be shown to the nearest hundredth of a foot, and bearings shall be shown in degrees, minutes and seconds.
 - d. The perimeter survey description of the proposed subdivision shall include at least one tie to an existing section monument of record and a description of

- monuments. The survey shown shall not have an error greater than one part in 10,000.
 - e. Bearings, distances and curve data of all perimeter boundary lines shall be indicated outside the boundary line, not inside, with the lot dimensions.
 - f. Names and signatures of all owners of equitable interest in the property shall be on the plat and shall be made in black drawing ink.
- (5) Preliminary subdivision engineering and technical reports and studies, as required and requested by the Town (see Final plat submittal requirements), including but not limited to the following items.
- a. Preliminary water, non-potable, sanitary sewer, and drainage analysis and reports.
 - b. Preliminary grading and drainage plans following the Town's adopted specifications, or as directed by the Town Engineer.
 - c. Preliminary water, non-potable, and sanitary sewer plans following the Town's adopted specifications, or as directed by the Town Engineer.
 - d. Additional studies and reports may be required based upon the unique requirements or needs of the Town to review the proposal adequately.
- (6) Preliminary landscape and open space plan that addresses treatment of all exterior spaces. See the final plat submittal requirements for a breakdown of the required landscape plan details.

(c) *Review Criteria.*

A preliminary plat for a subdivision shall be reviewed according to the following criteria.

- (1) *Master Plan Compliance.* The subdivision furthers the following planning objectives:
- a. The proposal promotes the Town's adopted plans, goals, and policies;
 - b. Proposed residential development adds diversity to the Town's housing supply;
 - c. Proposed commercial development will benefit the Town's economic base;
 - d. Parks and open space are incorporated into the site design;
 - e. The proposed project protects the Town's environmental quality; and
 - f. The development enhances cultural, historical, educational, and/or human service opportunities.
- (2) The proposed land uses within the subdivision conform with the existing or proposed zoning.

- (3) The subdivision complies with all applicable use, development, and design standards set forth in this Code that have not otherwise been modified or waived pursuant to this Code.
- (4) *Mitigated impacts and no creation of burden.* Negative impacts on adjacent land uses have been identified and satisfactorily mitigated. The subdivision will not create lots that are undevelopable or that are burdened with costs that would preclude development from occurring on other property.
- (5) *Grading and drainage.* The preliminary grading and drainage plan and report:
 - a. Indicates the stormwater management facility design for the proposed development adequately addresses all stormwater management and stormwater impacts anticipated to result from the proposed development (whether on site or off-site);
 - b. Indicates that the proposed stormwater management facility design has considered the drainage basin as a whole and maintains the historic drainage path within the basin;
 - c. Indicates that the proposed stormwater management facility design can safely convey storm water runoff to an adequate storm drainage system and accessible point of disposal with sufficient system capacity to carry not only the necessary flow of the proposed development but also, where applicable, the runoff from those areas adjacent to and upstream from the proposed development itself, without overflowing downstream channels and existing storm drainage facilities or causing damage to downstream properties; and
 - d. Demonstrates that stormwater runoff from the proposed development will not conflict with other land uses or negatively impact lands downstream, nor will it impair or disrupt any existing floodways and/or floodplains, both on and adjacent to the site or the functioning of other utility systems, both on and adjacent to the site.
- (6) *Water resources.* The preliminary water and sewer plan and study:
 - a. Indicates the proposed water, non-potable and sewer systems for the proposed development can be feasibly connected to the applicable Town utility enterprise system or other utility service provider's utility system;
 - b. Indicates the proposed water, non-potable and sewer systems for the proposed development conform to the Town's Water, Sewer, and/or Non-potable Water Master Plans, where applicable; and
 - c. Confirms that there will be adequate resources, facilities, and utility systems to adequately support and serve the proposed development together with existing development and development which is probable of connecting to the applicable Town utility system (e.g., legal buildable lots in approved subdivisions for which building permits have not been issued).

- d. The amount of unused capacity of existing utility facilities and services, including without limitation, water, non-potable water, sanitary sewer, presently available to serve the proposed development, while maintaining sufficient and acceptable levels of service to existing development and development which is reasonably probable of connecting to the applicable Town utility system (e.g., legal buildable lots in approved subdivisions for which building permits have not been issued). The Town Engineer shall be responsible for completing and presenting a capacity assessment for the proposed development to the decision-maker, and the applicant shall be furnished a copy of such assessment in advance.
 - e. The recommendations of the Town Engineer and/or other agencies, together with any supporting analysis or other information presented, regarding the available capacity of the water, non-potable water, sanitary sewer, and storm drainage utility systems that will be impacted by the proposed development, and whether existing utility facilities and services are presently available to, and adequate to serve, the proposed subdivision.
- (7) *Other utility capacity.* Existing or proposed utility facilities and services within the service area for the proposed subdivision are currently or will be adequate to meet the expected impact on and use of utility facilities and services by all possible uses of the proposed subdivision, and such uses will not compromise the overall operation of the applicable Town utility enterprise or other utility service provider or the quality of service to be provided to existing customers of the applicable Town utility enterprise or other utility service provider.
 - (8) *Transportation.* The transportation designs are adequate and meet the standards set by the Severance Transportation Master Plan and the Severance Construction Standards given existing and planned capacities of the Town's municipal street system.
 - (9) *Easements.* The transfer or dedication of easements or land needed for the construction and maintenance of utility system improvements.
 - (10) *Phasing.* As applicable, the proposed phasing plan for development of the subdivision is rational in terms of available infrastructure capacity.

(d) *Review Procedures.*

Review of the preliminary plat shall follow the general procedures in Division 1 of this Article.

(e) *Effect of Decision.*

Approval of the preliminary plat does not constitute approval of the final plat. The preliminary plat shall not be recorded and shall not be used for the purpose of selling or transferring interests in real estate, which is a violation of state statute per Section 31-23-216, C.R.S.

- (1) Approval of a preliminary plat shall be effective for two years.
- (2) *Extensions.* The Town Council may, at the request of the applicant, extend its approval by an additional year without the submission of a new preliminary plat, provided no development or change in requirements has occurred that would affect the proposed

subdivision. No extensions of approval shall be granted more than once. Extension of a preliminary subdivision approval is at the discretion of the Town Council.

- a. An approved preliminary plat shall lapse and be of no further force and effect if a complete final plat application for the subdivision or a phase of the subdivision has not been submitted within two years after the approval date of the preliminary plat or within the Town Council approved extension period.
- (3) *Phased final plats.* In the case of partial final plat submission or subsequent partial final plat submissions, the approval of the remaining portion of the preliminary plat shall automatically gain an extension of one year with each final plat filing.

Section 16.2.232. Final plat.

(a) Purpose.

The purpose of a final plat review is to ensure that a proposed subdivision complies with this Code, the regulations of affected utility providers and the approved preliminary plat, while accurately depicting property boundaries, easements, and infrastructure; to provide a process to review the construction of public improvements; and ultimately for safeguarding the public health, safety, and welfare in the development. Review of the subdivision prior to recording the final plat ensures proper final engineering subdivision design and legal requirements to accurately represent real estate interests. The final plat is used for dedication of land required for public use.

(b) Submittal Requirements.

The submittal requirements, as established by the Town and listed on the application checklist, shall include at a minimum, unless waived by Town staff.

- (1) A complete land use application form and checklist with appropriate fees paid.
- (2) A written letter of intent for the requested final plat.
- (3) Property documentation and proof of ownership, in a form acceptable to the Town. Proof of ownership shall be current as of 30 calendar days from the time of application submittal.
- (4) A final plat meeting the requirements of this Code. The final plat shall comply with the Town's minimum standards as may be amended, including but not limited to the following.
 - a. The plat shall be prepared by or under the direct supervision of a registered land surveyor, shall be signed and stamped by said surveyor and shall meet applicable state requirements.
 - b. Except for parcels separated by public rights-of-way, public tracts or railroads, parcels not contiguous with each other shall not be included in one plat, nor shall more than one plat be made on the same sheet. Contiguous parcels owned by

different parties may be included on one plat, provided that all owners join in the dedication and acknowledgment.

- c. Lengths shall be shown to the nearest hundredth of a foot, and bearings shall be shown in degrees, minutes, and seconds.
 - d. The perimeter survey description of the proposed plat shall include at least one tie to an existing section monument of record and a description of monuments. The survey shown shall not have an error greater than one part in 10,000.
 - e. Bearings, distances and curve data of all perimeter boundary lines shall be indicated outside the boundary line, not inside, with the lot dimensions.
 - f. Names and signatures of all owners of equitable interest in the property shall be on the plat and shall be made in black drawing ink.
- (5) Final plat engineering and technical reports and studies, as required and requested by the Town, including but not limited to the following items.
- a. Final water report including hydraulic analysis and pipe sizing calculations.
 - b. Final sanitary sewer report including hydraulic analysis and pipe sizing calculations.
 - c. Sewage collection and water supply distribution plans, profiles, and specifications prepared by a registered professional engineer and shall be accompanied by written approvals from the applicable water and sanitation district.
 - d. Final drainage plans and reports to be submitted in accordance with the adopted Drainage and Design Criteria as amended, or as the Town may approve. The Plan and report must provide the following unless waived by the Town.
 - 1. Cross-sections of each water carrier showing high water elevations for 100-year runoff and adjacent features that may be affected thereby.
 - 2. Written approvals, as may be required, from other agencies or parties that may be affected by the drainage proposals (i.e., FEMA, Larimer County and Weld County, ditch companies).
 - 3. Supporting calculations for runoffs, times of concentration, flow capacity with all assumptions clearly stated with proper jurisdiction when needed or requested.
 - 4. Erosion control Plans when required.
 - 5. Sizing of all pipes, inlets, conveyance ways and other appurtenances.
 - e. Final grading plan that illustrates existing and proposed contours and lot and block grading details.
 - f. Soils report that details pavement design and construction requirements and shall be submitted after overlot grading is complete.

- (6) Final landscape and open space plan that addresses treatment of all exterior spaces. Landscape Plans are to be designed to meet the requirements of this Code and show trees, shrubs, groundcovers, turf, buffering, fences, walls, and other site amenities that will be included in the plan. All plant materials must be adapted to the physical limitations of the local climate and specific conditions of the landscape plan.
 - a. All plant materials must meet specifications of the American Association of Nurseryman for Number one grade.
 - b. All street trees must be selected from the Town's recommended tree list.
 - c. Landscape plans shall include the minimum requirements as established in this Code.
- (7) Construction plans and profiles. The plans and profiles shall be prepared by a registered professional engineer licensed in the State of Colorado and provide the following information, in addition to the development and design requirements of this Code.
 - a. The horizontal to vertical scales shall be chosen to best depict the aspects of the design. The minimum horizontal scale is to be one-inch equals 100 feet. The minimum vertical scale is to be one-inch equals 10 feet.
 - b. The typical road geometric and structural cross section is to be shown on each plan sheet.
 - c. The plan must show right-of-way lines and widths, road names, lot lines, tangent lengths and bearings, curve radii, delta angles, curve lengths, chord lengths and bearings, stationing at all beginning of curves and end of curves, intersections, structures, angles, curb lines, cross pans, traffic-control devices (islands, striping, signs, etc.), drive cuts, curb returns and radii and all other features to enable construction in accordance with approved standards and standard engineering practice. Stationing may be centerline if approved by the Town.
 - d. Plans shall include water lines and appurtenances, sewer lines and appurtenances, stormwater lines and appurtenances and any other wet utilities such as non-potable water systems and irrigation ditches.
 - e. The profiles shall include existing and proposed grades at curb and gutter or centerline of street elevation at point of intersection of vertical curves, intersections, grade breaks, point of curb return, point of reverse curve and other critical points, structures and all other features required to enable construction in accordance with the standards adopted by this Code.
 - f. Signature blocks for all utility providers shall be included unless otherwise provided in agreement form.
 - g. Structure details. Sufficient data shall be given to construction of major structures and road appurtenances, such as bridges, culverts, gutters, drives, walks, cross

pans, etc. Details shall include orientation line and grade, cross-sections, dimensions, reinforcement schedules, materials, quality specification, etc., or as the Town may approve.

(c) *Review Criteria.*

The final plat of a subdivision shall be reviewed according to the following criteria.

- (1) The final plat is in substantial conformance with the approved preliminary plat and incorporates all recommended changes, modifications, and conditions attached thereto.
- (2) All applicable technical standards, including the provision of water of sufficient amount and quality have been met.
- (3) Plans and specifications for improvements connected with development of the subdivision comply with the subdivision development and design standards set forth in this Code, and any other relevant Town, County, State, or Federal regulations, except to the extent modifications, variances, or exceptions have been expressly permitted by the terms of the Preliminary Plat approval.
- (4) All construction plans for public improvements have been approved by the Town prior to the Town Council action on the Final Plat, unless otherwise agreed to by the Town.
- (5) The applicant has either installed all required public improvements or has executed a subdivision agreement.
- (6) The applicant has paid or satisfied all applicable fees and charges.

(d) *Review Procedures.*

In addition to the specific review procedures required in accordance with the general procedures section of this Code, the following specific regulations apply to final plat applications.

- (1) *Concurrent review.* The applicant may proceed with the preparation of the final plat and other documents to be submitted with the application simultaneously with, or following approval of, the preliminary plat at the risk of the subdivider. No final action shall be taken on a final plat until the corresponding preliminary plat has been approved and, if applicable, associated approval conditions have been satisfied.
- (2) The Town Council shall review at a public meeting and make a final decision on the final plat. The Town Council has final authority to approve, approve with conditions, or disapprove of the final plat, accept the dedications, and to enter into and authorize the execution of an agreement associated with the final plat.
- (3) *Final plats that are different from approved preliminary plats.* If there are significant changes on the final plat from the form of the approved preliminary plat, the final plat submittal shall require review and approval in the same manner as the preliminary plat (i.e., hearings before the Planning Commission and the Town Council). Significant

changes include, but are not limited to, modifications of street patterns, lot layout, drainage ways, grading, density, utility systems, or public improvements. The Town Manager and/or their designee shall review the final plat changes to determine the conformance to the preliminary plat and shall determine if the changes are sufficiently significant to require a new preliminary plat submittal. The subdivider may appeal the Town Manager's and/or their designee's decision to the Planning Commission within 14 days of the decision.

(e) Effect of Decision.

Within 60 days of the Town Council's approval of a final plat, which shall have all permitted modifications, waivers, or variances expressly noted thereon, the applicant shall provide to the Town one fully executed copy of the approved final plat, along with such other documents and fees as may be required by the Town Council or this Code. The Mayor and other authorized Town representatives shall sign the final plat. The Town shall then record the final plat and any signed subdivision agreement in the office Of the Weld County Clerk and Recorder. The applicant shall pay all required recording fees.

- (1) The time provided for in this Section for submitting the final plat may be extended for an additional 60 days by the Town Manager and/or their designee upon written request and a showing of good cause. The Town Council's approval of any final plat shall be void if the applicant fails to comply with the timing requirements of this Section.
- (2) *Effective approval and lapses.* The final plat shall be effective for a period of two years from the date of approval unless stated otherwise in the written final plat approval. Progress must be made on the subdivision or any phase thereof before the end of two years or the final plat shall become expired and be null and void. For multi-phased plans, following completion of a phase, the two-year clock begins again. The Town Council may grant a one-time extension for a maximum of one year upon written request and justification of the applicant, prior to expiration of the final plat.

Section 16.2.240. Site plan.

(a) Purpose.

The purpose of the site plan review process is to show how the proposed site layout will be developed in compliance with the development and design standards and regulations of this Code, and to encourage quality development reflective of the goals, policies, and objectives of the Town's Comprehensive Plan. For land uses requiring a site plan review, such uses may be established in the Town, and building permits may be issued, only after a site plan showing the proposed development has been approved in accordance with the procedures and requirements of this Section. Approval of a site plan pursuant to this section shall not constitute a "vested property right" to develop the property in accordance with the approved

plan as “vested property right” is defined in Sections 24-68-101 *et seq.*, C.R.S., or otherwise, unless the Town Council take specific action, in accordance with the provisions of this Code.

(b) Applicability.

A site plan shall be required for the following instances.

- (1) All development, including additions, in all zone districts except for single-family or duplex residential dwelling uses;
- (2) Establishment of a use by special review; or
- (3) Any change of use from one primary use classification to another (i.e., a residential use to a commercial use).

(c) Submittal Requirements.

The submittal requirements, as established by the Town and listed on the application checklist, shall include at a minimum, unless waived by Town Staff the following items.

- (1) A complete land use application form and checklist with appropriate fees paid.
- (2) A written letter of intent for the requested site plan proposal.
- (3) Property documentation and proof of ownership, in a form acceptable to the Town. Proof of ownership shall be current as of 30 calendar days from the time of application submittal.
- (4) A site plan drawing that generally includes a cover page, existing conditions, proposed site improvements and site details, grading, utilities, landscaping, architectural elevations and details, a lighting plan, and site and building signage details, as appropriate based on the proposal.
- (5) Engineering reports and studies, as appropriate and as requested by the Town, which may include drainage, utility, and soils/geotechnical reports, and a traffic study prepared by a registered professional engineer and meeting all applicable engineering standards and specifications adopted by the Town.
- (6) Supporting materials as determined by the Town.

(d) Review Criteria.

The site plan shall be reviewed according to the following criteria.

- (1) The site plan is consistent with the Town's Comprehensive Plan.
- (2) The site plan is consistent with any previously approved subdivision plat, or any other precedent plan or land use approval as applicable.
- (3) No buildings or structures infringe on any easements to impact the full use and enjoyment of the easement.

- (4) The proposed site grading is consistent with the requirements of adopted storm drainage criteria or master drainage plans.
- (5) The site plan conforms to all applicable development, density, and design standards of this Code.
- (6) The drainage and utility plans and studies confirm that there will be adequate resources, facilities, and utility systems to adequately support and serve the proposed development together with existing development and development which is reasonably probable of connecting to the applicable Town utility system (i.e., legal buildable lots in approved subdivisions for which building permits have not been issued).
- (7) The recommendations of the Town Engineer and/or other agencies, together with any supporting analysis or other information presented, regarding the available capacity of the water, non-potable water, sewer, and storm drainage utility systems that will be impacted by the proposed development, and whether existing utility facilities and services are presently available to, and adequate to serve, the proposed development. The following shall be included in the consideration.
 - a. Buildings under construction that will be connected;
 - b. Buildings required to connect, but not yet connected to the utility;
 - c. Legal buildable lots in approved subdivisions for which building permits have not been issued;
 - d. Other proposed subdivisions that have received final plat stage approval and have paid all applicable water and wastewater utility fees;
 - e. Access to and movement through the site are consistent with any applicable plans and standards adopted by the Town, such as the Transportation Master Plan, highway corridor, or access control plan.
- (8) Any significant, adverse impacts anticipated from the proposed development will be mitigated or offset to the maximum extent reasonably practicable.
- (9) As applicable, the proposed phasing plan for the development is rational in terms of available infrastructure capacity.

(e) Review Procedures.

In addition to the general procedures found in this Code, the following requirements are specific to site plan and site plan amendment applications.

- (1) Requests for alternative compliance or a variance from the criteria of this Code shall be processed concurrently with the site plan review but are subject to additional review, application fees as established by the Town, and adopted application submittal requirements.

- (2) The Town may require the applicant to execute a development agreement to ensure the completion of all on-site and off-site public improvements as shown on the site plan drawings and identified in accompanying technical reports and studies to the site plan application.
- (3) Following review by staff and referral agencies, and any necessary resubmittal(s), the Town shall schedule review of the site plan request by the Planning Commission and Town Council.
- (4) The Planning Commission shall review the site plan and forward a recommendation of approval, approval with conditions, or denial to the Town Council.
- (5) Town Council shall review the site plan request and make a final decision on the application taking into consideration the recommendation of the Planning Commission and Town staff.

(f) Effect of Decision.

Approval of the site plan application shall authorize the applicant to apply for a building permit or other construction related permits associated with the project.

- (1) *Building permits.* A building permit shall be issued after a site plan has been approved and a development agreement in a form approved by the Town Attorney reflecting any additional requirements, if necessary, has been .executed. With Town approval, an applicant may submit a building permit application concurrent with the site plan application or during the review process. Building permits shall not be issued for any development that is not in conformance with the approved site plan.
- (2) *Certificates of occupancy.* Development of the site shall comply with the approved design and all conditions included in the site plan. A certificate of occupancy shall not be issued for a building or structure constructed in violation of an approved site plan.
- (3) *Effective approval and lapses.* The site plan shall be effective for a period of two years from the date of approval unless stated otherwise in the written site plan approval. Building permits shall not be issued based on site plans that have an approval date more than two years old. For multi-phased plans, building permits shall not be issued based on an approval date more than two years from the date of Phase I approval, or as otherwise described in the approved phasing plan and/or executed agreement. The decision-maker may grant a one-time extension for a maximum of one year upon written request of the applicant, prior to expiration of the site plan. The remainder of any unbuilt portion of the site plan at the time of expiration shall be null and void and require new site plan application and approval.

(g) Public improvements.

The decision-maker may condition its approval and require on-site and off-site improvements or contributions to off-site improvements to ensure the proposed development will be served by adequate water, sewer, and storm drainage facilities. These improvements include but are not limited to the following.

- (1) The construction of mains in all public and private streets or utility easements within and adjacent to the proposed development;
- (2) The construction of mains through the development to serve the lots and buildings or structures within the development and to adjacent properties to allow them to connect to and extend the water or sewer system;
- (3) The construction of off-site improvements needed to complete the following.
 - a. Connect to the existing system;
 - b. Provide the storage and flows needed to meet the level of service standards and the requirements of the Water System Plan;
 - c. Provide collection capacity needed to meet the level of service standards and the anticipated demand from the service area;
 - d. Provide the storage and flows needed to meet the water demands generated by the proposed development; or
 - e. Provide the storage and flows needed to supply the fire flows needed to serve the development.
- (4) The construction of pressure-reducing valves and similar appurtenances to provide pressure zone separation in the distribution system;
- (5) The construction of lift and/or pump stations needed to serve the development if it is in a special pressure zone or because of topographical considerations. This will only be required or allowed in accordance with designated permanent lift and/or pump stations listed or shown in the current Water System Plan or Sewer System Plan;
- (6) The construction of replacements or improvements to existing facilities to maintain an established level of service for sanitary sewage discharge from the service area or for water system demand and fire flow to the development;
- (7) The construction of replacements or improvements to existing off-site facilities to the extent that the new development would cause the level of service for existing customers to drop below existing standards; or
- (8) The transfer or dedication of easements or land needed for the construction and maintenance of utility system improvements.

Section 16.2.245. Site plan amendments.

(a) Minor site plan amendments.

The following minor amendments to approved site plans may be reviewed and approved administratively by Town staff.

- (1) Changes in drives, parking, and sidewalks, if such changes further the intent of the site plan and this Code.
- (2) Changes in building height, setbacks, or similar provisions relating to the location of structures, site improvements, or open space areas or other measurable standards, necessitated by engineering or other unforeseen difficulties, of 10 percent or less, provided that the underlying zone district dimensional standards are met.
- (3) Changes to exterior building materials, architectural elements, landscaping, sign placement, lighting fixtures, utility boxes, equipment, panels, and other similar elements that the Town Manager and/or their designee may determine to be “minor.”
- (4) Addition of an accessory structure less than 500 square feet in size.
- (5) All plans so modified shall be revised to show the authorized changes and shall become a part of the permanent records of the Town.

(b) Major site plan amendments.

Changes to approved site plans that exceed the 10 percent threshold, or other major modifications that the Town Manager and/or their designee determine not to be “minor,” shall be considered a major site plan amendment and shall be processed as a new site plan application.

- (1) Major site plan amendments shall require Planning Commission approval or Town Council approval, as applicable, to become effective. A complete site plan application shall be prepared and submitted in compliance with the requirements set forth in Section 16.2.240 of this Code.

Section 16.2.250. Use by special review.

(a) Purpose.

As a general proposition, a “special use,” or “use by special review,” is a use allowable within the underlying zone district, but which, because of the possibility that the proposed use could become incompatible in certain respects with other uses within the zone district due to expected adverse effects of the activity, permission through a special review is required before the land may be put to that use. Approval of a use via a special review only represents a determination that an additional use to those permitted will be allowed on a particular site. Accordingly, the purpose of use by special review is not to exclude uses, but to evaluate the proposed use against criteria that are intended to reveal a fact that shows the particular use

proposed at the particular location proposed would have an adverse effect unique and different (above and beyond) from those inherently associated with such a use, irrespective of its location, and to determine the need to make, and to permit the government to impose, reasonable or appropriate conditions on the permitted use to alleviate any undue concerns for health or public welfare caused by adverse land effects of the proposed use.

- (1) *Additional regulations for certain uses.* In addition to the review criteria, procedures, and effects of decisions of this Section, unique regulations and criteria exist for a use by special review application related to Wireless Telecommunication Facilities (Article 7 of this Code), Oil & Gas Drilling and Production Facilities (Article 8 of this Code), and Solar Development Facilities (Article 9 of this Code). It is the applicant's responsibility to review all applicable Articles and Sections of this Code when preparing their land use application for review by the Town.

(b) Submittal Requirements.

The submittal requirements, as established by the Town and listed on the application checklist, shall include at a minimum, unless waived by Town staff the following items.

- (1) A complete land use application form and checklist with appropriate fees paid.
- (2) A written request with justification for the use by special review.
- (3) An illustrative site plan with necessary information to review conformance of any construction with standards of this Code, and to review any performance criteria for the proposal.
- (4) Necessary reports or studies, as appropriate, to support the use by special review request.

(c) Review Criteria.

A use by special review shall be reviewed according to the following criteria.

- (1) The proposed use is consistent with the goals and vision of the Comprehensive Plan and other adopted plans and/or policies of the Town as applied to the location of Town proposed in the application.
- (2) The proposed use furthers the intent of the underlying zone district.
- (3) The proposed use is consistent with any applicable use-specific standards set forth in the Code.
- (4) The proposed use will not result in an over-intensive use of land or depletion of natural resources.
- (5) The proposed use will not cause significant air, odor, water, or noise pollution.
- (6) The proposed use will not injure the value of adjoining properties or make surrounding property worth more without the use than with it.

- (7) The proposed use will not require a level of community resources greater than that presently available for the same or similar proposal occurring in another part of the Town.
- (8) Whether facilities and services (including sewage and waste disposal, water, gas, electricity, police and fire protection, and streets and transportation, as applicable) will be available to serve the subject property while maintaining adequate levels of service for existing development.
- (9) Whether a limited approval timeframe for the requested use is necessary to achieve any of the following.
 - a. Limit the duration of the use;
 - b. Assess the use against changing conditions in the area; or
 - c. Ensure periodic reporting and ongoing enforcement of any approvals.

(d) Review Procedures.

In addition to the general procedures found in this Code, the following requirements are specific to use by special review applications.

- (1) Following review of the request by staff and referral agencies, and any necessary resubmittal(s), the Town Manager and/or their designee shall schedule review of the request by the Planning Commission.
- (2) The Planning Commission shall hold a public hearing and make a recommendation to the Town Council on the use by special review request. The Planning Commission may include conditions on the recommendation to mitigate concerns with the physical development, operations, or maintenance.
- (3) Following the review and recommendation of the Planning Commission, staff will schedule review and final action of the request by the Town Council.
- (4) The Town Council shall hold a public hearing and make a final decision on the use by special review request. The Town Council may include conditions on the approval to mitigate concerns with the physical development, operations, or maintenance.
- (5) *Relationship to site plan requirements.* If a site plan is necessary for the proposed use by special review, then a site plan application shall be processed concurrently with the use by special review application, as required by the Town. The Planning Commission shall render separate recommendations, and the Town Council render separate decisions on the applications based on the applicable review criteria in this Section 16.2.250 (for the Use by Special Review) and Section 16.2.240 (for the Site Plan).

(e) Effect of Decision.

- (1) *Commencement of use.* Approval of a use by special review allows the applicant to use the property as proposed. However, if the property requires development, the applicant shall have a site plan application reviewed and approved by the Town and any building permit or other applicable development or construction permits issued prior to commencement of the approved use.
- (2) *Minor changes.* The Town Manager and/or their designee may approve minor changes upon meeting each of the following criteria.
 - a. The change expands the floor area, height, or other dimensional standards of the original approval by less than 10 percent;
 - b. There is not a change of use or significant increase in the intensity of the use that could adversely impact adjacent properties;
 - c. The change does not exceed the limits or violate any specific conditions of the original approval; and
 - d. The change complies with all other provisions of this Code.
- (3) All other proposed changes to the use shall require an amendment to the use by special review through the same procedures and criteria as the original application.

(f) Lapse.

Approval of a use by special review shall lapse and be considered null and void in one of the following situations.

- (1) The use itself, or if permanent construction in conjunction with such use, has not commenced within one year of the approving action, or within the time frame established as a condition of approval of the use by special review. The Town Manager and/or their designee may grant a one-year extension to this time frame that is ratified by the Town Council. This timeframe is distinct from any duration limits, periodic reviews, or renewal periods once the use is established, which may be a condition of approval by the Town; or
- (2) If the use is no longer active or in operation for a period of 12 consecutive months; or
- (3) Upon a change of primary use of the property.

(g) Revocation.

A use by special review may be revoked or amended by the Town Council through the same procedures granting the original use by special review approval, upon a finding that the conditions of approval have not been met, the applicant's noncompliance with any approved site plan or agreement, if applicable, or that the use has otherwise violated the provisions of this Code.

- (1) The Town Manager and/or their designee shall first notify the applicant in writing of the said violation and shall provide the applicant with a 30-day period in which to abate the violation.
- (2) Failure of the applicant to abate cited violations within 30 days shall result in the commencement of a hearing process before the Town Council.
- (3) Upon completion of such review, the Town Council may revoke the Use by Special Review or amend the original approval.

Section 16.2.260. Appeals.

(a) Purpose.

The appeals process allows for the review of a Town staff decision, as permitted under this Code, to determine if there was an error or abuse of discretion in any order, requirement, permit, decision, determination, refusal, or interpretation made by any Town staff in interpreting and/or enforcing the provisions of this Code. It is the intention of this Section that all questions arising in connection with the interpretation and enforcement of this Code shall be presented first to the appropriate department, that such questions shall be presented to the Board of Adjustment only on appeal from the decisions of that Department, and that recourse from the decision of the Board of Adjustment shall be to the courts. It is further the intention of this Section that the duties of the Town Council in connection with this Code shall not include the hearing or passing upon disputed questions that may arise in connection with the enforcement thereof.

(b) Submittal Requirements.

Applicants for an appeal request must submit the following to be deemed a complete appeal request.

- (1) Written notice of the appeal on a form approved by the Town.
- (2) A description and the date of the final order, requirement, decision, or determination being appealed.
- (3) A description of the grounds for the appeal, including specific allegations of error.

(c) Review Criteria.

The Board of Adjustment's review shall be limited to consideration only of the record before the decision-maker. The standard of review for such an appeal shall be limited to an "abuse of discretion and/or exceeding authority under this Code." Under this standard, the Board of Adjustment may only overturn the contested action if it finds that the decision-maker abused its exercise of discretion. The Board of Adjustment may use the following evidence in its review of the appeal.

- (1) The technical meaning of the provision being appealed.
- (2) Evidence of the way the provision has been interpreted in the past.
- (3) The positive or negative impact of the requested appeal on the achievement of stated development goals and policies stated by the Town, as outlined in this Code.
- (4) The intent of the provision in implementing the Comprehensive Plan and other adopted plans and/or policies of the Town.

(d) Review Procedures.

Appeal requests shall be filed in writing with the Town no later than 15 days from the date of the order, requirement, decision, or determination being appealed. Failure to make a timely and complete appeal request shall be considered a waiver of the appellant's rights to appeal to the Town's Board of Adjustment.

- (1) An appeal to the Board of Adjustment may be brought by any person, firm, corporation, office, department, board, bureau, or commission aggrieved by the order, requirement, permit, decision, or determination that is the subject of the appeal, or by the Town Manager and/or their designee, on behalf of the Town.
- (2) Appeals must be filed with the Town Clerk.
- (3) Applicants for an appeal request must submit the following to be deemed a complete appeal request.
 - a. Written notice of the appeal on a form approved by the Town.
 - b. A description and the date of the final order, requirement, decision, or determination being appealed.
 - c. A description of the grounds for the appeal, including specific allegations of error.
- (4) An appeal halts all proceedings in furtherance of the order, requirement, decision, or determination appealed from unless the Town certifies that it could cause imminent peril to life or property.
- (5) Once the appeal is determined to be complete, the Town Manager and/or their designee shall schedule review and action by the Board of Adjustment.
- (6) The Board of Adjustment shall complete its review at a public meeting and render its decision, by majority vote, to uphold or deny the decision on the item or contested action being appealed within 30 days of the filing of the request for an appeal.
- (7) The Board of Adjustment will have available to it the entire record of the contested action that was presented to or conducted before the applicable decision-maker.
 - a. While the Board of Adjustment will not be considering any new evidence or information, the appellant has submitted an appeal request containing written

argument, and the appellant will have an opportunity to submit arguments orally to the Board of Adjustment regarding its position in the appeal.

- b. The chair may place reasonable restrictions on such arguments, but the decision to place any such limits or specific parameters on the conduct of the proceeding is entirely up to the chair. For example, the chair may limit the length of time for appellant's initial oral argument to 30 minutes as well as limit the length of time for the Board of Adjustment's questioning of the appellant to 30 minutes.
 - c. An appellant shall be notified in writing of any such limitations in advance. Furthermore, an appellant shall be given an opportunity to reserve any portion of their time allotted for initial oral argument for use during the period of Board of Adjustment questioning or to make final statements after Board of Adjustment questioning (for example, the appellant may only want to use 10 of their 30 minutes to make their initial arguments, and reserve 10 of the remaining 20 minutes for use to address questions and 10 minutes for their final statement to the Board after addressing Board questions).
 - d. Finally, the appellant shall be entitled to make a closing argument before Board deliberation.
- (8) Following the oral argument before the Board, the Board of Adjustment will deliberate and render a decision on the appeal request.

(e) Effect of Decision.

The Board of Adjustment's decision shall be final and appealable. Appeals from decisions made by the Board of Adjustment shall be to the courts pursuant to the applicable Colorado Rules of Civil Procedure.

Section 16.2.265. Variances.

(a) Purpose.

The variance process is intended to provide limited relief from the requirements of this Code in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of land in a manner otherwise permitted under this Code. It is not intended that variances be granted merely to remove inconveniences or financial burdens that the requirements of this Code may impose on property owners in general. Rather, it is intended to provide relief where the requirements of this Code render the land difficult or impossible to use because of some unique physical attribute of the property itself or some other factor unique to the property for which the variance is requested.

(b) Eligibility.

- (1) Variances may only be issued for the following dimensional standards.

- a. Setbacks (primary and accessory structures);
 - b. Lot frontage;
 - c. Lot coverage;
 - d. Building height (primary and accessory structures);
 - e. Sign area or height; and
 - f. Parking.
- (2) No variance shall be granted to permit a use of land not otherwise permitted in the applicable zone district.
- (3) A lot width or area variance associated with a subdivision will be considered as part of the subdivision process, except that no minor subdivision plat shall be processed by the Town if it involves a lot width or area variance.
- (4) No variance shall be granted to increase the size or height of signs by more than 10 percent above the requirements and limitations of this Code.
- (5) No variance shall be granted to decrease the amount of parking required by more than 10 percent below the requirements of this Code.
- (6) No variance shall be granted to change either of the following.
 - a. A condition attached to an approved rezoning or special use;
 - b. A condition attached to an approved site plan; or
 - c. A condition attached to an approved final plat.
- (7) The Board of Adjustment may not change or alter this Code or change the zoning district map of the Town.

(c) Submittal Requirements.

The submittal requirements, as established by the Town and listed on the application checklist shall include at a minimum, unless waived by Town staff, the following items.

- (1) A complete land use application form and checklist with appropriate fees paid.
- (2) A written justification of the requested variance and identified hardship in meeting the requirements of this Code.
- (3) A comparison of the requested variance against the existing criteria of this Code.
- (4) Supporting images and details that illustrate the requested variance and site details.

(d) Review Criteria.

The Board of Adjustment may approve a variance only if it finds that there is an exceptional and undue hardship, whereby the application falls within any one of the categories set forth in

paragraphs (1), (2) or (3) of this subsection below, and the application satisfies any one of the criteria of paragraphs (4) through (7) of this subsection below.

- (1) *Disability.* There is a disability affecting the owners or tenants of the property or any member of the family of an owner or tenant who resides on the property, which impairs the ability of the disabled person to utilize or access the property.
- (2) *Unusual conditions.* There are unusual physical circumstances or conditions, including, without limitation, irregularity, narrowness, or shallowness of the lot; or exceptional topographical or other physical conditions, unique to the affected property.
- (3) *Compatibility.* The property could be developed in conformity with the provisions of this chapter, but the proposed variance will result in a building or structure form that is reasonable, customary, and consistent with or more compatible, in terms of building height, siting, and design elements, with the existing neighborhood in which the subject property is located.
- (4) *Hardship.*
 - a. Without the variance, there is no reasonable use of the property; or
 - b. Strict compliance prevents improvement of the property in a manner which is reasonable, customary, and consistent with other properties in the area; or
 - c. Strict compliance would require significant or unjustified expense considering the scope of the project, or would result in destruction or demolition of all or a portion of the existing building, structure, or other attractive features of the property; or
 - d. If the variance is denied, the development or use of the property cannot yield a reasonable return in service, use or income as compared to adjacent conforming property in the same zoning district; provided, however, that loss of a more convenient or profitable use of property, or similar financial advantage, that similar variances have been granted elsewhere, or the fact that a more profitable use of the property might be had if a variance were granted are not grounds for a variance.
- (5) *Exceptional hardship.*
 - a. The hardship is one suffered by the applicant alone and not by neighbors or the public; or
 - b. The hardship is unique and unusual, rather than one shared by many surrounding properties.
- (6) *Undue hardship.*
 - a. The hardship is not the result of the applicant's own actions; or

- b. The hardship is the result of predecessors in interest of the property, which could not have been foreseen to create difficulty in complying with the ordinance for future improvements.

(7) *Degree of requested variance.*

- a. The requested variance is the minimum that will afford relief and the least possible modification of the requirements of the zoning code; or
- b. The variance will neither result in the extension of a nonconforming situation, nor authorize the initiation of a nonconforming use of land, nor conflict with the goals and policies of the comprehensive plan and this Code; or
- c. Corrective measures can be imposed upon the variance request to mitigate or to protect neighboring properties against the anticipated, expected impacts or adverse effects of the variance.

(e) *Review Procedures.*

- (1) A request for Variance may be initiated only by the property owner or their authorized representative.
- (2) A complete application shall include the following minimum requirements.
 - a. A written request with the relief sought, together with the justification for the variance request, specifying the facts or circumstances that are alleged to show that the application meets the approval criteria.
 - b. A conceptual site plan or plot plan with necessary information to review the request in relation to existing site conditions and the criteria of this Code.
- (3) A variance request shall be processed prior to or concurrently with a site plan application, as required by the Town.
- (4) Following the review of the request by staff and necessary referral agencies, and any necessary resubmittal(s), the Town shall schedule review by the BOA.
- (5) The Board shall conduct a public hearing on the proposed variance.
- (6) Approval by a majority of the Board present shall be necessary to grant a variance.
- (7) The Board may impose conditions or unique requirements that best assure the criteria for approval are in place and maintained by the applicant, or to mitigate anticipated impacts of the variance, and that any violation of these conditions shall be considered a violation of an approval.

(f) Effect of Decision.

Upon determination of a variance, the findings of approval or denial shall be by resolution with the justifications set forth. Upon approval, the applicant may proceed with the next steps in the process including but not limited to a site plan or building permit application. Appeals from decisions made by the Board of Adjustment shall be to the courts pursuant to the applicable Colorado Rules of Civil Procedure.

(g) Lapse.

An approved variance shall become null and void in any one of the following instances.

- (1) If the variance is not exercised (i.e., a building permit is obtained or substantial construction commenced) within 180 days of the date it is granted;
- (2) If the approval or conditions of approval of the variance are violated;
- (3) If the Town Manager and/or their designee finds that redevelopment or modification of the subject property makes compliance with this Code possible without the previously approved variance; or
- (4) If the Town Manager and/or their designee finds that the alleged hardship or difficulty upon which the variance is based has been eliminated.

Section 16.2.270. Administrative adjustments.

(a) Purpose.

The administrative adjustment process permits adjustments to certain provisions of this Code otherwise applicable to a property pursuant to the procedures in this Section. Administrative adjustments, comprised of two types, alternative compliance and minor modifications, may authorize minor changes to pending applications, or to approved plans and permits, and relief from specified standards as stated in this Section.

- (1) Alternative compliance requests are intended to relieve unnecessary hardship in complying with the strict letter of this Code, and to promote context-sensitive development, which are minor deviations from otherwise applicable standards that may be approved by the Town Manager and/or their designee. Alternative compliance requests are to be used when the small size of the modification requested, and the unlikelihood of any adverse effects on nearby properties or the neighborhood, make it unnecessary to complete a formal Variance process. They are not intended to relieve specific cases of financial hardship, nor to allow circumventing the intent of this Code and its standards.
- (2) Minor modifications are intended to ensure compliance with federal law.

(b) Eligibility.

- (1) Alternative compliance requests to relieve unnecessary hardship. As part of the review and approval of any procedure set forth in this Code, the Town Manager and/or their designee may approve adjustments of up to a maximum of five percent from sign height or area and up to a maximum of 10 percent from the following general development and zoning district standards, provided that the applicable approval criteria listed below are met.
 - a. Minimum lot area, coverage, and frontage requirements;
 - b. Setback, parking, and building height requirements;
 - c. Subdivision design and improvements standards; and
 - d. Any other quantitative development standards set forth in this Code.
- (2) Minor modifications to ensure compliance with federal law.
 - a. Compliance with Federal Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA).
 1. The Town Manager and/or their designee may grant minor modifications to any use, building form, or design standard or any other provision stated in this Code to eliminate a substantial burden on religious exercise as guaranteed by the RLUIPA, as amended.
 2. In no circumstance shall the Town Manager and/or their designee approve an adjustment that allows a religious assembly use or any uses, structures, or activities accessory to it, in a zone district where this Code prohibits such use or accessory use, structure, or activity.
 3. In granting an administrative adjustment, the Town Manager and/or their designee may require conditions that will secure the objectives of the modified standard and that will mitigate any potential adverse impact on the environment or on adjacent properties, including but not limited to additional landscaping or screening.
 - b. Reasonable accommodation under Federal Fair Housing Act (FFHA).
 1. The Town Manager and/or their designee may grant minor modifications to provide reasonable accommodation under the FFHA. In the application for a minor modification under this subsection, the applicant shall identify the type of housing being provided and cite the specific provisions of the FFHA that require reasonable accommodation be made for such housing. The Town Manager and/or their designee may grant the following types of minor modifications to assure reasonable accommodation is required by law.

- I. Modify any minimum distance or spacing requirements, building setback, height, open space or building coverage, or landscaping requirement by no more than 10 percent; or
 - II. Reduce any off-street parking requirement by no more than one space.
2. The Town Manager and/or their designee may approve a type of reasonable accommodation different from that requested by the applicant if the Town Manager and/or their designee concludes that a different form of accommodation would satisfy the requirements of the FFHA with fewer adverse impacts on adjacent areas. The decision of the Town Manager and/or their designee shall be accompanied by written findings of fact as to the applicability of the FFHA, the need for reasonable accommodation, and the authority for any reasonable accommodation approved. Requests for types of accommodation that are not listed above may only be approved through a variance or official map amendment (rezoning) process.

(c) Submittal Requirements.

The submittal requirements, as established by the Town and listed on the application checklist shall include at a minimum, unless waived by Town staff, the following items.

- (1) A complete land use application form and checklist with appropriate fees paid.
- (2) A written request and justification for the alternative compliance or minor modification request addressing the review criteria above.
- (3) A comparison of the requested alternative compliance or minor modification against the existing criteria of this Code or adopted guidelines.
- (4) Supporting images and details that illustrate the requested alternative.

(c) Review Criteria.

An administrative adjustment request shall be reviewed based on the following criteria.

- (1) If the alternative is a minor modification one of the following is applicable.
 - a. The adjustment is necessary to satisfy the federal requirements for reasonable accommodation of housing for protected groups under the Federal Fair Housing Act; or
 - b. The adjustment is necessary to eliminate a substantial burden on religious exercise as guaranteed by the federal Religious Land Use and Institutionalized Persons Act of 2000.

- (2) The alternative will not alter the essential character of the neighborhood or district in which the property is located, nor diminish the value, use, or enjoyment of adjacent properties.
- (3) The alternative will result in an outcome that equally meets or exceeds the goals of the Comprehensive Plan, this Code, and adopted plans and/or policies by the Town.
- (4) The alternative does not alter any land use and dimensional standards of this Code.
- (5) The alternative is based on specific site conditions and unique site context.
- (6) The alternative meets or exceeds the design objective of the adopted design standard.
- (7) The alternative considers the context of the broader community benefits such as the following.
 - a. Enhanced architectural features that complement or improve the character of the surrounding area.
 - b. Adaptive reuse of existing buildings.
 - c. Considerations of improved sustainability and mitigation of environmental impacts.
 - d. Enhanced pedestrian amenities and features.

(d) Review Procedures.

In addition to the general procedures found in this Code, the following requirements are specific to administrative adjustment requests.

- (1) An alternative compliance or minor modification request may be processed prior to submitting a formal site plan application. The details related to an alternative compliance or minor modification shall be part of the formal site plan drawings.
- (2) Following review of the request by staff and necessary referral agencies, and any necessary resubmittal(s), the Town Manager and/or their designee shall review and provide a determination on the request.
- (3) The Town Manager and/or their designee may attach any condition of approval to an administrative adjustment necessary to protect the health, safety, and welfare of the community, to secure the objectives of the modified standard, and to minimize adverse impacts on adjacent properties.

(e) Effect of Decision.

An approved administrative adjustment shall be specified on the approved plat, development plan, approval letter, or approving document for which the modifications were sought.

- (1) The approval of an administrative adjustment will expire within one calendar year from the date of approval if a formal development proposal or permitting for which the administrative adjustment was sought is not in process or approved by the Town.

Section 16.2.280. Dedication of public rights-of-way and public easements.

(a) Purpose.

The dedication of public rights-of-way and public easements is the process to officially record rights-of-way or easements that grant specific access and property interests for public purposes, as stated on the recorded document, typically a plat, deed, or separate easement instrument, or other instrument of dedication or conveyance.

(b) Eligibility.

- (1) Public rights-of-way and public easements may be dedicated in association with a minor or major subdivision process, or by this Section of the Code.
- (2) Eligible applicants for the dedication of public right(s)-of-way or public easement(s) include any person or entity with a property interest in the abutting and underlying land. The Town may require all property owners of land abutting or underlying the proposed right-of-way or easement to join or consent to the application.

(c) Review Criteria.

- (1) The legal requirements for recording the right(s)-of-way or easement(s) have been established, and all forms and fees required by the Town have been submitted.
- (2) The applicant has provided proof of ownership and provided notice to the owners of all other property interests in the proposed easement, proposed right-of-way, or affected property.
- (3) The dedication will not be detrimental to any adjacent property owner.
- (4) No owner or entity with a property interest in the proposed easement or right-of-way has objected.
- (5) All parties with an interest in or potentially impacted by the request have received written notice and have had an opportunity to comment, including public and private utility providers.
- (6) There are no conflicts with existing or planned easements, rights-of-way, or infrastructure.
- (7) For dedication of public right-of-way, the property to be dedicated is free and clear of all liens and encumbrances, except as may otherwise be approved by the Town Council in its sole and exclusive discretion.

- (8) The application meets all other applicable procedures and requirements of the Colorado Statutes, the Colorado Constitution, and the Town's Municipal Code.

(d) Review Procedures.

In addition to the general procedures found in this Code, the following requirements are specific to dedicating public rights-of-way and public easements within the Town.

- (1) The applicant shall submit an application, a plat, or other legal document showing the proposed dedication, the effect to adjacent or abutting properties, and a legal description and instrument of conveyance as warranted based on the request.
- (2) The Town shall evaluate the application for completeness and coordinate review of the application per Section 16.2.130. The review shall include a request for comments from all referral agencies who may have facilities or other interest in the proposed right-of-way or easement.
- (3) The Town may require the applicant to complete a consent form for all applicable public and private utility providers.
- (4) Following review and analysis by staff and referral agencies, the Town Manager and/or their designee shall refer the dedication application to the Town Council for review and a decision. The Town Council shall review each right-of-way dedication application relative to the applicable approval criteria in this section, and shall by resolution approve, approve with conditions or modifications, or disapprove a dedication request.

(e) Effect of Decision.

After approval of the dedication of a public right-of-way or a public easement, the Town shall record the dedication, conveyance, or easement instrument, as applicable, with the County.

Section 16.2.285. Vacation of public rights-of-way and public easements.

(a) Purpose and scope.

- (1) The procedure for vacation of streets, alleys, or other public ways, and vesting of title upon vacation, shall conform to state law as provided in Sections 43-2-301 et seq., C.R.S., as amended. In addition, said vacation shall conform to the specific procedure as provided in this Section.
- (2) The Town Council has the authority to:
 - a. Vacate public rights-of-way, which include any public street, alley, lane, parkway, avenue, road, trail, public access easement, or other public way designated or dedicated on a subdivision plat, or conveyed by deed, or acquired by prescriptive use, or whether it has been used as such.
 - b. Vacate public easements designated or dedicated on a subdivision plat or conveyed by deed or recorded easement instrument.

(b) Eligibility.

- (1) Public right-of-way may be vacated in association with a major subdivision process, or by the procedures of this Section of the Code.
- (2) Public easements may be vacated in association with a minor or major subdivision process, or by the procedures in this Section of the Code.
- (3) Eligible applicants for a vacation include the Town or any person or entity with a property interest in the abutting or underlying land.
- (4) For vacation of public right-of-way or public easements abutting or upon multiple properties, the Town may require all property owners to join or consent to the application.

(c) Review Criteria.

- (1) Vacation of public right-of-way and public easements shall be left to the sound discretion of the Town Council. The applicant shall have the burden of presenting sufficient information to justify the requested vacation. The Town Council shall not exercise its discretion to vacate any public right-of-way or public easement, unless it meets the following criteria.
 - a. The vacation of public right-of-way shall not leave any land adjoining said right-of-way without an established public road or private-access easement connecting said land with another established public road;
 - b. All parties with interest in or potentially impacted by the request have received written notice and have had time to comment, including public and private utility providers;
 - c. For vacation of a public easement, no owner or entity with a property interest in the easement has objected;
 - d. No property would be left without reasonable access or provision of any public facilities or utility services by reason of the vacation;
 - e. The right-of-way or easement is no longer necessary for public use or convenience;
 - f. The vacation will not restrict access to any parcel so that access is unsafe, unreasonable, or economically prohibitive;
 - g. The vacation does not result in an easement configuration that could create difficulty in the provision of services or installation of public improvements;
 - h. Adequate easements have been reserved for use and/or maintenance by the Town or other utility agencies;
 - i. There is no current or future public purpose for the public right-of-way or public easement when considering the comprehensive plan and other adopted plans or policies; and

- j. The vacation is consistent with the goals of the Town's Comprehensive Plan.
- (2) In exercising discretion to vacate a public right-of-way, the Town Council may also consider impacts on mobility, parking, traffic, and safety, as well as any benefits to the Town that will result from removing the public right-of-way from the municipal street system.

(d) Review Procedures.

In addition to the general procedures found in this Code, the following requirements are specific to vacating public rights-of-way and public easements in the Town.

1. The applicant shall submit an application, a plat, or other legal document showing the proposed vacation, the effect on adjacent or abutting property, and a legal description of the right-of-way or easement to be vacated.
2. The Town shall evaluate the application for completeness and coordinate review of the application per Section 16.2.130. The review shall include a request for comments from all referral agencies who may have facilities or other interest in the right-of-way or easement.
3. The Town may require the applicant to complete a consent form for all applicable public and private utility providers.
4. Following review and analysis by staff and referral agencies, the Town Manager and/or their designee shall schedule a review of the vacation application by the Town Council.
5. The Town Council shall review each vacation application relative to the applicable approval criteria in this section, and approve, approve with conditions or modifications, or disapprove a vacation request. Any approval or approval with conditions or modifications shall be adopted by ordinance and any disapproval shall be by resolution.
6. The Town Council may condition a decision to vacate a public right-of-way or public easement on reserving any interest the Town Council determines necessary to serve a public purpose or the interests of affected property.

(e) Effect of Decision.

After approval of an ordinance vacating public right-of-way or a public easement, the Town shall record the ordinance, on or after the ordinance's effective date, with the county.

Article 3 – Zoning

Section 16.3.10. Zoning districts and boundaries.

- (a) *Zoning districts.* To carry out the provisions of this Code and the Comprehensive Plan, the Town is divided into the following zoning districts.
- (1) Rural Residential (RR)
 - a. Rural Residential Conservation (RR-C)
 - b. Rural Residential Agricultural (RR-A)
 - (2) Suburban Perimeter (SP)
 - (3) Town Core (TC)
 - (4) Development Nodes (DN)
 - a. Development Node Industrial (DN-I)
- (b) *Official zoning map.* The boundaries and classifications of established districts are as depicted on the "Town of Severance Zoning Map," which may from time to time be revised, updated, or redrafted. The zoning map adopted and to be used for reference shall be that map bearing the most recent date of publication and approval by the Town.
- (1) Interpretation of zoning district boundaries. If uncertainty exists on the zoning map, district boundaries shall be on section lines, lot lines, the centerlines of highways, streets, alleys, railroad rights-of-way or such lines extended; municipal corporation lines; natural boundary lines such as streams or other lines to be determined using scales shown on the map.
 - (2) Amendment upon zoning or modification. Upon enactment of any ordinance annexing and establishing zoning or modifying existing zoning for any property and upon final passage thereof, the Town shall amend the prior existing zoning map to include the annexed area with the proper zoning classification or show the amended classification. Such updated official map shall contain, in table form, the date and number of the ordinance amending it, the title of the change, the date the map was amended to reflect each amendment and the initials of the person who checked and approved the change to the map.
 - (3) Cost of amending zoning. Any person who proposes zoning for property being annexed or proposes modifying existing zoning shall bear the entire cost of amending the zoning map, including all notification costs. The Town shall provide applicants with a copy of the current fee schedule and a fee agreement form upon request.
 - (4) Public inspection; storage of original. A copy of the zoning map shall be available and on display on the Town's official website and at Town Hall during normal business hours.

Section 16.3.20. Principal and conditional uses permitted by zoning district.

(a) General application of land uses.

- (1) Uses designated as "uses by right" are allowed in a zone district as a matter of right but shall be required to conform to all requirements of this Code. If Code requirements are not met the Town reserves the right to deny a project based on non-compliance.
- (2) Uses classified as "uses by special review" are not allowed as a matter of right but may be approved by the Town Council with additional review and certain justification above and beyond the requirements of this Code consistent with the review criteria in Article 2 of this Code for the use by special review process.
- (3) Land uses not otherwise identified in this Code may be proposed. To allow such uses, the new or unlisted land use must be determined to be similar to either a use by right or a use by special review listed within that zone district. The term "similar" shall mean that the use can be reasonably interpreted to fit into a similar use category as identified in this Code. Town Staff will make a written determination regarding any request for a land use not listed in this Code. If a determination is made that the proposed use is similar to either a listed use by right or a use by special review, it will be processed as a use by special review under the provisions of this Code.

Section 16.3.30. Private property agreements and covenants.

This Code is not intended to revoke, repeal, abrogate, or impair any easement, covenant, condition, restriction, or other private property agreement applicable to the underlying real property. In no case shall the Town be obligated to enforce the provisions of any easements, covenants, conditions, restrictions, or agreements between private parties or between a private party and a homeowners' association or metropolitan district. It is the responsibility of the property owner to comply with private property agreements and requirements such as covenants, design guidelines, and homeowners' association or metropolitan district rules and regulations. In no instance shall the private property requirements be less restrictive than the requirements of this Code and any other adopted codes of the Town.

Section 16.3.40. Management plans required.

A management plan is required for any project and / or development proposal within the Town of Severance. Examples of management plans and criteria for submitting a management plan are available from the Town.

Section 16.3.50. Zone district design standards overview.

The Town's adopted development and design criteria can be found in Articles 5 and 6 of this Code. The intent of these standards is to promote creative and unique developments and projects throughout the Town.

Division 1 Rural Residential

Section 16.3.100. Intent.

(a) The intent of the rural residential zone district is to provide large lot, low-density, single-family detached residential development. Development in this district requires centralized water but may not be served by central sewer. Other municipal infrastructure services may be limited.

(b) The Rural Residential Zone District includes two (2) sub-zoning categories as outlined below. Further specifics on these sub-zonings are outlined in Sections 16.3.140 and 16.3.145 of this Code.

(1) Rural residential agricultural development can occur within or outside designated rural residential areas. The type of development, referred to as Agricultural (Ag) Residential, is characterized by large-lot residential subdivisions that include an agricultural component. The agricultural component may include one of the following.

- a. Associated with each individual lot, or
- b. Shared among a select number of lots, or
- c. Comprised of a stand-alone agricultural parcel.

Similar to rural residential development, Ag residential development is limited by the availability or feasibility of infrastructure. The lot size in Ag residential areas is determined by the agricultural use associated with the land rather than by a fixed minimum acreage per lot.

(2) Rural residential conservation development can occur within designated rural residential areas. This type of development emphasizes preserving large portions of land for open space, agricultural, or conservation easements, which complement the layout of rural subdivision lots. The specific requirements for densities, open space allocation, and design standards are detailed in Section 16.3.145 of this Code.

Section 16.3.105. Lot and building standards.

(a) *Gross maximum density.* Two and one-half acres per dwelling unit (i.e., 50 acres divided by 2.5 acres equals 20 lots).

- (1) Lot sizes may be smaller than two and one-half acres if the development contains managed open space or preserved agricultural land with clustered lots to achieve the maximum density.
- (2) Final lot count may be limited by infrastructure or geographic constraints.

(b) *Minimum lot sizes.* One and one-quarter acres.

- (1) Diversity and flexibility of lot sizes is highly encouraged.

(c) *Setbacks.* For areas not governed by building envelopes, the minimum setback shall be as shown on the following Table 16.3.105.

Table 16.3.105. Rural Residential Setback Criteria

	Principal Residence	Accessory Building
Front setback	25 feet	25 feet
Side setback	7.5 feet	5 feet
Rear setback	30 feet	5 feet

Section 16.3.110. Land uses.

- (a) Uses by right. These may require a site plan at the direction of Town staff based on the intensity and potential impacts of the proposal.
- (1) Residential land uses include the following.
 - Accessory dwelling
 - Home-based business
 - Single-family attached and detached dwellings
 - (2) Commercial, retail, or service land uses include the following.
 - Agriculture, commercial and noncommercial
 - (3) Public, quasi-public, other land uses include the following.
 - Golf courses
 - Outdoor recreation
 - Places of worship and assembly
 - Public and private parks
 - Schools
- (b) Uses by special review. Land uses not identified may be considered with additional review as determined by Town staff.

Section 16.3.115. Layout standards.

- (a) Typical subdivision layout details include the following.
- (1) Individual lots shall be accessed by an internal rural roadway system.
 - (2) Each lot shall have frontage onto a roadway.
 - (3) Fencing shall be open and maintained along the perimeter street frontage.
 - (4) The main entrance to a subdivision shall have a monument sign and landscaping.
 - (5) The perimeters adjacent to major roadways shall be landscaped and shall provide pathways for pedestrian linkages.
 - (6) Open space and drainage corridors within the subdivision shall provide opportunities for pedestrian linkage to adjacent subdivisions.
- (b) Typical single-family lot layout. The vision for a typical single-family lot is to create a buildable area and identify septic envelopes and open/landscape areas.
- (c) Individual wastewater treatment systems (such as underground septic and leach fields and above ground ponds) must be shown on building permit plot plan.

Section 16.3.125. Fencing.

- (a) Fencing along major roadways and public areas shall be of a rural character. The treatment should be consistent within the entire development. Fencing located along collector or arterial roads shall be open rail/open character, wood and set back from the right-of-way a minimum of 20 feet. Fencing shall be made visually interesting and shall avoid creating a "tunnel" effect. Style of fencing for neighborhood should strive for consistency with surroundings and intended design. Compliance with this standard may be accomplished by integrating architectural elements such as brick or stone columns and incorporating articulation or openings into the design. Varying the alignment or setback of the fence and softening the appearance of fence lines with plantings or similar techniques is also encouraged. Privacy fences should not be used along major roadways and public areas. For agriculture uses, T-post fences, wire fences and electric fences are allowed as per the management plan.
- (b) Perimeters not associated with major roadways shall be fenced by the developer with T-post and wire fencing or better. Internal common areas, including pedestrian connectivity pathways and drainage conveyance channels, shall be fenced by the developer using materials consistent with the development. Management and maintenance of all fencing shall be addressed in the developer's management plan.

Section 16.3.130. Entries and signage.

Entry signs and entry features should be a visual and attractive focal point for the development. The type and size of signs should be appropriate for the size of the subdivision. Rural character is highly encouraged. Signage shall be shown on the site plan.

Section 16.3.135. Managed individual wastewater treatment system standards.

- (a) Owners and/or applicants are required to submit documentation of approval for individual wastewater treatment systems (such as underground septic and leach fields and above ground ponds) from Weld County as part of a development or permit application with the Town. The Town does not regulate individual wastewater treatment standards.
- (b) Any screening or buffering required for above ground systems shall be provided in accordance with the Town's landscaping and buffering standards of this Code.
 - (1) The location and extents of such systems shall be reflected on the development application and building permit plot plan drawings when submitted to the Town.

Section 16.3.140. Rural residential agriculture sub-zoning.

The rural residential agricultural sub-zoning is intended to allow private property owners to annex existing agricultural operations into the Town and continue operations. The process for receiving the rural residential agricultural sub-zoning is the same as any other zoning request and may either come through the annexation process or a rezoning of an existing annexed property. The following are characteristics of the agriculture sub-zoning design.

- (a) Agriculture components retained.
- (b) Served by domestic water.
- (c) Joint access points to and from county roads to reduce driveways where practical. (Existing agricultural access permitted in Weld County may be maintained if no further subdivision is taking place).
- (d) No interior fencing required.
- (e) Density characteristics include the following.
 - (1) Minimum lot size (with septic) is 10 acres.
 - (2) Gross density is one dwelling unit for every 15 acres.
- (f) Perimeter treatment characteristics include the following.
 - (1) Fencing to be addressed on fencing plan.
 - (2) Road right-of-way is the same as rural residential.
 - (3) Connectivity to adjacent subdivisions are not specifically required, but adequate access points and alignment of access points is required.
 - (4) Landscaping that can be native.

Section 16.3.145. Rural residential conservation sub-zoning.

The rural residential conservation sub-zoning is intended to allow private property owners to annex large, existing agricultural or open lands into the Town with a restriction on a portion of the property that conserves the land as farmland or open space in perpetuity. As an incentive to the property owner, the owner will be allowed to develop the unencumbered lands into a greater number of lots with more diverse sizes than the rural residential agriculture sub-zoning. The following are characteristics of the conservation sub-zoning design.

- (a) Conservation component retained (conservation easement, dedicated open space, agricultural operation).
- (b) Served by domestic water.
- (c) Joint access points to and from county roads to reduce driveways where practical.
- (d) No interior fencing required, but fencing along public roadways may be required to be adjacent to residential lots.
- (e) Density is defined by the following example and based on percentage of open space.
 - (1) Minimum initial land size equals 60 gross acres. A minimum of 60 percent or 36 acres shall be perpetually conserved, and on the remaining land 24 acres, two lots will be

allowed. If a farmstead already exists, it can be platted as a third lot. With each additional 10 acres of contiguous land, 60 percent or six acres shall adjoin the original conserved land, and one additional lot shall be allowed. Once platted and developed, no future plats of the initial land that increase the number of lots or reduce the amount of the conserved land will be allowed. Examples include the following scenarios.

- a. 70 acres times 60 percent equals 42 acres conserved and three lots on 28 acres
 - b. 80 acres times 60 percent equals 48 acres conserved and four lots on 32 acres
 - c. 100 acres times 60 percent equals 60 acres conserved and six lots on 40 acres
 - d. 120 acres times 60 percent equals 72 acres conserved and eight lots on 48 acres
 - e. 160 acres times 60 percent equals 96 acres conserved and 12 lots on 64 acres
 - f. 180 acres times 60 percent equals 108 acres conserved and 14 lots on 72 acres
 - g. Any single home or farmstead can be platted as one additional lot
 - (2) Conservation land shall be contiguous and available for large areas of farming or rural open space. Lots may be clustered or scattered. Minimum lot size equals three acres. Diversity of lot sizes is encouraged. Any grouping of lots using a shared access and exceeding four lots shall have an internal roadway designed and shall be built to rural residential specifications of the Town. Groups of two, three, or four lots shall have a hard-surface shared-access pad connected to the perimeter public roadway. Each shared-access pad shall be concrete measuring 40 feet wide by 100 feet long by six inches thick, with private drives serving individual lots from the shared-access pad. Driveways serving individual lots shall be contained within the lot and shall be owned and maintained by the lot owner. Single lot access to the roadways will be discouraged.
- (f) Perimeter treatments include the following.
- (1) Fencing adjacent to right-of-way shall be addressed in fencing Plan. Criteria and maintenance responsibilities shall be described in the management plan.
 - (2) Road right-of-way. Right-of-way dedication shall adhere to the Severance Transportation Master Plan. Maintenance of public roadways shall be the responsibility of the Town.
 - (3) Road cross section may be modified at Staff discretion based on proposed number of lots and anticipated traffic. Letter from a licensed traffic engineer shall be required in cases in which proposed changes differ from transportation plan. A minimum dirt road cross section of 32 feet will be required adjacent to proposed residential lots for any rural residential conservation development.
 - (4) Connectivity to adjacent subdivisions or undeveloped lands shall be reviewed on a case-by-case basis.
 - (5) Landscaping between the fencing (if applicable) or property line of any lot (excluding conservation lots) and the public roadway shall be native, drought-tolerant grasses. Management and maintenance responsibilities of these areas shall be described in the management plan.

Division 2 Suburban Perimeter

Section 16.3.210. Intent.

- (a) The suburban perimeter residential land use category includes a mix of residential densities with access to public water, sewer, streets, and open spaces. This district is meant for residential homes and excludes large industries and other large intense uses. Home businesses, civic organizations, and some types of commercial and agricultural uses are allowed but will be limited in size and density. The main purpose of this district is to meet a wide range of housing choices, and to provide neighborhoods that invite walking to gathering places, services and conveniences that are integrated into the rest of the community by a pattern of streets, blocks, and other linkages.

Section 16.3.220. Lot and building standards.

- (a) *Density, height, and setback criteria.* The following Table 16.3.220 includes the minimum density, lot size, setback criteria, and maximum height allowed within the Suburban Perimeter zone district. Cells with n/a means the specific criteria is not applicable in that situation. Supplemental criteria is included below the table.

Table 16.3.220. Suburban Perimeter Lot and Building Standards

	Minimum Gross Density	Minimum Lot Size	Minimum Front Setback	Minimum Side Setback	Minimum Corner Side Setback	Minimum Rear Setback	Maximum Height
Single-family detached	2 units per acre	6,000 square feet	20 feet	7.5 feet	15 feet	15 feet	2 stories
Single-family attached (duplex)	2 units per acre	4,000 square feet	20 feet	7.5 feet	15 feet	15 feet	2 stories
Townhomes	2 units per acre	1,400 square feet	20 feet	7.5 feet	15 feet	15 feet	2 stories
Multi-family	2 units per acre	1,600 square feet	20 feet	20 feet	20 feet	20 feet	2 stories
Accessory dwelling unit	n/a	n/a	Behind the front of a principal dwelling	7.5 feet	15 feet	15 feet	2 stories
Accessory Structure	n/a	n/a	25 feet	5 feet	15 feet	5 feet	2 stories
Non-Residential	n/a	n/a	20 feet	10 feet	20 feet	15 feet	2 stories

- (1) Accessible building elements (e.g., elevator shafts and stairways) are permitted to extend above the maximum building height.
 - (2) An attached dwelling unit with a shared party wall may have a zero-foot side yard setback on the side of the lot where the dwelling units combine.
 - (3) The rear setback for an alley loaded attached dwelling unit project may have a reduced rear setback, at the discretion and approval of the Town.
 - (4) The corner side setback requirement applies to a side lot line bordering a public road or street that is not designated as the front yard. This does not apply to a designated alleyway.
 - (5) Attached accessory structures shall meet the requirements of the main structure.
 - (6) Detached accessory structures shall maintain a minimum separation from the main structure as required by adopted building and fire codes.
 - (7) Steeples, chimneys, roof-mounted mechanical equipment, and similar architectural and mechanical elements may exceed the maximum height by no more than 20 percent.
- (b) *Lot Diversity.* Development Plans shall include a diversity of lot sizes. On projects of 150 acres or less, a minimum of four lot sizes is required. On projects of 150 acres or more, a minimum of six lot sizes is required. This may be met through additional housing types outlined in the following subsection (c).
- (c) *Product Diversity.* A mix of permitted housing types shall be included in any individual development plan to the extent reasonably feasible, depending on the size of the parcel. To promote such variety, the following minimum standards shall be met.
- (1) The following minimum number of housing types is required on any project development plan.
 - a. A minimum of two housing types is required on any project development plan containing less than 150 acres, including such plans that are part of a phased overall development.
 - b. A minimum of three housing types is required on any project development plan containing one hundred and 150 acres or more.
 - (2) Housing types include the following mix.
 - a. Single-family attached dwellings.
 1. Duplex units
 2. Townhome units
 - b. Alley loaded design.
 - c. Patio home design.
 - d. Multi-family dwellings, by additional review.

Section 16.3.230. Land uses.

- (a) Uses by right. These may require a site plan at the direction of Town staff based on the intensity and potential impacts of the proposal.
- (1) Residential land uses include the following.
 - Accessory dwelling
 - Bed and breakfast establishments
 - Home-based business
 - Single family attached and detached, Townhomes, multi-family, and senior housing.
 - (2) Commercial, retail, or service land uses include the following.
 - Adult day centers
 - Child care centers
 - Long-term care facilities
 - Neighborhood shopping centers
 - Office, financial, medical services, and clinics
 - (3) Public, quasi-public, other land uses include the following.
 - Golf courses
 - Neighborhood parks
 - Outdoor recreation
 - Places of worship and assembly
 - Schools
- (b) Uses by special review. Land uses not identified may be considered with additional review as determined by Town staff.
- Workshops/small custom industry

Section 16.3.240. Layout standards.

- (a) *Typical layout.* Each subdivision proposal should address the appropriate elements of the Comprehensive Plan, as suggested by the following. Subdivisions in the suburban perimeter shall be designed with an internal urban roadway system to serve lots within the subdivision. The edges adjacent to major roadways shall be landscaped and shall provide community pathways for pedestrian linkages. Landscape buffers adjacent to major roadways should vary in width, and perimeter fencing shall be visually interesting. The main entrance to the subdivision typically will have appropriately scaled monument sign and landscaping. Open space, drainage corridors and roadways within the subdivision can provide opportunities for pedestrian linkage to adjacent subdivisions, the Town Core, and the Severance Greenway. See Articles 5 and 6 for additional development and design criteria, as applicable.
- (b) Roadway Plans must identify collector roadways and adhere to requirements set forth in the Transportation Plan.

- (1) The spacing and frequency of connector streets are to be determined with each application. Connector streets shall connect neighborhoods to perimeter arterial streets and adjacent properties. Please refer to the Transportation Plan.
- (2) Internal street design should incorporate the following whenever possible.
 - a. Three- and four-way intersections.
 - b. The use of a grid or modified grid.
 - c. View corridors.
 - d. Focal points.

Section 16.3.270. Fencing.

- (a) Lots adjoining greenbelts shall have common area fencing. Common area fencing shall be "articulated" with fence columns, fence details, varying depths of greenbelts, etc.
- (b) All subdivisions shall submit master fence plans that will include fence locations, details and criteria, including the following items.
 - (1) Perimeter fence and/or common area fencing
 - (2) All perimeter fencing shall be wood unless otherwise approved by Board.
 - (3) Encouraged fence height is six feet. Maximum fence height may be eight feet along arterial and connector streets by variance.
 - (4) Fence amenities, columns, and walls.
 - (5) Rear and side yard fencing (private).
 - (6) Side and front-yard fencing visible from right-of-way, greenbelt, and common areas.
 - (7) Master fence plan, which shall show where in a subdivision each type of fence shall be located.
 - (8) Terminations of common area fencing (encouraged to have a column or fence amenity).
 - (9) Fencing ornamented with details that shall be uniform throughout the development.
 - (10) All common area fencing and private fencing that is visible from right-of-way, greenbelt, and/or common areas shall have a common fence color, as identified on the master fence plan.

Section 16.3.280. Entries and signage.

Entries shall contain the following features.

- (a) Located adjacent to arterial/connector street intersections or primary access to the project.
- (b) Appropriately scaled monument/signage at primary access to identify the project.
- (c) Adequate landscaping on both sides of primary project access to create an enhanced entry experience.
- (d) Access to subdivisions that is limited to main entry roads adjoining arterial or collector roads.
The number of accesses may vary, depending on size and location of development and results

from traffic impact study. See Article 4 for minimum access point requirements. Driveways shall not have access directly onto adjacent county roads.

- (e) The entries to the development should provide a focal point with signage and landscaping. Signage shall be designed to be appropriate to the scale of the development and in conformance with the sign regulations of this Code. Signage shall be shown on the site plan.

Division 3 Town Core

Section 16.3.310. Intent.

- (a) The Town Core district serves as the heart of the community with a broad range of complimentary land uses. It is desirable to encourage a variety of commercial, retail, service, restaurant, entertainment and other uses interspersed with residential homes, lofts and apartments.

Section 16.3.320. Lot and building standards.

- (a) *Density, height, and setback criteria.* The following Table 16.3.320 includes the maximum density, lot size, setback criteria, and maximum height allowed within the Town Core zone district. Cells with n/a means the specific criteria is not applicable in that situation. Supplemental criteria is included below the table.

Table 16.3.320. Town Core Lot and Building Standards.

	Maximum Gross Density	Minimum Lot Size	Minimum Front Setback	Minimum Side Setback	Minimum Corner Side Setback	Minimum Rear Setback	Maximum Height
Single-family detached	15 units per acre	6,000 square feet	20 feet	7.5 feet	15 feet	15 feet	3 stories
Single-family attached (duplex)	15 units per acre	4,000 square feet	20 feet	7.5 feet	15 feet	15 feet	3 stories
Townhomes	15 units per acre	1,400 square feet	20 feet	7.5 feet	15 feet	15 feet	3 stories
Multi-family	15 units per acre	1,600 square feet	20 feet	20 feet	20 feet	20 feet	3 stories
Accessory dwelling unit	n/a	n/a	Behind the front of a principal dwelling	7.5 feet	15 feet	15 feet	2 stories
Accessory Structure	n/a	n/a	25 feet	5 feet	15 feet	5 feet	2 stories
Non-Residential	n/a	n/a	20 feet	10 feet	20 feet	15 feet	3 stories

- (1) Accessible elements are permitted to extend above the maximum building height.
- (2) An attached dwelling unit with a shared party wall may have a zero-foot side yard setback on the side of the lot where the dwelling units combine.

- (3) The rear setback for an alley loaded attached dwelling unit project may have a reduced rear setback, at the discretion and approval of the Town.
- (4) The corner side setback requirement applies to a side lot line bordering a public road or street that is not designated as the front yard. This does not apply to a designated alleyway.
- (5) Attached accessory structures shall meet the requirements of the main structure.
- (6) Detached accessory structures shall maintain a minimum separation from the main structure as required by adopted building and fire codes.
- (7) Steeples, chimneys, roof-mounted mechanical equipment, and similar architectural and mechanical elements may exceed the maximum height by no more than 20 percent.
- (8) A height and shadow study may be required by the Town as part of the review of a three-story structure and shall be required for any requests over three stories.
- (9) Where applicable, building heights shall transition to adjacent residential properties and be no greater than two stories taller than the tallest adjacent residential structure. Appropriate buffering and landscaping shall be incorporated as required in this Code.

Section 16.3.330. Land uses.

- (a) Uses by right. These may require a site plan at the direction of Town staff based on the intensity and potential impacts of the proposal.

- (1) Residential land uses include the following.
 - Accessory dwelling
 - Adult day centers
 - Bed and breakfast establishments
 - Family child care homes
 - Home-based business
 - Long-term care facilities
 - Multi-family dwellings
 - Senior/age-restricted housing
 - Single-family dwellings, attached or detached
- (2) Mixed land uses include the following.
 - Flex buildings (start as residential and shift to commercial over time)
 - Live/work units and buildings
 - Mixed-use buildings (residential, commercial, office, workshops, etc.)
- (3) Commercial, retail, or service land uses include the following.
 - Administrative, office, and research facilities
 - Appliance sales and service facilities
 - Automobile service and repair—minor facilities
 - Banks and financial institutions
 - Bars/taverns/microbreweries
 - Business offices (contractors, electronic repair, small engine, motorcycle)
 - Car/motor vehicle washes

- Child care centers
 - Commercial and retail businesses, indoor sales, and services
 - Entertainment facilities, commercial theaters, etc.
 - Equipment (small) rental establishments without outdoor sales
 - Gasoline/fueling stations
 - Greenhouses, whether public or private
 - Grocery stores
 - Hospitals
 - Hotels/motels (no room limit)
 - Inns (up to 12 rooms)
 - Laundromats and dry-cleaning retail outlets
 - Medical and dental offices and clinics
 - Movie theaters
 - Office building
 - Parking lots and parking garages (as principal use)
 - Passenger terminals or park-n-rides
 - Personal and business service shops
 - Professional offices
 - Push carts (sidewalk vending)
 - Restaurants
 - Retail sales stores
 - Vehicle sales facilities, including sales of automobiles, motorcycles, RVs, boats, and trucks
 - Veterinary clinics
 - Workshops and custom small industries, including art studios with/without sales
- (4) Public, quasi-public, other land uses include the following.
- Accessory buildings and uses incidental to the principal use
 - Clubs and lodges
 - Community gardens
 - Conference/convention center
 - Farmer's markets
 - Fire stations
 - Municipal use facilities
 - Museums
 - Parks and open spaces
 - Parks and playgrounds—neighborhood
 - Outdoor amphitheaters
 - Places of worship and assembly
 - Public or other nonprofit recreational use facilities
 - Public utility main lines and substations

- Rest stops
- Schools (all types)

(b) Uses by special review. Land uses not identified may be considered with additional review as determined by Town staff.

(1) Residential land uses include the following.

- Boarding and rooming houses
- Group homes
- Safe houses for adults or children with up to eight people
- Single-room occupancy boarding houses

(2) Commercial, retail or service land uses include the following.

- Agricultural, noncommercial
- Agriculture, commercial
- Automobile service and repair—major facilities
- Cremation facilities
- Dry cleaning facilities
- Equipment rental (heavy) establishments with outdoor sales
- Fireworks sales—temporary
- Kennels small animal
- Mini-storage facilities—enclosed
- Recycling processing and sales Facilities (including biofuel)
- Retail and supply yard establishments with outdoor storage
- Roadside or temporary retail stands/tents
- Farm implement, heavy equipment, and mobile/manufactured home sales facilities
- Storage facilities for outdoor storage of RVs, boats, trailers, etc.
- Truck depots
- Truck maintenance facilities

(3) Public, quasi-public, other land uses include the following.

- Alternative power generation facilities
- Bus shelters
- Cemeteries
- Wireless telecommunications facilities

(4) Industrial land uses include the following.

- Heavy industrial facilities

Section 16.3.360. Fencing.

Front-yard fencing in the Town Core shall be open wood picket or wrought iron and shall not exceed 42 inches in height. Brick or stone columns are encouraged. Privacy fencing between lots or to screen users

shall be allowed per review and approval as a part of a final plat or site plan approval. Privacy fencing shall not exceed six feet in height and shall be minimized and placed so that the visual impact to surrounding uses and the public right-of-way is minimized. Landscape buffering in place of or associated with privacy fencing is encouraged. Privacy fencing, if located adjacent to the public right-of-way, shall be separated from the public right-of-way by a landscape buffer.

Section 16.3.370. Entries and signage.

Entries to commercial areas shall be identified by high-quality, ground-mounted signs and/or monumentation. Landscaping shall identify entries with enhanced plantings (flower beds, ornamental trees, etc.). Signage shall be designed to be appropriate to the scale of the development and in conformance with the sign regulations of this Code. Signage shall be shown on the site plan.

Division 4 Development Node

Section 16.3.410. Intent.

- (a) The Development Node Zone District captures key intersections within the Town's Growth Management Area (GMA) but outside the Town Core Zone District area. These nodes are important to the future economic vitality of the community and are planned to be served by urban infrastructure, which may offer the opportunity for higher intensity land uses.
- (b) Development Node Industrial Sub-zoning (see Section 16.3.440) is intended for the concentration of industrial land uses and will include separate requirements intended to provide adequate mitigation to potential impacts.
- (c) The Town expects that future development within these areas will be a collective vision created through collaboration between the landowner/developer and the Town, incorporating the guiding principles of the comprehensive plan and other adopted Town plans. The Town shall adhere to these guiding principles while evaluating the development proposals within the development nodes.
- (d) The uses, development patterns, and standards for this zone district are intended to promote and guide development that is suitable to the location, aesthetically complementary to the overall vision of the Town, economically viable, and conforming to the Comprehensive Plan.

Section 16.3.420. Lot and building standards.

- (a) *Density, height, and setback criteria.* The following Table 16.3.420 includes the minimum density, lot size, setback criteria, and maximum height allowed within the Development Node zone district. Cells with n/a means the specific criteria is not applicable in that situation. Supplemental criteria is included below the table.

Table 16.3.420. Development Node Lot and Building Standards

	Minimum Gross Density	Minimum Lot Size	Minimum Front Setback	Minimum Side Setback	Minimum Corner Side Setback	Minimum Rear Setback	Maximum Height
Single-family detached	8 units per acre	6,000 square feet	20 feet	7.5 feet	15 feet	15 feet	3 stories
Single-family attached (duplex)	8 units per acre	4,000 square feet	20 feet	7.5 feet	15 feet	15 feet	3 stories
Townhomes	8 units per acre	1,400 square feet	20 feet	7.5 feet	15 feet	15 feet	3 stories
Multi-family	8 units per acre	1,600 square feet	20 feet	20 feet	20 feet	20 feet	3 stories
Accessory dwelling unit	n/a	n/a	Behind the front of a principal dwelling	7.5 feet	15 feet	15 feet	2 stories
Accessory Structure	n/a	n/a	25 feet	5 feet	15 feet	5 feet	2 stories
Non-Residential	n/a	n/a	20 feet	10 feet	20 feet	15 feet	3 stories

- (1) Accessible elements are permitted to extend above the maximum building height.
- (2) An attached dwelling unit with a shared party wall may have a zero-foot side yard setback on the side of the lot where the dwelling units combine.
- (3) The rear setback for an alley loaded attached dwelling unit project may have a reduced rear setback, at the discretion and approval of the Town.
- (4) The corner side setback requirement applies to a side lot line bordering a public road or street that is not designated as the front yard. This does not apply to a designated alleyway.
- (5) Attached accessory structures shall meet the requirements of the main structure.
- (6) Detached accessory structures shall maintain a minimum separation from the main structure as required by adopted building and fire codes.
- (7) Steeples, chimneys, roof-mounted mechanical equipment, and similar architectural and mechanical elements may exceed the maximum height by no more than 20 percent.
- (8) A height and shadow study may be required by the Town as part of the review of a three-story structure and a use by special review approval shall be required for any requests over three stories.
- (9) Where applicable, building heights shall transition to adjacent residential properties and be no greater than two stories taller than the tallest adjacent residential structure.

Appropriate buffering and landscaping shall be incorporated as required in this Code. See Articles 5 and 6 for development and design criteria.

- (10) The Town may approve a reduced side and rear setback through an administrative adjustment process during the site plan review in the Development Node Zone District when the following criteria are met.
- a. The reduced setback shall be no less than 10 feet from all property lines;
 - b. The reduced setback is not adjacent to the Suburban Perimeter Zone District containing single-family housing;
 - c. The height of the building within the reduced setback area is no more than a single story in height; and
 - d. Required easements, utilities, and landscaping and buffering criteria can be accommodated within the reduced setback area.

Section 16.3.430. Land uses.

- (a) Uses by right. These may require a site plan at the direction of Town staff based on the intensity and potential impacts of the proposal.

- (1) Residential land uses include the following.
 - Bed and breakfast establishments
 - Family child care homes
 - Adult day centers
 - Long-term care facilities
 - Multi-family dwellings
 - Senior housing
 - Single-family attached dwellings and Townhomes
- (2) Mixed land uses include the following.
 - Flex buildings (that start as residential and shift to commercial over time)
 - Live/work units and buildings
 - Mixed-use buildings (residential, commercial, office, workshops, etc.)
- (3) Commercial, retail, or service land uses include the following.
 - Administrative, office, and research facilities
 - Appliance sales and service facilities
 - Automobile service and repair (minor) facilities
 - Banks and financial institutions
 - Bars/taverns/microbreweries
 - Business offices (for contractors, electronic repair, small engine, motorcycle)
 - Car/motor vehicle washes
 - Child care centers
 - Commercial and retail businesses with indoor sales and service
 - Entertainment facilities, commercial theaters, etc.
 - Equipment (small) rental establishments without outdoor sales
 - Gasoline/fueling stations

- Greenhouses, whether public or private
 - Grocery stores
 - Hospitals
 - Hotels/motels (no room limit)
 - Inns (no room limit)
 - Laundromats and dry-cleaning retail outlets
 - Medical and dental offices and clinics
 - Movie theaters
 - Office buildings
 - Parking lots and parking garages (principal use)
 - Passenger terminals or park-n-rides
 - Personal and business service shops
 - Professional offices
 - Restaurants
 - Retail sales—general stores
 - Retail sales buildings
 - Vehicle sales businesses, including automobiles, motorcycles, RVs, boats, and trucks
 - Veterinary clinics for small animals with no outside kennels
 - Veterinary hospitals for large animals
- (4) Public, quasi-public, other land uses include the following.
- Accessory buildings and uses incidental to the principal use
 - Clubs and lodges.
 - Community gardens
 - Conference/convention centers.
 - Farmer's markets
 - Fire stations
 - Municipal use facilities
 - Museums
 - Outdoor amphitheaters
 - Parks and open spaces
 - Parks and playgrounds—neighborhood
 - Places of worship and assembly
 - Public or other nonprofit recreational use facilities
 - Public utility main lines and substations
 - Rest stops
 - Schools, public and private

(b) Uses by special review. Land uses not identified may be considered with additional review as determined by Town staff.

- (1) Residential land uses include the following.
 - Boarding and rooming houses
 - Group homes
 - Safe houses for adults or children with up to eight people
 - Single-family detached dwellings
 - Single-room occupancy boarding houses
- (2) Commercial, retail or service land uses include the following.
 - Agriculture, commercial
 - Agriculture, noncommercial
 - Automobile service and repair (major) facilities
 - Cremation facilities
 - Dry cleaning Plants
 - Equipment rental (heavy) establishments with outdoor sales
 - Kennels for small animals
 - Roadside or temporary retail stands/tents
 - Sales of farm implements, heavy equipment, mobile/manufactured homes
- (3) Public, quasi-public, other land uses include the following.
 - Alternative power generation facilities
 - Bus shelters
 - Wireless telecommunications facilities (no antenna)

Section 16.3.440. Development node industrial sub-zoning.

The development node industrial sub-zoning is contemplated and approved at the time of annexation for a specific property. Upon approval of an annexation and zoning with this designation, the following land uses become allowed rather than by additional review. The following list of uses is not necessarily comprehensive, and during the annexation and zoning process, additional uses may be included by annexation agreement. Additional standards for setbacks, landscaping, fencing, and infrastructure are outlined as follows. Any other requirements are determined through development review.

- (a) Industrial land uses include the following.
 - Laboratory and/or research facilities
 - Light industrial facilities
 - Manufacturing Plants, including assembly, sales, and service of commodities
 - Retail supply yards and storage facilities
 - Recycling facilities (including biofuel) processing and sales facilities
 - Solar facilities (see Article 9 for Solar Facilities Development)
 - Storage facilities (both indoor and outdoor)
 - Truck depots and truck maintenance facilities
 - Warehouse, distribution, and wholesale use facilities
 - Workshops and custom small industry facilities, including art studios with/without sales

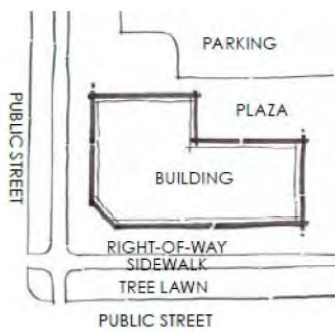
(b) Architectural Standards.

Architectural standards within the development node industrial zone shall mimic the materials and type shown for standard development node uses such as commercial (see Article 6 of this Code).

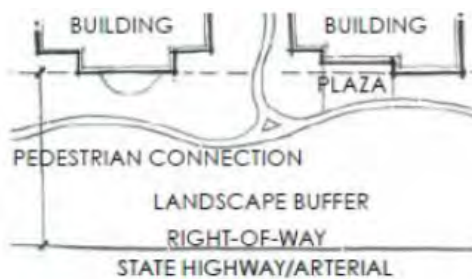
Section 16.3.450. Layout standards.

The Town's adopted development and design criteria can be found in Article 5 Development Standards and Article 6 Design Criteria. The intent of these regulations are to promote creative and unique developments and projects within the Development Node district. Examples of the intended character represented by the criteria in Articles 5 and 6 are illustrated below.

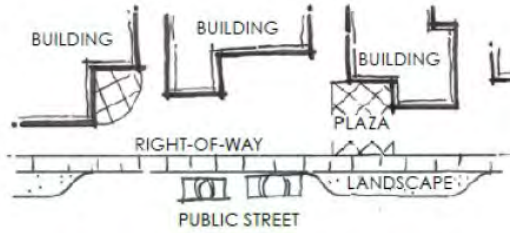
- (a) *Public Street Orientation Diagram.* In areas where a state highway or arterial street is not present, buildings shall be oriented toward the public right-of-way to keep parking lots behind the buildings.



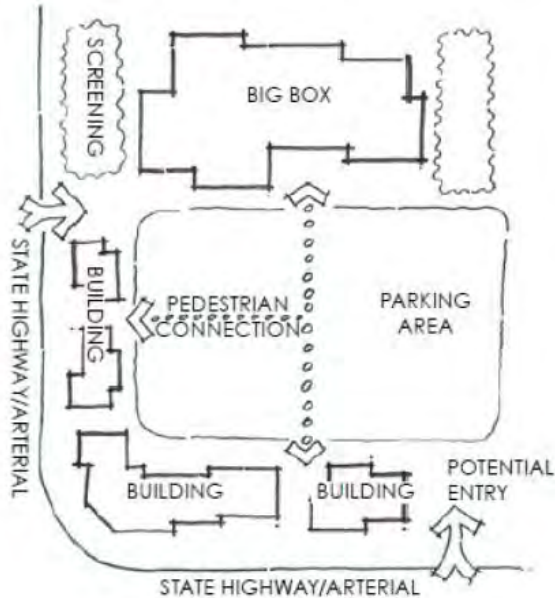
- (b) *State Highway/Arterial Orientation Diagram.* Where property abuts a state highway or arterial street, large landscape buffers are required. Delivery areas and trash enclosures shall be screened from the public right-of-way.



- (c) *On-Street Parking Diagram.* In areas where the right-of-way is narrow, on-street parking, a variety of building setbacks and building edges articulated toward the street are encouraged.



- (d) *Big Box Orientation Diagram.* Big box retailers shall be oriented away from the right-of-way with frontage buildings to screen parking.



Section 16.3.460. Fencing.

Front-yard fencing in the development nodes shall be open wood picket or wrought iron and shall not exceed 42 inches in height. Brick or stone columns are encouraged. Privacy fencing between users or to screen users shall be allowed per review and approval as a part of a final plat or site plan approval. Privacy fencing shall not exceed six feet in height and shall be minimized and placed so that the visual impact to surrounding uses and the public right-of-way is minimized. Landscape buffering in place of or associated with privacy fencing is encouraged. Privacy fencing, if located adjacent to the public right-of-way, shall be separated from the public right-of-way by a landscape buffer.

Section 16.3.470. Entries and signage.

Entries to commercial areas shall be identified by high-quality, ground-mounted signs and/or monumentation. Landscaping shall identify entries with enhanced plantings as shown (flower beds, ornamental trees, etc.). Signage shall be designed to be appropriate to the scale of the development and consistent with the sign regulations of this Code. Signage shall be shown on the site plan.

Division 5 Supplemental Use Regulations

Section 16.3.510. Reserved.

Section 16.3.520. Home-based businesses.

Home-based businesses must meet the following standards.

- (a) In addition to the family occupying the dwelling containing the home-based business, there shall not be more than one outside employee working at the site of the home-based business.
- (b) The home-based business shall not exceed 1,000 square feet or 30 percent of the total floor area of the dwelling, whichever is less, or can be in an accessory building not to exceed 500 square feet. The home-based business shall be conducted entirely within the dwelling or designated accessory building, except as required for state-licensed in-home family child-care.
- (c) The home-based business shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes and must not change the residential character thereof.
- (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-based business, including advertising signs larger than two square feet in total size. No other displays or advertising that solicit or direct people to the address other than the single sign limited to two square feet in total area are permitted.
- (e) There must be no exterior storage on the premises of material or equipment used as a part of the home-based business unless it is enclosed and lot coverage requirements for accessory uses are met.
- (f) No equipment or process shall be used in such home-based business that 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.
- (g) The following uses, because of their tendency to go beyond the limits permitted for home-based businesses and thereby impair the use and value of the residential area, shall not be permitted as home-based businesses.
 - (1) Medical marijuana center
 - (2) Medical marijuana optional premises cultivation operation
 - (3) Medical marijuana-infused products manufacturing
 - (4) Auto repair or motorized implement repair
 - (5) Dance, music or other types of instruction (if more than four students are instructed at one time)
 - (6) The painting of vehicles, trailers or boats
 - (7) Private schools with organized classes

- (8) Welding and fabrication shops
 - (9) Nursing homes
 - (10) Any retail or wholesale sales to consumers upon the premises not incidental to the home-based business (i.e., hair care products at a hair stylist).
- (h) All exterior aspects of the home-based business operation shall not disrupt the residential character of the area.
- (i) No traffic, services, or deliveries shall be generated by the home occupation that is abnormal to a residential neighborhood. In general, this shall be limited to the following.
- (1) No more than one customer vehicle parked at the property at a time, except for drop-off of children for childcare or instruction.
 - (2) No more than 10 client visits per week, except for drop-off of children for childcare or instruction.
 - (3) Delivery of products or materials is limited to that normally associated with residential purposes.
 - (4) All parking necessary for the use shall meet the neighborhood design standards, and be confined to the garage, driveway or street directly in front of the dwelling.
- (j) The property shall comply with all Town building codes and property maintenance standards.
- (k) Use of utilities shall be limited to that typically associated with residential purposes.
- (l) Any home-based business, not meeting these criteria or otherwise denied a permit by the Town, may only be approved by a special use permit.

Section 16.3.530. Accessory dwellings.

- (a) *Intent.* The regulations in this section are intended to address the construction, conversion, expansion, or improvement of accessory dwellings within the Town and to ensure all accessory dwellings are constructed, converted, expanded or improved, and occupied, in compliance with the Town's adopted life safety codes and building regulations, including but not limited to, building, fire, utility, or stormwater codes.
- (b) *Administrative approval required.* To ensure compliance with the regulations in this section, an application and administrative approval shall be required to construct, convert, expand, or improve any accessory dwelling within the Town. For purposes of this section, "improve" or "improvements" means any alteration, repair, addition, expansion, reconstruction, replacement, renovation, or any work in or upon a building or structure for which a building permit is required pursuant to the Town's adopted building regulations.

- (c) *Application requirements; fees.* Applications for the construction, conversion, expansion, or improvement of any accessory dwelling shall be made in writing and shall include all information, documents, and plans necessary for the Town to determine whether the accessory dwelling complies with the standards set forth in this section. The applicant shall pay all fees established by resolution of the Town Council.
- (d) *Town staff review and decision.* When the Town staff has determined the application for the construction, conversion, expansion, or improvement of an accessory dwelling to be complete, the Town staff shall review the application to determine if the application complies with the standards set forth in this section, and shall approve, approve with conditions, or deny the application. Upon the Town staff's approval of the application, any building permits required for the accessory dwelling shall be issued to the applicant.
- (e) *Standards.* The following standards apply to all accessory dwellings for which construction, conversion, expansion, or improvements commences on or after the effective date of this ordinance.
 - (1) There shall be no more than one accessory dwelling on a residential lot.
 - (2) No portion of a lot on which an accessory dwelling is located may be subdivided from, or legally described differently than, the lot containing the principal residential unit.
 - (3) No portion of a structure containing an accessory dwelling may have ownership different from the ownership of the principal dwelling unit.
 - (4) The accessory dwelling shall be affixed to an engineered permanent foundation.
 - (5) An internal or attached accessory dwelling shall be separated from the principal dwelling by a firewall meeting building and fire codes.
 - (6) Accessory dwelling utilities shall be connected through the principal residential dwelling. Additional water dedication or water or sanitary sewer tap upsize may be required to account for increase in demand beyond the expectation of the original dedication or capacity of the original tap.
 - (7) Prior to issuance of any building permit for an accessory dwelling, the applicant shall furnish to the Town a statement by the water service provided and wastewater service provider confirming each provider's capacity to service the property upon the construction of the proposed accessory dwelling. If the property is served by a well or onsite wastewater treatment system, the applicant shall furnish information sufficient for the Town to determine that such facilities are adequate to service the accessory dwelling.
 - (8) The accessory dwelling shall comply with any application residential design standard.
 - (9) For purposes of calculating residential density, each accessory dwelling shall count as one-half dwelling unit.
 - (10) The size of an accessory dwelling unit shall be no larger than the size of the principal dwelling unit on the same lot as the accessory dwelling unit.

Section 16.3.540. Reserved.

Article 4 – Agreements, Dedications, and Construction Standards

Section 16.4.10. Reserved.

Division 1 – Development Agreements and Security

Section 16.4.110. Purpose.

When public improvements, dedications, or similar components are part of a development application, the applicant shall enter into a development agreement with the Town to guarantee timing of dedications and construction of all required public improvements shown in the final development plan(s), together with security in a form approved by the Town.

- (a) The development agreement shall be fully executed by the applicant prior to final review and action on the development plan by the Town, or the Town may postpone final action on the development plan.
- (b) Such agreement shall include a list of all agreed-upon public improvements and landscaping, an estimate of the cost of such improvements (split out by phase as applicable), the form of guarantee for the improvements, and any other provisions or conditions deemed necessary by the Town to ensure all improvements will be completed in a timely, quality, and cost-effective manner.
- (c) Such public improvements may include but are not limited to the construction of streets, curbs and gutters, driveways, sidewalks, storm drainage systems, public water and sewer infrastructure, fire hydrants, floodway and irrigation ditch improvements, streetlights, sidewalks, trails, traffic control devices, required off-site improvements, and signage.
- (d) Other agreements or contracts setting forth the plan, method, and parties responsible for the construction of any required public improvements shown in the final development plan documents may also be required.

Section 16.4.120. Development agreement and acceptance process.

The following steps outline the process for creating, reviewing, approving, and administering the Town's development agreement process through final acceptance of all required improvements.

- (a) *Step 1:* The Town provides a draft copy of the development agreement to the applicant during the development review process to review and comment on.
- (b) *Step 2:* The applicant returns the draft agreement with proposed revisions for final review and consideration by the Town.

- (c) *Step 3:* The Town sends the applicant a final signature ready version of the agreement to execute prior to final review and action on the development proposal. The signed agreement accompanies the final development plan for review by the decision body, as outlined in Article 2 of this Code.
- (d) *Step 4:* If the development plan is approved by the Town, the Town will execute the final development application and send the applicant a signed copy.
- (e) *Step 5:* The applicant shall post security, in a form approved by the Town Attorney and outlined in the executed development agreement, to cover the construction and warranty period of the necessary improvements outlined in the agreement.
- (f) *Step 6:* Following installation of the required improvements, the applicant shall apply to the Town for inspection of improvements, as required by this Code and all applicable laws, rules, and regulations.
- (g) *Step 7:* The Town shall complete inspection(s) of all required improvements and determine if the project has received initial acceptance and can move into the warranty phase.
 - (1) If incomplete, the Town will issue the applicant a letter and list of defects or items that require additional attention prior to the Town issuing initial acceptance. Once the applicant has addressed the Town's comments, they shall apply for reinspection of the outstanding improvements, see Step 6.
 - (2) If complete, proceed to Step 8.
- (h) *Step 8:* If deemed complete, the Town will issue initial acceptance of the required improvements and reduce the applicant's posted security to cover the two-year warranty period.
- (i) *Step 9:* Following the two-year warranty period, the applicant shall apply to the Town for final acceptance and release of the remaining security.
- (j) *Step 10:* The Town shall complete final acceptance warranty inspection(s) of all required improvements and determine if the project requires warranty work or if the Town can issue final acceptance.
 - (1) If warranty work is needed, the Town will issue the applicant a letter and list of defects or items that require additional attention prior to the Town issuing final acceptance. Once the applicant has addressed the Town's comments, they shall apply for reinspection of the warranty items, see Step 9.
 - (2) If no warranty work is identified, proceed to Step 11.
- (k) *Step 11:* If no warranty work is necessary, the Town will issue final acceptance of the required improvements and return the remaining warranty security held by the Town. At this point, all

remaining obligations of the applicant should have been met, subject to the requirements of the final development agreement.

Section 16.4.130. Amendments to development agreements.

In the event the agreement needs to be amended, the applicant or Town Manager and/or their designee may initiate the amendment process, which includes review of the proposed changes by both parties and a determination by the Manager on whether the proposed changes require Town Council review or if the proposed changes can be updated administratively.

- (a) *Administrative changes.* Administrative changes may include but are not limited to agreement deadline extensions, reassignment of the agreement requirements due to applicant or ownership changes, updates to the list of improvements based on administrative changes to the final development plans, or adjustments to the estimate of the cost of improvements based on market conditions.

Section 16.4.140. Timeframe for commencement and completion.

- (a) Commencement of construction of all or a portion of the approved development plan shall occur within two years from the date of recordation of said development plan.
- (b) The required timeframe for the completion of all required improvements for all or a portion of the development plan shall be three years from the Town's issuance of a grading or other permit to commence construction.
- (c) The Town may, for good cause shown, extend such time for commencement or completion of the required improvements upon request from the applicant to the Town Manager and/or their designee.

Section 16.4.150. Security for required improvements.

- (a) *Purpose.* For each development agreement or similar agreement executed by the Town, the applicant shall post security in the form of a letter of credit, cash, or similar security instrument in a form approved by the Town Attorney and drawn in favor of the Town in an amount equal to 100 percent of the estimated cost of the construction of the required improvements. Security may be provided for 100 percent of the total development or by an approved phase, as shown on the development plans and in the executed development agreement. For purposes of this Section, "required improvements" shall mean, at a minimum the following items.
 - (1) All improvements intended for dedication to the Town;
 - (2) All streets, sidewalks, and trails, regardless of whether they are intended for dedication to the Town;
 - (3) All storm drainage improvements, regardless of whether they are intended for dedication to the Town; and

- (4) All landscaping improvements are intended for dedication to the Town or to an approved association or district.
- (b) *Initial Acceptance and Partial Release of Security.* Upon completion of such improvements within the required time and approval thereof by the Town, the Town shall cause the security, excluding the retainage for warranty security, to be released following the Town's initial acceptance of such improvements and receipt of the required as-built drawings; however, the Town will retain 10 percent security of the original security until final acceptance at the end of the two-year warranty period. When such improvements are not completed within the required time, the Town may cause the proceeds of the security to be used to close or complete the required improvements in accordance with the terms and provisions of the development agreement.
- (c) *Partial release of security.* During construction of required improvements, the applicant may from time to time request the release by the Town of a portion of the security for improvements that have been inspected and approved by the Town Engineer, as shown on approved phasing plans as part of the approved development plan. The required warranty period shall commence upon completion and initial approval of all required improvements and landscaping in accordance with the terms and provisions of the development agreement. Full and complete acceptance of the project will occur at the termination of the warranty period after final inspection.
- (d) *Warranty.* All workmanship and materials for all required improvements shall be warranted for a minimum period of two years by the applicant as specified in the development agreement and this Code.

Division 2 – Dedications

Section 16.4.210. Reserved.

Section 16.4.220. Public school sites.

- (a) *Fair contribution for public school sites.* The subdivider shall dedicate or convey land for a public-school site to the appropriate school district, or, in the event the dedication of land is not deemed feasible or in the best interests of the school district as determined by the superintendent or designee of the school district, the subdivider shall make a payment in lieu of land dedication or conveyance. The amount of contribution of either land or payment in lieu of land shall be determined pursuant to the tables set forth in the agreements between the Town and the school districts.
- (b) *Exemptions from fair contributions for public school sites.* The following uses shall be exempt from the fair contributions for public school sites requirements.
 - (1) Construction of any non-residential building or structure.
 - (2) Alteration, replacement or expansion of any legally existing building or structure with a comparable new building or structure that does not increase the number of residential dwelling units.
 - (3) Construction of any building or structure for limited-term stay or long-term assisted living, including but not limited to bed and breakfast establishments, Boarding or rooming houses, family care homes, group care homes, halfway houses, hotels, motels, nursing homes or hospices.
 - (4) Construction of any residential building or structure classified as housing exclusively for older persons, pursuant to the Federal Fair Housing Act, as amended
- (c) *Land dedication.* In the event the fair contribution for public school sites includes the dedication of land, prior to recording the final plat, the following items shall be completed by the subdivider.
 - (1) The subdivider shall convey to the school district, by general warranty deed, title to the land slated for dedication, which title is free and clear of all liens, encumbrances and exceptions (except those approved in writing by the school district), including, without limitation, real property taxes, which will be prorated to the date of conveyance or dedication.
 - (2) The subdivider shall provide to the Town proof of the dedication or conveyance.
 - (3) At the time of dedication or conveyance, the subdivider shall provide a title insurance commitment and policy in an amount equal to the fair market value of the dedicated property.

- (4) The subdivision improvements agreement (SIA) for the subdivision shall provide for the installation of the streets adjacent to the school site, the installation of water, sewer and other public utilities to the school site and overlot grading of the school site.

- (d) *Cash-in-lieu of land dedication.* In the event the fair contribution for public school sites includes payment in lieu of the dedication of land, prior to the issuance of any building permit for any residential dwelling unit not otherwise exempt, the subdivider shall pay to the Town on behalf of the school district the cash to be paid in lieu of land dedication.

Section 16.4.230. Water dedication.

- (a) *At the time of annexation.* As outlined in the Town's annexation procedures, all surface and subsurface water rights associated with land proposed for annexation must be dedicated and conveyed to the Town as a condition of annexation approval. See the annexation procedures in Article 2 of this Code for full requirements.

Section 16.4.240. Open space and parkland dedication.

- (a) *Requirements.* New developments and redevelopments are required to provide a minimum amount of open space and specific parkland requirements as outlined in the Town's development standards. See Article 5 of this Code for full requirements as each development type and zone district in the community is different.

Division 3 – Construction Standards and Specifications

Section 16.4.300. Reserved.

Section 16.4.310. Overview.

The Town has an adopted set of Construction Standards and Specifications that establish the minimum requirements for all public and private infrastructure improvements associated with new development or redevelopment within the Town. These standards ensure that construction activities meet consistent, high-quality benchmarks that support public health, safety, accessibility, and long-term maintenance.

- (a) *Applicability.* All construction related to streets, sidewalks, water and sewer systems, storm drainage, and other essential infrastructure must conform to the current adopted standards, as maintained by the Town.
 - (1) The Town reserves the right to update or modify these standards from time to time to reflect best practices, evolving regulatory requirements, or community needs.
 - (2) These standards apply to both on-site and off-site improvements and serve as a reference point during the design, permitting, and construction process. Compliance with these standards is required prior to the approval of development applications, building permits, and final inspections.
- (b) The following sections in this Article outline additional specific requirements related to easements, utility design, water and sewer capacity, drainage infrastructure, fire protection, and other key components that may be triggered by proposed development or subdivision activity.

Section 16.4.320. Utility easements.

Easements may be more or less than the widths stated in this Section if the specific utility provider indicates in writing a width other than those required by this Code. Utility easements shall be subject to the approval of the Town and applicable utility companies.

- (a) *Rear lot lines of abutting lots.* Utility easements shall measure 10 feet on each side of abutting rear lot lines.
- (b) *Rear lot lines of unsubdivided property.* Utility easements shall measure 10 feet in width on subdivision perimeter rear lot lines adjacent to property that is not subdivided.
 - (1) If the location of utility easements adjacent to rear property lines is unsuitable for use by utility companies due to drainage, irrigation ditches or other obstructions, the subdivider shall provide like-width easements adjacent to said areas of obstruction.
- (c) *Site lot lines.* Utility easements, where necessary, shall measure 10 feet in full width; five feet on either side of a lot line is acceptable.

- (d) *Front lot lines.* Utility easements shall measure 10 feet in width.

Section 16.4.325. Multiple installations within easements.

Easements shall be designed to provide efficient installation of utilities. Public utility installations shall be located to permit multiple installations within the easements. Easements shall be graded to within six inches of final grade prior to utility installations.

Section 16.4.330. Underground utilities and installing conduit.

- (a) *All utility cables and lines shall be placed underground.* The subdivider shall be responsible for complying with the requirements of this Article and Code and shall make the necessary arrangements, including any construction or installation charges, with each utility provider for the installation of such facilities.
- (1) Appurtenances to such underground utilities shall be placed underground or on the surface but not on utility poles.
 - (2) Screening or fencing is required to the satisfaction of the Town Council.
 - (3) Electric transmission and distribution feeder lines and necessary appurtenances thereto may not be placed above ground unless they are carrying greater than 115 kilovolts. Such facilities shall be placed within easements or public streets, as therein provided, or upon private easements or right-of-way provided for the particular facilities.
- (b) *Installing underground conduit for future utilities.* To provide for the installation of public and private utilities after completion of streets, sidewalks, trails, or similar improvements, three SDR11 smooth conduit lines, one and one-quarter inch in diameter, shall be placed at horizontal and vertical locations approved by the Town Engineer within the municipal utility easement with a capped junction at each buildable lot.
- (1) When crossing a public street, a High-Definition Polyethylene (HDPE) four-inch schedule 40 PVC sleeve conduit will be placed around each of the three SDR11 smooth conduit lines for the full width of the right-of-way (ROW).
 - (2) Once installed and accepted by the Town, the conduit shall become the property of the Town, and its' use shall be subject to license or franchise by the Town.

Section 16.4.335. Subdivision and site access requirements.

- (a) *Major subdivisions.*
- (1) Subdivisions are required to provide at least two fully functioning points of vehicular and pedestrian access to the adjacent public road network. These access points must connect to two separate public roads to ensure adequate traffic circulation, emergency ingress and egress, and community connectivity. Sites with physical constraints or unique conditions may require a detailed analysis to determine if an alternative configuration can meet the intent of this requirement, subject to approval by the Town.

- (2) Subdivisions containing more than 100 residential units may be required to provide a third point of access to distribute traffic more evenly, enhance overall connectivity, and mitigate potential congestion at subdivision entrances. The need for additional access points will be determined based on the size, layout, and anticipated traffic impacts of the development, in consultation with the Town and emergency service providers.

(b) *Multifamily and commercial developments.*

- (1) Are required to provide a minimum of two fully functioning points of vehicular and pedestrian access to the adjacent public road network. The distance between access points must be sufficient to reduce congestion and provide redundancy for emergency ingress and egress, as determined by the Town's adopted driveway spacing standards.
- (2) Where physical constraints or other unique site conditions limit the ability to provide two public access points, projects must include an alternative plan for emergency vehicle access. This may involve the design and implementation of dedicated emergency routes, approved by the Town and emergency service providers, that meet all applicable width, surface, and clearance requirements.

Section 16.4.340. Street lighting.

Street lights and associated underground street light supply circuits shall be installed.

- (a) Systems are to be engineered by the local electrical utility companies, Xcel Energy and Poudre Valley Rural Electric Association.
- (b) Lights shall be limited to "full cut-off" or "fully shielded" fixtures and shall be subject to approval by the Town in compliance with the Town's adopted lighting regulations in Article 5 of this Code.

Section 16.4.330. Water and sewer infrastructure.

- (a) *Potable water.* All residential, commercial and industrial uses that have human occupancy shall have potable water served by either the Town or, if out of the Severance water service area, the North Weld County Water District.
- (b) *Non-potable water.* All development and redevelopment areas shall be connected into a non-potable water system, unless otherwise approved by the Town.
- (c) *Sanitary sewer.* Except as otherwise approved by the Town, all residential uses and commercial and industrial uses that have human occupancy shall have sanitary sewer.
 - (1) All sanitary sewer systems shall be connected to a public sanitary sewer system and shall consist of a closed system of sanitary sewer mains and lateral branch connections to each structure or lot upon which a structure is to be built.
 - (2) Sanitary sewer lines are to be of sufficient size and design to collect all sewage from within the subdivision or development.

- (3) On a case-by-case basis, the Town may approve individual sewage disposal systems that comply with the Weld County Health Department standards. However, no new, new addition, upgrade or major repair to an individual sewage disposal system will be permitted if the property is located within 400 feet of a sanitation collection line, measured through existing sewer easements or utility rights-of-way, except where such connection is not feasible or has been denied by either the Town or sewer district.
- (d) *Oversizing.* Oversizing of water lines may be required by the Town beyond the needs of the subdivision development and standard Town specification. In such cases the applicant shall pay for the cost of the line. In the event oversized utilities are required and are greater than 12 inches in diameter, applicants can initiate requests for oversize recovery or reimbursement following final acceptance of the water or sewer line as part of a Development Agreement. The method and time of payment shall be established in accordance with the current policies of the Town and/or the Agreement.

Section 16.4.345. Fire hydrants.

The developer shall install fire hydrants at street intersections and other points as per the requirements of the Windsor-Severance Fire Protection District.

Section 16.4.350. Utility plan and report standards.

Development and redevelopment projects shall submit engineering plans and reports that demonstrate how the proposed project will address site grading, stormwater management, and utility service needs. These reports ensure that development is designed in a manner consistent with the Town standards and does not negatively impact public infrastructure or surrounding properties.

- (a) *Grading and drainage plan and report.* The purpose of the drainage plan and report is to identify existing site conditions and drainage problems, as well as those anticipated to result from development (whether on-site or off-site), and to present conceptual solutions to those problems. Historic drainage patterns and the effects of off-site drainage areas on the development and the effects of the development on downstream properties must be thoroughly assessed.
 - (1) This plan and report must be certified by a Colorado-registered professional engineer and must include approximate earthwork quantities (how earthwork on the site is "balanced"), storm drainage concepts, such as locations of pipe and other conveyance facilities, locations for on-site detention or downstream structural improvements, and soil erosion and sedimentation control plans and specifications.
 - (2) It must discuss the impacts on any existing floodways and/or floodplains both on and adjacent to the site as well as any FEMA applications required.
 - (3) It must discuss previously submitted drainage studies for the site or project and their influence on the proposed stormwater facility design, and if applicable, the Storm Water Master Plan, how recommendations in the Storm Water Master Plan affect the

- stormwater facility design for the site, and how the proposed stormwater facility design complies with the Storm Water Master Plan.
- (4) It must provide sufficient information for an initial assessment of whether the proposed stormwater facility design can safely convey storm water runoff through the development to an adequate storm water system and accessible point of disposal with sufficient system capacity to carry necessary flow of the proposed development without overflowing downstream channels and existing storm drainage facilities or causing damage to property.
- (b) *Water and Sewer utility plan and report prepared by a registered professional engineer.* It is necessary that the engineer consult with the appropriate utility service providers regarding the design of all utilities through the proposed development.
- (1) It must discuss the projected total water needs of the development for domestic consumption and fire protection, including without limitation, data on projected annual usage (GPY), average day demand (GPM/GPD), and maximum day demand (GPM/GPD), peak hour flow (GPM), as well as the projected total flow of sewage through a treatment plant expected to be generated by the proposed development.
- (2) It must discuss previous water and sewer studies for the site or project and their influence on the proposed design for water and sewer facilities, and if applicable, the Water, Sewer, and/or Non-potable Water Master Plans, how recommendations in the Water, Sewer, and/or Non-potable Water Master Plans affect the proposed water and sewer improvements for the site, and how the proposed water and sewer improvements for the site comply with the Water, Sewer, and/or Non-potable Water Master Plans.
- (3) If located within the boundaries of the Town's water, non-potable water, or sewer utility enterprise respective service areas, it must also provide sufficient information for an initial assessment of the proposed development's impact on all parts of the Town's sanitary sewage collection system (including without limitation laterals, interceptors, lift stations, treatment plants, points of discharge), potable and/or non-potable water systems (including without limitation water source, water quality, treatment, storage, pumping facilities, and metering devices), as well as an evaluation of the adequacy of the Town's water, non-potable water, and/or sewer (where applicable) utility enterprises, respectively, to serve the proposed development together with existing development and development which is reasonably probable of connecting to the applicable Town utility system (e.g., legal buildable lots in approved subdivisions for which building permits have not been issued).

Section 16.4.355. Engineering plan and specification submittal criteria.

As part of the Town's review of a development application, the applicant shall prepare and submit the following for review and action by the Town prior to commencement of construction.

- (a) *Construction plans and profiles.* The plans and profiles shall be prepared by a registered professional engineer licensed in the State of Colorado. Plans shall be 24 inches high by 36 inches wide and shall provide the following information.
- (1) The horizontal to vertical scales shall be chosen to best depict the aspects of the design.
 - (2) The minimum horizontal scale is to be one-inch equals 100 feet.
 - (3) The minimum vertical scale is to be one-inch equals 10 feet.
 - (4) The typical road geometric and structural cross section is to be shown on each plan sheet.
 - (5) The plan must show right-of-way lines and widths, road names, lot lines, tangent lengths and bearings, curve radii, delta angles, curve lengths, chord lengths and bearings, stationing at all beginning of curves and end of curves, intersections, structures, angles, curb lines, cross pans, traffic-control devices (islands, striping, signs, etc.), drive cuts, curb returns and radii and all other features to enable construction in accordance with approved standards and standard engineering practice. Stationing may be centerline if approved by the Town Engineer. Construction plans shall include water lines and appurtenances, sewer lines and appurtenances, stormwater lines and appurtenances and any other wet utilities such as non-potable water systems and irrigation ditches.
 - (6) The profiles shall include existing and proposed grades at curb and gutter or centerline of street elevation at point of intersection of vertical curves, intersections, grade breaks, point of curb return, point of reverse curve and other critical points, structures and all other features required to enable construction in accordance with the standards adopted by this Code.
 - (7) Signature blocks for all utility providers shall be included unless otherwise provided in agreement form.
 - (8) Structure details. Sufficient data shall be given to construction of major structures and road appurtenances, such as bridges, culverts, gutters, drives, walks, cross pans, etc.; detail shall include orientation line and grade, cross-sections, dimensions, reinforcement schedules, materials, quality specification, etc., or as the Town Engineer may approve.
 - (9) Sewage collection and water supply distribution plans, profiles, and specifications. The plans, profiles and specifications shall be prepared by a registered professional engineer and shall be accompanied by written approvals from the applicable water and sanitation district.
- (b) *Final water report.* A final water report, including hydraulic analysis and pipe sizing calculations, shall be included.
- (c) *Final sanitary sewer report.* A sanitary sewer report including hydraulic analysis and pipe sizing calculations shall be included.
- (d) *Final drainage plans and reports.* Based on the approved preliminary drainage plan, a final report is to be submitted in accordance with the Greeley Drainage and Design Criteria, as amended, or as the Town Engineer may approve. The plan and report must provide:

- (1) Cross-sections of each water carrier showing high water elevations for 100-year runoff and adjacent features that may be affected thereby.
 - (2) Written approvals, as may be required, from other agencies or parties that may be affected by the drainage proposals (i.e., FEMA, Larimer County and Weld County, ditch companies).
 - (3) Supporting calculations for runoffs, times of concentration, flow capacity with all assumptions clearly stated with proper jurisdiction when needed or requested.
 - (4) Erosion control plans, when required.
 - (5) Sizing of all pipes, inlets, conveyance ways and other appurtenances.
- (e) *Final grading plan.* The final grading plan shall be 24 inches high by 36 inches wide and shall illustrate existing and proposed contours and lot and block grading details.
- (f) *Soils report.* The soils report shall detail pavement design and construction requirements and shall be submitted after overlot grading is complete.

Section 16.4.355. Landscape and open space plan and specification submittal criteria.

The landscape plan must address the treatment of all exterior spaces. Landscape plans are to be designed to meet the requirements of this Code and show trees, shrubs, groundcovers, turf, buffering, fences, walls, and other site amenities that will be included in the plan. All plant materials must be adapted to the physical limitations of the local climate and specific conditions of the landscape plan. All plant materials must meet specifications of the American Association of Nurseryman for Number 1 grade. All street trees must be selected from the Town's recommended tree list.

- (a) Landscape plan drawn to scale (not greater than one-inch equals 50 feet) on sheets sized 24 inches by 36 inches, which includes the following.
- (1) Project name.
 - (2) Scale, north arrow, and date of preparation.
 - (3) Existing and proposed streets and street names.
 - (4) Lot lines, easements and public rights-of-way as shown on the subdivision plat, including gross and net area of all parcels.
 - (5) Location of proposed building footprints and parking areas.
 - (6) Location of storage, loading and service areas.
 - (7) Existing and proposed two-foot contours (based on USGS datum).
 - (8) Natural features, wetlands, wildlife corridors, floodplains, streams, ditches, and other waterways.
 - (9) Location of existing and proposed utilities (utility lines can be "ghosted" in on the landscape plan to vary the line types for cleaner drawings).
- (b) All existing trees within the proposed site and adjacent to the site must be accurately identified on the plan. Existing trees must be labeled as to their size, species and, if they are intended to remain, be removed, or transplanted. All replacement mitigation trees will need to be shown

separately on the plan. Tree protection standards for existing trees to remain shall be included in the plan.

- (c) The extent and location of proposed trees, shrubs and perennials and quantities of each species. Plant materials are to be drawn at two-thirds of their mature size.
- (d) Landscape schedule, including the represented plant symbol, Latin name, common name, planting size and number of individual plants. All plant materials are to meet the minimum size requirements as provided in this Code.
- (e) Proposed treatment of all ground surfaces must be clearly indicated, including turf, paving, mulch, native grass, seeded grass, and so on. Grass areas are to be specified as seed or sod and a seed mix/rate specified.
- (f) Sight distance triangles must be shown at street intersections pursuant to this Code.
- (g) Project-specific landscape notes and details to ensure the proper planting, establishment, and survival of plant materials, along with additional notes detailing the warranty for plant materials and continued maintenance, shall be included.
- (h) Open space trail network and pedestrian circulation system.
- (i) Areas to be irrigated and method of irrigation.
- (j) Proposed grading of the project site, including drainage swales, detention basins and retaining walls. Off-site grading for infrastructure improvements will need to be included as well.
- (k) Notes for conservation and retention of topsoil and landscape soil preparation.
- (l) Restoration, revegetation or enhancement of disturbed natural areas or open space features.
- (m) Park/open space structures, signage, play equipment and other landscape amenities and appurtenances.

Section 16.4.360. Public improvements.

The Town may condition its approval and require on-site and off-site improvements or contributions to off-site improvements to ensure the proposed development will be served by adequate water, sewer, and storm drainage facilities. These improvements include but are not limited to the following.

- (a) The construction of mains in all public and private streets or utility easements within and adjacent to the proposed development;

- (b) The construction of mains through the development to serve the lots and buildings or structures within the development and to adjacent properties to allow them to connect to and extend the water or sewer system;
- (c) The construction of off-site improvements needed to complete the following.
 - (1) Connect to the existing system;
 - (2) Provide the storage and flows needed to meet the level of service standards and the requirements of the water system plan;
 - (3) Provide collection capacity needed to meet the level of service standards and the anticipated demand from the service area;
 - (4) Provide the storage and flows needed to meet the water demands generated by the proposed development; or
 - (5) Provide the storage and flows needed to supply the fire flows needed to serve the development.
- (d) The construction of pressure-reducing valves and similar appurtenances to provide pressure zone separation in the distribution system;
- (e) The construction of lift and/or pump stations needed to serve the development if it is in a special pressure zone or because of topographical considerations. This will only be required or allowed in accordance with designated permanent lift and/or pump stations listed or shown in the current water system plan or sewer system plan;
- (f) The construction of replacements or improvements to existing facilities to maintain an established level of service for sanitary sewage discharge from the service area or for water system demand and fire flow to the development;
- (g) The construction of replacements or improvements to existing off-site facilities to the extent that the new development would cause the level of service for existing customers to drop below existing standards; or
- (h) The transfer or dedication of easements or land needed for the construction and maintenance of utility system improvements.

Article 5 – Site Development Standards

Division 1 – Open Space, Buffering, and Pedestrian Connectivity

Section 16.5.110. Overview.

- (a) *Purpose.* The intent of this Code language is as follows.
- (1) Value the design, function, and appropriate application of several types of open space systems, rather than solely the quantity of space;
 - (2) Screen and mitigate visual impacts of high intensity portions of sites and developments, particularly focusing on the impact on public rights-of-way and adjacent property; and
 - (3) Provide important transportation connections, as well as recreational opportunities and access.
- (b) *Provisions.* The provisions of this Section are in addition to the requirements of the underlying zone district and supersede the zone district requirements. In the event of a discrepancy between the two, the Town Manager and/or their designee's decision shall be final. These requirements supplement Article 6 Design Standards and should be used together with the use specific design criteria, as adopted, and amended by the Town. All landscaping, open space, and buffering standards shall be consistent with the Town's non-potable water requirements.

Section 16.5.115. Open space standards.

- (a) *General Criteria.* The following criteria shall apply to all open spaces within the Town.
- (1) Uses designated within an open space area shall be appropriate to the context, character, and intensity of the development.
 - (2) No land shall be reserved by the applicant as non-buildable parcels or designated as open space unless it is of sufficient size, shape, and topographically suitable to be of practical use or service as part of a complete open space system that supports development.
 - (3) The land area designated as open space within subdivision developments shall not be credited toward the minimum landscape requirements or landscape area for site specific developments.
 - (4) Oil & Gas wells, both active and abandoned, shall not be counted towards the overall open space percentages.
 - (5) Open space shall consist of lands maintained in native vegetation and used for buffering or habitat preservation. Irrigation is applied as necessary for maintenance.
 - (6) Areas designated as public open space shall be both visibly and physically accessible to the community. Public access shall be provided to all public open spaces directly from the public rights-of-way and trail system(s).
 - (7) Street, node, activity, walkway, and conflict lighting is required. Lighting shall meet the requirements of this Code.

- (8) Ponds and lakes may count as open space provided, they are active and at a minimum allow for non-motorized boats, swimming, and floatable devices.
- (9) To coordinate open and civic spaces into a system that integrates the public realm with surrounding development, subdivision design and location of open space types shall consider the following.
 - a. Connections and integrations with public streetscapes and other civic destinations, such as schools, to improve visibility and access;
 - b. The accessibility of neighborhoods to recreation opportunities for active living;
 - c. The opportunity for natural spaces to preserve groves of trees, streams, unusual and attractive topography, and other desirable natural landscape features and views;
 - d. The opportunity for formal gathering places to be a focal point for compact, walkable places, located as an extension of the streetscapes at highly traveled and visible locations;
 - e. The types of spaces that reinforce character of the area or create gateways and transitions to distinct places; and
 - f. The distribution of spaces so all developments have similar proximity to other types of open and civic space appropriate to its context.
- (10) An internal pedestrian way or trail system shall be provided.

(b) *Open space development standards.*

- (1) General criteria.
 - a. Of the required open space for developments, no more than 20 percent may be classified as passive open space.
 - b. Open space designs shall be context sensitive. Compact and formal gathering spaces are most appropriate in walkable commercial and mixed-use areas. Spacious and natural areas are most appropriate in larger and spread-out development areas.
 - c. See Article 6 Design Standards for additional site design criteria.
- (2) Residential development criteria.
 - a. Rural residential developments shall provide a minimum 20 percent of the gross land area as functional open space, which may include agricultural land, natural areas, trails, and lands dedicated for other similar purposes.
 - b. Residential developments shall provide a minimum of 25 percent of the gross land area as functional open space. An exception may be granted by the Manager for infill Town center projects.
 - c. Residential developments with 50 or more units shall incorporate a minimum of one centrally located multifunctional park. For multi-family projects, this park may count towards the amenity points specified within Article 6 Design Standards. See dedication requirements in Article 4.
- (3) Non-residential development criteria.

- a. Non-residential developments shall provide a minimum of 15 percent of the gross land area as functional open space. An exception may be granted by the Manager for infill Town center projects.

(c) *Minimum landscape requirements for all open spaces.*

- (1) Edge landscaping and entryways.
 - a. Edges of commercial developments shall contain high-quality landscaping. Berms, meandering walks, a mix of irrigated turf, shrub beds, ornamental trees, evergreen trees, and shade trees are encouraged.
 - b. The perimeter treatment adjacent to roadways should include a minimum 20 feet varying width landscape buffer with a minimum 10-foot community pathway, unless otherwise specified in this Code.
 - c. Entryways and areas visible from public streets shall have some type of landscape component that may include window boxes, hanging baskets, large pots, and planting beds.
- (2) All plants shall be carefully chosen to provide for seasonal interest, texture, variety, drought tolerance, zone hardiness, and to promote year-round use.
- (3) Landscaping shall be designed to minimize water demand, maintenance, the need for chemical fertilizers, and maintain applicable site triangle requirements.
- (4) Except for turf or native grasses, or similarly approved ground covers, no one species may exceed 25 percent of the total plant palette.
- (5) All required and approved vegetation shall be maintained in healthy condition. Dead or diseased plants shall be removed immediately and replaced by the next growing season. New plants shall meet the minimum size requirements.
- (6) Plant materials adjacent to or within sidewalks, pathways, trails, plazas, and other routes or gathering spaces shall maintain sidewalk clearance requirements for accessibility.
- (7) Water, water taps, and an irrigation system shall be provided by the developer of sufficient size, quantity, and configuration; consistent with the adopted Construction Standards and Specifications.
- (8) All landscaping improvements, amenities, and features shall be maintained, repaired, and replaced by the party responsible, as approved by the Town.
- (9) Street and perimeter trees shall be provided at 50-foot intervals around the edge of open space areas based on tree species spacing criteria, and placed to avoid conflicts with lighting, parking, and access.
- (10) Minimum tree planting sizes shall conform to adopted Town specifications, unless otherwise specified by the Town.
 - a. Two-inch caliper deciduous.
 - b. One and one-half inch caliper ornamental.
 - c. Six-foot tall evergreen.
- (11) Minimum shrub and ornamental grass planting sizes shall conform to adopted Town specifications, unless otherwise specified by the Town.

- a. Five-gallon sized container.
 - (12) The amount of turf grass shall be determined by the intended use of the open space.
 - a. Turf areas shall be naturalized, avoiding rectangular shapes and forms, unless required for a specific sports activity. Turf grass shall be avoided in heavily shaded areas.
 - b. Turf grasses shall be drought tolerant.
 - (13) Use of perennial ground cover is required and shall cover no less than one-half of the minimum required shrub area. The use of native and drought-tolerant species is encouraged.
- (d) *Water conservation.* The following water conservation criteria applies to any project or development within the Town.
- (1) A minimum of 70 percent of shrubs or trees shall be classified as very low or low water use.
 - (2) No more than 10 percent of shrubs or trees shall be classified as high-water use.
 - (3) Sites over three acres shall be organized into distinct hydrozones according to their microclimatic needs and water requirements.
 - (4) Plants with similar water requirements shall be grouped together in the same irrigation zones.
 - (5) Grass turf areas classified as medium or high-water use shall be limited to high use or high visibility areas.
 - (6) Grass varieties listed as low water use may be used without limitation.
- (e) *Storm drainage facilities as open space areas.*
- (1) Storm drainage facilities may be designed and integrated into open spaces and may be counted towards the open space requirements provided the stormwater function is clearly secondary to the overall purpose of the space.
 - (2) The stormwater facility shall not alter the function or usability of the space in any way.
 - (3) No more than 40 percent of the designated park area can be dedicated to storm water management.
 - (4) Maintenance and management of the portion of the facility serving stormwater function must be clearly defined, whether that is a public dedication or whether it is an obligation of the owner or property owner's association.
 - (5) These multi-use facilities must provide for active recreational amenities such as fitness parks, play structures, etc., as approved by the Town.
- (f) *Ownership and Maintenance.* Ownership and maintenance of public open space(s) shall be determined by the Town during the entitlement process based on the type of open space provided.
- (1) Generally, the homeowners' association or business owners' association shall own and maintain public and private common open space.
 - (2) Maintenance of trails shall be determined during the entitlement process.

- (3) Conservation areas set aside as part of a subdivision within the Rural Residential zone district shall be owned and maintained by the owners' association, unless otherwise agreed to by the Town.
- (4) Storm water detention and retention areas that also function as open space shall be owned and maintained by a homeowners' association, unless otherwise agreed to by the Town.
- (5) Areas designated as open space shall be maintained according to the designated function of the area. For areas that remain in private ownership, a mechanism to assure that maintenance will be funded in perpetuity shall be in place at the time of entitlements, as approved by the Town.
- (6) Parks dedicated to the Town as part of a developer's park dedication requirements will be owned and maintained by the Town, unless otherwise determined during the entitlement process.

Section 16.5.120. Open space types.

Open space(s) shall be designed and located based on the following standards and guidance. To recognize the value, context, and function of well-designed open space, in addition to simply the amount of space, amenities will be required based on the size of the development.

(a) *Natural area.*

- (1) Design guidelines. An undeveloped area that contains significant natural features or habitat worthy of preservation, and which provides environmental, aesthetic, and recreational benefits. Features such as riparian corridors and wetlands, scenic vistas, and prominent topography, protected species nesting and migration areas, or substantial groupings of important plant types characterize Natural Areas. These areas contain little or no constructed improvements or maintained landscapes other than trails to access the Natural Area.
- (2) Recommended size. The size of a Natural Area should be based on the site characteristics and potential continuity of similar natural features in the area, along with the potential to connect to adjacent natural areas that contribute to an area of at least five contiguous acres.
- (3) Applicability.
 - a. Rural residential areas.
 - b. Low-density residential areas.
 - c. Any other area of natural amenity with regional significance.
 - d. Service areas are dependent on contributing natural features.

(b) *Trail corridor.*

- (1) Design guidelines. An undeveloped area of continuous linear natural features, often following a stream, floodplain, or road corridor. A Trail Corridor should be used for recreation and non-motorized transportation through pedestrian or multi-use trails. It includes few construction improvements except those to enhance travel or recreational use.

- (2) Recommended size.
 - a. 20-foot minimum width.
 - b. 30 feet or greater in width is ideal.
 - c. Size is dependent on topography and natural features.
 - d. No minimum length, but the trail corridor needs to provide significant continuity in the trail system or connection between streetscape and/or on-street trails and coordinate with other plans. Trail corridors may be narrower in more constrained or urban conditions.
- (3) Applicability.
 - a. Alternative (off-street) transportation routes between neighborhoods and centers.
 - b. Along major streets in the network as expanded right-of-way.
 - c. Used to preserve linear natural features in more densely developed neighborhoods and activity centers.
 - d. Service Area. Dependent on the extent of linear features or associated major street plans. However, to serve pedestrian interests, development served by trail corridors should be within 1,000 feet of trail access points.

(c) *Park.*

- (1) Design guidelines. A park has a predominantly natural landscape although small portions may be designed and constructed for aesthetic purposes, formal gatherings, and structured recreation purposes.
- (2) Recommended size.
 - a. Five to 15 acres for Neighborhood Parks
 - b. 15 acres or greater for Community or Regional Parks
- (3) Applicability.
 - a. Low-density residential
 - b. Urban residential neighborhoods
 - c. Mixed-use commercial activity centers
 - d. Community and regional activity centers
 - e. Service Area. Neighborhood Parks within one-quarter of a mile and Community Parks within one mile

(d) *Green.*

- (1) Design guidelines. An open space for unstructured recreation or aesthetic landscaping. A Green is bordered by public rights-of-way or internal access ways on at least two sides. Front building facades and/or formal edge landscaped elements define any boundaries of the Green nor bordered by public rights-of-way or internal access ways. Frontage on rights-of-way or internal access ways may be accommodated by pedestrian connections. Generally, there are few constructed elements except for small gathering places created as a focal point for the Green.
- (2) Recommended size of one-half acre up to three acres in size.

- (3) Applicability.
 - a. Urban residential neighborhoods.
 - b. All activity centers.
 - c. Service Area. Within two blocks and no more than 1,000 feet from a residential neighborhood.

(e) *Plaza.*

- (1) Design guidelines. An open space for civic purposes and formal gatherings. Building facades define any boundaries of a Plaza not bordered by public rights-of-way or other active pedestrian corridors. Access shall be accommodated by at least two well-defined and easily identified areas for public access. A Plaza is comprised of constructed materials to withstand heavy pedestrian traffic gathering, but contains intermittent lawns, landscape beds, or trees in a formal ornamental pattern.
- (2) Recommended size. Five hundred square feet minimum up to one quarter of an acre.
- (3) Applicability.
 - a. All activity centers.
 - b. Service Area. Within the same block or immediately adjacent to developments and no more than 600 feet away.

(f) *Courtyard or Patio.*

- (1) Design guidelines. A small open space accessible to the public streets but serving one or a few surrounding buildings. Courtyards are primarily bordered by building facades but have at least one side fully or partially bordered by a public right-of-way. A Courtyard contains a balance of formal landscape features and constructed materials to withstand heavy pedestrian traffic and gathering.
- (2) Recommended size. Four hundred square feet minimum up to 5,000 square feet.
- (3) Applicability.
 - a. Urban residential neighborhoods.
 - b. All activity centers.
 - c. Service Area. Within the same block and no more than 300 feet away.

Section 16.5.125. Supplemental open space provisions.

(a) *Natural Areas.*

- (1) The local fire department must review proposed natural areas as part of the planning process.
- (2) A minimum six-foot “courtesy strip” must be mowed on all sides of all trails, fences, and structures within the designated natural area.
- (3) All combustible materials and supplies must be located 10 feet or more from all structures.
- (4) No fireworks, open campfires, or smoking are permitted in defined ‘Natural Areas’.

Section 16.5.130. Amenity points.

The following amenity points shall be required for residential projects, based on the total number of units.

- Up to 10 dwelling units equals one amenity point.
- From 11 to 30 dwelling units equals three amenity points.
- From 31 to 50 dwelling units equals five amenity points.
- From 51 to 150 dwelling units equals six amenity points.
- More than 151 dwelling units equals seven amenity points.

(a) *Amenity point credits.*

- (1) Credit shall be given for incorporating features into required open spaces as listed below. Credits may be provided for amenity features not included in this list. Such credit shall be based on the determination of the Manager, based on a review of the variety of amenities proposed. Final decision by the Manager may be appealed in accordance with the appeals procedures of this Code.

a. Two Amenity Points each.

1. Community building – large (more than 2,500 sqft)
2. Pool or Splash Park Site (more than 2,000 sqft)
3. Multifunctional playgrounds with commercial grade equipment – large (greater than 2,500 sqft playground zone area)

b. One Amenity Point each.

1. System of trails throughout the entire development. Trails shall be designed to provide interesting and distinct areas for walking, bicycling and/or riding in areas separate from and in addition to traditional sidewalks. Trails shall be designed and constructed as required by the Town.
2. Community building – small (less than 2,500 sqft)
3. Fitness Center (five or more pieces of equipment)
4. Dog Park – Large
5. Multifunctional playgrounds with commercial grade equipment – medium (1,000 to 2,500 sqft playground zone area)
6. Court games (tennis, volleyball, basketball, etc.) at least 1,000 sqft in size

c. One-half Amenity Points each.

1. Dog Run
2. Fitness Center (fewer than five pieces of equipment)
3. Plazas, courtyards, community gazebo, or community gardens with irrigation systems and defined garden edges of at least 1,000 sqft in size
4. Public Art, as approved by the Manager
5. Picnic / Barbeque areas with commercial grade equipment

6. Multifunctional playgrounds with commercial grade equipment - small (less than 1,000 sqft playground zone area)
7. Outdoor exercise equipment (minimum of four pieces)

Section 16.5.140. Reserved.

Section 16.5.150. Buffering standards.

- (a) *Buffer Design Criteria.* The buffer levels shall be designed according to the standards below in Table 16.5.150.a. The buffer width exists independent of and may include any setback, parking perimeter buffer area, or other open space requirement such that the larger requirement will control. Efficient site design can allow the area to meet both requirements.

Table 16.5.150.a. Buffer Planting Requirements by Buffer Level

Type and Applicability	Buffer Planting Requirement
Level 1 – Minimal screening for developments with similar intensities.	Width equals 10-foot minimum Plantings include 1 large tree per 40 feet or 1 ornamental per 20 feet, and 1 shrub per 2.5 feet
Level 2 – Partly screened buffering between uses with different but compatible intensities.	Width equals 15 feet minimum Plantings include 1 large tree per 40 feet or 1 ornamental per 20 feet, and 1 shrub per 5 feet (1 evergreen per 20 feet)
Level 3 – Fully screened buffering between incompatible uses.	Width equals 20 feet minimum Plantings include 1 large tree per 50 feet and 3 shrubs per 10 feet (1 evergreen per 20 feet); 3-to-4-foot berms that have a maximum slope of 3 to 1 and shall not be constructed within the drip line of any tree.
Level 4 – Fully screened buffering between Rural Residential uses when adjacent industrial and commercial uses zoned Town Core or Development Node.	Width equals 25 feet minimum Plantings include 1 large tree per 50 feet, 1 ornamental per 30 feet, and 1 evergreen per 20 feet; 3-to-4-foot berms that have a maximum slope of 3 to 1 and shall not be constructed within the drip line of any tree.

- (b) *Buffer Levels.* The following Table 16.5.150.b establishes the appropriate buffer level for each zone district within the Town. This criterion applies to common property lines and alleyways for all development activities.

- Buffer levels are defined below in Table 16.5.150.b.
- Fields without a number are held to the minimum residential buffering standards.
- The following zone district abbreviations are used.
 - o Rural Residential (RR)
 - o Suburban Perimeter (SP)
 - o Town Core (TC)
 - o Development Node (DN)

- The following use categories are abbreviated and captured after the zone district abbreviation, as applicable.
 - o Residential (R)
 - o Public (P)
 - o Commercial (C)
 - o Industrial (I)

Table 16.5.150.b – Required Buffer Levels by Zone District and Land Use

Categorized from Lowest Intensity to Highest Intensity												
	RR	SP-R	TC-R	DN-R	SP-P	TC-P	DN-P	SP-C	TC-C	DN-C	TC-I	DN-I
DN-I	4	3	3	3	3	3	3	2	2	2		
TC-I	4	3	3	3	3	3	3	2	2	2		
DN-C	4	3	3	2	2	2	2	1	1		2	2
TC-C	4	3	2	2	2	1	1	1		1	2	2
SP-C	3	2	2	2	1	1	1		1	1	2	2
DN-P	3	1	1	1				1	1	2	3	3
TC-P	3	1	1	1				1	1	2	3	3
SP-P	2	1	1	1				1	2	2	3	3
DN-R	1				1	1	1	2	2	2	3	3
TC-R	1				1	1	1	2	2	3	3	3
SP-R	1				1	1	1	2	3	3	3	3
RR		1	1	1	2	3	3	3	4	4	4	4

Section 16.5.160. Supplemental buffering design provisions.

- (a) Residential density transition area. All proposed developments located adjacent to or abutting a differing zone district and/or development pattern shall provide an area of transitional residential densities with complimentary lot sizes and residential product types to create a cohesive neighborhood design. All transition areas shall be approved through the platting and/or site plan review process.
- (b) Plant materials in the buffer area may satisfy the landscape requirements, but where the buffer would require more plants than otherwise required, the greater requirement shall apply.

- (c) Parking shall not be permitted in the required buffer area, however the required buffer and the required parking lot perimeter buffer area as required in this Code may overlap with the more stringent of the two standards controlling.
- (d) Trash collection areas and trash bins shall not be allowed within the buffer area.
- (e) There shall be no storage of merchandise and supplies within the buffer area.
- (f) Additional buffering materials or requirements may be required based on the unique site context within the community as determined through the review process.
- (g) Alternative buffering requirements may be available for certain commercial projects within the community as determined through the review process.
- (h) Buffering along public roadways and open space areas should be undulated, meeting the minimum requirements of the table and be consistent with the design vision of any adopted plans or policies.
- (i) Where required, earthen berms shall be a minimum height of three feet.

Section 16.5.165. Reserved.

Section 16.5.170. Pedestrian connectivity standards.

- (a) General pedestrian circulation criteria. Pedestrian connectivity within and adjacent to a development project is required. Each development shall provide a combination of trails, sidewalks, or widened streets to accomplish multi-modal connectivity.
 - (1) Off-street pedestrian links can be accomplished with the use of open greenways and drainage conveyance corridors with meandering trails or paths.
 - (2) Each Rural Residential zone district subdivision must contain a 20-foot minimum perimeter landscape buffer with a minimum six-foot-wide community pathway.
 - (3) Sidewalks adjacent to all school sites and parks require a minimum width of five feet or wider.
 - (4) Projects shall connect to Severance trail network whether that be through newly dedicated neighborhood trails or connections to a previously established Severance trail network. See neighborhood and regional trail criteria below in this Section.
- (b) *Multi-family development pedestrian circulation criteria.*
 - (1) A pedestrian network that interconnects all dwelling units and uses, and common open space shall be provided throughout each development.
 - (2) The network shall be made up of sidewalks, walkways, multi- use pathways, and trails
 - (3) Pedestrian walks and spaces shall be provided as necessary to ensure that projects are easily navigated and enjoyable for the pedestrian
 - (4) The pedestrian networks shall include gathering and seating areas. These areas shall provide benches, landscaping, and other street furniture where appropriate.
 - (5) The pedestrian network shall connect to adjacent developments, trail systems, and sidewalk systems.

- (6) Sidewalks shall be separate and distinct from motor vehicle circulation to the greatest extent possible.
- (c) *Non-residential commercial and office development pedestrian circulation criteria.*
- (1) Sites shall include direct pedestrian connections and circulation routes at the same or greater frequency as is provided by streets, driveways, and internal access streets.
 - (2) Pedestrian access and circulation within a site shall provide dedicated pedestrian facilities that connect each of the following.
 - a. Public entrances of all buildings;
 - b. Public sidewalks on adjacent streets or internal access streets;
 - c. Required open space and other site amenities;
 - d. Community trails located within the vicinity of the site; and
 - e. Adjacent project sites, where pedestrian access between sites via the sidewalks on streets or internal access streets is remote or nonexistent.
 - (3) Pedestrian traffic shall be separate and distinct from motor vehicle circulation to the greatest extent possible. If that is not possible, potential hazards shall be mitigated using the following strategies.
 - a. Special paving, pavement markings, signs, striping and/or bollards.
 - b. Median refuge areas, traffic calming features, and landscaping.
 - c. Lighting or other means to clearly delineate pedestrian areas.
 - (4) Internal sidewalk widths shall meet the following minimum criteria.
 - a. General width of five feet.
 - b. Along a building façade that abuts a parking area or along parking with vehicle overhangs a width of eight feet.
 - c. Along a building façade with a primary entrance a width of 10 feet.
 - (5) Pedestrian walkways shall feature adjoining landscaped areas that include trees, shrubs, benches, flower beds, ground cover or other materials for not less than 50 percent of its length. Context is a deciding factor when determining final percentages within the Town Core zone district.
 - (6) Sidewalks shall be located an average of eight feet away from the façade of the building to provide planting beds for foundation landscaping, except where features such as arcades, display windows or entryways are part of the façade. Context is a deciding factor when determining distance and location within the Town Core zone district and projects may be granted relief from this setback requirement.
- (d) *Neighborhood Trails.* In all residential subdivisions, neighborhood trails shall create both an internal network and connections to surrounding properties, as appropriate. The following design criteria shall apply to neighborhood trails.
- (1) They shall connect to existing and planned Town trails, parks and open spaces, schools, employment centers, and community facilities. If the project does not include or is not adjacent to a school or park, the project shall provide trail access oriented in the direction of the nearest school or park to facilitate access on existing or future trails or

sidewalks. When the intermediate land is undeveloped, future development shall continue the trail system to the park or school.

- (2) When feasible, shopping areas, parks, and schools shall provide trail connections to adjacent residential subdivisions.
- (3) The system should be designed to provide interesting and distinct areas for walking and bicycling in areas separate from and in addition to traditional sidewalks.
- (4) The trails shall be 10 feet in width and paved with six-inch thick concrete, unless otherwise specified by the Town through adopted Construction Standards and Specifications.
 - a. Trails surfaced with crusher fines and less than 10 feet in width may supplement paved trails but shall not be used in-lieu of paved trails.
- (5) They shall be open to all members of the public. Restrictions on types of uses are allowed, as approved by the Town.
- (6) Documentation that outlines the ongoing maintenance plans, as well as administrative and financial management of the trails systems, shall be provided as part of the entitlement process. Trails shall be maintained in perpetuity either by the owner's association, metropolitan district, or other legal entity approved by the Town, unless otherwise agreed to by the Town.
- (7) Pedestrian scale lighting is required on trails near amenities, structures, and/or tie-ins to public sidewalks and streets. Lighting shall meet the requirements of this Code.
- (8) Bicycle parking shall be provided at the entry to internal and peripheral open space and park areas. The design and type of bicycle parking structure shall be coordinated with the Town.

(e) *Regional Trails.* Regional trail systems are intended to provide recreational and enhanced regional mobility options connecting the Town to surrounding communities and locations of interest. The following design criteria shall apply to regional trails.

- (1) Trails shall be designed in accordance with the Town's adopted Construction Standards and Specifications, the most recently published volume of the AASHTO Guide for Development of Bicycle Facilities, and the Americans with Disabilities Act (ADA).
- (2) Where a subdivision either borders or includes portions of the Great Western Trail, a minimum 10-foot-wide paved trail is required for the entirety of the trail within or adjacent to the property.
- (3) Trails shall be constructed of six-inches thick mesh concrete in accordance with the Town's adopted Construction Standards and Specifications.
- (4) Regional trails may be owned and maintained by the Town and may be required to be installed as part of a development project.

Division 2 – Parking

Section 16.5.210. Parking design standards.

The following design standards shall apply to all required off-street parking areas.

- (a) Off-street parking areas shall be designed so that vehicles may exit without backing onto a public street, unless site-specific constraints such as parcel shape, size, or access limitations make such a configuration infeasible.
- (b) Off-street parking areas shall be designed to ensure that parked vehicles do not encroach upon or extend into public rights-of-way. In addition, any vehicular overhang that extends into a pedestrian access area shall not reduce the minimum clear pedestrian path width below five feet.
- (c) Any off-street parking area with more than 20 spaces shall provide internal landscaping islands. All parking lot landscaping shall be in addition to any other required site landscaping. Landscaping islands shall be placed at both ends of each parking row. The required number of internal landscaping islands shall be as follows.
 - (1) No more than 10 parking spaces shall be allowed in a continuous row without a landscaped island.
 - (2) Each landscape island shall be equal in size to one standard parking space.
 - (3) Each landscape island shall contain a minimum of one deciduous shade tree and three shrubs. For every additional 200 square feet of landscaped island area, one additional deciduous shade tree and three additional shrubs shall be required;
 - (4) The area dedicated to landscape islands shall be provided in addition to any internal pedestrian accessway required under this Section; and
 - (5) Parking lots containing more than 100 spaces shall be divided into distinct parking blocks of no more than 100 spaces each, with each block meeting the standards outlined above.
- (d) Any off-street parking area with more than one drive aisle shall provide and maintain internal pedestrian accessways. A parking space shall be located within 10 spaces or 100 feet, whichever is closer, to an internal pedestrian accessway, unless site-specific constraints exist.
- (e) All off-street parking areas shall maintain an eight-foot-wide perimeter buffer in addition to other required site landscaping. The buffer shall be designed to screen and soften views of the parking area year-round using a combination of evergreen or dense landscaping, landscape screen walls, earthen berms, or similar elements. The buffer area shall include the following at a minimum.
 - (1) Two deciduous shade trees for each 50 linear feet; and
 - (2) Three shrubs for each 10 linear feet of buffer area.

- (f) To support walkable, vibrant, and visually cohesive places, the following parking design standards shall apply to the Town Core and Development Node zone districts.
- (1) Parking shall not be located between the building and adjacent pedestrian pathways unless approved by the Town due to unique site constraints and circumstances.
 - (2) Parking shall be located behind buildings or fully integrated above or below the first floor whenever possible. If parking must be located elsewhere due to site constraints, it shall be screened from public view using a combination of year-round landscaping, low walls, berms, or similar screening elements.
 - (3) Parking shall be accessed from the rear of the property on parcels with alleys or rear access points. If parking is to be accessed from the front property line, parking access shall be consolidated to minimize new curb cuts and conflicts with existing roadways and pedestrian pathways.
 - (4) For parcels without rear or side access, driveways serving on-site parking should be avoided on Harmony Road. When necessary, such driveways should be minimized in width and provide adequate visibility for pedestrians.

Section 16.5.220. Parking requirements.

- (a) *Shared off-street parking.* Shared off-street parking may be used when there are opportunities to support parking demand through shared off-street parking for compatible uses (such as a theater and an office building, which would have staggered peak hours). Shared parking shall only be utilized when approved by the Town in a site plan or development agreement.
- (b) *Adjacent on-street parking.* To promote a pedestrian scale, to encourage an environment of safety and to maximize land use efficiency and land devoted to parking in the Town Core land use district, parking may be satisfied using adjacent on-street parking or shared rear-lot parking areas. On-street parking shall only be counted towards minimum parking standards as specified in Table 16.5.220.a below.
- (c) *Land use parking requirements.* For uses not included in the following table, the review process shall determine the appropriate parking requirements. Cells with n/a designate there are either no requirements, or the specific use is not applicable based on the underlying zone district.

Table 16.5.220.a. Land Use Parking Requirements by Zone District

Land Use	Parking Spaces Required All Other Zones	Town Core and Multi-Use Development Nodes Parking Spaces Required	Town Core and Multi-Use Development Node On-Street Parking Credit
Single-family residence, attached and detached	2 spaces per dwelling unit	n/a	No
Townhome	2 spaces per dwelling unit	n/a	25 percent of the available on street parking directly adjacent to the proposed development
Multi-family residence			25 percent of the available on street parking directly adjacent to the proposed development
1 bedroom or studio	1.5 spaces	1 space	
2 bedrooms	2.0 spaces	1.75 spaces	
3 bedrooms	2.0 spaces	1.75 spaces	
4+ bedrooms	3.0 spaces	2 spaces	
Guest Parking	1 space for every 5 units	1 space for every 5 units	
Public assembly facilities, provided for seated audiences <i>(places of worship, theaters, auditoriums, and similar uses)</i>	1 space for every 3 seats	n/a	n/a
Elementary schools <i>(if the school includes an auditorium, the auditorium requirement shall govern if it is greater)</i>	2 spaces for every classroom	n/a	n/a
Junior and senior high schools	Auditorium requirement or 1 space for every 5 students of maximum capacity	n/a	n/a
Hospitals	1 space for every 2 beds	n/a	n/a
Clinics	5 spaces for every practitioner on Staff	n/a	n/a
Industrial uses	1 space for every 1 employee, computed at any given time; plus 1 space per company vehicle	n/a	n/a

Land Use	Parking Spaces Required All Other Zones	Town Core and Multi-Use Development Nodes Parking Spaces Required	Town Core and Multi-Use Development Node On-Street Parking Credit
Retail stores, customer service establishments, shopping centers and other similar uses	1 space for every 200 square feet	1 space for every 300 square feet	50 percent of the available on street parking directly adjacent to the proposed development
Office	1 space for every 250 square feet	n/a	n/a
Eating and drinking establishments	1 space for every 150 square feet or 1 space for every 3 seats, whichever is greater; plus 1 space for every 1 employee, computed on the maximum service capacity	1 space for every 200 square feet or 1 space for every 4 seats, whichever is greater; plus 1 space per every 2 employees, computed on the maximum service capacity	50 percent of the available on street parking directly adjacent to the proposed development
Lodging	1 space for every room to be rented; plus 1 space for every 2 employees, computed on the maximum service capacity	n/a	n/a

(d) *Parking space dimensions.* Parking stalls for automobiles shall meet the following standards.

- (1) All dimensions represent the minimum requirement for any required parking space and typical dimensions for spaces not designated as Accessible Parking Spaces. Dimensions shown in Table 16.5.220.b are in feet.

Table 16.5.220.b. Minimum Parking Space Dimensions Based on Parking Angle

Parking Angle (A)	Stall Width (B)	Stall Depth to Curb (C)	Aisle (typical) Width (D)	Curb Length (E)
45 degrees	9 feet	19.8 feet	13 feet	12.7 feet
60 degrees	9 feet	21 feet	18 feet	10.4 feet
90 degrees	9 feet	19 feet	23 feet	9 feet
0 degrees (parallel)	9 feet	9 feet	12 feet	22 feet

- (2) Compact spaces. Up to 40 percent of required parking spaces may be reduced to eight feet in width by 16 feet in depth to allow for compact vehicles, provided signage and a plan for management of the spaces are provided as part of the review process.

Section 16.5.230. Accessible parking requirements.

The following accessible parking spaces shall be provided based upon the total number of parking spaces required, as determined in Table 16.5.220.a or through the review process.

Table 16.5.230. Accessible Parking Requirements

Total Parking Spaces Required <i>(per Table 16.5.220.a. above)</i>	Minimum Number of Required Accessible Parking Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2 percent of total
1,000 and over	20; plus 1 space for every 100 spaces over 1,000

- (a) *Accessible parking design requirements.* For every eight accessible parking spaces, there must be at least one van-accessible space. In no event shall there be fewer than one van-accessible space.

- (1) Accessible parking spaces shall be required for all retail, office, business, industrial and institutional uses and multi-family units, and similar uses.
- (2) Accessible parking spaces shall be designated with painted symbols and standard identification signs, as required by ADA requirements.
- (3) Accessible parking spaces shall be located as close as possible to the nearest accessible building entrance.
- (4) Accessible parking space dimensions. If these dimensions differ from the ADA Design Guidelines, the ADA Design Guidelines shall govern.
 - a. Parking spaces must be at least eight feet in width by 18 feet in depth, with a five-foot-wide access aisle.
 - b. Van-accessible spaces must be at least eight feet in width by 18 feet in depth, with an eight-foot-wide access aisle.
 - c. Accessible parking spaces that are parallel to an accessible pedestrian walkway may have the same dimensions as those for standard vehicles.

Section 16.5.240. Reserved.

Division 3 - Lighting

Section 16.5.350. Lighting overview.

- (a) *Intent.* The intent of this division is for the following.
- (1) Provide adequate light for safety and security;
 - (2) Promote efficient and cost-effective lighting to conserve energy;
 - (3) Reduce light pollution, light trespass, glare, and offensive light sources;
 - (4) Prevent inappropriate, poorly designed, or poorly installed outdoor lighting;
 - (5) Encourage quality lighting design that is functional, aesthetically pleasing, and complementary to the architectural style of buildings; and
 - (6) Require light fixture shielding, establish maximum uniformity ratios, and establish maximum light levels within and along property lines.

Section 16.5.355. Evaluation of exterior lighting.

Exterior lighting shall be evaluated as part of the development review process to ensure that the functional and security needs of the project are met in a way that does not adversely affect adjacent properties or neighborhoods. The degree to which exterior night lighting affects a property owner or neighborhood will be examined considering the light source, level of illumination, hours of illumination and need for illumination in relation to the effects of the lighting on the adjacent property owners and the neighborhood. All development projects requiring a site plan or building permit application shall provide a photometric plan to illustrate conformance with this section.

- (a) *Lighting Plans Required.* A lighting plan shall be submitted with any site plan application or building permit application, whichever occurs first, in which outdoor lighting is proposed or required except for a single- family detached dwelling unit on an individual lot. The lighting plan shall meet all requirements specified in the Lighting Plan Requirements form as maintained by the Town Manager and/or their designee.
- (b) *Final Inspection and Certification.* Prior to a building permit final inspection or the issuance of a certificate of occupancy, the applicant shall provide certification that the outdoor lighting as installed complies with the approved illumination plan and the requirements of this section unless waived or amended by the Town Manager and/or their designee in writing. The certification shall be submitted in a format prescribed by the Town Manager and/or their designee. The certification affidavit shall be completed by the owner, applicant, or their designee acknowledging the on-site lighting was installed and will be maintained subject to the approved lighting plan.

Section 16.5.360. Design standards for exterior lighting.

- (a) *LED Light Source Required.* Light-Emitting Diode (LED) Light sources shall be required for all site plan and building permit applications. Outdoor lighting shall be L.E.D “Dark Sky” compliant, per the International Dark Sky Association requirements for reducing light pollution and minimizing glare.

(b) *Use of High-Pressure Sodium Lamps.* Use of High-Pressure Sodium Lamps is prohibited.

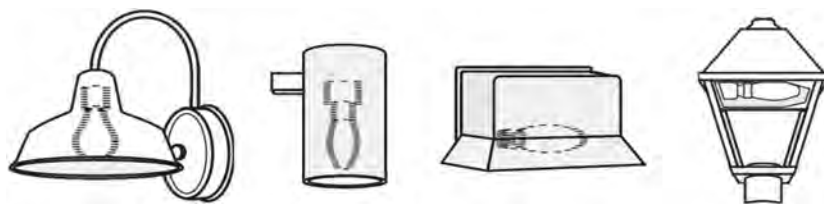
(c) *Architectural Lighting of Building Facades.* The lighting of a building facade for architectural, aesthetic, or decorative purposes is permitted subject to the following restrictions.

- (1) All upward aimed light shall be fully shielded, fully confined from projecting into the sky by eaves, roofs, or overhangs, and mounted as flush to a wall as possible.
- (2) Building facade lighting shall be fully shielded and mounted as flush to a wall as possible.
- (3) Building facade lighting shall not extend beyond the highest point of any structure.
- (4) Building facade lighting that is measurable at the ground level shall be included in the maximum allowable light levels.

(d) *Unshielded lighting.*

- (1) Unshielded lighting that emits greater than 20 footcandles but less than 25 footcandles at any given location on a site is permitted if the fixture is activated by a motion sensor for security purposes only. All security lighting shall be aimed at and located in such a manner as to prevent glare and light trespass. The light shall only turn on when activated and shall turn off within five minutes of activation. Motion sensor activated lighting shall not be triggered by any movement or activity located off the property on which the light is located.
- (2) All lamps and bulbs located in residential zones shall be within a fully shielded fixture or must be within a light fixture where the bulb or lamp are obscured from view by a material that diffuses the light, (i.e., frosted or milk-colored materials), except as otherwise permitted in this section. See Figure 16.5.360.a of this section below.

Figure 16.5.360.a – Fully Shielded Light Fixture Examples



(e) *Signs.* All exterior signs shall be required to meet the standards for this section. In addition, all exterior signs are also subject to the requirements set forth in the sign code.

(f) *Standards for Lights Adjacent to Residential Zoning Districts, Residential Uses, or Public Rights of Way.* Any light fixture located within ten feet of a property line of a residential zoning district, an existing residential use, or within ten feet of a public right-of-way, except as permitted in this Article of this section shall be as follows.

- (1) Oriented away from the property line, residential zone, residential use, and/or right-of-way; and

- (2) Shielded on the side closest to the property line, residential zone, residential use, or public right- of-way.
- (g) *Canopy and Awning Lighting.* Lighting fixtures mounted under canopies and awnings shall be aimed downward and installed such that the bottom of the light fixture or its lens, whichever is lower, is recessed or mounted flush with the bottom surface of the canopy. A full cutoff light fixture may project below the underside of a canopy. All light emitted by an under-canopy fixture shall be substantially confined to the ground surface directly beneath the perimeter of the canopy. No lighting, except that permitted by the sign ordinance, shall be permitted on the top or sides of a canopy.
- (h) *Flagpoles.* A flagpole meeting the requirements of the Land Use Code may be illuminated by one upward aimed fully shielded spotlight light fixture which shall not exceed three thousand five hundred lumens. The light fixture shall be placed as close to the base of the flagpole as reasonably possible.
- (i) *Strings of Lights.* No person shall use a string of lights on property with nonresidential uses except as approved by the Town Manager and/or their designee.
 - (1) Strings of lights may only be used if they are approved by the Town Manager and/or their designee or as part of an outdoor lighting plan or landscape plan. The plan must comply with all standards of this Article. The purpose of such lighting is intended to create pleasing pedestrian spaces, such as outdoor dining or patio areas, utilizing low lighting levels.
 - (2) Strings of lights permitted under this subsection shall be displayed in compliance with the following standards.
 - a. The string of lights contains only low wattage bulbs that are approved by the Town;
 - b. The string of lights shall be located within a pedestrian way, plaza, patio, outdoor dining area, or the primary entry into a building;
 - c. The string of lights is not placed in any required landscape setback adjacent to a street; and
 - d. The string of lights shall be maintained and not obstruct pedestrian pathways or be detrimental to the health, safety, and welfare of the Town.
- (j) *Parking Lot Lights and Trees.* Parking lot light fixtures and poles shall be located such that trees located within the parking lot do not obscure the operation of the light fixture.
- (k) *Full Cutoff Fixtures.* Full cutoff fixtures shall be installed and maintained in a horizontal position as designed.
- (l) *Color Temperature.* All exterior lighting shall not exceed a correlated color temperature (CCT) of 3,500 degrees Kelvin.

Section 16.5.365. Lighting levels.

Maximum light levels at any point along a property line shall not exceed 0.1 footcandles within or adjacent to a residential zone or 0.2 footcandles within or adjacent to a nonresidential zone. Maximum light levels shall not exceed the thresholds established in Table 16.5.365. below.

Table 16.5.365. Lighting Level Requirements by Zone District

Lighting Level Standards	Zone District	
	Rural Residential (RR) and Suburban Perimeter (SP)	Development Node (DN) and Town Core (TC)
<i>Maximum Allowable Light Levels - Measured in Footcandles (fc)</i>		
Building Entries	5.0 fc	5.0 fc
Parking Areas	3.0 fc	5.0 fc
Loading Areas	20.0 fc	20.0 fc
Pedestrian Walkways	1.0 fc	1.0 fc
Common Open Space Areas or Outdoor Storage Areas	2.0 fc	2.0 fc
Maximum Uniformity Ratio (Maximum to Minimum)	n/a	10:1
<i>Maximum Lumen Rating (LM) for a Full Cutoff Luminaire Shielded from View of Adjacent Streets and Properties</i>		
Building Entries and Stairways	1,800 LM	1,800 LM
Parking and Loading Areas	8,500 LM	14,000 LM 23,500 LM for a 35-foot pole, as permitted
Pedestrian Walkways	4,000 LM	8,500 LM
Common Open Space Areas	4,000 LM	8,500 LM
Maximum Rating for Partially Shielded Fixture	900 LM	1,250 LM
Maximum Rating for Unshielded Light Fixture	900 LM	900 LM
Controls	Motion sensors are required for all unshielded fixtures that emit greater than 20.0 fc at any given location on a site	- Except for use as security lighting, all building and site lighting shall be extinguished one hour after close of business, and remain off until one hour before business resumes - Motion sensors required for all unshielded fixtures that emit greater than 20.0 fc at any given location on a site
Dimming	Lighting in all zone districts shall be equipped with dimming capabilities	
Maximum Allowable Pole Height (<i>includes Base, Pole, and Luminaire</i>)	16-foot max. 20-foot max. streetlights at residential entries allowed	25 feet max., unless a greater height not to exceed 35 feet is approved by the Town - Wall mount lighting shall not exceed the height of the building
Bollard Lighting	47-inch bollard-type lighting	32-to-47-inch bollard-type lighting

Section 16.5.370. Light style and prohibited lights.

- (a) *Light style.* The style of lights shall be consistent with the style and character of architecture proposed on the site. Light fixtures that illuminate signage shall be compatible with the architecture of the building on which they are placed.
- (b) *Prohibited light types.* No person shall install any of the following types of outdoor lighting fixtures.
 - (1) Mercury vapor lamps.
 - (2) Blinking, flashing, moving, revolving, flickering, changing intensity, and chase lighting, except lighting for temporary seasonal displays, lighting for public safety or required for air traffic safety.
 - (3) Any light fixture that may be confused with or construed as a traffic control device.
 - (4) Any upward oriented lighting except as otherwise provided for in this article.
 - (5) Searchlights, beacons, and laser source light fixtures.
 - (6) Exposed linear lamps that include, without limitation, Light Emitting Diode (LED), and fluorescent lighting, primarily intended as an architectural highlight to attract attention or used as a means of identification or advertisement except as permitted by sign criteria of the land use code.
 - (7) Any lamp or bulb, except for seasonal displays and landscape ornamental lighting, which is visible beyond the property line on which it is located.
 - (8) Any lamp or bulb with a correlated color temperature (CCT) that exceeds 3,500 degrees Kelvin unless otherwise stated by this article.

Section 16.5.375. Exemptions.

The standards of this Section shall not apply to the following types of exterior lighting.

- (a) *Ornamental Lighting.* Low voltage (12 volts or less), low wattage ornamental landscape lighting fixtures, and solar operated light fixtures having self-contained rechargeable batteries.
- (b) *Strings of Light.* Strings of lights located on properties in all residential zoning districts or on properties that are used exclusively for residential uses shall be exempt from the requirements of this chapter.
- (c) *Aviation Lighting.* Lighting used exclusively for aviation purposes. All heliport lighting, except lighting associated with emergency facilities, shall be turned off when the heliport is not in use.
- (d) *Right-of-Way Lighting.* Public lighting that is located within the right-of-way.
- (e) *Seasonal Lighting Displays.* Lighting commonly associated with outdoor displays celebrating holidays and seasons.

- (f) Because of their limited hours of operation and unique requirements for nighttime visibility, ball diamonds, playing fields, tennis courts and other similar outdoor recreational uses, both public and private, shall be exempt from the general provisions of this Article unless otherwise restricted by the Town. However, exterior lighting for such uses shall be extinguished no later than 11 pm.

Section 16.5.380. Resources.

Recommended references include the Illuminating Engineering Society of North America publications RP-8-00, RP- 20-98 and RP-33-99, and as may be amended from time to time.

Section 16.5.385. Reserved.

Division 4 – Signage

Section 16.5.410. Overview.

- (a) *Intent.* The regulations in this section are intended to coordinate the use, placement, physical dimensions and design of all signs within the Town.

Section 16.5.415. Sign permit requirements.

To ensure compliance with the regulations of this section, a sign permit shall be required to erect, move, alter, reconstruct or repair any permanent or temporary sign, except signs that are exempt from permits in compliance with this Section of the Code. A sign permit shall be required for those temporary signs specified in Section 16.5.425 of this Code. In multiple-tenant buildings, a separate permit shall be required for each business entity's sign. Separate building and electrical permits may be required for signs and will be determined on a case-by-case basis. Changing or replacing the copy on an existing lawful sign shall not require a permit, provided that the copy change does not change the nature of the sign or render the sign in violation of this section.

- (a) *Sign permit application requirements.* Applications for sign permits shall be made in writing. Fees shall be in accordance with the Town's fee schedule available upon request from Town staff.
- (b) *Application requirements for temporary signs.* Applications for temporary sign permits shall be made in writing. Fees shall be in accordance with the Town's fee schedule available upon request from Town staff.
- (c) *Town Staff review and approval.* When the Town staff has determined the application to be complete, the Town staff shall review the sign permit in accordance with the established review criteria and shall have the authority to approve, approve with conditions or deny the sign permit. Upon the Town staff's approval of the sign permit, the sign permit and any building or electrical permits required for the sign shall be issued to the applicant.
- (d) *Review criteria.* The following considerations shall be made by the Town.
 - (1) The sign meets the requirements of this section.
 - (2) The sign conforms to the requirements of the adopted building and electrical Codes.
 - (3) The sign does not interfere with pedestrian or vehicular safety.
 - (4) The sign does not detract from the character of an architecturally significant or historic structure.
 - (5) The sign is not located in a place that has a negative impact on adjacent property.
 - (6) The sign does not detract from the pedestrian quality of the street or area.
 - (7) The sign does not add to an over-proliferation of signs on a particular property or area.

- (e) *Appeal of sign permit denial or approval with conditions.* Any appeal of the Town Staff's denial of a sign permit or approval with conditions shall be made to the BOA as provided in this Code.
- (f) *Waivers.* Any request for an increase in the maximum allowable area for a sign or for signs not expressly permitted in these regulations requires approval by the Town Council as part of a use by special review.
- (g) *Enforcement.*
 - (1) Discontinued establishments; removal of signs. Whenever a business, industry, service or other use is discontinued, the sign pertaining to the use shall be removed or obscured by the person or entity owning or having possession over the property on which the sign is located within 90 days after the discontinuance of such use.
 - (2) Illegal signs.
 - a. Penalties. Illegal signs shall be subject to the enforcement provisions of this article.
 - b. Removal of illegal signs in the public right-of-way. The Town may cause the removal of any sign within the public right-of-way or on property that is otherwise abandoned that is not in compliance with the requirements of this article.
 - c. Storage of removed signs. Signs removed in compliance with this section shall be stored by the Town for 30 days, during which they may be recovered by the owner only upon payment to the Town for costs of removal and storage. If not recovered within the 30-day period, the sign and supporting structure shall be declared abandoned and title shall vest with the Town. The costs of removal and storage (up to 30 days) may be billed to the owner. If not paid, the applicable costs may be imposed as a tax lien against the property.
 - d. If any person or entity erects any temporary sign for which a temporary sign permit is required without receiving a permit, the person or entity shall be ineligible to receive a temporary sign permit for the remainder of the calendar year.

Section 16.5.420. Exempt signs.

The following types of signs are exempt from permit requirements of this section and may be placed in any land use district. All such exempt signs, except government signs, shall be located outside a public right-of-way. Exempt signs shall not interfere with traffic signs or the sight distance triangle at intersections. Evidence of the owner's permission to install a sign shall be required upon request by the Town.

- (a) *Nonvisible.* Signs that are not visible beyond the boundaries of the lot or parcel upon which they are located and/or from any public thoroughfare or right-of-way, except that such signs shall be subject to the safety regulations of the building Code and electrical Code adopted by the Town.

- (b) *Address.* Nonilluminated signs, not to exceed two square feet in area, that identify the address and/or occupants of a dwelling unit or of an establishment.
- (c) *Building identification, historical markers.* Non-illuminated signs constructed of metal or masonry that are permanently affixed to buildings or structures for the purpose of identifying the name of a building, date of erection or other historical information as approved by the Town staff.
- (d) *Bulletin Board.* Bulletin Board signs not exceeding 15 square feet in gross surface area, accessory to a church, school or public or nonprofit institution.
- (e) *Construction.* Temporary construction signs, provided that the following requirements are met.
 - (1) Signs in conjunction with any residential use shall not exceed eight square feet each.
 - (2) Signs in conjunction with all other uses shall have a maximum area of 16 square feet each.
 - (3) Only one such sign oriented per street front per premises shall be erected. Any two such signs located on the same premises shall be located at least 100 feet apart as measured by using a straight line.
 - (4) Such signs shall not be illuminated.
 - (5) Such signs shall only appear at the construction site.
 - (6) Such signs shall be removed within the earliest seven days after completion of the project or one year of installation.
- (f) *Courtesy.* Nonilluminated or indirectly illuminated signs that identify, as a courtesy to customers, items such as accepted credit cards, redemption stamps offered, menus or prices are limited to one such sign for each use, not to exceed four square feet per face or eight square feet in total aggregate area for all such signs. Such signs may be attached to the building as projecting or wall signs, affixed to a door or window, suspended from a canopy or included as an integral part of a freestanding sign.
- (g) *Decorations (holiday).* Temporary decorations or displays, when such are clearly incidental to and customarily and commonly associated with any national, state, local or religious holiday or celebration shall be displayed for not more than 60 days in any one year and may be of any type, number, area, height, location, illumination or animation.
- (h) *Directional.* On-premises directional and instructional signs not exceeding six square feet in area a piece.
- (i) *Doors.* Signs affixed to door glass that identify the name and/or address of an establishment.
- (j) *Farm products.* Seasonal farm product signs.

- (k) *Flags*. Flags, crests or banners of nations, organizations of nations, states and cities, or professional, fraternal, religious or civic organizations, except when displayed in connection with commercial promotion.
- (l) *Garage, estate or yard sale or farm auction*. Signs that advertise a private garage or yard sale on the lot where the sign is located shall be displayed no more than twice per year per dwelling unit for a period not to exceed three days.
- (m) *Memorial*. Memorial signs, plaques or grave markers that are noncommercial in nature.
- (n) *Notice Boards*. Notice Boards for public or religious institutions.
- (o) *Oil and gas operation*. Identification signs for any oil and gas operation.
- (p) *Political*. Political signs displayed on private property.
- (q) *Special events*. Temporary special event signs and banners for religious, charitable, civic, fraternal or similar nonprofit or not-for-profit organizations, or private noncommercial special events.
- (r) Text or copy changes on conforming or legal nonconforming signs are specifically designed to permit changes of the text or copy provided that no structural changes are made to the sign and that the name of the business to which the sign belongs is not changed on the sign.

Section 16.5.425. Temporary signs.

Such signs shall otherwise be in conformance with all applicable requirements contained in this section. All such temporary signs, except government signs, shall be located outside a public right-of-way. Temporary signs shall not interfere with traffic signs or the sight distance triangle at intersections. Evidence of the owner's permission to install a sign shall be required upon request by the Town. Temporary signs shall be allowed only with a valid permit and upon proof of compliance with this Section. Temporary signs include but are not limited to the following.

- (a) Banners used to decorate or attract attention to a business establishment, H-Frame (freestanding) real estate-type signs and any other signs not of a permanent nature advertising special event, provided that the following criteria are considered.
 - (1) The business is licensed and has received approval for a temporary sign from the Town.
 - (2) The signs are displayed in conjunction with a grand opening celebration for a period not to exceed 30 days and renewable up to an additional maximum period of 30 days.
 - (3) The signs are displayed in conjunction with a special sale for a period not to exceed 30 days.
 - (4) The signs are displayed no more than two times per calendar year per establishment. Each business or property owner shall be limited to one temporary sign of any of the

following types per business or property. In cases involving multiple tenants on a single property, each tenant shall be allowed one temporary sign.

(b) Banner-type signs.

- (1) The banner shall be securely attached to the wall of the establishment, freestanding signs or light poles on private property, except as provided for in in this Code.
- (2) The maximum height of each sign shall not exceed three feet, and the width shall not exceed eight feet.
- (3) The sign shall be made of high-quality material.

(c) Freestanding signs that advertise special events, not including those signs advertising the sale or lease of the property.

- (1) They shall be limited to a maximum of 12 square feet per side and a maximum height of four feet.
- (2) They shall be constructed of high-quality materials.

(d) Development signs.

- (1) A freestanding sign, not exceeding 16 square feet in area and six feet in height, may be permitted on the site of a new housing or commercial project following approval of a development plan. Temporary development signs shall be limited to a maximum of three years' duration, upon acceptance of improvements by the Town or when all building permits have been issued, whichever occurs first.
- (2) Any freestanding directional subdivision sign not located at the site of the new housing development shall be out of the Town right-of-way and on private property. Signs shall be 96 square feet or less and under 12 feet in height. Any freestanding directional subdivision signage exceeding 16 square feet and six feet in height shall only be permitted on properties of five acres or more and spaced at intervals of a minimum of 400 linear feet of road frontage.
- (3) Permits may be granted for one year and may, at the discretion of the Town Manager and/or their designee, be renewable annually for up to three years.
- (4) All such temporary signs shall be removed within seven days after the real estate closing or lease transaction.
- (5) No sign allowed under this subparagraph shall be illuminated.

Section 16.5.430. Prohibited signs.

- (a) Flashing, rotating, blinking or moving signs, animated signs, signs with moving, rotating or flashing lights or signs that create the illusion of movement, except for time-and-temperature devices.

- (b) Any sign that is erected in such a location as to cause visual obstruction or interference with motor vehicle traffic or traffic-control devices, including any sign that obstructs clear vision in any direction from any street intersection or driveway.
- (c) Neon, distracting colors, mechanical or electrical appurtenances, such as "revolving beacons," that are designed to compel attention.
- (d) Pole-mounted signs.
- (e) Roof signs.
- (f) Off-premise advertising signs or any other sign not pertinent and incidental to the permitted use on the property where located, except for temporary subdivision directional signs and political signs and except for signs permitted in this Code.
- (g) Any sign located in such a way as to intentionally deny visual access to an existing sign.
- (h) Vehicle-mounted signs, including but not limited to signs painted on or attached to semi-trailers or cargo containers, when exhibited on private property adjacent to the public right-of-way for the purpose of advertising the business or services offered on the property. Vehicle-mounted signs used in connection with a special event are exempted from the requirements of this section during the duration of the special event only. Upon the conclusion of the special event, such signs must be dismantled. For the purposes of this subparagraph, the term *special event* shall mean a parade, circus, fair, carnival, festival, farmers' market or other similar event that is different in character from the customary or usual activities generally associated with the property on which the special event is to occur.
- (i) Portable signs or signs not permanently affixed or attached to the ground or to any structure, except for real estate signs attached to posts driven into the ground, window signs and temporary barriers.
- (j) Rotating signs.
- (k) Searchlights.
- (l) Inflatable freestanding signs or tethered balloons.
- (m) Fabric signs, flags, pennants or banners when used for commercial advertising purposes, except as permitted in Section 16.5.425 of this Code.
- (n) Any sign or sign structure that meets the following.
 - (1) It is structurally unsafe.

- (2) Constitutes a hazard to safety or health by reason of inadequate maintenance or dilapidation.
- (3) It is not kept in good repair.
- (4) It is capable of causing electrical shocks to people likely to come in contact with it.

Section 16.5.435. Sign calculations.

Areas calculated shall be measured using standard mathematical formulas. Unless specifically stated, calculations shall be based on sign surface area.

- (a) Sign surface area. The sign surface area consists of the entire area within a continuous perimeter enclosing the extreme limits of a sign display.
 - (1) Sign face. The sign face consists of the area or display surface, including any frame or border used for the message, which includes but is not limited to writing, representation, emblem or any figure of similar character.
 - (2) Double-faced (back-to-back) signs. The area calculation of double-faced signs shall be regarded as a single sign only if mounted on a single structure and if the distance between each sign face does not exceed two feet at any point.
 - (3) Wall signs. If a sign is attached to a wall, only that portion of the wall onto which the sign face or letters are placed shall be calculated in the sign area.
- (b) Sign height. The height of a sign shall be measured from the highest point of a sign to the ground surface beneath it. When berms are used in conjunction with signage, the height of the sign shall be measured from the mean elevation of the fronting street.
- (c) Proportionate size and scale. The scale of signs shall be appropriate for the building on which they are placed and the area in which they are located. Building signs shall be harmonious in scale and proportion with the building facade to which they are mounted.

Section 16.5.440. Sign design standards.

- (a) *Sign location and placement.*
 - (1) Signs shall neither visually overpower nor obscure architectural features.
 - (2) Integrate signs with the building and landscaping. Signs shall be carefully coordinated with the architectural design, overall color scheme and landscaping of the area.
 - (3) Unified sign band. Whenever possible, signs located on buildings with the same block face shall be placed at the same height to create a unified sign band. Wall signs shall be located at the first-floor level only for retail and other commercial uses.
 - (4) Monument signs should be located in a planter setting within a landscaped area at the primary entries to residential, commercial and industrial developments to provide an overall project identity. A maximum of one monument sign per entry is permitted.
 - (5) Pedestrian-oriented signs are encouraged. It is desirable to include a pedestrian-oriented sign as one of the permitted signs for a business.
 - (6) Road right-of-way. No sign shall be erected within the public right-of-way.

(b) *Sign illumination.* Sign illumination shall complement, not overpower, the overall composition of the site.

- (1) Signs must be lighted downward with fully shielded luminaries wherein only the face of the sign is illuminated. Signs shall be lighted only to the minimum level for nighttime readability.
- (2) Outdoor internally illuminated advertising signs must either be constructed with an opaque background and translucent text and symbols or with a colored background and generally lighter text and symbols.
- (3) Neon tubing is an acceptable method of sign illumination for window signs in commercial districts.

(c) *Insurance on signs.* Owners of projecting signs extending over a public right-of-way shall be required to maintain public liability insurance in an amount to be determined appropriate by the Town, in which the Town is named as an additional insured. Satisfactory proof of such insurance must be provided to the Town upon request.

(d) *Maintenance of signs.*

- (1) The owner of a sign and the owner of the premises on which such sign is located shall be jointly and severally liable to maintain such sign, including any illumination sources, in neat and orderly condition and in a good working order at all times and to prevent the development of any rust, corrosion, rotting or other deterioration in the physical appearance or safety of such sign. The sign must also comply with all building and electrical Codes.
- (2) The owner of any sign regulated by this section shall be required to keep signs and supporting hardware, including temporary signs and time-and-temperature signs, structurally safe, clean and free of visible defects and functioning properly at all times. Repairs to signs shall be equal to or better in quality of materials and design than the original sign.
- (3) All signs and all components thereof, including sign structures and sign faces, shall be kept neatly painted, in a good state of repair and in compliance with all building and electrical Codes. The Town may inspect any sign governed by this section and shall have the authority to order the painting, repair, alteration or removal of a sign that constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation or obsolescence.

(e) *Standards for specific sign types.*

- (1) The following four tables include specific sign standards for Residential Uses, Business and Commercial Uses, the Town Core Zone District, and the Industrial Sub-District areas.

Table 16.5.435.a. Residential Use Sign Standards

Type of sign	Number of Signs	Maximum Surface Area (sq. ft.)	Maximum Height of Freestanding Signs	Comments
Identification sign (freestanding or wall sign)	1 per duplex	8 square feet	4 feet	Wall signs may be no higher than the eave line of the principal building.
	1 per multi-family or triplex	16 square feet	6 feet	Wall signs may be no higher than the eave line of the principal building.
	1 per public or quasi-public use	20 square feet	8 feet	Wall signs may be no higher than the eave line of the principal building.
	1 per subdivision entrance (development monument sign)	150 square feet	6 feet (may vary depending on square footage)	Direct illumination only; when placed on subdivision entry features, only the sign face shall be used to calculate the area.
Bed and breakfast	1 per street frontage	4 square feet	n/a	May be lighted, name and address of facility only.
Childcare center	1	6	5 feet	Unlit.
Commercial uses (legal nonconforming only)	1 per tenant space	1 square feet for each linear foot of building frontage; 24 square feet maximum	6 feet	Direct light source only; may not be illuminated between 11 pm and 6 am if within 500 feet of existing residential.
Home-based business	1	2 square feet	4 feet	Unlit.

Table 16.5.435.b. Business and Commercial Use Sign Standards

Type of Sign	Number of Signs	Maximum Surface Area (sq. ft.)	Maximum Height of Freestanding Signs	Comments
Identification sign (freestanding, wall, window, awning, canopy, projecting)	Development (project) entry freestanding monument sign: 1 per major street entrance	45 square feet per face of additional surface area subject to Town Council approval	6 feet	Commercial/industrial campus-type development containing more than 2 lots and more than 5 acres; all others subject to Town Council approval
	Shopping center development >50,000 sq. ft. gross leasable space identification sign: 1 per major street frontage	64 square feet per face of additional surface area subject to Town Council approval	6 feet	Signs are required to accommodate space for a minimum of 3 secondary/minor tenants in addition to primary major tenants.
	Major tenant freestanding sign: 1 per building	48 square feet	Lesser of 6 feet or 25% of building height	Includes individual single-use minor tenant buildings and multiple-tenant buildings that are freestanding on their own lot.
	Minor tenant (single use & own lot): 1 freestanding sign to accommodate all tenants (see comment)	1 square foot for each linear foot of building frontage; 24 square feet maximum	Lesser of 5 feet or 25% of building height	Includes individual single-use minor tenant buildings and multiple-tenant buildings that are freestanding on their own lot.
	Wall sign: 1 per individual tenant	n/a	n/a	The sum of all wall signs on a given wall shall not exceed 5 percent of the wall area; H = first-floor level only (Subparagraph 16.9.30(e)(12)c).
	Canopy or awning sign: 1 per individual tenant building frontage	n/a	Minimum 8 feet above finished grade	Allowed in place of wall sign.

Type of Sign	Number of Signs	Maximum Surface Area (sq. ft.)	Maximum Height of Freestanding Signs	Comments
	Window sign: 1 per business	25 percent of window or door area upon which it is applied	6 feet	May be placed on the window or door but not both; cannot exceed 25 percent of the total allowable sign area for the premises.
	Information signs	5 square feet	6 feet	Permitted at rear and loading door entrance.
Temperature	n/a	n/a	n/a	Part of sign structure must be included in allowable sign area.
Standard brand name	Varies	n/a	6 feet	Not more than 20 percent of the total allowable sign area.
Temporary signs	Section 16.5.420.	n/a	n/a	n/a

Table 16.5.435.c. Town Core District Sign Standards

Type of Sign	Number of Signs	Maximum Surface Area (sq. ft.)	Maximum Height of Freestanding Signs	Comments
Identification sign (freestanding, wall, window, awning, canopy, projecting)	Wall sign or projecting wall sign: 1 per individual tenant building frontage	1 sq. ft. for the first 100 linear feet of building frontage plus 1 sq. ft. for each additional 2 linear feet of building frontage, up to 32 sq. ft. maximum.	n/a	The sum of all wall signs on a given wall shall not exceed 5 percent of the wall area; cannot be 25 feet above grade level or higher than the eave line of the principal building; first-floor level only for retail uses.
	Canopy or awning sign: 1 per individual building tenant	10 square feet if it is a main business sign; 4 square feet if auxiliary business sign	Minimum 8 feet above finished grade	May not be in addition to a wall sign; auxiliary on valance only.
	Window sign: 1 per business	25 percent of window or door area upon which it is applied	n/a	May be placed on the window or door but not both; cannot exceed 25 percent of the total allowable sign area for the premises.
	Information signs	5 square feet	6 feet	Permitted at rear and loading door entrance.
Time and/or temperature	1	10 square feet	6 feet	Identification or advertising that is part of the sign structure must be included in an allowable sign area.
Standard brand name	Varies	n/a	6 feet	Not more than 20 percent of the total allowable sign area.
Temporary signs	Section 16.5.420.	n/a	n/a	n/a

Table 16.5.435.d. Industrial Sub-District Sign Standards

Type of Sign	Number of Signs	Maximum Surface Area (sq. ft.)	Maximum Height of Freestanding Signs	Comments
Identification sign (freestanding, wall)	1 project monument sign per entrance	1 sq. ft. per foot of frontage up to 64 per face surface area greater than face subject to Town Council approval	6 feet	No pole signs are permitted; commercial/industrial campus-type development containing more than 2 lots and more than 8 acres
	Major tenant monument sign: 1 per building	48 square feet	6 feet	Gross leasable space more than 5,000 sq. ft.
	Window sign: 1 per individual tenant building frontage	16 square feet	n/a	May not exceed 1 per tenant or 1 per entry; must be flush-mounted; cannot be 25 feet above grade level or higher than the eave line of the principal building
	Information signs	5 square feet	6 feet	Permitted at rear and loading door entrance
Temporary signs	Section 16.5.420.	n/a	n/a	n/a

Article 6 – Design Standards

Section 16.6.10. Intent.

The intent of this Article is to establish the minimum design and development standards for all projects within the Town. These standards are intended to achieve the following.

- Provide minimum standards for enhanced architectural character throughout the community;
- Promote a higher quality of community-wide design and development;
- Protect the character of new and existing neighborhoods;
- Create appropriate transitions and compatibility, where possible, of adjacent land uses;
- Prevent neighborhood blight, deterioration, and decay;
- Create diversity in design between different neighborhood areas and land uses;
- Promote the creation of distinct places within the community.

Section 16.6.20. Applicability.

- (a) The standards of this Article apply to all properties within the Town, where applicable.
- (b) The Town will, from time-to-time, conduct studies and analysis of neighborhood areas, corridors, and development nodes that identify additional development and design criteria. This criteria may be established by resolution of the Town Council. When established by resolution, such criteria are hereby incorporated by reference into this Article, and all projects within these areas must comply with the applicable design criteria.

Division 1 – Multi-Family Residential Design Standards

Section 16.6.100. Intent.

- (a) *Purpose.* The intent of this section is to apply enhanced design criteria and guidelines to all uses within the Town classified as “multi-family dwellings” under this Code.
- (b) *Provisions.* The provisions of this section are in addition to the requirements of the underlying zone district and supersede the zone district requirements in the event of a conflict.

Section 16.6.110. Multi-family building design standards.

The following Tables 16.6.110.a. and 16.6.110.b. establish the design standards for all multi-family development and mixed-use development that incorporates multi-family housing. The tables capture building materials, colors, architectural variety, and architectural details. The following details support the interpretation and use of the table below.

- An X denotes a requirement for that zone district
- The use of n/a reflects that the associated standard does not apply for the specific zone district
- An asterisk denotes additional standards apply and are specified below the table
- Information other than an X or n/a indicates specific development standards as specified
- SP column is the Suburban Perimeter Zone District
- DN column is the Development Node Zone District (including the Industrial Subzone)
- TC column is the Town Core Zone District
- The Rural Residential Zone District is not included as it does not permit Multi-Family

Table 16.6.110.a. Building Materials and Color Design for Multi-Family Residential Uses by Zone District

Building Material Requirements*	SP Zone District	DN Zone District	TC Zone District
Primary Materials	20% Minimum	30% Minimum	30% Minimum
Secondary Materials	80% Maximum	70% Maximum	70% Maximum
Accent Materials	5% to 10% Building Facades		
Building Colors	SP Zone District	DN Zone District	TC Zone District
Colors shall be compatible with character of the surrounding area.	X	X	X
Colors shall be of subdued and muted tones.	X	X	X
Earth-tone and neutral colors are encouraged as the primary color.	X	X	X
Reflective or neon primary and secondary colors shall not be permitted as exterior paint colors on any structure. Reflective or neon colors may be allowed for trim and accent elements as approved by the Town Manager and/or their designee.	X	X	X
Roof material colors should be darker and warm, earth-toned hues that accent and complement other building colors.	X	X	X

- (a) Supplemental building materials provisions for multi-family residential.
- (1) Permitted Materials. Exterior materials shall be permitted as follows.
 - a. Primary Materials include the following.
 1. Brick
 2. Stone
 - b. Secondary Materials include the following.
 1. Any primary materials
 2. Glass
 3. Metal Siding
 4. Color Concrete
 5. Stucco (or equal or better simulated material)
 6. Horizontal Wood Clap board (or equal or better simulated material)
 - c. Accent Materials include the following.
 1. Any Primary or Secondary Materials may be used as an accent material
 2. Wood trim (or equal or better simulated material)
 3. Precast stone, or wood moldings or similar architectural details (or equal or better simulated material)
 - d. Prohibited Materials include the following.
 1. Vinyl Siding
 2. Exterior Insulation Finishing Systems (EIFS)
 - e. Material Changes. Except for accent materials, changes in the façade material should only occur at horizontal expression lines.

Table 16.6.110.b. Architectural Variety and Details for Multi-Family Residential Uses by Zone District

Architectural Variety	SP Zone District	DN Zone District	TC Zone District
Shall have varied building heights, styles, colors, and building details.	X	X	X
Shall incorporate one model for every four buildings at a minimum. Models shall be evenly utilized to the maximum extent practicable.	X	X	X
Distinct building designs, as required above, shall be easily distinguished through a minimum of two of the following criteria. • A variation in length of 30% or more • A variation in the footprint of the building of 30% or more • A distinct variation in use of materials • A variation in the type of dwelling unit contained in the building that results in a significantly different scale and mass (i.e., apartments vs. Townhomes vs. duplexes) • A distinct variation in building height and roof form	X	X	X
For developments of three or more stacked buildings, a floor plan may be repeated; however, identical building facades shall not be replicated more than twice within the development.	n/a	X	X

Architectural Details	SP Zone District	DN Zone District	TC Zone District
Facades shall be articulated through the incorporation of four or more of the following elements within every 35 feet length of the façade and on a minimum of 75% of the façade area. • Balconies • Bay or box windows • Recesses, projections, or significant offsets in the wall plane • Porches • Dormers • Variations in materials • Variations in roof forms • Each building shall feature walls that are articulated by distinct, individualized, and covered entrances • Chimneys that project from the wall plane • Balconies and/or other outdoor living space • Bay or box windows	X	X	X
All buildings shall have a 15-foot step-back on all floors over two stories when adjacent to single-family residential uses.	X	X	X
All facades shall have a clear base, middle, and cap.	X	X	X
Facades shall be designed to incorporate visually heavier and more massive elements at the building base, and lighter elements above the base. Upper stories shall not appear heavier or demonstrate greater mass than the lower stories of the building.	X	X	X
Buildings shall provide concentrated dwelling unit access points. Monotonous access balconies and corridors running the length of a building shall be prohibited.	X	X	X
Blocky, uniform facades are prohibited.	X	X	X
Buildings shall feature a combination of primary and secondary roof forms. Primary pitched roof forms shall be articulated by at least one of the following elements.	X	X	X
• Changes in plane and elevations • Dormers, gables, or clerestories • Transitions to secondary roofs over entrances, garages, porches, or bay windows			
Roofs shall incorporate pitches of between 3:12 and 12:12; however, alternative roof forms may be permitted at the discretion of the Town Manager and/or their designee.	X	X	X
Roofing materials shall be appropriate to the architectural style of a building.	X	X	X
Where exposed to public view, roof materials shall be selected from enameled standing seam metal, concrete or clay tiles, copper metal, wood textured (architectural grade), or composition asphalt shingles.	X	X	X
The use of plastic, fiberglass, other metal, or glass visible to public view is prohibited.	X	X	X

(b) *Supplemental architectural design details for multi-family residential.*

- (1) Rooftop amenities are not permitted within the suburban perimeter zone district. These amenities are permitted within the development node and Town core zone districts.
 - a. Rooftop open space areas shall be included in all open space requirements and calculations.
 - b. Rooftop open spaces shall maintain adequate safety features to reduce the possibility of harm to residents, guests, and employees during use. These safety mechanisms shall be shown on the site plan submittal.
- (2) Ground floor active uses are required within the development node and Town core zone districts.

Section 16.6.120. Multi-family landscaping and streetscape standards.

The following Table 16.6.120.a establishes the landscape and streetscape design standards for all multi-family development and mixed-use development that incorporates multi-family housing. Additional regulations pertaining to open space, buffering, and pedestrian circulation can be found in Article 5, Division 1 of this Code. The following details support the interpretation and use of the table below.

- An X denotes a requirement for that zone district
- The use of n/a reflects that the associated standard does not apply for the specific zone district
- An asterisk denotes additional standards apply and are specified below the table
- Information other than an X or n/a indicates specific development standards as specified in the cell
- SP column is the Suburban Perimeter Zone District
- DN column is the Development Node Zone District (including the Industrial Subzone)
- TC column is the Town Core Zone District
- The Rural Residential Zone District is not included as it does not permit Multi-Family Development

Table 16.6.120.a. Multi-family Landscaping and Streetscaping Design Standards by Zone District

Landscaping	SP Zone District	DN Zone District	TC Zone District
A minimum of one tree for every 1,000 sqft of landscaped area shall be provided, subject to adopted water conservation policies.	X	X	X
A minimum of one shrub for every 150 sqft of landscaped area shall be provided and must be grouped and distributed throughout the site. With the Town Manager's and/or their designee's approval, trees may be substituted for up to one-half of the required shrubs at the rate of one tree for every 10 shrubs.	X	X	X
Irrigated turf or an alternative as approved by the Town Manager and/or their designee, shall be utilized for active recreation areas, and maintained to appropriate industry standards.	X	X	X
Native grass is highly encouraged for areas that will not function as active recreation areas. Native grass must be weed-free and maintained at a maximum height of eight inches following industry standard establishment timeframes.	X	X	X
Live materials shall be located between the front of the building and adjacent roadways at the following minimum rates.	65%	50%	10%
Streetscaping	SP Zone District	DN Zone District	TC Zone District
Perimeter treatment adjacent to roadways should include a landscape buffer of varying widths, with a minimum width of 10 feet and a maximum width of 20 feet. An exception may be granted by the Town Manager and/or their designee for infill Town center projects.	X	X	X
A pathway at least six feet in width shall be provided parallel to the street.	X	X	X
A landscape strip 10 feet in width shall be planted with at least 1 large tree per 35 feet of frontage between the street and pedestrian pathway. An exception may be granted by the Town Manager and/or their designee for infill Town center projects.	75% shade and/or deciduous species 25% other approved species		
Coniferous or evergreen trees must be placed a minimum of 10 feet off the southern edge of a bike path or curb to minimize shading and icing concerns where possible.	X	X	X

Section 16.6.130. Amenity points for multi-family residential.

Amenities for residents should include active and passive spaces that are age-appropriate for current and future residents of all abilities. Credit shall be given for incorporated features as listed below. Credit may be provided for amenity features not included in this list. Such credit shall be based on the determination of the Town Manager and/or their designee, based on a review of the variety of amenities proposed. Final decision by the Town Manager and/or their designee may be appealed in accordance with the appeals procedures of this Code.

Table 16.6.130.a. Amenity Point Calculations for Multi-family Developments

Residential Unit Breakdown	SP Zone District	DN Zone District	TC Zone District
Up to 10 dwelling units	1	1	1
11 to 30 Units	2	3	2
31 to 50 Units	3	5	5
51 to 150 Units	5	6	6
More than 151 dwelling units	7	7	7

(a) The following features are worth two Amenity Points each.

- (1) Pool
- (2) Community Clubhouse with Fitness Center included – large (more than 2,500 sqft)
- (3) Multifunctional playgrounds with commercial grade equipment – large (greater than 2,500 sqft playground zone area)

(b) The following features are worth one Amenity Point each.

- (1) Community Clubhouse – small (less than 2,500 sqft)
- (2) Fitness Center (5 or more pieces of equipment)
- (3) Dog Park – Large
- (4) Multifunctional playgrounds with commercial grade equipment – medium (1,000 to 2,500 sqft playground zone area)
- (5) Court games (tennis, volleyball, basketball, etc.) at least 1,000 sqft in size shall each count
- (6) System of trails throughout the entire development
 - a. Trails shall be designed to provide interesting and distinct areas for walking, bicycling and/or riding in areas separate from and in addition to traditional sidewalks. Trails shall be designed and constructed as required by the Town, see Article 5 of this Code.

(c) The following features are worth one-half Amenity Point each.

- (1) Dog Run
- (2) Fitness Center (fewer than five pieces of equipment)
- (3) Plazas, courtyards, community gazebo, or community gardens with irrigation systems and defined garden edges of at least 1,000 sqft in size
- (4) Public art, as approved by the Town Manager and/or their designee
- (5) Picnic or barbeque areas with commercial grade equipment
- (6) Multifunctional playgrounds with commercial grade equipment - small (less than 1,000 sqft playground zone area)
- (7) Rooftop solar arrays

Division 2 – Non-Residential Commercial and Office Design and Development Standards

Section 16.6.200. Intent.

- (a) *Purpose.* The intent of this section is to apply enhanced design criteria and guidelines to all non-residential development within the Town.
- (b) *Provisions.* The provisions of this section are in addition to the requirements of the underlying zone district and supersede the zone district requirements. In the event of a discrepancy between the two, the Town Manager's and/or their designee's decision shall be final.
- (c) *Applicability.* These standards apply to the following.
 - (1) New nonresidential commercial and office development.
 - (2) Modifications or additions to existing nonresidential commercial and office development, but only the portion of the development being modified.
 - (3) Mixed-use developments that incorporate multi-family housing shall be subject to the multi-family design criteria of this code.
- (d) *Site Design Considerations*
 - (1) Buildings shall be arranged to frame, enclose, or give prominence to pedestrian corridors, outdoor gathering spaces, main street pedestrian or vehicle access corridors, or the corners of street intersections or entry points into the development.
 - (2) Elements that shall be coordinated between adjacent sites include the following.
 - a. Shared driveways for access;
 - b. Linkages of internal vehicular and pedestrian circulation systems;
 - c. Linkages of open space systems;
 - d. Areas and access for refuse and recycling collection;
 - e. Drainage and detention facilities; and
 - f. Other improvements where a coordinated approach benefits the larger area.
 - (3) Rooftop open space shall be included in all open space requirements.
 - a. Rooftop open spaces shall maintain adequate safety features to reduce the possibility of harm during their use. These safety mechanisms shall be shown on the site plan submittal and shall be approved by the Town Manager and/or their designee.

Section 16.6.210. Non-Residential commercial and office design standards.

The following Tables 16.6.210.a., 16.6.210.b., and 16.6.210.c. establish the design standards for all non-residential commercial and office development. The tables capture building materials, colors, entrance features, vertical and horizontal articulation, transparency, and roof form. The following details support the interpretation and use of the tables below.

- An X denotes a requirement for that zone district
- The use of n/a reflects that the associated standard does not apply for the specific zone district
- An asterisk denotes additional standards apply and are specified below the table
- Information other than an X or n/a indicates specific development standards as specified in the cell
- SP column is the Suburban Perimeter Zone District
- DN column is the Development Node Zone District (including the Industrial Subzone)
- TC column is the Town Core Zone District
- The Rural Residential Zone District is not included as it does not permit Multi-Family Development

Table 16.6.210.a. Non-Residential Building Materials and Color Design by Zone District

Building Material Requirements*	SP Zone District	DN Zone District	TC Zone District
Primary Materials	50% to 90%		
Secondary Materials	20% to 40%		
Accent Materials	10% to 30%		
Building Colors	SP Zone District	DN Zone District	TC Zone District
Colors shall complement one another and fit the overall architectural character of the area and be context sensitive to surrounding buildings.	X	X	X
Intense, bright, or fluorescent colors and glossy finishes shall not be used as the predominant color on any exterior wall or roof of any structure.	X	X	X

(a) Exterior building materials should be simple, durable, and shall be compatible with the idea of agrarian architecture. While some diversity in exterior building materials and color is a part of the tradition of commercial districts, the range should be limited to promote a sense of visual continuity for the Town. Simple material finishes are encouraged, and matte finishes are preferred.

- (1) Permitted Materials. No more than four materials should be used, including the use of secondary and accent materials. Exterior materials shall be permitted as follows.
 - a. Primary Materials include the following.
 1. Brick
 2. Natural Stone
 3. Other quality materials, such as repurposed materials
 - b. Secondary Materials include the following.
 1. Any primary materials may be used as a secondary material
 2. Glass (*i.e., clear, and semi-transparent*)
 3. Metal Siding (*25 percent maximum per building façade*)
 4. Color Concrete
 5. Stucco (*masonry*)

6. Quality wood or composite siding or panels
7. Architectural tiles
8. Fiber cement board
9. Other quality materials, such as repurposed materials
- c. Accent Materials include the following.
 1. Any Primary or Secondary Materials may be used as an accent material
 2. Wood trim (*or equal or better simulated material*)
 3. Precast stone, or wood moldings or similar architectural details (*or equal or better simulated material*)
- d. Prohibited Materials include the following.
 1. Vinyl Siding
 2. Exterior Insulation and Finish Systems (*EIFS*)
 3. Reflective or mirror glass

**Table 16.6.210.b. Non-Residential Building Entrance Designs, Vertical and Horizontal Articulation
Design Standards by Zone District**

Building Entrances	SP Zone District	DN Zone District	TC Zone District
Building facades fronting a public street or civic open space shall include a primary entrance feature at ground level that is directly accessible from an adjacent sidewalk or pedestrian pathway.	X	X	X
Primary entrances must be clearly identifiable and directly oriented toward adjacent sidewalks or designated pedestrian routes to ensure convenient and visible pedestrian access	X	X	X
Entrance features shall occur along a building frontage.	Every 75 feet	Every 75 feet	Every 50 feet
For a single-tenant building, façades shall be differentiated by horizontal massing techniques.	X	X	X
Public entryways shall create architectural interest and variation from other portions of the building by incorporating the following features. • Changes in building planes through recesses and/or projections a minimum of two feet in dimension • Canopies, awnings, arcades, galleries, or other overhangs • Raised corniced parapets over the door • Peaked roof forms • Display windows • Integrated architectural embellishments such as moldings • Changes in building material, color, and/or texture • Special paving treatments • Other substantial design elements that add visual interest	Minimum of three features	Minimum of three features	Minimum of five features
Corner buildings to be designed with angled entrances at the corner, where practical.	n/a	In a walkable context	In a walkable context

Horizontal Articulation	SP Zone District	DN Zone District	TC Zone District
Building façades greater than 50 feet in length shall incorporate variations in the wall plane with projections, recesses, or other variations from the main mass having a depth of at least two feet.	X	X	X
Building façades shall incorporate a change of materials as follows. - At least three materials for street facing façades or when facing other public areas. - At least two materials for all other facades.	X	X	X
Each building façade shall incorporate the following elements. - Change in building colors - Change in textures - Variation in window design - Other substantial design elements that add visual interest	Minimum of two elements	Minimum of two elements	Minimum of three elements
Remaining blank wall areas shall be broken-up by patterns of windows and doors, ornamental architectural details or changes in materials that are consistent with the architectural style of the building.	X	X	X
Vertical Articulation	SP Zone District	DN Zone District	TC Zone District
Buildings taller than 20 feet shall be designed so the massing or façade articulation of the building presents a clear base, middle, and top.	X	X	X
Visually heavier and more massive elements shall be incorporated at the building base with lighter elements above the base. Upper stories shall not appear heavier or demonstrate greater mass than the lower stories of the building.	X	X	X
Lower levels of multi-story buildings are to be differentiated by incorporating elements such as the following. - Veneer banding or wainscot - Change in materials and/or change in textures - Heavier materials and darker colors on lower levels - Integrated covered walkways, trellises, or architectural awnings - Low planters and walls - Other design elements that distinguish lower levels	X	X	X
Buildings shall incorporate four-sided design where all parts are perceived as a coordinated part of a unified whole. - All sides shall exhibit the same quality, continuity, and durability of design including the same primary and secondary materials. Important sides can reflect priority in the allocation of materials. - All sides visible from streets, public spaces, or active portions of adjacent sites shall have a similar level of trim, accent material, details, and ornamentation. Greater importance shall be given to areas closest to the public realm or with greater visibility. Parts not exposed to the public may be designed for utility.	X	X	X

Table 16.6.210.c. Non-Residential Transparency and Roof Form Design Standards by Zone District

Transparency (<i>windows, doors, and openings</i>)	SP Zone District	DN Zone District	TC Zone District
Ground floor façades facing a public street or other public area shall contain windows and/or doorways.	50% minimum of the total area		
Upper floor facades facing a public street or other public area shall contain windows and/or doorways.	15% minimum of the total area		
Storefront display windows and doors shall allow visibility into and out of the store, unless security or safety reasons dictate otherwise.	X	X	X
Windows shall be accented and defined with detailed elements, such as frames, sills, and lintels.	X	X	X
Roof Form	SP Zone District	DN Zone District	TC Zone District
No roofline along any building elevation shall exceed 30 feet in length without a visual variation that incorporates any of the following. • Projections or recessions of at least two feet in depth • Dormers • Change in roof height of at least two feet • Distinct architectural features	X	X	X
Roofs of buildings shall have parapets or enclosures concealing flat roofs and rooftop equipment from public view and be constructed of materials that match the building in quality and detail. Three-dimensional cornice treatments shall be incorporated as part of the architectural design.	X	X	X
Roofs shall be designed to accommodate solar energy systems to the maximum extent practical.	X	X	X
Roofing materials shall be appropriate to the building architecture.	X	X	X

Section 16.6.220. Screening of ancillary uses and utilities.

- (a) Ancillary uses such as outdoor storage areas, trash and recycling areas, loading, and unloading areas, service areas, HVAC equipment, and on-site utilities shall be screened to the greatest extent possible from view of public rights-of-way, amenity and public spaces, and adjacent properties by a combination of walls, fences, landscaping, or other similar device and be incorporated into the overall site and building design.
- (b) Building mounted utilities and equipment shall be screened from view of public rights-of-way, amenity and public spaces, and adjacent properties by a combination of walls, fences, landscaping, or other similar devices, and shall be painted to match the adjacent wall color, when applicable.
- (c) Ancillary uses shall be located to the rear of the property or in a way that mitigates their potential impacts on surrounding properties and the public realm.

- (d) Views of ancillary uses shall be separated from sidewalks and on-site pedestrian ways. Screening structures shall be made of the same materials as the principal structure if not placed behind the building.
- (e) Outdoor display and storage areas shall not encroach on any portion of a walkway, drive aisles, required parking spaces, or landscape area unless otherwise authorized by this Code.

Section 16.6.230. Non-Residential commercial and office landscaping and streetscape design standards.

Table 16.6.230.a. below establishes the landscaping and streetscape design standards for all non-residential commercial and office developments. Additional regulations pertaining to open space, buffering, and pedestrian circulation can be found in Article 5, Division 1 of this Code. The following details support the interpretation and use of the tables below.

- An X denotes a requirement for that zone district
- The use of n/a reflects that the associated standard does not apply for the specific zone district
- An asterisk denotes additional standards apply and are specified below the table
- Information other than an X or n/a indicates specific development standards as specified in the cell
- SP column is the Suburban Perimeter Zone District
- DN column is the Development Node Zone District (including the Industrial Subzone)
- TC column is the Town Core Zone District
- The Rural Residential Zone District is not included as it does not permit Non-Residential Commercial and Office Development

Table 16.6.230.a. Non-Residential Landscaping and Streetscaping Design Standards by Zone District

Landscaping	SP Zone District	DN Zone District	TC Zone District
The following areas are required to be landscaped. • Bufferyards • Plazas and courtyards • Parking areas using islands/medians/perimeter plantings • Streetscapes • Stormwater areas • Unused and unoccupied portions of a site	X	X	Site Dependent
A minimum of one tree for every 1,000 sqft of landscaped area shall be provided, subject to adopted water conservation policies.	Minimum 50% shade and/or deciduous Minimum 25% coniferous		
A minimum of one shrub for every 150 sqft of landscaped area shall be provided and must be grouped and distributed throughout the site. With approval, trees may be substituted for up to one-half of the required shrubs at the rate of one tree for every 10 shrubs.	X	X	X
Irrigated turf or an alternative as approved, shall be utilized for active recreation areas and maintained to appropriate industry standards.	X	X	X
Native grass is highly encouraged for areas that will not function as active recreation areas. Native grass must be weed-free and maintained at a maximum height of eight inches following industry standards for establishment timeframes.	X	X	X
Landscaped areas shall be covered with live irrigated, lower water consuming ground cover, except for areas where additional hardscape is allowed or an alternative as approved.	Minimum 75% of landscape area	Minimum 75% of landscape area	Site Dependent
Pedestrian walks and other hardscape landscape features and amenities may comprise the required landscape areas. Includes features such as outdoor seating areas, plazas with recreation and entertainment areas, water features, public art, and approved permeable pavement.	Maximum 50% of landscape area	Maximum 50% of landscape area	Maximum 75% of landscape area
Landscape buffers shall be provided in accordance with the buffering criteria of this Code.	X	X	Site Dependent
Parking lot landscaping shall be provided in accordance with the parking lot design criteria of this Code.	X	X	X
Plazas and courtyards shall include following amenity element types. • Seating at one space for every 150 square feet of plaza/courtyard area (<i>seating may be provided with chairs and tables, benches, and/or seating walls</i>); • Trees appropriate for the space planted at one tree for every 750 square feet of plaza or courtyard area; • Art or creative features (<i>i.e., water features, fire features, interactive features for families and kids</i>); • Areas and facilities for recreation, entertainment, or educational activities; • Other appropriate amenities or design elements.	Minimum of three element types	Minimum of three element types	Minimum of four element types

Streetscaping	SP Zone District	DN Zone District	TC Zone District
Perimeter treatment adjacent to roadways should include a landscape buffer of varying widths, with a minimum width of 10 feet and a maximum width of 20 feet. An exception may be granted by the Town Manager and/or their designee for infill Town Core projects.	X	X	X
A pathway at least six feet in width shall be provided parallel to the street. The pathway shall be designed to provide adequate space for pedestrians, street furniture, outdoor seating areas, landscaping, and other amenities to enhance the pedestrian experience.	X	X	Site Dependent
A landscape strip 10 feet in width shall be planted with at least one tree for every 35 feet of frontage between the street and pedestrian pathway. The landscape strip, where applicable, shall be landscaped with irrigated lower water-consuming grass or other material suitable for the area. An exception may be granted by the Town Manager and/or their designee for infill Town Core projects.	75% shade or deciduous species 25% other approved species		
Coniferous or evergreen trees shall be placed a minimum of 10 feet from the southern edge of a public street, sidewalk, or trail to minimize winter icing concerns where possible.	X	X	X

Section 16.6.240. Supplemental provisions for open space and landscaping.

This design criteria supplements and supports the criteria located in this Code pertaining to topics such as open space, landscaping, buffering, pedestrian circulation, and parking design standards. Any applicant or entity wishing to develop or construct within the Town shall review and conform to all applicable criteria of this Code.

(a) Open Space and Landscaping

- (1) Open spaces should be designed to serve multiple requirements of this Code including buffers, screening, stormwater, or formal open space. In no instance should open space design and integration compromise other design objections and functions such as site drainage.
- (2) Plazas and courtyards may be required for mixed-use or nonresidential developments based on consideration of the scope and scale of the proposal and mix of uses, the proposed building placement and design, and the quality of the proposed landscape and screening design.
- (3) Plazas and courtyards shall be centrally located within the development area and accessible to residents, customers, and guests they are intended to serve.

Article 7 – Wireless Telecommunication Services and Facilities

Section 16.7.10. Reserved.

Section 16.7.20. Use permitted by special review.

It is unlawful for any person to install or operate a wireless telecommunication service facility unless a use by special review has first been approved by the Town Council, as provided in Section 16.2.250 of this Code. The approval of such use by special review does not relieve the operator from otherwise complying with all applicable regulatory requirements of the Town, State, and Federal governments.

Section 16.7.30. Application requirements.

- (a) Use by special review site plan. The plans for a wireless telecommunication service facility shall be submitted on one or more maps at a scale not less than 1-inch equals 50 feet, showing the following information.
 - (1) Proposed size, location and boundaries of the commercial mobile radio service facility site, including existing and proposed topography at two-foot intervals, referenced to USGS data, state plane coordinates and a legal description of the proposed site.
 - (2) Elevations of all towers and equipment, indicating materials, overall exterior dimensions and colors.
 - (3) True north arrow.
 - (4) Locations and size of existing improvements and existing vegetation, if any, and location and size of proposed improvements, including any landscaping.
 - (5) Existing utility easements and other rights-of-way of record, if any.
 - (6) Location of access roads.
 - (7) Names of abutting subdivisions or the names of owners of abutting, unplatted property within 500 feet of the site, zoning and uses of adjacent parcels.
 - (8) Proof of ownership in a form acceptable to the Town. Such proof of ownership shall be current within the past thirty days.
- (b) Vicinity maps. The vicinity maps submitted with an application under this article shall include one or more maps showing the location of existing and planned commercial mobile radio service facilities belonging to the applicant that are within five miles of the proposed facility. Planned facilities may be identified in general terms and need not be addressed specifically.
- (c) Written narrative. The application shall include the following in narrative form:
 - (1) The applicant's and surface owner's names, addresses, signatures and designation of agent, if applicable.
 - (2) An explanation of the need for such a facility, operating plan and proposed coverage area.

- (3) If a freestanding facility is proposed, an analysis of alternatives to a freestanding facility within a one-mile radius of the facility.
- (4) A list of all permits or approvals obtained or anticipated to be obtained from local, state or federal agencies other than the Federal Communications Commission (FCC).
- (5) Affirmation that the proposed facility, alone or in combination with other like facilities, will comply with current FCC standards for cumulative field measurements of radio frequency power densities and electromagnetic fields.
- (6) Affirmation that the facility will comply at all times with current FCC regulations prohibiting localized interference with reception of television and radio broadcasts.
- (7) Affirmation that the facility will not interfere with any public safety frequencies servicing the Town's GMA and its residents.
- (8) Affirmation that, if approved, the applicant and surface owner will make the facility available on a reasonable basis to other service providers.
- (9) An explanation of compatibility with the Comprehensive Plan.

Section 16.7.40. Review criteria.

- (a) The recommendation of the Planning Commission and the decision of the Town Council shall be based on whether the applicant has demonstrated that the proposed wireless telecommunication service facility meets the following standards.
 - (1) The site plan complies with the foregoing requirements.
 - (2) The vicinity map complies with the foregoing requirements.
 - (3) The narrative for the application complies with the foregoing requirements.
 - (4) When applicable, complies with the setback and height requirements.
 - (5) When applicable, complies with the accessory building requirements.
 - (6) When applicable, complies with special review mitigation co-location requirements as set forth in Section 16.7.90 of this article.
- (b) The review criteria shall be included in the ordinance granting approval of the special use.

Section 16.7.50. Height and setback requirements.

- (a) Roof-mounted or building-mounted commercial mobile radio service facilities, including antennae, may not protrude above the parapet line of the building or structure no more than 18 inches outside of the building wall, unless sufficient screening or other camouflage methods are demonstrated and accepted as part of the approval.
- (b) Applicable zoning setback requirements of this Code must be met. At a minimum, all freestanding facilities shall be set back at least 500 feet from all residentially zoned properties or residential structures on properties otherwise zoned.

Section 16.7.60. Accessory building requirements.

- (a) Accessory buildings located on the ground shall be no larger than 400 square feet and must be constructed of durable, low-maintenance materials and must be architecturally compatible and integrated with existing buildings and structures. Sites with greater than 100 cubic feet of cabinet area that are visible from a public right-of-way or residentially zoned or used area must enclose the equipment in accessory structures acceptable to the Town.
- (b) Accessory buildings and facilities are to be screened, to the extent possible, from public streets and sidewalks, either by screening, landscaping, location or other techniques deemed sufficient.

Section 16.7.70. Building-mounted or roof-mounted facilities.

Building-mounted or roof-mounted facilities shall be screened from public view, either by screening, placement of materials, or other techniques deemed sufficient to meet the intent of this Code.

Section 16.7.80. Freestanding wireless telecommunication service facilities requirements.

All freestanding wireless telecommunication facilities shall be designed and constructed in such a manner that they meet the following.

- (a) Be capable of serving, through original construction, expansion or replacement, a minimum of two users.
- (b) Be constructed as a monopole, which tapers toward the top of the pole to the degree allowed by structural requirements, unless some other decorative or camouflage type of structure is proposed and approved.
- (c) Be constructed of a neutral color, including fencing, buildings, and cabinets or matching existing buildings on the site.
- (d) Contain only lighting required by the Federal Aviation Administration and no signage except appropriate contact information.
- (e) Be no higher than 50 feet from the ground, with an additional 20 feet per co-locating user permitted, up to 70 feet (exceptions may be granted upon request by the applicant).
- (f) Be constructed in accordance with a certified engineer's specifications and in compliance with all applicable Building Code provisions.

Section 16.7.90. Special review mitigation measures for co-location.

- (a) Unless demonstrated to be impractical, the Town shall require co-location of wireless telecommunication service facilities to minimize the number of individual sites.

- (b) No wireless telecommunication service facility owner or operator shall unfairly exclude a competitor from using the same facility or location. Unfair exclusion of use by a competitor may result in the revocation of the use by special review or site development plan.

Section 16.7.100. Application fees.

Each applicant shall submit a land use application and pay applicable fees based on the current fee schedule. No approval will be issued until all fees are paid.

Section 16.7.110. Abandonment.

At the request of the Town, the operator must furnish a statement to the Town indicating the operational status of the facility. If the use has been discontinued, the date on which the facility was last used shall also be provided. Commercial mobile radio service facilities not used for a continuous period of six months shall be disassembled within 12 months of the last use.

Section 16.7.120. Penalty.

Any person who constructs, installs, uses, or who causes to be constructed, installed or used, any wireless telecommunication service facility in violation of any provision of this Article or the conditions and requirements of the use by special review approval, may be punished as provided in Article 1, Chapter 16 of this Code. Each day of unlawful operation constitutes a separate violation.

Section 16.7.130. Civil action.

In the event that any building or structure is or is proposed to be erected, constructed, reconstructed, altered, or used, or in the event that any land is or is proposed to be used in violation of any provision of this article or the conditions and requirements of the use by special review approval, the Town, in addition to the other remedies provided by law, ordinance or resolution, may institute an injunction, mandamus, abatement or other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration or use.

Article 8 – Oil and Gas Drilling and Production Facilities

Section 16.8.10. Purpose.

- (a) These regulations are enacted to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of the present and future residents of the Town. By enacting these regulations, the Town intends to facilitate the development of oil and gas resources within the Town while mitigating potential land use conflicts between such development and existing and planned land uses.
- (b) It is recognized that, under state law, the surface and mineral estates are separate and distinct interests in land and that one may be severed from the other. Owners of subsurface mineral interests have certain legal rights and privileges, including the right to use that part of the surface estate reasonably required to extract and develop their subsurface mineral interests, subject to compliance with the provisions of these regulations and any applicable statutory and regulatory requirements.
- (c) The state has a recognized interest in fostering the efficient development, production and utilization of oil and gas resources and the prevention of waste and protection of the correlative rights of common source owners and producers to a fair and equitable share of production profits. Similarly, owners of the surface estate have certain legal rights and privileges, including the right to have the mineral estate developed in a reasonable manner.
- (d) Weld County agrees, through an Intergovernmental Agreement with the Town, to have its Oil and Gas Energy Department assist the Town, as needed, with implementing 1041 regulations, including but not limited to processing applications, conducting hearings and inspections, and other enforcement activities. The County will review drainage reports submitted with well applications, ensure compliance with floodplain regulations, issue grading permits for oil and gas sites, and review for general land use conflicts.
- (e) Municipal governments have a recognized, traditional authority and responsibility to regulate land use within their jurisdiction. These regulations are intended as an exercise of this land use authority.

Section 16.8.20. Definitions.

All terms used in this article that are defined in the Act or in commission regulations and not otherwise defined in this section are defined as provided in the Act or in such regulations as of the effective date of this article. All other words used in this article are given their usual, customary, and accepted meaning, and all words that are of a technical nature or peculiar to the oil and gas industry shall be given the meaning that is generally accepted in the oil and gas industry. When not otherwise clearly indicated by the context of the matter, the following words and phrases used in this article have the following meanings.

- *Act* means the Oil and Gas Conservation Act of the state.

- *Commission* or *ECMC* means the Colorado Energy and Carbon Management Commission.
- *Day* means a period of 24 consecutive hours.
- *Injection well* means any hole drilled into the earth into which fluids are injected for the purposes of secondary recovery, storage, or disposal, pursuant to authorizations granted by the Commission.
- *Inspector* means any person designated by the Town or the Town's designee, who shall have the authority to inspect well sites to determine compliance with this article and other applicable ordinances of the Town.
- *Management Plan* refers to the required use by special review site plan submittal item addressing specific aspects of the oil and gas operation.
- *Oil and gas well* means any hole drilled into the earth for the purpose of exploring for or extracting oil, gas, or other hydrocarbon substances.
- *Operating Plan* means a general description of a well site or production site identifying purpose, use, typical staffing, seasonal or periodic considerations, routine hours of operating, source of services/infrastructure and any other information related to regular functioning of that facility.
- *Operator* means the person designated by the working interest owners as operator and named in the appropriate forms on record with the State.
- *Owner* means a person possessing a mineral interest or a leasehold interest in minerals.
- *Production site* means the area surrounding proposed or existing production pits or other accessory equipment required for oil and gas production, at which may also be located tanks and tank batteries, exclusive of transmission and gathering pipelines.
- *Reclamation and Landscape Plan* refers to the required submittal items illustrating long-term plans for site treatments and function. See Section 16.8.40 for a full definition.
- *Reentering* means accessing an existing well bore for either the original or amended purpose, if such well has not been abandoned.
- *Sidetracking* means entering the same well head from the surface but not necessarily following the same well bore throughout its subsurface extent when operational deviation from such well bore is necessary to reach the objective depth because of an engineering problem.
- *Twinning* means the drilling of a well within a radius of 50 feet from an existing well bore when the well cannot be drilled to the objective depth or produced because of an engineering problem, such as a collapsed casing or formation damage.
- *Use tax* means the tax paid by a consumer for using, storing, distributing or otherwise consuming tangible personal property or taxable services inside the Town.
- *Well* means an oil and gas well or an injection well.

- *Well site* means that area surrounding a proposed or existing well and accessory structures and equipment necessary for drilling, completion, recompletion, work-over, development and production activities.
- *Wellhead* means the equipment attaching the surface equipment to the well bore equipment at the well.

Section 16.8.30. Requirements and procedures.

- (a) Proposed new wells, redrilling certain wells and other specific enhancements.
- (1) It shall be unlawful for any person to drill a well that has not been previously approved under this article, reactivate a plugged or abandoned well or perform initial installation of accessory equipment or pumping systems (in cases where a well is not being drilled), unless a use by special review approval has first been granted by the Town in accordance with the procedures defined in this Article and Article 2.
 - (2) The granting of such use by special review shall not relieve the operator from otherwise complying with all applicable regulatory requirements of the Town, the State, and the United States.
 - (3) When a use by special review has been granted for a well, reentry of such well for purposes of sidetracking, twinning, deepening, recompleting or reworking shall not require a separate use by special review approval.
 - (4) The use by special review is limited to the current proposed facilities as shown in the approved plan. After initial completion of a well, to place additional equipment on a tank battery or wellhead location that was not shown in the approved plan, the applicant must notify the Town of installation of such additional equipment, except in a situation where additional equipment is necessary for a period of 14 days or less.
 - (5) Within 30 days after completion of operations, the applicant shall provide to the Town "as-built" drawings that show all facilities, pipelines, flow lines and gathering lines that the applicant has placed on the land subject to this process.
- (b) Right of entry. For the purpose of implementing and enforcing this article, duly authorized Town personnel or contractors may enter onto the subject property upon notification of the operator, applicant, lessee or other party holding a legal interest in the property. If entry is denied, the Town shall have the authority to discontinue application processing, revoke approvals and applications or obtain an order from a court to obtain entry.
- (c) Inspection. The operator or applicant shall provide the telephone number of a contact person who may be reached 24 hours a day, seven days a week for purposes of being notified of any proposed Town inspection under this section or in case of emergency. Any approved oil and gas operations and facilities may be inspected by the Town at any time to ensure compliance with the requirements of the approval, provided that at least one hour's prior notice is given to the contact person at the telephone number supplied by the operator or applicant. Calling the

number (or leaving a message on an available answering machine or voice mail service at the number) at least one hour in advance of the proposed inspection shall constitute sufficient prior notice if the contact person does not answer. By accepting the Town's use by special review approval, the operator or applicant consents to such inspections. The cost of any Town inspection deemed reasonable and necessary to implement or enforce this article shall be borne by the operator or applicant.

- (d) Use tax. All operators must conform to applicable provisions of this Code and the municipal Code relating to taxation.
- (e) Application fee. A non-refundable fee in the amount set in the current Town fee schedule shall accompany the application.

Section 16.8.40. Application elements.

An application for a use by special review pursuant to Article 2 and the supplemental requirements of this Article shall be filed with the Town and shall include the following information.

- (a) *Site plan.* The site plans for a well site submitted with an application for a use by special review shall be submitted on one or more plats or maps, at a scale not less than one-inch equals 50 feet, showing the following information.
 - (1) The proposed location of production site facilities or well site facilities associated with the well in the event production is established, if applicable. Future development of the resource shall be considered in the location of the tank battery. Existing tank batteries and transmission and gathering lines within 660 feet of the well site shall be shown.
 - (2) The site layout including, without limitation, the position of the drilling equipment and related facilities and structures including appropriate sound walls to be installed throughout drilling process. Sound wall determination will be based on a sound study provided by the applicant and reviewed by the Town.
 - (3) True north arrow.
 - (4) Existing improvements, if any, within a radius of 660 feet of the proposed well.
 - (5) Existing utility easements and other rights-of-way of record, if any, within a radius of 660 feet of the proposed well.
 - (6) Existing irrigation or drainage ditches within 660 feet of the well site or production site, if any.
 - (7) Existing FEMA 100-year floodplains or floodway within 660 feet of the well site or production site, if any.
 - (8) The applicant's drainage and erosion control plans for the well site or production site and the area immediately adjacent to such site, if applicable.
 - (9) Location of access roads.
 - (10) Well site or production site and existing lease boundaries.

- (11) The names of abutting subdivisions or the names of owners of abutting, unplatted property within 660 feet of the well site or production site.
 - (12) The name and address of the operator and the name of the person preparing the site plan or map.
- (b) *Vicinity maps.* The vicinity maps for a well site or production site submitted with an application for a use by special review shall be submitted on one or more plats or maps showing the following information.
- (1) Location of all existing water bodies and watercourses, including direction of water flow. This information shall be submitted on USGS 7.5-minute series or assessor base maps that indicate topographic detail and show all existing water bodies and watercourses with a physically defined channel within a 400-foot radius of the proposed well.
 - (2) Location of existing oil and gas wells as reflected in ECMC records. This information shall be submitted on a map and shall include all wells within a 1,000-foot radius of the proposed location for the well.
 - (3) Location of drill site. The information to be submitted shall be ECMC Form two and include the parcel tax identification number.
- (c) *Narrative.* The application shall include the following elements called out with clearly delineated headers or sections.
- (1) The operator's and surface owner's names and addresses, copies of any required ECMC Form two and designation of agent, if applicable.
 - (2) An operating plan.
 - (3) Landscape and Reclamation Plan. All applications for a use by special review to construct, drill and operate any oil and gas operations within the jurisdiction of the Town shall include a reclamation and landscape plan ("plan") for the area used for production after drilling, fracking, finishing and the installation of tanks, separators, pipelines, compressors, pump-jacks or other equipment used for production on the site ("pad site"). Such plan shall show fencing, berming, screening, landscaping, and access roadways, along with other improvements necessary to screen and buffer the pad site from surrounding properties.
 - a. Any pad site, or a portion of a pad site that is located within 200 feet of a public roadway shall require berming, irrigated landscaping with trees (one and one-half inch caliper, deciduous; six foot tall conifer, minimum), clustered and/or spaced 30 feet on center, fencing and/or other improvements that adequately screen the view from the roadway, mitigate sound and add aesthetic elements consistent with surrounding properties or approved development concept plans within the Town. These improvements shall run the entire length of any roadway facing side and shall extend to a minimum of 50 feet outside the boundary of the pad site.
 - b. Pad sites located farther than 200 feet from any roadway or sides of the pad sites that are within 200 feet but do not face a roadway shall be fenced with

solid metal or wood fencing that is a minimum of six feet high on all perimeter boundary lines of the pad site. The area outside the pad site shall be planted with drought-tolerant grass. Weed-free hay or straw mulch shall be crimped into the soil.

- c. All fencing and/or landscaping shall be included in an overall reclamation and landscape plan submitted with any use by special review application. The plan must show both short- and long-term production components and their relationship to the surrounding landscape and must accurately represent the information requested in the management plan. Landscaping, fencing, irrigation, and seeding shall be warranted for a minimum of one year, and as a part of the management plan, the applicant will include a long-term plan for maintenance of these components.
- (4) A list of all permits or approvals obtained or yet to be obtained from local, state, or federal agencies other than the ECMC.
- (5) An emergency response plan that is mutually acceptable to the operator and the appropriate fire district that includes a list of local telephone numbers of public and private entities and individuals to be notified in the event of an emergency, the location of the well and provisions for access by emergency response entities.
- (6) A plan for weed control at the well site.
- (7) A fire protection plan that is mutually acceptable to the operator and the appropriate fire district that includes planned actions for possible emergency events and any other pertinent information. Prior to application to the Town, a proposed fire protection plan and emergency response plan shall be submitted to and reviewed by the fire district.
- (8) Sanitary facilities must comply with ECMC regulations.
- (9) Completed management plan that thoroughly addresses all elements listed as follows and on the land use application. These items should be called out with headers in the document and shall include timelines of installation, removal, or impact, if applicable.
 - a. Enumerate the components of the well site.
 - b. Define the layout of the oil and gas components in this development.
 - c. Define clearly how the proposed oil and gas development interfaces with the following.
 - 1. The Comprehensive Plan (all sections)
 - 2. Land use
 - 3. The zoning district
 - 4. Connectivity
 - 5. Density
 - 6. Open space
 - d. Define the proposed access for this oil and gas development as follows.
 - 1. Define the treatments that will be applied to the roadways on the perimeter and internal to the site.
 - 2. Define how the oil and gas site functions with the proposed access(s).

3. Define what improvements will be made to the streetscape (if applicable).
4. Define how entries to the oil and gas development are enhanced.
- e. Define the setbacks proposed for these facilities both during initial operation and long term.
- f. Define the fencing plan for the oil and gas development, both during drilling and long term.
- g. Define how the oil and gas improvements will be managed.
- h. Define the planned truck routes and how the oil and gas traffic will affect Severance transportation.
- i. Define how the landscape design will be achieved.
- j. Define the irrigation system and explain sources of water.
- k. Explain how stormwater will be managed.
- l. Explain how the landscape will be maintained.
- m. Explain how parking will be addressed.
- n. Explain how exterior lighting will be addressed.
- o. Enumerate the potential impact on adjacent neighborhoods.
- p. If noise or smells are associated with the development, define the plans for mitigation.

Section 16.8.50. Review criteria.

- (a) The Town Council shall approve an application for a use by special review for a well site if the application conforms to the following requirements.
 - (1) The site plans for a well site application comply with the requirements of this Article.
 - (2) The vicinity maps for a well site application comply with the requirements of this Article.
 - (3) The narrative for a well site application complies with the requirements of this Article.
 - (4) When applicable, complies with the provisions for geologic hazards, floodplains or floodway required in Section 16.8.100 of this Article.
 - (5) When applicable, it complies with the provisions for wildlife mitigation procedures required in Section 16.8.130 of this Article.
- (b) Town Council public hearing and action. The Town Council shall review and act on the recommendation of the Planning Commission regarding the use by special review site plan as a regular agenda item. The Town Council may choose to approve, approve with conditions, or take no action on the use by special review site plan. The standard appeal process will apply to any applicant's dispute with the final action. This Appeals process is described in Article 2, Chapter 16 of this Code.

Section 16.8.60. Notice to proceed.

Prior to commencement of operations for which a use by special review has been approved, a "Notice to Proceed" shall be obtained from the Town. The Town shall issue the "Notice to Proceed" upon receipt of the following.

- (a) A copy of the resolution approving a use by special review for a well or wells.
- (b) A copy of the approved site plan.
- (c) A copy of an approved extra-legal vehicle or load permit issued by the Town pursuant to this Code, if applicable.
- (d) Copies of any necessary state or federal permits issued for the operation, if not previously submitted.

Section 16.8.70. Building permit.

Building permits must be obtained for all above-ground structures to which the International Building Code applies.

Section 16.8.80. Development setbacks from wells and facilities.

- (a) When wells are existing, buildings shall not be constructed within the following distances.
 - (1) Buildings that are not necessary to the operation of the well shall not be constructed within 350 feet of any such well and/or facility.
 - (2) Buildings to be used as places of assembly, institutions or schools shall not be constructed within 500 feet of any well and/or facility.
- (b) When wells are existing, lots and roads shall not be platted within the following distances.
 - (1) Lots shall not be platted within 350 feet of an existing oil or gas well or its production facilities.
 - (2) Lots intended to be used as places of assembly, institutions, or schools shall not be platted to allow a building site within 500 feet of an existing oil or gas well or its production facilities.
 - (3) Streets shall not be platted within 150 feet of an existing oil or gas well or its production facilities. Streets may cross collection flowlines at right angles.
 - (4) Lots shall not be platted within 50 feet of well and production sites that have been plugged, abandoned, and reclaimed. Such platting shall only occur after the completion of the plugging, abandonment, and reclamation process. Plugged and abandoned wells shall be platted in their own separate non-buildable tract with adequate access.
 - (5) Plugged and abandoned wells that are not visible shall be exposed, with the facility owner's permission, and their exact location shall be surveyed by a professional land surveyor. The plugged and abandoned well shall be backfilled and compacted. The

location of the plugged and abandoned well shall be permanently marked with a visible post indicating the ECMC and American Petroleum Institute (API) well number.

- (6) Oil and gas pipelines shall be located within a minimum 30-foot-wide non-buildable tract or easement and no closer than 50 feet to an occupied structure. The oil and gas pipeline shall be centered in the tract and in no case less than 10 feet from the edge of the tract. Oil and gas pipelines shall not be placed within public right-of-way, other public lands and/or lots intended for future development. This requirement does not apply to natural gas pipelines that provide retail service.

Section 16.8.90. Compliance with state environmental requirements.

The approval of an oil and gas use by special review shall not relieve the operators from complying with all current applicable state and federal regulations and standards concerning air quality, water quality and waste disposal. Additionally, applicants must adhere to the Town's dust mitigation requirements.

Section 16.8.100. Geologic hazard, floodplain, floodway location restrictions.

All equipment at well sites and production sites in geological hazard and floodplain areas shall be anchored to the extent necessary to resist flotation, collapse, lateral movement, or subsidence and to the extent necessary to comply with the Federal Emergency Management Act.

Section 16.8.110. Access roads.

All private roads used to maintain access to the tank batteries or the well site shall be improved and maintained according to the following standards.

- (a) *Tank battery access roads.* Access roads to tank batteries shall be subject to review by the Town in accordance with the following minimum standards.
 - (1) A graded gravel roadway having a prepared subgrade and an aggregate base course surface a minimum of eight inches thick. Subgrade section shall be scarified at a minimum depth of nine inches, moisture conditioned to within plus or minus two percent of the material's optimum moisture content as determined by ASTM Specification D698 and compacted to at least 95 percent of the material's maximum dry density as determined by the standard Proctor test. The aggregate material, at a minimum, shall meet the requirements for Class five or six, Aggregate Base Course as specified for aggregate base course materials in the Colorado Department of Transportation's "Standard Specifications for Road and Bridge Construction," latest edition. Additional requirements may be imposed dependent on the type and frequency of vehicles using the access roads.
 - (2) Graded to provide drainage from the roadway surface and constructed to allow for cross-drainage of waterways (such as roadside swales, gulches, rivers, creeks, and the like) by means of an adequate culvert pipe (adequacy of pipe subject to approval by the Town).
 - (3) Maintained to always provide a passable roadway free of ruts.

- (b) *Wellhead access roads.* Access roads to wellheads shall be subject to review by the Town in accordance with the following minimum standards.
 - (1) A graded, dirt roadway shall be scarified a minimum depth of nine inches, moisture conditioned to within plus or minus two percent of the material's optimum moisture content as determined by ASTM Specification D698 and compacted to at least 95 percent of the material's maximum dry density as determined by the standard Proctor test. Additional requirements may be imposed dependent on the type and frequency of vehicles using the access roads.
 - (2) Graded to provide drainage from the roadway surface and constructed to allow for cross-drainage of waterways by means of an adequate culvert pipe (adequacy of pipe subject to approval by the Town).
 - (3) Maintained to always provide a passable roadway free of ruts.
- (c) *Public access roads.* An extra-legal vehicle or load permit shall be required for all extra-large legal vehicles or loads that use Town streets, as defined in Sections 42-4-401 through 42-4-414, C.R.S. Said permit, if required, shall be obtained from the Town prior to such use. The applicant shall comply with all Town and State regulations regarding weight limitations on streets within the Town, and the applicant shall minimize extra-large legal truck traffic on streets within the Town.

Section 16.8.120. Public roads impact.

- (a) Every permit issued by the Town shall require the applicant or operator to pay a fee that is sufficient to pay the estimated cost for all impacts that the proposed operation may cause to facilities owned or operated by the Town or used by the general public, including but not limited to the following.
 - (1) Repair and maintenance of roads.
 - (2) Bridges and other transportation infrastructure.
 - (3) Improvements made or to be made by the Town to accommodate the operations and to protect public health, safety, and welfare.
 - (4) Costs incurred to process and analyze the application, including the reasonable expenses paid to independent experts or consultants.
- (b) The Town shall establish a mechanism to assess and obtain payment of such fees, subject to the right of the Town to request additional funds if the fees prove to be insufficient or to refund surplus funds to the operator if the fees paid exceed the true cost of the impacts.
- (c) The Town may require that the applicant or operator or both post a bond in an amount to be set during the site plan phase as security if additional damages occur to facilities owned or operated by the Town or used by the public.

- (d) As a condition of issuance of the permit and on an as-needed basis, the Town may require that additional site-specific measures be undertaken by the applicant or operator to protect and preserve facilities owned or operated by the Town or used by the public.
- (e) The applicant or operator shall provide tracking pads at any access points to public right(s)-of-way.
- (f) The applicant or operator is responsible for any damage to the public roads adjacent to the proposed access points. The Town will inspect access upon completion and monitor it throughout its use.

Section 16.8.130. Wildlife impact mitigation.

The applicant will be required to conform with any regulations of the Colorado Wildlife Commission regarding any wildlife impacts that are a direct result of the proposed well site.

Section 16.8.140. Emergency response costs.

The operator shall reimburse the Town or the responsible fire district for any emergency response costs incurred by the Town or the responsible fire district in connection with activity at the well site or production site, except that the operator shall not be required to pay for emergency response costs where the response was precipitated by a mistake of the Town.

Section 16.8.150. Violation and enforcement.

- (a) *Unlawful to construct or install unapproved oil and gas facilities.* Except as otherwise provided in this article, it is unlawful to construct, install, or cause to be constructed or installed any oil and gas facility within the Town unless approval has been granted by the Town Council. The unlawful drilling or redrilling of any well or the production therefrom is a violation of this Article.
- (b) *Penalty.* Any person, firm, corporation or legal entity that constructs, installs or uses or causes to be constructed, installed or used any oil, gas or injection well, well site or production site or commits any act or omission in violation of any provision of this article or the conditions and requirements of the oil and gas use by special review approval may be punished by a fine established by the Town. Each day of such unlawful operation constitutes a separate violation.
 - (1) *Suspension of approval.* If the Town determines at any time that there is a violation of the conditions of the use by special review approval or that there are material changes in an oil and gas operation or facility as approved, the Town may, for good cause, temporarily suspend the use by special review approval. In such cases, upon oral or written notification by the Town, the operator shall cease operations immediately. The Town shall provide the operator with written notice of the violation or identification of the changed conditions. The operator shall have a maximum of 15 days to correct the violation. If the violation is not corrected in a timely fashion, the approval may be

further suspended pending a revocation hearing. The operator may request an immediate hearing regarding the suspension before the Town Council or committee, which shall hold the hearing within 10 days of the operator's written request.

- (2) **Revocation of approval.** The Town Council or committee may, following notice and hearing, revoke a Town-approved use by special review granted pursuant to this article if any of the activities conducted by the operator violate the conditions of the approval or this article or constitute material changes in the oil and gas operation approved by the Town. The Town shall provide the operator with written notice of the violation or the material changes and the time and date of the hearing. No less than 30 days prior to the revocation hearing, the Town shall provide to the applicant and operator written notice setting forth the violation and the time and date of the revocation hearing. Public notice of the revocation hearing shall be published in a newspaper of general circulation not less than 30 days prior to the hearing. Following the hearing, the Town may revoke the approval or specify a time by which action shall be taken to correct any violations of the approval to avoid revocation.
 - (3) **Transfer of approval.** A use by special review approval may be transferred only with the written consent of the Town.
 - (4) **Judicial review.** Any action seeking judicial review of a final administrative decision of the Town shall be initiated within 28 days after the decision was made.
- (c) *Civil action.* In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, or used or any land is or is proposed to be used in violation of any provision of this article or the conditions and requirements of the oil and gas use by special review approval, the Town Attorney, in addition to the other remedies provided by law, ordinance or resolution, may institute an injunction, mandamus, abatement or other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration or use.
- (d) *False or inaccurate information.* The Town Council may revoke an oil and gas use by special review approval if it is determined, after an administrative hearing held on at least 10 days-notice to the applicant, that the applicant provided information and/or documentation upon which approval was based and which the applicant, its agents, servants or employees knew or reasonably should have known was materially false, misleading, deceptive or inaccurate.
- (e) *Prospective application.* Unless specifically provided otherwise, this article shall apply only to wells that are drilled in the Town on and after the date that this article is adopted. The reentering of a well in existence prior to the date of adoption of this article for purposes of deepening, recompleting, or reworking shall not require approval of a use by special review.
- (f) *Recovery of fees.* Should the Town prevail in any action for legal or equitable relief for a violation of the provisions of this article, the Town shall be entitled to recover any damages, costs of

action, expert witness fees and reasonable attorneys' fees incurred in addition to any other penalties or remedies that may be available.

Article 9 – Solar Facilities Development

Section 16.9.10. Purpose.

These regulations are enacted to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of the present and future residents of the Town. By enacting these regulations, the Town intends to facilitate the development of solar facilities within the Town while mitigating potential land use conflicts between such development and existing, as well as planned, land uses.

Section 16.9.20. Definitions.

All terms used in this Article that are defined in the Act or in commission regulations and not otherwise defined in this Section are defined as provided in the Act or in such regulations as of the effective date of this Article. All other words used in this article are given their usual, customary, and accepted meaning, and all words that are of a technical nature or peculiar to the solar energy development industry shall be given the meaning that is generally accepted in that industry. When not otherwise clearly indicated by the context of the matter, the following words and phrases used in this article have the following meanings.

- *Ground-mounted solar energy facility* means a solar energy system that is structurally mounted to the ground and is not roof-mounted. Ground-mounted systems include parking lot or parking canopy solar.
- *Roof-mounted solar energy facility* means a solar energy system that is structurally mounted to the roof of a building or structure not solely designed to support the solar energy system.
- *Single-family residential solar* means any device or structural design feature with the primary purpose of providing for the collection, storage, or distribution of solar energy for space heating, space cooling, electricity generation or water heating for personal use must conform to all IRC building Codes and will be permitted through the Town of Severance Building Department.
- *Solar energy facility* means any device or structural design feature with the primary purpose of providing for the collection, storage, or distribution of solar energy for space heating, space cooling, electricity generation or water heating.
- *Solar facility, small scale* means a facility used for the production of electrical energy from energy produced by and collected from the sun, including solar energy collectors, power generation facilities, facilities for storing and transforming energy, other appurtenant facilities and any transmission lines under 115 kilovolts, which is developed for the purpose of supplying or distributing electrical energy to users, a customer or customers and is located on less than 20 acres.
- *Solar facility, medium scale* means a facility used for the production of electrical energy from energy produced by and collected from the sun, including solar energy collectors, power generation facilities, facilities for storing and transforming energy, other appurtenant facilities and any transmission lines under 115 kilovolts, which is developed for the purpose of supplying

or distributing electrical energy to users, a customer or customers and is located on 20 acres or more.

- *Solar facility, large scale* means a facility used to produce electrical energy from energy produced by and collected from the sun, including solar energy collectors, power generation facilities, facilities for storing and transforming energy, other appurtenant facilities and any transmission lines, which is developed for the purpose of supplying or distributing electrical energy to users, a customer or customers and has a rated capacity greater than 30 megawatts.

Section 16.9.30. Application elements.

The Town shall consider the following in making a determination for approving or denying a use by special review for a solar facility:

- (a) *Site plan.* An approved site plan, following the procedures of Section 16.2.240 of this Code, is required for all small, medium, and large-scale solar facilities prior to building permit approval. In addition to the submittal requirements listed in Article 2 of this Code for a site plan application, the following shall be included.
 - (1) Property lines and physical features, including roads, for the project site.
 - (2) Proposed changes to the landscape of the site, grading, vegetation clearing and Planting, exterior lighting, screening vegetation or structures.
 - (3) Location of layout, including without limitation blueprints or drawings of the solar energy system showing the proposed layout of the system, the distance between the proposed solar collection facilities and all property lines and the tallest finished height of the solar collection facilities.
 - (4) Name, address, and contact information for proposed system installer.
 - (5) Name, address, phone number and signature of the project proponent and all co-proponents or property owners, if any.
 - (6) Lot coverage. The area covered by ground-mounted solar energy systems, where the ground beneath is permeable or pervious, shall not be included in calculations for lot coverage for purposes of zoning.
- (b) *A decommissioning plan.* Adequate financial assurance to cover the decommissioning of the facility may be required as a condition of approval of the decommissioning plan which financial assurance may be posted over the life of the project.
- (c) *A landscape/irrigation plan.* Landscaping is extremely important for enhancing the quality of development in the area. Trees, shrubs, and other plantings add greatly to the aesthetic appeal while reducing glare. As no single landscaping plan can be prescribed for all developments due to differing land features, solar access, topography and soils, these guidelines encourage flexible and creative landscape designs. Landscaping/screening shall include, at a minimum, decorative fencing, berming and/or vegetation such that the facility is aesthetically pleasing as viewed from adjacent properties and rights-of-way. Native grasses and wildflower mixes are encouraged.

- (d) *Property maintenance plan.* A property maintenance plan may be required for the facility. The property maintenance plan shall address dust, weeds, and erosion. The property shall be maintained in such a manner as to control dust, weeds and drainage that could cause erosion.
- (e) *Stormwater/erosion mitigation plans.* For ground-mounted systems, regardless of size, applicants must provide plan(s) showing what measures or best management practices will be used to prevent and/or contain erosion under the drip line of the solar panels.

Section 16.9.40. Site and operational requirements.

- (a) Except during construction, no outdoor storage of any materials and equipment, including but not limited to solar panels and support structures not in operation will be allowed.
- (b) All solar panels and equipment (excluding fencing, poles, buried cables and wires necessary to connect to facilities of the electric utility) shall meet the minimum setbacks. Setbacks shall be measured from the edge of the solar panels and equipment. Per Section 16.9.50, additional setbacks may be required to mitigate noise and visual impacts or to provide for designated road or utility corridors, as identified through the review process.
- (c) Maximum height. The height shall be measured from the highest grade below each solar panel. Ground-mounted solar energy systems shall not exceed 20 feet in height.
- (d) Signage. Clearly visible warning signs shall be placed on the fence, barrier, or facility perimeter to inform individuals of potential voltage hazards.

Section 16.9.50. Additional setbacks.

Additional setbacks may be required to mitigate noise and visual impacts or to provide for designated road or utility corridors, as identified through the review process. Where appropriate, landscaped berms may be used to reduce setback requirements with Town approval.

- (a) Small-scale.
 - (1) Front setback is 30 feet.
 - (2) Side setback is 10 feet.
 - (3) Side corner setback is 30 feet.
 - (4) Rear setback is 20 feet.
 - (5) Arterial or state highway setbacks are 50 feet.
 - (6) Local or collector setbacks are 50 feet.
- (b) Medium-scale.
 - (1) Front setback is 50 feet.
 - (2) Side setback is 10 feet.
 - (3) Side corner setback is 50 feet.

- (4) Rear setback is 20 feet.
- (5) Arterial or state highway setbacks are 100 feet.
- (6) Local or collector setbacks are 50 feet.

(c) Large-scale.

- (1) Front setback is 50 feet.
- (2) Side setback is 10 feet or one foot per 2 feet of overall height, whichever is greater.
- (3) Side corner setback is 50 feet.
- (4) Rear setback is 20 feet.
- (5) Arterial or state highway setbacks are 100 feet.
- (6) Local or collector setbacks are 50 feet.

Section 16.9.60. Decommissioning requirements.

Any solar energy system that is no longer producing energy or has been abandoned shall be removed, not including a temporary cease in production for maintenance. The owner or operator shall physically remove the installation within 90 days after the date of discontinued operations or as otherwise provided in the decommissioning plan. Decommissioning shall consist of the following.

- (a) Physical removal of all solar energy systems, structures, and equipment from the site.
- (b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- (c) For ground-mounted solar energy systems, stabilization, or revegetation of the site as necessary to minimize erosion. The Town may allow the owner or operator to leave landscaping or designated below-grade foundations to minimize erosion and disruption to vegetation.

Article 10 – Flood Damage Prevention

Division 1 – General Provisions and Applicability.

Section 16.10.100. Statutory authorization.

The legislature of the State has, in Article 20 of Title 29, C.R.S. and, as may be amended, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Town Council hereby adopts the following floodplain management regulations.

Section 16.10.105. Findings of fact.

- (a) The flood hazard areas of the Town are subject to periodic inundation, which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services and extraordinary public expenditures for flood protection and relief, all of which adversely affect the health, safety and general welfare of the public.
- (b) These flood losses are created by the cumulative effect of obstructions in floodplains, which cause an increase in flood heights and velocities. Flood losses are also created by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

Section 16.10.110. Statement of purpose.

It is the purpose of this Article to promote public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to accomplish the following.

- (a) Protect human life and health.
- (b) Minimize expenditure of public money for costly flood control projects.
- (c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- (d) Minimize prolonged business interruptions.
- (e) Minimize damage to critical facilities, infrastructure and other public facilities, such as water, sewer and gas mains, electric and communications stations and streets and bridges located in floodplains.
- (f) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas.
- (g) Ensure that potential buyers are notified that property is located in a flood hazard area.

Section 16.10.115. Methods of reducing flood losses.

To accomplish its purposes, this Article uses the following methods.

- (a) Restricts or prohibits uses that are dangerous to health, safety or property in times of flood or cause excessive increases in flood heights or velocities.
- (b) Requires that uses vulnerable to floods, including facilities that serve such uses, are protected against flood damage at the time of initial construction.
- (c) Controls the alteration of natural floodplains, stream channels and natural protective barriers that are involved in the accommodation of floodwaters.
- (d) Controls filling, grading, dredging and other development that may increase flood damage.
- (e) Prevents or regulates the construction of flood barriers that will unnaturally divert floodwaters or that may increase flood hazards to other lands.

Section 16.10.120. Lands to which article applies.

This article shall apply to all special flood hazard areas (SFHAs) and areas removed from the floodplain by the issuance of a FEMA LOMR-F within the jurisdiction of the Town.

Section 16.10.130. Basis for establishing SFHA.

The SFHAs identified by FEMA in the scientific and engineering report *The FIS for the Town of Severance, Colorado*, dated May 31, 2013, with accompanying FIRMs and/or FBFMs and the revisions thereto as shown on those portions of FIRM Number 08123C1185E, Number 08123C1205E, Number 08123C1211E, Number 08123C1213E, and Number 08123C1501E, Weld County, Colorado, effective January 20, 2016, that are currently within the corporate limits of the Town are hereby adopted by reference and declared to be a part of this article. These SFHAs 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 FIS, DFIRMs, FIRMs and/or FBFMs on file and available for public inspection.

Section 16.10.140. Establishment of floodplain development permit.

A floodplain development permit shall be required to ensure conformance with the provisions of this Article.

Section 16.10.150. Compliance.

No structure or land shall hereafter be located, altered or have its use changed within the SFHA 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 NFIP.

Section 16.10.160. Abrogation and greater restrictions.

This Article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this article and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Section 16.10.170. Interpretation.

In the interpretation and application of this Article, all provisions shall be as follows.

- (a) Considered as minimum requirements.
- (b) Liberally construed in favor of the governing body.
- (c) Deemed neither to limit nor repeal any other powers granted under state statutes.

Section 16.10.180. Warning and disclaimer of liability.

- (a) 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 human-made or natural causes.
- (b) This article does not imply that land outside the SFHA 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.

Section 16.10.190. 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.

Division 2 – Definitions.

Section 16.10.210. Definitions.

All terms used in this Article that are defined in the Act or in commission regulations and not otherwise defined in this section are defined as provided in the Act or in such regulations as of the effective date of this article. All other words used in this article are given their usual, customary, and accepted meaning. When not otherwise clearly indicated by the context of the matter, the following words and phrases used in this article have the following meanings: *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 (one-percent-annual-chance flood). The terms *100-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 100 years.

- *100-year floodplain* means the area of land susceptible to being inundated as a result of the occurrence of a 100-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 500 years.
- *500-year floodplain* means the area of land susceptible to being inundated as a result of the occurrence of a 500-year flood.
- *Addition* means any activity that expands the enclosed footprint or increases the square footage of an existing structure.
- *Alluvial fan flooding* means a fan-shaped sediment deposit formed by a stream that flows from a steep mountain valley or gorge onto a plain or the junction of a tributary stream with the main stream. Alluvial fans contain active stream channels and boulder bars and recently abandoned channels. Alluvial fans are predominantly formed by alluvial deposits and are modified by infrequent sheet flood, channel avulsions and other stream processes.
- *Area of shallow flooding* means a designated Zone AO or AH on a community's flood insurance rate map (FIRM) with a one-percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- *Base Flood Elevation (BFE)* means the elevation shown on a FEMA FIRM 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 a building having its floor subgrade (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 (CFR)* 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 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 and which 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 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.
- *Development* means any human-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 (Digital Flood Insurance Rate Map) 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.
- *Elevated building* means a non-basement building built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X and D, to have the top of the elevated floor above the ground level by means of pilings, columns (posts and piers) or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X and D, *elevated building* also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters.
- *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 (NFIP).

- *Flood or flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from the following.
 - (1) The overflow of water from channels and reservoir spillways.
 - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
 - (3) Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid 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 Insurance Rate Map (FIRM)* means an official map of a community on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the community.
- *Flood Insurance Study (FIS)* means the official report provided by FEMA. The report contains the FIRM and flood profiles for studied flooding sources that can be used to determine BFEs for some areas.
- *Floodplain or flood-prone area* means any land area susceptible to being inundated as the result of a flood, including the area of land over which floodwater would flow from the spillway of a reservoir.
- *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, 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 and erosion control ordinance) and other applications of police power. The term

describes such state or local regulations, in any combination thereof, that provide standards for the purpose of flood damage prevention and reduction.

- *Floodproofing* means any combination of structural and/or nonstructural additions, changes or adjustments to structures that 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 adjacent land areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The statewide standard for the designated height to be used for all newly studied reaches shall be one-half foot (six inches). Letters of Map Revision to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation.
- *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 that 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 ground surface prior to construction next to the proposed walls of a structure.
- *Historic structure* means any structure that is as follows.
 - (1) 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
 - (2) 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
 - (3) Individually listed on a state inventory of historic places in states with historic preservation programs that have been approved by the Secretary of the Interior
 - (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified as one of the following.
 - a. By an approved state program as determined by the Secretary of the Interior.
 - b. 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 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 BFEs or the SFHA.
- *Letter of Map Revision Based on Fill (LOMR-F)* means FEMA's modification of the SFHA shown on the FIRM based on the placement of fill outside the existing regulatory floodway.
- *Levee* means a human-made embankment, usually earthen, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding. For a levee structure to be reflected on the FEMA FIRMs as providing flood protection, the levee structure must meet the requirements set forth in 44 CFR 65.10.
- *Levee system* means a flood protection system that 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). Any floor used for living purposes that includes working, storage, sleeping, cooking and eating or recreation or any combination thereof. This includes any floor that could be converted to such a use, such as a basement or crawl space. The lowest floor is a determinate for the flood insurance premium for a building, home or business. An unfinished or flood-resistant enclosure, usable solely for parking 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 NFIP regulations.
- *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 NFIP, the North American Vertical Datum (NAVD) of 1988 or other datum to which BFEs shown on a community's FIRM 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 CFR. The U.S. Congress established the NFIP in 1968 with the passage of the National Flood Insurance Act of 1968.

- *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 will increase flood heights in a floodway. A no-rise certification must be supported by technical data and signed by a registered Colorado professional engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the FIRM or FBFM.
- *Physical Map Revision (PMR)* means FEMA's action whereby one 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 that is as follows.
 - (1) Built on a single chassis.
 - (2) It is 400 square feet or less when measured at the largest horizontal projections.
 - (3) Designed to be self-propelled or permanently towable by a light duty truck.
 - (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- *Special Flood Hazard Area* means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, i.e. the 100-year floodplain.
- *Start of construction* means the date the building permit was issued, including substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The *actual start* means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. *Permanent construction* does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether 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 50 percent of the market value of the structure just prior to when the damage occurred.
- *Substantial improvement* means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before start of construction of the improvement. The value of the structure shall be determined by the local jurisdiction having land use authority in the area of interest. This includes structures that have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either of the following.
 - (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety Code specifications that have been identified by the local Code enforcement official and that are the minimum necessary conditions.
 - (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."
- *Threshold Planning Quantity (TPQ)* means a quantity designated for each chemical on the list of extremely hazardous substances that triggers notification by facilities to the State that such facilities are subject to emergency Planning requirements.
- *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 NFIP 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) [of the NFIP regulations] is presumed to be in violation until such time as that documentation is provided.
- *Water surface elevation* means the height, in relation to the NAVD of 1988 (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Division 3 – Administration

Section 16.10.310. Designation of floodplain administrator.

The Town is hereby appointed as the floodplain administrator to administer, implement and enforce the provisions of this Article and other appropriate sections of 44 CFR (NFIP regulations) pertaining to floodplain management.

Section 16.10.320. Duties and responsibilities of floodplain administrator.

Duties and responsibilities of the floodplain administrator shall include but not be limited to the following.

- (a) Maintain and hold open for public inspection all records pertaining to the provisions of this article, including the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and any floodproofing certificate.
- (b) Review, approve or deny all applications for floodplain development permits required by adoption of this article.
- (c) Review floodplain development permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
- (d) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334) from which prior approval is required.
- (e) Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this article, including proper elevation of the structure.
- (f) Where interpretation is needed as to the exact location of the boundaries of the SFHA (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the floodplain administrator shall make the necessary interpretation.
- (g) When BFE data has not been provided in accordance with this article, the floodplain administrator shall obtain, review and reasonably utilize any BFE data and floodway data available from a federal, state or other source, to administer the provisions of this article.
- (h) For waterways with BFEs 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 foot at any point within the community.

- (i) Under the provisions of 44 CFR Chapter 1, Section 65.12 of the NFIP regulations, a community may approve certain development in Zones A1-30, AE or AH on the community's FIRM that increases the water surface elevation of the base flood by more than one-half foot, provided that the community first applies for a conditional FIRM revision through FEMA (conditional LMR), fulfills the requirements for such revisions as established under the provisions of Section 65.12 and receives FEMA approval.
- (j) Prior to any alteration or relocation of a watercourse, notify, in riverine situations, adjacent communities and the state coordinating agency, which is the Colorado Water Conservation Board, and submit evidence of such notification to FEMA.
- (k) Ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.

Section 16.10.330. 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 SFHA. Additionally, the following information is required.
 - (1) Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures.
 - (2) Elevation (in relation to mean sea level) to which any nonresidential structure shall be floodproofed.
 - (3) A certificate from a registered Colorado professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Paragraph 16.10.420(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.
 - (5) A record of all such information.
- (b) Approval or denial of a floodplain development permit by the floodplain administrator shall be based on all 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.

Section 16.10.340. 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 FEMA 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 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section 16.10.130 of this Article have been fully considered. As the lot size increases beyond the one-half 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 as stated in Section 16.10.130.
- (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 include the following.
 - (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 the following findings.
 - a. A good and sufficient cause.
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant.
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense, will not create nuisances and will not cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
 - (3) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the BFE 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 developments necessary for the conduct of a functionally dependent use provided that the following are met.
 - (1) The criteria outlined in Section 16.10.130 are met.
 - (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.

Division 4 – Flood Hazard Reduction.

Section 16.10.410. General standards.

In all SFHAs, the following provisions are required for all new construction and substantial improvements.

- (a) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- (b) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (c) All new construction or substantial improvements shall be constructed with materials resistant to flood damage.
- (d) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located to prevent water from entering or accumulating within the components during conditions of flooding.
- (e) All manufactured homes shall be installed using methods and practices that 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 the use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
- (f) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (g) 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.
- (h) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

Section 16.10.420. Specific standards.

In all SFHAs where BFE data has been provided as set forth in Section 16.10.320, the following provisions are required.

- (a) *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), electrical, heating, ventilation,

plumbing and air conditioning equipment and other service facilities (including ductwork) elevated to one foot above the BFE. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado professional engineer, architect or land surveyor. Such certification shall be submitted to the floodplain administrator.

(b) *Nonresidential construction.*

- (1) With the exception of critical facilities, new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) elevated to one foot above the BFE or, together with attendant utility and sanitary facilities, be designed so that at one foot above the BFE, 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.
- (2) A registered Colorado professional engineer or architect shall develop and/or review structural design, specifications and Plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this Subsection. Such certification shall be maintained by the floodplain administrator.

(c) *Enclosures.*

- (1) 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 that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.
- (2) Designs for meeting this requirement must either be certified by a registered Colorado professional engineer or architect or meet or exceed the following minimum criteria.
 - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - b. The bottom of all openings shall be no higher than one foot above grade.
- (3) Openings may be equipped with screens, louvers, valves or other coverings or devices, if they permit the automatic entry and exit of floodwaters.

(d) *Manufactured homes.*

- (1) 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 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, electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) are elevated to one foot above the BFE and securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

- (2) All manufactured homes placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of the above subparagraph shall be elevated so that either of the following are met.
 - a. The lowest floor of the manufactured home, electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) are one foot above the BFE.
 - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(e) *Recreational vehicles.* All recreational vehicles placed on sites within Zones A1-30, AH and AE on the community's FIRM shall meet the following.

- (1) Be on the site for fewer than 180 consecutive days.
- (2) Be fully licensed and ready for highway use.
- (3) Meet the permit requirements of Section 16.10.330 of this Article and the elevation and anchoring requirements for "manufactured homes" in this Division of the Code.

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.

(f) *Prior approved activities.* Any activity for which a floodplain development permit was issued by the Town or a CLOMR was issued by FEMA may be completed according to the standards in place at the time of the permit or CLOMR issuance and will not be considered in violation of this article if it meets such standards.

Section 16.10.430. Standards for areas of shallow flooding (AO/AH zones).

Located within the SFHA established in Section 16.10.130 of this Article are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply. Within Zones AH or AO, adequate drainage paths around structures on slopes are required to guide floodwaters around and away from proposed structures.

- (a) *Residential construction.* All new construction and substantial improvements of residential structures must have the lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork)

elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado professional engineer, architect or land surveyor. Such certification shall be submitted to the floodplain administrator.

- (b) *Nonresidential construction.* With the exception of critical facilities, all new construction and substantial improvements of nonresidential structures must have the lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three 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 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 of effects of buoyancy. A registered Colorado professional engineer or architect shall submit a certification to the floodplain administrator that the standards of this section are satisfied.

Section 16.10.440. 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, Section 16.10.210 of this article). Located within SFHA established in Section 16.10.130 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.

- (a) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed by a licensed Colorado professional engineer and in accordance with standard engineering practice that the proposed encroachment would not result in any increase (requires a no-rise certification) in flood levels within the community during the occurrence of the base flood discharge.
- (b) All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions.
- (c) Under the provisions of 44 CFR Chapter 1, Section 65.12 of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in BFEs, provided that the community first applies for a CLOMR and floodway revision through FEMA.

Section 16.10.450. Alteration of watercourse.

For all proposed developments that alter a watercourse within a SFHA, the following standards apply.

- (a) Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.
- (b) Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.
- (c) Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and comply with all applicable federal, state and local floodplain rules, regulations and ordinances.
- (d) Any stream alteration activity shall be designed and sealed by a registered Colorado professional engineer or certified professional hydrologist.
- (e) All activities within the regulatory floodplain shall meet all applicable federal, state and Town floodplain requirements and regulations.
- (f) Within the regulatory floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a floodway analysis and report, sealed by a registered Colorado professional engineer, that there is not more than a 0.00-foot rise in the proposed conditions compared to existing conditions 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 16.10.440.
- (g) Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

Section 16.10.460. 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 (LOMR-F) unless such new structure or addition complies with the following.

- (a) *Residential construction.* The lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) must be elevated to one foot above the BFE that existed prior to the placement of fill.
- (b) *Nonresidential construction.* The lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including

ductwork) must be elevated to one foot above the BFE that existed prior to the placement of fill or, together with attendant utility and sanitary facilities, be designed so that the structure or addition is watertight to at least one foot above the base flood level that existed prior to the placement of fill with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

Section 16.10.470. Standards for subdivision proposals.

- (a) All subdivision proposals that include the placement of manufactured home parks and subdivisions shall be reasonably safe from flooding. If a subdivision or other development proposal is in a flood-prone area, the proposal shall minimize flood damage.
- (b) All proposals for the development of subdivisions that include the placement of manufactured home parks and subdivisions shall meet floodplain development permit requirements.
- (c) BFE data shall be generated for subdivision proposals and other proposed development, including the placement of manufactured home parks and subdivisions that is greater than 50 lots or five acres, whichever is lesser.
- (d) All subdivision proposals that include the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- (e) All subdivision proposals that include 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.

Section 16.10.480. Standards for critical facilities.

A critical facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for Regulatory Floodplains in Colorado, that, if flooded, may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

- (a) 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.
- (1) Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility Plant facilities and transportation lifelines. These facilities consist of the following.
 - 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.
 - 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 excluding towers, poles, power lines, buried pipelines, transmission lines, distribution lines and service lines).
 - 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]).
 - g. Specific exemptions to this category include wastewater treatment Plants (WWTP), non-potable water treatment and distribution systems and hydroelectric power generating Plants and related appurtenances.
 - h. 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 that 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.
- (2) Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials.
- a. These facilities may include the following.
 - 1. Chemical and pharmaceutical Plants (chemical plant, pharmaceutical manufacturing).
 - 2. Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials.
 - 3. Refineries.
 - 4. Hazardous waste storage and disposal sites.
 - 5. Above ground gasoline or propane storage or sales centers.
 - b. Facilities shall be determined to be critical facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the

Occupational Safety and Health Administration (OSHA) to keep a MSDS on file for any chemicals stored or used in the work place and the chemicals are stored in quantities equal to or greater than the TPQ for that chemical, then that facility shall be considered to be a critical facility. The TPQ for these chemicals is either 500 pounds or the TPQ listed (whichever is lower) for the 356 chemicals listed under 40 CFR § 302 (2010), also known as extremely hazardous substances or 10,000 pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Public Health and Environment. OSHA requirements for MSDS can be found in 29 CFR § 1910 (2010). The Environmental Protection Agency (EPA) regulation "Designation, Reportable Quantities, and Notification," 40 CFR § 302 (2010), and OSHA regulation "Occupational Safety and Health Standards," 29 CFR § 1910 (2010), are incorporated herein by reference and include the regulations in existence at the time of the promulgation this article but exclude later amendments to or editions of the regulations.

- c. Specific exemptions to this category include the following. These exemptions shall not apply to buildings or other structures that also function as critical facilities under another category outlined in this Article.
 1. Finished consumer products within retail centers and households containing hazardous materials intended for household use and agricultural products intended for agricultural use.
 2. 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.
 3. Pharmaceutical sales, use, storage and distribution centers that do not manufacture pharmaceutical products.
- (3) At-risk population facilities include medical care, congregate care and schools. These facilities consist of the following.
 - a. Elder care (nursing homes).
 - b. Congregate care serving 12 or more individuals (day care and assisted living).
 - c. Public and private schools (pre-schools, K-12 schools) and before-school and after-school care serving 12 or more children.
- (4) Facilities vital to restoring normal services, including government operations. These facilities consist of the following. These facilities may be exempted if it is demonstrated to 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 entity or available through an intergovernmental agreement or other contract), that alternative facilities are either

located outside of the 100-year floodplain or are compliant with this article and that an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Town on an as-needed basis upon request.

- 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).
- (b) Protection for critical facilities. All new and substantially improved critical facilities and new additions to critical facilities located within the SFHA shall be regulated to a higher standard than structures not determined to be critical facilities. For the purposes of this article, protection shall include one of the following.
 - (1) Location outside the SFHA.
 - (2) Elevation of the lowest floor or floodproofing of the structure, together with attendant utility and sanitary facilities, to at least two feet above the BFE.
- (c) Ingress and egress for new critical facilities. New critical facilities shall, when practicable as determined by the Town, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.