Title 4 LAND USE AND DEVELOPMENT CODE[1]

CHAPTER 4.03. GENERAL

Section 4.03.010. Purpose.

This title is drawn in accordance with the master plan for the Town and is designed for the purpose of promoting the health, safety and welfare of the present and future inhabitants of the community, including:

A. Lessening congestion in the streets and reducing the waste of excessive amounts of roads.

B. Securing safety from fire, flood and other dangers.

C. Providing adequate light and air.

D. Protection of the tax base.

E. Securing economy in governmental expenditures.

F. Fostering industries.

G. Protecting both urban and non-urban development and conserving the value of property.

H. Preventing the overcrowding of land and avoiding undue concentration of population.

I. Separating incompatible uses and densities so as to avoid negative impacts of uses on each other.

J. Providing for a variety of housing and neighborhood types and densities and a range of housing costs.

K. Facilitating adequate provision of transportation, water, sewage, schools, parks and other public services and utilities,

L. Avoiding the effects of public nuisances such as noxious odors, fumes, air pollution, visibility impairment, noise, and potential hazards such as fire, explosion, irradiation, chemical and nuclear pollution.

(Ord. No. 1986-03, § 4.03.010, 3-5-1986)

Section 4.03.020. Authority.

This title is authorized by C.R.S. (as amended) Title 24, Art. 67; Title 29, Art. 20; and Title 31, Arts. 12 and 23.

(Ord. No. 1986-03, § 4.03.020, 3-5-1986)

[1]State law reference(s)—Planning and zoning, C.R.S. § 31-23-101 et seq.; municipal annexation, C.R.S. § 31-12-101 et seq.; PUD Unit Development Act of 1972, C.R.S. § 24-67-101 et seq.; local government control of land use, C.R.S. § 29-20-101 et seq.; subdivision regulations, C.R.S. § 31-23-214.

Section 4.03.030. Title.

This title shall be known and may be cited and referred to as the "Town of Eagle Land Use and Development Ordinance."

(Ord. No. 1986-03, § 4.03.030, 3-5-1986)

Section 4.03.040. Definitions.

In the construction of this Title, the following definitions shall apply, unless the context clearly indicates that a different meaning was intended by the Town Council. For words not defined, dictionary definitions shall apply. The following words, terms and phrases, when used in this Title, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory apartment to owner-occupied single-family dwelling means an individual dwelling unit subordinate to, and contained within or adjacent to, a single-family dwelling.

Accessory building or structure means a detached subordinate building located on the same lot as the principal building, the use of which is incidental and subordinate to and customarily associated with the principal building or use of the lot.

Accessory use means a use subordinate to and customarily associated with the use of the lot.

Adjacent land means a piece of real property which shares any common property line or point.

Alley means a public right-of-way providing only secondary access to the rear of a property and not intended for general travel.

Banner sign means a sign made of fabric or other similar non-rigid material with no enclosing framework or electrical components that is supported or anchored on two or more edges or at all four corners. Banners also include non-rigid signs anchored along one edge, or two corners, with weights installed that reduce the reaction of the sign to wind.

Bed and breakfast facility means an owner-occupied, single-family residential dwelling unit that contains no more than three guest bedrooms where overnight lodging, with or without meals, is provided for compensation. Kitchen and dining facilities serve only residents and guests and are not operated or used for any commercial activity other than that necessary for bed and breakfast purposes.

Billboard means any sign with at least one sign face that is greater than the largest maximum sign size for any type of sign allowed by permit in the district in which the sign is located.

Building means any permanent structure built for the shelter or enclosure of persons, animals, chattels or property of any kind, not including a mobile home as defined herein, a porch, deck, fence, retaining wall or similar non-enclosed structure.

Building envelope means lines enclosing a horizontal space in which a building is to be constructed, which lines indicate the maximum exterior dimensions of the proposed building but which do not necessarily depict the shape of the exterior walls of the building.

Building height. The maximum height allowed is 35 feet to any point on the building except in the Broadway District (see Section 4.07.022) and as further defined below:

On a flat or shed roof, any selected reference point on the roof surface that sits directly above the interior of the building must be measured from existing grade to the highest point of the roof structure. On a gable, hip, or gambrel roof, any selected reference point on the roof surface that sits directly above the interior of the building must be measured from the existing grade to the average distance between the eaves and the apex

of the roof. If the selected reference point is outside of the building footprint (such as eaves and overhangs) then the height measurement is from the existing or proposed finished grade whichever is more restrictive. Existing grade is defined as the natural topography that exists prior to any improvements being made. Finished grade is the final elevation of the surface material that adjoins the building. Parapet walls may exceed applicable Zone District height limitations by four feet. Stacks, vents, cooling towers, elevator structures and similar mechanical equipment and spires, domes, cupolas, towers and similar non-inhabitable appurtenances may exceed applicable Zone District height limitations by up to 30 percent.

Building lot means a lot which meets the applicable zone district requirements for construction of a building in the zone district, and upon which one principal building may sit.

Business means an activity concerned with the supplying and distribution of goods and services. For purposes of this section, the term "business" shall not include an activity which is accessory to a residential use, such as a home occupation.

Cabinet sign means a sign that contains all the text, artwork, logos and/or other information displayed within an enclosed cabinet.

Canopy means a permanent roof-like structure affording shelter or shading and constructed of a durable material such as metal, glass, rigid plastic, or canvas.

Carried sign means a sign held or carried by a person.

Change of copy means the change of a logo, and/or message upon the face or faces of a legal sign.

Child care facility means a facility for child care in a building which is maintained for the whole or part of a day for the care of seven or more children under the age of 16 years and not related to the owner, whether such facility is operated with or without compensation for such care and with or without stated education purposes. The term shall include facilities commonly known as "day care centers," "day nurseries," "nursery schools," "kindergartens," "pre-schools," "play groups," "day camps," "summer camps," "centers for mentally retarded children" and any facilities which give 24-hour care for dependent and neglected children. The term shall include those facilities for children under the age of six years with stated educational purposes operated in conjunction with a public, private, or parochial college or a private or parochial elementary school system of at least six grades. "Kindergarten" shall mean any facility providing an educational program for children only for the year preceding their entrance to the first grade, whether such facility is called a kindergarten, nursery school, pre-school, or any other name.

Collector or *collector street* means a street so designated in the Town's major street plan which is designed to facilitate movement of traffic from local streets to arterial streets.

Commercial speech means expression by a speaker for the purposes of commerce, where the intended audience is actual or potential consumers, and where the content of the message is commercial in character. Commercial speech typically advertises a business, business activity, or proposed commercial transaction and may be further defined by a court of appropriate jurisdiction.

Commission or*Planning Commission* means the Planning and Zoning Commission of the Town of Eagle.

Common open space means open areas of land or water or a combination thereof within a development designed and intended primarily for the use and enjoyment of residents, owners, employees or customers of the development.

Condominium unit means an individual air space unit consisting of any enclosed room(s) occupying all or part of a floor(s) in a building of one or more floors used for residential, professional, commercial, or industrial purposes, together with the interest in the common elements appurtenant to that unit.

Copy means the wording on a sign surface, either in permanent, changeable, or removable form. Copy may include commercial speech or noncommercial speech.

Council or *Town Council* means the Town Council of the Town of Eagle.

County means Eagle County, Colorado.

Dangerous sign means a sign constituting a hazard to public safety because it no longer complies with some or all requirements of the building code or electrical code.

Development means construction of a building(s) or structure(s) within a contiguous land area or establishment of a mobile home park or RV park by laying out mobile home sites or campsites for the purpose of sale, rent or lease.

Development permit means a permit issued by the Town which certifies that a proposed development has undergone and completed the required development review procedures and which confers permission to apply for a building permit. The development permit may include one or more conditions, which conditions shall apply to any future development of the land, regardless of ownership changes, unless a new development permit is obtained.

Direct illumination means that the lighting element is exposed to the sign viewer without cover or reflection, such as exposed light bulbs, neon tubing, and LED lighting on EMD signs.

Dwelling means a building or portion thereof or a mobile home used for residential occupancy, not including motels, hotels, or other overnight lodging accommodations.

Dwelling, high density multiple-family, means one building containing three or more dwelling units, allowed as a special use at a density as set forth in Chapters 4.04 and 4.05, provided certain other conditions or standards are met, as set forth therein.

Dwelling, multifamily, means one building containing three or more dwelling units.

Dwelling, single-family, means one building containing only one dwelling unit.

Dwelling, two-family, means one structure containing two dwelling units sharing a common wall(s) which comprises at least ten percent of the linear measurement around the perimeter of each unit.

Dwelling unit means one or more rooms designed to be occupied by one family living independently of any other family and having no more than one kitchen facility, including a mobile home.

Easement means an ownership interest in real property entitling the holder thereof to use, but not possess, that real property.

Electrical sign means a sign or sign structure in which electrical wiring, connections, and/or fixtures are used as part of the sign proper.

Electronic message display (EMD) means a sign that displays messages that can be controlled and changed remotely and that uses a direct illumination source.

Erects means to build, construct, attach, place, suspend, or affix, including the painting of a wall sign.

External illumination means that a lighting element or lighting source is installed outside of the sign and directed toward the sign face.

Face of sign means the entire area or combination of areas of a sign on which a message is placed.

Family means one or more persons living together in a dwelling unit, which shall not include more than four persons unrelated by blood, marriage, or adoption.

Flag means a sign made of fabric or other similar non-rigid material supported or anchored along only one edge or supported or anchored at only two corners. If any dimension of the flag is more than three times as long as any other dimension, it is classified and regulated as a banner regardless of how it is anchored or supported.

Flashing means a change of light intensity in a sudden transitory burst or that switches on and off in a constant pattern that is not constant being off at any one time.

Floor area means the total gross horizontal area of all floors in a building.

Floor area ratio means the relationship of the floor area of a building to the total lot area.

Flutter flag means a piece of cloth or other similar material, varying in size, color, and design, that is attached to a pole or staff, and may be in the shape of a vertically-oriented rectangle, teardrop, or similar, where typically the cloth or material is supported by wire to maintain the shape of the flag.

Frontage means the measurement of the length of the property line or building front.

Gross area means the horizontal area within the exterior boundaries of the subject property, including any streets and required improvements, easements, reservations or dedications.

Group home means a residential facility housing a maximum of eight persons, 60 years or older; or housing eight clients or patients with physical or mental disabilities; or housing eight persons released from incarceration and under the supervision of a law enforcement agency or the criminal justice system, plus appropriate staff, for supervision and training, health care and/or counseling are provided by a public or private organization.

Halo lighting is a method of internal sign illumination that consists of opaque sign elements with light projected behind them illuminating the mounting surface. The placement of halo lighting creates a "halo" or reflective rim effect around the mounted element.

Height of sign means the vertical distance measured from ground level to the top of the sign measured at its highest point above undisturbed natural ground level.

High water mark means waterline at the point of high discharge with a recurrence interval of ten years.

Home occupation means any use for gain or compensation carried on within a dwelling in accordance with the provisions of this Title.

Incidental sign means a small sign that is primarily oriented to pedestrians and intended for up-close viewing. Examples of incidental signs include: address sign, entrance/exit sign, open/closed sign, days/hours of operation sign, or restroom sign.

Indoor recreation facility means a for profit establishment that provides opportunities for amusement and/or recreation where such activities are conducted within an enclosed structure; including, but not limited to, bowling alleys, skating rinks, health and fitness clubs, private gymnasiums, pool halls, and video game arcades. The term "indoor recreation" shall not include shooting ranges.

Internal illumination means that a lighting element or lighting source is contained inside a sign cabinet, letter module, or sign body. Examples include cabinet signs and halo lit signs.

Kennel means a facility licensed to house dogs, cats or other pet animals where single or multi-day day overnight boarding, including daytime for multi-day boarding, is conducted for a fee or compensation.

Landscaping, landscaped area, landscape materials is as defined in Chapter 4.07.

Licensed marijuana premises means the premises specified in an application for a license pursuant to the Colorado Medical Marijuana Code or Colorado Retail Marijuana Code that are owned or in possession of the marijuana licensee and within which the marijuana licensee is authorized to cultivate, manufacture, distribute, sell, or test medical or retail marijuana in accordance with the provisions of this Code, Colorado Medical Marijuana Code and/or Colorado Retail Marijuana Code.

Lodging, extended stay, means overnight sleeping accommodations which are managed with the intent of providing extended stay occupancy, generally more than three weeks, to fee-paying transients. Extended stay

lodging accommodations may be leased on a daily or week to week basis only, and no transient is permitted to reside in an extended stay lodging accommodation for more than 150 days within a consecutive 12-month period.

Lodging, temporary, means overnight sleeping accommodations which are managed with the intent of providing short-term occupancy, generally less than three weeks, to fee-paying transients.

Lot means a piece, plot or parcel of land or assemblage of contiguous parcels of land as established by survey, plat or deed.

Lot area means the total horizontal land area within the boundaries of a lot.

Lot or site coverage means the portion of a lot or site covered by materials forming any unbroken surface impervious to water, including:

A. Buildings, decks, patios, structures;

B. Streets, driveways, parking lots, and other impervious materials.

Lot line, front, means the property line of a lot dividing said lot from the adjoining street. On a corner lot, the property owner may elect which street frontage shall be the designated front lot line for the purpose of determining the rear yard only.

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

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

Major street plan means an advisory planning document officially adopted by resolution of the Town Council, which document classifies existing and proposed streets according to size and use.

Manufactured home means a single-family dwelling which is partially or entirely manufactured in a factory and designed for long-term residential or nonresidential use and transported to its occupancy site; and is not less than 24 feet in width and 36 feet in length; and is installed on an engineered permanent foundation; and has brick, wood, or cosmetically equivalent exterior siding and a pitched roof; and is certified pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 USC 5401 et seq., as amended, and bears such certification label.

Marijuana shall have the same meaning as set forth in Section 16(2)(f) of Article XVIII of the State Constitution.

Marijuana accessories shall have the same meaning as set forth in Section 16 (2)(g) of Article XVIII of the State Constitution.

Marijuana licensee means any person licensed or registered pursuant to the Colorado Medical Marijuana Code and/or Colorado Retail Marijuana Code.

Marijuana testing facility means a public or private laboratory licensed and certified, or approved by the State marijuana enforcement division, to conduct research and analyze medical and/or retail marijuana, medical and/or retail marijuana infused products, and medical and/or retail marijuana concentrate for contaminants and potency.

Medical marijuana business or*medical marijuana establishment* means a medical marijuana center, an optional medical marijuana cultivation premises, a medical marijuana infused products manufacturer, or a medical marijuana testing facility. For the purpose of this definition, a patient that cultivates, produces, possesses or transports medical marijuana, or a primary caregiver that cultivates, produces, sells, distributes, possesses, transports, or makes available marijuana in any form to one or more patients shall not be deemed a medical marijuana business.

Mobile home means a structure manufactured partially or entirely in a factory, designed for long-term residential use and transported to its occupancy site, which is 12 feet or more in width, is a minimum of 600

square feet and constructed in accordance with the National Mobile Home Construction and Safety Standards Act of 1974 and is licensed by the State Department of Motor Vehicles as a mobile home.

Mobile home lot means an area of ground intended to accommodate one mobile home, the mobile home pad, a minimum of two parking spaces, a storage shed, utility connections, and open space.

Mobile home lot, doublewide, means a mobile home lot intended to accommodate one mobile home which has been transported and placed in two sections forming one whole and which is generally 24 feet in width.

Mobile home lot, singlewide, means a mobile home lot intended to accommodate a mobile home which may not exceed 16 feet in width.

Mobile home pad means an area of land in the mobile home space on which a mobile home and appurtenant structures directly sits.

Mobile home subdivision means a mobile home park which meets the requirements of Chapter 4.09 and in which individual lots are sold separately, with or without common ownership in the areas outside the mobile home spaces. Pursuant to Chapter 4.11, every mobile home subdivision shall be designed as and meet all requirements for planned unit development.

Nits means a unit of measure of brightness or luminance. One nit is equal to one candela/square meter.

Nonconforming sign means any sign lawfully constructed prior to the enactment of the ordinance codified in this Code, which fails to conform to the provisions of this chapter.

Off-premises sign means a sign that carries a message of any kind or directs attention to a business, commodity, service, or entertainment conducted, sold, or offered elsewhere than upon the premises where such sign is located, or to which it is affixed.

On-premises sign means a sign advertising any product, service, use, or enterprise sold or offered at the location where the sign is physically located.

Outside storage means items, including, but not limited to, vehicles, excavation equipment, machinery, utility service supplies, fabrication materials, and general supplies, which are stored outside on a regular, permanent, semi-permanent, or seasonal basis and which occupies more than 1,000 square feet on any one lot.

Owner of record means the owner of real property within the Town as recorded by the County Clerk.

Parking area means the total square footage within a contiguous area provided for parking, including driveways, access ways, turnaround space, areas of landscaping, snow storage areas, and other ancillary space, in addition to actual vehicle parking spaces.

Pennant means a piece of fabric, plastic, or other flexible medium that may be in the shape of a triangle, rectangle, or other shape, is typically mounted to a flexible cord or rope that is stretched across two points, is mounted in quantity, and spaced along the cord or rope.

Perimeter means a shape required to enclose the sign area.

Phasing means a plan for construction of a development in portions over time, which time ranges shall be specified in the development permit.

Planned unit development means an area of land, controlled by one or more landowners, to be developed under unified control or unified plan of development for a number of dwelling units, commercial, educational, recreational, or industrial uses, or any combination of the foregoing, the plan for which does not correspond in lot size, bulk, or type of use, density, lot coverage, open space, or other restriction to the existing land use regulations.

Plat or*subdivision plat* means a map and supporting materials of certain described land, prepared in accordance with applicable regulations as an instrument for recording of real estate interests with the County Clerk and Recorder.

Print shop means a retail establishment that provides duplicating services using off-set printing equipment.

Proof of ownership means a notarized affidavit executed by fee simple title holder.

Public event means an event or activity held on private property that is open to the public or offered for general public enjoyment with or without an entrance fee.

Recreational vehicle means a vehicular-type unit designed primarily as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle, and which is licensed in any state as a recreational vehicle, travel trailer, camping trailer, truck camper, motor home, or similar title.

Retail marijuana shall have the same meaning as defined in Section 16(2)(f) of Article XVIII of the State Constitution that is cultivated, manufactured, distributed, or sold by a licensed retail marijuana establishment.

Retail marijuana business or*retail marijuana establishment* means a retail marijuana store, a retail marijuana cultivation facility, a retail marijuana products manufacturer, or a retail testing facility.

Retail marijuana cultivation facility shall have the same meaning as "marijuana cultivation facility" as in Section 16(2)(h) of Article XVIII of the State Constitution that is licensed pursuant to the Colorado Retail Marijuana Code, C.R.S. § 44-12-101, et seq.

Retail marijuana products means "marijuana products" as defined in Section 16(2)(k) of Article XVIII of the State Constitution that are produced at a retail marijuana products manufacturer.

Retail marijuana products manufacturer shall have the same meaning as a "marijuana product manufacturing facility" as in Section 16(2)(j) of Article XVIII of the State Constitution that is licensed pursuant to the Colorado Retail Marijuana Code, C.R.S. § 44-12-101, et seq.

Retail marijuana store shall have the same meaning as in Section 16(2)(n) of Article XVIII of the State Constitution that is licensed pursuant to the Colorado Retail Marijuana Code, C.R.S. § 44-12-101, et seq.

Retail marijuana testing facility shall have the same meaning as a "marijuana testing facility" as in Section 16(2)(l) of Article XVIII of the State Constitution that is licensed pursuant to the Colorado Retail Marijuana Code, C.R.S. § 44-12-101, et seq.

Roof sign means a business sign erected upon or above a roof or parapet of a building or structure. Mansard roof signs shall be considered wall signs.

Sandwich board sign means a temporary, portable sign consisting of two sign faces placed together at an angle of 90 degrees or less to form an "A" shaped structure that tapers from a wide base to a narrow top that is readily movable and has no permanent attachment to a building, structure, or the ground.

Self-service storage facility means a building consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods or contractor's supplies.

Service bay means an interior space designed for the repair of vehicles and which has unrestricted ingress and egress.

Service establishment means a commercial business that primarily renders personal or commercial services rather than the sale of goods as the principal use of the property, such as printing, copy, hairdressing, shoe repair, appliance repair, upholstery, roofing, plumbing and janitorial services, etc. Activities incidental to the primary service business are permitted as accessory uses.

Setback means the minimum dimension of a required yard.

Shooting range means a facility designed and used for the purpose of discharging firearms.

Sign means a visually communicative image displayed in a place open to view by the public, including any device that streams, televises or otherwise conveys electronic visual messages, pictures, videos or images, with or

without sound or odors, that by reason of its form, location, manner of display, color, working, design, or otherwise attracts or is designed to attract attention to the subject or to the property upon which it is situated. "Sign" shall not include:

Works of art that do not include commercial speech.

Products, merchandise or other materials which are offered for sale or used in conducting a business, when such products, merchandise, or materials are kept or stored in a location which is designed and commonly used for the storage of such products, merchandise or materials.

Sign area. Sign area shall be measured by determining the total area of the face of a sign within the outermost edge or border of the face. The computation of freestanding letters not attached to a surface or plane shall be made by determining the area enclosed within the smallest geometric figure needed to completely encompass all of the letters, words, insignias, or symbols.

Sign structure means any structure supporting or capable of supporting any sign defined in this chapter. A sign structure may be a single pole or may or may not be an integral part of the building or structure.

Sign, flat wall, means a sign attached to or erected against a wall of a building, with the face parallel to the building wall.

Sign, freestanding, means a sign affixed directly to the ground or erected on a freestanding frame, mast or pole, which is affixed to the ground and not attached to any building.

Special review use means a use which may be allowed in a specified zone district only upon review and approval by the Planning Commission and Town Council and which may be allowed subject to certain conditions as established by the Planning Commission and Town Council.

Static sign means a sign with a message that cannot or is not intended to be changed frequently or remotely like and EMD sign.

Street, private, means a designated right-of-way, other than an alley, which provides primary vehicular access to adjacent property.

Street, public, means a dedicated public right-of-way, other than an alley, which provides primary vehicular access to adjacent property.

Subdivision means any parcel of land which is to be used for condominiums, apartments, or any other multiple-dwelling units, unless such land was previously subdivided and the filing accompanying such a subdivision complied with municipal regulations applicable to subdivisions of substantially the same density, or the division of a lot, tract, or parcel of land into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale or of building development. It includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. Unless one of the following is accomplished with the purpose of evading the existing provisions of this Title, "subdivision" or "subdivided land" shall not apply to any division of land:

A. Which is created by order of any court in this State or by operation of law, so long as the Town is notified of any such court action;

B. Which is created by a lien, mortgage, deed of trust, or other security instrument;

C. Which is created by a security or unit of interest in any investment trust regulated under the laws of this State or any other interest in an investment entity;

D. Which creates cemetery lots;

E. Which creates an interest in oil, gas, minerals or water which is severed from the surface of real property;

F. Which is created by the acquisition only of an interest in land in the name if a husband and wife or other persons in joint tenancy or as tenants in common; any such interest shall be deemed for the purposes of this section as only one interest; or

G. The dedication, conveyance or vacation of land to or from the Town for right-of-way or other public uses or purposes.

Temporary sign means a sign corresponding to a permitted temporary use or event and displayed for a limited period of time. Temporary sign types include banner, yard, and sandwich board.

Tenant means a single incorporated use of a premises, which may include multiple units within a structure, for which a certificate of occupancy has been issued, which is separated from another business by demising walls and has a separate entrance.

Theater means a facility designed and used for the viewing of movies and/or live performances of musicians or other performing artists.

Town means the Town of Eagle.

Town Planner means the person designated by the Town Manager who is responsible for all current planning activities, including administration and enforcement of this Title 4, as well as certain long-range planning activities and community development projects. The Town Planner serves as staff person to the Eagle Planning and Zoning Commission and also performs such other duties and functions as the Town Council or the Town Manager may assign from time to time. The Town Planner serves under the authority, direction and supervision of the Town Manager. The Town Council may authorize the Town Manager to serve in the capacity of Town Planner, in which case such person serves under the authority, direction and supervision of the Town Council.

Town's goals, policies and plans means those policies, goals, objectives and plans which have been formally adopted by the Planning Commission and/or Town Council, including, but not limited to, the following: the master plan approved January 22, 1985; the community beautification master plan; and the major street plan.

Townhouse means a unit, together with the lot appurtenant thereto, held in fee simple ownership sharing a common wall(s) with another townhouse(s) which comprises at least ten percent of the linear measurement around the perimeter of the unit.

Useable open space means open area of a lot designed and developed for uses, including, but not limited to, recreation, courts, gardens, parks, and landscaping, which open space may include a maximum of 20 percent of non-living materials such as walks, decks, terraces, water features and decorative rock.

Wind sign means a display of pennants, streamers, balloons, whirligigs, wind blades, or similar devices, activated by wind.

Window means an opening in a wall, door, or roof of a building that allows the passage of light, sound, and sometimes air. An individual window is defined by an architecturally distinct opening. Individual windows may be further divided by muntins, mullions, or decorative elements such as grilles.

Yard means an open space other than an interior court unobstructed from the ground upward, except as otherwise provided in this Title.

Yard sign means type of temporary sign that is constructed of paper, vinyl, plastic, wood, metal or other comparable material, which is mounted on a stake or a frame structure (often made from wire) that includes one or more stakes.

Yard, front, means a yard extending the full distance of the building lot, the depth of which is measured in the least horizontal distance between the front lot line and the nearest wall of the principal building, such distance being known as the front yard setback.

Yard, rear, means a yard extending the full distance of the building lot, the depth of which is measured in the least horizontal distance between the rear lot line and the nearest wall of the principal building, such depth being known as the rear yard setback.

Yard, side, means a yard extending from the front yard to the rear yard, the distance of which is measured in the least horizontal distance between the side lot line and the nearest wall of the principal building.

(Ord. No. 1986-03, § 4.03.040, 3-5-1986; Amended 6-2-1991; Amended 11-21-1993; Amended 4-17-1997; Amended 2-13-2000; Amended 10-22-2013; Amended 1-14-2014; Amended 4-28-2015; Amended 10-27-2015; Ord. No. 12-2016 , § 2, 4-26-2016; Ord. No. 26-2016, § 1, 8-23-2016; Ord. No. 08-2017, § 25, 4-11-2017; Ord. No. 36-2018 , § 1, 11-27-2018; Ord. No. 22-2017 , § 1, 8-22-2017; Ord. No. 08-2020 , § 1, 4-28-2020; Ord. No. 10-2022 , § 1, 5-10-2022)

Section 4.03.050. Appeal of administrative decision.

Any person aggrieved by his inability to obtain a building permit or by the decision of any administrative officer or agency based upon or made in the course of the administration or enforcement of this Title may make an appeal to the Planning and Zoning Commission. Appeals to the Planning and Zoning Commission may also be made by any officer, department, Council or bureau of the Town. Such appeal shall be made within 15 days of the decision from which the appeal is made by filing with the Town Manager a written notice of appeal, specifying the grounds therefor. Such appeal shall be made in accordance with C.R.S. § 31-23-307.

(Ord. No. 1986-03, § 4.03.050, 3-5-1986; Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.03.060. Public notice.

A. For every public hearing required by this Title, the Town shall notify the public of the date, time and place of such hearing by:

   1. Publication once in a newspaper published within the Town, prior to the hearing by a minimum of the number of days set forth below; and

   2. Delivering notice by first class mail, except subdivision review which shall be by certified mail, to those landowners entitled to such notice, as set forth below; and

   3. Posting notice at the Eagle Town Hall, 200 Broadway, Eagle, at least five days prior to the hearing.

Review	Mail Notice to Owners of	Publication/Mailing Deadline
Subdivision	Subject land and minerals (and lessees), adjacent land*	15 days prior
Zoning variance	Adjacent land	15 days prior
Special use	Land within 250'*	15 days prior
Rezoning, zoning amendment	Land within 250'*	15 days prior
PUD zoning plan	Land within 250'*	15 days prior
Development permit (minor)	Adjacent land	15 days prior
Development permit (major)	Land within 250'*	15 days prior

PUD amendments	All property owners in PUD and property owners abutting the PUD when revisions would affect PUD boundary property	15 days prior
Site-specific development plan (other than those specified above)	Land with 250'*	15 days prior

*In determining owners of adjacent land or owners of land within 250 feet, public and private rights-of-way shall not be considered.

B. The applicant shall be responsible for the accuracy of the list of names and addresses of owners as they appear in the records of the County Clerk and Recorder.

C. When a proposed amendment to the zone district regulations pertains to an entire zone district or all zone districts, notice shall be given pursuant to Subsections (A)(1) and (3) of this section.

D. Major activity notice. When a subdivision or commercial or industrial activity is proposed which will cover five or more acres of land, the Town shall send notice to the State Geologist and the Board of County Commissioners of the proposal prior to approval of any zoning change, development permit, subdivision or building permit application associated with such a proposed activity.

(Ord. No. 1986-03, § 4.03.060, 3-5-1986; Amended 6-2-1991; Amended 11-21-1993; Amended 4-16-1995; Ord. No. 13-2017, §§ 1, 2, 4-25-2017)

Section 4.03.070. Review procedures, general.

A. Unless otherwise provided in this Title, the Town Planner shall certify that any application or other submittal permitted by this Title is complete or incomplete within ten days following the receipt of said application or other submittal. In the event the Town Planner deems the application or other submittal to be incomplete, the Town Planner shall promptly notify the applicant in writing specifying the additional information required.

B. Unless otherwise provided in this Title, the Planning Commission shall review any application or other submittal, and hold a public hearing thereon, if required, no later than 45 days following certification by the Town Planner that the application or other submittal is complete. Any public hearing may be continued by the Planning Commission until its next regularly scheduled meeting, if deemed necessary. The Commission shall render its decision and/or recommendation on the application or submittal no later than 15 days following the conclusion of the public hearing or presentation by the applicant. Unless the Commission's decision or recommendation is issued in the presence of the applicant, such decision or recommendation shall be in writing and mailed to the applicant.

C. Unless otherwise provided in this Title, the Town Council shall review any application, submittal or appeal, and hold a public hearing thereon, if required, no later than 30 days following the issuance of a decision or recommendation of the Planning Commission. Any public hearing may be continued by the Town Council, if deemed necessary. The Town Council shall consider the recommendations of the Planning Commission, if any, and the comments, testimony and other evidence presented at the public hearing and either approve or affirm the application, other submittal, or appeal, approve or affirm the application, other submittal or appeal with conditions, or deny the application, other submittal or appeal. The Town Council shall render its decision on the application, submittal or appeal no later than 15 days following conclusion of the public hearing, or if no public hearing is required, 15 days following consideration of the submittal. Unless the

Council's decision is issued in the presence of the applicant, said decision shall be in writing and mailed to the applicant.

D. The time limits set forth in this section may be extended by the applicant at any time.

E. A summary of the review procedures required by this Title is contained in appendix "M" at the end of this Title. However, an applicant should not rely solely on such summary and should consult the applicable sections of this Title and Chapter 2.20 for additional detailed information regarding review procedures, fees, public notice and hearings, and deadlines for submittal of applications and action by the reviewing authority.

(Ord. No. 1986-03, § 4.03.070, 3-5-1986; Amended 6-2-1991; Amended 4-20-1996; Amended 5-8-2007; Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.03.080. Fees and costs.

A. *Application fees.* Application fees shall be established by the Town Council by resolution. Application fees shall be based on the cost of Town staff time and administrative costs associated with the processing of applications. The application fee shall be paid in full at the time of the filing of the application and nonpayment shall render an application incomplete. Application fees are nonrefundable.

B. *Pass-through costs.* The applicant shall reimburse the Town for all actual costs incurred by the Town for work performed by consultants or contractors engaged by the Town to review the application and related documents, including without limitation the Town Attorney, the Town's water attorney, planning consultants and engineering consultants.

1. *Deposit*. For more complex applications, as determined by the Town Planner, a deposit may be necessary to cover pass-through costs incurred by the Town. The applicant shall submit a deposit to the Town in an amount equal to 20 percent of the of total estimated pass-through costs, as determined by the Community Development Director in the Community Development Director's sole and reasonable discretion. The Town shall return any such deposit to the applicant within 30 days of final disposition or withdrawal of the application, less any unpaid pass-through costs.

2. *Monthly billing*. The applicant shall be billed on a monthly basis by the Town for all pass-through costs incurred by the Town during the prior month.

3. *Payment*. Full payment of pass-through costs shall be due within seven days of receipt of an invoice from the Town. Until all outstanding pass-through costs are paid, the Town may delay consideration of the application or withhold the recording of any subdivision plat. In addition, any ordinance or resolution approving an application shall not become effective until such costs are paid in full.

C. *Unpaid fees.* All unpaid application fees and pass-through costs shall constitute a lien upon any lot, land, building or premises which is the subject of an application until paid in full. The Town Treasurer may certify the amount of the same to the County Treasurer to be placed on the tax list for the current year and to be collected in the same manner as other taxes are collected, with 18 percent interest added thereto to defray the costs of collection, in accordance with C.R.S. § 31-20-105. All laws of the State for the assessment and collection of general taxes, including the laws for the sale of property for taxes and redemption of the same, shall apply.

(Ord. No. 05-2020 , § 1, 2-25-2020; Ord. No. 08-2020 , § 1, 4-28-2020)

Editor's note(s)—Ord. No. 05-2020 , § 1, adopted Feb. 25, 2020 repealed former § 4.03.080, which pertained to review fees and derived from Ord. No. 1986-03, § 4.03.080, adopted March 5, 1986 and which was later amended June 2, 1991; April 16, 1995; Aug. 7, 2014; and March 24, 2015; and by Ord. No. 16-2018 , § 1, adopted Aug. 14, 2018.

Section 4.03.090. Applicability.

A. Except as otherwise specifically provided, the provisions and requirements of this Title shall become effective on the effective date of the ordinance from which this Title is derived, and shall be applicable to all developments, subdivision or uses of land commenced within the Town after said date. Any ordinance amending this Title shall become effective 30 days following publication unless otherwise specified in said ordinance and shall be applicable to all developments, subdivision or other uses of land commenced within the Town after said date.

B. Any development, subdivision or use of land for which an application has been filed and application fees have been paid prior to the effective date of the ordinance from which this Title is derived may follow this Title as of the date such action was commenced or, at the option of the applicant, may follow this Title as amended.

C. Any land which has been subdivided prior to the effective date of the ordinance from which this Title is derived and for which there has been no development review or other review substantially similar to the development review shall be subject to those provisions of this Title applicable to development.

D. Except as otherwise provided herein, the provisions and requirements of this Title shall be deemed minimum requirements and stricter provisions may be imposed when the Planning Commission or Town Council find such provisions to be necessary to promote the purposes and provisions of this Title.

E. The number of copies of submittals required may be increased or decreased by the Town Planner as he deems necessary to promote the purposes and provisions of this Title.

F. Upon submittal of an application as provided in this Title, the applicant expressly accepts the time schedules for review as set forth herein and waives any right to any other time schedule for review.

G. If any provision of this Title conflicts with other provisions of this Code, the provisions of this Title shall control and take precedence.

(Ord. No. 1986-03, § 4.03.090, 3-5-1986; Amended 4-16-1995; Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.03.100. Enforcement.

A. It shall be unlawful for any person to erect, construct, reconstruct, use or alter any building or structure or to use any land in violation of this Title. Any person who violates any provision of this Title shall be deemed guilty of a Class A municipal offense. Nothing in this section shall be construed to prevent the Town from pursuing any other remedies it may have for violation(s) of this Title.

B. In case any building or structure is proposed to be erected, constructed, reconstructed, altered, or used or any land is or is proposed to be used in violation of this Title, the Town, in addition to other remedies provided by law, may institute an appropriate action to prevent, enjoin, abate, or remove the violation to prevent the occupancy of the building, structure, or land, or to prevent any illegal act or use.

C. Whenever necessary to make an inspection to enforce any provision contained in this Title or any condition or requirement of a permit or other land use approval issued pursuant to this Title, or whenever there is reasonable cause to believe that a violation of this Title or any permit or other land use approval issued pursuant to this Title exists in any building or upon any real property within the jurisdiction of the Town, the Town Planner, or his designee, or the Town's Code Enforcement Officer may, upon presentation of proper credentials, enter such building or real property at all reasonable times to inspect the same or to perform any duty imposed upon him by this Code; provided that if such building or real property is unoccupied, the authorized official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or real property and request entry. If entry is refused, or the owner cannot be located,

the Town Planner, his authorized designee, or the Code Enforcement Officer is expressly authorized to obtain a search warrant from the Eagle Municipal Court pursuant to Rule 241(b)(2) of the Colorado Municipal Court Rules of Procedure in order to conduct the inspection.

(Ord. No. 1986-03, § 4.03.100, 3-5-1986; Amended 6-2-1991; Amended 10-12-1993; Amended 3-16-1995; Amended 4-17-1997; Amended 11-13-2012)

CHAPTER 4.04. ZONING - GENERAL PROVISIONS, USES AND REQUIREMENTS

Section 4.04.010. Establishment of districts.

To carry out the purpose and provisions of this Title the incorporated area of the Town is hereby divided into the following zone districts, with the following intents:

R	Resource—To maintain and protect the natural resources and appropriate existing uses in the undeveloped areas of Town, including agricultural land, water, hillsides and other open spaces, which areas may be available for future development.
RR	Rural Residential—For rural-density single-family dwellings and compatible agricultural and other open space uses, including recreation.
RL	Residential Low Density—For low density residential uses.
R1	Residential Single-Family—For single-family residential uses.
RM	Residential Medium Density—For medium density residential uses.
RMF	Residential Multi-Family—For higher density multifamily residential uses.
RH	Residential High Density—For higher density residential uses.
MHP/PUD	Mobile Home Park—For mobile home parks of two acres or larger.
CBD	Central Business District—For commercial uses which preserve the historic character of downtown Eagle and promote its economic and aesthetic viability. For the center of pedestrian activity and uses which contribute thereto.
CL	Commercial Limited—For commercial uses of limited size and impact which serve the daily or convenience needs of residents in the neighborhood.
CG	Commercial General—For commercial and tourist uses, including lodging, dining, and recreation facilities and compatible uses, and for heavier commercial uses, low-impact manufacturing uses, and compatible uses.
I	Industrial—For a wide range of industrial uses and compatible uses.
PA	Public Area—For any use owned and/or operated by a public entity.
PUD	Planned Unit Development—For large developments designed and reviewed as a unit so as to provide public and private design benefits, including larger areas of open space and a mixture of compatible uses.

(Ord. No. 1986-03, § 4.04.010, 3-5-1986; Amended 6-2-1991)

Section 4.04.020. Incorporation of map.

The location and boundaries of the zone districts established by this chapter are shown on the "Zone District Map" of the Town. Said zoning map, together with all data shown thereon and all amendments thereto, is by reference hereby incorporated into this chapter. The zone district map shall be identified by signature of the

Mayor of the Town and shall bear the date of adoption. Changes in zone districts shall be made only upon amendment to this chapter; and any such change shall be promptly entered on the zone district map, with an entry on the map identifying the amending ordinance; or a revised or supplementary zone district map shall be drawn up, showing such changes. The official zone district map shall be located in the Town hall offices.

(Ord. No. 1986-03, § 4.04.020, 3-5-1986)

Section 4.04.030. District boundaries.

A. Except as otherwise expressly provided in this Section, zone district boundaries shall follow municipal corporation limits, section lines, lot lines, centerlines of stream beds, and right-of-way centerlines or extensions thereof.

B. No single lot or parcel shall be located within more than one zone district. Notwithstanding the foregoing, the Town Council may approve a rezoning that allows for one parcel or lot to be located in more than one zone district if all of the following conditions are satisfied:

   1. The parcel is vacant land;

   2. The entire parcel is subject to a development agreement approved by the Town Council and executed by all owners of the parcel;

   3. The development agreement prohibits any development on the parcel until the parcel is lawfully subdivided so that each subdivided lot or parcel is only located in one zone district;

   4. The development agreement provides that the owner(s) of the parcel indemnify and defend the Town against any legal challenge related to the rezoning; and

   5. The Town Council finds and determines that the rezoning is in furtherance of a public purpose, such as attainable housing.

C. Where a zone district boundary coincides with a right-of-way line and said right-of-way is subsequently abandoned, the zone district boundary shall then follow the centerline of the former right-of-way.

D. Land not part of a public right-of-way and not indicated as being in any zone district shall be considered to be included in the most restrictive adjacent zone district even when such district is separated from the land in question by a public right-of-way.

(Ord. No. 1986-03, § 4.04.030, 3-5-1986; Ord. No. 02-2022 , § 1, 1-11-2022)

Section 4.04.040. Application of regulations.

Except as hereinafter provided, within the municipal boundaries of the Town:

A. No building or structure shall be erected and no existing building or structure shall be moved, removed, altered or extended, nor shall any land, building or structure be used for any purpose or in any manner other than as provided among the uses hereinafter listed in the district regulations for the district in which such land, building or structure is located.

B. No building or structure shall be erected, nor shall any existing building or structure be moved, removed, altered or extended, nor shall any open space surrounding any building or structure be encroached upon or reduced in any manner except in conformity with the lot area, lot coverage, floor area ratio, setback and height provisions hereinafter provided in the district regulations for the district in which such land, building or structure is located.

C. No lot area, frontage, yard or other open space or parking space provided about any building or structure for purposes of compliance with provisions of this Title shall be considered as providing lot area, frontage, yard or other open space for any other building or structure on the same lot or on any other lot.

D. Uses permitted by this chapter shall also be subject to provisions of other applicable town, county and State regulations except as specifically provided herein, and further, where the provisions of this chapter impose a greater restriction than required by such other regulation, the provisions of this chapter shall govern.

E. In their application and interpretation, the provisions of this chapter shall be held to be minimum requirements. Nothing herein shall impair the obligations of or interfere with private agreements in excess of the minimum requirements. Where this chapter imposes a greater restriction than that imposed by existing provisions of law, contract or deed, the provisions of this chapter shall control.

(Ord. No. 1986-03, § 4.04.040, 3-5-1986)

Section 4.04.050. Zone district regulations.

The tables in Sections 4.04.060 through 4.04.090 indicate zone district regulations for uses allowed by right and as special uses; and requirements for minimum lot area, minimum setbacks, maximum building height, maximum lot coverage, and maximum floor area ratio.

(Ord. No. 1986-03, § 4.04.050, 3-5-1986)

Section 4.04.060. Schedule of uses permitted in residential zone districts.

ZONING DISTRICT	RH	RMF	RM	R1	RL	RR	R	MHP/PUD
USE								
Single-family dwelling	P	P	P	P	P	P	P	*
Two-family dwelling	P	P	P	P	S	S	S	*
Multiple-family dwelling	P	P	P	P	*	*	*	*
High density, multiple-family dwelling[1]	*	S	*	*	*	*	*	*
One single-family dwelling unit accessory to use-by-right	*	*	*	*	*	*	S	*
Agricultural-farm/ranch	*	*	*	*	*	S	P	*
Park, playground, greenbelt	P	P	P	P	P	P	P	P
Bed and breakfast facility[2]	*	S	S	S	S	S	S	*
Church	S	S	S	S	S	S	*	*
Community building	S	S	S	S	S	S	*	S
Child care facility	S	S	S	S	S	S	*	S
Home occupation	P	P	P	P	P	P	P	P
Public buildings	S	S	S	S	S	S	S	S
School	S	S	S	S	S	S	*	S
Mobile home	*	*	*	*	*	*	*	P
Riding stable	*	*	*	*	*	S	S	*
Utility substation	S	*	S	*	*	*	*	*
Water impoundments	S	S	S	S	S	S	S	*
Indoor recreation facility	*	S	*	*	*	*	*	*
Golf course	*	*	*	S	S	S	S	*
Outdoor recreation facility	S	S	S	S	S	S	S	S
Business or professional office	S	S	S	*	*	*	*	*
Recreational vehicle park	*	*	*	*	*	S	S	*
Industrial extraction and processing	*	*	*	*	*	*	S	*

Nursing home, group home	S	S	S	S	S	S	S	*
Kennel	*	*	*	*	*	*	S	*
Extraction and processing of minerals, rocks, sand, gravel, and other earth products	*	*	*	*	*	*	S	*
Accessory apartment to owner-occupied single-family dwelling	P	P	P	*	P	P	P	*
Retail, except mobile home and vehicle sales	S	S	*	*	*	*	*	*
Service establishment, except vehicular service	S	S	*	*	*	*	*	*
Restaurant	S	S	*	*	*	*	*	*
Cultivation of medical marijuana by patients and caregivers[3]	P	P	P	P	P	P	P	P
Cultivation of marijuana for personal use in residential units[4]	P[4]	P[4]	P[4]	P[4]	P[4]	P[4]	P[4]	P[4]

KEY

[1] Pursuant to Section 4.05.010(A)(3)(a).

[2] Pursuant to Section 4.05.010(A)(4).

[3] See Section 4.04.100(Q) concerning supplementary regulations and standards for the cultivation of medical marijuana by patients and primary caregivers in residential zone districts.

[4] See Section 4.04.100(S) concerning supplementary regulations and standards for the cultivation of marijuana for personal use in residential units in both residential and nonresidential zone districts

RH = Residential High Density

RMF = Residential Multi-Family

RM = Residential Medium Density

R1 = Residential Single-Family

RL = Residential Low Density

RR = Rural Residential

R = Resource

MHP/PUD = Mobile Home Park

* = NOT PERMITTED USE

P = USE BY RIGHT

S = SPECIAL USE

(Ord. No. 1986-03, § 4.04.060, 3-5-1986; Amended 5-13-1986; Amended 12-27-1988; Amended 6-2-1991; Amended 8-15-1993; Amended 6-23-1994; Amended 12-6-2001; Amended 10-27-2010; Amended 10-22-2013; Amended 10-27-2015 05-2020 ; Ord. No. 02-2023 , § 1, 3-28-2023)

Section 4.04.070. Schedule of uses permitted in nonresidential zone districts.

ZONING DISTRICT	CBD	CL	CG	PA	I
USE					
Retail establishment, except mobile home and vehicular services	P	P	P	*	S
Service establishment, except vehicular service	P	P	P	*	S
Restaurant	P	P	P	*	*
Tavern	P	P	P	*	*
Office	P	P	P	P	*
Lodging, extended stay	*	*	S	*	*
Lodging, temporary	P	P	P	*	*
Dwelling units - above street level	P	S	S	S	*
High density, multifamily dwelling[1]	S	*	*	*	*
Park, playground, greenbelt	P	P	P	P	P
Indoor recreation or theater	S	S	S	S	*
Public building, auditorium or other public assembly	S	S	S	S	*
Church, child care facility, school	S	S	S	P	*
Hospital, clinic, nursing home, group home	S	S	S	P	*
Commercial parking lot or garage	S	S	S	S	S
Vehicular and mobile home service, sales and rental	S	S	S	S	S
Contractor's yard	*	*	S	*	S
Shop for blacksmith, cabinetry, glazing, machining, off-set printing, publishing, and sheet metal	S	S	P	*	P
Utility substation	*	S	S	*	S
Water impoundment	*	*	S	S	S
Taxidermy shop	*	S	S	*	S
Dry cleaning plant	S	S	S	*	S
Gasoline sales	S	P	P	*	S
Automobile salvage yard	*	*	*	*	P
Manufacturing, assembly, processing, packaging or preparation of articles or merchandise	*	*	S	*	P
One single dwelling unit - accessory to a use permitted	*	*	S	*	S
Restaurant - accessory to use permitted	*	*	*	P	P
Office - accessory to use permitted	*	*	*	*	P
Veterinary clinic	S	S	S	*	S
Extraction and processing of minerals, rocks, sand, gravel, and other earth products	*	*	*	*	S
Storage of explosives	*	*	*	*	S

Sawmill or wood milling facility	*	*	*	*	S
Recreational vehicle park	*	*	S	*	*
Railroad transfer yard, Motor freight depot	*	*	S	*	S
Petroleum products bulk plant	*	*	S	*	S
Theater	P	P	P	P	P
Shooting range	S	S	S	S	S
Mobile home	*	*	*	*	*
Outside storage	*	S	S	S	P
Self service storage facility	*	*	*	*	S
Wholesale or distribution establishment, except mobile home and vehicular sales	S	S	P	*	P
Retail, except mobile home and vehicular Accessory to a principal permitted use	P	P	P	*	P
Service establishment, except vehicular service—accessory to a principal permitted use	P	P	P	*	P
Sexually oriented businesses	*	*	*	*	S
Medical marijuana business[2]	*	*	S	*	S
Retail marijuana cultivation facility[4]	*	*	S	*	S
Marijuana testing facility[5]	*	*	S	*	S
Cultivation of medical marijuana by patients and caregivers in non-residential units (commercial or industrial spaces)[3]	*	*	*	*	P
Cultivation of medical marijuana by patients and caregivers in residential dwelling units (permitted within non-residential zone districts)[3]	P	P	P	P	P
Retail marijuana business (excluding retail marijuana testing facilities)	*	*	S[4]	*	S[4]
Cultivation of marijuana for personal use in residential units	P[5]	P[5]	P[5]	P[5]	P[5]
Cultivation of marijuana for personal use in non-residential units or structures	*	*	*	*	P[6]
Medical marijuana infused products manufacturer[2]	*	*	S	*	S
Optional medical cultivation premises[2]	*	*	S	*	S
Retail marijuana store[4]	*	*	S	*	S
Retail marijuana products manufacturing facility[4]	*	*	S	*	S
Kennel	*	*	S	*	*
Indoor Recreation Facility (< 6,500 square feet)	P	P	P	P	P
Indoor Recreation Facility (> 6,500 square feet)	S	P	P	P	P
Theater	P	P	P	P	P
Shooting Range	S	S	S	S	S

KEY: [1] Pursuant to Section 4.05.010.A.3.b [2] Medical marijuana businesses allowed only on identified commercial general and industrial zoned properties. Please refer to attached map at the end of this section labeled Exhibit A. Refer to Section 4.04.100(P) concerning supplementary regulations and standards for medical marijuana businesses. [3] See Section 4.04.100(R) concerning supplementary regulations and standards for the cultivation of medical marijuana by patients and primary caregivers in non-residential zone districts. [4] Retail marijuana businesses allowed only on identified commercial general and industrial zoned properties. Refer to map at the end of this section labeled Exhibit A. Refer to Section 4.04.100(U) for supplementary regulations and standards for retail marijuana businesses. [5] Marijuana testing facilities allowed only on identified commercial general and industrial zoned properties along Chambers Avenue. Refer to map at the end of this section labeled Exhibit A. Refer to Section 4.04.100(V) for supplementary regulations and standards for marijuana testing facilities. [6] See Section 4.04.100(T) concerning supplementary regulations and standards for the cultivation of marijuana for personal use in non-residential units or structures in non-residential zone districts.	CBD = Central Business District CL = Commercial Limited CG = Commercial General PA = Public Area I = Industrial * = Not Permitted Use P = Use By Right S = Special Use

(Ord. No. 1986-03, § 4.04.070, 3-5-1986; Ord. No. 26-2016, § 2, 8-23-2016; Amended 7-22-1986; Amended 6-2-1991; Amended 10-21-1993; Amended 4-16-1995; Amended 2-13-2000; Amended 3-8-2007; Amended 10-27-2010; Amended 11-13-2012; Amended 10-22-2013; Amended 10-27-2015; Ord. No. 12-2016 , § 3, 4-26-2016; Ord. No. 22-2017 , § 2, 8-22-2017; Ord. No. 28-2018 , § 4, 8-14-2018; Ord. No. 13-2020 , § 1, 6-9-2020)

Section 4.04.080. Schedule of requirements in residential districts.

RESIDENTIAL ZONE DISTRICTS TABLE										
ZD	**MLA**	**MLA/DU**	**MFY**		**MSY**	**MRY**	**MBH**	**MLC***	**MFA**	**MUO/DU**
R	35 acres	35 acres	L	25'	Greater of 12.5' or½ building height	20'	35'			
			C	25'						
			A	50'						
RR	2 acres	2 acres	L	25'	Greater of 12.5' or ½ building height	20'	35'			
			C	25'						
			A	50'						
RL	10,000 sf	10,000 sf	L	25'	Greater of 12.5' or½ building height	20'	35'	Building 30%; all other impervious 20%	60%	
			C	25'						
			A	50'						
R1	6,000 sf	6,000 sf	L	25'	Greater of 12.5' or½ building height	20'	35'	Building 40%; all other impervious 20%	60%	
			C	25'						
			A	50'						
RM	6,000 sf	6,000 sf	L	25'	Greater of 12.5' or½ building height	20'	35'	Building 40%; all other impervious 20%	80%	
			C	25'						
			A	50'						
RMF	6,000 sf		L	25'	Greater of 12.5'	20'	35'	Building 50%; all	150%	

		SF 6,000 sf; MF 4,000 sf			or½ building height			other impervious 20%		
			C	25'						
			A	50'						
RH	20,000 sf		L	25'	15'	20'	35'			1,000 sf
			C	25'						
			A	50'						
MHP*	2 acres		L	25'	20'	20'	35'			
			C	25'						
			A	50'						

NOTES:

Minimum yard setback for the MHP/PUD zone district means those around the outside of the subdivision park (see Section 4.09.030(C)).

* MLC—maximum lot coverage. Lot or site coverage means the portion of a lot or site covered by materials forming any unbroken surface impervious to water, including buildings, decks, patios, structures; and streets, driveways, parking lots, and other impervious materials.

KEY:

ZD = Zone district.

MRY = Minimum rear yard.

MLA = Minimum lot area.

MBH = Maximum building height.

MLA/DU = Minimum lot area per dwelling unit.

MLC = Maximum lot coverage.

MFY = Minimum front yard.

MFA = Maximum floor area.

L = Local street.

MUO/DU = Minimum usable open space per dwelling unit.

C = Collector street.

sf = Square feet.

A = Arterial street.

SF = Single-family.

MSY = Minimum side yard.

MF = Multifamily, including two-family dwelling.

R = Resource.

CBD = Central business district.

RR = Rural residential.

CL = Commercial limited.

RL = Residential low density.

CG = Commercial general.

R1 = Residential single-family.

I = Industrial.

RM = Residential medium density.

PA = Public area.

RMF = Residential multi-family.

RH = Residential high density.

MHP = Mobile home park planned unit development.

PUD = Planned unit development zone height/bulk/location requirements are specified in each PUD plan/control guide.

(Ord. No. 1986-03, § 4.04.080, 3-5-1986)

Section 4.04.090. Schedule of requirements in nonresidential districts.

NON-RESIDENTIAL DISTRICTS TABLE										
ZD	**MLA**	**MLA/DU**	**MFY**		**MSY**	**MRY***		**MBH**	**MLC***	**MFA**	**MUO/DU**
CBD	3,125 sf		0'		0'	25'		35'	Building 80%; all other impervious 20%	240%	
CL	7,500 sf		L	25'	Greater of 12.5' or½ building height	25'		35'	Building 50%; all other impervious 20%	100%	
			C	25'							
			A	50'							
CG	20,000 sf		L	25'	Greater of 12.5' or½ building height	com-com	25'	35'	Building 50%; all other impervious 30%	150%	
			C	25'		com-ind	25'				
			A	50'		com-res	75'				
I	20,000 sf		L	25'	Greater of 12.5' or½ building height	ind-ind	25'	35'	Building 50%; all other impervious 30%	150%	
			C	25'		ind-com	25'				
			A	50'		ind-res	75'				
PA			L	25'		25'		35'		150%	

	7,500 sf		C A	25' 50'	Greater of 12.5' or½ building height			Building 50%; all other impervious 20%		

NOTES:

* com-com means the proposed use is commercial and the rear property line abuts a property with a commercial use, and so forth, with "com" meaning commercial, "ind" meaning industrial, and "res" meaning residential.

* MLC—Maximum lot coverage. Lot or site coverage means the portion of a lot or site covered by materials forming any unbroken surface impervious to water, including buildings, decks, patios, structures; and streets, driveways, parking lots, and other impervious materials.

* Rear yard setback in the Broadway District may be reduced to less than 25 feet. This situation will be reviewed on a case by case basis if enclosed garage parking is proposed and other requirements are met (refer to Section 4.07.060 for specific guidelines and standards).

* Height limit in the Broadway District has a maximum building height limit of 42 feet (refer to Section 4.07.060 for specific guidelines and standards).

* Building coverage may exceed the 80 percent maximum lot coverage in the Broadway District (refer to Section 4.07.060 for specific guidelines and standards).

* In the Broadway District garage space and basement space does not count towards maximum floor area calculation (refer to Section 4.07.060 for specific guidelines and standards).

KEY:

ZD = Zone district.

MRY = Minimum rear yard.

MLA = Minimum lot area.

MBH = Maximum building height.

MLA/DU = Minimum lot area per dwelling unit.

MLC = Maximum lot coverage.

MFY = Minimum front yard.

MFA = Maximum floor area.

L = Local street.

MUO/DU = Minimum usable open space per dwelling unit.

C = Collector street.

sf = Square feet.

A = Arterial street.

SF = Single-family.

MSY = Minimum side yard.

MF = Multifamily, including two-family dwelling.

R = Resource.

CBD = Central business district.

RR = Rural residential.

CL = Commercial limited.

RL = Residential low density.

CG = Commercial general.

R1 = Residential single-family.

I = Industrial.

RM = Residential medium density.

PA = Public Area.

RMF = Residential multifamily.

RH = Residential high density.

MHP = Mobile home park planned unit development.

PUD = Planned unit development zone height/bulk/location requirements are specified in each PUD plan/control guide.

(Ord. No. 1986-03, § 4.04.090, 3-5-1986; Amended 6-2-1991; Amended 4-16-1995; Amended 2-13-2000; Amended 5-22-2007)

Section 4.04.100. Supplementary regulations and standards.

In addition to regulations contained elsewhere in this Title, the use of land and buildings shall be governed by the following:

A. *Use not itemized.*

1. When a use is proposed and no zone district specifically allows for such use, the applicant may request a determination of a zone district or districts in which the use may be allowed. The applicant shall submit a written request and a site plan drawn to scale which illustrates the particular use proposed. The site plan shall depict all improvements and structures necessary to accommodate the proposed use. Such request shall follow the procedures and public notice requirements as set forth for zoning amendments in Section 4.05.040. Following the recommendation of the Planning Commission, the Town Council may permit such request upon the finding of the following:

    a. Such use is appropriate to the physiographic and general environmental character of the district to which it is added;

    b. Such use does not create any more hazard to, or alteration of, the natural environment than the minimum amount normally resulting from the other uses permitted in the district to which it is added;

    c. Such use does not create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences or more traffic hazards than the minimum amount normally resulting from the other uses permitted in the district to which it is added;

    d. Such use is compatible with the uses existing and permitted in the district to which it is added;

    e. Such use is in conformance with the goals and policies of the Town and the purposes of this Title.

2. When any use has been added as a use by right or special use in any district in accordance with this section, such use shall be deemed to be listed in the appropriate section of this chapter, and shall be added thereto in the published text of this chapter at the first convenient opportunity.

B. *Temporary use.*

1. Any use, including construction office or yard, construction housing and camper trailers, carnival, fair, tent meeting, or any use listed in this chapter, may by allowed on a temporary basis (less than 12 months), upon issuance of a temporary use permit. Such request shall follow the procedures and public notice requirements as set forth for special use review in Section 4.05.010. Such request may be allowed upon the finding by the Planning Commission and Town Council of the following:

    a. Such use is compatible with the neighborhood proposed;

    b. The site of the temporary use will be returned to its original condition or improved after completion of the temporary use, and adequate provision has been made therefor, subject to the approval of the Town Attorney. Such provision may include a bond or other security;

    c. Such use is in conformance with the goals and policies of the Town.

2. Provided, however, if, in the determination of the Town Planner, the temporary use requested is a minor impact and meets the findings of Subsection (B)(1) of this section, the Town Planner may

issue a temporary use permit. The Town Planner may issue conditions with the permit as are deemed necessary to achieve the objectives set forth above. In the event the Town Planner denies the temporary use permit requested, the applicant may file an appeal by following the procedures set forth in Chapter 2.20. The Town Council shall hear the appeal at a regular meeting within 30 days of the date of filing the appeal. The Council shall hold a public hearing at said meeting on the appeal. Public notice shall be as set forth for special use review in Section 4.05.010.

C. *Utility transmission.* Nothing in these regulations shall be construed to prohibit construction or installation of a public utility use or structure necessary for transmission of commodities or services of a utility company, through mains or distribution lines, in any zone district. Storage, maintenance facilities, substation or exchanges, and business offices shall be restricted to their appropriate zone district. Location of power transmission lines with a capacity of 69 KV or greater or pipelines for major transmission shall be subject to special use procedures as set forth in Chapter 4.05.

D. *Water and sanitation service.* All uses shall have water and sanitation service based on accepted engineering standards and approved by the Town and the State Department of Public Health and Environment.

E. *Lot frontage.* Each lot, unless otherwise approved under Chapter 4.11 shall have a minimum of 25 lineal feet of frontage on a public street, except that a maximum of 20 condominium units or 20 townhouse lots may front on a private access way at least 25 feet in width which need not meet the Town street construction regulations. All other private streets shall conform with said regulations. All private access ways and streets shall be reserved in perpetuity through private agreement and shall allow vehicular access to the unit or lot.

F. *Buildings, mobile homes, manufactured homes.* A building may be located in any zone district where buildings are permitted. A mobile home may be located only where expressly permitted by this Title. A manufactured home which is certified to meet the most current H.U.D. standards or which complies with the International Building Code for commercial buildings and the International Residential Code for residential buildings, as adopted by reference by the Town, shall be permitted in any zone district where single-family homes are allowed; provided, however, such manufactured home shall meet all other requirements pertaining to single-family homes.

G. *Legal nonconforming uses, structures, and lots.* Any use, structure, or lot in existence and lawful at the time of adoption of the ordinance from which this Title is derived or any subsequent amendment hereto, which is not in conformance with the provisions of this Title or amendment, shall be considered a legal nonconforming use, structure or lot and may continue in existence, pursuant to the following:

1. A legal nonconforming use may be extended throughout the same building, provided no structural alteration of such building is made for the purpose of such extension.

2. A legal nonconforming use shall not be changed to any other use except a conforming use.

3. Whenever a legal nonconforming use of land or a building has been discontinued for a continuous period of one year, future use of the land or building shall be in conformance with the provisions of this Title.

4. A building which does not meet the setback, height or other site requirements of this chapter may be repaired, maintained, or extended, provided any such extension is in full compliance with all provisions of this chapter.

5. A legal nonconforming building which has been damaged or destroyed by fire or other causes may be restored to its original condition, provided such work is commenced within one year of such event and completed within 18 months of such event. Either time period may be extended upon approval in accordance with procedures for special use, as set forth in Chapter 4.05.

6. An individual lot which does not meet the minimum lot area requirement for the zone district in which it is located shall be considered a legal nonconforming lot, and any building situated on such lot shall be considered a legal nonconforming building, subject to the provisions of this section. Such legal nonconforming lot may be used for construction of a building allowed in the zone district, provided all other zone district regulations, including, but not limited to, setbacks, are met.

7. When a parcel containing a nonconforming use or structure is annexed to the Town, said use or structure shall be considered a legal nonconforming use or structure if said use or structure was permitted under county zoning regulations at the time of annexation and subject to any conditions imposed by the county prior to annexation.

H. *Supplementary setback regulations.*

1. *Clear vision areas.*

a. *Use.* Clear vision areas shall be maintained on the corners of all property at the intersection of two streets or a street and a railroad. A clear vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction, including parking, exceeding 2½ feet in height, measured from the top of the curb, or where no curb exists, from the established street centerline grade; except that trees exceeding this height may be located in this area, provided all branches and foliage are removed to a height of eight feet above the grade.

b. *Measurement.* A clear vision area shall consist of a triangular area, two sides of which are lot lines measured from the corner intersection of the street lot lines for a distance of 30 feet, or at an intersection including an alley, ten feet; where the lot lines have rounded corners, the lot lines shall be extended in a straight line to a point of intersection and so measured. The third side of the triangle shall be the straight line across the corner of the lot connecting the non-intersecting ends of the other two sides.

2. *Live stream setback.*

a. No improvement, building, structure, excavation, dumping, or backfill shall be placed, built, undertaken or approved within a 50-foot setback area measured horizontally from the high water mark of any river or live stream, except for bridges, paths for non-motorized use, irrigation structures, flood control and erosion protection devices, or fences. If necessary to protect the stream, additional width may be required.

b. Within such live stream setback area, underground utilities or public park structures may be allowed as a special use, following procedures set forth in Section 4.05.010, provided that the Planning Commission and Town Council find that:

i. There is no practical alternative location for such utilities or public park structures; and

ii. That adequate provision is made to ensure that all construction scars are revegetated.

c. In the Resource Zone District, permitted structures other than buildings shall be exempt from the live stream setback requirement.

3. *Through and corner lots.* On lots bordered on two sides by streets, whether on contiguous or opposite sides, front yard setbacks shall be required along both streets.

4. *Duplexes, townhouses, condominiums.* For purpose of setback calculations, any such building, regardless of multiple ownership, shall be considered one building occupying one lot.

5. *Projections.* Every part of a required yard shall be unobstructed from ground level to the sky except as follows:

    a. Uncovered porches and decks not more than four feet above natural grade, slabs, patios, walks and steps may project into required yards.

    b. Cornices, sills and ornamental architectural features may project 12 inches over a required yard.

    c. Roof eaves may project 24 inches over a required yard.

    d. Fire escapes and individual balconies not used as passageways project 18 inches into any required side yard or four feet into any required front or rear yard.

6. *Fences and walls.*

    a. In any residential zone district, any fence in a required front yard, as well as any fence in a required side yard on a corner lot adjoining a public street, shall be a maximum of 42 inches in height, and any fence not in such front yard or side yard shall be a maximum of six feet in height.

    b. In any nonresidential zone district, any fence in any front yard, whether required or not, shall be a maximum of three feet in height and shall be of such material and design as will not detract from adjacent properties, which determination shall be made by the Town Planner as part of the building permit review. Any fence in any rear yard, whether required or not, shall be a maximum of eight feet in height.

    c. In any clear vision area, as set forth in Subsection (H)(1) of this section, any fence shall be a maximum of 2½ feet in height.

    d. No fence or wall shall be located so as to obstruct traffic sight distances.

    e. Fence and wall height shall be measured vertically from undisturbed grade.

7. *Accessory buildings.*

    a. An accessory building may be located in a required rear yard provided not more than 40 percent of the rear yard area is covered. Such building shall observe a 7½-foot setback from the rear lot line and a 7 1/2/-foot setback from the side lot lines.

    b. Provided, however, in the section of Town that lies within the boundaries of Grand Avenue, McIntire Street, 7th Avenue, and Church Street, accessory buildings shall observe a two-foot setback from the rear lot line and 2½-foot setback from the side lot lines.

I. *Supplementary height regulations; height limit exceptions.* Parapet walls may exceed zone district height limitations by four feet. Stacks, vents, cooling towers, elevator structures and similar mechanical building appurtenances and spires, domes, cupolas, towers and similar non-inhabitable building appurtenances may exceed applicable zone district height limitations by up to 30 percent.

J. *Minimum use standards.* In all zone districts, except as otherwise specified herein, all uses shall be designed and operated in compliance with the following minimum standards:

1. All fabrication, service and repair operations shall be conducted within a building, except in the industrial zone, where such uses may be conducted outside a building if within a fence as set forth in Subsection (J)(2) of this section;

2. All storage of materials except merchandise displayed for retail sale shall be within a building or in the rear yard and obscured from view from surrounding properties by a fence in conformance with Subsection (H)(6) of this section;

3. Loading and unloading of vehicles shall be conducted on private property and not on any street or alley, except in the CBD, where it may be from a designated loading zone or alley;

4. No dust, noise, odor, fumes, glare or vibration shall be projected beyond the lot;

5. Any structure in the CBD without a side yard shall have a windowless wall on that side, with at least four hours' fire resistance, or as provided in the International Building and Fire Codes.

K. *Home occupation standards.* A home occupation shall be allowed in certain zone districts, as provided herein, provided all of the following conditions are met:

1. Such use is conducted entirely within a dwelling or accessory building and carried on by the inhabitants living there;

2. Such use is clearly incidental to and secondary to the use of the dwelling for dwelling purposes and does not change the residential character thereof;

3. There is no exterior storage on the premises of material or equipment used as a part of the home occupation;

4. There is no advertising display or other indication of the home occupation on the premises other than provided for by Chapter 4.08;

5. There is no offensive noise, vibration, smoke, fume, dust, odor, heat or glare noticeable at or beyond the property line;

6. The home occupation will not adversely affect traffic flow and parking in the neighborhood; and

7. The home occupation provides additional off-street parking adequate to accommodate all needs created by the home occupation.

L. *Industrial use standards.* All industrial and commercial uses operating within the Town shall comply with the following standards so that such uses do not create any danger to safety in surrounding areas, do not cause water pollution and do not create offensive noise, vibration, smoke, dust, odors, heat, glare or other objectionable influences beyond the boundaries of the property in which such uses are located, and do not constitute a public nuisance or hazard:

1. *Volume of sound.* Every use shall be so operated that the volume of sound inherently and recurrently generated does not exceed 60 decibels with a maximum increase of five decibels permitted for a maximum of 15 minutes in any one hour at any point on any boundary line of the property on which the use is located.

2. *Vibration.* Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point on any boundary line of the property on which the use is located.

3. *Smoke.* Every use shall be so operated that it does not emit smoke exceeding a density of No.1 on the Ringlemann Chart.

4. *Particulate matter.* Every use shall be so operated that it does not emit particulate matter exceeding 0.2 grains per cubic foot of the flue gas at a stack temperature of 500 degree Fahrenheit.

5. *Heat, glare, radiation and fumes.* Every use shall be so operated that it does not emit an obnoxious or dangerous degree of heat, glare, radiation, or fumes beyond any boundary line of the property on which the use is located.

6. *Storage.*

a. The outdoor storage of flammable or combustible liquids shall conform to the requirements of Section 5704.4 of the International Fire Code, 2012 Edition. No outdoor storage of flammable or combustible liquids shall occupy any part of a front yard;

b. Underground storage of flammable or combustible liquids shall conform to all of the requirements of the International Fire Code, 2012 Edition;

c. No materials or wastes shall be deposited upon a property in such form or manner that they may be transferred off the property by natural causes or forces;

d. All materials or wastes which might cause fumes or dust or which constitute a fire hazard or which may be edible by or otherwise attractive to rodents or insects shall be stored outdoors in closed containers.

7. *Water pollution.* No water pollution shall be emitted by the manufacturing or other processing. In a case in which potential hazards exist, it shall be necessary to install safeguards acceptable to the County Health Officer and in compliance with the laws of the environmental protection agency, State Department of Public Health and Environment and Chapter 12.22 before operation of the facilities may begin. All percolation tests or groundwater resources tests which may be required by local or State Health Officers must be met before operation of the facilities may begin.

M. *Outside storage standards.* Items, including, but not limited to, vehicles, excavation equipment, machinery, utility service supplies, fabrication materials, and general supplies, which are stored outside on a regular, permanent, semi-permanent, or seasonal basis, and which occupy more than 1,000 square feet on any one lot, are subject to the following requirements:

1. *Location of storage area.* As a general rule, outside storage areas shall be situated in the rear yard.

2. *Buffer.* Outside storage areas in the front yard or on lots with no, or minimal, structures shall be required to provide a front street buffer as provided in Section 4.07.020(B).

3. *Auto sales and nurseries.* Auto sales and nurseries are exempt from the standards contained in this section.

4. *Display area.* Businesses that sell, rent, or lease outside storage items may create a display area in the front yard not to exceed a single area 25 feet by a length of 25 percent of the lot frontage for the purpose of displaying representative items. All other outside storage items are subject to the requirements in Subsections (M)(1) and (2) of this section.

5. *Outside storage adjoining the I-70 right-of-way.* Any outside storage areas located in the rear yards of lots adjoining the I-70 right-of-way shall create a buffer using the standards as found in Subsection (M)(2) of this section.

N. *Accessory dwelling units (ADUs):* ADUs are permitted in any residential district, subject to the following standards:

1. One ADU is allowed on each lot containing a single-family dwelling.

2. An ADU may be located in a single-family dwelling, attached to a single-family dwelling, detached from a single-family dwelling, or in an accessory building.

3. Each ADU shall be a complete, separate dwelling unit, with its own ingress, egress and access.

4. The owners of the property in which the ADU is located shall occupy at least one of the dwelling units on the premises as a full-time residence except for bona fide temporary absences.

5. An ADU shall not exceed 850 square feet, using the following means of measurement: measure the area within the inside face of the perimeter walls of the ADU, including habitable space in the basement. The following shall be excluded from the calculation: stairs, typical mechanical rooms, garages, and decks and porches that are not enclosed.

O. *Extended stay temporary lodging facilities.* All extended stay temporary lodging facilities permitted in the Commercial General (CG) Zone District shall comply with the following requirements:

1. The operator of an extended stay temporary lodging facility shall lease the lodging units on a daily or week to week basis only. No person shall be permitted to reside in such a lodging facility for more than 150 days within a consecutive 12-month period, excepting only a resident manager that may reside on the premises.

2. Upon request by the Town, the owner or operator of such a lodging facility shall make available to the Town within ten business days all rental records or other business records necessary for the Town to verify that no person has in fact resided within the facility for no more than 150 days within a period of 12 consecutive months.

3. Prior to the issuance of a special use permit for an extended stay temporary lodging facility, the owner shall submit to the Town a schedule designating the maximum capacity of each of the units contained within the lodging facility. Each unit in the lodging facility containing a gross floor area of less than 250 square feet shall have a maximum capacity of not more than three persons, including no more than two persons over the age of 18. Units containing a gross floor area of more than 250 square feet shall have a maximum capacity of not more than four persons, including no more than two persons over the age of 18.

4. The owner of an extended stay temporary lodging facility shall provide at all times an adequate number of beds within each unit contained in the lodging facility for the stated capacity of each respective unit. The owner of the lodging facility shall not permit persons in excess of the stated capacity for each unit to reside in the respective units.

5. No pets or domestic animals of any kind, except service dogs for the disabled, shall be kept or harbored by guests within any unit of the lodging facility.

P. *Medical marijuana businesses.*

1. *Limitation on the number of medical marijuana centers within the Town.*

a. The number of medical marijuana centers permitted within the Town is based on population. A maximum of one medical marijuana center shall be permitted for every 5,000 people or fraction thereof. Population shall be determined by the most recent data available from the U.S. Census Bureau and the State demographer's office.

b. In the event more than one land use application for a medical marijuana center of the same classification are submitted to the Town in close proximity to one another, the applications comply with all the requirements of this chapter and the Colorado Medical Marijuana Code, but the Town is not permitted to approve all of the applications because of the limitations set forth in this Subsection (P), the Town Council shall first review for approval the application which was first submitted and determined to be complete by the Town Planner, or their designee.

2. *Limitation on the number of optional medical marijuana cultivation premises within the Town.*

a. The number of optional medical marijuana cultivation premises permitted within the Town is based on population. A maximum of one optional medical marijuana cultivation premises shall be permitted for every 5,000 people or fraction thereof. Population shall be

determined by the most recent data available from the U.S. Census Bureau and the State demographer's office.

b. In the event more than one land use application for an optional medical marijuana cultivation premises of the same classification are submitted to the Town in close proximity to one another, the applications comply with all the requirements of this chapter and the Colorado Medical Marijuana Code, but the Town is not permitted to approve all of the applications because of the limitations set forth in this Subsection (P), the Town Council shall first review for approval the application which was first submitted and determined to be complete by the Town Planner, or their designee.

3. *Limitation on the number of medical marijuana infused products manufacturers within the Town.*

   a. The number of medical marijuana infused products manufacturers permitted within the Town is based on population. A maximum of two medical marijuana infused products manufacturers shall be permitted for every 5,000 people or fraction thereof. Population shall be determined by the most recent data available from the U.S. Census Bureau and the State demographer's office.

   b. In the event more than one land use application for a medical marijuana infused products manufacturer of the same classification are submitted to the Town in close proximity to one another, the applications comply with all the requirements of this chapter and the Colorado Medical Marijuana Code, but the Town is not permitted to approve all of the applications because of the limitations set forth in this Subsection (P), the Town Council shall first review for approval the application which was first submitted and determined to be complete by the Town Planner, or their designee.

4. *Permitted locations.*

   a. Medical marijuana centers and optional medical marijuana cultivation premises shall only be located in the Commercial General (CG) and Industrial (I) Zone Districts and are located a minimum of 1,750 feet from the centerline of Eby Creek Road pursuant to a special use permit. Refer to map at the end of this section labeled Exhibit A.

   b. Medical marijuana infused products manufacturer shall only be located on properties along Chambers Avenue that are within the Commercial General (CG) and Industrial (I) Zone Districts and are located a minimum of 1,750 feet from the centerline of Eby Creek Road pursuant to a special use permit. If any portion of such property is within the required minimum distance from Eby Creek Road, no medical marijuana infused products manufacturer shall be permitted on that property. Refer to map at the end of this section labeled Exhibit A.

5. *Distance from schools, licensed child care facilities, alcohol or drug treatment facilities and college campus.* All medical marijuana businesses shall be located a minimum of 1,000 feet from schools, as defined in the Colorado Medical Marijuana Code, licensed child care facilities, alcohol or drug treatment facilities, and the campus of a college or university.

6. *Distance from residential zone district.* All medical marijuana businesses shall be located a minimum of 100 feet from any residential zone district which shall be measured from the zone district boundary line to the subject property line.

7. *Restrictions on mobile facilities and delivery of marijuana products.* No medical marijuana business shall be located in a movable or mobile vehicle or structure and no medical marijuana products shall be delivered in the Town unless such delivery is specifically permitted by the Colorado Medical Marijuana Code.

8. *Hours of operation.* Medical marijuana businesses shall limit their hours of operation to 8:00 a.m. to 12:00 midnight, Monday through Sunday, or as otherwise provided in the special use permit.

9. *Operation of multiple businesses at a single location.* A person may operate any medical marijuana business and any retail marijuana business permitted by this section at the same location if in full compliance with the requirements of the Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code.

10. *Specific requirements for a medical marijuana center.*

    a. Small samples of medical marijuana products offered for sale may be displayed on shelves, counters and display cases. All bulk marijuana products shall be locked within a separate vault or safe (no other items in this safe), securely fastened to a wall or floor, as approved by the Police Department.

    b. A medical marijuana center may sell "marijuana paraphernalia," as that term is defined in Chapter 9.15, to patients only and shall be exempt from the prohibitions contained in said chapter.

11. *Specific requirements for an optional medical marijuana cultivation premises.* If co-located with an optional medical marijuana cultivation premises, the area of the proposed licensed marijuana premises utilized for cultivation shall be physically separated from the area of the premises open to the public or to patients. Walls, barriers, locks, signage and other means shall be employed to prevent the public or patients from entering the area of the licensed marijuana premises utilized for cultivation of marijuana.

12. *No products to be visible from public places.* Marijuana plants, products, accessories, and associated paraphernalia contained in any medical marijuana business shall not be visible from a public sidewalk, public street or right-of-way, or any other public place.

13. *No beer or alcohol on premises.* No fermented malt beverages and no alcohol beverages, as defined in the Colorado Beer Code and the Colorado Liquor Code, respectively, shall be kept, served or consumed on the premises of a medical marijuana business.

14. *Storage of products.* All products and accessories shall be stored completely indoors and on-site.

15. *Consumption of marijuana prohibited.* No consumption or smoking of any medical marijuana products shall be allowed or permitted on the premises or adjacent grounds of a medical marijuana business.

16. *Storage of currency.* All currency over $1,000.00 shall be stored within a separate vault or safe (no marijuana in safe), securely fastened to a wall or floor, as approved by the Police Department.

17. *Prevention of emissions and disposal of materials.*

    a. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting the business premises shall be provided at all times. In the event that any debris, dust, fluids or other substances shall exit the business premises, the property owner and operator shall be jointly and severally responsible for the full cleanup immediately.

    b. Businesses shall properly dispose of all materials and other substances in a safe and sanitary manner in accordance with State regulations and county landfill regulations.

    c. As applicable, medical marijuana businesses shall be equipped with ventilation systems with carbon filters sufficient in type and capacity to eliminate marijuana odors emanating

from the interior to the exterior of the premises discernible by reasonable persons. The ventilation system must be inspected and approved by the Building Official.

d. If carbon dioxide will be used in any cultivation area, sufficient physical barriers or a negative air pressure system shall be in place to prevent carbon dioxide from moving into the ambient air, into other units in the same building or into an adjacent building in a concentration that would be harmful to any person, including persons with respiratory disease, and shall be inspected and approved by the Building Official and the Greater Eagle Fire Protection District.

e. All State regulations concerning ventilation systems shall be followed.

18. *Compliance with other codes.* Any medical marijuana business and the adjacent grounds of the medical marijuana business shall comply with all zoning, health, building, fire, and other codes and ordinances of the Town as shown by completed inspections and approvals by the Town Planner, Building Department, Greater Eagle Fire Protection District, and the County Health Department, if applicable.

19. *No harm to public health, safety or welfare.* The licensed marijuana premises and adjacent grounds of a medical marijuana business shall be operated in a manner that does not cause any substantial harm to the public health, safety and welfare.

20. *Additional requirements.* At the time a special use permit is granted, amended, or the Town Council approves a major change to a medical marijuana business, the Town Council may impose on the applicant any conditions related to the proposed use that is reasonably necessary to protect the public health, safety or welfare, including, but not limited to, the following:

a. Additional security requirements;

b. Limits and requirements on parking and traffic flows;

c. Requirements for walls, doors, windows, locks and fences on the licensed marijuana premises and adjacent grounds;

d. Limits on medical marijuana products that may be sold;

e. Requirements and limits on ventilation and lighting;

f. Limits on noise inside the licensed premises or on the adjacent grounds;

g. Prohibitions on certain conduct in the medical marijuana business;

h. Limits on hours of operation that are more restrictive than prescribed by Subsection (P)(8) of this section;

i. A requirement that the applicant temporarily close the medical marijuana business to the public until certain changes, inspections or approvals are made; and

j. A limitation on the square footage of the medical marijuana business.

21. *Penalty for violation.* Any violation of the provisions of this Subsection (P) or the conditions of the special use permit granted by a medical marijuana business shall be punishable by a civil fine of up to $1,000.00. Each day that a violation is committed, exists or continues shall be deemed a separate and distinct offense. In addition, any violation of the provisions of this Subsection (P) or any conditions imposed by the special use permit may result in the revocation of the special use permit.

Q. *Cultivation of medical marijuana by patients and primary caregivers in residential dwelling units.* The cultivation, production, or possession of marijuana plants for medical use by a patient or primary

caregiver, as such terms are defined by Article XVIII, Section 14 of the State Constitution, shall be allowed in residential dwelling units subject to the following conditions:

1. The cultivation, production or possession of marijuana plants shall be in full compliance with all applicable provisions of Article XVIII, Section 14 of the State Constitution, the Colorado Medical Marijuana Code, C.R.S. § 1243.3-101 et seq., and the Medical Marijuana Program, C.R.S. § 251.5-106.

2. Marijuana plants that are cultivated, produced or possessed shall not exceed the presumptive limits of no more than two ounces of a useable form of marijuana unless otherwise permitted under Article XVIII, Section 14 of the State Constitution, and no more than six marijuana plants, with three or fewer being mature, flowering plants that are producing a useable form of marijuana shall be cultivated or permitted within a primary residence.

3. Such cultivation, production or possession of marijuana plants shall be limited to the following space limitations within a residential unit:

    a. Within a single-family dwelling unit (Group R-3 as defined by the International Building Code, as adopted in Chapter 22, Section 131): a secure, defined, contiguous area not exceeding 150 square feet within the residence of the licensed patient or registered caregiver.

    b. Within a multifamily dwelling unit (Group R-2 as defined by the International Building Code, as adopted in Chapter 22, Section 131): a secure, defined, contiguous area not exceeding 100 square feet within the residence of the licensed patient or registered caregiver.

4. Marijuana plants shall not be grown in the common area of a multifamily residential structure.

5. If a licensed patient or primary caregiver elects to cultivate quantities of marijuana in excess of the amounts permitted under Subsection (Q)(2) of this section, as permitted in Article XVIII, Section 14(4)(b) of the State Constitution, such patient must be in full compliance with the Colorado Medical Marijuana Program as provided in C.R.S. § 25-1.5-106(10) and may grow medical marijuana for personal use as a patient or as a primary caregiver for licensed patients as a use by right within the Industrial (I) Zone District only.

6. The cultivation of medical marijuana plants in a residential unit shall meet the requirements of all adopted Town building and safety codes. Any licensed patient or registered primary caregiver cultivating medical marijuana in a primary residential unit shall have an initial building and safety inspection conducted by the Town, shall comply with any conditions of said inspection, and shall submit to an annual building and safety code inspection thereafter. The names and locations of patients and caregivers shall not be made available to the general public in accordance with C.R.S. § 24-72-204(3)(a)(I), as contained in the Colorado Open Records Act.

7. The cultivation of medical marijuana plants shall not be permitted on the exterior portions of a residential lot. The cultivation, production or possession of marijuana plants in a residential unit must not be perceptible from the exterior of the residence and shall comply with the following:

    a. Any form of signage shall be prohibited; unusual odors, smells, fragrances or other olfactory stimulants shall be prohibited; light pollution, glare, or brightness resulting from grow lamps that disturbs adjacent residents shall be prohibited; and excessive noise from ventilation fans shall be prohibited.

    b. Marijuana plants shall be used exclusively by a licensed patient for the patient's personal use and solely to address a debilitating medical condition.

8. Any primary caregiver cultivating medical marijuana for licensed patients and providing said marijuana to patients for consideration such as a monetary sum shall obtain a business license from the Town pursuant to Chapter 5.02. Any primary caregiver transferring medical marijuana to a licensed patient for consideration shall also obtain a sales tax license and shall comply with the requirements of Chapter 3.04 concerning collection and payment of municipal sales tax.

9. Cultivation of medical marijuana in a residential unit that is not a primary residence is not permitted.

10. For the purposes of this Subsection (Q), the term "primary residence" means the place that a person, by custom and practice, makes his principal domicile and address to which the person intends to return, following any temporary absence, such as a vacation. Residence is evidenced by actual daily physical presence, use and occupancy of the primary residence and the use of the residential address for domestic purposes, such as, but not limited to, slumber, preparation of and partaking in meals, vehicle and voter registration, or credit, water and utility billing. A person may only have one primary residence. A primary residence shall not include accessory buildings.

11. For the purpose of this Subsection (Q), the term "secure area" means an area within the primary residence accessible only to the patient or primary caregiver. Secure premises shall be locked or partitioned off to prevent access by children, visitors, or anyone not licensed and authorized to possess medical marijuana.

R. *Cultivation of medical marijuana by patients and primary caregivers in nonresidential zone districts.* The cultivation, production, or possession of marijuana plants for medical use by a patient or primary caregiver, as such terms are defined by Article XVIII, Section 14 of the State Constitution, shall be allowed in nonresidential units or structures in the Industrial (I) Zone District as a permitted use as well as in permitted residential dwelling units located in the Central Business District (CBD), Commercial Limited (CL), Commercial General (CG), Public Area (PA), and Industrial (I) Zone Districts subject to the following conditions:

1. The cultivation, production or possession of marijuana plants shall be in full compliance with all applicable provisions of Article XVIII, Section 14 of the State Constitution, the Colorado Medical Marijuana Code, C.R.S. § 12.43.3-101 et seq., and the Medical Marijuana Program, C.R.S. § 25-1.5-106.

2. Marijuana plants that are cultivated, produced or possessed shall not exceed the presumptive limits of no more than two ounces of a useable form of marijuana and no more than six marijuana plants, with three or fewer being mature, flowering plants that are producing a useable form of marijuana per patient, unless otherwise permitted under Article XVIII, Section 14 of the State Constitution, shall be cultivated. Within any nonresidential unit located in the Industrial (I) Zone District, a caregiver may cultivate medical marijuana for no more than five licensed patients. Two or more primary caregivers shall not join together for the purpose of cultivating medical marijuana within any nonresidential unit located in the Industrial (I) Zone District. In residential units within nonresidential zone districts, marijuana plants that are cultivated, produced or possessed shall not exceed the presumptive limits of no more than two ounces of a useable form of marijuana unless otherwise permitted under Article XVIII, Section 14 of the State Constitution, and no more than six marijuana plants, with three or fewer being mature, flowering plants that are producing a useable form of marijuana shall be cultivated or permitted.

3. The cultivation, production or possession of marijuana plants within a permitted residential dwelling unit shall be limited to the following space limitations within the residential unit:

    a. Within a single-family dwelling unit (Group R-3 as defined by the International Building Code, as adopted in Chapter 22, Section 131): a secure, defined, contiguous area not

exceeding 150 square feet within the residence of the licensed patient or registered caregiver.

b. Within a multifamily dwelling unit (Group R-2 as defined by the International Building Code, as adopted in Chapter 22, Section 131): a secure, defined, contiguous area not exceeding 100 square feet within the residence of the licensed patient or registered caregiver.

4. Marijuana plants shall not be grown in the common area of any commercial or industrial building.

5. The cultivation of medical marijuana plants in any building or unit within the Central Business District (CBD), Commercial Limited (CL), Commercial General (CG), Public Area (PA), and the Industrial (I) Zone Districts shall meet the requirements of all adopted Town building and safety codes. Any licensed patient or registered primary caregiver cultivating medical marijuana shall have an initial building and safety inspection conducted by the Town, shall comply with any conditions of said inspection, and shall submit to an annual building and safety code inspection thereafter. The names and locations of patients and caregivers shall not be made available to the general public in accordance with C.R.S. § 24-72-204(3)(a)(I), as contained in the Colorado Open Records Act.

6. Cultivation of medical marijuana in a residential unit that is not a primary residence is not permitted.

7. For the purposes of this Subsection (R), the term "primary residence" means the place that a person, by custom and practice, makes his principal domicile and address to which the person intends to return, following any temporary absence, such as a vacation. Residence is evidenced by actual daily physical presence, use and occupancy of the primary residence and the use of the residential address for domestic purposes, such as, but not limited to, slumber, preparation of and partaking in meals, vehicle and voter registration, or credit, water and utility billing. A person may only have one primary residence. A primary residence shall not include accessory buildings.

8. The cultivation of medical marijuana plants shall not be permitted on exterior portions of a lot. The cultivation, production or possession of marijuana plants within a building or unit located in the Central Business District (CBD), Commercial Limited (CL), Commercial General (CG), Public Area (PA), and Industrial (I) Zone Districts must not be perceptible from the exterior of the building or unit.

9. Any form of signage shall be prohibited; unusual odors, smells, fragrances or other olfactory stimulants shall be prohibited; light pollution, glare or brightness resulting from grow lamps that disturbs adjacent property shall be prohibited; and excessive noise from ventilation fans shall be prohibited.

10. Any primary caregiver cultivating medical marijuana for licensed patients and providing said marijuana to patients for consideration such as a monetary sum shall obtain a business license from the Town pursuant to Chapter 5.02. Any primary caregiver transferring medical marijuana to a licensed patient for consideration shall also obtain a sales tax license and shall comply with the requirements of Chapter 3.04 concerning the collection and payment of municipal sales taxes.

S. *Cultivation of marijuana for personal use in residential dwelling units in both residential and nonresidential zone districts.*

1. Purpose. This Subsection (S) is intended to apply to the growing of marijuana in residential dwelling units for personal use to the extent authorized by Article XVIII, Section 16 (3)(b) of the State Constitution.

2. Any person, for purposes of this Subsection (S) and consistent with Article XVIII, Section 16(3)(b) of the State Constitution, who is 21 years of age or older that is cultivating marijuana plants for his own use, may possess, grow, process or transport no more than six marijuana plants with three or fewer being mature, flowering plants, subject to the following requirements:

    a. Such possessing, growing, processing, or transporting of marijuana plants for personal use must be in full compliance with all applicable provisions of Article XVIII, Section 16 of the State Constitution.

    b. Except as provided below, such marijuana plants shall be possessed, grown, or processed within the primary residence of the person possessing, growing or processing the marijuana plants for personal use, as defined by Subsection (S)(4) of this section. No more than six marijuana plants may be cultivated in a primary residence. If persons living in a primary residence desire to cultivate more than six marijuana plants, such persons may cultivate no more than a total of six marijuana plants per person for personal use as a permitted use in nonresidential units or structures in the Industrial (I) Zone District only. No sales, or barter of cultivated marijuana is permitted. See Subsection (T) of this section.

    c. The possession, growing and processing of such marijuana plants must not be observable from the exterior of the primary residence, including, but not limited to:

        i. Common visual observation, including any form of signage;

        ii. Unusual odors, smells, fragrances, or other olfactory stimulus;

        iii. Light pollution, glare, or brightness that disturbs others.

    d. Marijuana plants shall not be grown or processed in the common areas of a planned community or of a multifamily or attached residential development or commercial or industrial buildings.

    e. Such cultivation, production, growing and processing of marijuana plants shall be limited to the following space limitations within a primary residence:

        i. Within a single-family dwelling (Group R-3 as defined by the International Building Code): a secure, defined, contiguous area not exceeding 150 square feet within the primary residence of the person possessing, growing or processing the marijuana plants for personal use.

        ii Within a multifamily dwelling unit (Group R-2 as defined by the International Building Code) or a residential dwelling unit in a commercial or industrial building: a secure, defined, contiguous area not exceeding 100 square feet within the primary residence of the person possessing, growing, or processing the marijuana plants for personal use.

        iii. Such possession, growing and processing of marijuana plants shall not occur in any accessory structure.

    f. Such possession, growing and processing of marijuana plants shall meet the requirements of all adopted Town building and life/safety codes, including requirements concerning electrical systems and ventilation systems, as the same may be amended from time to time. In addition to these above-referenced codes and requirements, all marijuana plants shall be grown in mold resistive rooms with hard surfaces. Any person cultivating marijuana for personal use shall have an initial building and safety inspection conducted by the Town Building Official, shall comply with any conditions of said inspection, and shall submit to periodic building and safety code inspections thereafter. No odor shall be permitted to emanate from the premises.

g. Pursuant to C.R.S. § 9-7-113, the use of a compressed flammable gas as a solvent in the extraction of THC or other cannabinoids is prohibited.

h. The possession, growing and processing of marijuana plants shall meet the requirements of all adopted water and wastewater regulations promulgated by the Town.

3. Cultivation of marijuana in a residential unit that is not a primary residence is not permitted.

4. For the purposes of this Subsection (S), the term "primary residence" means the place that a person, by custom and practice, makes his principle domicile and address to which the person intends to return, following any temporary absence, such as a vacation. Residence is evidenced by actual daily physical presence, use and occupancy of the primary residence, and the use of the residential address for domestic purposes, such as, but not limited to, slumber, preparation of meals, package delivery, vehicle and voter registration, or credit and utility billings. A person shall have only one primary residence. A primary residence shall not include accessory buildings.

5. For purposes of this Subsection (S), the term "secure area" means an area within the primary residence accessible only to the person possessing, growing or processing the marijuana plants for personal use. Secure premises shall be locked or partitioned off to prevent access by children, visitors, or anyone not authorized to possess marijuana.

T. *Cultivation of marijuana for personal use in nonresidential units or buildings in nonresidential zone districts.* The cultivation, production, or possession of marijuana plants for personal use by a person 21 years of age or older, as permitted by Article XVIII, Section 16 of the State Constitution, shall be allowed in nonresidential units or buildings in the Industrial (I) Zone District as a permitted use subject to the following conditions:

1. The cultivation, production or possession of marijuana plants shall be in full compliance with all applicable provisions of Article XVIII, Section 16 of the State Constitution.

2. No more than six marijuana plants, with three or fewer being mature, flowering plants per person may be cultivated.

3. Marijuana plants shall not be grown in the common area of any commercial or industrial building.

4. The cultivation of marijuana plants in any building or unit within Industrial (I) Zone District shall meet the requirements of all adopted Town building and safety codes. In addition to these codes, these personal grow operations shall meet State standards for retail or medical marijuana grow operations. Any person cultivating marijuana for personal use shall have an initial building and safety inspection conducted by the Town, shall comply with any conditions of said inspection, and shall submit to a periodic building and safety code inspection thereafter.

5. All cultivation shall be located within a secure building. Grow operations in permanent or temporary greenhouses are not permitted.

6. No more than 36 plants may be grown in any industrial unit.

7. The cultivation of marijuana plants shall not be permitted on exterior portions of a lot or a building. The cultivation, production or possession of marijuana plants within a building or unit must not be perceptible from the exterior of the building or unit.

8. Any form of signage shall be prohibited; unusual odors, smells, fragrances or other olfactory stimulants shall be prohibited; light pollution, glare or brightness resulting from grow lamps that disturbs adjacent property shall be prohibited; and excessive noise from ventilation fans shall be prohibited.

9. Pursuant to C.R.S. § 9-7-113, the use of a compressed flammable gas as a solvent in the extrication of THC or other cannabinoids is prohibited.

U. *Retail marijuana businesses.*

1. *Limitation on the number of retail marijuana stores within the Town.*

   a. The number of retail marijuana stores permitted within the Town is based on population. A maximum of one retail marijuana store shall be permitted for every 5,000 people or fraction thereof. Population shall be determined by the most recent data available from the U.S. Census Bureau and the State demographer's office.

   b. In the event more than one land use application for a retail marijuana store of the same classification are submitted to the Town in close proximity to one another, the applications comply with all the requirements of this chapter, Chapter 5.17 of this Code and the Colorado Retail Marijuana Code, but the Town is not permitted to approve all of the applications because of the limitations set forth in this subsection U, the Board of Trustees shall first review for approval the application which was first submitted and determined to be complete by the Town Planner, or their designee.

2. *Retail marijuana cultivation facilities within the Town.*

   a. The number of retail marijuana cultivation facilities permitted within the Town is based on population. A maximum of one retail marijuana cultivation facility shall be permitted for every 5,000 people or fraction thereof. Population shall be determined by the most recent data available from the U.S. Census Bureau and the State demographer's office.

   b. In the event more than one land use application for a retail marijuana cultivation facility of the same classification are submitted to the Town in close proximity to one another, the applications comply with all the requirements of this chapter, Chapter 5.17 of this Code and the Colorado Retail Marijuana Code, but the Town is not permitted to approve all of the applications because of the limitations set forth in this subsection U, the Board of Trustees shall first review for approval the application which was first submitted and determined to be complete by the Town Planner, or their designee.

3. *Limitation on the number of retail marijuana products manufacturing facilities within the Town.*

   a. The number of retail marijuana products manufacturing facilities permitted within the Town is based on population. A maximum of two retail marijuana products manufacturing shall be permitted for every 5,000 people or fraction thereof. Population shall be determined by the most recent data available from the U.S. Census Bureau and the State demographer's office.

   b. In the event more than one land use application for a retail marijuana products manufacturing facility of the same classification are submitted to the Town in close proximity to one another, the applications comply with all the requirements of this chapter, Chapter 5.17 of this Code and the Colorado Retail Marijuana Code, but the Town is not permitted to approve all of the applications because of the limitations set forth in this subsection U, the Board of Trustees shall first review for approval the application which was first submitted and determined to be complete by the Town Planner, or their designee.

4. *Permitted locations.*

   a. Retail marijuana stores and retail marijuana cultivation facilities shall only be located in the Commercial General (CG) and Industrial (I) Zone Districts and are located a minimum of 1,750 feet from the centerline of Eby Creek Road pursuant to a special use permit. Refer to map at the end of this section labeled Exhibit A.

   b. Retail marijuana products manufacturing facilities shall only be located on properties along Chambers Avenue that are within the Commercial General (CG) and Industrial (I) Zone

Districts and are located a minimum of 1,750 feet from the centerline of Eby Creek Road pursuant to a special use permit. If any portion of such property is within the required minimum distance from Eby Creek Road, no retail marijuana products manufacturing facility shall be permitted on that property. Refer to map at the end of this section labeled Exhibit A.

5. *Distance from schools, licensed childcare facilities, alcohol or drug treatment facilities and college campus.* All retail marijuana businesses shall be located a minimum of 1,000 feet from schools, as defined in the Colorado Retail Marijuana Code, licensed childcare facilities, alcohol or drug treatment facilities, and the campus of a college or university.

6. *Distance from residential zone district.* All retail marijuana businesses shall be located a minimum of 100 feet from any residential zone district which shall be measured from the zone district boundary line to the subject property line.

V. *Marijuana testing facilities.*

1. *Limitation on the number of marijuana testing facilities within the Town.*

a. The number of marijuana testing facilities permitted within the Town is based on population. A maximum of one marijuana testing facility shall be permitted for every 5,000 people or fraction thereof. Population shall be determined by the most recent data available from the U.S. Census Bureau and the State demographer's office.

b. In the event more than one land use application for a marijuana testing facility of the same classification are submitted to the Town in close proximity to one another, the applications comply with all the requirements of this chapter, the Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code, but the Town is not permitted to approve all of the applications because of the limitations set forth in this Subsection (V), the Town Council shall first review for approval the application which was first submitted and determined to be complete by the Town Planner, or their designee.

2. *Permitted Locations.* Marijuana testing facilities shall only be located on properties along Chambers Avenue that are within the Commercial General (CG) and Industrial (I) Zone Districts and are located a minimum of 1,750 feet from the centerline of Eby Creek Road pursuant to a special use permit. If any portion of such property is within the required minimum distance from Eby Creek Road, no marijuana testing facility shall be permitted on that property. Refer to map at the end of this section labeled Exhibit A.

3. *Distance from schools, licensed child care facilities, alcohol or drug treatment facilities and college campus.* All marijuana testing facilities shall be located a minimum of 1,000 feet from schools, as defined in the Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code, licensed child care facilities, alcohol or drug treatment facilities, and the campus of a college or university.

4. *Distance from residential zone district.* All marijuana testing facilities shall be located a minimum of 100 feet from any residential zone district which shall be measured from the zone district boundary line to the subject property line.

5. *Restrictions on mobile facilities and delivery of marijuana products.* No marijuana testing facility shall be located in a movable or mobile vehicle or structure and no marijuana products shall be delivered in the Town unless such delivery is specifically permitted by the Colorado Medical Marijuana Code or the Colorado Retail Marijuana Code.

6. *Hours of operation.* Marijuana testing facilities shall limit their hours of operation to 8:00 a.m. to 12:00 midnight, Monday through Sunday, or as otherwise provided in the special use permit.

7. *Operation of multiple businesses at single location.* A person may operate any medical marijuana business and any retail marijuana business permitted by this section at the same location if in full compliance with the requirements of the Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code.

8. *No products to be visible from public places.* Marijuana plants, products, accessories, and associated paraphernalia contained in a marijuana testing facility shall not be visible from a public sidewalk, public street or right-of-way, or any other public place.

9. *No beer or alcohol on premises.* No fermented malt beverages and no alcohol beverages, as defined in the Colorado Beer Code and Colorado Liquor Code, respectively, shall be kept, served or consumed on the premises of a marijuana testing facility.

10. *Consumption of marijuana prohibited.* No consumption or smoking of any marijuana products shall be allowed or permitted on the premises or adjacent grounds of a marijuana testing facility.

11. *Storage of products.* All products and accessories shall be stored completely indoors and on-site.

12. *Prevention of emissions and disposal of materials.*

    a. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting the business premises shall be provided at all times. In the event that any debris, dust, fluids or other substances shall exit the business premises, the property owner and operator shall be jointly and severally responsible for the full cleanup immediately.

    b. Testing facilities shall properly dispose of all materials and other substances in a safe and sanitary manner in accordance with State regulations and county landfill regulations.

    c. As applicable, marijuana testing facilities shall be equipped with ventilation systems with carbon filters sufficient in type and capacity to eliminate marijuana odors emanating from the interior to the exterior of the premises discernible by reasonable persons. The ventilation system must be inspected and approved by the Building Official.

    d. All State regulations concerning ventilation systems shall be followed.

13. *Compliance with other codes.* Any marijuana testing facility and the adjacent grounds of the marijuana testing facility shall comply with all zoning, health, building, fire and other codes and ordinances of the Town as shown by completed inspections and approvals by the Town Planner, Building Department, Greater Eagle Fire Protection District, and the County Health Department, if applicable.

14. *No harm to public health, safety or welfare.* The licensed marijuana premises and adjacent grounds of a marijuana testing facility shall be operated in a manner that does not cause any substantial harm to the public health, safety and welfare.

15. *Additional requirements.* At the time a special use permit is granted, amended or any time the Town Council approves a major change to a marijuana testing facility, the Town Council may impose on the applicant any conditions related to the proposed use that is reasonably necessary to protect the public health, safety or welfare, including, but not limited to, the following:

    a. Additional security requirements;

    b. Limits and requirements on parking and traffic flows;

    c. Requirements for walls, doors, windows, locks and fences on the licensed marijuana premises and adjacent grounds;

    d. Requirements and limits on ventilation and lighting;

e. Limits on noise inside the licensed premises or on the adjacent grounds;

f. Prohibitions on certain conduct in the marijuana testing facility;

g. Limits on hours of operation that are more restrictive than prescribed by Subsection (V)(6) of this section;

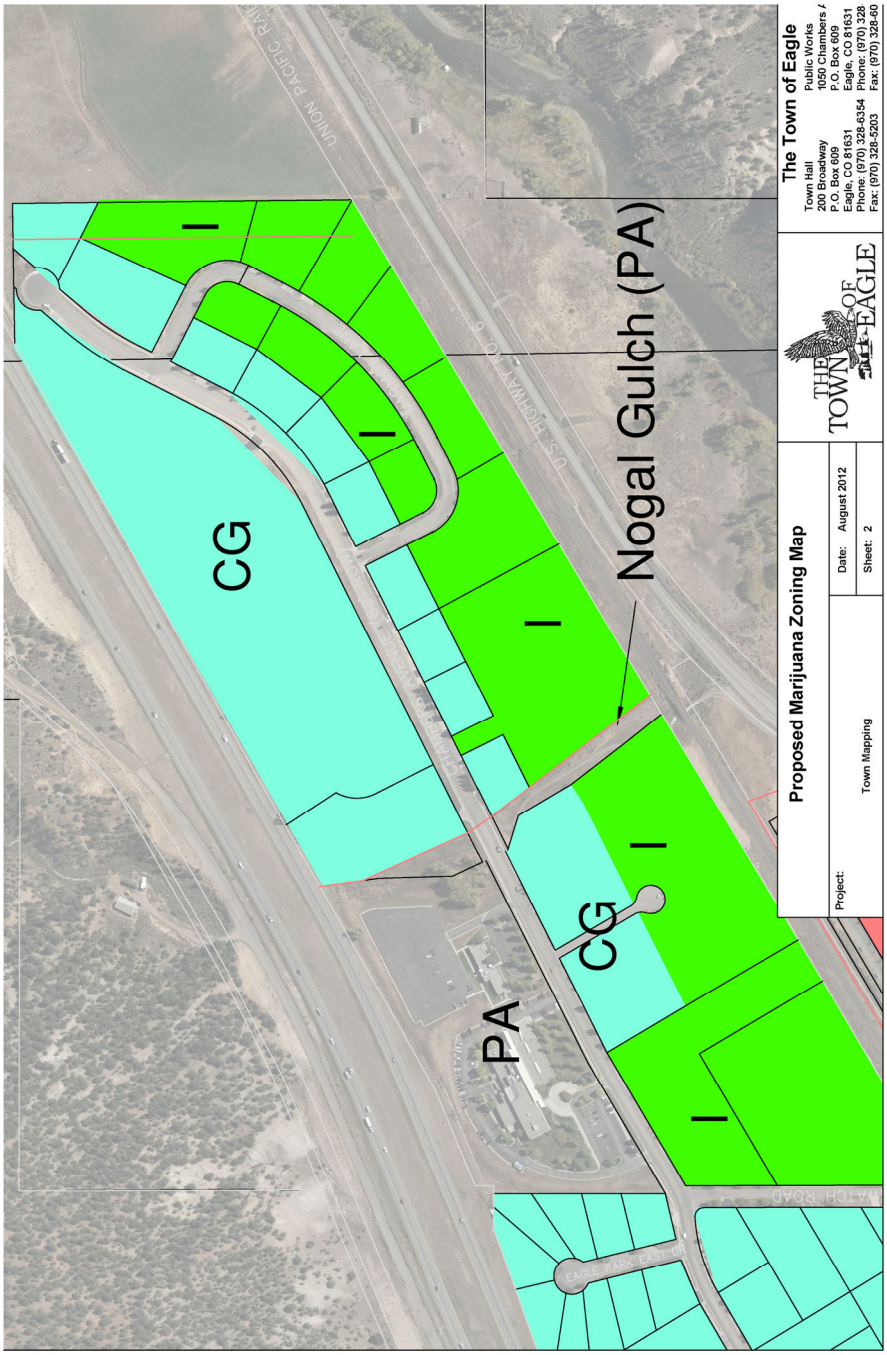
h. A requirement that the applicant temporarily close the marijuana testing facility to the public until certain changes, inspections or approvals are made; and

i. A limitation on the square footage of the marijuana testing facility.

(Ord. No. 1986-03, § 4.04.100, 3-5-1986; Ord. No. 26-2016, §§ 3—6, 8-23-2016; Amended 10-22-2013; Ord. No. 28-2018 , §§ 1—3, 8-14-2018; Ord. No. 08-2020 , § 1, 4-28-2020; Ord. No. 11-2021 , § 1, 8-10-2021; Ord. No. 17-2021 , § 1, 12-14-2021)

Exhibit A
Area Where Medical Marijuana Businesses,
Retail Marijuana Businesses, and
Marijuana Testing Facilities are Permitted

(Ord. No. 28-2018 , § 3, 8-14-2018)



Section 4.04.110. Inclusionary residential requirements for local employee residency.

A. *Purpose.*

1. The purpose of this section is to mitigate the impact of market rate housing construction on the limited supply of available land suitable for housing, and to increase the supply of housing that is affordable to a broad range of persons who live and/or work in the Town. In recent years, the cost of housing has increased at a rate much faster than the increases in the earnings of low to moderate income

households. This section will prevent the Town's land use regulations applicable to residential development from having the effect of excluding housing that meets the needs of all economic groups within Eagle.

2. This section requires new residential development to provide at least ten percent of the housing that it produces to be affordable to lower and moderate income households as further defined in the local employee residency requirements and guidelines. Local employee residences shall be obtainable by persons having lower and median incomes, paying not more than 33 percent of their household income for mortgage principal and interest payments, insurance, and property taxes, but excluding homeowners' association assessments. Local employee residences should be disbursed throughout the community and, when possible, integrated into the existing community fabric.

3. The Town recognizes that affordable housing is a valuable community resource that needs to remain available not only for current residents and employees, but also for those who may come to the area in the future. For this reason, deed restrictions or other methods that assure that prices remain affordable over time are necessary.

B. *Definitions.* The words, terms, phrases and clauses used in this section shall have the meaning assigned in this subsection. Any words, terms, phrases and clauses not defined herein shall have the meaning as defined in other parts of this Code. Any words, terms or phrases not defined in this Code shall have the meaning assigned in Webster's Third New International Dictionary, 1993, unabridged. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Area median income means median family income estimates and program income limits compiled and released annually by the U.S. Department of Housing and Urban Development. Such figures shall be utilized by the Town in the establishment of initial maximum sales proceeds for local employee residences.

Development means the division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any excavation or other land disturbance; or any use or extension of use that alters the character of the property.

Dwelling means a building or portion thereof or a mobile home used for residential occupancy, not including motels, hotels, or other overnight lodging accommodations.

Dwelling, two-family, means one building on one lot designed to be occupied by two families living independently of each other.

Local employee residence means a residential lot or separate dwelling unit that is deed restricted in accordance with the Town's local employee residency requirements and guidelines, and in accordance with a deed restriction approved by the Town Council or its designee.

Local employee residency requirements and guidelines means the requirements and guidelines adopted by resolution of the Town Council, from time to time, which may include, but shall not be limited to, standards concerning the procedure for qualifying to own or rent local employee residences; the requirements (e.g., residency) for qualifying to own or rent local employee residences; forms of approved deed restrictions; limitations on appreciation of sale prices of local resident housing; procedures for sale of local employee residences; priorities for persons bidding to purchase local employee residences; occupancy requirements; size, rental, and sales price limitations; maximum sales and rental rate increases; standards for the number of residents per dwelling unit; quality of construction requirements for new local employee residences; and possible incentives for the construction of local employee residences. The local employee residency requirements and guidelines, and any subsequent amendments thereto, shall be adopted following a duly noticed public hearing at which such guidelines are considered.

C. *Applicability.* Local employee residences shall be required as a condition of approval for all residential development including residential annexations, residential planned unit developments (PUDs) (Chapter

4.11), residential subdivisions (Chapter 4.12), and multifamily residential development permits (Chapter 4.06), as well as special use permits for high density multifamily dwellings in the Residential Multi-Family (RMF) and Central Business District (CBD) Zone Districts (Section 4.05.010).

D. *Exemptions.* The following development is exempt from the requirements of this section:

1. Development of local employee residences.

2. Proposed residential development of less than ten units or lots to be located on one or more contiguous parcels of land held under the same or substantially the same ownership.

3. Development which is exempt by virtue of a vested property right pursuant to a site-specific development plan as defined and established in accordance with C.R.S. § 24-68-103 and Chapter 4.17 prior to the effective date of the ordinance from which this section is derived, or which is otherwise specifically exempt pursuant to an ordinance of the Town.

E. *Residential development requirements.*

1. *Number of local employee residences required.* All residential annexations, new residential subdivisions, new planned unit developments containing residential units, development permits for new multifamily residential developments and special use permits for high density multifamily dwellings, approved after the effective date of the ordinance from which this section is derived, containing ten or more residential units, shall set aside at least ten percent of those units as local employee residences as defined in this section and the Town's local employee residency requirements and guidelines. In addition, the developer of such project shall construct local employee residences in accordance with the Local employee residency requirements and guidelines. For those development of less than 30 units whose calculation results in a fraction of a unit, the local employee residence requirement shall be rounded down to the nearest integer. For those developments of 30 or more residential units whose calculation results in a fraction of a unit, the local employee residence requirement shall be rounded to the nearest integer (up or down).

2. *Determination of mix units.* The mix of local employee residences available for purchase shall average a price affordable to households earning 90 percent of the maximum income limits as set forth in the Town's local employee residency requirements and guidelines. The affordable price shall be calculated based on mortgage principal, interest, taxes, and insurance, not to exceed 33 percent of gross household income. The calculation shall assume a 95 percent loan to value ratio, and a 30-year mortgage at prevailing interest rates. The average price may be achieved by providing units affordable to households not greater than 100 percent of the maximum income limits as set forth in the Town's local employee residency requirements and guidelines.

3. *Location and character of local employee residences.* Local employee residences shall be distributed throughout the proposed development, to the extent possible. Off-site local employee residences may be approved, with the developer's consent in the Town's discretion, at a location to be determined by agreement of the Town and the developer. A cash payment in lieu of local employee residences may be permitted, with the developer's consent in the Town's discretion, in an amount to be determined by agreement of the Town and the developer. The proposed character and density of local employee residences shall be compatible with the surrounding land uses and neighborhood character, and suitable for the proposed site. Development and construction of local employee residences shall comply with all other requirements of this Title.

4. *Schedule for construction of local employee residences.* A developer shall construct the required local employee residences prior to, or concurrently and proportionally with, the production of market rate housing or the sale of market rate lots. Prior to receiving development approval, the developer shall provide the Town with a proposed construction schedule for approval by the Town that clearly delineates the start and completion dates of the production of market rate units and/or the sale of

market rate lots and the construction of local employee residences in accordance with the Town's local employee residency requirements and guidelines.

5. *Deed restrictions.* All local employee residences required by this section shall be deed restricted, in accordance with the requirements of the local employee residency requirements and guidelines, and as approved by the Town Attorney, as to rental or ownership and occupancy by persons and as to the resale price of the unit. The deed restriction shall be provided to the developer for review at the time of approval of the developer's local employee residency plan. Prior to the issuance of any building permit within the development, the Town shall have an approved, executed and recorded deed restriction for all local employee residence lots or units in the project or phase of the project, if applicable. Such deed restrictions shall not be subject to any recorded liens or encumbrances.

F. *Local employee residency plan.*

1. All applications for approval of a subdivision preliminary plan, planned unit development plan, development permit or special use permit for high density multifamily dwellings, containing ten or more residential units, shall be accompanied by a local employee residency plan, unless otherwise determined by the Town Planner. Such plan shall contain sufficient information to allow the Town to determine the plan's compliance with this section and the Town's local employee residency requirements and guidelines. The local employee residency plan shall include, but shall not be limited to, the information specifically required by the Town's local employee residency requirements and guidelines.

2. Upon receipt of a complete proposed local employee residency plan, the Town Planner shall evaluate the plan for compliance with this section and the Town's local employee residency requirements and guidelines. The Town Planner may make a recommendation of approval, recommendation of approval with appropriate conditions, or a recommendation of denial. Following receipt of the Town Planner's recommendation, and as a part of the Town's procedures for review and final approval of any application for an annexation, planned unit development, subdivision, development permit, or special use permit for high density multifamily dwellings, containing ten or more residential units, the Town Council, Planning Commission or administrative staff member vested with authority to approve any such development may approve the plan, approve the plan with appropriate conditions consistent with the Town's local employee residency requirements and guidelines, or deny approval of such plan. No application for annexation, subdivision final approval, planned unit development plan approval, development permit approval, or special use permit approval for high density multifamily dwellings, containing ten or more residential units, shall be granted unless the local employee residency plan is approved or approved subject to conditions by the Town.

(Amended 9-8-2002; Ord. No. 21-2019 , § 1, 9-10-2019; Ord. No. 08-2020 , § 1, 4-28-2020)

CHAPTER 4.05. ZONING REVIEW PROCEDURES

Section 4.05.010. Special use.

A. *Conditions for special use.*

1. *All special uses.*

a. A special use permit may be granted for a use in a particular zone district, as provided in Subsection (B) of this section, provided the Planning Commission and Council find the following:

1. The proposed use is consistent with the provisions of this chapter and with the Town's goals, policies and plans;

2. The proposed use is compatible with existing and allowed uses surrounding or affected by the proposed use;

3. Street improvements adequate to accommodate traffic volumes generated by the proposed use and provision of safe, convenient access to the use and adequate parking are either in place or will be constructed in conjunction with the proposed use, as approved by the Town; and

4. The special conditions for specific uses, as provided in this section, are met.

b. In granting a special use permit, the Planning Commission and Council shall impose such restrictions on the proposed use as they find necessary to protect the public health, safety and welfare, including, but not limited to, restrictions equal to or more restrictive than requirements of the zone district regulations regarding area, setback, coverage, and height of proposed structures; off-street parking; safety of ingress and egress; physical separation in distance from other uses or buildings; landscaped buffer areas; screening fences; and any other provisions they find necessary. A special use permit may be limited as to duration of not less than three years, location, the party entitled to the benefit thereof, and/or other specifics.

c. All special uses that attract or produce additional vehicular trips shall pay a street improvement fee in accordance with Section 4.13.220.

d. All special uses requiring additional fire protection services shall pay a fire protection services impact fee in accordance with Section 4.13.230.

2. *Industrial operations.* Every industrial use requiring a special use permit shall be designed to conform with Section 4.04.100(L) and operated so as to have no adverse effect on:

a. Existing lawful use of water through depletion or pollution of surface run-off, stream flow or groundwater.

b. Wildlife and domestic animals through creation of hazardous attractions, blockade of migration routes or patterns or other means.

3. *High density multiple-family dwellings.*

a. In the Residential Multi-Family (RMF) Zone District, high density multiple-family dwellings shall be allowed as a special use at the maximum density of one dwelling unit per 2,500 square feet of lot area provided that, in addition to all other applicable standards and requirements, the lot area shall include a minimum of 600 square feet of usable open space, as defined in this Title, per dwelling unit.

b. In the Central Business District (CBD) Zone District, high density multiple-family dwellings shall be allowed as a special use provided that, in addition to all other applicable standards and requirements, the lot area shall include a minimum of 300 square feet of usable open space, as defined in this Title, per dwelling unit.

c. As a condition of any special use permit for high density multifamily dwellings in the Residential Multi-Family (RMF) Zone District and the Central Business District (CBD) Zone District, containing ten or more residential units, the applicant shall provide local employee residences in accordance with Section 4.04.110 and the Town's local employee residency requirements and guidelines.

4. *Bed and breakfast facility.* A bed and breakfast facility may be allowed as special use in certain zone districts, as set forth herein, provided all of the following conditions and standards, in addition to those imposed by the Planning Commission and/or Town Council, are met:

a. A bed and breakfast facility is an owner-occupied, single-family residential dwelling unit that contains no more than three guest bedrooms where overnight lodging, with or without meals, is

provided for compensation. Kitchen and dining facilities serve only residents and guests and are not operated or used for any commercial activity other than that necessary for bed and breakfast purposes;

b. The bed and breakfast use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes and shall not change the residential character thereof;

c. There shall be no advertising display or other indication of the bed and breakfast use on the premises other than a single six square foot unlighted sign that is otherwise in compliance with the provisions of Chapter 4.08;

d. A minimum of one parking space per guest and resident bedroom shall be required and shown on a site plan. Additional landscape screening may be required;

e. Basement bedrooms shall have adequate egress;

f. The bed and breakfast facility shall comply with all building codes adopted by the Town, and any requirements in fire codes adopted by the Greater Eagle Fire Protection District;

g. The bed and breakfast facilities shall be subject to the street improvement fee set forth in Section 4.13.220, the fire protection impact fee set forth in Section 4.13.230, and the lodging occupation tax set forth in Chapter 5.05;

h. It shall be the responsibility of the applicant to demonstrate that the relevant subdivision's, covenants, condition or restrictions allow for a bed and breakfast use and/or associated signing; and

i. Existing uses in addition to that of a dwelling unit (e.g., home occupation, accessory dwelling unit, etc.), if any, will be considered as part of the special use review.

B. *Procedures for special use review.*

1. *Application.*

a. Each application for a special use permit shall be made on a form provided by the Town, and signed by the applicant, which clearly states the nature of the proposed use and reasons in support thereof. The application shall be accompanied by:

1. Proof of ownership of the land for which the application is made. If the applicant is other than the owner, notarized consent of the owner is required;

2. A site plan drawn to scale depicting the locations and boundaries of existing and proposed lots and structures;

3. The proper special use permit fee as set by the Town;

4. A list of names and addresses of owners of record of all property within 250 feet;

5. Any other information which the Town Planner determines is necessary to determine whether the special use will comply with the Town's regulations, goals and policies; and

6. Applications for special use permits for high density multifamily dwellings, containing ten or more residential units, shall include a local employee residency plan pursuant to Section 4.04.110 and the Town's local employee residency requirements and guidelines.

b. A minimum of 20 copies of the completed application, site plan and supporting materials, except proof of ownership, shall be submitted to the Town Planner at least 30 calendar days prior to the Planning Commission meeting at which it is to be reviewed.

2. *Staff/agency review.* The Town Planner shall review the application with appropriate staff or other agencies and shall provide copies of the application and staff or agency comments to the Planning Commission members.

3. *Planning Commission review.* The Planning Commission shall review the application at a regular meeting, at which it shall hold a public hearing on the application, following procedures and public notice requirements of Sections 4.03.060 and 4.03.070. The applicant or his representative shall be present at the meeting to represent the proposal. The Commission shall take one of the following actions:

    a. Approve the special use and recommend to the Town Council that a special use permit be granted, subject to any conditions they find necessary to protect the public health, safety and welfare or to ensure compliance with the Town's regulations, goals, and policies;

    b. Recommend denial of the special use permit, stating the specific reasons for denial; or

    c. Continue the hearing pursuant to Chapter 2.20, with the requirement that the applicant submit changes or additional information which they find necessary to determine whether the proposal complies with the Town's regulations, goals, policies.

4. *Further review by Planning Commission*

    a. In the event the hearing is continued pursuant to Subsection (B)(3)(c) of this section, the applicant shall submit 15 copies of the required changes or information to the Town Planner at least ten days prior to the Planning Commission meeting at which the application is to be reconsidered. The Town Planner shall review the additional submittal with appropriate staff or agencies and shall distribute copies of the submittal to the Planning Commission members, along with comments from the staff or agencies.

    b. At the continued hearing, the applicant or his representative shall be present to represent the application. At this meeting, the Planning Commission shall take on one of the following actions:

        1. Approve the special use and recommend to the Town Council that a special use permit be granted, subject to any conditions they find necessary to protect the public health, safety and welfare or to ensure compliance with the Town's regulations, goals and policies;

        2. Recommend denial of the special use permit, stating the specific reasons for denial; or

        3. Continue the hearing pursuant to Chapter 2.20.

5. *Town Council review.*

    a. After the Planning Commission has made its recommendation for issuance or denial of the special use permit, the Town Planner shall distribute copies of the application to the Council members, along with relevant excerpts from Planning Commission meeting minutes and copies of staff or agency comments.

    b. The Council shall review the application at a regular meeting within 30 days of the Planning Commission recommendation, or such longer period as may be agreed to by the applicant and the Town, at which it shall hold a public hearing on the application. At such hearing, the Council shall consider the recommendations of the Planning Commission and the comments, testimony and other evidence presented. The applicant or his representative shall be present to represent the proposal. The Council shall take one of the following actions:

        1. Approve the proposed special use, subject to any conditions it finds necessary to protect the public health, safety and welfare or to ensure compliance with the Town's regulations, goals and policies;

2. Deny the special use applied for, stating the specific reasons for denial; or

3. Continue the hearing pursuant to Chapter 2.20.

c. If the special use permit is approved, the Council shall authorize issuance of a written special use permit, subject to such conditions as it finds necessary to protect the public health, safety and welfare and to ensure compliance with the Town's regulations, goals and policies. In the event no building permit has been applied for or the special use has not been established within three years of the approval date, the special use permit shall be null and void.

C. *Performance guarantee.*

1. In order to secure the construction and installation of street improvements, access improvements, parking improvements, landscape improvements, and any other improvements required by the Town as a condition of the issuance of a special use permit, the applicant shall, prior to the issuance of the special use permit, furnish the Town with:

a. A certificate or other evidence in good and sufficient form approved by the Town Attorney of a performance bond or an irrevocable letter of credit to secure the performance and completion of such improvements in an amount equal to 110 percent of the estimated costs of said facilities; or

b. Such other collateral as may be satisfactory to the Town Attorney. The estimated cost of such improvements shall be a figure mutually agreed upon by the applicant and the Town Planner. The purpose of such cost estimate is solely to determine the amount of security and may be revised from time to time to reflect the actual cost. No representation shall be made as to the accuracy of these estimates, and the applicant shall in any event pay the actual cost of such required improvements.

2. All improvements required to be constructed shall be warranted to be free of any defects in materials or workmanship for a period of 12 months following completion and approval by the Town. If any such improvements are public improvements, they shall also be dedicated or conveyed to the Town.

3. Upon the applicant's failure to perform its obligations as required by the conditions for the issuance of the special use permit, and in accordance with all plans, drawings, specifications and other documents submitted to the Town as approved, within the required time periods, the Town may give written notice to the applicant and the surety on a performance bond or the issuer of an irrevocable letter of credit, that the Town, as agent for the applicant, is proceeding with the task of installing the required improvements in whole or in part. Upon the assumption by the Town, the surety or issuer of the irrevocable letter of credit shall be authorized to disburse funds, upon written request from the Town, showing the proposed payee and the amount to be paid. Copies of any such request shall be sent to the applicant's last known address. The applicant shall be given an opportunity to appear before the Town Council concerning any such assumption by the Town, within 30 days after the giving of such notice by the Town.

4. The applicant shall in writing designate and irrevocably appoint the Mayor of the Town as its Attorney-in-fact and agent for the purpose of completing all of the improvements required by the special use permit in event of a default by the applicant.

5. If any legal proceedings are commenced by the applicant concerning the Town's assumption of the task of installing the required improvements, and if the applicant does not prevail in said legal proceedings, the surety or issuer of the letter of credit as well as the Town shall be entitled to recover the reasonable Attorney's fees and costs incurred therein from the applicant.

D. *Revocation of special use permit.* Any special use permit granted under this chapter may be revoked, following a public hearing, upon a determination that the owner of the property subject to the special use permit, or holder of the permit if different from the owner, has violated one or more of the conditions or

requirements contained in the special use permit, including the conditions set forth in Section 4.17.050. In the event the Town Planner has reasonable cause to believe that one or more conditions or requirements of the special use permit has been violated, the Town Planner shall serve the record owner of the property subject to the special use permit and the holder of such permit if other than the owner, in person or by certified mail, return receipt requested, a notice to show cause why the special use permit should not be revoked and any vested property rights related thereto forfeited. Such notice shall state the date, time and place for a public hearing at which the Town Council or designated Hearing Officer will consider whether the special use permit should be revoked. The notice shall also set forth a concise statement of the grounds for revocation. The notice shall be served at least 15 days prior to the date of the hearing. The public hearing shall be conducted by the Town Council, or a Hearing Officer appointed by the Town Council, pursuant to Chapter 2.20. Following such hearing, the Town Council shall issue a written decision either revoking the special use permit or finding insufficient evidence exists to revoke the permit.

(Ord. No. 1986-03, § 4.05.010, 3-5-1986; Amended 6-2-1991; Amended 7-15-1996; Amended 4-17-1997; Amended 9-8-2002; Amended 5-8-2007; Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.05.020. Zoning variance.

A. *Conditions for zoning variance.*

1. A variance from the strict application of any zone district requirement or supplementary regulation of this chapter may be granted by the Planning Commission following the procedures and conditions herein, except that no use shall be allowed in any zone district in which it is not listed as a permitted or special use. The Planning Commission may grant a variance provided it finds both Subsections (A)(1)(a) and (b) of this section and either Subsection (A)(1)(c) or (d) of this section are applicable.

    a. That the variance granted is without substantial detriment to the public good and does not impair the intent and purposes of the Town's regulations, goals, policies and plan, including the specific regulation in question; and

    b. That the variance granted is the minimum necessary to alleviate the hardship; and

    c. That there exists on the property in question exceptional topography, shape, size or other extraordinary and exceptional situation or condition peculiar to the site, existing buildings, or lot configuration such that strict application of the zone district requirements from which the variance is requested would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property in question; or

    d. That such exceptional situation or condition was not induced by any action of the applicant and is not a general condition throughout the zone district.

2. In granting a zoning variance, the Planning Commission shall modify the application of the regulation so that the spirit of the title is observed, public safety and welfare secured, and substantial justice done.

3. Pursuant to C.R.S. § 31-23-307, as amended, the Planning Commission may vary or modify the application of zoning regulations for the purpose of considering access to sunlight for solar energy devices.

B. *Procedures for variance review.*

1. *Application.*

    a. Each application for a zoning variance shall be made on a form provided by the Town, and signed by the applicant which clearly states the reasons for the request and how it complies with the conditions for variance. The application shall be accompanied by:

1. Proof of ownership of the land for which the application is made. If the applicant is other than the owner, notarized consent of the owner is required;

2. A site plan drawn to scale depicting the locations and boundaries of existing and proposed lots and structures;

3. The proper zoning variance fee as set by the Town; and

4. A list of names and addresses of owners of record of adjacent property.

b. A minimum of 20 copies of the application, site plan and supporting materials shall be submitted to the Town Planner at least 15 calendar days prior to the Planning Commission meeting at which the variance request is to be reviewed.

2. *Staff/agency review.* The Town Planner shall review the application with appropriate staff or other agencies and shall provide copies of the application and staff or agency comments to the Planning Commission.

3. *Planning Commission review.*

a. The Planning Commission shall review the zoning variance request at a regular meeting at which it shall hold a public hearing on the application. Public notice shall be given pursuant to Section 4.03.060. The applicant or his representative shall be present to represent the proposal. The Planning Commission shall take one of the following actions:

i. Grant the zoning variance, subject to Subsection (A) of this section;

ii. Deny the zoning variance, stating the specific reasons for denial; or

iii. Continue the hearing pursuant to Chapter 2.20.

b. Any decision of the Planning Commission shall be final, from which an appeal may be taken to a court of competent jurisdiction as provided in accordance with C.R.S. § 31-23-307.

(Ord. No. 1986-03, § 4.05.020, 3-5-1986; Amended 6-2-1991)

Section 4.05.030. Rezoning.

A. *Conditions for rezoning.* The Town Council may amend the number, shape, or boundaries of any zone district, removing any property from one zone district and adding it to another zone district, only after recommendation of the Planning Commission. A rezoning may be granted where the findings are made:

1. That the rezoning is compatible with surrounding land uses, and is consistent with the Town's goals, policies and plans;

2. That the land to be rezoned was previously zoned in error or the existing zoning is inconsistent with the Town's goals, policies and plans;

3. That the area for which rezoning is requested has changed substantially such that the proposed rezoning better meets the needs of the community; or

4. That the rezoning is incidental to a comprehensive revision of the Town's zoning map which recognizes a change in conditions and is consistent with the Town's goals, policies and plans.

B. *Procedures for rezoning.*

1. *Application.*

a. Rezoning action may be initiated by the Planning Commission, the Town Council or by a minimum of 50 percent of the owners of the property to be rezoned. When a rezoning request is initiated

by other than the Town, the request for rezoning shall be made on an application form provided by the Town. The application shall be accompanied by:

1. Proof of ownership of the land for which the application is made;
2. A petition requesting the zoning change signed by owners of at least 50 percent of the land area proposed for rezoning;
3. A site plan depicting the location and boundaries of existing and proposed lot(s) and structures; and
4. The proper zoning action request fee as set by the Town.

b. A minimum of 20 copies of the application, site plan and supporting materials shall be submitted to the Town Planner at least 30 calendar days prior to the Planning Commission meeting at which the rezoning request is to be reviewed.

c. Review of a rezoning request may occur concurrently with review for a development permit, pursuant to Section 4.06.020; a special use permit, pursuant to Section 4.05.010; or a subdivision, pursuant to Section 4.12.020; at the option of the applicant.

2. *Staff/agency review.* The Town Planner shall review the application with appropriate staff and other agencies and shall provide copies of the application and comments to the Planning Commission members.

3. *Planning Commission review.* Whether initiated by the Town or property owner(s), the Planning Commission shall review the zoning application at a regular meeting within 30 days of the application submittal, at which it shall hold a public hearing on the application. Public notice shall be given pursuant to Section 4.03.060, except that when an entire zone district is to be rezoned, notice to the owners of land within such district shall be made by published notice rather than mailed notice. The applicant, if any, or his representative, shall be present at the meeting to represent the proposal. The Planning Commission shall take one of the following actions:

a. Approve the rezoning and recommend to the Town Council that an ordinance be enacted to rezone the subject property;

b. Recommend denial of the rezoning stating the specific reasons for denial; or

c. Continue the hearing pursuant to Chapter 2.20.

4. *Town Council review.*

a. After the Planning Commission has made its recommendation for approval or denial, the Town Planner shall distribute copies of the rezoning application, staff comments, and Planning Commission minutes to the Council members.

b. The Council shall review the application at a regular meeting within 30 days of the Planning Commission recommendation, or such longer period as may be agreed to by the Town and the applicant, at which it shall hold a public hearing on the application. Public notice shall be given as for the Planning Commission hearing. At such hearing, the Council shall consider the recommendations of the Planning Commission and the comments, testimony and other evidence presented. The applicant, if any, or its representative, shall be present at the meeting to represent the proposal.

c. The Council shall take one of the following actions:

1. Approve the proposed rezoning, after a finding that the criteria for rezoning have been met pursuant to Subsection (A) of this section. If the rezoning is approved by the Town Council,

it shall enact an ordinance to such effect and the rezoning shall become effective 30 days after publication of said ordinance;

2. Deny the rezoning application, stating the specific reasons for such denial; or

3. Continue the hearing pursuant to Chapter 2.20.

d. In case of a protest against a rezoning which is submitted to the Town Clerk at least 24 hours before the Town Council's vote on the rezoning, and which is signed by the owners of 20 percent or more of either the area included in the proposed rezoning or of the land extending a radius of 250 feet from the land included in the proposed rezoning, then such rezoning shall not become effective except upon favorable vote by three-fourths of the entire membership of the Council, whether present or not.

(Ord. No. 1986-03, § 4.05.030, 3-5-1986; Amended 8-9-1988; Amended 5-8-2007; Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.05.040. Amendment to zone district regulations.

A. *Conditions for amendment.* The Town Council may, after the recommendation of the Planning Commission, amend any regulation of any zone district, which amendment may be initiated by the Town or by the owner of real property within a zone district for which a change is proposed. Amendment to zone district regulations may be made upon a finding that the amendment is consistent with the Town's goals, policies and plans.

B. *Procedures for amendment.*

1. *Application.*

a. When a zoning regulation amendment is proposed by other than the Town, such proposal shall be accompanied by a request signed by the owners of at least 50 percent of the land area within the districts to be affected by the amendment.

b. The amendment to zone district regulations fee shall be paid at time of application submittal when proposed by an applicant other than the Town.

2. *Review.* A request for a zoning regulation amendment proposed by an applicant other than the Town shall follow the procedures and public notice requirements as set forth for rezoning in Section 4.05.030.

(Ord. No. 1986-03, § 4.05.040, 3-5-1986; Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.05.050. Automatic termination of approvals.

A. Except as otherwise expressly provided in this chapter, any approval issued by the Town Council or the Planning and Zoning Commission pursuant to this chapter shall automatically terminate, without further action of the Town, unless, within 60 days of the date of approval, all conditions of approval have been satisfied and any associated plat, agreement or other document that is required to be recorded has been recorded with the County Clerk and Recorder.

B. The automatic termination shall not apply to any approved rezoning, but shall apply to all of the following, without limitation: variances, subdivision plats and lot line adjustments.

C. The Town Council or Planning Commission may modify the 60-day deadline in the motion, resolution or ordinance of approval, and in such case, the modified deadline shall control.

(Ord. No. 19-2020 , § 1, 7-16-2020)

CHAPTER 4.06. DEVELOPMENT REVIEW

Section 4.06.010. General.

In order to afford the Town the opportunity to review the potential impacts of proposed development on the Town, its environment, economy and people, and in order to direct such impacts so that they are in conformance with the goals and policies of the Town, all nonresidential development and multifamily dwellings for eight or more families, unless otherwise provided herein, shall be subject to the standards, procedures and requirements of this chapter, and Chapter 4.07.

(Ord. No. 1986-03, ch. 4.06, intro. ¶, 3-5-1986)

Section 4.06.020. Development permit.

A. The following shall require a development permit before issuance of a building permit:

1. Construction of any building for nonresidential use;
2. Renovation of or addition to any building for nonresidential use, which would require additional parking spaces, under Section 4.07.060, whether or not such spaces are actually required;
3. Renovation of or addition to any building for nonresidential use which would make a substantial change, as determined by the Town Manager, in the visual appearance of the building or in the visual impact of the building on its neighborhood;
4. Construction of any residential project containing eight or more dwelling units;
5. Establishment of a mobile home park pursuant to Chapter 4.09; or
6. Any planned unit development, as set forth in Chapter 4.11.

B. A development permit shall be issued only after the proposed development has been approved in accordance with the procedures for development review, as set forth in Sections 4.06.050 through 4.06.070 and after the appropriate reviewing body has determined that such proposed development is in conformance with the provisions of this chapter and Chapter 4.07, as well as the Town's goals and policies. The development permit shall specify the terms and conditions thereof and shall become effective on the date of final approval. The development permit shall be incorporated into the building permit and all conditions shall apply to the building permit. If more than three years elapse without the application for a building permit, a new development permit shall be required, following the procedures set forth in this chapter.

C. Every development requiring a development permit, as provided in this chapter, shall follow review procedures for either minor development or major development, as set forth in Sections 4.06.050 through 4.06.070. Development review may occur concurrently with review for special use, zoning variance, rezoning, or subdivision, at the option of the applicant. For any review which, pursuant to the provisions of this Title, requires Town Council review, no development permit shall be issued until such required Town Council approval is received.

D. Every development permit shall expire upon the first occurrence of the following events:

1. Three years from its effective date, unless application for a building permit is made or unless application for renewal of the development permit is approved, pursuant to this chapter;

2. Upon expiration of the building permit for such development if such expiration occurs at least three years following the effective date of the development permit; or

3. Upon abandonment of the development, if such abandonment occurs at least three years following the effective date of the development permit. Abandonment shall be defined as the date one year after the last significant progress toward the construction of the development occurred. Abandonment shall be determined at the sole discretion of the Building Official, and such determination may be appealed pursuant to Section 4.03.050.

E. A development permit may be renewed for a period not to exceed one year from its expiration date or abandonment date, whichever is later, by the Planning Commission. Application for renewal shall be made on a form furnished by the Town, which shall be submitted to the Town Planner at least 30 days before the Planning Commission meeting at which it is to be reviewed, and which shall be accompanied by the applicable renewal fee. For a minor development permit, the renewal request shall follow the procedures set forth in Section 4.06.060. For a major development permit, the renewal request shall follow procedures set forth in Section 4.06.070. In granting a renewal of the development permit, the Planning Commission or Town Council may add, delete or modify any terms and conditions of the permit, in accordance with this Code and the Town's goals and policies then in effect.

F. Performance guarantee—Public improvements.

1. *Acceptable types of security.* In order to secure the construction and installation of all on-site and off-site public improvements required by the Town pursuant to an approved development plan for which the developer is responsible, a developer shall furnish the Town with:

   a. Cash to be deposited in an escrow account that is acceptable to the Town Attorney;

   b. An irrevocable standby letter of credit that is acceptable to the Town Attorney;

   c. A performance bond issued by a surety approved by the Town Attorney; or

   d. Other security acceptable to the Town Attorney.

2. *Amount and delivery of security.*

   a. The amount of the security required by this section shall be in an amount equal to 110 percent of the estimated cost of all on-site and off-site public improvements.

   b. A developer shall provide the security to the Town prior to the issuance of a building permit. Unless expressly authorized by the Town Manager, a developer shall not commence any work within a development until such approved security is furnished to the Town.

   c. The estimated cost of the required public improvements shall be a figure provided by a developer and approved by the Town Engineer. The purpose of the cost estimate is solely to determine the amount of security required and may be revised from time to time to reflect the actual costs. No representations are made as to the accuracy of these estimates, and a developer shall be required to pay the actual cost of the required public improvements. Neither the estimated costs nor the amount of the security establishes the maximum amount of a developer's liability.

3. *Letter of credit standards.* In the event that a developer elects to deliver to the Town an irrevocable letter of credit as a performance guarantee, the following standards shall apply:

   a. The letter of credit shall be payable at sight to the Town, or its designee, and will bear an expiration date of not earlier than two years from the date of issuance; and

   b. A developer shall renew such letter of credit as necessary in order to secure the performance and completion of the required public improvements, for which a developer is responsible for, in accordance with this Subsection (F)(3), without further notice from the Town. If a developer fails

to provide the Town with a satisfactory substitute letter of credit at least 30 days prior to the expiration date of the letter of credit previously delivered, the Town may, at its sole option, draw the full amount of the letter of credit and hold the proceeds thereof as a performance guarantee deposit. The proceeds of such draw shall be deposited in a federally insured interest bearing account, and all interest earned thereon shall be added to and become part of the performance guarantee deposit.

4. *Additional security standards.* The initial performance bond or letter of credit, if applicable, issued to the Town by a developer shall bear an expiration date of not earlier than two years from the date of issuance. A developer shall be required to renew such security, as necessary, in order to secure the performance and completion of all, required public improvements, in accordance with this subsection, without further notice from the Town.

5. *Payment upon default.* The performance bond, letter of credit, or escrow funds shall be payable at any time upon presentation of an affidavit by the Town stating the developer is in default under this subsection, has received notice of such default as required by this subsection and has failed to cure such default within the time set forth in this subsection or in the case of a letter of credit, the developer has failed to renew the letter of credit as required herein. The performance bond, or letter of credit, or escrow and disbursement agreement or other acceptable security shall be in good and sufficient form as approved by the Town Attorney. In the event of a default by a developer and compliance with the terms of this subsection, the surety or financial institution shall disperse funds, upon written request by the Town, or the escrow fund may be drawn upon, showing the proposed payee and the amount to be paid. Copies of any such request shall be sent to the developer at its last known address.

6. *Release of security.*

   a. Upon completion of all of the required public improvements by a developer, and upon final inspection and approval by the Town Engineer of all such improvements, the Town Council, or its designee, shall further authorize the reduction of the amount of the security guaranteeing the required public improvements to ten percent of the total actual cost of such improvements.

   b. Any performance guarantee issued to the Town by a developer shall be fully released and discharged by action of the Town Council upon expiration of the 24-month warranty period, and the correction of any defects discovered during such warranty period. In the event that the correction of defects are not satisfactorily completed upon the expiration of the 24 months, the Town may require a new performance guarantee and withhold the issuance of any further building permits until a new public improvements guarantee is supplied.

7. *Notice of default.* Upon a developer's failure to perform its obligations under an approved development plan or development permit for which the developer is responsible for and in accordance with all other applicable plans, drawings, specifications and other documents as approved, within the applicable time periods the Town may give written notice to the developer of the nature of the default and an opportunity to be heard before the Town Council concerning such default. If such default has not been remedied within 30 days of receipt of the notice or of the date of any hearing before the Town Council, whichever is later (or such reasonable time period as is necessary to cure the default provided that the developer has commenced in good faith to cure the default), the Town may then give written notice to such developer and any surety on the performance bond, issuer of a letter of credit, or escrow agent that the Town, as agent for the developer, is proceeding with the task of installing the required public improvements in whole or in part.

8. *Power of Attorney required.* A developer shall, in writing, designate and irrevocably appoint the Mayor of the Town, as its Attorney-in-fact and agent for the purpose of completing all on-site and off-site

public improvements required by the approved development plan or a development permit for which said developer is responsible, in the event of a default by the developer.

9. *Increase in amount of security.* If a substantial amount of time elapses between the time of posting of the security and actual construction of the required on-site and off-site public improvements, the Town reserves the right to require a reasonable increase in the amount of the applicable security, if necessary because of estimated increased costs of construction.

10. *Attorney's fees.* If any legal proceedings are commenced concerning the Town's election to complete the required on-site and off-site public improvements, as agent for developer, against a developer, its surety, or issuer of the letter of credit, the substantially prevailing party shall be entitled to its costs and reasonable Attorney's fees (including legal assistant's fees) or the reasonable value of a salaried Attorney's time (including legal assistant's time).

G. Performance guarantee—Private improvements.

1. *Conditions for issuance of certificate of occupancy or temporary certificate of occupancy.* Generally a performance guarantee securing the construction or installation of required private improvements, such as parking lots and landscaping, by way of example, is not required. However, no certificate of occupancy or temporary certificate of occupancy shall be issued by the Town until such required private improvements have been completed. In the event a developer desires to obtain a certificate of occupancy or temporary certificate of occupancy prior to the completion of certain private improvements because of weather, season of the year or other factors, the developer may provide the Town with a performance guarantee as described in Subsection (F) of this section to secure the completion of the unfinished private improvements. Upon delivery of such performance guarantee, a certificate of occupancy or temporary certificate of occupancy may be issued to a developer.

2. *Development plan for multi-building project.*

a. In the event an applicant submits a development plan for multiple buildings, the applicant shall identify and the Town approve, on the development plan, the private improvements that are required for each building.

b. No certificate of occupancy or temporary certificate of occupancy shall be issued for an individual building until construction or installation of the private improvements, identified on the approved development plan for that specific building, have been completed.

c. In the event a developer desires to obtain a certificate of occupancy or temporary certificate of occupancy prior to the completion of certain private improvements identified for an individual building, it may do so subject to the requirements described in Subsection (G)(1) of this section.

H. Warranty by developer. A developer shall warrant all on-site and off-site public improvements, required by an approved development plan or as a condition for the issuance of a development permit for which a developer is responsible, constructed by such developer and conveyed or dedicated to the Town. A developer shall warrant such improvements for a period of 24 months from the date that the Town's Engineer certifies that the same conform with the plans and specifications approved by the Town Engineer. Specifically, but not by way of limitation, a developer shall warrant the following:

1. That the title conveyed shall be good and its transfer rightful;

2. Any and all facilities conveyed shall be free from any security interest or other lien or encumbrance; and

3. Any and all facilities so conveyed shall be free of any and all defects in materials or workmanship.

I. Revocation of development permit. Any development permit granted under this chapter may be revoked, following a public hearing, upon a determination that the owner of the property subject to the development

permit, or holder of the permit if different from the owner, has violated one or more of the conditions or requirements contained in the development permit, including the conditions set forth in Section 4.17.050. In the event the Town Planner has reasonable cause to believe that one or more conditions or requirements of the development permit has been violated, the Town Planner shall serve the record owner of the property subject to the development permit and the holder of such permit if other than the owner, in person or by certified mail, return receipt requested, a notice to show cause why the development permit should not be revoked and any vested property rights related thereto forfeited. Such notice shall state the date, time and place for a public hearing at which the Town Council or designated Hearing Officer will consider whether the development permit should be revoked. The notice shall also set forth a concise statement of the grounds for revocation. The notice shall be served at least 15 days prior to the date of the hearing. The public hearing shall be conducted by the Town Council, or a Hearing Officer appointed by the Town Council, pursuant to Chapter 2.20. Following such hearing, the Town Council shall issue a written decision either revoking the development permit or finding insufficient evidence exists to revoke the permit.

(Ord. No. 1986-03, § 4.06.010, 3-5-1986; Amended 6-2-1991; Amended 7-15-1996; Amended 4-17-1997; Amended 2-13-2000; Amended 3-10-2015; Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.06.030. Classification criteria.

For purposes of development review, all developments as set forth in Section 4.06.020(A) shall be classified as minor development except the following, which shall be classified as major development:

A. Establishment of a mobile home park, pursuant to Chapter 4.09;

B. Any planned unit development, as set forth in Chapter 4.11; or

C. Any development which otherwise meets the criteria for minor development, which includes any one of the following:

1. Extension of municipal facilities beyond locations or other limits set forth in the Town's regulations, policies or plans, or an extension which requires Town Council approval pursuant to other provisions of this Title. Such extensions shall include, but are not limited to, water mains of six inches or greater, sewer mains, and local, collector, or arterial streets.

2. A dedication of land which the Town will be required to maintain or payment of fee in lieu of, including a street, alley, park, trail, or other public land or right-of-way.

3. A development impact report.

(Ord. No. 1986-03, § 4.06.020, 3-5-1986; Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.06.040. Development plan.

Every development permit application shall include a development plan, which shall include the following:

A. A copy of the recorded subdivision plat(s) covering the subject lot(s), where the proposal is for development on previously subdivided lot(s);

B. A brief written description of the proposed development signed by the applicant;

C. A development plan map, at a scale of one inch equals 50 feet or larger, with title, date, north arrow and scale, on a minimum sheet size of 8½ inches by 14 inches, which depicts the area within the boundaries of the subject lots and including:

1. The location of existing and proposed land uses, and the square footage of building space devoted to each use;
2. The location and dimensions, including building heights, of all existing and proposed:
    a. Buildings or structures and setbacks from lot lines, or building envelopes where exact dimensions are not available;
    b. Parking spaces and vehicular use area;
    c. Utility distribution systems and utility easements;
    d. Drainage improvements and drainage easements;
    e. Roads, alleys, curbs, curb cuts, and other access improvements;
    f. Any other improvements;
    g. Any proposed reservations or dedications of public right-of-way, easements, or other public lands;
3. Existing topography and any proposed changes in topography, using five-foot contour intervals, or smaller intervals as deemed appropriate by the Town Planner;
4. Circulation and transportation conditions, such as volumes and traffic flow patterns, transit service needs, and potential changes or impacts, both on- and-off-site;
5. Evidence of adequate water supply and other services and facilities needed to serve the development;
6. Evidence of adequate water rights needed to serve the development;
7. A statement of compatibility with the Town's goals and policies, with specific reference to those affected;
8. Any plans or reports required pursuant to Chapter 4.07, including, but not limited to, landscape plan, parking plan, architectural design plan, and development impact report;
9. A proposal for municipal or park land dedication or fee, pursuant to Section 4.13.190 or documentation that such dedication or fee has been previously been made;
10. Any request for design variance or zoning action, including special use permit, zoning variance, or rezoning, with supporting evidence that the variance will be in conformance with the Town's goals and policies;
11. For any PUD, a list of any zone district regulations and/or design requirements, as set forth in Chapters 4.04, 4.07 and 4.13, which the applicant proposes to vary, with the proposed variations and supporting evidence that the variations will produce a public benefit and are in conformance with Section 4.11.030;
12. A schedule for phasing of development;
13. All of the applicable certifications set forth in the appendices to this Title;
14. Any other information which the Town Planner determines is necessary to determine whether the proposed development will comply with the Town's regulations, goals and policies, including, but not limited to, any information set forth in Section 4.12.020 for preliminary subdivision plan;

D. A lighting plan that demonstrates compliance with Section 4.07.010;

E. For all proposed developments containing ten or more residential units, a local employee residency plan that demonstrates compliance with Section 4.04.110 and the Town's local employee residency requirements and guidelines.

(Ord. No. 1986-03, § 4.06.030, 3-5-1986; Amended 6-2-1991; Amended 2-13-2000; Amended 9-8-2002)

Section 4.06.050. Pre-application conference.

A. When proposing any development requiring a development permit, the applicant shall first request a pre-application conference with the Town Planner to discuss procedures, requirements, and the Town's goals and policies. The applicant shall provide for the conference:

1. An application for development permit on a form provided by the Town;

2. A copy of the approved subdivision plat, where the development is on previously subdivided land;

3. A sketch plan of the proposed development, which may be a free-hand drawing of the proposed development, depicting topography of the land to be developed, existing and proposed land uses and street system including approximate right-of-way widths, lot and block pattern with approximate lot areas noted, and the location of utilities and easements; and

4. Proof of ownership of the land proposed for development.

B. At the pre-application conference, the Town Planner shall classify the proposal as minor or major development, based on the classification criteria set forth in Section 4.06.030. If the Town Planner cannot determine on the basis of the criteria specified whether the proposal is to be classified as minor or major development, then the determination shall be made by the Planning Commission at its next regular meeting. If the proposal includes a subdivision of land, the Town Planner shall refer the applicant to Section 4.12.030.

(Ord. No. 1986-03, § 4.06.040, 3-5-1986)

Section 4.06.060. Minor development review.

A. *Development plan submittal.*

1. Within one week after the pre-application conference, the Town Planner shall prepare and deliver or mail to the applicant, a written list of information, which shall constitute the applicant's development plan, pursuant to Section 4.06.040.

2. A minimum of 17 copies of the minor development plan map and description shall be submitted to the Town Planner which shall be reviewed by the Town Planner in accordance with the procedures set forth in Section 4.03.070(A). The submittal shall be accompanied by the development review fee as set forth in Section 4.03.070.

B. *Staff review.* The Town Planner shall distribute copies of the development plan to Town staff and other agencies as he deems appropriate. They shall review the development plan with site visits as needed to determine whether it conforms with the Town's regulations, goals and policies in their areas of responsibility. They shall submit their comments to the Town Planner at least seven days before the appropriate Planning Commission meeting. The Town Planner shall compile these comments and shall prepare for the Planning Commission a summary of the issues which the Planning Commission should consider in reviewing the proposal.

C. *Planning Commission review.* The Town Planner shall distribute copies of the development plan to the Planning Commission members along with the summary of issues and comments. A copy of the summary and comments shall be furnished to the applicant. The Planning Commission shall hold a public hearing on

the development plan at a regular meeting within 30 days following certification by the Town Planner that the submittal is complete. Public notice shall be given pursuant to Section 4.03.060. Any public hearing may be continued by the Planning Commission until the next regularly scheduled meeting, if deemed necessary. The applicant or his representative shall be present at said public hearing to represent the proposal. Within 15 days following the conclusion of the public hearing, the Planning Commission shall take one of the following actions:

1. Approve the development proposal and authorize issuance of a development permit subject to such conditions as it finds necessary to ensure that the proposed development complies with the Town's regulations, goals and policies;

2. Continue the hearing to the next regular Planning Commission meeting, with the requirement that the applicant submit changes or additional information which they find necessary to determine whether the proposal complies with the Town's regulations, goals and policies; or

3. Deny the development permit, stating the specific reasons for denial.

D. *Further review by Planning Commission.*

1. In the event the hearing is continued pursuant to Subsection (C)(2) of this section, the applicant shall submit 15 copies of the required changes or information to the Town Planner at least seven days prior to the Planning Commission meeting at which the proposal is to be reconsidered. The Town Planner shall review the additional submittal with appropriate Town staff or other agencies and shall distribute copies of the submittal to the Planning Commission members along with comments from the staff and agencies.

2. At the continued hearing the applicant or his representative shall be present to represent the proposal. The Planning Commission shall take one of the following actions:

    a. Approve the development proposal and authorize issuance of a development permit subject to such conditions as they deem necessary to ensure that the proposed development complies with the Town's regulations, goals and policies;

    b. Deny the development permit, stating the specific reasons for denial; or

    c. Continue the hearing pursuant to Chapter 2.20.

3. Appeal of minor development review. Any person aggrieved by a decision of the Planning Commission where the Planning Commission is the final authority may appeal such decision to the Town Council as follows:

    a. *Filing appeal.* The person(s) aggrieved shall file ten copies of a letter of appeal with the Town Manager within one week of the Planning Commission decision from which the appeal is taken. The letter of appeal shall state the specific grounds upon which the appeal is based and shall have attached to it any supporting documentary evidence. The Town Planner shall distribute copies of the appeal submittal to the Town Council members, along with copies of the minutes from the Planning Commission meeting(s) at which the proposal was reviewed, copies of the staff or agency comments and the Town Planner's summary of issues.

    b. *Town Council meeting.* The Council shall hear the appeal at a regular meeting pursuant to Chapter 2.20 within 30 days of the date of the filing of the appeal. The Council shall hold a public hearing at said meeting on the appeal. Public notice shall be given as for the Planning Commission hearing. The applicant or his representative shall be present at the public hearing. At the meeting the Council shall:

        1. Affirm the decision of the Planning Commission; or

2. Reverse or modify the decision of the Planning Commission upon a vote of two-thirds of the entire membership of the Council.

E. *Filing of development plan.* If a development permit is authorized, it shall be signed by the Town Planner within ten days of the approval. A copy shall be filed at Town hall, along with a copy of the approved development plan, both of which shall become part of the permanent records of the Town.

F. *As-builts.* Before the issuance of any certificate of occupancy for the development, the applicant shall submit to the Town Planner a set of as-built plans and profiles on 24-inch by 36-inch reproducible Mylar sheets, showing the locations of all water mains, sanitary sewers and storm sewers as well as a surveyed map of utility easements. Such plans and profiles shall be of a scale and accuracy sufficient to enable location of the improvements and easements and shall be in accordance with the Town's construction standards, and shall be subject to the approval of the Town Engineer.

G. *Changes in development plan.* Any change in the development plan made after original submittal of the plan, either before or after issuance of the development permit, shall require the proposal to be re-entered in the review procedure at the appropriate planning step unless:

1. The change is directed by the Planning Commission; or

2. In the opinion of the Town Planner, the change does not materially change the development plan and it complies with the Town's regulations, goals and policies.

(Ord. No. 1986-03, § 4.06.050, 3-5-1986; Amended 6-2-1991; Amended 3-16-1995; Amended 4-20-1996; Amended 2-13-2000; Amended 5-8-2007; Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.06.070. Major development review.

A. *Development plan submittal.*

1. Within one week after the pre-application conference, the Town Planner shall prepare and deliver or mail to the applicant, a written list of information which shall constitute the applicant's development plan, pursuant to Section 4.06.040.

2. A minimum of 22 copies of the major development plan map and description shall be submitted to the Town Planner and reviewed in accordance with the procedures set forth in Section 4.03.070. The submittal shall be accompanied by the development review fee as set forth in Section 4.03.070.

B. *Staff review.* The Town Planner shall distribute copies of the development plan to Town staff and other agencies as he deems appropriate. They shall review the development plan with site visits as needed to determine whether it conforms with the Town's regulations, goals, policies and plans in their areas of responsibility. They shall submit their comments to the Town Planner at least 12 days before the appropriate Planning Commission meeting. The Town Planner shall compile these comments and shall prepare for the Planning Commission a summary of the issues which they should consider in reviewing the proposal.

C. *Site review.* Before the Planning Commission hearing for a major development proposal, the proposal shall be reviewed on-site by at least three members of the Planning Commission. They may make written recommendations to the full Planning Commission at its regular meeting regarding compliance of the proposal with the Town's regulations, goals, policies and plans.

D. *Planning Commission review.* The Town Planner shall distribute copies of the development plan to the Planning Commission members along with the summary of issues and comments. A copy of the summary and comments shall also be furnished to the applicant. The Planning Commission shall review the proposal at a regular meeting at which it shall hold a public hearing on the proposal. Public notice shall be given pursuant

to Section 4.03.060. The applicant or his representative shall be present to represent the proposal. The Planning Commission shall take one of the following actions:

1. Approve the development proposal and recommend to the Council that a development permit be issued, subject to such conditions as they find necessary to ensure that the proposed development complies with the Town's ordinances, regulations, goals, policies and plans, and that any adverse impacts resulting from the proposed development will be reasonably and adequately mitigated by the applicant to minimize such impacts; and recommend municipal or park land dedication or fee pursuant to Section 4.07.110;

2. Continue the hearing to the next regular Planning Commission meeting with the requirement that the applicant submit changes or additional information which they find necessary to determine whether the proposal complies with the Town's regulations, goals, policies and plans; or

3. Recommend denial of the development permit, stating the specific reasons for denial.

E. *Further review by Planning Commission.*

1. In the event the hearing is continued pursuant to Subsection (D)(2) of this section, the applicant shall submit a minimum of 22 copies of the required changes or information to the Town Planner at least ten days prior to the Planning Commission meeting at which the proposal is to be reconsidered. The Town Planner shall review the additional submittal with appropriate staff and other agencies and shall distribute copies of the submittal to the Planning Commission members along with comments from staff and agencies.

2. At the continued hearing the applicant or his representative shall be present to represent the proposal. The Planning Commission shall take one of the following actions:

   a. Approve the development proposal and recommend to the Council that a development permit be granted subject to such conditions as the Commission finds necessary to ensure that the proposed development complies with the Town's regulations, goals, policies and plans, and that any adverse impacts resulting from the proposed development will be reasonably and adequately mitigated by the applicant to minimize such impacts;

   b. Recommend denial of the development permit, stating the specific reasons for denial; or

   c. Continue the hearing pursuant to Chapter 2.20.

F. *Town Council review.*

1. Subsequent to the Planning Commission's recommendation for issuance or denial of the development permit, the Town Planner shall distribute copies of the development plan to the Town Council, along with relevant excerpts from Planning Commission meeting minutes and copies of staff or agency comments.

2. The Council shall review the proposed development application at a regular meeting at which it shall hold a public hearing on the proposal. Public notice shall be given pursuant to Section 4.03.060. At the public hearing, the Council shall consider the recommendations of the Planning Commission, and the comments, testimony and other evidence presented. The applicant or his representative shall be present to represent the proposal. The Council shall take one of the following actions:

   a. Approve the proposed development, subject to any conditions it finds necessary to protect the public health, safety and welfare or to ensure compliance with the Town's regulations, goals and policies, after finding that the proposed development will comply with the Town's ordinances, regulations, goals, policies and plans and any adverse impacts resulting from the proposed development will be reasonably and adequately mitigated by the applicant to minimize such impacts;

b. Deny the development application, stating the specific reasons for denial; or

c. Continue the hearing pursuant to Chapter 2.20.

3. If the proposed development is approved by the Council, the Town Planner shall issue a development plan within ten days of the approval subject to such conditions found necessary by the Town Council to ensure that the development complies with the Town's regulations, goals, policies and plans. If the proposal is denied, the Council shall state the specific reasons for denial.

4. The decision of the Council shall be final, from which an appeal may be taken to Court in accordance with the laws of the State.

G. *Filing of development plan.* If a development permit is authorized, a copy shall be filed at the Town hall, along with a copy of the approved development plan, both of which shall become part of the permanent records of the Town.

H. *As-builts.* When deemed necessary by the Town Engineer, and before the issuance of any certificate of occupancy for the development, the applicant shall submit to the Town Planner a set of as-built plans and profiles on 24-inch by 36-inch reproducible Mylar sheets and, if available, an AutoCad (Release 10 or greater) drawing file(s) on a 3½-inch floppy disk(s), showing the locations of all water mains, sanitary sewers and storm sewers, as well as a surveyed map of utility easements. Such plans and profiles shall be of a scale and accuracy sufficient to enable location of the improvements and easements and shall be in accordance with the Town's construction and mapping standards, and shall be subject to the approval of the Town's Engineer.

I. *Changes in development plan.* Any change in the development plan made after original submittal of the plan, either before or after issuance of the development permit, shall require the proposal to be re-entered in the review procedure at the appropriate planning step unless:

1. The change is directed by the Planning Commission; or

2. In the opinion of the Town Planner, the change does not materially change the development plan and it complies with the Town's regulations, goals and policies.

(Ord. No. 1986-03, § 4.06.060, 3-5-1986; Amended 4-16-1995; Amended 4-20-1996; Amended 2-13-2000; Amended 5-8-2007; Ord. No. 08-2020 , § 1, 4-28-2020)

CHAPTER 4.07. DEVELOPMENT STANDARDS

Section 4.07.010. Lighting standards.

A. *Objectives.* The objectives of this section are as follows:

1. Provide quality, context-sensitive lighting for the Town mountain environment; and

2. Sustain a pristine nighttime sky by controlling glare, light trespass and light pollution; and

3. Provide for zero tolerance of light pollution and light trespass beyond property lines within and into residential areas; and

4. Minimize light pollution and light trespass beyond property lines within and into commercial and industrial areas; and

5. Require proper shielding to eliminate glare at normal viewing angles from all high brightness sources; and

6. In facade, sign and retail applications, use lighting to create visual hierarchy, which facilitates circulation and way finding.

B. *Applicability.*

1. Except as provided herein, the provisions of this section shall apply to all subdivisions, planned unit developments, development permits, sign permits, and building permits finally approved on or after the effective date of the ordinance from which this section is derived.

2. All lighting fixtures, devices, equipment, lamp sources and wattage, fixture locations, and shielding installed after the effective date of the ordinance from which this section is derived shall comply with the requirements and standards of this section.

3. All lighting fixtures, devices, equipment, lamp sources and wattage, fixture locations, and shielding presently in use and existing as of the effective date of the ordinance from which this section is derived, and not in conformance with the requirements and standards of this section, shall be considered a legal nonconforming use.

C. *Submittal requirements.* A lighting plan shall accompany all applications for development and preliminary subdivision plans and shall be submitted separately from other drawing information. The lighting plans and/or specifications shall show the type of lighting equipment, the lamp source and wattage, fixture locations, mounting heights, shielding and all mounting details. Manufacturer catalog and/or specification materials with scaled drawings or photographs are also required for all lighting equipment. In addition, calculations shall be provided which show point-by-point horizontal illuminance at ground level for all commercial or industrial projects. Calculations for other project types shall be provided at the Town's request.

D. *Prohibitions.*

1. All mercury vapor sources are prohibited. Existing fixtures should be modified to accommodate more current technologies.

2. Any search light or laser light used for the purpose of advertising, or as a beacon, is prohibited. Blinking, tracing, or flashing lights are also prohibited.

3. High intensity discharge (HID) floodlighting is prohibited.

4. Fixtures with high brightness lamps and poor visual cutoff are prohibited.

5. Bollards or low-mounted luminaries (less than 12 feet above ground) are not to exceed 35 watts.

6. Exterior neon sources such that the source can be directly viewed are prohibited. Backlighted applications may be acceptable, and must conform to the same restrictions as cabinet signs.

E. *Exemptions.*

1. All lighting used for the purpose of aviation is exempted.

2. All temporary lighting used to identify hazards or roadway construction (operating less than four months) is exempted.

3. All traffic signal lighting is exempted.

4. Low voltage, ornamental landscape lighting which meets yard lighting and lamp shielding requirements is allowed.

5. Low-brightness, seasonal holiday lighting is allowed. Note that the National Electrical Code (Section 590.3(B)) allows for temporary lighting installations for up to 90 days.

6. High intensity discharge floodlighting may be used for sports lighting applications (see Lamp Shielding Chart for restrictions).

7. Lighting for the purpose of security must meet the criteria of each application category but may be exempted from specific control requirements.

F. *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Cutoff angle (of fixture) means the angle measured upward from the vertical at which the bare source is completely blocked from view.

Discomfort glare means glare producing discomfort. It does not necessarily interfere with visual performance or visibility.

Footcandle means the basic unit of illuminance (the amount of light falling on a surface).

Full-cutoff fixture means a fixture that allows no emission of light above horizontal.

Full shielding refers to internal and/or external shields and louvers provided to prevent brightness from lamps, reflectors, refractors and lenses from causing glare at normal viewing angles.

Glare means the sensation of annoyance, discomfort, or loss in visual performance and visibility due to bright or uncontrolled light sources.

IESNA means the Illuminating Engineering Society of North America, an organization that establishes standards for the lighting industry.

Illuminance means a measure of the amount of light incident on a surface, expressed in footcandles.

Light trespass means any form of artificial illumination emanating from a light fixture or illuminated sign that penetrates another property.

Luminance means the apparent brightness of a light fixture or lamp as viewed from a specific direction. The luminance of a fixture can vary as the viewing angle varies.

Motion sensor device means a device that will sense motion electronically and switch on security lighting for a brief duration.

Non-cutoff fixture means a fixture that includes no optics to prevent light emission above horizontal.

Nuisance glare means glare that causes complaints.

Semi-cutoff fixture means a fixture that emits some light above horizontal, but less than a non-cutoff fixture.

Timing device means a switching device, a part of which is a clock, set to the prevailing time, that will control the period of operation for outdoor lighting fixtures and signs.

LAMP SHIELDING AND SPECIAL APPLICATION CHARTS

Lamp Shielding Chart			
Refer to this chart for shielding instructions for all exterior lighting applications			
Lamp Wattage	**Incandescent**	**Fluorescent**	**H.I.D.**
Less than 35	None	None	N/A
36—75	None	None	Low
76—100	Low	Low	Medium
101—150	Medium	Medium	Medium
151—250			Medium
251—500			Full
501—1,000			Full

1,001+			Full
Legend:			
None	No shielding (IESNA non-cutoff)		
Low	Low shielding (IESNA semi-cutoff)		
Medium	Medium shielding (IESNA full-cutoff)		
Full	Full shielding (lamp shielded from view outside of property)		
Full	Prohibited (see "exemptions")		

Commercial Light Level Criteria					
Maximum initial illuminance values in these areas must not exceed the range specified by the table. Values are taken from the IESNA's recommended illuminance values. Lower wattages and mounting heights should be implemented whenever possible					
Area/Criteria	Fast Food/ Convenience	Gas Station/ Hotel Canopy	Automotive Outdoor Retail	General Commercial	Walkways and Parkways
Maximum initial horizontal illuminance (fc) value at ground level	1.5—3.0	20—30	20—30	1.5—3.0	0.2—1.0

Note(s)—Lighting for residential and industrial areas is covered under specific application categories in the title.

PARKING AREA LIGHTING

	Acceptable Lamp Types and Maximum Allowable Wattages		Controls	Maximum Mounting Height
Residential	Lighting parking lots is prohibited in rural or standard residential areas			
Residential Multi-Family	Compact fluorescent H.I.D. Incandescent	42 W max. 70 W max. 100 W max.	Lights on dusk to dawn	15 feet
Residential Medium Density	Compact fluorescent H.I.D. Incandescent	42 W max. 70 W max. 100 W max.		

Public Area	Compact fluorescent H.I.D.	(2)42 W max. 175 W max.		
Commercial Limited	Compact fluorescent H.I.D.	(2)42 W max. 175 W max.	Lights on until one hour after closing or servicing	25 feet
Commercial General	Compact fluorescent H.I.D.	(2)42 W max. 75 W max.		
Central Business District	Compact fluorescent H.I.D.	(2)42 W max. 100 W max.		30 feet
Industrial	Compact fluorescent H.I.D.	(2)42 W max. 175 W max.	Lights on until one hour after closing	30 feet

Notes:

- Dusk-to-dawn operation is allowed for 24-hour business operations.
- Mounting height may be increased for medium and fully shielded fixtures upon the Town's approval.

The following table lists recommended minimum maintained average illuminance values and maximum acceptable uniformity ratios:

Parking Lot Activity Level	General Parking and Pedestrian Areas		Non-Pedestrian Driveways (Vehicle Entries and Exits)	
	Footcandles	Uniformity Ratio (Avg.:Min.)	Footcandles	Uniformity Ratio (Avg.:Min.)
High: • Large shopping malls • High-volume fast food	0.9	4:1	2	3:1
Medium: • Smaller shopping centers • Office complexes • Hotels and motels • Hospitals	0.6	4:1	1	3:1

• Community events • Condominiums • Fast food				
Low: (for security lighting) • Neighborhood markets • Industrial facilities • School or churches	0.2	4:1	0.5	4:1

YARD LIGHTING

	Acceptable Lamp Types and Maximum Allowable Wattages		Controls	Maximum Mounting Height
Residential	Compact fluorescent Incandescent	32 W max. 75 W max.	Lights on dusk to 11:00 p.m.	20 feet
Residential Multi-Family	Compact fluorescent Incandescent	32 W max. 75 W max.		15 feet
Residential Medium Density	Compact fluorescent Incandescent	32 W max. 75 W max.		
Public Area	Compact fluorescent Metal halide	(2)42 W max. 70 W max.	Lights on dusk to dawn	25 feet
Commercial Limited	Compact fluorescent Metal halide	(2)42 W max. 70 W max.	Lights on until one hour after closing or servicing	25 feet
Commercial General	Compact fluorescent Metal halide	2)42 W max. 70 W max.		20 feet

Central Business District	Compact fluorescent Metal halide	(2)42 W max. 100 W max.		25 feet
Industrial	Compact fluorescent H.I.D.	(2)42 W max. 175 W max.	Lights on dusk to 11:00 p.m.	30 feet

Notes:

• The use of motion detectors and timers is encouraged to control specific fixtures for security and egress applications.

• The use of porch lights and egress lighting is encouraged. Dusk-to-dawn operation is allowed for these applications. Note that these fixtures must still meet the intent of the Lamp Shielding Chart.

FACADE LIGHTING

	Acceptable Lamp Types and Maximum Allowable Wattages		Controls	Maximum Mounting Height
Residential	Facade lighting is prohibited in rural or standard residential areas			
Residential Multi-Family	Facade lighting is prohibited in residential multifamily areas			
Residential Medium Density	Facade lighting is prohibited in residential medium density areas			
Public Area	Compact fluorescent Linear fluorescent H.I.D. Incandescent	42 W max. 32 W max. 70 W max. 100 W max.	Lights on dusk to dawn	See below
Commercial Limited	Compact fluorescent Linear fluorescent H.I.D. Incandescent	42 W max. 32 W max. 70 W max. 100 W max.	Lights on until one hour after closing or servicing	
Commercial General	Compact fluorescent Linear fluorescent H.I.D.	42 W max. 32 W max. 70 W max.		
Central Business District	Compact fluorescent Linear fluorescent H.I.D.	42 W max. 32 W max. 70 W max.		
Industrial	Facade Lighting is prohibited in Industrial areas			

Notes (mounting of facade lighting):

- In all facade lighting, the source will be fully shielded from pedestrians and motorists.
- Sources should not be visible from inside the lighted building or from surrounding buildings.
- Uplighting must be shielded and/or fall completely on the facade.
- Downlighting of facade elements is preferred.

SIGN LIGHTING

Sign Lighting	Acceptable Lamp Types and Maximum Allowable Wattages		Controls	Maximum Mounting Height
Residential	Sign lighting is prohibited in rural or standard residential areas			
Residential Multifamily	Sign lighting is prohibited in residential multifamily areas			
Residential Medium Density	Sign lighting is prohibited in residential medium density areas			
Public Area	Compact fluorescent Linear fluorescent Incandescent	(2)42 W max. (2)32 W max. 100 W max.	Sign lights on dusk to dawn	See notes below
Commercial Limited	Compact fluorescent Linear fluorescent H.I.D. Incandescent	(2)42 W max. (2)32 W max. 70 W max. 150 W max.	Sign lights on until one hour after closing	
Commercial General	Compact fluorescent Linear fluorescent H.I.D. Incandescent	(2)42 W max. (2)32 W max. 70 W max. 150 W max.		
Central Business District*	Compact fluorescent Linear fluorescent Incandescent	(2)42 W max. (2)32 W max. 100 W max.		
Industrial	Compact fluorescent Linear fluorescent	(2)42 W max. (2)32 W		

	H.I.D. Incandescent	max. 70 W max. 150 W max.		
*Cabinet signs are prohibited in Central Business Districts				

General notes:

- The word "sign" refers to any object attached to or apart from a structure intended to convey advertising, image, or identification. Note that the National Electrical Code (Section 509.3(B)) allows for temporary lighting installations for up to 90 days.
- Each proprietor is limited to one illuminated sign per establishment.
- In all sign lighting, the source will be fully shielded from pedestrians and motorists.
- Sources should not be visible from inside the associated building or from surrounding buildings.

Externally lighted signs:

- Downlighting of signs is preferred.
- Uplighting must be shielded and/or fall completely on the sign.

Internally lighted signs:

- Cabinet signs, or signs with interior lighting, are to have fluorescent lamps and will not exceed 130 watts.
- The use of sources other than fluorescent for cabinet signs is subject to the approval of the Town.

ROADWAY LIGHTING

	Allowable Lamp Types and Maximum Allowable Wattages		Controls	Maximum Mounting Height
Residential*	Compact fluorescent H.I.D.	(2)42 W max. 100 W max.	Lights on dusk to dawn	20 feet
Residential Multifamily*	Compact fluorescent H.I.D.	42 W max. 100 W max.		
Residential Medium Density*	Compact fluorescent H.I.D.	(2)42 W max. 100 W max.		
Public Area	Compact fluorescent H.I.D.	(2)42 W max. 175 W max.		25 feet
Commercial limited**	Compact fluorescent H.I.D.	(2)42 W max. 175 W max.		30 feet

Commercial General**	Compact fluorescent H.I.D.	(2)42 W max. 175 W max.		
Central Business District**	Compact fluorescent H.I.D.	(3)42 W max. 175 W max.		
Industrial	Compact fluorescent H.I.D.	(3)42 W max. 175 W max.		
*House-side shields should be used in all residential areas (to prevent roadway lighting from trespassing onto residential property). **Mounting height may be extended to 40 feet for special cases such as large commercial developments only upon the Town's approval.				

(Amended 1-13-2000; Ord. No. 08-2017, §§ 1—5, 4-11-2017)

Section 4.07.020. Landscape standards.

In order to enhance the visual impact of development on the community, to clarify traffic and pedestrian circulation patterns, and to prevent land erosion and improper drainage, every development permit application, except some commercial projects in the CBD Zone Area, shall include a landscape plan.

A. *Landscape plan.* Each landscape plan shall be a drawing at the same scale as the development plan or larger, which shall depict the following:

1. *Existing and proposed improvements.*

   a. Property boundaries.

   b. Easements.

   c. Building outlines.

   d. Parking lots and parking spaces.

   e. Driveways and sidewalks.

   f. Walls and fences.

   g. Storage areas.

   h. Light standards.

   i. Snow storage area.

2. *Planting plan.*

   a. Proposed treatment of all ground surfaces (paving, turf, gravel, roadbase, concrete, pavers, etc.).

b. Location of existing and proposed landscape materials.

c. Plant materials schedule listing the number, height and types of materials by species and common name.

3. *Plan for maintenance.* A plan which specifies the parties responsible for maintenance of landscaping and irrigation system.

4. *Information block.*

a. Name of owner.

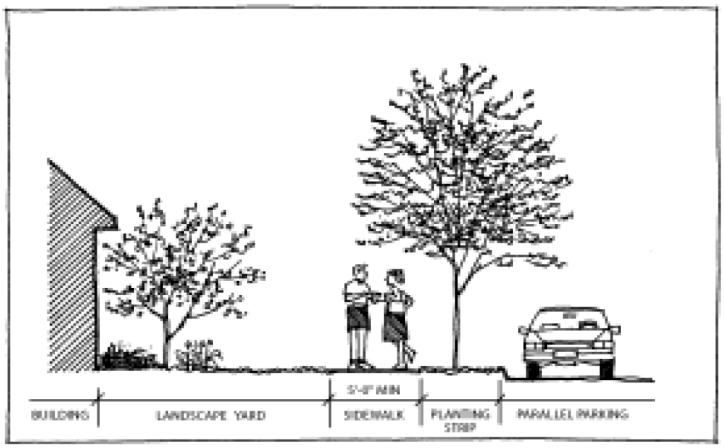
b. Title of development or address.

c. List of square footage of coverage by buildings, parking area, landscaping areas, etc., equaling the total square footage of the property.

B. *Landscape requirements.*

1. *Impervious coverage.* No more than 80 percent of the area of any development shall be covered with impervious materials; a minimum of 20 percent of each development shall be covered with landscape materials, as provided below.

2. *Landscape materials.* Landscape materials shall include live plant materials, including grass, ground covers, trees, shrubs, and flower beds. The following landscape materials may cover a maximum of 30 percent of the required landscape area: walks, decks, terraces, water features and decorative rock. No artificial trees, shrubs, turf, or plants may be used as landscape material.



3. *Front street buffer.*

a. All yards adjacent to primary and secondary streets shall be landscaped. Landscape materials shall include deciduous, coniferous, and ornamental trees, shrubs, perennials, bulbs, and seed or sodded lawn. Plant quantities are flexible; however, the planting plan shall provide combinations of plant material with differing heights and densities, contributing to the overall uniform appearance of the neighborhood. Plantings shall not compete with and overpower existing streetscape planting, but supplement trees, shrubs, and lawn areas in the public right-of-way. On lots larger than one-half acre and in mobile home parks and subdivisions, a landscaped buffer shall abut the entire length of the front property line except for approved driveway accesses. The width of the landscaped buffer shall be five percent of the average of the two side property lines, but not less than 15 feet. Plant material for landscape areas shall be suitable for use in the local climate. All

landscape areas shall be irrigated using an underground automatic system. All landscaped areas shall be maintained and all sod and seeded lawn areas to be mowed regularly. Deciduous shade trees shall be spaced a minimum of 30 feet on center and shall be three-inch caliper minimum. Coniferous evergreen trees shall be spaced 20 feet on center and be a minimum six feet in height. Ornamental trees shall be no closer than 15 feet on center and two-inch caliper. Aspen trees may be grouped at less than 15 feet. Trees may be grouped at species appropriate spacing, or spaced evenly along roadways. Shrubs and perennials shall be spaced to achieve massing, depending on anticipated mature size.

b. Groundcovers, including sod and seed, shall be planted at a rate to achieve full coverage and mowed to a maximum height of six inches. All plant beds shall be mulched to an appropriate depth to retain moisture and reduce dust. Mulch shall be organic; rock and gravel mulch is not allowed. No more than two driveway cuts per lot, each a maximum of 35 feet wide, shall be allowed unless specifically approved by the Planning Commission during the development review.

4. *Boundary buffer.* The boundaries of every development shall be landscaped to adequately buffer potential incompatibility between adjacent land uses. Screening of parking lots from adjacent properties shall be required. Screening must be provided to eliminate headlight glare from lot onto adjacent property and to screen views into parking lots. Planting buffers along the edge(s) of parking lots must be a minimum of five feet wide or a combination of fencing and a two-foot wide buffer may be used.

5. *Drainage easements.* All drainage easements shall be seeded or sodded with grass or other ground cover and shall be maintained in a manner that promotes proper drainage in conformance with the drainage plan for the subdivision in which the subject lot lies.

6. *Clear vision area.* In any clear vision area, as set forth in Section 4.04.100(H)(1), berm and plant height shall be such that landscaping is a maximum of 2½ feet in height above the road elevation, measured from the point of the nearest road pavement.

7. *Parking area landscaping.* In parking areas with ten or more parking spaces, landscaped islands or peninsulas shall be used to reduce the visual impact and assist in defining on-site traffic movement. Such landscaped areas shall be curbed to prevent vehicles from intruding on them. They shall be included in the total landscape requirements of this section and shall constitute at least ten percent of the total un-enclosed parking area, in conformance with Section 4.07.140.

8. *Sprinkler system.* All required landscaped areas in nonresidential zone districts must be served by an underground sprinkler system that provides full coverage for landscaped areas. The landscape plan need not specify the exact irrigation plan, but must clearly state that an underground sprinkler system providing full coverage will be provided.

9. All new construction adjacent to the right-of-way shall provide new curb and gutter if curb and gutter does not exist or is in disrepair unless the Town intends to make similar improvements within an established capitol plan.

10. Street furnishings such as benches and pedestrian lighting should express local character in design and materials such as wood or wrought iron. Furnishings should have similar materials and colors. Product lines should be selected based upon durability and resistance to climactic elements. Street furnishings should be located adjacent to pedestrian zones and not impede pedestrian movement along sidewalks.

C. *Landscape installation required.* No certificate of occupancy shall be issued until all required landscape improvements are installed.

D. *Recommended plant list.*

Botanical name	Common name	Notes	
Deciduous Shade Trees			
Acer negundo	Box Elder	N	
Fraxinus pennsylvanica	Green Ash		L
Populus acuminata	Lanceleaf Cottonwood	N	
Populus angustifolia	Narrowleaf Cottonwood	N	
Populus balsamifera	Balsam Poplar	N	
Sorbus scopulina	Mountain Ash	N	
Ornamental Trees			
Acer glabrum	Rocky Mountain Maple	N	
Alnus incana tenuifolia	Thinleaf Alder	N	
Amelanchier canadensis	Shadblow Serviceberry	N	L
Betula occidentalis	Rocky Mountain Birch	N	
Crataegus succulenta	Western Hawthorn	N	L
Crataegus erythropoda	Cerro Hawthorn	N	
Malus "Dolgo"	Dolgo Crabapple		
Malus "Radiant"	Radiant Crabapple		
Malus "Spring Snow"	Spring Snow Crabapple		
Populus tremuloides	Quaking Aspen	N	
Prunus pensylvanica	Pin Cherry	N	L
Prunus virginiana	Chokecherry	N	L
Quercus gambelii	Gambel Oak	N	L
Evergreen: Pine, Spruce, Fir			
Picea pungens	Colorado Blue Spruce	N	
Picea engelmannii	Engelmann's Spruce	N	
Pinus aristata	Bristlecone Pine	N	L
Pinus edulis	Pinyon Pine	N	L
Pinus flexilis	Limber Pine	N	L
Pinus ponderosa	Ponderosa Pine	N	
Pseudotsuga menziesii glauca	Colorado Douglas Fir	N	
Upright Junipers			
Juniperus communis	Common Juniper	N	L
Juniperus scopulorum	Rocky Mountain Juniper	N	L
Juniperus monosperma	Oneseed Juniper	N	L
Spreading Junipers			
Juniperus horizontalis "Blue Ring"	Blue Ring Creeping Juniper		L

Juniperus horizontalis "Prince of Wales"	Prince of Wales Creeping Juniper		L
Juniperus sabina "Arcadia"	Arcadia Savin Juniper		L
Juniperus sabina "Broadmoor"	Broadmoor Savin Juniper		L
Juniperus sabina "Buffalo"	Buffalo Savin Juniper		L
Juniperus sabina "Scandia"	Scandia Savin Juniper		L
Juniperus sabina tamariscifolia	Tamarix (Tam) Juniper		L
Juniperus scopulorum "Table Top"	Table Top Rocky Mountain Juniper		L
Broadleaf Evergreens			
Arctostaphylos uva-ursii	Kinnikinnick	N	L
Cercocarpus ledifolius	Curl-Leaf Mountain Mahogany	N	L
Cercocarpus montanus	Alderleaf Mountain Mahogany	N	L
Mahonia repens	Creeping Oregon Grape	N	L
Yucca glauca	Soapweed Yucca	N	L
Shrubs			
Acer ginnala	Amur Maple		L
Acer glabrum	Rocky Mountain Maple	N	L
Amelanchier alnifolia	Saskatoon Serviceberry	N	L
Artemisia filifolia	Sand Sagebrush	N	L
Atriplex canescens	Chamiso	N	L
Chrysothamnus nauseosus	Yellow Twig Rabbit Brush	N	L
Cornus sericea	Red Osier Dogwood	N	L
Cotoneaster acutifolia	Peking Cotoneaster		L
Eunoymus alatus	Burning Bush		
Holodiscus dumosus	Mountain Spray	N	L
Potentilla sp.	Cinquefoil	N	
Prunus besseyi	Western Sand Cherry	N	L
Prunus cistena	Purpleleaf Sand Cherry		L
Prunus virginiana	Chokecherry	N	L
Physocarpus opulifolius	Common Ninebark	N	L
Quercus gambelii	Gambel Oak	N	L
Rhamnus smithii	Smith Buckthorn	N	L
Rhus glabra	Smooth Sumac	N	L
Rhus trilobata	Three Leaf Sumac	N	L
Ribes americanum	American Black Currant	N	
Ribes aurem	Golden Currant	N	

Ribes cereum	Wax Currant	N	
Ribes inerme	Whitestem Gooseberry	N	
Ribes leptanthum	Trumpet Gooseberry	N	
Rosa glauca	Red-Leaved Rose		
Rosa woodsii	Western Wild Rose	N	L
Rubus deliciosus	Rocky Mountain Raspberry	N	
Rubus ideaus	Wild Red Raspberry	N	
Salix caprea	Pussy Willow		
Salix irrorata	Bluestem Willow	N	
Shepherdia argentea	Silver Buffaloberry	N	
Symphoricarpos albus	Common Snowberry	N	
Symphoricarpos oreophilus	Mountain Snowberry	N	
Syringa vulgaris	Common Lilac		L
N—Species native to Colorado the State L—Low water use plants (after establishment) Refer to local nurseries for information regarding perennials and annuals that will tolerate the short mountain growing season			

(Ord. No. 1986-03, § 4.07.010, 3-5-1986; Amended 6-2-1991; Amended 10-16-1996; Amended 8-24-1999; Amended 2-13-2000; Ord. No. 08-2017, §§ 6—8, 4-11-2017)

Section 4.07.030. Erosion and sediment control, stabilization, and revegetation standards.

In order to ensure that natural drainage patterns are preserved and protected from increased water flows, to keep any disturbance in natural vegetation and soil cover to a minimum, to prevent increased degradation of rivers and streams, to ensure that fugitive dust from development is minimal, and to ensure that erosion is controlled and slopes are properly stabilized and revegetated, every development permit application shall include an erosion and sediment control plan, and if necessary, a slope stabilization and revegetation plan in accordance with the requirements contained in Section 4.13.060. The Town Planner shall determine for each application which elements of Section 4.13.060(B) and (C) shall be included in such plans.

(Amended 2-13-2000)

Section 4.07.040. General architectural standards.

In order to enhance the visual impact of development on the community and the compatibility of building design with neighboring buildings, road design and drainage patterns, every development permit application, including those for mobile home parks, shall include an architectural design plan and the provisions of this section shall apply.

A. *Architectural design plan.* The architectural design plan shall include the following:

1. A drawing or model of the proposed development, as follows:

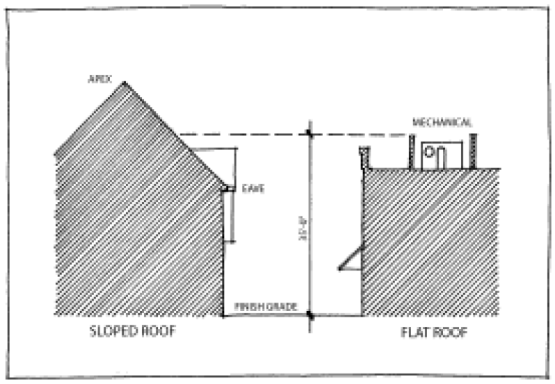
a. For all residential projects with total build out of eight or more units or nonresidential projects with gross floor area of more than 10,000 square feet, a three dimensional drawing or model.

b. For nonresidential projects with gross area of 10,000 square feet or less, the requirements of Subsection (A)(1)(a) of this section or a two dimensional drawing of all elevations.

2. A statement of architectural design, on a form provided by the Town, which indicates consideration of each of the requirements of this section.

B. *Requirements for architectural design.*

1. *General.* The architectural design plan shall demonstrate how the following items have been addressed in the location of buildings and design of the development: orientation, sun, views, natural light, shadows and ventilation for inhabitants, prevailing winds, slopes, existing and future drainage patterns, snow shedding, existing landscaping, pedestrian circulation, and compatibility with scale.



2. *Building height.*

a. The maximum height allowed is 35 feet to any point on the building, except in the Broadway District (see Section 4.07.060) and as further defined below.

b. On a flat or shed roof, any selected reference point on the roof surface that sits directly above the interior of the building must be measured from existing grade to the highest point of the roof structure. On a gable, hip, or gambrel roof, any selected reference point on the roof surface that sits directly above the interior of the building must be measured from existing grade to the average distance between the eaves and the apex of the roof. If the selected reference point is outside of the building footprint (such as eaves and overhangs), then the height measurement is from the existing or proposed finished grade, whichever is more restrictive. Existing grade is defined as the natural topography that exists prior to any improvements being made. Finished grade is the final elevation of the surface material that adjoins the building. Parapet walls may exceed applicable zone district height limitations by four feet. Stacks, vents, cooling towers, elevator structures and similar mechanical equipment and spires, domes, cupolas, towers and similar non-inhabitable appurtenances may exceed applicable zone district height limitations by up to 30 percent.

3. *Building mass/form/orientation.*

a. Building mass, form, length, and height shall be designed to provide variety and visual interest, maintaining a scale appropriate to surroundings.

b. Building styles that are traditionally used within the Town and in rural settings (such as two-story, false fronts and ranch buildings) shall be used as examples for new construction and renovations. Appropriate styles and form vary within the Town; refer to specific area design standards for appropriate building types. Buildings that are evocative of other regions, such as adobe buildings, are inappropriate.

c. The front facade of buildings shall orient towards the street; the front building facade containing the primary entry way shall parallel the street.

4. *Architectural detail.*

a. Building entrances shall be visible and accessible from the pedestrian right-of-way along the building's primary street.

b. All mechanical equipment (either on roofs or at ground level), service areas, storage areas, loading docks, and trash receptacles shall be screened from public view.

5. *Building materials.*

a. Building materials should be sympathetic and harmonious with the natural setting of Eagle. Traditional materials used in construction of buildings in rural mountain communities are wood, stone, stucco, and brick masonry. A variety of materials should be employed within the building facade. Stone or masonry delineating the building foundation is encouraged. Screw down metal roofs are permitted.

b. Facade and roof colors shall have subtle, neutral, or earth tone colors. Muted colors are encouraged. The use of high intensity colors, metallic colors, black, or fluorescent colors is prohibited. Exemplary colors are available for review at the Town hall.

c. Building trim and accent areas may feature brighter, complementing colors, including primary colors, but plastic materials and neon tubing is unacceptable for building trim or accent areas. Plastic light raceways are prohibited.

d. Canopies, such as over gasoline pumps, shall be equipped with skirts and/or under-canopy lighting shall be recessed sufficiently to direct lighting downward to prevent light being broadcast beyond the site.

6. *Plastics.* Major components, including roofs, walls, fascia and exterior trim of a principal structure shall not be of plastic. Plastic may be allowed for smaller components such as skylights, outdoor seating and similar items. The use of plastics shall be discouraged unless it is demonstrated that the proposed material is the best alternative for the particular component.

7. *Utility connection.* Underground utility connection is encouraged. Where the connection meets the building, risers, utility meters, panel boxes, etc., are encouraged to be covered with the same or compatible material as the siding material unless expressly prohibited by utility company regulations.

8. *Trash receptacles.* Areas for trash receptacles shall be designed so that the receptacle, as much as possible, cannot be viewed from the street or yard. Access to the receptacles must be provided to allow easy ingress and egress by trash hauling vehicles. Dumpsters must be placed on concrete pads.

9. *Fencing.* See Section 4.04.100(H)(6).

(Ord. No. 1986-03, § 4.07.020, 3-5-1986; Amended 6-2-1991; Amended 2-13-2000; Amended 5-22-2007; Ord. No. 08-2017, §§ 9, 10, 4-11-2017)

Section 4.07.050. Central Business Area.

A. *General provisions.*

1. The Central Business District is located within downtown Eagle, south of U.S. Highway 6. This district is the focus of the Town's commercial activity and encompasses "Old Town" Eagle and a retail area along Highway 6. (Figure 1) Land uses in this district include convenience retail services, offices, shops, cafes, public offices, civic organizations, churches, and residential. New construction should be designed to blend with the existing fabric of historic buildings here. The design standards of the Central Business District do not apply to the Broadway District which can be found in Section 4.07.060.

2. Specific attention should be given to maintaining the existing scale, materials, and design style of the Central Business District. This will help maintain the village character of downtown Eagle and promote its economic and aesthetic vitality.

B. *Goals and objectives.* The goals and objectives of this section are:

1. Preserve the character and integrity of the Central Business District by promoting appropriate architecture and site planning.

2. Strengthen visual continuity of the streetscape by enforcing setbacks and controlling building orientation.

3. Reinforce the traditional, rural mountain character of the Town by incorporating traditional building materials and native plant material in new development.

4. The district and each individual building should enhance the overall goals and objectives and be appropriate to today's lifestyles.

5. Residential units, lofts, and offices should be located above retail, restaurant, and commercial uses. Residential use is not allowed at the street level or basement level for new construction or renovated buildings.

6. There should be a sense of simplicity and repose in the building mass without creating buildings that are too busy or overly ornate.

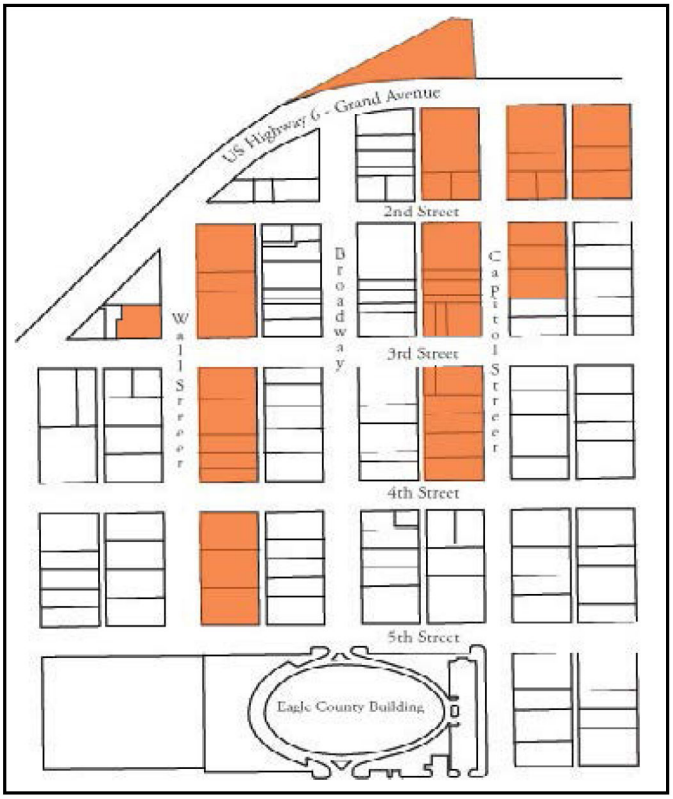


Figure 1: Central Business District

C. *Building setbacks.*

1. New buildings shall reinforce the traditional building alignment found on the same block. Alignments vary within the area.

2. Sites adjacent to or utilizing existing residential structures shall respect established setbacks of existing residential buildings where front yards and deeper setbacks are typical.

3. At the intersection of Highway 6 and the Central Business District, setbacks may be varied to encourage a landscaped gateway treatment.

4. Buildings should present their front facades to the street that they face. Corner lots should address both streets that they face.

D. *Building height.* New construction shall place the first floor at ground level. Three-story buildings are allowed. The building height limit is 35 feet.

E. *Building mass/form/orientation.*

1. New construction shall maintain and reinforce the pattern of traditional building forms and shapes along the streetscape. New buildings shall be simple and rectangular in form; corners shall be at right angles. Corner entrances are, however, allowed in the Central Business District. Traditional commercial buildings in the Central Business District are simple in design and construction. Buildings should present their front facades to the street that they face. Corner lots should address both streets that they face.

2. Buildings shall be of widths similar to those found historically on same or adjacent blocks.

3. Roof form shall match those of existing and traditional buildings on the same or adjacent blocks, as appropriate.

F. *Architectural detail.*

1. Doors should be similar in character, proportion, scale, and material to those of traditional buildings on the same or adjacent blocks. Oversized doors that would create a "grand entry" are inappropriate.

2. Traditionally, windows have a ratio of width to height of one to two. Second story/upper story windows are usually smaller than ground level storefront windows and should be evenly spaced across all facades adjacent to the street.

3. A solid-to-void ratio that is similar to those found historically in the neighborhood shall be used. Large expanses of glass on exterior facades, whether vertical or horizontal, are inappropriate on renovated residential buildings used for commercial purposes. Glass panels shall have low reflectivity and high transparency, allowing for visual access into the building at ground level.

4. New construction should provide architectural differentiation between upper and lower floors that is reflected in the primary and secondary street elevations.

5. Porches on residential structures used for commercial purposes should be of a size and proportion similar to that seen historically in the Central Business District. Porches should project from the central form and have a separate roof.

6. Ornamental elements, such as brackets, railings, and awnings, should be in scale with similar, traditional buildings. Modest ornamental details should be considered, but highly ornate decorative features that would compete with traditional architectural details are inappropriate.

G. *Building materials.*

1. Building materials used for all major surfaces shall be similar to those employed historically. Segmented, horizontal siding as traditionally seen on wood and wood-clad ranch buildings is appropriate; maximum overlap dimension shall be eight inches. Sandstone and river-rock is appropriate when used as a foundation material; however, stone cladding over large portions of a surface is not a documented historical use and is inappropriate. Moss rock is unacceptable as a facade material. Manufactured products that are made to simulate natural materials (such as Hardiplank© or pre-cast concrete panels made to simulate limestone) shall be reviewed on a case by case basis. All facade materials shall have low reflectivity. Concrete block is prohibited.

2. Pitched roof materials are to be wood or asphalt shingles; galvanized sheet metal is a documented historical roof material and is acceptable. Metal roof colors shall be muted.

H. *Landscape/sidewalks/furnishings/fencing.*

1. Sidewalks shall be constructed in all commercial zones. In areas where traditionally there has been a zero foot setback, sidewalks shall have an integral curb and gutter. In areas where it is customary to have a tree lawn or planting strip, the sidewalk shall be detached from the curb and gutter. Sidewalk should be set back from the back of curb five feet minimum, aligning and connecting to existing sidewalks. Sidewalk material is to be concrete or concrete unit pavers.

2. In areas where the sidewalk is adjacent to the building, planters and/or window boxes should be installed and maintained at the expense of the property owner. Planters shall not impede pedestrian flow along the sidewalk.

3. Opaque fencing shall be limited to back yards and service areas. Materials shall be wood, masonry, or split face concrete block. Chainlink fencing may be used in backyards and service areas for demonstrated security purposes only and must be vinyl-coated black or green and used in conjunction with plant material that is tightly spaced to create a visual screen.

4. Fencing in front yards shall be no taller than three feet. Fences shall be of wooden pickets, wood and wire, wrought iron, or masonry. Chainlink, rough-sawn wood, vinyl material, or concrete block fencing is prohibited.

I. *Parking.*

1. In the Central Business District, both parallel and diagonal parking currently exists. This is the traditional, established parking layout in this area. Both parallel and diagonal parking shall remain the standard for this area. Parking configuration will be determined at development review on a case by case basis and will be dependent upon street right-of-way width. The existing rights-of-way in area vary between 60 feet and 80 feet.

2. Parallel parking shall be encouraged along all blocks within the Central Business District where diagonal parking is not feasible. Parking layout and design shall include curb and gutter.

3. For parking lots with ten or more parking spaces, one deciduous shade tree shall be required to be planted in the interior of the lot for every ten spaces. All required shade trees shall be located within curbed, planted medians and/or islands to provide spatial definition and shade within paved areas.

4. In areas where residential setbacks occur, visibility of parking from the street shall be minimized by placing parking behind the building. Access to rear parking lots shall be from the alley. Existing buildings undergoing renovations shall be required to eliminate and landscape existing driveways; new curb and gutter will be required to meet existing conditions.

5. All parking lots adjacent to primary and secondary streets shall be screened using plant material and/or fencing.

J. *Signage.*

1. Signage separate from the building shall be integrated with the overall site plan and planting plan. Signage must comply with the Town Sign Code (Chapter 4.08).

2. Projecting signs must be mounted eight feet above finished grade, measuring from pavement to bottom of sign.

3. Neon lighting on exterior building facades is not permitted in the Central Business District.

4. All sign faces are to be no more than 20 square feet.

5. Sign material shall be compatible with building facade materials and must be durable to withstand climactic effects of the area. Painted wood or metal is preferred. Highly reflective materials are prohibited.

6. All signs shall receive a separate sign permit prior to erection as required in Chapter 4.08.

7. Buildings which contain more than one sign shall have a coordinated plan for all signs on the building and property.

(Amended 2-13-2000; Ord. No. 08-2017, § 11, 4-11-2017)

Section 4.07.060. Broadway District.

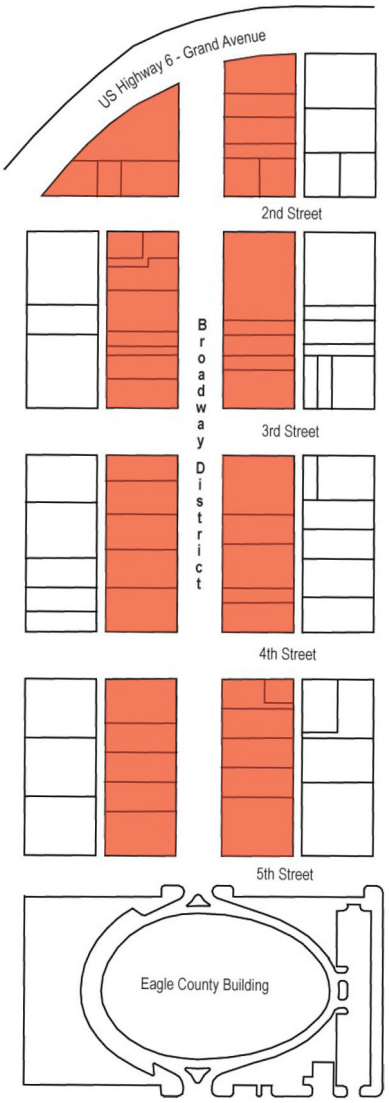


Figure 2: Broadway District

A. *General provisions.*

1. The overriding vision for Broadway is to enhance the Town and to create a vibrant business district based on traditional architecture, urban planning, and design principles. Broadway deserves special attention and more specific guidelines than the Central Business Area as a whole. Broadway is defined as the face-block of the street extending through the 100, 200, 300, and 400 blocks. The alleys between Capitol Street and Wall Street provide the eastern and western boundaries for the specific guidelines found on Broadway. (Figure 2)

2. The buildings of the Broadway District should be permanent in character. Retail and commercial uses shall be located on the first floor with office, service establishments (except vehicular service), and residential uses found above on the second and third floors. There are specific details and guidelines

which are called out in this section that serve to guide the construction and redevelopment of properties on Broadway. The purpose of these guidelines are to encourage mixed-use buildings in the Broadway District. (Mixed-use buildings are multi-story buildings that contain more than one land use. For example, a three-story building could have a restaurant on the first floor, a service business or office on the second floor, and apartments on the third floor.)

3. The character of Eagle's Broadway District shall be referential to the business districts of traditional western slope communities and the State vernacular architectural style (see appendix N at the end of this Title). Downtown districts found in Telluride, Salida, Leadville, Breckenridge, Montrose, Glenwood Springs, Carbondale, and districts located on the front range of the State are all examples of the styles of architecture, building massing, and scale that should be considered when designing buildings for the Broadway District in Eagle. These communities vary from traditional mining towns to rural agricultural villages. The buildings in the Broadway District will be designed with these precedents in mind.

B. *Goals and objectives.* The goals and objectives of this section are:

1. Preserve the character and integrity of the Broadway District by promoting appropriate architecture and site planning.

2. Strengthen visual continuity of the streetscape by enforcing setbacks and controlling building orientation.

3. Reinforce the traditional character of the Town by incorporating traditional building materials and native plant material in new development.

4. The buildings and site plans should be referential to traditional western slope communities and the State vernacular architectural style, but a strict period replication is not the intent of this section.

5. The district and each individual building should enhance the overall goals and objectives and be appropriate to today's lifestyles.

6. There should be a sense of simplicity and repose in the building mass without creating buildings that are too busy or eclectic.

7. Residential units, lofts, and offices should be located above retail, restaurant, and commercial uses. Residential use is not allowed at the street level or basement level for new construction or renovated buildings.

8. The character of storefronts should be carefully considered to include higher ceilings in the first floor spaces, signage, canopies, awnings, and appropriate window fenestration.

9. Building character in this area is extremely important. The look and feel of this district taken as a whole is intended to be comprised of distinctive qualities that will establish its identity and create a desirable place to spend time.

10. Roof and parapet forms can provide interest, scale, richness, and height variation to the buildings. These forms should also be utilized to screen unsightly mechanical systems and appropriately direct snow and water removal from the buildings. Steps should be taken so that these, and any other, building forms do not pose a falling ice or snow hazard to users, passersby, or adjacent property.

C. *Building setbacks.*

1. Buildings have a zero lot line allowance to the front property line. Buildings shall not be built greater than 15 feet from the front property line. (Figure 3)

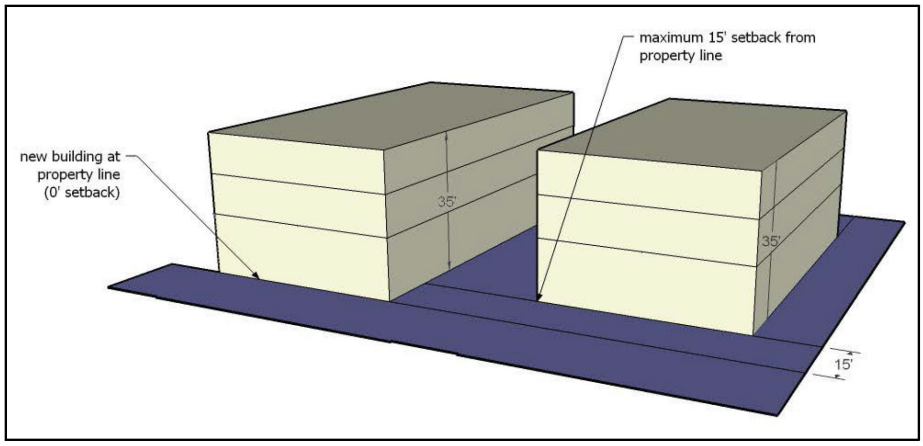


Figure 3: Zero setback and maximum 15-foot setback

2. In the Broadway District, properties are encouraged to be built to the front lot line. Exceptions to the zero lot line recommendation would potentially be for the creation of active pedestrian spaces, semi-public patio spaces, outdoor dining opportunities, temporary displays of merchandise, sidewalk sales, and landscaping details where appropriate. Special consideration may be given to vary the front setback to allow for keeping mature and large-caliper trees that exist on some properties along Broadway. In addition, this setback may allow for the creation of useable spaces at the ground level, but the second and third floors may overhang these spaces and extend to the front lot line. New buildings are encouraged to be built to the front and side property lines, but this shall be decided on a case by case basis. (Figure 4, 5) See Subsection (H) of this section for specific guidelines on allowed uses in the front yard areas.

Figure 4: Usable space at the ground level - used for outdoor dining in this example

Figure 5: Usable space at the ground level entrance with cantilevered element extending to the front property line - used for temporary or daily merchandising in this example

D. *Building height.*

1. New construction shall place the first floor at ground level.
2. In the Broadway District, buildings may be three stories in height.
3. In order to maintain proper proportions and enhance the existing vertical to horizontal ratios of the Broadway District, there are two maximum building height limits depending on the scenario:
    a. Scenario one; 35-foot height limit: New three-story buildings have a height limit of 35 feet. In this scenario, parapet walls may exceed the height limit by no more than four feet. (A parapet is a low wall projecting from the edge of a platform, terrace, or roof.) Thus, the maximum building height for scenario one is 39 feet including the maximum four-foot parapet wall. (Figure 6)
    b. Scenario two; 42-foot height limit: The maximum building height for scenario two is 42 feet including the parapet wall. In this scenario, the first two stories may be located on the property line but the third story must be stepped-back from the lot line at a 35-degree bulk plane angle. The total height limit for the ground level and second story must not be greater than 30 feet in this case. Facade material on the step-back must match the majority of the facade material of the first two floors directly below the section that is stepped-back. (Figure 7, 8) Except as provided herein, refer to Chapter 4.04 for specific zoning standards relating to height limits.

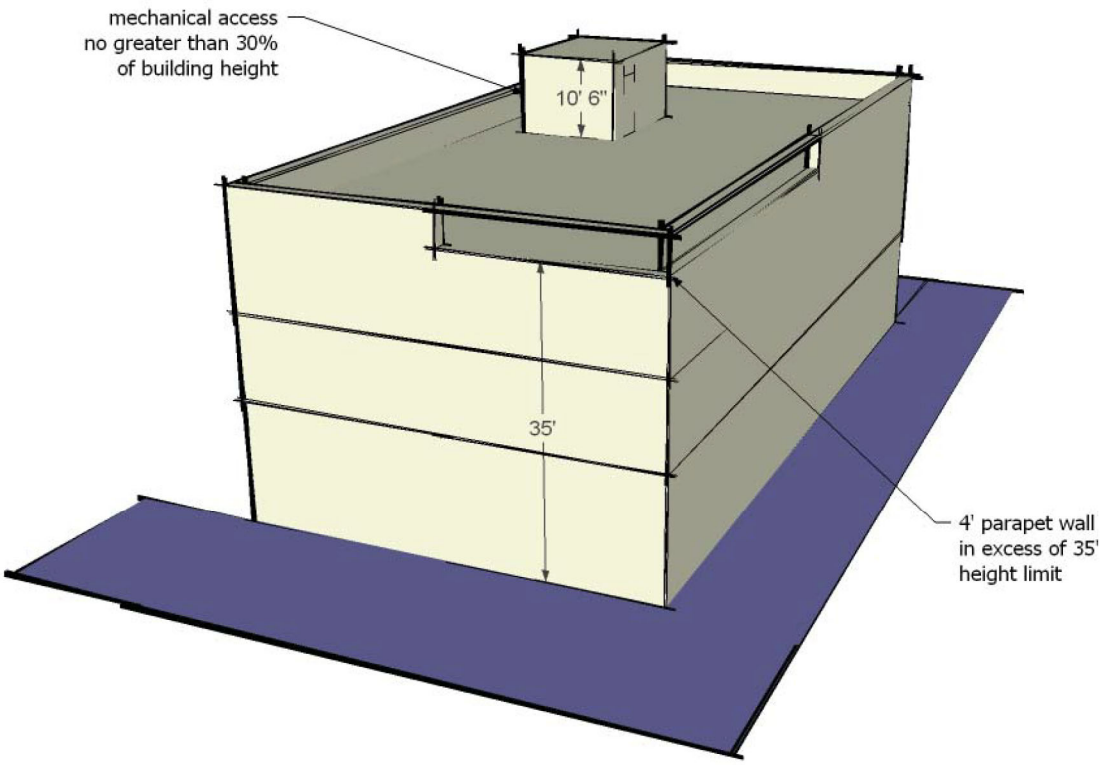


Figure 6: Scenario one - 35 foot building height including parapet walls and mechanical access

Figure 7: Image of second and third story setbacks - note the matching facade materials on the second and third story

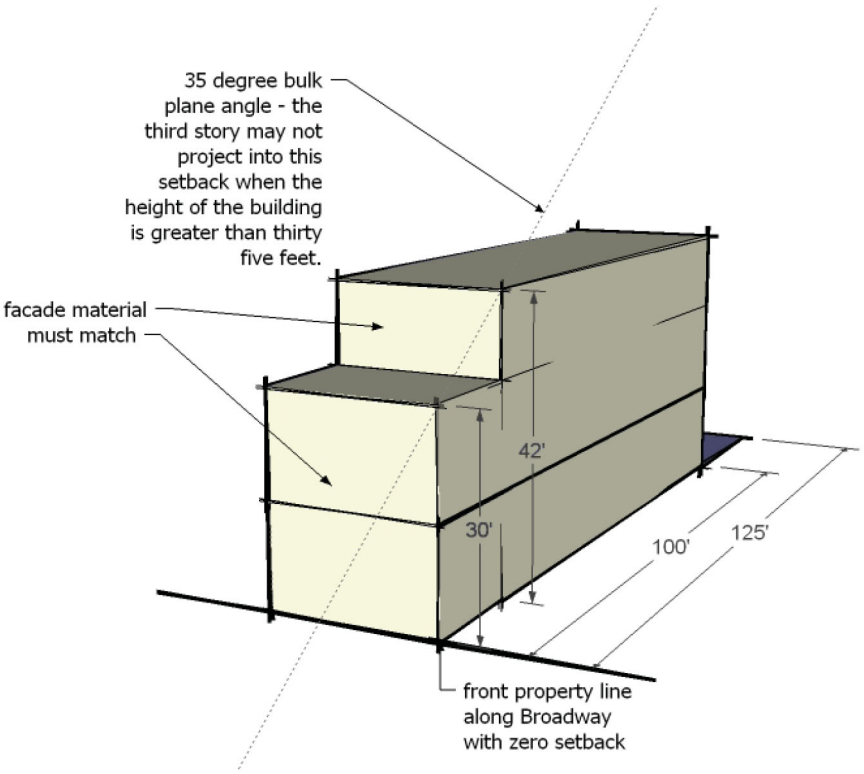


Figure 8: Scenario two - third story setback when a total height of building is greater than 35 feet

4. The bulk plane setback for three story buildings greater than 35 feet shall apply to corner lots which front Broadway and a secondary street (2nd, 3rd, 4th, or 5th Streets). (Figure 9)

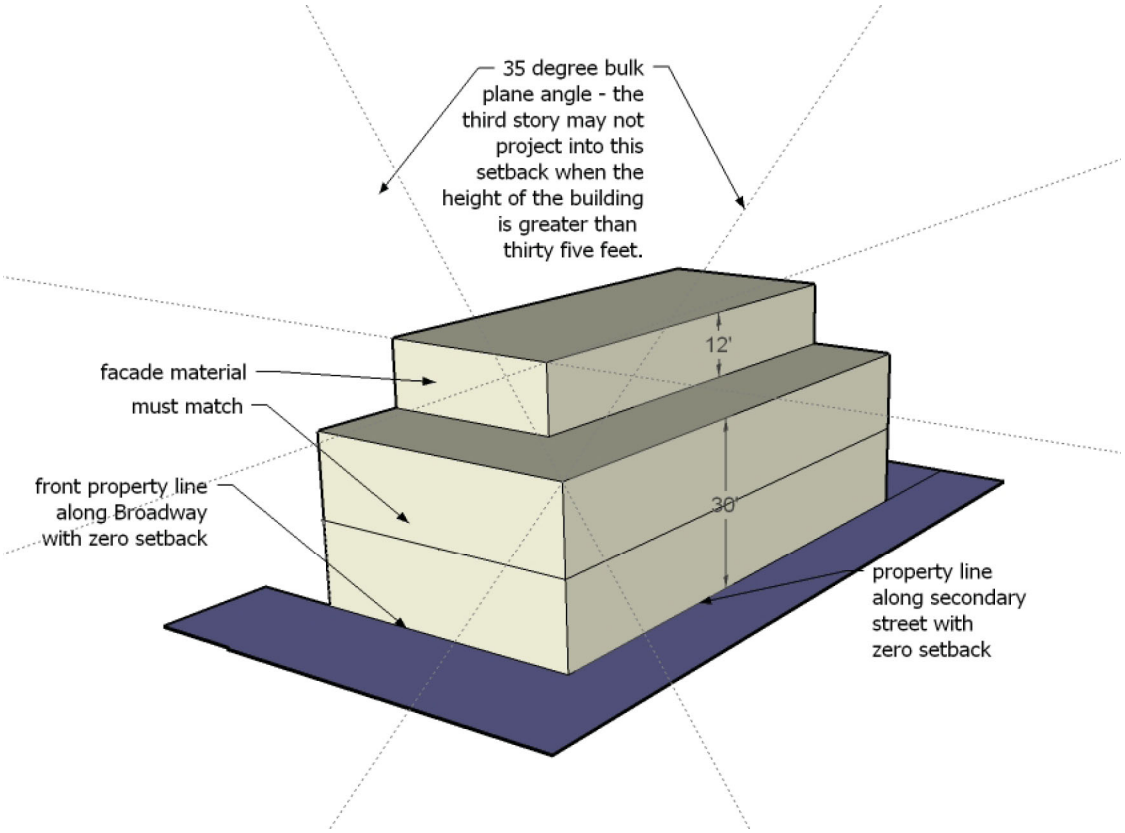


Figure 9: Scenario two - third floor setbacks on Broadway and a cross street within the Broadway District

5. Corner treatments at street intersections may exceed the height limit and shall be decided on a case by case basis. The height limit to the extent of which a corner detail may exceed the height limit shall be no greater than 30 percent of the total building height. Careful consideration will be given to circumstances where the intent of the corner treatment shall be to define the corner as a landmark opportunity that shall be in scale with the building and district as a whole. Corner treatments may exceed the height limit if the non-inhabitable architectural feature serves to add punctuation and significance to the building and to the district. Out of proportion or superfluous detailing will not be allowed. (Figures 10, 11)

    a. Scenario one: If the corner building is built to the 35-foot height limit, corner treatments are allowed according to the standards described above.

    b. Scenario two: No excess of the height limit is allowed if the corner building is built to the 42-foot height limit.

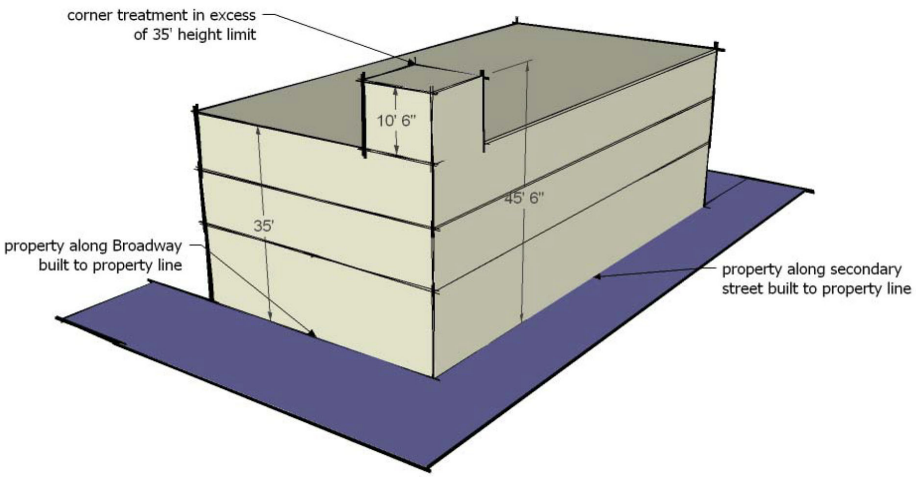


Figure 10: Corner treatment in excess of 35-foot height limit - reviewed on a case by case basis and not allowed under scenario two

Figure 11: Corner treatment that would be allowed in excess of building height limits - note that the elements are in scale with the buildings and with the district and add appropriate architectural interest and detailing to the corner - reviewed on a case by case basis

E. *Building mass/form/orientation.*

1. New construction shall maintain and reinforce the pattern of traditional building forms and shapes along the streetscape.
2. Buildings should present their front facades to the street that they face. Corner lots should address both streets that they face.
3. Front building facades should create a rhythm of architecture and interest. Blank walls are inappropriate. The same rhythm that is established on the front facades should be established on any side street facades.
4. Buildings and additions should continue the existing pattern of architecture both vertically and horizontally to reflect traditional patterns found in traditional western slope communities.
5. Relation to human scale should be a consideration in the design of the facades and the spaces created adjacent to the pedestrian realm.
6. New construction should exemplify the proportions found in traditional western slope communities and the State vernacular architectural style.

F. *Architectural detail.*

1. Doors should be similar in character, proportion, scale, and material to those of traditional buildings.
2. Large expanses of uninterrupted glass on exterior facades, whether vertical or horizontal, are inappropriate on renovated residential buildings used for commercial purposes. Glass panels shall have low reflectivity and high transparency, allowing for visual access into the building at ground level.
3. An effective way to subtly invoke traditional building character is to express the basic structural organization of the buildings in their facades. The vertical structure can be expressed as opaque vertical areas substantial enough to be perceived as columns and pilasters. (Figure 12)

Figure 12: Brick facade which is designed to look like 'vertical columns' - these are not true supporting columns but add to the traditional character for this building

4. The location of the floor levels should be expressed as areas of horizontal opacity. Glass curtain walls are not allowed.

5. Storefront designs shall compliment the traditional western slope community ambiance while reflecting today's lifestyles. Storefronts do not have to be period reproductions and should appear open, inviting, and be a minimum of 60 percent transparent. The storefront design standard applies to the first floor only.

6. Storefront windows should extend from the sidewalk to a height of at least 12 feet. Transom windows may be included in the minimum window height calculation. The sill plate of a retail display window may begin at the sidewalk level and shall be no higher than three feet above the sidewalk elevation. The window base need not match the building material, but may include metal, wood, stone, or masonry. (Figures 13, 14)

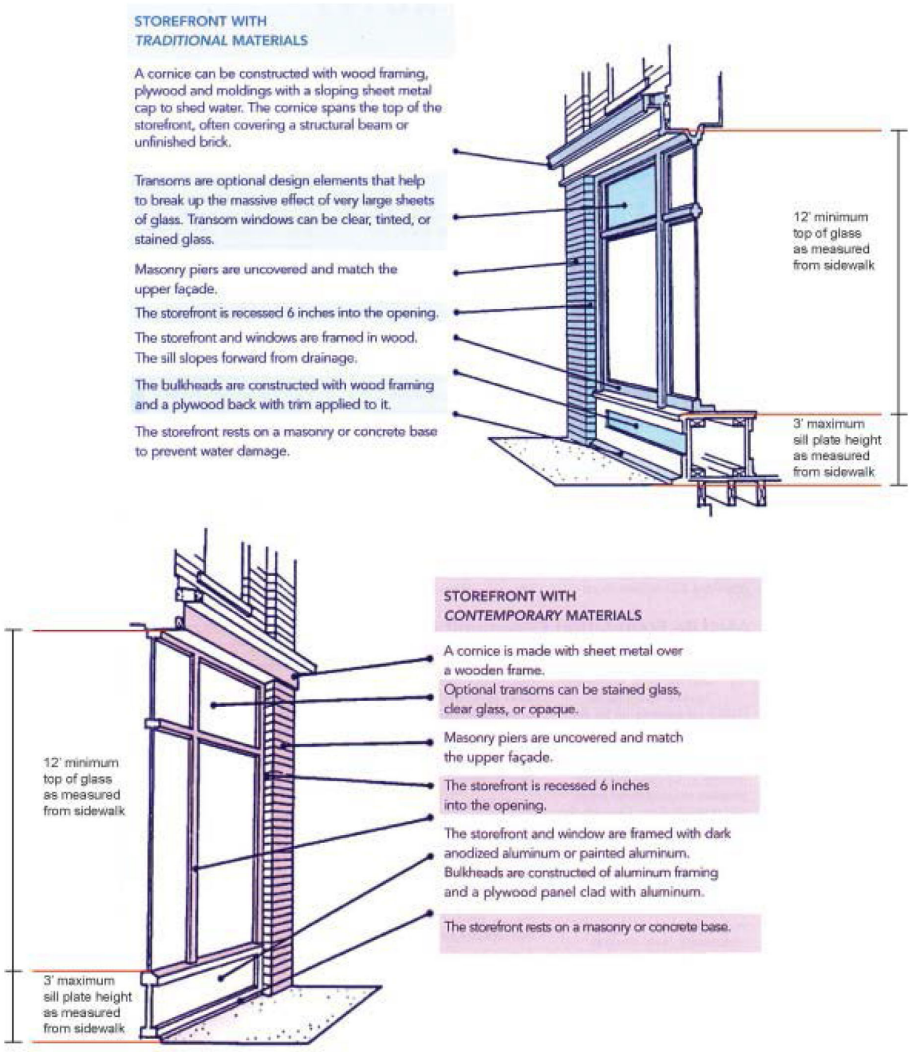


Figure 13: Window height diagram and explanation of required storefront design elements

Figure 14: Storefront windows (plate glass and transom), low sill plate at street level, and articulated entry

7. Storefront windows may be set parallel to the curb or storefront windows and entries may be articulated by creating areas of indentation. (Figure 14)

8. Circumstances will arise where it is necessary to add muntin systems to windows. These may be true divided light windows or muntin systems adhered to both sides of the glazing system. One-sided, snap-in muntin systems are not permitted.

9. Windows on the second and third floors will be shorter in height than those occurring at ground level due to the smaller floor-to-ceiling heights. These window units should be vertical in proportion and may be double-hung or divided light. Windows on the second and third floors should be arranged singly or in groupings that result in a composition that agrees with the composition at the first floor.

10. Passages and entries to the second level shall be distinguished architecturally. Passages that lead to a rear parking area should be clearly signed. The architectural elements which express these entrances should appear to be supported by adequate pilaster expressions where it interfaces with the building. Retail tenants on both sides of passages are encouraged to add display windows into and along the passages. Articulated second-level entries and passage ways may create display conditions where a merchandising corner is appropriate, and an indentation may create suitable space for door swings. Door swings into the right-of-way are prohibited.

11. Corner entrances are encouraged where they are possible. They have the advantage of addressing two streets and an intersection, resulting in a unique degree of visibility for those businesses that create them. They also contribute more animation to the district as a whole. (Figure 15)

Figure 15: Corner entrance

12. The use of cornices to visually terminate the top of building facades is encouraged. (The cornice is the uppermost section of moldings along the top of a wall or just below a roof.) In most cases, the cornice will be established below a parapet wall that continues vertically past the cornice line. Cornices may project from the building line and into a public right-of-way a maximum of 18 inches. Refer to Chapter 4.04 for specific zoning standards relating to projections. Balconies, porches, or decks are not allowed to project into the public right-of-way.

13. Fixed overhangs. Architectural overhangs used to provide protection from sun and weather at the first level are considered canopies. They may be constructed of opaque materials, glass or their combination. If glass is used, a frosted or heavily fritted finish shall be required to obscure dirt. Metal canopies will also be considered on a case by case basis. Canopies shall be cantilevered or bracketed from the main building facade and may project a maximum of six feet. The lowest point of the canopy element shall not be less than 12 feet above the sidewalk. See Subsection (F)(14) of this section for an explanation of design standards for ornamental elements, such as brackets, railings, and awnings.

14. Awnings. Ornamental elements, such as brackets, railings, and awnings, should be in scale with similar, traditional buildings. Modest ornamental details should be considered, but highly ornate decorative features that would compete with traditional architectural details are inappropriate. Fabric for awnings shall be matte finish. Plastic material, plastic coverings, and internally illuminated awning assemblies are prohibited. Awnings shall not interfere with pedestrian traffic or any maintenance equipment that the Town may employ in the public right-of-way.

15. Porches on residential structures used for commercial purposes should be of a size and proportion similar to that seen historically in the Broadway District. Porches should project from the central form and have a separate roof.

16. Stacks, vents, cooling towers, elevator structures and similar mechanical building appurtenances and spires, domes, cupolas, towers and similar non-inhabitable building appurtenances may exceed applicable height limitations by up to 30 percent of the total building height. The need for this height limit excess for mechanical appurtenances must be documented and proven that no other engineering solution would eliminate the need to exceed the height limit. For example, a building may require heating or cooling equipment to be located on the roof. Any mechanical equipment or similar non-inhabitable building appurtenances will be required to be shielded with appropriate building materials that would match the rest of the building or painted to match the color scheme of the building. Care is

required to be taken to eliminate the visual impact of any excess to the height limit from surrounding streets and alleyways. This situation will be decided on a case by case basis. (Figure 16).

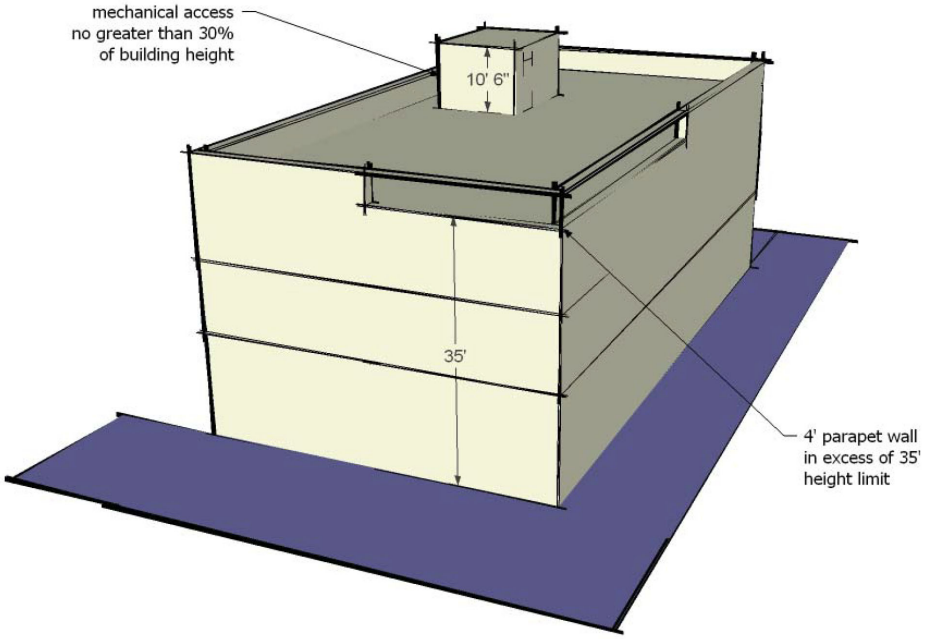


Figure 16: Parapet walls and mechanical access

G. *Building materials.*

1. Materials shall be predominantly brick, stone, hand-chiseled stone, metal, or wood siding. A combination of these materials on a single building may be acceptable. For example, buildings that are predominantly masonry or brick may have the entrance details or a window sash that is trimmed in wood. All materials should be in character with those traditionally employed in western slope communities. In general, buildings in this zone district are meant to convey a sense of permanence and the use of appropriate materials should reflect the goal. Manufactured products that are made to simulate natural materials (such as Hardiplank© or pre-cast concrete panels made to simulate limestone) shall be reviewed on a case by case basis. When brick is used as a primary facade material, variation in the detailing of the brick to cast shadow lines is encouraged.

2. Segmented, horizontal siding as traditionally seen on wood and wood-clad ranch buildings is appropriate; maximum overlap dimension shall be eight inches. Sandstone is appropriate when used as a foundation material; however, stone cladding over large portions of a surface is not a documented traditional use and is inappropriate. Moss rock is unacceptable as a facade material. Modular panel materials are not allowed. All facade materials shall have low reflectivity. Concrete block is prohibited on front facades.

3. Pitched roof materials shall be wood or asphalt shingles and sheet metal is a documented traditional roof material and is acceptable. Metal roof colors shall be muted.

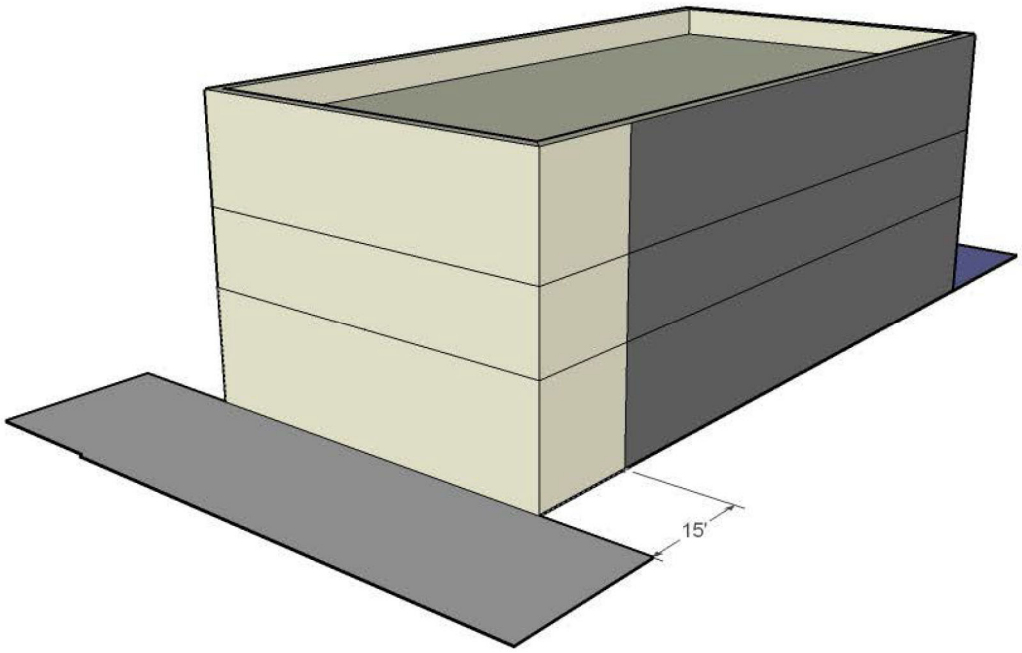


Figure 17: The side facade material must match the front facade material for a length of at least 15 feet

4. Exterior facade material along the side of the building must match the exterior facade material found on the front of the building for a length of at least 15 feet from the ground level to the height of the roof. (Figure 17)

H. *Landscape/pathways/furnishings/fencing/site lighting.*

1. *Usable space.* If buildings are setback up to 15 feet (see Subsection (C)(1) of this section), useable spaces may be created between the right-of-way and the front of the building. These front yard areas may be used for landscaping or for the creation of hardscaped patio spaces.

a. *Hardscaped areas.* Acceptable hardscaping material in this space must complement the materials found in the Broadway streetscape project, but the materials need not match exactly to what is found on Broadway. Standard gray concrete, asphalt, loose gravel, loose cobble, and extensive areas of mulch are not acceptable paving materials for these areas. Changes in grade must meet building codes and are not encouraged. Hardscaped areas will be reviewed on a case by case basis.

b. *Landscaped areas.*

i. Landscaped areas should integrate with the Broadway streetscape project and provide appropriate access to the building. Opportunities exist to use plant materials to provide color and interest throughout the Broadway District. Planting areas, planted pots, and containers are candidates for displays of color and character that will add to the ambiance and interest along Broadway. In this context, ornamentals are intended to be lower plant materials, used as massings that range in height from one foot to three feet.

ii. Appropriate plantings include annuals, perennials, grasses, small ornamental tree varieties, or shrubs that flower, have colorful winter bark or showy fruits. Heavy screening of the building with trees, shrubs, and other plantings are not allowed; the exception to this situation would be to allow for keeping mature and large-caliper trees that exist on some properties along Broadway. Lawns are allowed provided there is an appropriate

hardscaped path to the entrance of the building. Landscaped areas will be reviewed on a case by case basis.

2. *Front yard fencing.* Fencing in front yards shall be no taller than three feet. Fences shall be of wooden pickets, wood and wire, wrought iron, or masonry. If masonry is used, piers are encouraged with more transparent fencing in-between (wrought iron or wood pickets, for example) to increase transparency. Chainlink, rough-sawn wood, vinyl material, or concrete block fencing is prohibited.

3. *Rear yard fencing.* In rear yards, fencing materials shall be wood, masonry, vinyl, or split face concrete block. Chainlink fencing may be used in backyards and service areas for demonstrated security purposes only and must be vinyl-coated black or green.

4. *Site and building lighting.* The nighttime illumination of the Broadway District should help create a warm, inviting place while providing good color rendition of its visitors, objects, and surfaces. Site lighting is intended to facilitate safe and easy movement of pedestrians by adequately illuminating front yard areas. It is also intended to reveal special architectural features and landscaping features that are important to the civic life of the Broadway District. At the same time, care must be taken to minimize problems created by artificial lighting, such as unnecessary illumination, too much illumination, glare, and light pollution to the sky. Luminaires shall be used that cast the light downward (low-cutoff luminaires) rather than outward (broadcast luminaires) in the Broadway District. An appropriate lighting strategy must be employed to allow the internal lighting of the buildings and the storefronts to project an undiluted character and charm to Broadway. A lighting plan is required to be reviewed for all new buildings and remodels in the Broadway District. See Section 4.07.010 for specific lighting standards.

I. *Parking.*

1. For parking lots with ten or more parking spaces, one deciduous shade tree shall be required to be planted in the interior of the lot for every ten spaces. All required shade trees shall be located within curbed, planted medians and/or islands to provide spatial definition and shade within paved areas.

2. In areas where residential setbacks occur, visibility of parking from the street shall be minimized by placing parking behind the building. Access to rear parking lots shall be from the alley.

3. All parking lots adjacent to primary and secondary streets shall be screened using plant material and/or fencing.

4. In the Broadway District, one space per residential unit shall be provided on-site only when a retail or restaurant use has been established on the first floor. If a service establishment on the ground floor is established, the parking requirements shall be reviewed on a case by case basis. The use of stacked parking spaces is allowed to meet this requirement. Parking covenants shall be required to control access to the stacked parking spots for the owners, renters, or lessees of residential units in the building.

5. In the Broadway District, on-site parking requirements for residential use may be met by enclosed garages. Garages may be located within the 25-foot setback. Service entrances and access must be provided in the instance that garages are located in the rear yard. This standard will be reviewed on a case by case basis. Garage square footage will not be counted towards the floor area ratio standards (refer to Chapter 4.04 for specific zoning standards). (Figure 18)

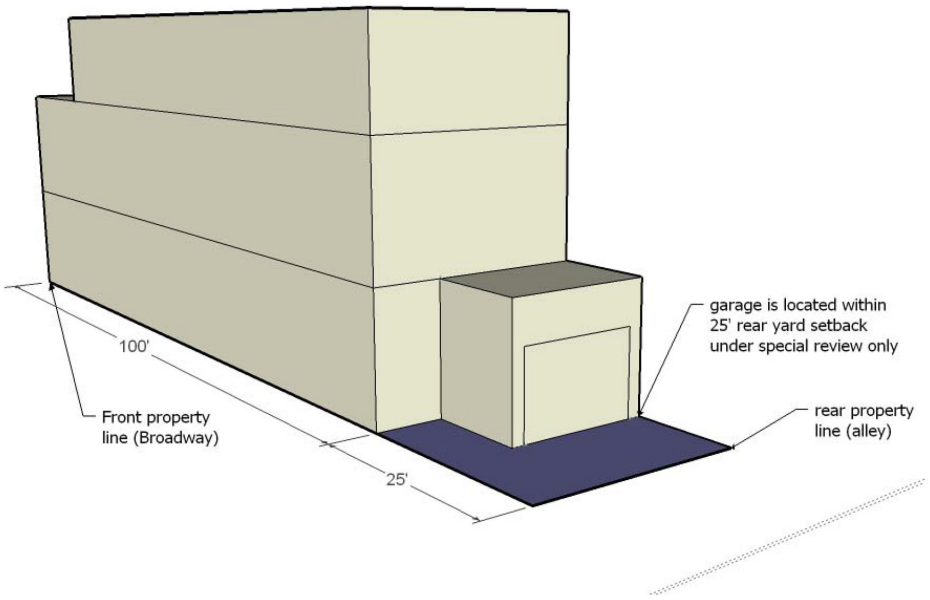


Figure 18: Garage located within the rear yard setback under special review only. Note that the configuration of the garage in this case allows for ingress and egress off of the property for residential parking and that there is a service entrance to the ground floor retail space.

6. In the Broadway District, basement square footage will not be counted towards the floor area ratio standards (refer to Chapter 4.04 for specific zoning standards).

J. *Signage.*

1. Signage separate from the building shall be integrated with the overall site plan and planting plan.
2. Projecting signs must be mounted a minimum of eight feet above finished grade, measuring from pavement to bottom of sign.
3. Neon lighting on exterior building facades is not permitted in the Broadway District.
4. All sign faces are to be no more than 20 square feet.
5. Sign material shall be compatible with building facade materials and must be durable to withstand climactic effects of the area. Painted wood or metal is preferred. Highly reflective materials are prohibited.
6. All signs shall receive a separate sign permit prior to erection as required in Chapter 4.08.
7. Buildings which contain more than one sign shall have a coordinated plan for all signs on the building and property.

K. *Color.* The colors recommended for use in the Broadway District derive from those colors found occurring naturally in the rock, soils, trees, grasses, and water of the Eagle River Valley and the Brush Creek Valley. The colors have been arranged in hue groups of yellows, greens, blues, reds, and grays for the ease of evaluation. (Figures 19-23) In addition, asphalt shingle roof blends, here represented as averaged single colors, which hold the most promise of working effectively with these colors, are also shown in the cool and warm gray palettes. (Figure 24-25) Each color has been matched to the ICI paint system for ease of communication. The natural colors provided should be carefully evaluated when combined to form paint schemes for use on buildings. Many of the rich colors found in nature usually appear softer in their natural context than when seen individually, since perception is usually through filters of distance, atmosphere, distribution, and combination with many other colors. Since colors for buildings are used in larger, unbroken areas, some of

the colors provided here may have to be shifted or weakened (made more grayish) before they can be effectively used in an appropriate color scheme. All color schemes shall be reviewed on a case by case basis.

Figures 19—25

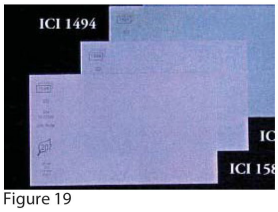


Figure 19

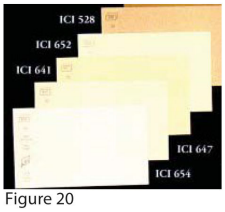


Figure 20

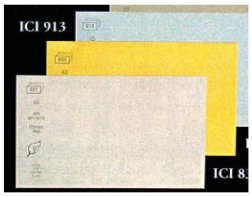


Figure 21

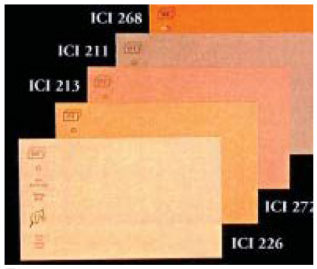


Figure 22

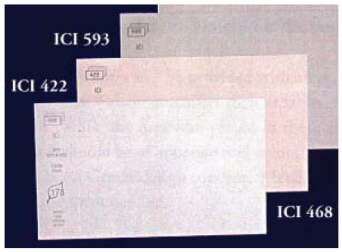


Figure 23

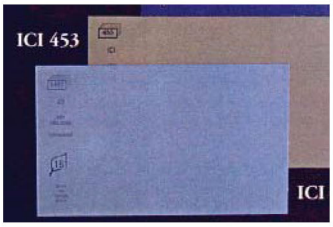


Figure 24: suggested roof colors

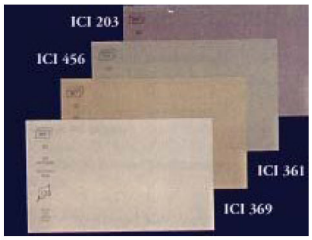


Figure 25: suggested roof colors

(Amended 2-13-2000; Ord. No. 08-2017, § 12, 4-11-2017)

Section 4.07.070. Chambers Avenue Area.

A. *General provisions.*

1. The Chambers Avenue Area contains property zoned Commercial General (CG) and Industrial (I) under the provisions of this Title.

    a. The Commercial General (CG) zone district is "for commercial and tourist uses including lodging, dining, recreation facilities and compatible uses, and for heavier commercial uses, low impact manufacturing uses, and compatible uses."

    b. The Industrial (I) zone district is "for a wide range of industrial uses and compatible uses."

2. The Chambers Avenue Areas consist of relatively flat and easily developed land adjacent to I-70 and immediately south of the highway interchange at Eagle. Because of its development potential, vehicular accessibility, and visibility from the highway, the Town has zoned this area for general commercial and industrial development. Chambers Avenue parallels I-70 and serves subdivided commercial and industrial parcels along both sides of its length.

3. Although the Chambers Areas are somewhat separate from, and independent of, other portions of Eagle, commercial and industrial development here has a very significant impact on the character and perceived quality of Eagle. For the most part, drivers along I-70 view this area from an elevated position, set as a foreground to the larger mountain and Eagle River landscape. In addition to this visibility, the areas have developed with commercial activities serving the I-70 corridor. The Chambers Avenue Areas provide a first impression of Eagle for travelers and tourists. As the area is built out, the urban context here will be a defining feature to the Town's character, response to growth, and overall position in the region.

4. Because of the importance of these areas, the overall objectives for development and design guidelines here should be to encourage an overall continuity of commercial and industrial parcel development, to present a favorable image of the community when viewed both along I-70 and from within the areas, and to encourage long-term, quality private investment activity.

5. A positive long-range impact to Eagle's quality of life and tax base can be encouraged here by standards that require consideration of the immediate context of Chambers Avenue and the character of the area at large. Although the areas will include traditional commercial and industrial uses, the areas can have a positive, enduring character through careful site planning and architectural styling. Site planning of commercial pads should be considerate of the likely layout of future abutting parcel development. The number and location of curb cuts along Chambers Avenue should be included in site plan review. Parking layout and its visual and functional impact on adjacent parcel utilization will be a very important consideration in addition to the enforcement of site landscaping requirements. The use of indigenous trees and the requirement, when possible, of larger sizes will help establish an attractive context here for future development activity. In addition, architectural design that reflects a mountain-style and celebrates the use of local materials and building details should be strongly encouraged. Overall, parcel development should be planned to fit in rather than stand alone. Consideration should also be given during site plan review of the visual effect of the proposed development both along I-70 and from Chambers Avenue. Ultimately, the areas will be successful if site planning, design and vehicular movement can encourage visitors and residents to partake in several services during a single visit and be motivated to return.

B. *Chambers Avenue Commercial Zone Area.* Parcels zoned Commercial General (CG) have a high visibility along Chambers Avenue and the I-70 corridor. The following standards shall apply to commercially zoned parcels in order to achieve visual continuity and establish a sense of neighborhood:

1. *Goals and objectives for commercial parcels.* The goals and objectives for commercial parcels are:

    a. Improve the overall appearance of the I-70 corridor by enforcing architectural and landscape standards on development that abuts primary streets and the interstate right-of-way.

    b. Provide a distinct, visual break between developed areas and rural resource districts to the east.

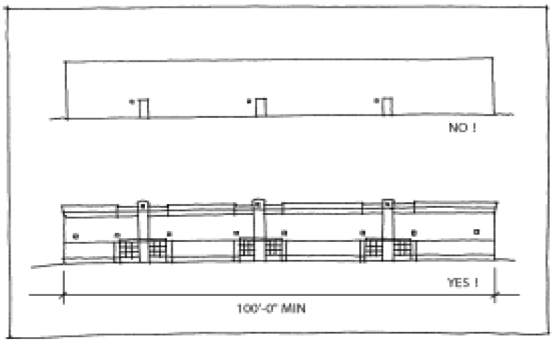
    c. Promote coordinated physical organization by enforcing setbacks and landscaped buffers.

    d. Encourage high quality of individual development by utilizing a palette of materials and architectural details, which reflect traditional building forms of the region.

2. *Building setbacks.* Setbacks shall be as required under this Title.

3. *Building mass/form/orientation.* Buildings shall be similar in size to those found in a rural mountain community. Traditionally, the largest buildings in the vicinity are those found in ranch complexes. The central form of the buildings is usually simple and rectangular, having secondary gable and shed roofed wings. Porches shall project from the central form and be covered by a separate roof. Roofs that are similar to those of traditional ranch buildings, such as simple gable and shed forms, are appropriate. This incremental add-on approach creates visual interest and scale. Roof pitches, trim, window size and placement, and entrance locations also help to delineate the architectural character of a building.

4. *Architectural detail.*



a. Facades that face public rights-of-way, including the I-70 corridor, shall include variation in the wall plane. Facades that are greater than 100 feet in length shall include spatial definition in the form of wall projections and/or recesses which must have a depth of at least three percent of the length of the facade. Projections and/or recessions must occupy at least 20 percent of the length of the facade. Group items such as windows to create an interesting composition; these type of features provide visual interest to the pedestrian, reduce monolithic appearance, and add local character to development. Facade projections, recesses, windows and entrances should be integral parts of the building and must not be superficially applied trim, graphics, or paint.

b. Provide variation in roof lines and forms. Mansard roofs are not traditionally seen in the region and are prohibited. If total building size exceeds a 10,000 square foot floorplate, flat roofs are permitted provided that no mechanical equipment is visible and that the roof is aesthetically pleasing and fits into the Town. All flat roofs shall have a surrounding parapet wall. For buildings with a floorplate of from 5,000 square feet to 10,000 square feet, a multiple roof treatment is

encouraged; flat roofs are not permitted. Minimum roof pitch to be 5:12 for all buildings less than 10,000 square feet.

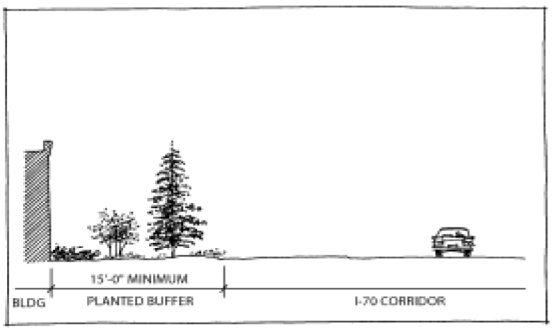
c. Loading docks and service areas must be located to the sides and/or rear of building, unless the building abuts the I-70 corridor. If the parcel abuts the I-70 corridor, all services and loading areas must be located to the sides of the building which do not face the primary street or I-70 and must be screened.

5. *Building materials.*

a. Building materials shall be used for all major surfaces that are similar to those employed historically. Segmented, horizontal siding as traditionally seen on wood and wood-clad ranch buildings is appropriate. Horizontal, segmented siding material to be wood, vinyl, or aluminum; maximum overlap dimension shall be eight inches. Stone masonry is appropriate when used as a foundation material; however, stone cladding over large portions of a surface is not a documented historical use and is inappropriate. Concrete block must be split-faced and all windows and entrances on such buildings must have added trim. Modular panel materials, such as Texture 111 and ribbed sheet metal, are not allowed. All facade materials shall have low reflectivity.

b. Pitched roof materials shall be wood or asphalt shingles, or standing rib seam sheet metal-matte finish.

6. *Landscape/sidewalks/furnishings/screening.*



a. Sidewalks linking the pedestrian system of the block to the building shall be required.

b. Buildings that abut the I-70 corridor shall have a minimum 15-foot landscaped buffer paralleling the property line shared with the interstate right-of-way. One tree is required to be planted in such buffer for every 25 linear feet of property line. A minimum of one-third of all required trees shall be evergreen, and shall be placed 20 feet on center minimum and 30 feet on center maximum, in groups of three or five. Shrub massing shall be used in conjunction with tree plantings. Selected shrubs shall have a minimum mature height of eight feet. Refer to detailed plant list in Section 4.07.020(D).

c. Any lot on the east side of Chambers Avenue Area adjacent to property in the Rural Resource Zone District must be delineated by a minimum 15-foot wide contiguous landscaped buffer. One tree is required to be planted in such buffer for every 25 linear feet of property line. A minimum of one-third of all required trees shall be evergreen, and shall be placed 20 feet on center minimum and 30 feet on center maximum, in groups of three or five. Shrub massing shall be used in conjunction with tree plantings. Selected shrubs shall have a minimum mature height of eight feet. Refer to detailed plant list in Section 4.07.020(D).

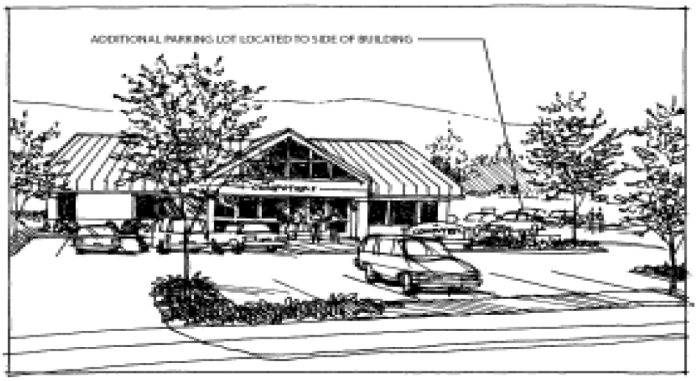
d. Formal, irrigated landscape treatment shall not abut native, undisturbed ground without edge treatment. Edge transition shall be in the form of a defined grade break, drainage swale, building wall, mulched and planted bed, or pavement.

e. Opaque fencing shall be restricted to side and rear yards. Fencing is not allowed between the front building facade and the primary street. Fencing materials shall be wood, masonry, or split face concrete block. Chainlink may be used for demonstrated security purposes only and must be vinyl-coated black or green and used in conjunction with plant material that is tightly spaced to create a visual screen. Chainlink fencing shall be restricted to rear yards.

7. *Parking.*

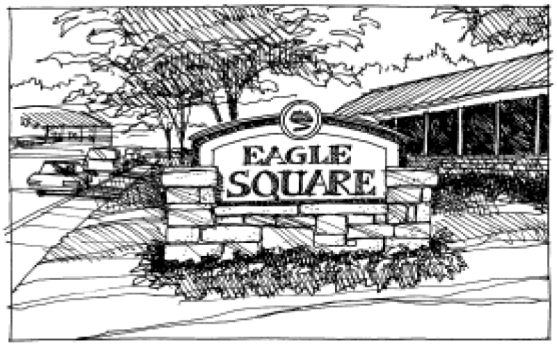
a. For parking lots with ten or more parking spaces, one deciduous shade tree shall be required to be planted in the interior of the lot for every ten spaces. All required shade trees shall be located within curbed, planted medians and/or islands to provide spatial definition and shade within paved areas.

b. All parking lots adjacent to primary and secondary streets shall be screened using plant material and/or fencing.



c. Commercial parcels that front Chambers Avenue should have no more than 50 percent of all required parking located between the property line abutting the public right-of-way and the building face. The remaining parking stalls are to be located to the sides or rear of the proposed building. Parking lots are not permitted abutting the I-70 right-of-way.

8. *Signage.*



a. All freestanding signs to be monument style (grounded) and integrated with the site plan and planting plan.

b. Lighting of signs shall be permitted during the period the commercial enterprise is open for business and for up to one hour following the close of business.

c. Plastic is permitted only for internally illuminated signs allowed on those lots which front onto Eby Creek Road.

d. All signs shall receive a separate sign permit prior to erection as required in Chapter 4.08.

e. Buildings which contain more than one sign shall have a coordinated sign plan for the building and property.

C. *Chambers Avenue Industrial Zone Area.* Parcels zoned for industrial uses are located south of Chambers Avenue on secondary streets and north of the railroad. Due to the location of these parcels, development in this area will not have a significant visual impact on Chambers Avenue. However, standards are required to achieve a coordinated physical organization and character consistent with that of the neighboring districts.

1. *Goals and objectives for industrial parcels.* The goals and objectives for industrial parcels are:

a. Promote coordinated physical organization by enforcing setbacks and landscaped buffers, creating a consistent character between the industrial and commercial districts.

b. Provide a distinct, visual break between developed areas and rural resource districts to the east.

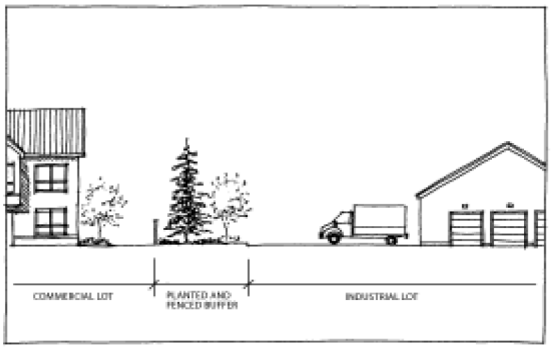
c. Encourage industrial uses in areas having low visibility by reducing architectural and landscape standards applicable to commercial areas.

d. Create visual barriers between industrial and commercial areas by requiring screening.

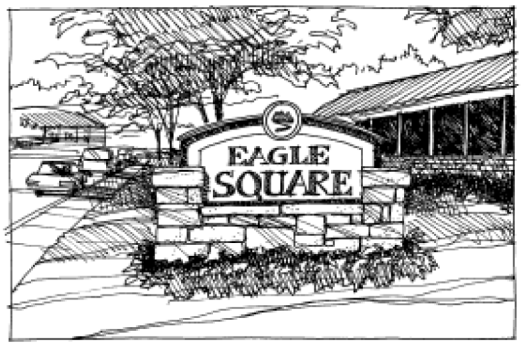
2. *Building setbacks.* Setbacks shall be as required under this Title.

3. *Building mass/form/orientation.* Buildings should be similar in size to those found in a rural mountain community. Traditionally, the largest buildings in the vicinity are those found in ranch complexes. The central form of the buildings is usually simple and rectangular, having secondary gable and shed roofed wings. Porches project from the central form and are covered by a separate roof. This incremental add-on approach creates visual interest and scale. Roof pitches, trim, and entrance locations also help to delineate the architectural character of a building.

4. *Architectural detail.* Roofs that are similar to those of traditional ranch buildings, such as simple gable and shed forms, are appropriate. Mansard roofs are not traditionally seen in the region and are discouraged. Flat roofs are permitted, however, all flat roofs shall have a surrounding parapet wall.
5. *Building materials.*
    a. Facade materials shall have low reflectivity.
    b. Pitched roof materials shall be wood or asphalt shingles, or standing rib seam sheet metal-matte finish.
    c. Sheet metal exterior walls shall not be permitted, except that vertical metal siding is permitted on gables only.
6. *Landscape/sidewalks/fencing.*
    a. Sidewalks linking the pedestrian system of the block to the building shall be required.



    b. Industrial lots that abut commercial lots will be required to provide a landscaped and fenced buffer.
    c. Any lot on the east side of Chambers Avenue Area adjacent to property in the Rural Resource Zone District must be delineated by a minimum 15-foot-wide contiguous landscaped buffer. One tree is required to be planted in such buffer for every 25 linear feet of property line. A minimum of one-third of all required trees shall be evergreen, and shall be placed 20 feet on center minimum and 30 feet on center maximum, in groups of three or five. Shrub massing shall be used in conjunction with tree plantings. Selected shrubs shall have a minimum mature height of eight feet. Refer to detailed plant list in Section 4.07.020(D).
    d. Fencing materials shall be wood, masonry, split face concrete block, or chainlink.
7. *Signage.*



a. All freestanding signs to be monument style (grounded) and integrated with the site plan and planting plan.

b. Lighting of signs between the hours of 12:00 midnight and 6:00 a.m. is prohibited.

c. All signs shall receive a separate sign permit prior to erection as required in Chapter 4.08.

d. Buildings that contain more than one business shall have a coordinated sign plan for the building and property.

(Amended 2-13-2000; Ord. No. 08-2017, § 13, 4-11-2017)

Section 4.07.080. North Interchange Area.

A. *General provisions.*

1. The North Interchange Area contains the following zone districts as per this Title:

a. Commercial General "for commercial and tourist uses including lodging, dining, and recreation facilities and compatible uses, and for heavier commercial uses, low-impact manufacturing uses, and compatible uses."

b. Public Area "for any use owned and/or operated by a public entity."

2. The North Interchange Area incorporates privately owned, commercially zoned land north of the I-70 interchange. The area comprises a linear strip of land with approximately 1½ miles of I-70 frontage. Steeper pastureland north of this area limits future commercial development activity. This area is completely separated physically and visually from the developed Town by the I-70 corridor. Because of its hillside backdrop and location, development here would have less of an impact to the community, if treated sensitively, than if these uses occurred downtown. Because larger commercial parcels with municipal service infrastructure are available, there will be considerable pressure for development activity here. It is very possible that this area will develop completely independent of other trends in the Town, and be more influenced by county and regional market forces. Commercial activity may, over time, compete with downtown Eagle as the commercial center of the area. Because of its likely development with commercial activities featuring high volumes of user traffic, master planning of large parcels should be strongly encouraged. Careful consideration to the layout of curb cuts along existing public roads should be given. To the extent possible, the preservation of large pieces of indigenous landscape and plant materials should be an important objective. Like the Chambers Avenue Area, architectural design should feature indigenous building materials, styles and details.

B. *Goals and objectives.* The goals and objectives of this section are:

1. Improve the overall appearance of the I-70 corridor by enforcing architectural and landscape standards on development that abuts the interstate right-of-way.

2. Promote coordinated physical organization by enforcing setbacks and requiring landscaped buffers similar to those seen in the Chambers Avenue Area.

3. Encourage high quality individual development by creating a palette of materials and architectural details, which reflect the traditional building styles of the region.

C. *Building setbacks.*

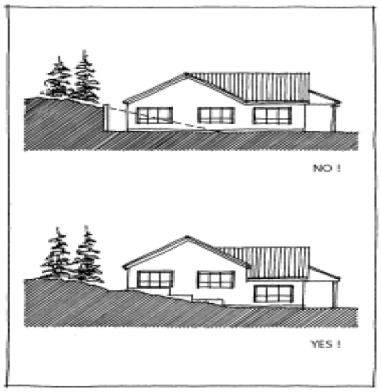
1. Setback from Eby Creek Road is to be 25 feet.

2. Setbacks from property lines other than those abutting the Eby Creek Road shall be as required under this Title.

D. *Building mass/form/orientation.*

1. Buildings shall be similar in size to those found in a rural mountain community. Traditionally, the largest buildings in the vicinity are those found in ranch complexes. The central form of the buildings is usually simple and rectangular, having secondary gable and shed roofed wings. Porches shall project from the central form and be covered by a separate roof. Roofs that are similar to those of traditional ranch buildings, such as simple gable and shed forms, are appropriate. This incremental add-on approach creates visual interest and scale. Roof pitches, trim, and entrance locations also help to inform and influence the overall aesthetic of a building.

2. The siting of any new building should respond to existing site features. Removal of existing native plant material should be limited to areas essential for site development. Excessive excavation of hillsides should not be permitted. All cut and fill slopes should be stabilized, contoured to blend with existing, undisturbed terrain, and revegetated using plant material similar to that found on undisturbed land in the immediate vicinity. Slopes greater than 2:1 are not permitted.

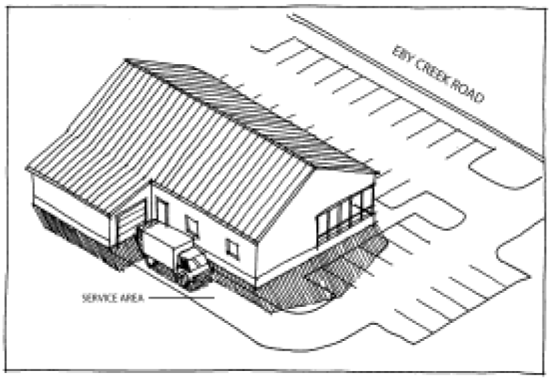


E. *Architectural details.*

1. Facades that face public rights-of-way, including the I-70 corridor, shall include variation in the wall plane. Facades that are greater than 100 feet in length shall include spatial definition in the form of wall projections and/or recesses which must have a depth of at least three percent of the length of the facade. Projections and/or recessions must occupy at least 20 percent of the length of the facade. Group items such as windows to create an interesting composition; these type of features provide visual interest to the pedestrian, reduce monolithic appearance, and add local character to development. Facade projections, recesses, windows, and entrances should be integral parts of the building and must not be superficially applied trim, graphics, or paint.

2. Provide variation in roof lines and forms. Mansard roofs are not traditionally seen in the region and are prohibited. If total building size exceeds a 10,000 square foot floorplate, flat roofs with a surrounding parapet wall are permitted provided that no mechanical equipment is visible and that the roof is

aesthetically pleasing and fits into the Town. For buildings with a floorplate of from 5,000 square feet to 10,000 square feet, a multiple roof treatment is encouraged; flat roofs are not permitted. Minimum roof pitch to be 5:12 for all buildings less than 10,000 square feet.



3. Loading docks and service areas must be located to the sides and/or rear of the building, unless the parcel abuts the I-70 corridor. If the building abuts the I-70 corridor, all services and loading areas must be located to the sides of the building, which do not face the Eby Creek Road or I-70.

F. *Building materials.*

1. Building materials shall be used for all major surfaces that are similar to those employed historically. Segmented, horizontal siding as traditionally seen on wood and wood-clad ranch buildings is appropriate; maximum overlap dimension shall be eight inches. Stone masonry is appropriate when used as a foundation material; however, stone cladding over large portions of a surface is not a documented historical use and is inappropriate. Concrete block must be split-faced and all windows and entrances on such buildings must have added trim. Modular panel materials are not allowed. All facade materials shall have low reflectivity.

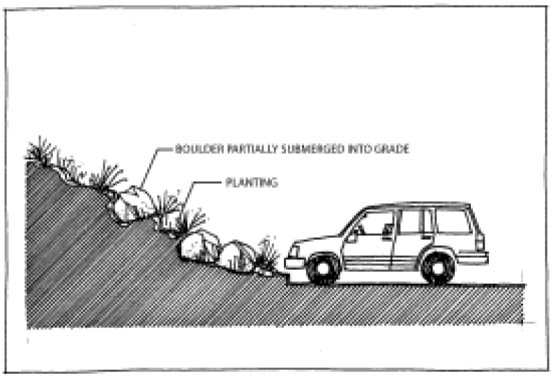
2. Pitched roof material shall be wood or asphalt shingles or standing rib seam sheet metal-matte finish.

G. *Landscape/sidewalks/furnishings/screening.*

1. Sidewalks shall be constructed in all commercial zones. Sidewalks shall be detached from curb and gutter a minimum distance of five feet to accommodate a planting strip between the curb and sidewalk. Sidewalks linking the pedestrian system of the block to the building are required.

2. Buildings that abut the I-70 corridor shall have a minimum 15 foot landscaped buffer paralleling the property line in addition to the landscaping of the interstate right-of-way. One tree is required to be planted in such buffer for every 25 linear feet of property line. A minimum of one-third of all required trees shall be evergreen, and shall be placed 20 feet on center minimum and 25 feet on center maximum, in groups of three or five. Shrub massing shall be used in conjunction with tree plantings. Selected shrubs shall have a minimum mature height of eight feet. Refer to detailed plant list in Section 4.07.020(D).

3. Formal, irrigated landscape treatment shall not abut native, undisturbed ground without edge treatment. Edge transition shall be in the form of a defined grade break, drainage swale, building wall, mulched and planted bed, or pavement.

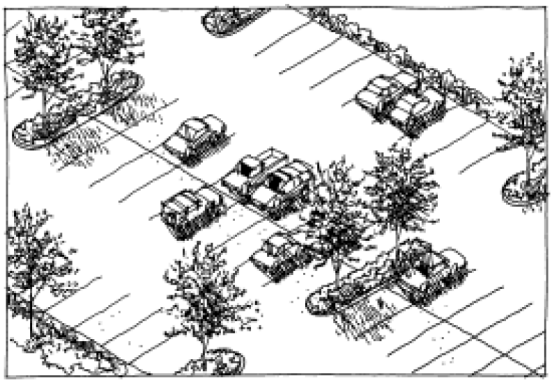


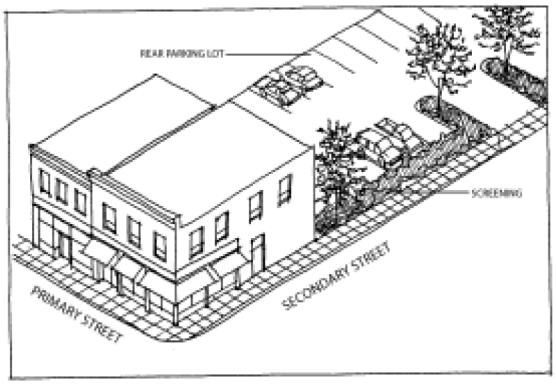
4. Retaining walls may be necessary in grade changes and should be concrete with a sandblast finish or keyed brick. Where grade and space allow, boulders may be used. The design and layout of the boulder wall should be such that the base course of the boulders are partly submerged into finish grade. Where appropriate, pockets in-between boulders should be planted to achieve a natural appearance. Retaining wall systems should be consistent from parcel to parcel.

5. Opaque fencing shall be restricted to side and rear yards. Fencing is not allowed between the front building facade and the primary street. Fencing materials shall be wood, masonry, or split face concrete block. Chainlink may be used for demonstrated security purposes only and must be vinyl-coated black or green and used in conjunction with plant material that is tightly spaced to create a visual screen. Chainlink fencing shall be restricted to rear yards, except when rear yards abut the I-70 corridor.

H. *Parking.*

1. For parking lots with ten or more parking spaces, one deciduous shade tree shall be required to be planted in the interior of the lot for every ten parking stalls. All required shade trees shall be located within curbed, planted medians and/or islands to provide spatial definition and shade within paved areas.





2. All parking lots adjacent to primary and secondary streets shall be screened using plant material and/or fencing.

3. Commercial parcels that front Eby Creek Road should have no more than 50 percent of all required parking located in between the property line abutting the public right-of-way and the building face. The remaining parking stalls should be located to the sides or rear of the proposed building. Limited parking lots are permitted abutting the I-70 right-of-way with substantial landscape screening.

I. *Signage.*

1. All freestanding signs to be monument style (grounded) and integrated with the site plan and planting plan.

2. Lighting of signs during the period a commercial enterprise is open for business and for up to one hour following the close of business shall be permitted.

3. Plastic is permitted only for internally illuminated signs.

4. All signs shall receive a separate sign permit prior to erection as required in Chapter 4.08.

5. Buildings that contain more than one business shall have a coordinated sign plan for the building and property.

(Amended 2-13-2000; Ord. No. 08-2017, § 15, 4-11-2017)

Section 4.07.090. U.S. Highway 6 Corridor.

A. *General provisions.*

1. The U.S. Highway 6 Corridor contains the following zone areas as per this Title: Commercial Limited "for commercial uses of limited size and impact which serve the daily or convenience needs of the residents in the neighborhood."

2. U.S. Highway 6 is the historic State highway access that connects various developed segments of the county along the Eagle River Valley. The highway parallels the river and its occasional river crossing provides dramatic views of the corridor at several points along its alignment in the Town. The area consists of private land, mostly commercial zoned, along both sides of the road. Commercial activity historically consisted of small service facilities catering to the traveler. With the development of the I-70 corridor, many of the older commercial structures have been converted to serve more localized uses or are underutilized. As the residential population of the county expands, this corridor will face convenience and service commercial expansion. Guidelines here should focus on retaining the rural architectural style in place and require careful consideration of service area placement and screening, parking lot placement, and curb cuts. Design and placement of landscape medians along frontage will enhance the character of the district, while still allowing unimpeded views of commercial building frontage and controlled signage.

B. *Goals and objectives.* The goals and objectives of this section are:

1. Vacant lots should be targeted for development to fill in existing gaps and strengthen the street edge along the U.S. Highway 6 corridor.

2. Create a distinct edge between the highway right-of-way and private property through street improvements and landscaping.

3. Protect adjacent neighborhoods by requiring screening such as landscaping and fencing.

C. *Building setbacks.*

1. Setbacks shall be as required under this Title.

2. Existing setbacks within the district vary. Facades and entrances should align from lot to lot and not disrupt the overall street edge created by existing building alignment along U.S. Highway 6.

D. *Building height.*

1. New construction shall place the first floor at ground level.

2. New buildings adjacent to existing buildings that are less than 35 feet should step down in height and match height of existing buildings.

E. *Building mass/form/orientation.*

1. New construction shall maintain and reinforce the pattern of traditional building forms and shapes along the street. The U.S. Highway 6 Area contains a variety of older wooden commercial buildings, wooden residences, masonry buildings, service stations, and mobile homes. A few large frame structures are located on parcels fronting the highway. Older buildings which serviced travelers using U.S. Highway 6 prior to the construction of I-70 are interspersed with newer commercial buildings, creating a vernacular commercial strip along the road. Buildings in this district are set apart from one another and are usually one story in height, although there are a few false front, two story structures.

2. Existing buildings are simple and rectangular in shape and many have shed additions. Roof forms vary; roof forms traditionally seen in the district include gable, hip, shed, and flat roofs with parapet. Porches project from the central form and are covered by a separate roof. Most buildings have larger display windows at ground level.

3. Many existing buildings along the highway have flat roofs. New buildings should use this as historic precedent. Roof forms similar to those of traditional ranch buildings, such as simple gable and shed forms, are also appropriate. Mansard roofs are not traditionally seen in the region and are inappropriate.

4. Buildings shall be sited square to the property lines along U.S. Highway 6 to emphasize the street edge.

F. *Architectural detail.*

1. Facades that face public rights-of-way shall include variation in the wall plane. All buildings shall have architectural detailing, reducing the overall building mass. Elements such as front porches, awnings, and exterior trim provide interest and help to reduce the overall scale of a building. Group items such as windows to create an interesting composition; these type of features provide visual interest to the pedestrian, reduce monolithic appearance, and add local character to development. These elements must be integral parts of the building and must not be superficially applied trim, graphics, or paint.

2. A solid-to-void ratio that is similar to those found historically in the neighborhood should be used. Large expanses of glass on exterior facades, whether vertical or horizontal, are inappropriate on renovated residential buildings used for commercial purposes. Traditional commercial buildings along U.S. Highway 6 have larger display windows. Display windows are appropriate at ground level only, promoting commercial activity. Glass panels shall have low reflectivity and high transparency, allowing for visual access into the building at the ground level.

3. Garage doors should be consolidated and located at one end of the building to reduce vehicular congestion.

G. *Building materials.*

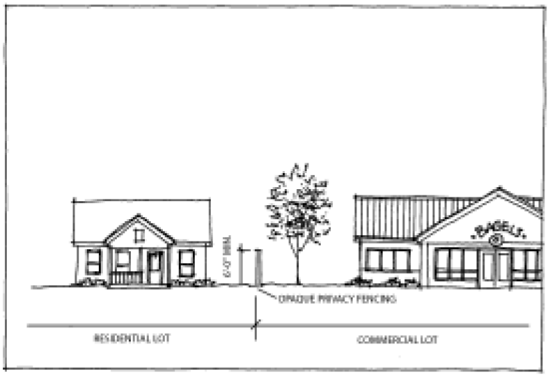
1. Building materials shall be used for all major surfaces that are similar to those employed historically. Segmented, horizontal siding as traditionally seen on wood and wood-clad ranch buildings is appropriate; maximum overlap dimension shall be eight inches. Brick masonry is appropriate for large surfaces as exemplified by older one-story motels. Stone masonry is appropriate when used as a foundation material; however, stone cladding over large portions of a surface is not a documented historical use and is inappropriate. Concrete block must be split-faced and all windows and entrances on such buildings must have added trim. Modular panel materials are prohibited. All facade materials shall have low reflectivity.

2. Pitched roof material shall be wood or asphalt shingles or standing rib seam sheet metal-matte finish with a minimum slope of 5:12.

H. *Landscape/sidewalks/furnishings/fencing.*

1. Sidewalks shall be constructed in all commercial zones. Sidewalks shall be detached from curb and gutter, a minimum distance of five feet to accommodate a planting strip between the curb and sidewalk. Sidewalks linking the pedestrian system of the block to the building are required.

2. Opaque fencing shall be restricted to side and rear yards. Opaque fencing is not allowed between the front building facade and the primary street. Fencing materials shall be wood, masonry, or split face concrete block. Chainlink may be used for demonstrated security purposes only and must be vinyl-coated black or green and used in conjunction with plant material that is tightly spaced to create a visual screen. Chainlink fencing shall be restricted to rear yards.



3. Opaque privacy fencing, six-foot-high minimum, is required where commercial lots abut residential neighborhoods. Plant material may be used as a screening device only if plant quantities and plant spacing create dense, visual barriers. Opaque chainlink fencing is prohibited.

I. *Parking.*

1. For parking lots with ten or more parking spaces, one deciduous shade tree shall be required to be planted in the interior of the lot for every ten spaces. All required shade trees shall be located within curbed, planted medians and/or islands to provide vertical interest and shade within paved areas.

2. On-street parking is prohibited.

3. All parking lots adjacent to primary and secondary streets shall be screened using plant material and/or fencing.

J. *Signage.*

1. All freestanding signs to be monument style (grounded) and integrated with the site plan and planting plan.

2. Lighting of signs during the period that a commercial enterprise is open for business and for up to one hour following the close of business each day shall be permitted.

3. All signs shall receive a separate sign permit prior to erection as required in Chapter 4.08.

4. Buildings that contain more than one business shall have a coordinated sign plan for the building and property.

(Amended 2-13-2000; Ord. No. 08-2017, § 16, 4-11-2017)

Section 4.07.100. Development impact report.

A. *Purpose.* it is the purpose of this section to:

1. Ensure that complete information concerning any adverse effects of the proposed development or subdivision on the environment and essential public and private services and facilities, including educational facilities, as well as the health, safety, order, convenience, prosperity and welfare of present and future inhabitants of the Town is available to the Town Council, the Planning and Zoning Commission and the general public;

2. Ensure that long-term protection of the environment and the provision of essential public and private services and facilities such as streets, utilities, and educational facilities are considered in major development and subdivision planning and that Land Use and Development decisions, both public and private, take into account the relative merits of possible alternative actions; and

3. Ensure that proposed developments and subdivisions promote a healthful and convenient distribution of population, the wise and efficient expenditure of public funds, including the funds of other governmental entities, as well as the adequate provision of essential public services, facilities and requirements, including schools; and

4. Provide procedures for local review and evaluation of the environmental and social-economic effects of proposed development projects and subdivisions, including essential public and private services and facilities, prior to granting major development permits or subdivision approvals; and

5. Provide for the reasonable and adequate mitigation of on-site and off-site impacts generated by the proposed development or subdivision on the environment and essential public or private services and facilities, including streets, utilities and educational facilities.

B. *Preliminary impact report.* Every development permit application and preliminary subdivision plan shall include a preliminary statement of whether the proposed project will, will not, or could possibly affect the environment, either during construction or on a continuing basis, in each of the following respects:

1. By altering an ecological unit or land form, such as a ridgeline, saddle, draw, ravine, hillside, cliff, slope, creek, marsh, watercourse, or other natural land form feature;

2. By directly or indirectly affecting a wildlife habitat, feeding, or nesting ground;

3. By substantially altering or removing native grasses, trees, shrubs, or other vegetative cover;

4. By affecting the appearance or character of a significant scenic area or resource, or involving buildings or other structures that are of a size, bulk, or scale that would be in marked contrast to natural or existing cultural features;

5. By potentially resulting in avalanche, landslide, siltation, settlement, flood, or other land-form change of hazard to health and safety;

6. By discharging toxic or thermally abnormal substance or involving use of herbicides or pesticides, or emitting smoke, gas, steam, dust, or other particulate matter;

7. By involving any process which results in odor that may be objectionable or damaging;

8. By requiring any waste treatment, cooling, or settlement pond, or requiring transportation of solid or liquid wastes to a treatment or disposal site;

9. By discharging significant volumes of solid or liquid wastes;

10. By increasing the demand on existing or planned sewage disposal, storm drainage, water distribution system, streets, or other utility systems to a level which is likely to cause an adverse impact on the environment;

11. By involving any process which generates noise that may be offensive or damaging;

12. By either displacing significant numbers of people or resulting in a significant increase in population;

13. By pre-empting a site which is desirable for recreational uses or planned open space;

14. By altering local traffic patterns or causing an increase in traffic volume or transit service need;

15. By substantially affecting the revenues or expenditures of the Town government;

16. By increasing the demand on existing or planned school facilities to a level which is likely to cause an adverse impact on such school facilities, an adverse impact on educational opportunities, or an adverse impact on the revenues and expenditures of the Eagle County School District RE 50-J;

17. By being a part of a larger project which, at any future stage, may involve any of the impacts listed above.

C. *Development impact report requirements.*

1. For each area under Subsection (B) of this section for which the response is "will" or "could possibly," a development impact report addressing such concern may be requested by the Town Planner before development review by the Planning Commission or may be required by the Commission or Town Council at any time prior to final approval. In addition, a public facilities impact statement may be required in accordance with the provisions of Chapter 4.14.

2. The development impact report shall include technical studies, data, conclusions, summaries, and recommendations, performed by qualified professionals and at a level of detail commensurate with the potential impact of the development. The content, form, preparers and detail shall be adequate to enable the Town staff, Planning Commission and Town Council to Judge the impact of the proposal and the adequacy of the proposed mitigating measures, and shall be subject to approval of the Town Manager.

3. The development impact report shall describe temporary and long-term impacts of the project, both primary and secondary, beneficial and detrimental. The report shall include assessment of the following:

a. Adverse effects which cannot be avoided if the proposal is implemented.

b. Mitigating measures proposed to minimize the impact.

c. Cumulative and long-term effects of the proposal, which either significantly reduce or enhance the state of the environment.

d. Possible alternatives to the proposed action.

e. Irreversible environmental changes resulting from implementation of the proposal.

f. Population and economic impacts of the proposal.

D. *Development impact—Public improvements.*

1. Every development permit application and preliminary subdivision plan shall be reviewed by the Town Planner to determine whether or not the proposed development will require the installation or construction of public improvements, including, but not limited to, street paving, curbs, gutters, sidewalks, or drainage facilities. If the Town Planner determines that any such public improvements are necessitated by the proposed development, the Town Planner shall make specific recommendations to the Planning Commission and Town Council concerning the construction of such improvements.

2. If the Town determines that the proposed development makes necessary any such public improvements, the Town shall require as a condition in the development permit or as a condition of subdivision approval, the construction of such public improvement(s) by the applicant, and the dedication thereof to the Town. The costs of any such improvements shall be borne by the applicant, and the construction thereof shall be at the sole costs, risks, and expense of the applicant, subject to

the provisions of any applicable Town ordinance, regulation, or policies. All such improvements shall be constructed in full compliance with the Town's engineering regulations, design standards and construction specifications as may be adopted by resolution or ordinance from time to time.

3. If the Town determines that it is necessary and appropriate to require from the applicant security for the construction and installation of the required public improvements, the applicant shall deposit with the Town Clerk a bond or other suitable performance guarantee approved by the Town Attorney in an amount equal to the cost of the construction of the public improvements in the manner set out in Section 4.13.210. Said security shall be released in the manner set out in said section.

E. *Development impact—Public facilities.* Every planned unit development application, development permit application, subdivision preliminary plan, and special use permit application shall be made in accordance with the requirements contained in Chapter 4.14 concerning the assurance of adequate public facilities.

(Ord. No. 1986-03, § 4.07.030, 3-5-1986; Amended 2-25-1997; Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.07.110. Municipal and park land dedication.

Every development shall include:

1. A dedication of land to the Town, recreation district, or other entity, as determined by the Town Council, to be used for parks and recreation or municipal functions requiring land pursuant to Section 4.13.190; or

2. Payment of a park and municipal land fee pursuant to Section 4.13.190.

(Ord. No. 1986-03, § 4.07.040, 3-5-1986; Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.07.120. Street improvement fee.

Every approved development shall include payment of a street improvement fee pursuant to Section 4.13.220.

Section 4.07.130. Fire protection impact fee.

Every approved development shall require the payment of a fire protection impact fee pursuant to Section 4.13.230.

Section 4.07.140. Parking standards.

In order to ensure that safe and convenient off-street parking is provided to serve the requirement of all land uses in the Town, and to avoid congestion in the streets, the requirements of this chapter shall be minimum requirements for all land uses, unless specifically excepted herein. Additional spaces above the number required may be installed, but the maximum number of access ways to and from parking areas shall not be exceeded.

A. *Applicability.*

1. Except as provided herein, the provisions of this chapter shall apply to all uses established or commenced on or after the effective date of the ordinance from which this Title is derived. For uses existing on this date, parking spaces or areas existing on this date shall not be diminished in number or size to less than that required for such use under this chapter.

2. When an existing use or building is expanded, as measured in floor area used, off-street parking, loading areas and landscaping shall be provided as required for the added floor area, whether or not they were provided for the existing use or building.

3. When the use of an existing building or space is changed to either a use in a different use category as set forth in subsection (C) hereof, or a use in the same use category which requires more off-street parking than the existing use, then off-street parking, loading areas and landscaping shall be provided as required for the new use, whether or not they were provided for the existing use; provided, however, the requirements contained in this subsection shall not apply in the Central Business Zone District (CBD) or Broadway District.

4. Parking as a use accessory to a lawful land use shall be allowed in all zone districts, except that commercial parking, wherein fees are assessed to those using the parking, shall be limited to those zone districts allowing commercial and office uses.

B. *Parking plan.*

1. Except for single-family and two-family dwellings, no use requiring parking shall commence before review and approval by the Town Planner of a parking plan. The parking plan shall be drawn to a scale, accuracy and level of detail determined by the Town Planner as necessary to demonstrate compliance with the provisions of this chapter. The parking plan shall depict the following, as required pursuant to this chapter: parking and loading spaces; circulation areas; curb cuts; dimensions and material of screening and/or landscaping; proposed drainage, grading, surfacing and subsurfacing; fire lanes; snow storage areas; facilities and spaces for the disabled; specifications for signs, wheel stops and lighting; and other pertinent details.

2. The Town Planner shall have the authority and responsibility to determine compliance of a parking plan with the provisions of this chapter. Such determination shall be made within ten days of submittal of the parking plan and shall be acknowledged on a form provided by the Town and shall be filed at the Town hall.

C. *Number of parking spaces required.* Off-street parking spaces shall be provided according to the following schedule, and when computations result in a fraction, the next highest whole number shall apply. When parking is required for more than one use, the sum of the requirements for all uses shall apply.

1. *Use category—Residential and lodging uses.*

a. Single-family dwelling or duplex: two per dwelling unit for units with fewer than three bedrooms, and three per dwelling unit for units with three or more bedrooms.

b. Multiple-family dwelling: 1½ per dwelling unit for units with one bedroom, two per dwelling unit for units with two bedrooms, 2½ per dwelling unit for units with three or more bedrooms, plus one additional space per six dwelling units.

c. Accommodation units, temporary lodging: one per separate unit for temporary or long-term accommodations, including management and employee units.

d. Mobile home: two per mobile home.

e. Recreational vehicle: 1½ per campsite in RV park.

2. *Use category—Institutional and public assembly uses.*

a. School: to be determined pursuant to Subsection (C)(5) of this section.

b. Church: one per five seats or one per 100 square feet of floor area used or designed for public, whichever is greater.

c. Hospital: one per two patient beds, plus one per three full-time employees, plus one per part-time or full-time staff doctor.

d. Nursing home: one per four patient beds, plus one per three full-time employees, plus one per part-time or full-time staff doctor.

e. Housing project for senior citizens: one per dwelling unit, plus one per six dwelling units for visitors.

f. Auditorium, assembly hall, gymnasium, skating rink, theater, library, convention hall, exhibition hall, sports arenas, funeral home and other places of public assembly not otherwise listed herein: one per four seats or one per 100 square feet of floor area used or designed for use by the public, whichever is higher.

3. *Use category—Commercial uses.*

a. General office, public administration: one per 300 square feet of floor area used or designed for office or public use.

b. Medical, dental, veterinary office, service establishment: one per 250 square feet of floor area used or designed for office or public use.

c. Retail sales business for sale of goods: parking area equal in square footage to the total floor area of the building, excluding one-half of storage and display areas used for bulky items requiring extensive floor area such as household appliances, furniture, automobiles, farm and construction equipment.

d. Indoor restaurant, bar or tavern, handling the sale of food or beverages, or both, primarily for consumption on the premises: 1½ per 100 square feet of floor area used or designed for use by the public, plus 1½ per 200 square feet of kitchen floor space.

e. Outdoor restaurant, bar or tavern providing food or beverages, or both, to customers in an outdoor area: one per 200 square feet of outdoor floor area.

f. Drive-in or drive-through restaurant without indoor eating area for the public: three per 100 square feet of floor area, plus a minimum of six stacking spaces per drive-up window, in accordance with Subsection (L)(2) of this section.

g. Drive-through window accessory to indoor restaurant: a minimum of six stacking spaces per drive-up window, in accordance with Subsection (L)(2) of this section.

h. Drive-through retail or service establishment or vehicle washing facility: one per employee per major shift, plus stacking spaces in accordance with Subsection (L)(2) of this section.

i. Nightclub, lounge, dance hall: one per 100 square feet of floor area or 0.3 space per person maximum rated capacity, whichever is greater.

j. Gasoline station: one per 100 square feet of retail or office floor area, plus stacking spaces in accordance with Subsection (L)(2)(a) of this section.

k. Vehicle repair or maintenance facility: one per 100 square feet of retail or office floor area, plus three per service bay.

l. Bus depot: one per 100 square feet of floor area, in addition to loading and unloading areas. Ten percent of parking spaces required, or a minimum of two spaces, shall be reserved for overnight or long-term parking.

m. Bowling alley: four per bowling lane.

n. Outdoor commercial recreational use, including swimming pool, skating rink, and park: to be determined pursuant to Subsection (C)(5) of this section.

o. Private club, health club: to be determined pursuant to Subsection (C)(5) of this section.

4. *Use category—Industrial uses.*

a. Industrial, manufacturing, warehousing, wholesale business:

1. One per 1,000 square feet of floor area used or designed for storage, warehousing, distribution, wholesale sales, or a combination thereof.

2. Plus one per 350 square feet of floor area used or designed for manufacturing assembly, parking, preparation, research facilities, experimental or testing laboratories, or other such uses.

3. Plus one per 300 square feet of floor area used or designed for retail sales or office use.

b. Self-storage, mini-warehousing establishment: one per full-time employee on duty, plus vehicular movement areas sufficient to allow on-site loading and unloading.

5. *Other uses.* For uses not specifically listed herein, the use classification for purposes of parking requirements shall be determined by the Town Planner, based on similarity of the proposed use to the listed use classification. If the Town Planner determines that a proposed use is not comparable to any use listed herein, he shall request the Planning Commission to determine off-street parking requirements for the proposed use at a regular Commission meeting. The Planning Commission shall make such determination based on the following criteria: the similarity of the use to those uses listed herein, the zone district of the property, the need for off-street parking in the area where the property is located, the nature and extent of use of the property by the public, the number of employees who will work on the subject property, and the use capacity.

6. *Uses not known.* For unknown commercial space for which all or part of the space has no use designated the parking requirement shall be as follows: parking spaces shall be provided at the rate of one per 225 square feet for the first floor and one per 275 square feet for all other floor area, except that an indoor restaurant, bar or tavern may occupy no more than 25 percent of the floor area without providing for additional spaces.

D. *Size.* Each off-street parking space shall cover an area not less than nine feet wide and 19 feet long. All parallel parking spaces shall be a minimum of 22 feet in length.

E. *Garages and covered parking.* Parking requirements may be met by garages and carports covering or enclosing spaces which comply with minimum size provisions of this chapter.

F. *Location of parking spaces.*

1. For single-family dwellings and multifamily dwellings with two through five dwelling units, off-street parking spaces shall be located on the same lot as the dwelling or a common lot associated with the dwelling.

2. Off-street parking may be located on any part of the lot occupied by the dwellings or uses for which such parking space is required except that no parking space shall be established in a required front yard setback on any lot containing three or more dwellings. Enclosed underground parking spaces may be located anywhere on the lot.

3. For multifamily dwellings with more than five dwelling units and all nonresidential uses parking spaces may be located within a 200-foot radius of the subject property, measured from any point on the property. If the use and the parking area are not owned by the same owner, the owner of

the subject use shall submit for approval by the Town Attorney, a binding agreement affording him use of the parking area.

4. No parking space shall be located closer than five feet from a window or door of a habitable structure.

G. *Exclusive use for parking.* Except for single-family and two-family dwellings no off-street parking or loading space shall be used for any purpose other than the parking of vehicles. No parking space shall be converted to another use unless it is replaced concurrently with another parking space meeting all of the requirements of this chapter.

H. *Joint use of parking spaces.* Where an owner or developer can document that two separate uses do not require parking during the same hours and that adequate provisions have been made to ensure that the uses will not require parking during the same hours, such owner or developer may petition the Planning Commission for permission to allow parking spaces which otherwise comply with the provisions of this chapter to fulfill the requirements for both uses. Permission for such joint use of parking spaces may be granted subject to such conditions as the Planning Commission finds necessary to carry out the purpose and intent of this chapter. Such request shall follow the Town's review procedures for zoning variance, as set forth in Section 4.05.020, except that hardship criteria shall not apply.

I. *Common parking area.* Common parking areas may be provided in areas designated to serve jointly two or more buildings, units, structures or uses, provided that the total number of parking spaces shall not be less than that required for each use.

J. *Loading areas.* For those uses requiring deliveries or service by truck and which are not contiguous to an alley, an off-street delivery truck berth at least 14 feet wide and 30 feet long shall be provided in addition to the required parking area. Where the property or use is served or designed to be served by tractor-trailer delivery vehicles, the off-street loading berth shall be designed so that delivery vehicles using the loading area do not obstruct traffic movements in the parking area or in the public right-of-way.

K. *Parking area surfacing.* The following requirements shall apply to every residential and nonresidential parking area finished surface:

1. *Residential parking areas.*

a. All parking areas serving a single-family dwelling or four or fewer units shall have parking areas surfaced with asphalt, concrete, brick, gravel or road base.

b. All parking areas serving five or more units shall have parking areas surfaced with asphalt or concrete.

2. *Nonresidential parking areas.*

a. All parking areas serving nonresidential buildings which contain ten or fewer parking spaces and have less than 3,000 square feet of parking area shall have parking areas surfaced with asphalt, concrete, brick, gravel or road base.

b. All parking areas serving nonresidential buildings which contain more than ten parking spaces or have more than 3,000 square feet of parking area shall have parking areas surfaced with asphalt or concrete.

L. *Design of parking areas.* The following design standards of this section shall be met for all parking areas, whether or not the parking area is required.

1. *Access.*

a. Except single- and two-family dwellings, each access way between a public street and the parking area shall be not less than 15 feet nor more than 35 feet wide at the intersection of the access way with the public street, and a divider stop at least six feet long shall be installed if the access way exceeds 25 feet in width. Each access way shall be clearly and permanently marked and defined through the use of landscaping, rails, fences, walls or other barriers or markers. Said marking and defining may be augmented by painting or striping.

b. Except single- and two-family dwellings, access from any parking area onto a collector or arterial street and from any parking area with four or more parking spaces onto a local street shall be designed to permit user vehicles to enter and exit unrestricted in forward drive. Single- and two-family dwellings may stack parking spaces except that unobstructed and direct access must be provided for a minimum of two spaces. Access ways shall be designed so as to reduce the number and proximity of access points along public streets.

c. Access ways on the same lot frontage shall be separated by a minimum curb length of 30 feet. For lots of 100 to 200 feet of frontage, the minimum length of curb separation shall be increased by one foot for every five feet of property length beyond 100 feet. For lots exceeding 200 feet of frontage, access ways shall be separated by at least 50 feet. In the case of a corner lot, access ways shall be located not closer than 50 feet to the intersecting street right-of-way line, or where lot frontage is less than 75 feet, the maximum distance possible from the intersecting street right-of-way line, as determined by the Town Planner.

d. The intersection of an access way with a public street shall be located not closer than 15 feet to a side lot line, except that a common access way to two adjacent properties with combined width not exceeding 35 feet may be provided at the common lot line.

2. *Stacking spaces.*

a. For any drive-in or drive-through retail or service use, there shall be provided stacking space for vehicles waiting for service, sufficient to prevent any such vehicles from extending onto the public right-of-way at any time. In no case shall fewer than two such stacking spaces be provided for each window or counter on the entrance side, and one such space on the exit side where an exit is provided.

b. No bays designed to be entered from more than one direction shall be permitted.

3. *Parking for the disabled.* A minimum of one parking space for the disabled shall be provided for each nonresidential use which requires a minimum of 15 parking spaces. For such uses requiring more than 15 spaces, one space designed for the disabled shall be provided for each additional 40 spaces. Such spaces shall be located as close as possible to a major entrance of a building or use. Such spaces shall be a minimum of 12 feet in width, unless located parallel to a sidewalk, in which case they shall be a minimum of nine feet in width. Parallel spaces shall be a minimum of 24 feet in length. All parking spaces for the disabled shall be designated by means of a permanent identification sign.

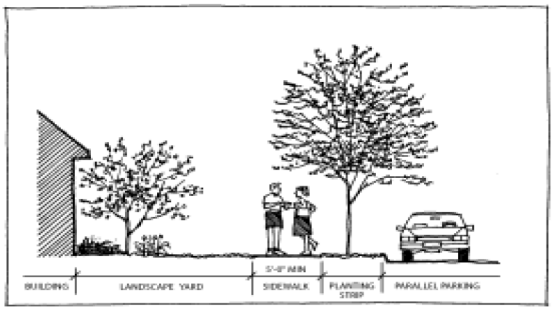
4. *Parking area layout.* Every parking area shall be designed according to the following table. The top line of figures for each parking angle constitutes minimum design standards and the lower two lines constitute higher standards to be employed at the option of the owner or developer. The owner or developer may select the parking angle and the line of figures for such parking angles and then all figures in that line shall become requirements.

MINIMUM PARKING SPACE AND DRIVEWAY REQUIREMENT

Parking Angle	Stall Width	Length of Stall to Curb	Aisle Width	Curb Length per Stall	Width of Double Row with Aisle
10	9'0"	9.0	12.0	23.0	30.0
	9'6"	9.5	12.0	23.0	31.0
	10'0"	10.0	12.0	23.0	32.0
20	9'0"	15.0	11.0	26.3	41.0
	9'6"	15.5	11.0	27.5	42.0
	10'0"	15.9	11.0	29.2	42.0
30	9'0"	17.3	11.0	18.0	45.6
	9'6"	17.8	11.0	19.0	46.6
	10'0"	18.2	11.0	20.0	47.0
45	9'0"	19.8	13.0	12.7	52.5
	9'6"	20.1	13.0	13.0	53.3
	10'0"	20.5	18.0	14.1	54.0
60	9'0"	21.0	18.0	10.4	60.0
	9'6"	21.2	18.0	11.0	60.4
	10'0"	21.5	18.0	11.5	61.0
70	9'0"	21.0	19.0	9.6	61.0
	9'6"	21.2	18.5	10.1	60.9
	10'0"	21.2	18.0	10.6	60.4
80	9'0"	20.3	24.0	9.1	64.3
	9'6"	20.4	24.0	9.6	64.3
	10'0"	20.5	24.0	10.2	65.0
90	9'0"	19.0	24.0	9.0	62.0
	9'6"	19.0	24.0	9.5	62.0
	10'0"	19.0	24.0	10.0	62.0

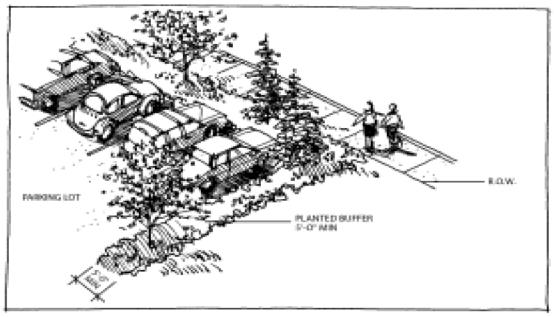
5. *Grade of parking.* Outdoor parking areas shall not exceed four percent grade and shall be not less than one percent grade. The grade of access ways shall not exceed four percent within 100 feet of the intersection with a public street.

6. *Landscaping.*



a. Except in the CBD zone district, at least ten percent of the total un-enclosed parking area, including access ways, shall be devoted exclusively to landscaping of trees, shrubs, and ground cover which reduce the visual impact and assist in defining on-site traffic movement when the number of parking spaces required is ten or more. Such landscaping shall be in addition to the front street buffer as set forth in Section 4.07.020. Hedges provided to fulfill any screening requirements n may be included in the ten percent landscaping requirement. Screening of parking lots from adjacent properties shall be required. Screening must be provided to eliminate headlight glare from lot onto adjacent property and to screen views into parking lots. Planting buffers along the edges(s) of parking lots must be a minimum of five feet wide or a combination of fencing and a two-foot wide buffer may be used.

b. Non-living ground cover shall not exceed 20 percent of the required landscaping area.



7. *Lighting.* Security lighting shall be provided in all parking areas with more than ten spaces used or designed for use during evening hours. The lighting shall meet the requirements of the Section 4.07.010.

8. *Drainage.* All parking areas shall be designed and graded to restrict site drainage to a rate no greater than the historical rate, before development, for the 25-year storm, or shall include development of a storm drainage system to convey runoff water to a site approved by the Town Planner.

9. *Snow storage.* All parking areas shall address snow storage and removal of snow.

(Ord. No. 1986-03, § 4.07.050, 3-5-1986; Amended 6-2-1991; Amended 11-21-1997; Ord. No. 08-2017, §§ 17—24, 4-11-2017; Ord. No. 01-2022 , § 1, 1-11-2022; Ord. No. 08-2022 , § 1, 3-8-2022)

Section 4.07.150. Fire protection standards.

A. *Compliance with applicable codes.* All approved developments shall comply with the provisions of the current fire code adopted by the Greater Eagle Fire Protection District, as well as building codes adopted by the Town and any other duly adopted code, statute, ordinance or standard related to fire protection unless enforceable equivalent fire protection or mitigation efforts are undertaken by the developer as approved by the Town and the Greater Eagle Fire Protection District.

B. *Wildland/urban inter-mix areas.* Only approved fire resistive construction and landscaping shall be permitted in wildlands/urban inter-mix/interface areas in accordance with the current fire code adopted by the Greater Eagle Fire Protection District and applicable building codes duly adopted by the Town.

C. *Automatic fire protection systems required.*

1. Any development which is located more than three driving miles from the nearest actual or to be constructed fire station shall have approved, built-in, automatic fire protection systems installed and maintained in all improvements (occupancies).

2. Any development which is more than five driving miles from the nearest actual or to be constructed fire station shall have approved, built-in, automatic fire protection systems which are installed and maintained in all improvements (occupancies). In addition, the developer shall provide all prospective buyers with a statement that the property is considered not to have any fire protection other than built-in fire protection for insurance purposes. The developer and the Greater Eagle Fire Protection District shall mutually agree upon the contents and final form of such statement. The statement shall be recorded in the records of the County Clerk and Recorder with other closing documents at the time of sale of any unit within the development.

(Amended 2-13-2000)

Section 4.07.160. Design variance.

A variance from the strict application of the requirements of Chapter 4.06 may be granted by the body authorizing the development permit where a finding is made that there exists on the property in question exceptional topographical, soil, or other subsurface condition, or other extraordinary conditions peculiar to the site, existing buildings, or lot configuration, such that strict application of the regulation from which the variance is requested would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the applicant; or that the public good would be better served by granting the variance. Any design variance request shall be made and reviewed concurrently with the development plan and, if granted, shall be described and acknowledged in the development permit.

(Ord. No. 1986-03, § 4.07.060, 3-5-1986; Amended 3-22-1996; Amended 2-25-1997; Amended 8-24-1999; Amended 2-13-2000)

Section 4.07.170. Public safety impact fee.

Every approved development shall require the payment of a public safety impact fee pursuant to Section 4.13.250.

(Ord. No. 10-2019 , § 1, 5-14-2019)

CHAPTER 4.08. SIGNS[2]

Section 4.08.010. General provisions.

A. *Purposes and interests.* This section establishes the standards for the design, location, installation, and maintenance of signs on private property. Signs are an important means of visual communication for both location identification and wayfinding. The intent of this section is to provide standards that result in a reasonable balance between private signage and the visual discord that can result from the proliferation of

[2]Editor's note(s)—Ord. No. 10-2022 , § 1, adopted May 10, 2022, amended the Code by repealing former Ch. 4.08, §§ 4.08.010—4.08.120, and adding a new Ch. 4.08. Former Ch. 4.08 pertained to similar subject matter, and derived from Ord. No. 1986-03, adopted March 5, 1986; and amendments of June 2, 1991 and February 13, 2000.

signs. Regulations contained in this section are a result of the consideration of the compatibility of signs with adjacent land uses and the total visual environment of a particular area within the entire community. The purposes of this chapter are to:

1. Promote and accomplish the vision and policies of the Comprehensive Plan and other relevant community plans;
2. Provide the public, property owners, and businesses with an opportunity for safe and effective means of communication;
3. Preserve residents' and visitors' ability to enjoy the Town's scenic beauty;
4. Coordinate the location and type of signage with the existing and proposed scale and type of development in a manner that that contributes to the character, environmental quality, and economic health of the Town and reduces visual degradation of the attractiveness of the Town;
5. Recognize free speech rights by regulating signs in a content-neutral manner;
6. Promote the free flow of traffic and protect pedestrians and motorists from injury and property damage caused by, or which may be fully or partially attributable to, cluttered, distracting and/or illegible signage;
7. Eliminate fire hazards caused by the size and placement of signs;
8. Reduce needless and destructive competition among signs as well as control and reduce insistent and distracting demand for attention from signs that can be injurious to the mental and physical well-being of the public and destructive to adjacent property values and the natural beauty of the Town;
9. Promote the health, safety, and public welfare of the Town, and its residents and visitors; and
10. Adopt clear and understandable regulations that enable the fair and consistent enforcement of this section.

B. *Savings and severability.* If any clause, section, or other part of the application of these sign regulations shall be held by a court of competent jurisdiction to be unconstitutional or invalid, it is the intent of the Town that such clause, section, or specific regulation be considered eliminated and not affecting the validity of the remaining clauses, sections, or specific regulations that shall remain in full force and effect.

C. *Noncommercial message substitution.* Noncommercial copy may be substituted for commercial copy or other noncommercial copy on any legal sign, notwithstanding any other provision of this chapter.

D. *Calculation of time.* The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the Town, the deadline or required date of action shall be the next day that is not a Saturday, Sunday, or holiday observed by the Town. References to days are calendar days unless otherwise stated.

(Ord. No. 10-2022 , § 1, 5-10-2022)

Section 4.08.020. Applicability.

A. *Applicability.*

1. The regulations of this chapter shall apply to all signs in all zone districts, including signs that do not required a sign permit, but not including signs or notices that are exempt from regulation per 4.08.020.D, Exempt from sign regulations.

2. Any lawfully existing sign that predates the adoption of this section and that does not comply with this section shall be considered a legal nonconforming sign and shall be subject to 4.08.080, Nonconforming signs.

B. *Sign permit required.*

1. A sign permit is required for any sign to be erected, re-erected, constructed, altered, or maintained, except as provided in Sections 4.08.020.C, Sign permit not required, and 4.08.020.D, Exempt from sign regulations.

a. A sign permit is required to convert a temporary sign to a permanent sign.

b. A sign permit is required to convert a non-electronic message display (EMD) sign to an EMD sign, including where the EMD is replacing part of an existing or proposed non-EMD sign.

2. The following actions are exempt from this requirement:

a. Changing or replacing sign copy without changes to the sign structure,

b. Changes to copy on changeable copy signs and EMD signs, and

c. Change or replacement of window signs.

d. Changes in temporary signs that are allowed without a permit.

3. Changes to nonconforming signs require a sign permit and are subject to Section 4.08.080, Nonconformities.

4. When a sign permit is requested for a sign on a parcel where an illegal or prohibited sign(s) exists, the permit shall not be issued until all such signs are removed or brought into conformance with this Code. This provision does not apply when the applicant can demonstrate that an existing sign is nonconforming.

5. Sites or structures that will have more than one sign shall have a coordinated plan for all signs on the building and property.

C. *Sign permit not required.* Due to their small size, limited time duration, and limited aesthetic impact, the following signs may be erected without a sign permit, but shall otherwise comply with the provisions of this section and any other applicable Town, State of Colorado, or Federal requirements.:

1. Temporary signs, unless otherwise specified in 4.08.060, Standards for temporary signs.

2. Flags that are affixed to a permanent flagpole or structure. The total number of flags permitted on a lot is identified in Section 4.08.030, Permanent sign regulations by zone district.

3. Internally oriented signs that are not readily legible beyond the boundaries of the lot or parcel on which they are located nor visible from any public right-of-way, including signs or banners on fences and structures within an arena, park, recreational complex, or athletic field, provided such signs or banners face inward to the arena, park, recreational complex, or athletic field.

4. Access point, under canopy, and window signs that comply with the applicable standards for the zone district in Section 4.08.030, Permanent sign regulations by zone district.

5. Signs that are carved into stone, concrete, or similar permanent materials and which are constructed as integral part of a structure.

6. Incidental signs that are less than one square foot in area and that are affixed to doors or entryways, machines, equipment, fences, gates, walls, gasoline pumps, or utility cabinets.

7. Signs that are no more than two square feet in area and are located along the perimeter of a property that are spaced as follows:

a. One sign per property frontage, regardless of the length of the frontage.

b. For property frontages that are longer than 100 linear feet, one sign per 50 linear feet.

D. *Exempt from sign regulations.* The following sign types are not subject to any standards in this chapter and may be installed or displayed without a sign permit.

1. Regulatory signs, including official public signs approved by a governmental body with jurisdiction over issues such as traffic safety, pedestrian safety, schools, railroads, or public notice, as well as signs required by the Manual of Uniform Traffic Controls.

2. Signs and notices required to be displayed, maintained, or posted by law or by any court or governmental order, rule, or regulation.

E. *Prohibited signs and sign locations.* The following signs and sign elements are prohibited within the Town:

1. *Signs that create safety hazards.*

a. Signs that create a danger to motorists, pedestrians, or other members of the public because they can be distracting, interfering, or confusing due to the signs' size, construction, location, movement, coloring, or manner of illumination.

b. This prohibition includes signs that may be confused with or construed as official traffic control devices.

2. *Signs installed in improper locations or manners.*

a. Signs shall not be located within a required clear vision area per Section 4.04.100.H. Outside of the clear vision area, signs shall not be installed in a manner that:

i. Obstructs the view in any direction at an intersection, or

ii. Hides any official traffic control device from view.

b. Signs shall not be placed on or over public roads, public alleys, public rights-of-way, or utility easements. On private property, signs can be placed in private utility easements subject to removal by the easement holder.

c. Signs shall not be mounted on or to natural features such as landscaping, trees, or rocks; or public/utility features such as traffic signage; utility and light poles; or other similar structures.

d. Signs shall not be installed in a manner that causes glare or that may impair the vision of any motorist.

e. Signs that are structurally unsound.

3. *Prohibited signs.* The following sign types and categories are prohibited in the Town:

a. Signs that move, either mechanically or wind-driven, or that have any animated or moving parts, including, but not limited to, wind signs and other similar devices;

b. Inflatable signs such as blimps, animals, inflatable representations of a product for sale and other inflatable devices used for the purposes of advertising or attracting attention, but not including ordinary balloons with a diameter of two feet or less that are used for temporary displays;

c. Flutter-flag signs;

d. Off-premises signs;

e. Roof signs;

f. Billboards; and

g. Carried signs.

(Ord. No. 10-2022 , § 1, 5-10-2022)

Section 4.08.030. Permanent sign regulations by zone district.

A. *Residential zone districts.*

1. The following signage is permitted by use or structure in residential zone districts:

TABLE 4.08-1: PERMANENT SIGNS IN RESIDENTIAL DISTRICTS					
Use or Structure	**Sign Category**	**Max. Number**	**Height (max., ft.)**	**Area per Sign (max., s.f.)**	**Additional Standards**
Residential					
Any Residential	Wall	1 per dwelling	Top of wall	8	Wall signs: 4.08.040.B.2
	Flag	n/a	Max. height for zone district	24	No permit required.
Subdivision Access	Wall or Monument	1 per vehicular entrance	Wall: Top of wall Monument: 5 feet	32	Wall signs: 4.08.040.B.2; Monument signs: 4.08.040.C.2
Nonresidential					
Nonresidential Use or Structure	Access Point	1 per vehicle entrance	3	3	No permit required. Access point signs: 4.08.040.C.1
	Flag	3 per lot	Max. height for zone district	24	No permit required.
	Wall	1 per lot [1]	Top of wall	12	Wall signs: 4.08.040.B.2
	Window	n/a	n/a	35% of window	No permit required. Window signs: 4.08.040.B.3
Notes: [1] Or series of contiguous lots in common ownership in nonresidential use					

2. Sign illumination and EMD signs are prohibited in residential zone districts.

B. *Nonresidential zone districts.*

1. *Applicability.*

   a. The standards in this section shall apply to mixed-use, commercial, and industrial zone districts.

   b. Uses and structures identified in the use or structure column include nonconforming uses and uses approved by special use review.

2. *Maximum total allowed sign area.*

   a. The total sign area for all signs for which permits are required shall not exceed one square foot per lineal foot of property frontage along a public street. The maximum size for any individual sign may not exceed the size referenced in Table 4.08-2.

   b. Structures with more than one frontage on a public street (e.g., corner lot) are allowed to have the maximum total sign area on each frontage per 4.08.100, Definitions and measurements, but only one frontage per lot may include a freestanding sign.

   c. The total sign area shall include all sign faces and shall be calculated according to the standards of Section 4.08.100, Definitions and measurements.

3. *Minimum sign area entitlement.* Where the maximum sign calculation only permits less than the following amount of signage, all non-residential properties are entitled to the following minimum signage:

   a. Each property shall be entitled to one freestanding sign per street frontage of 50 square feet per face and one wall sign per business of 32 square feet in size so long as all other requirements of this Section are met.

   b. For properties where the minimum sign area entitlement is applicable, maximum individual sign size shall be limited to the sizes permitted in 4.08.03.B.3.a, not the sign sizes based on lineal footage calculation above.

4. *Allowed signs.* Table 4.08-2 identifies the types of signs allowed in Mixed-Use, Commercial, and Industrial districts, and the regulations associated with each sign type. If a sign type is not included in Table 4.08-2 or 4.08.02.D, Exempt from sign regulations, it is not allowed.

TABLE 4.08-2: PERMANENT SIGNS IN MIXED-USE, COMMERCIAL, AND INDUSTRIAL DISTRICTS

Sign Category	Max. Number	Height (max., ft.)	Area per Sign (max., s.f.)	Illumination	Additional Standards
Residential					
See Table 4.08-1					
Nonresidential					
Attached					
Wall or projecting	1 per tenant per frontage	20 [1]	Gen: 30 CBD: 20	External [2]	Location adjustments: 4.08.040.E
Under canopy	1 per public entrance	n/a	2	Not allowed	No permit required. Awning and

					Canopy signs: 4.08.040.A.1
Window	n/a	May not be installed above ground story	35% of window	Not allowed	No permit required. Window signs: 4.08.040.B.3
Freestanding					
Access Point	1 per vehicle entrance	6	4	External [2]	No permit required. Access point signs: 4.08.040.C.1
Flag	4 per lot	Max. height for zone district	24	External	No permit required.
Monument	1 per lot	Single tenant: 5 2 or more tenants: 10	Single tenant: 30 2 or more tenants: 50 CBD: 20	External [2]	Location adjustments: 4.08.040.E
Notes:	[1] Or the height of the tallest building on the same lot, whichever is lower [2] Internal lighting may be allowed pursuant to Section 4.08.04				

(Ord. No. 10-2022 , § 1, 5-10-2022)

Section 4.08.040. Sign type, materials, and location standards.

A. *Attached signs.* An attached sign is a sign that is mounted on, or attached to a structure, including a wall sign, awning sign, roof sign, or projecting sign.

1. *Awning and canopy sign.*

a. An awning sign is a sign that is mounted on a temporary shelter supported entirely from the exterior wall of the building and covered in a flexible material.

b. A canopy sign is a sign affixed to an attached or detached structure, open on at least one side, which is designed to provide overhead shelter from the sun or weather but not covered with fabric or flexible material. Signs on detached canopies, such as service station canopies, are treated as freestanding signs.

c. Under canopy signs (also referred to as arcade signs) require a minimum clearance of eight feet.

d. Awning and canopy sign dimensions are typically measured in the locations shown in Figure 4.08-A:

2. *Projecting signs.*

   a. A projecting sign is a sign that is wall-mounted perpendicular to the building that may extend upwards along the façade and/or outwards and over a walkway or parking area.

   b. All projecting signs require a minimum clearance of eight feet.

   c. Projecting signs dimensions are typically measurement at the locations shown in Figure 4.08-B:

Fig. 4.08-B: Projecting sign measurement locations and examples

3. *Wall signs.*

   a. A wall sign is a sign attached to or erected against a wall of a building, with the face parallel to the building wall.

   b. Wall sign dimensions are typically measured at the locations shown in Figure 4.08-C:

Fig. 4.08-C: Wall sign measurement locations and sample

4. *Window signs.*

   a. Window signs may be affixed directly to the inside or outside window or hung/mounted inside the window from the top, side, or bottom of the window frame or similar architectural element.

   b. Window signs covering up to 35 percent of an individual window do not require a permit. Window signs covering more than 35 percent of an individual window are not allowed.

Fig. 4.08-D: Window sign measurement locations and samples

B. *Freestanding signs.* A freestanding sign is a ground-mounted sign erected on a permanently set pole or poles, mast, or framework that is not mounted on or attached to a structure; includes an access point sign, monument sign, or pole sign.

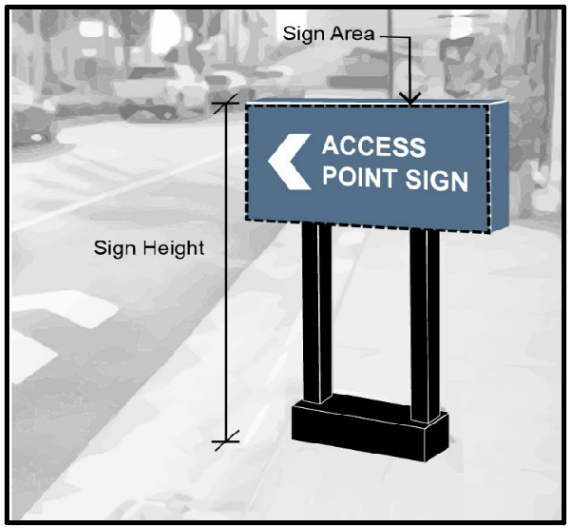


Fig. 4.08-E: Access point sign

1. *Access point signs.*

   a. An access point sign is a sign located at a vehicular access point to a property. An access point sign located at a vehicular entrance to a subdivision or neighborhood is called a subdivision entry sign.

b. Access point signs are typically measured as shown in Figure 4.08-E:

2. *Monument signs.*

a. A monument sign is a freestanding sign where the base of the sign structure is on the ground.

b. Monument signs are typically measured as shown in Figure 4.08-F:

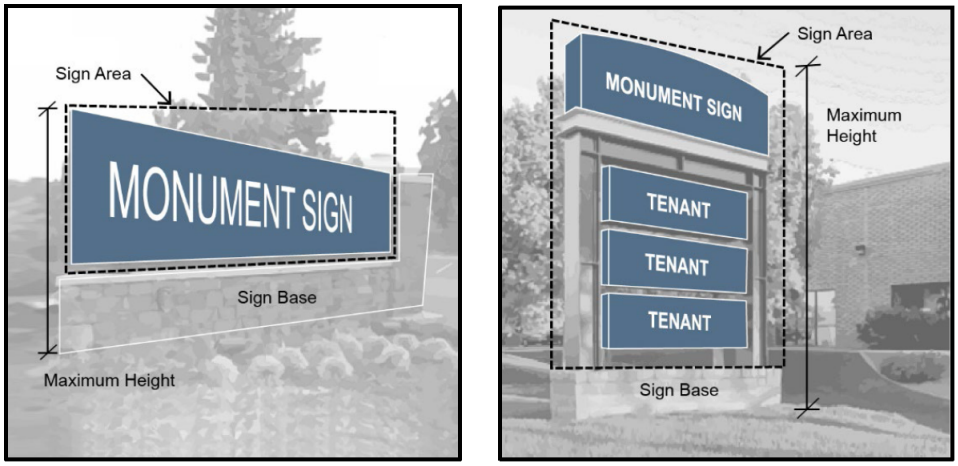


Fig. 4.08-F: Monument sign measurement locations and sample signs

3. *Pole signs.*

a. A pole sign is a self-supported sign permanently attached directly to the ground supported by upright poles or posts or braces placed on or in the ground.

b. Pole signs are typically measured as shown in Figure 4.08-G:

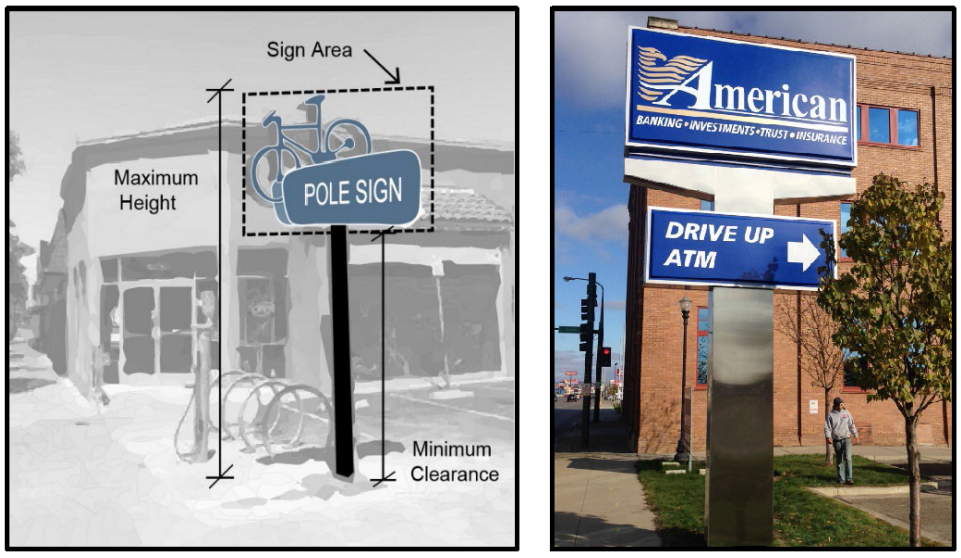


Fig. 4.08-G: Pole sign measurement locations and sample sign

4. *Structural canopy signs (detached canopy).*

a. A structural canopy sign is a sign attached to a permanent, freestanding canopy, such as a service station or ATM canopy.

b. Structural canopy signs are typically measured as shown in Figure 4.08-H:

Fig. 4.08-H: Structural canopy sign measurement locations and sample signs

D. *Materials.* Unless otherwise specified in this section, sign materials shall be:

1. Compatible with building facade materials and must be sufficiently durable to withstand climatic effects of the area, including extended periods of heat, cold, and drought along with intense solar exposure.

2. Painted wood or metal is preferred. Other materials may be allowed where the Director determines that the proposed material is compatible with the architectural character of the associated structure and where the applicant provides evidence that:

a. The proposed material will provide at least 15 years of outdoor durability in the Town's climate, taking into account temperature extremes, wind, weather, and solar exposure; and

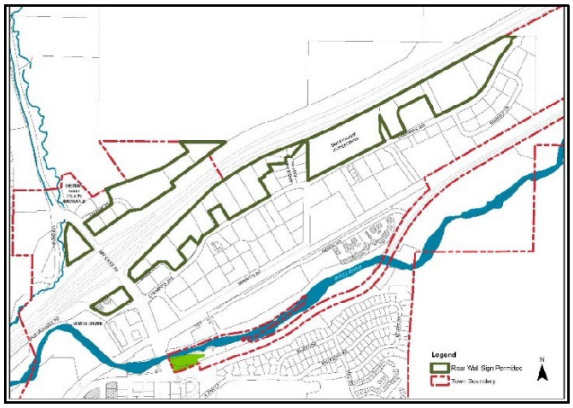
b. The resulting sign can be maintained for the life of the materials at a relatively reasonable cost.

3. Highly reflective materials are prohibited.

E. *Site plan and landscaping.* All freestanding signs shall be integrated with the overall site plan and any required landscaping, buffering, or screening.

F. *Standards applicable by location or zone district.* The following standards are applicable in addition to or as a substitute for Table 4.08-2 based on the location of the structure for which the sign is allowed.

1. *Properties that adjoin the I-70 right-of-way.*



a. No sign shall be located in a rear yard except on properties that adjoin the I-70 right-of-way as identified on the zoning map, these properties shall be allowed one flat wall sign in the rear yard of up to 30 square feet per tenant in addition to other allowed signs.

b. For properties fronting Eby Creek Road, each wall sign, projecting sign, or freestanding sign shall have a maximum sign area of 80 square feet and a maximum height of 15 feet.

(Ord. No. 10-2022 , § 1, 5-10-2022)

Section 4.08.050. Sign illumination.

A. *Applicability.* Every sign that is illuminated shall comply with the requirements of this section and Section 4.07.010, Lighting standards, except that halo lighting is permitted wherever internal sign lighting is allowed provided the applicant can show that the halo lighting is compliant with equivalent internal lighting standards.

B. *Where allowed.*

1. Each tenant is limited to one static illuminated sign.

2. Internally illuminated signs are only permitted on properties adjacent to Eby Creek Road, Market Drive, Chambers Avenue area, and East Eagle.

3. EMD signs are allowed as follows:

a. EMD signs are allowed as part of the signage for the following uses:

i. Service stations;

ii. Convenience stores with fuel pumps and EV charging stations.

b. EMD signs shall be incorporated into a permanent attached or freestanding sign as follows:

Fig. 4.08-I: Example EMD that is approximately 12% of the sign area, not including the base

i. EMDs incorporated into attached signs shall not be larger than 15 percent of the total square footage of the permanent graphic portion of the sign when compared as separate components. For purposes of determining the allowable total sign area, the permanent graphic portion of the sign and the EMD shall be included in the same perimeter and measured as a single sign, inclusive of any physical separation between the two components.

ii. In a freestanding sign, the EMD component shall be enclosed on all sides with a finish of approved materials, or the surface of the sign face. The enclosure shall extend not less than six inches from the electronic message display in any direction. EMDs shall make up not more than 15 percent of any freestanding sign, and the balance of the sign area shall utilize permanent copy.

4. In the Chambers Avenue Commercial Zone, Chambers Avenue Industrial Zone Area, North Interchange Area, and Highway 6 Corridor, lighting of signs shall be permitted during the period the commercial enterprise is open for business and for up to one hour following the close of business.

C. *Electronic message display (EMD) signs.*

1. *EMD signs prohibited.* EMD signs are prohibited in all residential zone districts.

2. *EMD display.*

a. Signs shall contain static messages only and shall not have movement or the appearance or optical illusion of movement, including flashing, pulsating, scrolling, or similar actions, during the static display period of any part of the sign.

b. Each static message shall not include flashing or the varying of light intensity and shall not scroll.

c. The sign shall be programmed to display a blank screen if a malfunction occurs.

d. The sign shall not include audio, pyrotechnic, bluecasting (bluetooth advertising), or other similar components.

3. *Display time.*

a. Each static message on the sign shall be displayed for a minimum of 12 hours in duration.

b. Message change shall be completed instantaneously.

c. There shall be a direct change from one message to the next. All transition effects, such as motion, animation, fading, scrolling, or dissolving are prohibited.

4. *Display brightness.*

a. No EMD may be illuminated to a degree of brightness that is greater than necessary for adequate visibility. In no case may the brightness exceed 5,000 nits or equivalent candelas during daylight hours or 250 nits or equivalent candelas between dusk and dawn.

b. EMDs must be equipped with an automatic image dimming capability (ambient light monitors). This feature must be enabled at all times, allowing the display to automatically adjust brightness based on ambient light conditions.

c. The light from any sign shall be so shaded, shielded, or directed that the light intensity or brightness shall not be projected over the property lines into a residential district.

5. *Display technology.* The technology currently being deployed for EMDs is LED (light emitting diode), but there may be alternate, preferred, and superior technology available in the future. Any other technology that operates under the brightness limits above shall not require an ordinance change for approval.

6. *Installation.* EMD sign faces shall be installed so the illuminated side of the sign does not face any adjacent residential use or residential zone district.

7. *Sign permit conditions.* The following conditions apply to all EMD sign permits. Failure to comply shall result in the Town requiring the sign cease operation until compliance occurs.

a. The sign shall at all times be operated in accordance with Town codes and that the owner or operator shall provide proof of such conformance within 24 hours of a request by the Town;

b. A Town inspector may access the property upon 24 hours' notice to the owner, operator, or permittee so that the Town may verify that the EMD has the automatic image dimming capability engaged. In the event of a citizen complaint regarding the EMD brightness, the owner, operator, or permittee may be required by the Town inspector to manually reduce the brightness to 4500 nits during daylight hours or 200 nits between dusk and dawn;

c. Whether the sign is programmed from the site or from a remote location, the computer interface that programs the sign and the sign's operation manual shall be available to Town staff upon 24 hours' notice to the owner, operator, or permittee.

d. Sign permit applications to install an EMD must include a certification from the owner or operator that the sign shall at all times be operated in compliance with the conditions set out in this Code. The owner, operator or permittee shall immediately provide proof of such conformance upon request of the Town.

(Ord. No. 10-2022 , § 1, 5-10-2022)

Section 4.08.060. Standards for temporary signs.

A. *Purpose and intent.* The purposes of these temporary sign regulations are as follows:

1. Enhance opportunities for visual communication, including promoting the legibility of such communications;

2. Support an attractive economic and business climate within the Town;

3. Enhance and protect the physical appearance of all areas of the Town;

4. Identify permissible signage for temporary uses and temporary events, and

5. Reduce the distractions, obstructions, and hazards to pedestrian and automobile traffic caused by the excessive number, size, or height, inappropriate means of illumination or movement, indiscriminate placement, overconcentration, or unsafe construction of signs.

B. *Permit.* A temporary sign permit is not required unless otherwise specified in this section.

C. *Display.*

1. *Maximum time and number of temporary signs.*

a. No temporary sign shall be erected, re-erected, or maintained for more than a cumulative 30 days per year, unless otherwise permitted in this chapter. For the purpose of this regulation, any sign of similar size and associated with the same temporary use or event erected subsequent to the original temporary sign shall be considered as the original sign for the time limitation contained herein.

b. Maximum number of temporary signs installed without a permit shall not exceed one sign per property frontage except as permitted by Table 4.08-3.

2. *Off-premises display of temporary signs.* Temporary event signs, including, but not limited to, those specified within this section, may be allowed off-premises on private property provided they meet the following requirements:

a. The sign conforms to all requirements of this chapter;

b. The sign does not interfere with automobile traffic or pedestrians;

c. The sign is not placed in the public right-of-way or on public property;

d. When a sign placed on private property, is done with the express permission of the property owner; and

e. The sign is not a public danger or nuisance during high winds or inclement weather.

3. *Location.*

a. Temporary signs are subject to the prohibited sign locations identified in Section 4.08.020.E, Prohibited signs and sign locations.

b. No temporary sign shall cause unsafe ingress or egress or otherwise create traffic visibility problems.

D. *Size and placement limitations.* The following size and placement limitations are generally applicable to temporary signs unless otherwise specified in this chapter.

1. Maximum height: unless otherwise specified, eight feet in commercial and industrial zone districts; six feet in residential zone districts.

2. Maximum sign area 32 square feet on each side of the display in commercial and industrial districts; one square feet on each size of the display in residential districts. Signs may be printed on both sides or two single-sided banners may be placed back-to-back. V-type configurations are not permitted.

3. Measuring one side of the display shall determine the square footage for purposes of computation.

4. Signs, except for sandwich board, shall be located at least 150 feet apart and a minimum of five feet behind all property lines on the parcel.

a. Sandwich board signs shall be located within ten feet of a pedestrian entrance and shall be removed when the business is closed and during severe weather events.

b. Sandwich board signs may be placed on the sidewalk when this can be done safely without blocking ADA-required clear areas or causing pedestrian or vehicular hazards.

5. Temporary signs shall not be illuminated.

6. Temporary signs shall not contain any electronic components or display any digital or electronically copy projected on the sign face.

E. *Materials.* All temporary signs shall be made of durable materials.

(Ord. No. 10-2022 , § 1, 5-10-2022)

Section 4.08.070. Temporary signs allowed by temporary use or activity.

A. *Temporary signs allowed without a permit.* The temporary sign types listed in this section are linked to the activity, use, or event that is required to be allowed to install extra temporary signage. Pursuant to Section 4.08.010, General provisions, the Town does not regulate the content of allowed signage.

TABLE 4.08-3: TEMPORARY SIGNS ALLOWED WITHOUT A PERMIT

Temporary Sign Type	Number of Signs Allowed	Sign Area (max)	Activity, Use, or Event Required to Allow Extra Signage	Duration
Yard	1	6 sf	Residential active real estate listing, lot < 2ac	The sign may be placed when the real estate listing becomes active and shall be removed within 7 days of the closing of the sale of the property or when the listing is deactivated.
Yard or banner attached to building	1	24 sf	Nonresidential active real estate listing, lot < 2ac	
Yard or banner attached to building	1	32 sf	Active real estate listing, lot > 2 ac [1]	
Yard or banner attached to fence	3	24 sf per sign	Active construction permit	The sign may be placed when the construction permit is issued and must be removed within 14 days of the issuance of the certificate of occupancy.
Any	n/a	24 sf per sign [2]	Election event	The sign may be placed for a period of 60 days prior to a state, local, or national election. Total signage in excess of the maximum amount allowed on the property during non-election periods must be removed within five days after the applicable election event.
Sandwich board	1 sign per primary public entrance	6 sf in area per side	Nonresidential uses	Sandwich board signs are allowed to be used 365 days a year, are not subject to the 30-day duration limitation for temporary signs and shall be taken in daily at the close of business.

Yard	n/a	n/a	Small sales events (estate/garage/yard sale)	May be installed not more than seven days prior to the sale and shall be removed not more than two days after the sale
Notes: [1] Owner of a lot or contiguous lots under the same ownership that together exceed two acres. [2] Signs shall be located a minimum of eight feet from the nearest public street or alley.				

B. *Temporary signs that require a permit.*

1. *Street banners.* Street banners or pennants associated with a public event or a specific short term commercial event or occurrence may be displayed if specifically approved in writing by the Town Manager (or designee). The Town Manager (or designee) may impose requirements concerning the installation, location, height, weight, design, structure, support and allowable time for the display of banners.

2. *Temporary public events.* Temporary signs associated with a temporary public event may be installed for a period of not more than 21 days prior to the event and shall be removed within seven days after the event. Temporary event signs shall have a maximum sign area of 24 square feet.

C. *Temporary sign substitution for damaged permanent signs.* In the event that a permanent sign is substantially damaged through fire, natural disaster, or similar emergency, or in the case of major construction projects, where existing permanent signage is removed for construction purposes, a temporary sign of the same size may be allowed for display for a period of time not exceeding 60 days or until the completion of the construction project.

(Ord. No. 10-2022 , § 1, 5-10-2022)

Section 4.08.080. Nonconforming signs.

A. *Nonconforming signs.*

1. Where a lawful sign exists at the effective date or amendment of this chapter that would be illegal under the terms of this chapter, the use of such sign may be continued so long as it remains otherwise lawful, subject to the provisions of this section.

2. Signs that are individually or as part of a building designated by the Town as a historic landmark or a historically important sign are considered conforming to this chapter provided that:

a. The sign is kept in good repair;

b. The sign does not constitute a hazard to public safety; and

c. The original design of the sign does not change

B. *Classification of nonconformities.* There are two types of legal, nonconforming signs: major and minor. Signs with multiple nonconforming elements are classified in the category of the most significant nonconformity.

1. *Major nonconforming signs.* Major nonconforming signs are those signs for which the nonconformity generates a nuisance per se, violates Town sign policy, or is incompatible with adjacent signs and/or applicable Town plans such that public policy favors their elimination from the zone if they are discontinued, abandoned, or destroyed. Major nonconforming signs include:

a. Dangerous signs;

b. Signs that exceed the maximum height or size permitted in the zone district by more than 20 percent;

c. Nonconforming location that encroaches on or over a public right-of-way, clear vision area, or public access easement;

d. Signs with nonconforming illumination;

e. Nonconforming sign types; and

f. Signs approved with a variance that permits any issue included in this major nonconformity list,

2. *Minor nonconforming signs.* Minor nonconforming signs are any nonconforming signs that are not classified as major nonconforming signs. Minor nonconforming signs include but are not limited to:

a. Signs that exceed the maximum height or size permitted in the zone district by 20 percent or less;

b. Nonconforming location that does not encroach on or over a right-of-way, and

c. Off-premises signs.

C. *Major nonconformities.*

1. *Alterations.*

a. A major nonconforming sign or sign structure may not be altered in any way that increases any nonconformity. A proposed change to any nonconforming aspect of a major nonconforming sign shall require the entire sign to be brought into conformance with this chapter.

b. General repairs, maintenance, and change to advertising copy that does not include replacing a static sign with an EMD are not considered alterations.

2. *Replacement.*

a. A major nonconforming sign that is voluntarily replaced shall be replaced with a conforming sign.

b. A major nonconforming sign that loses its nonconforming status shall be replaced with a conforming sign.

D. *Minor nonconformities.*

1. *Alterations.*

a. A minor nonconforming sign may be altered in a manner that conforms to this LUDC while still maintaining the nonconforming elements. For example, a sign that is two feet over the height limit for the zone district may be altered provided the height is not increased.

b. General repairs, maintenance, and change to advertising copy that does not include replacing a static sign with an EMD are not considered alterations.

2. *Replacement.*

a. A minor nonconforming sign that is voluntarily replaced shall be replaced with a conforming sign.

b. A minor nonconforming sign that loses its nonconforming status shall be replaced with a conforming sign.

E. *Sign removal for public purposes.* Any nonconforming sign temporarily removed by a public utility company, the Town, or any governmental agency to accommodate repair, maintenance, or expansion operations may be replaced, provided that there is no change in size, height, or location of the sign. If any sign is moved as a direct result of a governmental or utility project, it may be relocated to a position determined by the Town

engineer to be appropriate in relation to the project, and such a sign shall not be considered nonconforming for the reason of applicable separation standards. No permit shall be required for such replacement.

F. *Loss of nonconforming status.* A nonconforming sign shall lose its nonconforming designation and be required to come into compliance with this chapter if any of the following apply:

1. Any portion of the primary sign structure is replaced.
2. The primary structure on the site is replaced, renovated in a manner that expands the building footprint by more than 50 percent, or when the sign is required to be moved to accommodate building replacement or expansion in compliance with the zone district regulations.
3. A major nonconforming sign is removed, relocated, or replaced for any reason except towards compliance with this chapter.
4. If more than 50 percent of a nonconforming sign is damaged by any means, as measured by total replacement cost of both the sign and structure prior to such destruction, and the sign type is no longer permitted in the zone district, it shall be considered destroyed and shall not be brought back into service or use except in conformity with the provisions of this article.
5. The sign is voluntarily replaced in compliance with this chapter.
6. The sign is abandoned.

G. *Maintenance and repair.*

1. A nonconforming sign is subject to all requirements of this chapter regarding safety, maintenance, and repair.
2. Temporary removal of any portion of a sign for repairs or general maintenance shall not be considered to be in violation of this section, provided that no alterations are made to the sign or sign structure. Should such sign or sign structure be moved permanently for any reason and over any distance whatsoever, it shall thereafter conform to all regulations for the district in which it is located after it has been moved or relocated.
3. Maintenance shall not include the conversion of a nonconforming sign to an electronic message display sign. Any such conversions may only be made to a conforming sign and shall be subject to the permitting and fee requirements set forth in this LUDC.

H. *Records.* In addition to initial and construction inspections, signs may be inspected periodically by the Community Development Department to ensure continued compliance with this chapter. Sign owners shall maintain all records related to sign installation and maintenance and make them available for Town review as requested.

(Ord. No. 10-2022 , § 1, 5-10-2022)

Section 4.08.090. Maintenance and abandonment.

A. *Maintenance.*

1. *Good condition.* All signs shall be maintained in a state of security, safety, and good repair. It shall be the responsibility of every owner of real property and their tenant or other person in possession of such property with the consent of the owner to maintain every sign on such property in strict compliance with this Code.
2. *Continuous maintenance required.*

a. Any sign that has been approved or for which a permit that has been issued a permit shall be maintained by the owner or person in possession of the property on which the sign is located. Maintenance shall be such that the signage continues to conform to the conditions imposed by the sign permit.

b. Any damaged sign base shall be repaired within 60 days.

c. It is a violation of this Code to fail to repair any sign or advertising structure or supporting structure that is torn, damaged, defaced or destroyed.

d. No person shall maintain or permit to be maintained on any premises owned or controlled by such person any sign which is in a dangerous or defective condition. Any such sign shall be removed or repaired by the owner of the sign or the owner of the premises.

e. Any sign that has been damaged to such extent that it may pose a hazard to passersby shall be repaired or removed immediately.

B. *Abandonment.*

1. An abandoned sign is any sign, including support frames, where either:

a. The sign is no longer used by the property or sign owner, in which case discontinuance of sign use may be shown by expiration or revocation of a business license for the business located on the property, or cessation of use of the property where the sign is located for the use or purpose associated with the sign; or

b. The sign has been damaged, and repairs and restoration have not been started within 45 days of the date the sign was damaged, or, once started, are not diligently pursued to completion.

2. Temporary signs shall be considered abandoned if the associated permit has expired or if the sign fails to meet the maintenance requirements of this article.

3. An abandoned sign is prohibited and shall be removed by the owner of the sign or owner of the premises.

4. Abandoned permanent signs shall be removed or the advertising copy shall be painted or coated out. If the property owner or tenant fails to do so within 60 days after written notice from the Code Enforcement Officer of a determination of abandonment, the Code Enforcement Officer shall cause the sign to be removed or painted out and any expense incident thereto shall be paid by the owner or tenant.

5. All abandoned signs must be completely removed (including face, frame, structure, and any related components) within 180 days of the date of abandonment or business closure.

6. When a sign becomes an abandoned sign due to demolition or destruction of the structure in which the business was located, the sign structure shall be removed at the same time as the demolition of the structure, or within 45 days of a determination of abandonment by the Code Enforcement Specialist.

7. Where a successor to a business agrees in writing, prior to the demolition of the structure or as part of a determination of abandonment, to bring any sign into compliance with this chapter and to maintain the sign as provided in this chapter, the removal requirement shall not apply. The sign structure shall be brought into compliance prior to the issuance of a certificate of occupancy for use of any part of the associated structure or business.

C. *Enforcement.* This chapter is subject to the provisions of Section 4.03.100, Enforcement.

(Ord. No. 10-2022 , § 1, 5-10-2022)

Section 4.08.100. Definitions and measurements.

A. *Applicability.* This section applies to all sign types and classifications.

B. *Measurement instructions for all sign types.*

1. *Building and property frontage.*

a. Sign allowance shall be calculated on the basis of the length of the lot frontage which is most nearly parallel to the street it faces.

b. If a lot fronts on two or more streets, the sign area for each street shall be computed separately. The area of signage allowed for each lot frontage shall be displayed on the frontage for which it was calculated and shall not be combined and placed on a single frontage unless otherwise provided in this section or when the structure has multiple tenants.

c. Signage in multi-tenant structures shall first be calculated across all public street frontages to establish the overall permitted signage, and then allocated to each tenant unit based on a sign plan created for the site and submitted with each sign permit application.

d. If a building does not have frontage on a dedicated public street, the owner of the building may designate the one building frontage that shall be used for the purpose of calculating the sign allowance.

2. *Clearance.*

a. Clearance is the area under the sign that shall be free of obstructions to allow passage of pedestrians and vehicles.

b. Clearance for pole and projecting signs shall be measured as the smallest vertical distance between the sign and the finished grade directly underneath the sign at the lowest point of the sign structure, including any framework or other structural elements.

3. *Height.*

a. Height is the vertical distance measured from ground level to the top of the sign measured at its highest point above existing or finished ground level, whichever is more restrictive.

b. When the finished grade at the point of measurement is lower than the average elevation of the adjacent street finished grade parallel to the location where the sign will be installed, that portion of the sign below the street shall not be included in determining the sign's overall height.

4. *Sign area.*

a. Sign area shall be measured by determining the total area of the face of a sign within the outermost edge or border of the face. The computation of freestanding letters not attached to a surface or plane shall be made by determining the area enclosed within the smallest geometric figure needed to completely encompass all of the letters, words, insignias, or symbols.

i. Individual letter signs using a wall as the background without added decoration or change in wall color shall be calculated by measuring the perimeter enclosing each letter. The combined total area of each individual letter shall be considered the total area of the sign.

ii. Sign copy mounted, affixed, or painted on a background panel or area distinctively painted, textured, or constructed as a background for the sign copy, is measured as that area contained within the sum of the smallest geometric figure that will enclose both the sign copy and the background.

iii. Module signs consisting of more than one sign cabinet shall be computed by adding together the total area of each module.

iv. Window signs printed on a transparent film and affixed to a window pane shall be measured as freestanding letters or logos, provided that the portion of the transparent film around the perimeter of the sign message maintains the transparent character of the window.

v. If elements of a sign are movable or flexible, such as a flag or banner, or if the sign includes any permitted copy extensions, the measurement is taken when the elements or extensions are fully extended and parallel to the plane of view.

b. Sign area includes only one side of a double-faced sign, so the area of a two-sided sign equals the area of one side.

i. The second face may not exceed the area of the first face.

ii. If an angle of 30 degrees for a "V" sign is exceeded, the area of both sign faces shall be included in the measurement of total sign area, except that the sign area for a sandwich board sign is measured on one face of the sign regardless of the distance between the sign faces.

c. Window sign area percentage is measured for each architecturally distinct window by dividing the sign area by the window area.

d. The area of a three-dimensional spherical, cubical, or polyhedral sign equals ½ the total surface area.

5. *Separation and spacing.* Any required linear distance between signs shall be measured along the property lines from the center of the sign.

6. *Setback.* Setback is measured at that portion of any sign or sign structure that is closest to the property line.

(Ord. No. 10-2022 , § 1, 5-10-2022)

CHAPTER 4.09. MOBILE HOME PARKS AND SUBDIVISIONS

Section 4.09.010. General.

In order to further the health, safety and general welfare of the residents and the Town as a whole and to further the stated purposes of this Title, every mobile home park and mobile home subdivision shall be designed and operated in accordance with the provisions of this chapter, as well as other applicable chapters of this Title, including, and not limited to Chapters 4.11 and 4.13. All local and State regulations, including, but not limited to, those addressing all public facilities and utilities, shall apply. The provisions of this chapter shall take precedence.

(Ord. No. 1986-03, ch. 4.09, intro. ¶, 3-5-1986)

Section 4.09.020. Applicability.

A. No mobile home shall be occupied or otherwise used for dwelling, cooking or sleeping purposes within the Town except while located in a mobile home park or subdivision constructed and operated in accordance with this chapter. No person shall own, operate, create or occupy a mobile home park unless it is approved in accordance with this chapter.

B. No mobile home shall be maintained upon any private property in the Town when the same is used for living purposes except in compliance with this chapter, nor shall any mobile home be stored in any front or side yard.

C. Establishment of a mobile home park shall follow procedures for PUD as set forth in Chapter 4.11.

D. Any mobile home park in existence on the effective date of the ordinance from which this this chapter is derived may continue to operate and shall be considered a legal nonconforming use. No change shall be made in the design, layout or operation of a nonconforming mobile home park which would make the park less in conformance with the provisions of this chapter.

(Ord. No. 1986-03, § 4.09.010, 3-5-1986)

Section 4.09.030. Park and subdivision design.

A. *Size.* No mobile home park or subdivision shall be less than two acres nor more than five acres in size.

B. *Streets*

1. *Street alignment.* Streets shall be designed to take advantage of natural terrain features and shall be largely curvilinear. Streets shall be designed such that lot configuration promotes privacy and layout other than a strict grid pattern.

2. *Street construction, ownership, and maintenance.* Every street in any mobile home park or subdivision shall conform to the Town's street construction regulations and be public streets. Streets in mobile home parks shall be private streets, maintained by the park operator, and hard surfaced.

C. *Setbacks.* The minimum setback along the periphery of a mobile home park or subdivision shall be 50 feet from an arterial street, 30 feet from a collector or a local street, and 20 feet along any boundary not abutting a street. Said setbacks shall serve as a landscaped buffer and shall be bermed a minimum of three feet higher than the street elevation measured from a point of the nearest street surface or above natural grade in the case of boundaries not abutting a street. Said setbacks shall meet the requirements of Section 4.07.020. In addition, entrances and exits to the park or subdivision shall be landscaped so as to provide a clear delineation of traffic flow patterns.

D. *Accessory uses.* Service and other nonresidential uses may be allowed as accessory uses only, clearly for the use of mobile home park residents, with no visible characteristics which would attract users from outside the park.

E. *Utilities.*

1. Every mobile home park shall be connected to the Town's water distribution system.

2. Every mobile home park shall be constructed and maintained in accordance with the International Plumbing Code provisions for mobile home park water, sewerage, fuel, and any other provisions, and with any other applicable State and local regulations.

F. *Common facilities.*

1. *Central maintenance shed.* Central facilities for the storage of implements necessary for the maintenance of common areas, including landscaping, streets and parking, shall be provided.

2. *Outside storage.* An outside storage area shall be provided and made available to all park occupants for the purpose of storing such items as recreational vehicles, snowmobiles, boats, and other large items usually stored outdoors. The outside storage area shall be of a size adequate to serve the population of the park. Rules for the operation of the outdoor storage area shall be developed and enforced by the

park operator or homeowners' association. Adequate screening around the periphery of the outside storage area shall be provided.

3. *Trash receptacles.* In mobile home parks common trash receptacles shall be provided in an amount and place necessary to meet the needs of the population. Areas for trash receptacles shall be designed so that the receptacle, as much as possible, cannot be viewed form the primary street in the park. Access to the receptacles must be provided to allow easy ingress and egress by trash hauling vehicles. All pick up areas shall have a concrete floor and be enclosed on three sides.

(Ord. No. 1986-03, § 4.09.020, 3-5-1986; Amended 6-2-1991)

Section 4.09.040. Mobile home lot requirements.

Every mobile home, whether in a mobile home park or in a mobile home subdivision, shall be placed on a mobile home lot. A mobile home lot shall contain no more than one mobile home and shall meet size and setback requirements and shall provide required functional areas.

A. *Placement.* All mobile home lots shall front on a public or private street as set forth in Section 4.09.030(B)(2). All mobile home lots must be designated on the PUD zoning and preliminary plan and must designate whether the lot is to be used for placement of a singlewide mobile home or a doublewide mobile home.

B. *Minimum lot size.* The minimum mobile home lot sizes in mobile home parks shall be 4,000 square feet for singlewide lots and 6,000 square feet for doublewide lots. The minimum lot size for every lot in a mobile home park subdivision shall be 6,000 square feet. The minimum depth for any mobile home lot shall be 100 feet. No doublewide mobile home shall be placed on any mobile home lot smaller than 6,000 square feet.

C. *Lot coverage.* The maximum lot coverage for mobile homes, storage sheds and appurtenant structures is 35 percent.

D. *Minimum setback.* All mobile homes and any detached or attached structure must be placed a minimum of 15 feet from the paved surface of the street. No mobile homes may be placed less than 20 feet from another mobile home.

E. *Mobile home lot provisions.* All mobile home lots must make provisions for the following items:

1. *Mobile home pad.*

a. The mobile home pad shall be defined as the outline of the actual mobile home, including the paved portion of any outdoor living area or attached deck area. If structural additions to a mobile home are proposed or anticipated, such as carports, attached rooms, decks, and attached storage areas, they shall be considered part of the mobile home pad. No pad shall be within 20 feet of another pad. No pad shall be within 15 feet of the paved street or driving surface.

b. The pad shall provide for practical placement on and removal from the lot of the mobile home and retention of the home on the lot in a stable condition and in satisfactory relationship to its surroundings.

c. The mobile home pad must be shown on the preliminary plan and final plat.

2. *Storage buildings.* All mobile home lots shall be provided with one storage building with a minimum square footage of 64 square feet. Building materials composing the exterior facade must be consistent with materials used in the park and with each other. Storage buildings shall

be provided at the time of final certificate of occupancy for the park or individually when each lot becomes occupied.

3. *Utility corridor.* A minimum five feet wide utility corridor that is aligned adjacent and parallel to the mobile home pad is required. Utility corridors must be shown on the preliminary plan.

4. *Parking.* A minimum of two ten feet by 20 feet parking spaces per mobile home lot are required. Parking spaces must be paved with a minimum of two inches of asphalt.

5. *Landscaped area.*

   a. All areas of the mobile home lot except the pad and parking lot must be landscaped pursuant to Section 4.07.020. The landscaping must be in place before any certificate of occupancy for the park or subdivision is granted.

   b. Landscaping on every mobile home lot shall include, but not be limited to, live grass for all areas except the pad, parking area, and storage area; a minimum of one live three-inch caliper tree placed within 15 feet of the paved street surface, and five live 18 inch high shrubs that promote privacy, screening, utility screening and aesthetic appeal from the street view.

6. *Skirting.* Skirting shall be applied to all mobile homes within three months after mobile homes have been moved onto mobile home pads. Skirting shall be of an impervious material compatible with the exterior siding of the mobile home.

(Ord. No. 1986-03, § 4.09.030, 3-5-1986; Amended 6-2-1991; Amended 2-13-2000)

CHAPTER 4.10. RECREATIONAL VEHICLE PARKS

Section 4.10.010. General.

In order to further the health, safety and general welfare of the residents, the Town as a whole, and visitors, and to further the stated purposes of this Title, every recreational vehicle park shall be designed and operated in accordance with the provisions of this chapter as well as other applicable chapters.

(Ord. No. 1986-03, ch. 4.10, intro. ¶, 3-5-1986)

Section 4.10.020. Applicability.

A. No recreational vehicle shall be occupied or otherwise used for dwelling, cooking or sleeping purposes within the Town except in a recreational vehicle park approved and operated pursuant to this chapter; except that on a private residential lot, no recreational vehicle shall be so used for more than 14 consecutive days. No person shall own, operate, create or occupy a recreational vehicle park unless it is approved pursuant to this chapter.

B. No recreational vehicle shall remain in any RV park for more than six months in any 12-month period. A shorter occupancy period may be set as a condition of the development permit.

C. Establishment of a recreational vehicle park shall require a special use permit, pursuant to Chapter 4.05.

(Ord. No. 1986-03, § 4.10.010, 3-5-1986)

Section 4.10.030. Design and operation.

A. *Size and density.* The minimum area for an RV park shall be two acres. The overall gross density in any RV park shall not exceed 20 campsites per acre.

B. *Setbacks.* The minimum setback along the periphery of a RV park shall be 50 feet from an arterial street, 25 feet from a local street and 20 feet along any boundary not abutting a street.

C. *Campsite.* Each campsite shall contain a minimum of 1,500 square feet, and shall be adequate to accommodate a recreational vehicle, an additional motor vehicle, and outdoor cooking and eating facilities. Each campsite for tent camping only shall have a minimum area of 750 square feet.

D. *RV placement.*

1. Every campsite shall abut on a roadway with unobstructed access to a street.

2. Every RV and any accessory structure, attached or detached, shall be placed on the campsite so that:

a. It is completely within the campsite;

b. There is a minimum of ten feet between any two RVs;

c. It does not obstruct any roadway or walkway or easement in the RV park; and

d. It is not located within ten feet of any roadway in the RV park.

E. *Vehicular circulation.*

1. Roadways within the RV park shall provide access to each campsite, shall provide for continuous forward movement, shall connect with a street or highway, and shall have a minimum width of 15 feet per lane or 25 feet for two lanes. Curves and turning radii shall be adequate to accommodate the RV in a continuous forward motion.

2. Roadways shall be surfaced with compacted gravel or pavement, shall minimize dust and erosion and shall be designed and constructed to facilitate maintenance.

F. *Parking.* In addition to the recreational vehicle placement space in Subsection (D) of this section, a minimum of one automobile parking space per campsite shall be provided on or within ten feet of the campsite. An additional 0.5 parking spaces per campsite shall be provided in a convenient parking area designed in accordance with Section 4.07.140.

G. *Landscaping.* Every RV park shall be in conformance with landscape requirements of Section 4.07.020. In addition, entrances and exits to the park shall be landscaped so as to provide a clear delineation of traffic flow patterns. Landscaping shall be used to provide a buffer between the park and adjacent land uses.

H. *Accessory uses.* Any accessory uses in an RV park shall be clearly incidental to RV use and shall be designed and located to blend with the park's design and natural setting. Any commercial facilities shall be for use by the RV park occupants only and shall not present any visible characteristics that would attract customers from outside the park. Tent camping shall be allowed.

I. *Outdoor recreation areas.*

1. At least ten percent of the total gross area of every RV park shall be provided for outdoor recreational use. Recreational areas may include play fields, picnic sites, swimming pools, tennis courts and similar recreational uses, and shall not include parking areas, utilities, clothes drying areas, storage areas, campsites, roadways, nor any required setback area.

2. RV parks shall not be subject to the park land dedication requirement of Section 4.07.020.

J. *Health and sanitation.* Every RV park shall be designed and operated in accordance with the Uniform Plumbing Code provisions for recreational vehicle parks, and with the State Department of Public Health and Environment's "Standards and Regulations for Campgrounds and Recreation Areas," including the following sections as revised from time to time: 6.0 Water Supply, 7.0 Sewage Disposal, 8.0 Sewage Collection, 9.0 Refuse Disposal, 10.0 Insect and Rodent Control, 11.0 Fires, Cooking, and Eating Facilities, 12.0 Sanitary Facilities, 13.0 Service Buildings, 14.0 Privies, and 15.0 Safety.

K. *RV parks in areas subject to flooding.* Any RV park located in a floodplain or any other area subject to flooding shall be designed, constructed and operated in accordance with Chapter 4.16 and Town approved flood studies and with regard to the health and safety of park occupants and downstream property. Such park shall be closed and the park operator shall evacuate all occupants upon notice of threat of imminent flooding, as determined by the Town Manager, the Eagle Police Department, or any Federal, State or county agency.

(Ord. No. 1986-03, § 4.10.020, 3-5-1986)

CHAPTER 4.11. PLANNED UNIT DEVELOPMENT

Section 4.11.010. General.

A. This chapter is authorized by C.R.S. Title 24, Art. 67, as amended, the Planned Unit Development Act of 1972.

B. A planned unit development (PUD) is a large land area designed for development as a unit, where uses and innovations in design and layout of the development provide public benefits over standard, uniform lot and block patterns and design features.

C. In a PUD, the various land use elements are designed so that they inter-relate cohesively with each other. The boundary between the PUD and adjacent land areas requires particular attention to ensure that land use patterns are compatible.

D. The PUD review process includes two steps: the PUD zoning plan, which establishes zoning, densities, uses and their locations within the PUD; and development review, as set forth in Chapters 4.06 and 4.07. Where a PUD or any phase thereof involves a subdivision of land, such subdivision shall be reviewed under procedures set forth in Chapter 4.12. Such review may run concurrently with development review, and the review of the PUD zoning plan may occur concurrently with subdivision concept plan review.

(Ord. No. 1986-03, § 4.11.010, 3-5-1986)

Section 4.11.020. Purposes.

The purposes of this chapter are to:

A. Encourage innovations in residential, commercial and industrial development so that the needs of the population may be met by greater variety in type, design and layout of buildings and land uses and by the conservation and more efficient use of open space;

B. Promote the most appropriate use of the land;

C. Improve the design, character and quality of new development;

D. Facilitate the adequate and efficient provisions of streets, utilities and government services;

E. Facilitate efficient provision of solar access;

F. Achieve beneficial relationships with the surrounding area;

G. Preserve the unique, natural and scenic features of the landscape;

H. Preserve open space as development occurs;

I. Provide for necessary commercial, recreational and educational facilities conveniently located to housing; and

J. Lessen the burden of traffic on streets and highways.

(Ord. No. 1986-03, § 4.11.020, 3-5-1986; Amended 6-2-1991)

Section 4.11.030. Standards and requirements.

Every PUD shall be in conformance with this Code and the Town's ordinances, goals, policies and plans. The standards and requirements of this section shall apply to all PUDs and shall take precedence over other standards and requirements. In a PUD, zone district regulations, as set forth in Chapter 4.04, and design standards, as set forth in Chapter 4.07, may be varied where the Planning Commission and Town Council find that such variation will produce a public benefit over strict application of the regulation varied from, and that such variation is not detrimental to the public good and does not impair the intent and purposes of this chapter.

A. *Minimum size.* Every PUD shall have a minimum gross area of five acres. Exception to this requirement may be made by the Town Council upon recommendation from the Planning Commission at the time of PUD zoning plan approval, provided both bodies find that the PUD size and zoning plan are in conformance with the intent and purposes of this chapter and the Town's goals, policies and plans. The minimum area for a mobile home park shall be two acres.

B. *PUD zoning.*

1. *Designation.* Every PUD shall be divided into one or more PUD zone districts with one or more of the following designations:

R/PUD	Residential PUD
MF/PUD	Multifamily Residential PUD
MHP/PUD	Mobile Home Park PUD
HD/PUD	High Density PUD
C/PUD	Commercial PUD
I/PUD	Industrial PUD
P/PUD	Public PUD

Such zoning designation shall determine the range of uses potentially allowed in the zone district and the maximum building density allowed.

2. *Uses.*

a. The uses potentially allowed within any PUD zone district shall be:

i. R/PUD, MF/PUD, and HD/PUD: permitted and special uses as set forth in Chapter 4.04 for the R, RR, RL, RM, RMF and RH zone districts, plus other uses which the Planning Commission and Town Council find to be compatible;

ii. MHP/PUD: permitted and special uses as set forth in Chapter 4.04 for the MHP zone district, plus other uses which the Planning Commission and Town Council find to be compatible;

iii. C/PUD: permitted and special uses as set forth in Chapter 4.04 for the CBD, CL and CG zone districts, plus other uses which the Planning Commission and Town Council find to be compatible;

iv. I/PUD: permitted and special uses as set forth in Chapter 4.04 for the I zone district, plus other uses which the Planning Commission and Town Council find to be compatible;

v. P/PUD: permitted and special uses as set forth in Chapter 4.04 for the PA zone district, plus other uses which the Planning Commission and Town Council find to be compatible.

b. Within each PUD zone district, specific uses shall be allowed only as set forth in the approved PUD zoning plan and development permit. Conditions may be imposed on such uses by the Town, and any such conditions shall be set forth in the development permit.

3. *Density.*

a. Maximum gross density to be allowed in any PUD zone district shall not exceed the following:

R/PUD	8 dwelling units per acre
MF/PUD	15 dwelling units per acre
MHP/PUD	11 dwelling units per acre
HD/PUD	20 dwelling units per acre
C/PUD	floor area ratio 1.7:1
I/PUD	floor area ratio 1.3:1
P/PUD	floor area ratio 1.5:1

b. Within each PUD zone district, land with a slope of 30 percent or greater and standing water bodies shall be excluded in calculating the maximum number of dwelling units and the maximum floor area allowed.

C. *Open space.*

1. It is recommended that a minimum of 20 percent of the total gross area of a PUD shall consist of common open space. The Town may consider a request by the applicant for less than 20 percent common open space when deemed appropriate because of size, location, or nature of the proposed development. In its consideration of a reduction in the amount of open space, the Town may require compensation in the form of a cash-in-lieu of open space payment and/or construction of appropriate amenities, including off-site improvements. Said compensation of cash-in-lieu of open space and/or amenities shall be utilized by the Town or placed by the applicant to mitigate the reduction of open space or to fulfill the recreational needs of the neighborhood.

2. Seventy-five percent of the common open space contained in a PUD shall have a slope of ten percent or less and shall lend itself to utilization for recreational purposes. At least one-half of said common open space shall be developed for active recreation which may include play fields, tennis courts, picnic sites, boating areas, and similar recreation sites.

3. Adequate water rights dedication and tap fee payment pursuant to Title 12 and irrigation system development shall be provided for open space areas. For irrigation systems using treated water, tap fees shall be paid and water rights dedicated to the Town. Irrigation system development shall be conveyed to the entity responsible for the ongoing maintenance of the open space. For irrigation systems using raw water, water rights and irrigation system development shall be conveyed to the entity responsible for the ongoing maintenance of the open space.

D. *Maintenance of open space.*

1. An organization shall be established, subject to the approval of the Town Attorney, which is responsible for ownership, permanent care and maintenance of open spaces and recreational areas and facilities.

2. Such organization shall be established pursuant to an instrument recorded with the County Clerk and Recorder's office, setting forth the character, duration, rights, obligations and limitations of said organization.

3. Such instrument shall be recorded prior to the sale of any residence, and membership shall be mandatory for each property owner, and shall be considered a covenant running with the land.

4. Open space restrictions shall be permanent.

5. Said organization shall be responsible for utilities, maintenance, liability insurance and taxes on open space and recreational facilities.

6. Said organization shall have the power to levy assessments which can become liens on individual properties for the purpose of financing the operation and maintenance of common facilities.

7. In the event the organization established to own and maintain common open space, recreational areas or commonly owned facilities, or any successor organization, shall at any time fail to maintain such areas or facilities in reasonable order and condition in accordance with the approved PUD plan, the Town may take action as provided by C.R.S. § 24-67-101 et seq.

8. In the case of a mobile home park under one ownership, said owner may be designated as the organization responsible pursuant to this Subsection (D).

E. *Municipal and park land dedication.* Every PUD, including MHP/PUD, shall be subject to the requirements of Section 4.13.190 for municipal and park land dedication or fee, except that one-half of such requirement shall be waived in consideration of the active recreation development required in this chapter.

F. *PUD perimeter.* The boundary between a PUD and adjacent land uses shall be landscaped so as to adequately buffer potential incompatibility between land uses.

G. *Street standards.* Every PUD shall be designed and constructed in conformance with the Towns street construction regulations.

H. *Phasing.* Where a PUD is developed in phases, a proportional amount of the required open space and recreation areas shall be included in each phase, such that the project as it is built will comply with the overall density and open space requirements of this chapter at the completion of each phase of development. Phasing shall be accomplished such that at the completion of any phase the development is consistent with the Town's goals and policies.

(Ord. No. 1986-03, § 4.11.030, 3-5-1986; Amended 8-9-1988; Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.11.040. PUD review procedures.

A. Every PUD shall be reviewed in two stages: the PUD zoning plan and the development plan; provided, however, upon agreement between the applicant and the Town Planner, the PUD zoning plan and the development plan may be reviewed simultaneously, at the applicant's option. If reviewed simultaneously, all information required for a PUD development plan review shall be supplied contemporaneously with the applicant's submittal of the PUD zoning plan.

B. The purpose of the PUD zoning plan review shall be to establish permissible type, location, and densities of land uses, to determine compatibility of the PUD proposal with the Town's goals, policies, and plans, and with the purposes of this chapter, and to provide a basis for PUD zoning. Review of a subdivision concept plan, as provided in Section 4.12.030, may occur simultaneously with review of the PUD zoning plan, at the applicant's option. The purpose of the PUD development plan review shall be to evaluate the details of the PUD according to the purposes and procedures of Chapters 4.06 and 4.07. Except as otherwise provided herein, no PUD development plan shall be approved until final approval of the PUD zoning plan.

1. *Pre-application conference.* When proposing a PUD, the applicant shall first request a pre-application conference with the Town Planner. The applicant shall provide for the conference:

a. An application for PUD review on a form provided by the Town;

b. A sketch of the PUD zoning plan, which shall be a free-hand drawing depicting topography of land to be developed, the existing and proposed street system with approximate right-of-way widths, the proposed zoning, densities and types of uses within the PUD and their locations, potential

common space areas and park land areas and the location of utilities and existing development on the land; and

c. Proof of ownership of the land proposed for development. This land shall be under one ownership or shall be the subject of a joint request for PUD review by the owners of all property to be included.

2. *PUD zoning plan.* After the pre-application conference and at least 30 calendar days before the Planning Commission meeting at which the PUD zoning plan is to be reviewed, the applicant shall submit to the Town Planner:

a. A minimum of 22 copies of the PUD zoning plan map, which shall be 24 inches by 36 inches in size, with north arrow and scale and with title and date in lower right corner, at a scale of one inch equals 100 feet, or larger, which depicts the area within the boundaries of the proposed PUD and which depicts all of the information as set forth under Subsection (B)(1)(b) of this section.

b. A statement of intent, with explanation of how the proposed PUD provides benefits over standard development design and how the proposed PUD meets each of the purposes of this chapter, as forth in Section 4.11.020.

c. A list of names and addresses of the owners of record of all properties adjacent to the subject property.

d. The appropriate fee as set forth in Section 4.03.080.

e. Request for exception from minimum area requirement if needed.

3. *Department/agency review.* The Town Planner shall distribute copies of the PUD zoning plan to any Town staff and other agencies he deems appropriate. They shall review the zoning plan, with site visits as needed, for conformance with this Code and the Town's goals and policies in their areas of responsibility. They shall submit their comments to the Town Planner at least seven business days before the appropriate Planning Commission meeting. The Town Planner shall compile these comments and shall prepare for the Planning Commission a summary of the issues which the Planning Commission should consider in reviewing the PUD zoning plan.

4. *Site review.* Before the Planning Commission reviews the PUD zoning plan, the proposal shall be reviewed on site by at least three members of the Planning Commission. They may make written recommendations to the full Planning Commission regarding characteristics of the site which may have a bearing on the PUD zoning plan.

5. *Planning Commission review.* The Town Planner shall distribute copies of the PUD zoning plan to the Planning Commission members along with the summary of issues and comments. A copy of the summary and comments shall also be furnished to the applicant. The Planning Commission shall review the zoning plan at a regular meeting at which it shall hold a public hearing on the proposal. Public notice shall be given pursuant to Section 4.03.060. The applicant or his representative shall be present at the meeting to represent the proposal. The Commission shall take one of the following actions at the meeting:

a. Approve the proposed general zoning, densities and uses within the PUD and their general locations and recommend to the Town Council the approval of the PUD zoning plan and a determination as to whether the park land dedication shall be a fee or actual land dedication;

b. Continue the hearing to the next regular Planning Commission meeting with the requirement that the applicant submit changes or additional information which they find necessary to determine whether the PUD zoning plan complies with this Code and the Town's goals and policies; or

c. Recommend denial of the PUD zoning plan, stating the specific reasons for the denial.

6. *Further review by Planning Commission.* In the event the hearing is continued pursuant to Subsection (B)(5)(b) of this section, the applicant shall submit 20 copies of the required changes or information to the Town Planner at least ten business days prior to the Planning Commission meeting at which the proposal is to be reconsidered. The Town Planner shall review the additional submittal with any Town staff or other agencies he deems appropriate and shall distribute copies of the submittal to the Planning Commission members along with the comments. At the continued hearing, the applicant or his representative shall be present to represent the proposal. The Commission shall take one of the following actions:

   a. Approve the proposed zoning, densities and uses within the PUD and their locations, and recommend to the Town Council approval of the PUD zoning plan and a determination as to whether the park land dedication shall be a fee or land;

   b. Recommend denial of the PUD zoning plan stating the specific reasons for denial; or

   c. Continue the hearing pursuant to Chapter 2.20.

7. *Town Council review.*

   a. After the Planning Commission has made its recommendation for approval or denial of the PUD zoning plan, the Town Planner shall distribute copies of the plan to the Town Council members along with relevant excerpts from Planning Commission meeting minutes and copies of staff or agency comments. The Council shall review the proposed PUD zoning plan at a regular meeting at which it shall hold a public hearing on the application. At the public hearing, the Council shall consider the recommendations of the Planning Commission and the comments, testimony and other evidence presented. The applicant or his representative shall be present to represent the proposal. At such meeting, the Council shall take one of the following actions:

      i. Approve the proposed PUD zoning plan, subject to any conditions it finds necessary to protect the public health, safety and welfare or to ensure compliance with the Town's regulations, goals, policies and plans;

      ii. Deny the proposed PUD zoning plan, stating the specific reasons for the denial; or

      iii. Continue the hearing pursuant to Chapter 2.20.

   b. Any change in the PUD zoning plan made after original submittal of the plan shall require the proposal to be re-entered in the review process at the zoning plan stage, Subsection (B)(2) of this section, unless:

      i. The change is directed by the Planning Commission; or

      ii. In the opinion of the Town Planner, the change does not materially change the zoning plan and it complies with this Code and the Town's goals and policies.

8. *Filing of PUD zoning plan.* If a PUD zoning plan is approved, a reproducible Mylar copy shall be filed at Town hall.

9. *Development/subdivision review.*

   a. Within 24 months of a PUD zoning plan approval, the applicant shall submit a development plan for the PUD. Upon request by the applicant made prior to the expiration of the 24-month period, the Town Council may grant an extension beyond 24 months. If more than 24 months elapse from the date of the PUD zoning plan approval to the date of development plan submittal, and if no extension has been granted, the PUD zoning plan approval shall lapse and be considered void and of no effect.

b. The PUD development plan shall be reviewed according to the zoning of the subject property PUD. The proposed zoning densities and uses and their general locations shall be those depicted in the previously approved PUD zoning plan.

c. Where a PUD or any phase thereof involves a subdivision of land, such subdivision shall be reviewed under procedures set forth in Chapter 4.12. Such review may run concurrently with the PUD development plan review. If the applicant elects to have the proposed subdivision reviewed concurrently with the PUD development plan, upon approval of the PUD development plan and the final subdivision plat by the Council, the Council shall adopt an ordinance zoning the subject property PUD. The zoning densities and uses and their general locations shall be those depicted in the previously approved PUD zoning plan.

(Ord. No. 1986-03, § 4.11.040, 3-5-1986; Amended 6-2-1991; Amended 8-1-1991; Amended 4-16-1995; Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.11.050. Amendments to planned unit development zoning and development plans.

A. *Conditions for amendment.* An approved PUD zoning plan or an approved PUD development plan may be amended if the applicant demonstrates that the proposed modification:

1. Is consistent with the efficient development and preservation of the entire planned unit development;

2. Does not affect in a substantially adverse manner either the enjoyment of land abutting upon, adjoining or across a street from the planned unit development or the public interest;

3. Is not granted solely to confer a special benefit upon any person;

4. Does not contain proposed uses that detract from other uses approve in the PUD;

5. Does not contain an open space plan that differs substantially in quantity or quality from that originally approved; and

6. Contains street and utility plans that are coordinated with planned and/or existing streets and utilities for the remainder of the PUD.

B. *Classification of amendments.* For the purposes of considering a proposed amendment to a PUD zoning or development plan, amendments shall be classified as a minor amendment or major amendment. A minor amendment shall include changes in locations, sitings, bulk of structures, or height or character of buildings required by circumstances not foreseen at the time the plan was approved. A major amendment shall include all other modifications such as changes in use, arrangement of lots, and all changes in the provisions concerning open space or density.

C. *Pre-application conference.*

1. When proposing any amendment to a PUD zoning or development plan, the applicant shall first request a pre-application conference with the Town Planner to discuss procedures, requirements, and the Town's goals and policies. The applicant shall provide for the conference:

a. An application for PUD amendment on a form provided by the Town with any applicable review fee;

b. A sketch of any amendments to the PUD zoning plan or development plan, which shall be a free-hand drawing depicting topography of the land, the existing street system and any proposed changes with approximate right-of-way widths, the existing zoning and any proposed changes, densities and types of uses within the PUD and their locations, existing and any proposed changes to common space areas and park land areas;

c. A written summary of the modifications requested and a statement setting forth the reasons the proposed modifications meet the conditions for amendment contained in Subsection (A) of this section; and

d. Proof of ownership of the land affected by the proposed amendment. This land shall be under one ownership or shall be subject of a joint request for PUD amendment by the owners of all property affected by the proposed amendment.

2. At the pre-application conference, the Town Planner shall classify the proposed amendment as a minor or major amendment, based on the classification criteria set forth in Subsection (B) of this section. If the Town Planner cannot determine on the basis of the criteria specified whether the proposal is to be classified as a minor amendment, the Planner shall refer his determination to the Planning Commission at its next regular meeting. If the proposed amendment includes a resubdivision of land, the Town Planner shall refer the applicant to Section 4.12.030.

3. Within one week after the pre-application conference, the Town Planner shall prepare and deliver or mail to the applicant a written list of the information which must be submitted and which shall constitute the applicant's PUD amendment application. The Town Planner may require all or part of the information set forth in Section 4.11.040(B), all or part of the information set forth in Section 4.06.030, or any other information which the Town Planner determines is necessary to determine whether the proposed amendment will comply with the Town's regulations, goals and policies.

D. *Review of PUD amendments.* Minor PUD Amendments shall be reviewed in the manner provided for minor development permit reviews, as contained in Section 4.06.060. Major PUD amendments shall be reviewed in the manner set forth for original PUD applications, as contained in Section 4.11.040.

(Amended 6-2-1991; Amended 8-1-1991; Amended 4-16-1995)

CHAPTER 4.12. SUBDIVISION REVIEW

Section 4.12.010. General.

Every proposal including a subdivision of land shall comply with this chapter and shall include review of a sketch plan, a preliminary subdivision plan in accordance with chapter 4.13, and a final subdivision plat, except as provided herein for lot boundary adjustment, condominium and townhouse plats and minor subdivision; provided, however, upon agreement between the applicant and the Town Planner, the sketch plan requirement may be waived. If waived, the Town Planner may require all or part of the information described in Section 4.12.020(A) to be submitted with the preliminary subdivision plan. All final plats shall be filed with the County Clerk and Recorder in accordance with the laws of the State for every subdivision. No building permit shall be issued before the required final subdivision plat has been approved and recorded.

(Ord. No. 1986-03, ch. 4.12, intro. ¶, 3-5-1986; Amended 11-27-2007)

Section 4.12.020. General.

In order to further the health, safety and general welfare of the residents, the Town as a whole, and visitors, and to further the stated purposes of this Title, every recreational vehicle park shall be designed and operated in accordance with the provisions of this chapter as well as other applicable chapters which shall take precedence.

A. *Sketch plan.*

1. *Purpose.* The purpose of the sketch plan is two-fold. First, it is to provide the Town the opportunity to describe the community's vision to the applicant. Second, it gives the applicant an opportunity to discuss his development plans, explain how the plans will further the community's vision and obtain input and direction from the Planning Commission and Town Council early in the process. The ultimate goal of this process is to help the applicant develop a plan that fosters the community's vision.
2. *Sketch plan application submittal.* The sketch plan package shall include the following items:
    a. Land use application form.
    b. Subdivisions - technical criteria form.
    c. Application review fee deposit (per Section 4.03.080).
    d. Title commitment. The title commitment must be current and the date must be no more than 30 days from the date of sketch plan application. An ALTA survey shall accompany all applications involving lands that have not been previously subdivided.
    e. Context/vicinity map. The context/vicinity map shall show the proposed development in relation to the surrounding area (1½ mile radius around the property). The map shall be 24 inches high by 36 inches wide and provide the following information:
        i. Title of project.
        ii. North arrow, scale (not greater than one inch equals 1,000 feet) and date of preparation.
        iii. Boundary of proposed project.
        iv. Existing (for developed land) or proposed (vacant/agricultural land) land uses for the properties shown on the map (i.e., residential, commercial, industrial, park, etc.) - label land use and whether it is existing or proposed.
        iv. Major streets (show and label street names)
        v. Existing public water and sewer lines and proposed connections.
        vii. Town and regional open space/trail network.
        viii. Major ditches, rivers and bodies of water.
        ix. Adjacent properties identified by ownership, subdivision name and zoning district.
    f. Sketch plan. The sketch plan shall be 24 inches high by 36 inches wide and may be a free-hand drawing in a legible medium that clearly shows:
        i. Title of project.
        ii. North arrow, scale (not greater than one inch equals 200 feet) and date of preparation.
        iii. Vicinity map.
        iv. Legal description.
        v. Acreage of property.
        vi. USGS topographic contours.
        vii. Location and approximate acreage of proposed land uses.
        viii. Existing easements and rights-of-way on or adjacent to the property.
        ix. Existing streets on or adjacent to the property (show and label street name).
        x. Note indicating how the school land dedication will be met (per Section 4.13.080).

xi. Note indicating how the municipal and park land dedication will be met (per Section 4.13.190).

xii. Table providing the following information for each proposed land use area; proposed density or floor area ratio.

xiii. Proposed local, collector and arterial streets.

xiv. General locations of existing utilities on or adjacent to the property.

xv. Graphic and/or verbal explanation of how the property will be served by public utilities.

xvi. Location of any proposed sewer lift stations.

xvii. Pedestrian circulation and trails - show how the development will tie into the Town and regional trail/pedestrian networks.

xviii. Floodplain boundary with a note regarding source of information (if a floodplain does not exist on the property, please state this on the plan) and high water mark.

xix. Geologic hazard areas.

xx. Existing and proposed zoning on and around the property.

xxi. Land use table - the table shall include land uses, approximate acreage of each land use and percentage of each land use.

xxii. Block and lot pattern with approximate lot areas noted.

g. General development information. Provide a written description of the existing conditions of the site and proposed development. Include the following items in the description:

i. Design rationale - discuss how the development is connected to/integrated with surrounding area, how it responds to site features/constraints and how it is consistent with the subdivision design section (Chapter 4.13) and the purpose of this Title. If it is not consistent with the subdivision design standards section, explain how the intent of the purpose criteria of this Title is met.

ii. Proposed number of lots or units, square feet of nonresidential building space and typical lot width and depth (not needed if information is on the sketch plan).

iii. General description of plan for drainage and stormwater management (refer to adopted storm drainage design criteria per Section 4.13.050 that may be applicable or otherwise it shall be prepared as required by the Town Engineer).

iv. Water supply information, including the number of water taps needed; the amount of raw water that will be provided to the Town; and source of water.

v. Statement indicating whether or not any commercial mineral deposits are located on the site.

vi. Description of any floodplain hazards on the site (only if additional information is needed than what is shown on the sketch plan map).

vii. Show how the proposed development complies with the Eagle Area Community Plan.

h. Traffic impact analysis (TIA). TIA shall be based on the projected traffic needs from existing development, future development, and the proposed development. Trip generations from future development over the design period shall be based on zoning, existing land use, proximity to developed areas, historic growth, and other factors expected to influence development. The TIA shall be prepared by a State Licensed Professional Engineer.

i. Soils report and map. The report and map shall be based on USDA soils and conservation service information and discuss the existing conditions and any potential constraints/hazards. The report shall also address groundwater issues.

j. Geologic report. This report is required only for areas that have the potential for subsidence. It must be prepared by either a registered professional engineer or professional geologist. The report shall address:

i. Site conditions;

ii. Geologic conditions;

iii. Engineering and geologic considerations;

iv. Limitations and any necessary additional investigations.

k. Miscellaneous site report(s). A report(s) on the site's history, vegetation, wetlands, wildlife, wildfire, radiation (e.g., radon gas) and other conditions which could affect development on the property and which could be affected by the proposed development.

l. Utility report. A report on the impacts the development may have on existing utility systems (e.g., are current water and wastewater lines sized sufficiently for added flows, does the current water treatment plan and wastewater treatment plan have sufficient capacity to treat the added flows, do other utility providers, such as gas and electric, have the ability to serve the development, etc.).

m. Population report. A report on the population impacts of the development to the Town and region (the region being the planning area of the Eagle Area Community Plan), including number of residents and/or employees.

n. A description of the need for development, in terms of the need for additional housing, commercial space, or other uses in the Town and the region (the region being the planning area of the Eagle Area Community Plan).

o. A list and description of any lands for which a rezoning action will be requested.

p. A list of any potential issues or problems in relation to this Code and the Town's goals and policies.

q. An ownership map and a list of names and addresses of owners of record of all adjacent properties.

r. A list of names and addresses of owners and lessees' of mineral rights.

s. Public hearing notification labels. Provide the Town with six sets of notification labels. The labels shall be addressed to the surrounding property owners (within 300 feet of the property), mineral interest owners of record, mineral and oil and gas lessees for the property.

t. A development impact report, as required pursuant to Section 4.07.100, if requested by the Town Planner and Town Engineer.

B. *Preliminary subdivision plan.*

1. *Purpose.* The purpose of the preliminary plan is to provide the Town with an overall master plan for the proposed development allowing the Town:

a. To evaluate the application in its response to issues and concerns identified during sketch plan review;

b. Determine compliance with the sketch plan approval; and

c. Evaluate preliminary engineering design.

2. *Preliminary plan application submittal.* The preliminary plan application package shall include the following items:

a. Land use application form.

b. Subdivisions - technical criteria form.

c. Application review fee deposit (per Section 4.03.080).

d. Title commitment. The title commitment must be current and the date must be no more than 30 days from the date of preliminary plan application. If an ALTA survey was required for sketch plan review it shall be updated and submitted with the preliminary plan.

e. Surrounding and interested property ownership report. Provide the Town Planner with a current list (not more than 30 days old) of the names and addresses of the surrounding property owners (within 300 feet of the property), mineral interest owners of record, mineral and oil and gas lessees for the property and appropriate ditch companies. The applicant shall certify that the report is complete and accurate and include the following: public hearing notification labels. Provide the Town with six sets of notification labels. The labels shall be addressed to the surrounding property owners (within 300 feet of the property), mineral interest owners of record, mineral and oil and gas lessees for the property.

f. Preliminary plan. The preliminary plan shall be 24 inches high by 36 inches wide and provide the following information:

i. Title of the project.

ii. North arrow, scale (not greater than one inch equals 100 feet) and date of preparation.

iii. Vicinity map.

iv. Names and addresses of owners, applicant, designers, engineers and surveyors.

v. Legal description with reference to its location in the records of the county.

vi. Total acreage of the property.

vii. Subdivision boundaries, street right-of-way lines and lot lines in solid lines and easements, dedications, and other right-of-way lines in dashed lines, all with dimensions accurate to the nearest 0.01 foot. Bearing of all lines and central angle, tangent distance, chord distance, and arc length of all curves shall be noted.

viii. The location and description of all permanent survey control points.

ix. Existing contours at one foot intervals (basis for establishing contours shall be noted on the preliminary plan).

x. Name and location of abutting subdivisions and owners abutting property (if land is not platted).

xi. Lots, blocks, and street layout with approximate dimensions and square footage for each lot.

xii. Area and zoning of each lot, with use and setback restrictions unless they are standard for the zone district.

xiii. Consecutive numbering of all lots and blocks.

xiv. Existing and proposed rights-of-way and easements on and adjacent to the property.

xv. Existing and proposed street names for all streets on and adjacent to the property.

xvi. Existing and proposed zoning on and adjacent to property.

xvii. Location and size of existing and proposed sewer lines, water lines and fire hydrants (Note: Applicant must consult with the appropriate utility service providers regarding the design of all utilities through the subdivision).

xviii. Existing and proposed access and/or curb cuts on and adjacent to subject property.

xiv. Location by field survey or aerial photography of existing and proposed watercourses and bodies of water such as irrigation ditches and lakes. Watercourses shall include direction of flow.

xx. Floodplain boundary with a note regarding source of information (if a floodplain does not exist on the property, please state this on the plan) and high water mark.

xxi. General location of existing surface improvements such as buildings, fences, or other structures which will remain on the property as part of the subdivision.

xxii. Location and acreages of site, if any, to be dedicated for streets, parks, open space, schools or other public uses.

xxiii. Location, function, ownership and manner of maintenance of any private open space.

xxiv. Land use table - the table shall include land uses, approximate acreage of each land use, and percentage of each land use (including how the school land dedication will be met per Section 4.13.080 and how the municipal and park land dedication will be met per Section 4.13.190).

xxv. Total number of lots.

xxvi. Number of each type of dwelling unit proposed, density or floor area ratio proposed.

g. General development information. Provide a written description of the existing conditions on the site and the proposed development. Include the following items:

i. Explanation of how the preliminary plat is consistent with the sketch plan, and if there are any differences, what they are and how the plan is still compatible with the community's vision.

ii. Explanation of how the items of concern expressed by the Planning Commission and Town Council, at the time of sketch plan review, have been addressed.

iii. Explanation of how the plan is in compliance with the Town land use code and the Eagle Area Community Plan.

h. Preliminary grading and drainage plan and report. This plan and report must be certified by a State Registered Professional Engineer, under the direction of the Town Engineer, including storm drainage concepts such as locations for on-site detention or downstream structural improvements, stormwater quality treatment methods, and soil erosion and sedimentation control plans and specifications (refer to Sections 4.13.050 and 4.13.060). It must also discuss the impacts on and to any existing floodways and/or floodplains on and adjacent to the site as well as any FEMA or Town applications required.

i. Master utility plan. This plan shall be prepared by a registered professional engineer and include water, sanitary sewer, storm sewer, electric, gas and communication. It is necessary that the engineer consult with the appropriate utility service providers regarding the design of all utilities through the subdivision. Plan and profiles shall be completed to a level that demonstrates

delivery and provision of the service to the development. A higher level of completion may be required as determined by the Town Engineer.

j. Traffic study. This study must be prepared by a State Professional Traffic Engineer. The traffic study shall include information and data and be formatted and prepared as directed by the Town Engineer.

k. Master street plan. This plan shall be prepared by a registered professional engineer. Street plans and profiles shall be provided for all on-site and off-site roadway improvements. Streets shall be designed in accordance with Town standards and as promulgated by the Town Engineer. Plan views and centerline profile shall be depicted at a legible scale. These plans and profiles shall show all intersections with existing streets and all existing and proposed drainage features and easement crossing, or parallel to, the roads. Also shown will be any known areas of high water table, unsuitable soils and other geological hazards. These plans shall include a typical cross-section showing widths, including driving surface, shoulders, curbs and gutters, drainage ditches, cut and fill slopes to the point of intersection with natural ground and the pavement structure details proposed. The plan shall include the extremities of all cut and fill areas. A supplemental sheet shall be included to detail all drainage, retaining and bridge structures to be constructed as part of the roadway. The master street plan shall also include the following: a plan for locations and specifications of traffic control devices.

l. Pedestrian circulation plan for trails, sidewalks, walkways, pathways, etc., through the subdivision and for connection to adjacent systems (i.e., local and regional trails). The plan must indicate width, surface, and type of pedestrian way. The design of the trails is required to comply with Town guidelines and standards.

m. Engineering specifications and cross-section drawings for any off-site road impacts.

n. Draft of proposed covenants and any site design guidelines (i.e., architectural design, landscaping design, etc.), and proposed articles of incorporation and bylaws.

o. Mineral, oil and gas rights documentation. Evidence that surface owner has contacted all lessees of mineral, oil and gas rights associated with the site and is working towards resolution. Included in the evidence must be the name of the current contact person, their phone number, and mailing address.

p. Soils report and map. An updated copy of the soils report and map provided at the time of sketch plan must be provided.

q. Geologic report. An updated copy of the geologic report and map provided at the time of sketch plan must be provided.

r. Miscellaneous site report(s). An updated copy of the report(s) provided at the time of sketch plan on the site's history, vegetation, wetlands, wildlife, wildfire, radiation (e.g., radon gas) and other conditions which could affect development on the property and which could be affected by the proposed development. If not included in the initial report, the following additional information is required:

    i. Information on hydrologic conditions, such as surface drainage and watershed characteristics, natural water features and characteristics, and any potential changes or impacts.

    ii. Information on vegetation and wildlife, including any potential changes or impacts.

    iii. Information on population characteristics such as neighborhood patterns and potential displacement of residents or businesses.

s. Evidence of adequate water supply and other public and private services needed to serve the facility.

t. Evidence of adequate water rights to serve the development pursuant to Title 12;

u. Commitment to serve letters from all public and private utilities are required to be provided.

v. Evidence that the developer has submitted applications for all other necessary permits to complete the proposed subdivision, if required (i.e., State highway access permit, Army Corp of Engineers dredge and fill permit or an area of activity of State interest, etc.).

w. Preliminary cost estimates for all public and private improvements to be installed by the subdivider in dedicated land, rights-of-way or easements.

x. A development impact report, pursuant to Section 4.07.100, if not previously submitted as part of the sketch plan submittal.

y. A lighting plan pursuant to Section 4.07.010.

z. Applications for subdivision preliminary plan approval, containing ten or more residential units, shall include a local employee residency plan pursuant to Section 4.04.110 and the Town's local employee residency requirements and guidelines.

C. *Final subdivision plat.*

1. *Purpose.* The purpose of the final plat is to complete the subdivision of land consistent with the technical standards as an instrument for recording.

2. *Final plat application submittal.* The final plat application shall include:

a. Land use application form.

b. Subdivisions - technical review form.

c. Application review fee deposit (per Section 4.03.080).

d. Title commitment. The title commitment must be current and the date must be no more than 30 days from the date of sketch plan application.

e. Surrounding and interested property ownership report. Provide the Town Planner with a current list (not more than 30 days old) of the names and addresses of the surrounding property owners (within 300 feet of the property), mineral interest owners of record, mineral and oil and gas lessees for the property and appropriate ditch companies. The applicant shall certify that the report is complete and accurate and include the following: public hearing notification labels. Provide the Town with six sets of notification labels. The labels shall be addressed to the surrounding property owners (within 300 feet of the property), mineral interest owners of record, mineral and oil and gas lessees for the property.

f. Final plat. The final plat drawing shall comply with the following:

i. The plat shall be prepared by or under the direct supervision of a registered land surveyor and meet applicable State requirements.

ii. Lengths shall be shown to the nearest hundredth of a foot and bearings shall be shown in degrees, minutes, seconds.

iii. The perimeter survey description of proposed subdivision shall include at least one tie to an existing section monument of record and a description of monuments. The survey shall not have an error greater than one part in 10,000.

iv. The final plat shall be 24 inches high by 36 inches wide and shall provide the following information:

1. That information required for preliminary plan in Subsection (B)(2)(f) of this section.
2. Title of project.
3. North arrow, scale (not greater than one inch equals 100 feet) and date of preparation.
4. Vicinity map.
5. Legal description.
6. Basis for establishing bearing.
7. Names and addresses of owners, applicants, designers, engineers and surveyors.
8. Total acreage of subdivision.
9. Bearings, distances, chords, radii, central angles and tangent links for the perimeter and all lots, blocks, rights-of-way and easements.
10. Lot and block numbers, numbers in consecutive order, and square footage of each lot or tract.
11. Excepted parcels from inclusion noted as "not included in this subdivision" and the boundary completely indicated by bearings and distances.
12. Existing and proposed rights-of-way in and adjacent to subject property (labeled and dimensioned).
13. Existing and proposed street names for all streets on and adjacent to the property.
14. Existing and proposed easements and their type in and adjacent to subject property (labeled and dimensioned).
15. Location and description of monuments.
16. Floodplain boundary with a note regarding source of information (if a floodplain does not exist on the property, please state this on the plat) and high water mark.
17. Signature block for registered land surveyor certifying to accuracy of boundary survey and plat (see appendix for sample).
18. Signature block for certification of approval by the Town Council with a signature block for the Mayor and Clerk (see appendix for sample).
19. Signature block for certification of approval by the Planning Commission with a signature block for the chairman.
20. Signature block for utility providers (need to draft a sample signature block).
21. Certification of ownership and dedications of streets, rights-of-way, easements and public sites (see appendix for sample).
22. Certification of title to property (see appendix for sample).

23. Certification of mortgagee or lienholders (see appendix "G" at the end of this Title).

24. Statement concerning vested property rights as required by Section 4.17.100.

g. General development information. Provide a written description that the final plat conforms with the preliminary plat. In addition, the description shall address how the proposed development complies to the goals, policies and regulations of the Town.

h. Complete on-site and off-site engineered construction plans and specifications for grading, streets, pedestrian/bicycle ways, traffic control, utilities, drainage, erosion sediment control and slope stabilization, revegetation, landscaping and lighting, subject to the following:

i. Approved by Town Planner, Town Engineer, Town Manager and Town Attorney.

ii. Construction plans and profiles. The plans and profiles shall be prepared by a registered professional engineer licensed in the State, shall be 24 inches high by 36 inches wide and meet the following minimum standards:

1. The horizontal to vertical scales shall be chosen to best depict the aspects of the design.

2. Maximum horizontal scale: one inch equals 50 feet.

3. Maximum vertical scale: one inch equals ten feet.

iii. Final traffic study.

iv. Final utility impact report.

v. Final drainage plans and reports. Based upon the approved preliminary drainage plan, a final report is to be submitted in accordance with applicable storm drainage design criteria and as determined by the Town Engineer.

vi. Final soils reports and design requirements. The soils reports shall detail special foundation requirements and pavement design.

i. Special documents (as may be needed). Special documents will need to accompany any final plat application (to the extent practical, necessary special documents will be determined during review of the preliminary plan). The documents are, but are not limited to, the following:

i. Special improvement district documents.

ii. Maintenance bonds.

iii. Special agreements (as may be required by the Town).

iv. Work in right-of-way permit (from Town).

v. Floodplain use permit (from Town and/or FEMA).

vi. Grading permit (from Town).

vii. State highway utility permit (from State Department of Transportation).

viii. State highway access permit (from State Department of Transportation).

ix. Construction dewatering permit (from State Department of Public Health and Environment).

x. 404 permit (from Army Corps of Engineers).

xi. Air pollution emission notice (APEN) (from State Department of Public Health and Environment).

xii. Work in ditch right-of-way permit (from individual owners).

xiii. Subdivision improvements agreement for public and private improvements (SIA) - This agreement assures construction of the required improvements. This document shall be signed by the developer and the Town, the signatures shall be notarized, and the document shall be recorded by the Town Clerk with the County Clerk and Recorder.

xiv. General warranty deed. This deed conveys to the Town all public lands other than streets shown on the plat or, in lieu of a deed, a check in an amount to be determined by the Town.

xv. Improvements guarantee. A letter of credit from a bank in the State or other acceptable collateral in the amount stipulated to in the SIA or other agreements or contracts, posted in favor of the Town in an amount sufficient to assure construction of public improvements for either part or all of the plat, as the Town Council shall determine.

xvi. Approved adjudication of water rights, Fee in lieu of water rights dedication, dedication of water rights and/or a plan of augmentation (as may be applicable).

xvii. Protective covenants, homeowners' association (HOA) documents, articles of incorporation for HOA, and architectural design guidelines finalized and in a form for recording. If there are open space areas to remain in private ownership within the subdivision, the HOA documents must have in place a mechanism which will assure maintenance will be funded in perpetuity.

xviii. FEMA approved applications (i.e., conditional letter of map revisions (CLOMR) or letter of map revisions (LOMR)).

xix. Documentation showing who will own and maintain the open space.

xx. Documentation for dedication of public sites for open space or other civic purposes.

j. "Clean" final plat for addressing.

i. Title of project.

ii. North arrow, scale (not greater than one inch equals 100 feet) and date of preparation.

iii. Vicinity map.

iv. Lot and block numbers, numbered in consecutive order.

v. Rights-of-way and street names.

vi. Property boundary.

D. *Waiver of submittal requirements.* Upon request by the applicant, the Planning Commission may, when deemed appropriate because of the nature of the proposed development, waive any information requirement of the sketch plan or preliminary subdivision plan, as contained in Subsections (A) and (B) of this section.

(Ord. No. 1986-03, § 4.12.010, 3-5-1986; Amended 4-16-1995; Amended 4-20-1996; Amended 2-13-2000; Amended 9-8-2002; Amended 11-27-2007; Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.12.030. Subdivision review.

This section is intended to provide for full review of any proposed subdivision of land in order to ensure that the potential effects of the proposal are considered. Development review, pursuant to Chapter 4.06, may proceed concurrently with subdivision review, at the applicant's discretion.

A. *Pre-application conference.*

1. *Sketch plan pre-application process.*

a. *Step 1: Pre-application conference.* A pre-application conference with a representative from the Town is required before the applicant may submit a sketch plan application. The purpose of the meeting is to allow the applicant to discuss his ideas for developing the property and to give the Town the opportunity to communicate the Town's vision. Topics to be discussed will include:

i. Applicant's goals for the property.

ii. Town vision and expectations.

iii. Subdivision design and development standards.

iv. The character and quality of development the Town is seeking.

v. Town regulations and standards.

vi. The application and review process.

vii. Submittal requirements.

viii. Schedule.

b. *Step 2: Planning Commission visioning meeting.* This is intended to be a collaborative meeting between the Planning Commission and the developer to ensure that all new development is consistent with the community's goals and that issues are identified early in the development process. Topics that may be addressed in this meeting include:

i. How the proposed project complies with the subdivision design and development standards (Chapter 4.13*)*, the Eagle Area Community Plan and the purpose of this Title.

ii. The developer's goals and vision for the project.

iii. How the proposed development incorporates variety in the type, design and siting of buildings.

iv. How the proposed subdivision will be connected to and integrated with surrounding natural and developed areas.

v. How the project will impact neighboring properties (i.e., water drainage, traffic circulation, environmental impacts, view corridors).

vi. How the design is cost-effective and environmentally responsive to site features and constraints and how potential impacts to natural systems will be mitigated.

vii. How the design capitalizes on natural and cultural assets on and around the site to build a positive and distinctive identity.

viii. How the proposal promotes the efficient use of land and public streets, utilities and governmental services.

ix. Applicants should bring the following items to the meeting:

1. Context/vicinity map, which shows the proposed development in relation to the surrounding area.

2. Base map, which shows the site features (such as topography, ditches, drainage ways, wildlife habitat, trees and view corridors).

3. Images (such as photographs, sketches and/or plans) which illustrate the project intention. For example, an applicant might bring pictures of:

a. Important architectural elements (such as a porch, vertical windows, mother-in-law units);

b. Proposed architectural styles; ideas for landscaping features such as a xeriscape garden entryway;

c. Streetscape components which contribute to the project's character;

d. A special feature of the property; and

e. Anything else that illustrates what the developer is trying to create.

2. *Preliminary plan pre-application process.*

a. Step 1: pre-application conference. A pre-application conference with a representative from the Town is required before the applicant may submit a preliminary plan application. Topics to be discussed will include:

i. Town regulations and standards;

ii. The application and review process;

iii. Submittal requirements; and

iv. Schedule.

3. *Final plat pre-application process.*

a. Step 1: pre-application conference. A pre-application conference with a representative from the Town is required before the applicant may submit a preliminary plan application. Topics to be discussed will include:

i. Town regulations and standards;

ii. The application and review process;

iii. Submittal requirements; and

iv. Schedule.

B. *Subdivision sketch plan submittal.* Twenty-five copies of the subdivision concept plan as set forth in Section 4.12.020(A), shall be submitted to the Town Planner and reviewed in accordance with the procedures contained in Section 4.03.070. The submittal shall be accompanied by the appropriate review fee as set forth in Section 4.03.080. Public notice shall be given pursuant to Section 4.03.060.

C. *Planning Commission review of subdivision sketch plan.* In order to provide for exchange of information and ideas between the applicant and the Planning Commission at the conceptual stage of a proposed

development, the applicant shall discuss his proposal with the Commission at a regular Commission meeting before submitting the preliminary subdivision plan. The Town Planner shall provide to the Commission copies of the application for subdivision and the subdivision concept plan for discussion at the Commission meeting. The Commission shall make comments and recommendations regarding the proposal, which shall not be binding but shall be considered by the applicant as he prepares the preliminary subdivision plan. The Commission shall make recommendations to the Town Council regarding the proposal and its conformance with the Town's goals, policies and plans. Such recommendations may relate to the potential impacts of the proposal on the Town, its population, services and facilities, environment, character, existing and potential land uses, and economy.

D. *Town Council review of subdivision sketch plan.* In order to provide for exchange of information and ideas between the applicant and the Town Council at the conceptual stage of a proposed development, after meeting with the Planning Commission the applicant shall discuss his proposal with the Council at a regular meeting before submitting the preliminary subdivision plan. The Town Planner shall provide to the Council copies of the application for subdivision and the subdivision concept plan, and comments from the Planning Commission. The Council shall make comments and recommendations regarding the proposed development, which shall not be binding but shall be considered by the applicant as he prepares the preliminary subdivision plan. The Council shall consider the proposal and its conformance with the Town's goals, policies and plans, and shall consider potential impacts on the Town, its population, services and facilities, environment, character, existing and potential land uses and economy. At the meeting, the Council may recommend that the applicant proceed or not proceed to the preliminary subdivision plan stage, based on its review of the proposal.

E. *Preliminary subdivision plan submittal.* Within two years following the Council's review of the subdivision concept plan, the applicant shall submit a preliminary subdivision plan. Upon a request by the applicant made prior to the expiration of the two-year period, the Town may grant an extension beyond two years. If more than two years elapse from the date of the Council's review of the concept plan to the date of the preliminary subdivision plan submittal, and if no extension has been granted, the applicant shall be required to resubmit the concept plan pursuant to the procedure set out in this section. Twenty-two copies of the preliminary subdivision plan and supplemental information, as set forth in Section 4.12.020(B) shall be submitted to the Town Planner at least 30 days before the Planning Commission meeting at which it is to be reviewed. The submittal shall be accompanied by the appropriate review fee as set forth in Section 4.03.080.

F. *Staff review of preliminary subdivision plan.* The Town Planner shall distribute copies of the preliminary subdivision plan to Town staff and other agencies as he deems appropriate. They shall review the plan with site visits as needed to determine whether the proposal conforms with the Town's regulations, goals, policies and plans in their areas of responsibility. They shall submit their comments to the Town Planner at least seven days before the appropriate Planning Commission meeting. The Town Planner shall compile their comments and shall prepare for the Planning Commission a summary of the issues which they should consider in reviewing the proposal.

G. *Site review.* Before the Planning Commission hearing on a preliminary subdivision plan, the proposal shall be reviewed on site by at least three members of the Planning Commission. They may make written recommendations to the full Planning Commission at its regular meeting regarding compliance of the proposal with the Town's regulations, goals, policies and plans.

H. *Planning Commission review of preliminary subdivision plan.*

1. The Town Planner shall distribute copies of the preliminary subdivision plan to the Planning Commission members along with the summary of issues and comments. A copy of the summary and comments shall also be furnished to the applicant.

2. The Planning Commission shall review the proposal at a regular meeting at which it shall hold a public hearing on the proposal. Public notice shall be given pursuant to Section 4.03.060. The applicant or his representative shall be present at the meeting to represent the proposal. The Planning Commission shall take one of the following actions:

    a. Recommend to the Town Council that the preliminary subdivision plan be approved, subject to such conditions as the Commission finds necessary to ensure that the proposed subdivision complies with the Town's regulations, goals, policies and plans, and that any adverse impacts resulting from the proposed subdivision will be reasonably and adequately mitigated by the applicant to minimize such impacts;

    b. Continue the hearing to the next regular Planning Commission meeting with the requirement that the applicant submit changes or additional information which they find necessary to determine whether the proposal complies with the Town's regulations, goals, policies and plans, and whether any adverse impacts resulting from the proposed subdivision will be reasonably and adequately mitigated by the applicant to minimize such impacts; or

    c. Recommend denial of the preliminary subdivision plan, stating the specific reasons for denial.

I. *Further review by Planning Commission.*

1. In the event the hearing is continued pursuant to Subsection (H)(2) of this section, the applicant shall submit 22 copies of the required changes or information to the Town Planner at least ten days prior to the Planning Commission meeting at which the proposal is to be reconsidered. The Town Planner shall review the additional submittal with appropriate staff and other agencies and shall distribute copies of the submittal to the Planning Commission members, along with comments from staff and agencies.

2. At the continued hearing the applicant or his representative shall be present to represent the proposal. The Planning Commission shall take one of the following actions:

    a. Recommend to the Town Council that the preliminary subdivision plan be approved, subject to such conditions as the Commission finds necessary to ensure that the proposed subdivision complies with the Town's regulations, goals, policies and plans, and that any adverse impacts resulting from the proposed subdivision will be reasonably and adequately mitigated by the applicant in order to minimize such impacts;

    b. Recommend denial of the preliminary subdivision plan, stating the specific reasons for denial; or

    c. Continue the hearing pursuant to Chapter 2.20.

J. *Town Council review of preliminary subdivision plan.* After the Planning Commission has made its recommendation for approval or denial of the preliminary subdivision plan, the Town Planner shall distribute copies of the preliminary subdivision plan and supplemental information to the Town Council, along with relevant excerpts from Planning Commission minutes and copies of staff or agency comments. The Council shall review the plan at a regular meeting at which it shall hold a public hearing on the proposed preliminary subdivision plan. At such public hearing, the Town Council shall consider the recommendations of the Planning Commission and the comments, testimony and other evidence presented. The applicant or his representative shall be present to represent the proposal. At such meeting, the Council shall take one of the following actions:

1. Approve the proposed preliminary subdivision plan, subject to any conditions it finds necessary to protect the public health, safety and welfare or to ensure compliance with the Town's

regulations, goals, policies and plans, after finding that the proposal does comply with the Town's regulations, goals, policies, and plans, and that any adverse impacts resulting from the proposed subdivision will be reasonably and adequately mitigated by the applicant to minimize such impacts. If the preliminary subdivision plan is approved, the Council shall authorize staff to draft a subdivision improvements agreement, to include any legal, financial or other agreements between the subdivider and the Town which shall include such conditions as the Council finds necessary to ensure that the proposed subdivision complies with the Town's regulations, goals, policies and plans;

2. Deny the proposed preliminary subdivision plan, stating the specific reasons for denial; or

3. Continue the hearing pursuant to Chapter 2.20.

K. *Final subdivision plat submittal.* Within two years of the approval of a preliminary subdivision plan by the Council, the applicant shall submit a final subdivision plat. Upon a request by the applicant made prior to the expiration of the two-year period, the Town Council may grant an extension beyond two years. If more than two years elapse from the date of the preliminary subdivision plan approval to the date of final subdivision plat submittal, and if no extension has been granted, the preliminary subdivision plan approval shall lapse. In such an event, the applicant shall be required to initiate a new application for subdivision. Twenty-two copies of the final subdivision plat, as set forth in Section 4.12.020(C), along with five copies of any protective covenants, shall be submitted to the Town Planner and reviewed in accordance with the procedures set forth in Section 4.03.070.

L. *Staff review of final subdivision plat.*

1. Prior to Planning Commission review, the Town Planner shall review the final subdivision plat with appropriate staff and agencies for conformance with the approved preliminary subdivision plan and for compliance with the requirements for final subdivision plat.

2. The Town's Engineer of surveying consultant shall compare the legal description of the subject property with the county records to ensure that:

   a. The property described contains all contiguous single ownership;

   b. The lots and parcels have descriptions which both close and contain the area indicated; and

   c. The plat is correct in accordance with surveying and platting standards of the State.

M. *Planning Commission review of final subdivision plat.* At a regular meeting, the Planning Commission shall review the proposed final subdivision plat. The Planning Commission shall take one of the following actions:

1. Recommend approval of the proposed subdivision final plat after determining that the proposed plat is in conformance with the approved preliminary subdivision plan and meets the requirements for a final subdivision plat;

2. Recommend denial of the proposed final subdivision plat after determining that the above conditions have not been met;

3. Require the applicant to resubmit the proposed final subdivision plat with corrections at a regular Planning Commission meeting for Planning Commission approval, after determining the proposed final subdivision plat is not in conformance with the approved preliminary subdivision plan or does not meet the requirements for a final subdivision plat; or

4. Recommend that approval of the final subdivision plat be approved with conditions.

N. *Town Council review of final subdivision plat.*

1. At a public hearing, the Town Council shall review the proposed final subdivision plat and proposed subdivision improvements agreement, which shall include any legal, financial or other agreements between the subdivider and the Town. Public notice shall be given as provided in Section 4.03.060. At the public hearing, the Town Council shall consider the recommendations of the Planning Commission and the comments, testimony and other evidence presented. The applicant or his representative shall be present to represent the proposal at such meeting. The Council shall take one of the following actions:

    a. Following the conclusion of the public hearing, approve the proposed final subdivision plat and subdivision improvements agreement, subject to any conditions it finds necessary to protect the public health, safety and welfare or to ensure compliance with the Town's regulations, goals and policies, after finding that the proposed subdivision does comply with the Town's regulations, goals, policies, and plans, and that any adverse impacts resulting from the proposed subdivision will be reasonably and adequately mitigated by the applicant to minimize such impacts;

    b. Following the conclusion of the public hearing, deny the proposed final subdivision plat and/or subdivision improvements agreement, stating the specific reasons for denial; or

    c. Continue the hearing pursuant to Chapter 2.20.

2. Upon approval of a final subdivision plat and subdivision improvements agreement, the Council shall enact an ordinance authorizing the Town Council certification of the plat and accepting any dedications shown thereon. The plat and subdivision improvements agreement shall be recorded with the County Clerk and Recorder within 30 days of the Town Council's certification. In the event development within the subdivision has not started within three years of the approval date of the final subdivision plat, the approval of the subdivision shall be deemed null and void. For purposes of this section the term "start of development" shall mean either the commencement of construction of public improvements within the subdivision, or the sale of an individual lot, townhome or condominium unit within the development, or the issuance of the first building permit for construction within the subdivision, whichever event first occurs.

(Ord. No. 1986-03, § 4.12.020, 3-5-1986; Amended 8-9-1988; Amended 6-2-1991; Amended 4-20-1996; Amended 2-13-2000; Amended 5-8-2007; Amended 11-27-2007; Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.12.040. Lot line adjustment.

A. *Purpose.* This purpose of this section is to allow for the administrative approval of lot line adjustments, including vacation of interior lot lines.

B. *Submittal requirements*. The applicant shall submit an application complying with the final subdivision plat requirements of Section 4.12.020(C), and a final plat showing all proposed adjustments to the lot lines.

C. *Staff review and decision*. The Town Planner shall administratively approve a lot line adjustment when all of the following conditions are met:

1. All of the required public improvements have been installed and approved;

2. All parcels created meet the minimum standards required by this Code and other applicable regulations;

3. The lot line adjustment does not adversely affect the character of the neighborhood or create other adverse impacts;

4. The lot line adjustment does not result in density that exceeds the allowed density of the original subdivision;

5. A final plat is prepared for filing showing all changes; and

6. In the case of a lot line vacation, the applicant owns both parcels.

D. *Recording required*. Following administrative approval, the applicant shall record the approved plat with Eagle County at the applicant's expense.

E. *Lots within the original Town plat*. A lot line adjustment shall not be required if all of the following conditions exist:

1. The applicant owns four adjacent lots that could not be built on individually in compliance with this title;

2. All lots were platted in 1905 as part of the original plat of the Town;

3. The lots are zoned residential and the proposed improvements will comply with all applicable requirements of this title if the four lots are treated as one lot; and

4. The applicant executes an agreement, in a form approved by the Town and to be recorded against both lots, waiving any rights to sell any of the lots separately.

(Ord. No. 1986-03, § 4.12.030, 3-5-1986; Amended 6-2-1991; Amended 4-16-1995; Amended 4-20-1996; Amended 5-8-2007; Ord. No. 08-2020 , § 1, 4-28-2020; Ord. No. 13-2022 , § 1, 7-12-2022; Ord. No. 16-2022 , § 1, 9-13-2022)

Section 4.12.050. Division of property into condominium or townhouse units.

The following procedures shall be followed before sale of individual units in a multifamily dwelling, or of individual commercial or other space within a larger building, whether or not there is tenancy in common. Any such building shall be subject to the building lot, height and setback requirements of its respective zone district.

A. *Procedures.*

1. Except as provided in this Subsection (A), if no change is proposed in the potential for development beyond that existing or approved, division of property into condominium or townhouse units shall follow the procedures for lot line adjustment set forth in Section 4.12.040.

2. For those developments which have undergone a development plan review or subdivision review within the previous three years, and for which an intent to subdivide into townhouses and condominiums was declared during that review, a final plat may be signed by the Mayor after approval by the Town Council at a regular meeting, without the necessity for a public hearing before the Town Council or a review by the Planning and Zoning Commission. An administrative hearing on the proposed final plat of a condominium or townhouse subdivision shall be held before the Town Planner, or his designee, within 45 days following certification by the Town Planner that the application is complete. Public notice of such administrative hearing shall be given pursuant to Section 4.03.060. The applicant or his representative shall be present at said hearing to represent the proposal. Following such hearing, the Town Planner, or his designee, shall take one of the following actions:

a. Recommend to the Town Council that the condominium or townhouse subdivision be granted and that the final plat be approved; or

b. Recommend denial of the proposed subdivision, stating the specific reasons for denial.

3. Any person aggrieved by a decision of the Town Planner, or his designee, under the procedure set forth above, may appeal such decision to the Town Council by filing ten copies of a letter of

appeal with the Town Clerk within seven days of the decision of the Town Planner from which the appeal is taken. The letter of appeal shall state the specific grounds upon which the appeal is based and shall have attached to it any documentary evidence. The Town Planner shall distribute copies of the appeal submittal to Town Council members, along with copies of the minutes from the administrative hearing at which the proposal was reviewed, copies of the staff or agency comments, and the Town Planner's summary of issues. The Town Council shall hold a public hearing on such appeal at a regular meeting within 30 days of the date of the filing of the appeal. Public notice shall be given as required for the administrative hearing. The applicant or his representative shall be present at the public hearing, and following such hearing the Town Council shall affirm the decision of the Town Planner, or reverse or modify such decision.

B. *Final plat for condominium or townhouse units.* In addition to the plat requirements set forth in Section 4.12.020(C), the final plat for condominium or townhouse units shall show the location of the existing or proposed building to be divided.

C. *Review by Town Engineer or surveying consultant.* The Town's Engineer of surveying consultant shall compare the legal description of the subject property with the county records to ensure that:

   a. The property described contains all contiguous single ownership;

   b. The lots and parcels have descriptions which both close and contain the area indicated; and

   c. The plat is correct in accordance with surveying and platting standards of the State.

D. *Condominium or townhouse documents.* At least 15 days prior to Planning Commission review of the final plat of a condominium or townhouse subdivision and prior to conveyance of any condominium or townhouse units, the applicant shall file with the Town a copy of the condominium declaration as required by the State of Colorado's Condominium Ownership Act, C.R.S. § 38-33-101 et seq., as well as copies of proposed Articles Incorporation, and bylaws of homeowners or property owners association, if applicable.

E. *Division of existing structure.* When reviewing a proposal to divide an existing structure into condominium or townhouse units, the Town Council may require the subject property to come into compliance with this Code and ordinances as necessary to safeguard the public health, safety and welfare.

(Ord. No. 1986-03, § 4.12.040, 3-5-1986; Amended 4-16-1995; Amended 4-20-1996; Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.12.060. Minor subdivision.

A. A minor subdivision is a subdivision which creates:

   1. Only residential lots for a maximum of four dwelling units, which is a resubdivision of previously subdivided land, and which does not include development of or dedication of any public or private improvements in addition to those already existing; or

   2. No more than four commercial lots, which is a resubdivision of previously subdivided land, and which does not included development of or dedication of any public or private improvements in addition to those already existing.

B. An application for a minor subdivision shall follow the review procedures as set forth for lot line adjustment in Section 4.12.040. Such subdivision shall be subject to all other standards and requirements for a subdivision contained in this Title.

(Ord. No. 1986-03, § 4.12.050, 3-5-1986; Amended 6-2-1991; Amended 4-16-1995; Amended 2-13-2000)

CHAPTER 4.13. SUBDIVISION DESIGN, IMPROVEMENTS AND DEDICATIONS

Section 4.13.010. Purpose.

In order to further the purpose of this Title, it is the purpose of this chapter to ensure that for all subdivisions and developments, except as provided otherwise in this Title:

A. The developer provide, pay for and install or cause to be installed, on-site and off-site public improvements where needed. Such improvements shall include, but not be limited to, water distribution systems, storm drain structures, wastewater lines, pumps and appurtenant devices, curbs and gutters, street base course material and wearing course material, bridges, electrical transformers, street lights, underground communications systems and wiring, gas distribution systems, fire hydrants, fire alarms and other fire-control devices, street signs and traffic control devices, and community facilities as the Town may determine; and

B. Provisions are made for the preservation, replacement or installation of trees, shrubs, ground cover and vegetation, structures and provisions to stabilize soil and to prevent erosion, and culverts or other devices to enclose open ditches and inhibit access to them by children; and

C. Reservations and dedications to the Town of lands or easements, or fees in lieu of dedications, are made where needed by the nature of the development for public purposes, including, but not limited to, utility easements and easements for drainage purposes, pedestrian easements, park land, and other community facilities; and

D. Provisions are made for delayed or phased development if necessary to ensure that the Town or special districts can provide necessary and timely municipal services and facilities; and

E. Provisions are made to ensure the completion of installation of curbs, gutters, sidewalks, street paving and other improvements and to ensure that dedications are made.

(Ord. No. 1986-03, § 4.13.010, 3-5-1986)

Section 4.13.020. Applicability.

Except as otherwise provided in this Title, the requirements and provisions of this chapter shall apply to every subdivision and development.

(Ord. No. 1986-03, § 4.13.020, 3-5-1986)

Section 4.13.030. Land subject to natural hazards.

Land subject to natural hazards, such as flooding, including all land within the 100-year floodplain, shall not be developed or approved for development except in conformance with Chapter 4.16, until plans, certified by a registered professional engineer, are submitted to and approved by the Town Engineer, the Planning Commission, and the Town Council which will prevent such conditions from endangering life, health and/or other property.

(Ord. No. 1986-03, § 4.13.030, 3-5-1986; Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.13.040. Fire protection.

A. *Compliance with applicable codes.* The subdivision shall comply with all provisions of the current fire code adopted by the Greater Eagle Fire Protection District, applicable building codes, and any other duly adopted code, statute, ordinance or standard relating to fire protection, unless enforceable, equivalent protection or mitigation efforts are undertaken by the developer as approved by the Greater Eagle Fire Protection District and the Town.

B. *Wildland/urban inter-mix areas.* Approved fire resistive construction and landscaping in accordance with the current fire code adopted by the Greater Eagle Fire Protection District and duly adopted Town building codes shall be required when wildland/urban inter-mix/interface areas within a subdivision.

C. *Automatic fire protection systems required.*

1. For any area within a subdivision which is more than three driving miles from the nearest actual or to be constructed fire station, approved, built-in, automatic fire protection systems shall be installed and maintained in all subdivision improvements (occupancies).

2. In all areas within a subdivision which are more than five driving miles from the nearest actual or to be constructed fir station, approved, built-in, automatic fire protection systems shall be installed and maintained in all subdivision improvements (occupancies). In addition, the developer shall provide to all prospective buyers of property within a subdivision a statement that the property is considered not to have any fire protection other than built-in protection for insurance purposes. The developer and the Greater Eagle Fire Protection District shall mutually agree upon the contents and final form of such statement. Such statement shall be recorded in the records of the County Clerk and Recorder with the closing documents for the subject property at the time of sale of such property.

(Amended 2-13-2000)

Section 4.13.050. Drainage.

A. *Drainage plan.* Every development plan and preliminary subdivision plan shall include a drainage plan which shall:

1. Be produced and certified by a registered professional;

2. Be subject to the approval of the Town Engineer;

3. Be designed to restrict site drainage to a rate no greater than the historical rate, before development, for the ten-year storm, or include development of a storm drainage system to convey runoff water to an acceptable drainage channel off-site;

4. Identify existing channels, dry washes and stream beds with their ten-year storm calculations;

5. Identify the 100-year floodplain, indicating:

a. The high hazard area, where water velocities can be expected to be four feet per second or higher, or the water depth can be expected to exceed two feet; and

b. The low hazard area, where such velocities and depths are not anticipated with the 100-year storm;

6. Include calculations and quantities of flow at points of concentration within the development;

7. Identify possible breach points where irrigation ditches and dry washes intersect;

8. Depict the above information for the entire drainage basin unless the Town Engineer determines other boundaries for the plan;

9. Include a vicinity map locating the development and the boundaries of its drainage basin.

10. A plan for maintenance of drainage ways stating the party responsible for maintenance.

B. *Drainage improvements.* Drainage improvements shall be provided by the developer and designed to meet the criteria of this section and the Town's street construction regulations. Where the proposed development results in the need for off-site drainage improvements, such improvements shall be the responsibility of the applicant.

C. *Drainage easements.* Drainage easements shall be designed to meet the criteria of this section. The minimum width for a drainage easement shall be ten feet. An additional 15 feet shall be required where needed, as determined by the Town Engineer, for vehicular access to maintain the system. No permanent structure shall be located within the easement.

(Ord. No. 1986-03, § 4.13.040, 3-5-1986)

Section 4.13.060. Erosion and sediment control, stabilization, and revegetation.

A. *Applicability.* The requirements to provide an erosion and sediment control plan applies to all subdivisions and, when deemed necessary by the Town Planner, Building Official or Planning and Zoning Commission for development permits, building permits, and grading permits for fills and excavations in excess of 250 cubic yards.

B. *Plan for erosion and sediment control.*

1. The plan for erosion and sediment control shall be designed to ensure:

   a. That natural drainage patterns are preserved and protected from increased water flows which may otherwise tend to alter such patterns or subject existing channels and adjacent areas to increased erosion, keeping any disturbance of natural vegetation and soil cover to a minimum;

   b. That appropriate consideration of soil types is made in the design of cuts and fills, building sites, septic tanks and other land uses;

   c. That structures, including settling ponds, filtration galleries, and sand traps, are provided as necessary to prevent or minimize sedimentation of rivers, streams and drainage structures, and to prevent increased degradation of rivers and streams;

   d. That fugitive dust is minimal and remains on property; that mud and debris tracking to the public right-of-way is minimized.

2. The following practices shall be incorporated into the plan for erosion and sediment control:

   a. Keep cut and fill operations to a minimum so as to create the least erosion potential;

   b. Retain and protect natural vegetation whenever feasible;

   c. Minimize the exposed ground area and the duration of exposure;

   d. Protect exposed critical areas with temporary vegetation and/or mulching during development;

   e. Trap sediment in runoff water by use of debris basins, sediment basins, erosion control fencing, silt traps or similar measures until the disturbed area is stabilized;

   f. Prevent surface water from damaging cut and fill slopes;

g. Locate cuts and fills so as not to endanger adjoining property; keep cuts less than 2:1 unless a subdivision variance or development permit variance is granted;

h. Avoid fills on natural watercourses or constructed channels;

i. Develop the grading plan so that water is not diverted onto the property of another landowner unless a written easement agreement allowing such drainage is received from the other landowner and duly recorded; and

j. Exercise proper measures for dust control during earthwork operations, including watering of disturbed areas;

k. Provide gravel at entrances to the public right-of-way to prevent tracking mud. Minimize the number of entrances from the right-of-way;

l. Minimize time period in which the plan is implemented; and

m. Temporary or permanent irrigation may be required.

C. *Slope stabilization and revegetation.*

1. The plan for slope stabilization and revegetation shall be designed to ensure:

a. That adequate provision is made for revegetation and soil stabilization during and after development of the site; and

b. That all cuts and fills are adequately designed, engineered and vegetated to control erosion as well as stability of the entire mass; keep cuts less than 2:1 unless otherwise expressly approved by the Town.

Temporary or permanent irrigation may be required.

2. The following practices shall be incorporated into the plan for slope stabilization and revegetation:

a. Stabilize disturbed soils as quickly as practicable;

b. Establish and install permanent vegetation and structural erosion control measures as soon as practicable;

c. Place and compact fills so as to minimize sliding or erosion of soil and to provide a stable surface for establishment of vegetation;

d. Stockpile topsoil and reuse it after final site grading on slopes and other critical areas to be stabilized with vegetation; and

e. The use of retaining walls or structures to stabilize cut or its fill slopes will not be permitted without the written approval of the Town Engineer and the Planning Commission.

D. *Remedial measures during construction.* All permit holders must take adequate measures to ensure that during construction off-site effects of fugitive dust, blown trash and tracking of mud are minimized. The Building Official may order measures to correct any off-site effects, including the following: regular watering of disturbed areas, placement of gravel at entrances to the property, hand or machine shoveling and cleaning of dirt and mud from adjacent properties and rights-of-way and hand removal of blown trash. The Building Official may order a plan for revegetation be immediately implemented if disturbed soil areas are not revegetated on a timely basis.

E. *Fills and excavations not accompanied by a building permit or subdivision construction plan.*

1. Any person intending to fill and/or excavate in excess of 250 cubic yards shall be required to submit a plan for erosion and sediment control. The Town Planner and/or Building Official shall determine which elements of Subsection (B) of this section shall be provided by the applicant. No construction shall

occur until such plans are approved by the Town. A performance guarantee may be required by the Town Planner or Building Official pursuant to Section 4.06.020. For any fills and/or excavations which occur without a permit, the Town may require a plan for erosion and sediment control and/or a performance guarantee for corrective measures, or to ensure completion of requirements of this section.

2. For any areas of exposed soils which pose an erosion, water quality or fugitive dust problem, the Town Planner and/or Building Official may require immediate remedial action, including regrading and revegetation or submission of a plan for erosion and sediment control and a performance guarantee to ensure completion of the necessary corrective measures and the requirements of the section.

(Ord. No. 1986-03, § 4.13.050, 3-5-1986)

Section 4.13.070. Lot and block design.

Each lot in a development shall be designed to provide an adequate, readily accessible building site for a structure devoted to the intended use of the land.

A. Each lot shall have a minimum of 25 feet of frontage on a dedicated public street and shall allow vehicular access from a public street; except that lots whose principal use is a portion of a multifamily or nonresidential building may be allowed to front on a private road which meets the Town's street construction regulations and the requirements of Section 4.04.100(E).

B. Lots and blocks shall be designed to afford the maximum solar access to each building site.

C. Lot sizes shall be in conformance with applicable zone district regulations or planned unit development regulations. Where individual water or sewage systems are proposed, lot sizes shall be in conformance with the current standards of the State Department of Public Health and Environment.

D. If any part of a residential development borders a railroad right-of-way, lots adjacent to such right-of-way shall either have a minimum depth of 150 feet or be provided with a landscaped 50-foot buffer adjacent to the railway or a parallel street adjacent to the railway shall be provided. No dwelling unit shall be located within 50 feet of the railroad right-of-way.

(Ord. No. 1986-03, § 4.13.060, 3-5-1986)

Section 4.13.080. School land dedication.

Every approved major residential development and major residential subdivision, or major development or major subdivision for partial residential use, as defined in Chapters 4.06 and 4.12, shall include a dedication of land to the Town, as determined by the Town Council, for use by the Eagle County School District RE50-J ("school district"), roughly proportional to school needs generated by the proposed residential uses. In the alternative, the Town Council may require the payment of cash in lieu of such dedication as further described below. The dedication of such land, or payment of cash in lieu thereof, shall be made at the time of annexation of any land proposed for residential development or partial residential development, if the amount of land or payment required can be ascertained; or at the time of approval of the final subdivision plat; or the issuance of a major development permit, whichever may first occur. Every major subdivision and major development which increases the number of dwelling units above that approved as of the effective date of the ordinance from which this section is derived shall make the additional dedication or fee payment based upon the increase number of units, as provided herein, at the time of approval of the final plat, or issuance of a major development permit, whichever may first occur.

A. *Description.*

1. Dedicated land shall be suitable for use by the school district, and shall not contain steep slopes, rock formations, adverse topography, utility easements, or other features which may make the site unsuitable for use.

2. A minimum of 80 percent of the land dedicated shall have a slope of ten percent or less and shall lend itself to utilization for school district purposes.

3. Adequate water rights dedication must be provided for all school land dedicated, pursuant to Title 12.

4. Title to the school land dedicated or conveyed shall be good and its transfer rightful, and such land shall be free and clear of all liens and encumbrances whatsoever, except for current general property taxes and patent reservations.

B. *Amount.* The owner of the land proposed for a major subdivision or major development permit for residential uses, or partial residential uses, shall dedicate land in an amount roughly proportional to the school needs generated by the proposed residential uses and the future inhabitants thereof. It shall be a rebuttable presumption that the application of the formulas set forth below provides for a land dedication that is roughly proportional to such school needs:

1. Single-family and duplex units: Number of units x .014495 = dedication requirement in acres.

2. Multifamily units; Number of units x .002676 = dedication requirement in acres.

3. Mobile home units; Number of units x .022300 = dedication requirement in acres.

4. The Town may consider a request by the land owner for a smaller dedication of school land when deemed appropriate because of size, location, or nature of the proposed development. Similarly, the Town may require a larger dedication of school lands when deemed necessary because of the size, location, density or nature of the proposed development.

C. *Maintenance and use of dedicated land.*

1. When land is dedicated for the purpose of providing a site for a school, related recreational facilities, administration facilities, or other school district needs, the land shall be conveyed by the Town to the school district by general warranty deed, free and clear of any liens or encumbrances.

2. All lands conveyed by the Town to the school district pursuant to this section shall be maintained by the school district, and the school district may sell such land to a third party. All proceeds from such sale shall be held by the school district and shall be used for the acquisition of other school land or for the construction of expansion of school facilities.

D. *Payment in lieu of dedication.*

1. When the dedication of sites and land areas for school needs are not reasonably necessary to serve the proposed subdivision and future residents thereof because of the size, location, proximity to existing facilities, topography or nature of the proposed development, the Town Council, upon recommendations from the school district and other affected entities, shall require, in lieu of such dedication of land, the payment in cash by the applicant of an amount not to exceed the full market value of such sites and land areas.

2. The full market value shall mean the current market value of the unimproved land after completion of platting. Such value shall be set annually by the Town Council on a per acre basis after considering recommendations from the school district and other appropriate parties. The same value per acre shall be used throughout the Town.

3. If the applicant does not agree with the established value per acre, the applicant may submit the report of a qualified appraiser who is M.A.I. certified, which establishes a different value. The Town Council shall review the report and determine if such appraised value is reasonable. Based upon its review of the applicant's appraisal, and all other relevant information available to it, the Town Council shall then determine the value of such land for purpose of payment of cash in lieu of dedication.

4. When cash in lieu of a school land dedication is required, such funds shall be transferred to the school district within 60 days following payment to the Town for the acquisition of reasonably necessary sites for the construction of school facilities, or for the construction of employee housing required by the school district, or for the purchase of employee housing required by the school district, or for the development or capital improvements to school sites within the Town. If housing units are purchased, a deed restriction restricting their use to school district employee housing shall be required and ownership shall remain in the name of the school district.

5. All funds collected pursuant to this section shall be accounted for in the manner required by C.R.S. § 29-1-801 et seq., and other applicable law.

E. *Limitations on use of dedicated school lands or cash paid in lieu thereof.*

1. Except as otherwise provided in this section, any dedicated school lands which are not utilized for the construction or expansion of school facilities within ten years from the date of dedication shall be refunded by the school district to the land owner making the dedication. Any fees paid in lieu of such land dedication which are not utilized for the acquisition, construction, or expansion of school facilities within ten years of the date of collection shall be refunded by the school district, with applicable interest, to the land owner form which the fees were collected. Any proceeds from the sale of the school lands pursuant to Subsection (C) of this section which are not utilized for the acquisition, construction, or expansion of school facilities within ten years from the date of dedication of the land sold shall be refunded by the school district, with applicable interest, to the land owner making such dedication. The school district shall give written notice by first class mail to the last address on file with the Town to the land owner entitled to such conveyance or refund. If such land owner does not file a written claim for such property or refund with the school district within 90 days of the mailing of such notice, such right to reconveyance or refund shall be deemed forfeited and such land or funds shall revert to the school district for any lawful purposes.

2. The school district may, for good cause shown, request the Town to extend the ten-year period of time specified in Subsection (E)(1) of this section. Such request shall be made at a public hearing held by the Town Council. The Council, in its discretion, for good cause shown, may extend such period of time for an additional period as the Town Council deems reasonable and necessary.

3. The Town is specifically exempted from the requirements of this section.

(Amended 8-11-1995; Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.13.090. Streets and alleys.

A. *Layout and design.*

1. The street pattern shall be designed to afford safe and convenient access to all lots within the subdivision.

2. Streets shall conform to the Town's major street plan and shall be named accordingly.

3. The street pattern shall have a logical relationship to topography.

4. Streets shall be aligned to afford maximum solar access to each building site.

5. Where a proposed development borders an arterial, as designated in the Town's major street plan, street intersections with the arterial street shall be at minimum intervals of 1,000 feet.

6. Street design and layout shall meet the design criteria set forth in the Town's design and construction specifications for streets.

7. Where the proposed development results in the need for off-site street improvements, such improvements shall be the responsibility of the applicant.

B. *Construction.* All streets and related improvements shall be constructed in accordance with the Town's street construction regulations and standards for water system development, which shall be promulgated from time to time by the Town Council.

C. *Street name signs.* Street name signs shall be provided by the developer, subject to approval by the Town's traffic engineer.

D. *Traffic control devices.* All traffic control signs, signals or devices shall be provided by the developer in conformance with the most current edition of the "Manual on Uniform Traffic Control Devices," as published by the U.S. Department of Transportation, Federal Highway Administration, and shall be subject to approval by the Town's traffic engineer before installation.

E. *Street lights.* Street lighting shall be provided by the developer in conformance with Section 4.07.010.

F. *Street maintenance, notice.* The Town shall not be responsible for the maintenance of streets in new subdivisions until approved pursuant to Section 4.13.240(C). Until such streets have been approved, the Town shall post at all entrances to the subdivision a sign which states:

"Notice: Roads within this Subdivision have not been Accepted by the Town for Maintenance."

(Ord. No. 1986-03, § 4.13.070, 3-5-1986; Amended 2-13-2000; Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.13.100. Easements.

A. *Dedication of easements.*

1. Unless otherwise determined by the Town, all easements necessary to provide service to a subdivision or other development shall be dedicated to the Town, free and clear of all liens and encumbrances, including, but not limited to, water easements, wastewater easements, electric easements, natural gas easements, telephone service easements, telecommunications service easements, cable television service easements, general utility easements, access easements, and bicycle and pedestrian pathway easements. The dimensions of such easements shall be subject to approval by the Town Engineer.

2. Every certificate of dedication contained on a final plat dedicating an easement to the Town shall include the following:

"The dedication of easement(s) shown hereon to the Town preclude the installation of improvements, including, but not limited to, trees, shrubs and rocks, the deposit of materials, or the alteration of the existing ground elevation, within the easement area, which could in any manner impair the Town's or other service provider's use of the easement as provided in this dedication."

B. *Encroachments within easements prohibited.* Unless otherwise permitted by the Public Works Director, no person shall construct improvements, deposit materials, or alter the existing ground elevation within an easement dedicated to the Town which could in any way impair the Town's or other service provider's use of

such easement. Encroachments that do not alter the existing grade and ground elevation and that do not in any manner restrict vehicular access to and along the dedicated easement shall not require and easement encroachment permit; provided, however, neither the Town nor any service provider shall be responsible for damage to surface encroachments such as landscaping resulting from use of such easements for their intended purpose.

C. *Easement encroachment permit.* In the event a property owner desires to construct improvements, deposit materials, or alter the existing ground elevation or grade within an easement dedicated to the Town, such property owner may apply to the Public Works Director for an easement encroachment permit. Such application shall be made on a form promulgated by the Public Works Director and shall be accompanied by a site plan depicting the property, the subject easement, and the proposed encroachment. Such application for a permit may be approved by the Public Works Director in his sole discretion. Encroachments that do not restrict vehicular access to and along an easement and that do not alter the existing grade or ground elevation shall not require a permit. Unless otherwise provided in the permit, an easement encroachment permit shall be revocable upon 60 days' notice from the Town to the property owner. The Town may require an easement encroachment permit to be recorded in the records of the County Clerk and Recorder. All recording costs shall be borne by the property owner.

(Amended 9-13-2002)

Section 4.13.110. Sidewalks and bikeways.

A. Sidewalks and bikeways shall be provided by the developer to allow convenient pedestrian access through or across the development and joining with pedestrian ways and bikeways of adjacent properties.

B. Sidewalks and bikeways shall be designed and constructed in conformance with the Town street construction regulations.

(Ord. No. 1986-03, § 4.13.080, 3-5-1986)

Section 4.13.120. Access.

A. Lot and block patterns shall allow for access onto a street from each lot. The use of an easement or alley for principal access to a lot shall not be allowed.

B. No more than one access point from an arterial or collector street shall be provided to any development unless the applicant documents that additional access points would be significantly beneficial to the safety and operation of the street or that provision of only one access point would be detrimental to public safety. Such documentation shall be subject to approval by the Town's Traffic Engineer.

C. Private access onto any public street shall be designed to permit user vehicles to enter and exit in forward drive, except for access from a single-family or two-family lot onto a local street or collector street.

D. As provided by C.R.S. § 43-2-147, as amended, any development requiring access onto a State highway shall obtain a permit for such access in accordance with the Colorado State Highway Access Control Code before the issuance of a development permit.

(Ord. No. 1986-03, § 4.13.090, 3-5-1986)

Section 4.13.130. Off-street parking.

Except as otherwise provided in this Title, every subdivision and development shall comply with the provisions of Section 4.07.140.

(Ord. No. 1986-03, § 4.13.100, 3-5-1986)

Section 4.13.140. Water distribution.

A. The developer shall provide additional water rights pursuant to Title 12, storage, and distribution facilities to serve the proposed development, including all areas of park land dedication, common open space, and private recreation facilities. Any such facilities shall be in conformance with Title 12.

B. The water main distribution system of a development shall be designed to connect with the Town's water system, to be compatible with the existing system and to make water available to each lot in the proposed development. Fire hydrants shall be located to ensure protection to each lot and shall be approved by the Greater Eagle Fire Protection District. Design of the system shall be to the Town's specifications and water distribution regulations.

(Ord. No. 1986-03, § 4.13.110, 3-5-1986)

Section 4.13.150. Wastewater collection.

A. Where the Eagle Sanitation District wastewater collection system is accessible, the wastewater collection system shall be designed to connect with the system and provide service to each lot in a proposed development. Design of the system shall be the responsibility of the developer, with all plans subject to Eagle Sanitation District specifications and the approval of the Town's Engineer.

B. Where the sanitation district wastewater collection system is not accessible, the developer shall be responsible for installation of a wastewater collection and treatment system for the development. Such system shall meet all Federal, State and local laws and regulations concerning design, installation, and operation of the system.

C. Connection to a public wastewater system shall be made when it becomes available.

(Ord. No. 1986-03, § 4.13.120, 3-5-1986)

Section 4.13.160. Underground utilities.

Except in the Industrial Zone District, all wires, cables or other equipment for the distribution of electric energy, and telecommunication signals, with the exception of transformers, meters, junction boxes and like equipment, shall be placed underground. Where subdivisions or developments are approved along or with crossing existing overhead power and communications facilities, energy and telecommunications may be obtained from these existing facilities. The service connections to these facilities shall be placed underground unless otherwise approved by the Town Council due to economic, engineering or aesthetic reasons. Utility easements and rights-of-way shall be provided in the subdivision or development.

(Ord. No. 1986-03, § 4.13.130, 3-5-1986; Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.13.170. Boundary survey and monumentation.

A. The boundary survey, internal property lines and monumentation as depicted in the final plat for a subdivision shall meet all requirements established under State law.

B. Survey data shall be checked by the Town Engineer prior to approval of the final plat.

C. Monuments shall be set to specifications of the Town Engineer with at least one monument on the boundary established as a permanent benchmark.

D. All survey traverses shall close to within one foot in 10,000 feet, or within a tolerance of 0.01 percent.

(Ord. No. 1986-03, § 4.13.140, 3-5-1986; Amended 6-2-1991)

Section 4.13.180. Dedications, general.

Dedication of land and easements, free and clear of all liens and encumbrances, shall be made by means of a subdivision plat or deed at time of final plat. Dedications shall be made to fulfill the foregoing requirements for utility easements, drainage easements, pedestrian easements, streets and alleys, as well as other public dedications as needed.

(Ord. No. 1986-03, § 4.13.150, 3-5-1986)

Section 4.13.190. Municipal and park land dedication.

Unless otherwise provided in this section every new subdivision of land not platted within the Town shall include either a dedication of land to the Town, recreation district, or other entity, as determined by the Town Council, to be used for parks and recreation or for municipal functions requiring land; or payment of a park and municipal land fee in an amount as provided in this chapter. Re-subdivisions of already subdivided land, condominiums and townhouse subdivisions are exempt from this municipal park land dedication requirement.

A. *Description.*

1. Dedicated land may include floodplain lands, national and State historical or natural features, and proposed public areas set aside in State, regional, county or Town plans. Dedicated park land shall not include sites for technical, private or public schools, sites for service organizations which are not open to the general public, and sites unsuitable for public use due to features which may be harmful to health and safety. Wetlands are excluded from a credit against the minimum requirement for park land dedication.

2. A minimum of 80 percent of land dedicated shall have a slope of ten percent or less and shall lend itself to utilization for municipal and public recreation purposes, including, but not limited to, the following: playing fields, tennis courts, picnic sites, trails, boating areas, maintenance buildings, and offices.

3. Wherever a development proposal includes any part of a pedestrian, bicycle, equestrian or skiing trail designated by the Town in its plans, a public easement shall be dedicated in compliance with the plan, and such easement may be included in the required park land dedication.

4. Adequate water rights dedication must be provided for all municipal and park land dedication, pursuant to Title 12.

5. The Town, at its sole discretion, may elect to use the land dedication for any municipal function which it deems necessary. Such use shall be compatible with surrounding uses.

B. *Amount.*

1. Park and municipal land shall be dedicated in the ratio of 0.012 acres per resident of the proposed development, to be computed as follows:

a. 3.5 residents per single-family dwelling unit.

b. 3.0 residents per two-family dwelling unit.

c. 2.5 residents per multifamily dwelling unit or mobile home.

2. For commercial or industrial uses, eight percent of the total gross area shall be dedicated for park lands.

C. *Private recreation facilities.* The total acreage required to be dedicated for public park and municipal lands as calculated above may be reduced by up to 50 percent in exchange for provision of private recreation facilities that provide for the recreational needs of the residents of the proposed development, if the Town Council finds all of the following:

1. The private recreation facilities will fulfill a major portion of the recreational demands of the residents;

2. The private recreation facilities will be completed at the same time as or prior to the housing or nonresidential facilities in the development;

3. There exists a mechanism to ensure the continued private maintenance of the facilities; and

4. Adequate water rights dedication and tap fee payment pursuant to Title 12 and irrigation system development will be provided for private recreation facilities. For irrigation systems using treated water, tap fees shall be paid and water rights conveyed to the Town. Irrigation system development shall be conveyed to the entity responsible for the ongoing maintenance of the private recreation facilities. For irrigation systems using raw water, water rights and irrigation system development shall be conveyed to the entity responsible for the ongoing maintenance of the private recreation facilities; and

5. Adequate provisions are made, subject to the approval of the Town Attorney, to ensure Subsections (C)(1) and (2) of this section.

D. *Payment in lieu of dedication.*

1. In the event the Town Council determines that park or municipal land is not needed within the area of development due to the size of the development or proximity of other parkland, then the Council may require the applicant to:

a. Make a cash payment in lieu of land dedications;

b. Dedicate other property owned by the applicant for use as park land; or

c. A combination of Subsection (D)(1)(a) and (1)(b) of this section.

2. The Town Council shall, by resolution, set the per-acre fee for the cash in lieu payment which may be updated from time to time.

4. If the Town determines to accept other property not within the development as full or partial fulfillment of the requirements of this section, the acreage required for dedication shall be computed as described in Subsection (B) of this section. If the acreage is not sufficient to meet the requirements of Subsection (B) of this section, the remaining requirement may be met with a cash-in-lieu payment.

4. Payment in lieu of land dedication shall be due and payable at the time of final subdivision plat approval and shall be described in the subdivision agreement or development permit.

5. Of the proceeds from a payment in lieu of land dedication, a minimum of 50 percent shall be placed in a park land fund to be established and maintained for the acquisition and improvement of land for parks, playgrounds and recreation areas, which may benefit the residents of the Town in general, as well as those of the proposed subdivision or development. The remainder of the proceeds, if any, shall be placed in the Town capital improvements fund. Such determination shall be made at the sole discretion of the Town Council.

(Ord. No. 1986-03, § 4.13.160, 3-5-1986; Ord. No. 13-2017, §§ 3—10, 4-25-2017; Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.13.200. Design variance.

A. A variance from the strict application of the requirements of Sections 4.13.030 through 4.13.120, inclusive, may be granted by the Town Council or Planning Commission, whichever body authorizes the development permit or subdivision agreement, where a finding is made that there exists on the property in question exceptional topographical, soil or other subsurface condition or other extraordinary conditions peculiar to the site or existing buildings or lot configuration such that strict application of the requirement of the regulation from which the variance is requested would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the applicant or owner of the property in question and that the public good would be better served by granting of the variance. Such variance shall not be granted if the same would be detrimental to the public good or impair the intent and purposes of this Title. Such design variance request shall be made and reviewed concurrently with the development plan or preliminary subdivision plan and, if granted, shall be described and acknowledged in the development permit or subdivision agreement.

B. The design standards set forth in Sections 4.13.030 through 4.13.120, inclusive, but not the Town's street construction regulations, may be modified by the Planning Commission for a planned unit development without a separate requirement for a design variance.

(Ord. No. 1986-03, § 4.13.170, 3-5-1986; Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.13.210. Nonconforming design, improvements, and dedications.

Except as otherwise provided in this Title, any development which is not in conformance with the requirements of this chapter for design, improvements or dedications shall be made to conform with such requirements before being issued a development permit or a building permit for construction of a new building.

(Ord. No. 1986-03, § 4.13.180, 3-5-1986)

Section 4.13.220. Street improvement fee.

A. *Purpose.* It is the purpose of this section to:

1. Adopt a rational system for identifying growth related costs incurred by the Town and provide for new and expanded street facilities made necessary by expanded population levels and economic activity levels. The Town desires to adopt a fee structure to ensure that the Town's street facilities needed to support new development meet or exceed the adopted level of service (LOS) standards established by the Town for public streets. Arterial streets and collector streets shall have a LOS of C or higher except as may further be provided under the Town's adopted level of service standards. Local streets shall have a LOS of B or higher.

2. Ensure that the fees established by this section are based upon, and do not exceed, the cost of providing additional rights-of-way, street construction, and street improvements necessitated by the new land developments for which the fees are levied.

3. Implement the methodology and analysis for the determination of the impact of new development on the need for, and cost of, additional rights-of-way, street construction, and street improvements in the own, as contained in the Town of Eagle Transportation Study prepared by Matthew J. Delich, P.E.

4. Recognize that most new commercial and industrial uses will generate sales and/or use tax revenues which can be used for constructing necessary street improvements resulting from such commercial or industrial uses.

5. Regulate the use and development of land so as to ensure that new development bears a roughly proportionate share of the additional cost of capital expenditures not paid for from the sales and use tax capital improvement fund which are necessary to provide adequate streets in the Town.

6. Ensure that the system of fees implementation herein will be linked to an implementable capital improvements program designed to provide the street improvements for which the fees are imposed.

B. *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Bank means any financial institution.

Capital improvement includes transportation planning, preliminary engineering, engineering design studies, land surveys, right-of-way acquisition, engineering, permitting, and construction of all the necessary features for any street construction project, including, but not limited to:

1. Construction of new through lanes;

2. Construction of new turn lanes;

3. Intersection improvements including the construction of round-a-bouts;

4. Construction of new drainage facilities, sidewalks, bicycle lanes, curbs, gutters, and landscaping in conjunction with new street construction;

5. Purchase and installation of traffic signalization; and

6. Relocation of utilities to accommodate new street construction.

Commercial general means any premises that is devoted to any commercial purpose or public or governmental purpose not included within the definitions of retail, bank, restaurants, convenience store office, or industrial development set forth herein.

Convenience storewith gas pumps means an establishment that sells convenience foods, sundries, newspapers, magazines and gasoline.

Developer means a person commencing a land development activity which generates traffic and which requires the approval of a subdivision final plat, except lot line adjustments pursuant to Chapter 4.12; approval of a planned unit development pursuant to Chapter 4.11; approval of a development permit pursuant to Chapter 4.06; or issuance of a special use permit pursuant to Section 4.05.010.

Development approval means the approval of any final subdivision plat, except lot line adjustments; planned unit development; development permit; or special use after December 1, 1997.

Expansion of capacity of a street applies to all street and intersection capacity enhancements and includes, but is not limited to, extensions, widening, intersection improvements, construction of round-a-bouts, signalization, and expansion of bridges.

Fast food restaurant means a restaurant with a large carry out business, and that typically is open long hours, serves three meals a day, has a turnover of one hour or less, and fills orders in ten minutes or less. Such a restaurant very often has a drive-through window.

Floor area means the area on each floor of a building included with the surrounding exterior walls exclusive of open courts.

High turnover sit down restaurant means a moderately priced restaurant with a turnover of less than one hour and usually serves three meals per day. Such a restaurant has very little or no carry out business and frequently operates under a franchise or is part of a chain.

Industrial development means any premises devoted primarily to manufacturing, processing, assembly or storage of tangible personal property, warehouses, distribution and wholesale uses, utility service facilities, and other accessory buildings reasonably required for maintenance or security of the above uses.

Land development activity generating traffic means any change in land use or any construction of buildings or structures, or any change in the use of a structure that attracts or produces vehicular trips.

Level of service shall have the same meaning as set for the in the Transportation Research Board's Highway Capacity Manual, Special, Report 209 (1994), or as otherwise defined in the Town's most recent transportation study.

Office development means any premises devoted primarily to office use and includes single tenant office buildings, multi-tenant office buildings, medical clinics and offices, veterinary clinics, research facilities, and experimental or testing laboratories.

Quality restaurant means a restaurant that usually has a turnover of one hour or longer, does not have carry out service, and usually does not operate under a franchise and is not part of a chain.

Residential, multifamily, includes apartment units, condominium units and townhome units.

Residential, single-family, includes detached family residences, duplexes, mobile homes, and travel trailers.

Retail means any premises devoted primarily to the sale of merchandise to the general public, including, but not limited to, small establishments, large or "big box" stores, and grocery stores and supermarkets.

C. *Imposition of street improvement fee.* Any person who seeks to develop land within the Town by obtaining approval of a planned unit development pursuant to Chapter 4.11; a subdivision final plat pursuant to Chapter 4.12, except lot line adjustments; a development permit pursuant to Chapter 4.06; or a special use permit pursuant to Section 4.05.010, in order to make an improvement to land which will generate additional traffic is required to pay a street improvement fee in the manner and amount set forth in this section.

D. *Computation of amount of street improvement fee.*

1. At the option of the developer, the amount of the street improvement fee may be determined in accordance with the schedule established by resolution of the Town Council, as it may be amended from time to time. In the event a particular use does not reasonably fit into one of the categories listed in said fee schedule, or the estimated number of trip ends for a use significantly departs from the schedule listed in said resolution, the Town Planner shall calculate the fee based on the data contained in the publication, Trip Generation, 9th Edition, Institute of Transportation Engineers.

    a. If the approval requested is for mixed uses, then the fee shall be determined through using the applicable schedule of apportioning the space committed to uses specified on the schedule.

    b. For applications for an amendment or change to an approval previously obtained, the amount of the fee is the difference between the fee now applicable and any amount previously paid pursuant to this section.

    c. In the case of change of use, redevelopment, or expansion or modification of an existing use which requires a development approval, the street improvement fee shall be based upon the net positive increase in the fee for the new use as compared to the previous use.

    d. In event the amount of the fee cannot be calculated at the time of subdivision final plat approval because the subdivision contains non-residential development and the specific type of uses and

floor area for such uses are unknown, the Town may elect to defer computation and payments of the fee until approval of development permits within the subdivision, or the Town may require that an estimated fee be paid. If an estimated fee is paid, any underpayment shall be recovered at the time of development permit approval. In the event an overpayment is made, such overpayment shall be refunded, without interest, within 30 days following the date the street improvement fee can be completely computed for the subdivision.

2. If the developer elects not to have the street improvement fee determined in accordance with Subsection (D)(1) of this section, the developer shall prepare and submit to the Town Planner a site-specific fee calculation study for the land development activity for which approval is requested. The site-specific fee calculation study shall follow the prescribed methodologies and formats for the study established by the Town Planner. The traffic engineering and/or economic documentation submitted shall show the basis upon which the site-specific fee calculation was made, including, but not limited to, the following:

   a. *Traffic engineering studies.*

      i Documentation of trip generation rates appropriate for the proposed development activity.

      ii Documentation of trip length appropriate for the development activity.

      iii Documentation of any other trip data appropriate for the proposed land development activity.

   b. *Economic documentation studies.*

      i Documentation of the cost per lane per mile for street construction and any other street improvements necessitated by the proposed development activity.

      ii Documentation of credits attributable to the proposed development activity which can be expected to be available to replace the portion of the service volume used by the traffic generated by the proposed development activity.

Site-specific fee calculation studies shall be prepared and presented by professionals qualified in their respective fields. The Town Planner shall consider the documentation submitted by the developer but is not required to accept such documentation he reasonably deems to be inaccurate or not reliable, and may, in the alternative, require the developer to submit additional or different documentation for consideration. If an acceptable site-specific calculation study is not presented, the developer shall pay the street improvement fees based upon the schedule shown is Subsection (D)(1) of this section. Determinations made by the Town Planner pursuant to this subsection may be appealed to the Town Council by filing a written request with the Town Manager within ten days of the Town Planner's determination. Following the submittal of such request, the Town Council shall hold a public hearing to determine the amount of the street improvement fee which shall be paid prior to the approval of the proposed development.

E. *Payment of fee required.* A developer requesting subdivision approval shall pay the street improvement fee required by this section prior to the recording of a final plat, except as otherwise provided in this section for a nonresidential subdivision. A developer requesting approval of a planned unit development shall pay the street improvement fee prior to the approval of the development permit or in the case of a special use permit the developer shall pay such fee prior to the issuance of the permit.

F. *Street improvement fee fund established.*

1. All fees collected pursuant to this section shall be deposited in a public works fund to be created by resolution of the Town Council, and shall be used for the projects therein identified. Such fund shall be established to comply with the provisions of C.R.S. § 31-15-302(1)(f*)*(I). All funds collected pursuant to this section shall be accounted for in the manner required by C.R.S. § 29-1-801 and other applicable law.

2. Funds collected from street improvement fees shall be used for the purpose of capital improvements to, and expansion of, street facilities associated with the arterial and collector street network as designated by the Town.

3. No fund shall be used for periodic or routine maintenance.

4. In the event that bonds or similar debt instruments are issued for the advanced provision of capital facilities for which street improvement fees may be expended, such fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type described in Subsections (F)(1) and (2) of this section.

G. *Refund of fees paid.*

1. If a development approval expires without commencement of construction or development, the developer shall be entitled to a refund, without interest, of the street improvement fee paid as a condition for its issuance, except that the Town shall retain one percent of the fee to off-set a portion of the cost of collection and refund. The developer must submit an application for such a refund to the Town Manager within 30 days of the expiration of the development approval granted.

2. Any funds not expended or encumbered by the end of the calendar quarter immediately following ten years from the date the street improvement fee was paid shall, upon application of the then-current land owner, be returned to such land owner with interest at the legal rate, provided that the land owner submits an application for a refund to the Town Manager within 180 days of the expiration of the ten-year period.

H. *Credit for improvements.*

1. No credit shall be given for site related improvements or site related right-or-way dedications, including access roads leading to the development, driveways and streets within the development, acceleration and deceleration lanes, and right and left turn lanes leading to those streets, and traffic control measures for such streets.

2. Upon approval of the Town Council, any developer obligated to pay a fee as set forth in this section shall receive a credit against the amounts due or to become due for street improvements installed and paid for by such developer when such street improvements are in addition to the site related improvements required to be installed pursuant to this Title.

I. *Exemption from payment of fee.* The Town Council may, by resolution, grant an exemption from all or any part of the street improvement fees required by this section upon a finding that such waiver is in the best interests of the public by encouraging activities that provide significant social, economic or cultural benefits. Whenever a street improvement fee is waived, the Town Council shall direct that the waived fee be paid by the general fund or other appropriate fund.

J. *Unpaid street improvement fee, lien.* All street improvement fees shall be a lien upon each lot or parcel of land within a development from the due date thereof, as set forth in this section, until paid. If such fees are not paid when due, in addition to any other means provided by law, the Town Clerk shall certify such delinquent charges to the Treasurer of the county and the charges shall be collected in the same manner as though they were part of the taxes. The Town reserves the right to withhold or revoke any permits, certificates or other approvals to any developer who is delinquent in the payment of street improvement fees.

K. *Review of fees.* The fees imposed by this section and monies expended from the public works fund shall be reviewed and adjusted as follows:

1. The street improvement fees established in this section shall be adjusted annually effective January 15 of each year. The adjustment shall be equal to the percentage change in construction costs for State public buildings type II-N (weighted 15 percent), type III-N (weighted 15 percent) and type V-N

(weighted 70 percent) as set forth in the preceding year's December issue of the Building Standards Newsletter published by the International Conference of Building Officials. The fees described in Subsection (D) of this section shall be adjusted by the Town Planner accordingly and the Town Planner and Town Clerk shall maintain copies of the current fees table.

2. The Town Manager shall report to the Town Council, in conjunction with the presentation of the proposed budget, annually, on the actual and proposed expenditures and projects accomplished and to be accomplished from the public works fund.

(Amended 11-21-1997; Amended 2-20-1998; Ord. No. 2017-3, § 1, 2-14-2017; Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.13.230. Fire protection impact fee.

A. *Purpose.* It is the purpose of this section to:

1. Adopt a rational system for identifying and mitigating growth related costs incurred by the Greater Eagle Fire Protection District and provide for new and expanded fire protection services and facilities made necessary by expanded population and economic activity levels. The Town desires to adopt a fee structure to ensure that the Greater Eagle Fire Protection District's facilities and equipment needed to support new development meet or exceed the adopted level of service (LOS) standards established by the Town for fire protection services.

3. Ensure that the fees established by this section are based upon, and do not exceed, the cost of providing additional capital improvements necessitated by new land developments for which the fees are levied.

4. Implement the methodology and analysis for the determination of the impact of new development on the need for, and cost of, additional capital improvements as contained in the Greater Eagle Fire Protection District's Study of Fiscal Impact, dated September, 1999.

5. Regulate the use and development of land so as to ensure that new developments bear a roughly proportionate share of the cost of capital expenditures necessary to provide adequate fire protection by the Greater Eagle Fire Protection District with the Town.

6. Ensure that the system of fees implemented herein will be linked to an implemented capital improvements program designed to provide the facilities and equipment for which the fees are imposed.

B. *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Capital improvement includes fire protection planning, preliminary architectural and engineering services, architectural and engineering design studies, land surveys, land acquisition, site improvements and off-site improvements associated with new or expanded facilities; the construction of buildings and facilities; and the purchase of fire suppression apparatus and equipment, including communications equipment, with an average useable life of at least three years, necessary to adequately protect and defend new development and its inhabitants, while maintaining the Greater Eagle Fire Protection District's current insurance services organization (I.S.O.) rating. "Capital improvement" does not include periodic or routine maintenance of facilities and equipment, personnel costs or operational expenses.

Developer means a person commencing a land development activity requiring the availability of additional fire protection services and which requires the approval of a subdivision final plat, except lot line adjustments pursuant to Chapter 4.12; approval of a planned unit development pursuant to Chapter 4.11; approval of a development permit pursuant to Chapter 4.06; or issuance of a special use permit pursuant to Section 4.05.010.

Development approval means the approval of any final subdivision plat, except lot lines adjustments; a planned unit development; a development permit; or a special use following the effective date of the ordinance from which this section is derived.

Fire protection means the prevention and extinguishments of fire; the protection of life and property from fire; and the enforcement of municipal, county, district and State Fire Prevention codes.

Land development activityrequiring additional fire protection services means any change in land use or any construction of buildings or structures, or any change in the use of a structure that could require the rendering of additional fire protection services over and above the previous use. When a change of use, redevelopment or modification of an existing use requires development approval, the impact fee shall be based upon the net increase in the impact fee for the new use as compared to the previous use.

C. *Imposition of fire protection impact fee.* Any person who, after the effective date of the ordinance from which this section is derived, seeks to develop land within the Town by obtaining approval of a planned unit development pursuant to Chapter 4.11; a subdivision final plat pursuant to Chapter 4.12, except lot line adjustments; a development permit pursuant to Chapter 4.06; or a special use permit pursuant to Section 4.05.010 after the effective date of the ordinance from which this section is derived, constituting land development activity requiring the availability of additional fire protection services is required to pay a fire protection impact fee in the manner and amount set forth in this section.

D. *Computation of the amount of fire protection impact fee.*

1. At the option of the developer, the amount of the fire protection impact fee may be determined in accordance with the fee schedule established by resolution of the Town Council, as it may be amended from time to time.

    a. Fees for commercial and industrial uses are calculated by dividing the total square footage by 1,000 and multiplying by the amount listed in said fee schedule. Example: Retail store of 3,600 square feet divided by 1,000 = 3.6 x $475.00 = $1,710.00 fire protection impact fee owed.

    b. If the approval requested is for mixed uses, then the fee shall be determined through using the applicable schedule by apportioning the space committed to uses specified on the schedule.

    c. For applications for an amendment or change to an approval previously obtained, but not constructed, the amount of the fee is the difference between the fee now applicable and any amount previously paid pursuant to this section.

    d. In the case of a change of use, redevelopment, expansion or modification of an existing use which requires a development approval, the fire protection impact fee shall be based upon the net positive increase in the fee for the new use as compared to the previous use.

    e. In the event the amount of the fee cannot be calculated at the time of subdivision final plat approval because the subdivision contains non-residential development and the specific type of uses and the floor area for such uses are unknown, the Town may elect to defer computation and payment of the fee until approval of the development permits within the subdivision, or the Town may require that an estimated fee be paid. If an estimated fee is paid, any underpayment shall be recovered at the time of development permit approval. In the event an overpayment is made, such overpayment shall be refunded, without interest, within 30 days following the date the fire protection impact fee can be completely computed for the subdivision.

2. If the developer elects not to have the fire protection impact fee determined in accordance with Subsection (D)(1) of this section, the developer shall prepare and submit to the Town Planner a site-specific fiscal impact and fee calculation study for the land development activity for which approval is requested. The site-specific fiscal impact and fee calculation study shall follow the prescribed methodologies and formats established by the Town Planner following consultation with the Greater

Eagle Fire Protection District. The fiscal impact study submitted shall show the basis upon which the site-specific fee calculation was made. The site-specific fiscal impact and fee calculation study shall be prepared and presented by professionals qualified in their respective fields. The Town Planner shall consider the documentation submitted by the developer but is not required to accept such documentation he reasonably deems to be inaccurate or not reliable, and may, in the alternative, require the developer to submit additional or different documentation for consideration. If an acceptable site-specific fiscal impact and fee calculation study is not presented, the developer shall pay the fire protection impact fee based upon the schedule shown is Subsection (D)(1) of this section. Determinations made by the Town Planner pursuant to this subsection may be appealed to the Town Council by filing a written request with the Town Manager within ten days of the Town Planner's determination. Following the submittal of such request, the Town Council shall hold a public hearing to determine the amount of the fire protection impact fee which shall be paid prior to the approval of the proposed land development activity.

E. *Time for payment fee.* A developer requesting subdivision approval shall pay the fire protection impact fee required by this section prior to the recording of a final plat, except as otherwise provided in this section for nonresidential subdivisions. A developer requesting approval of a planned unit development shall pay the fire protection impact fee prior to the approval of the development plan. A developer requesting issuance of a development permit or special use permit shall pay such fee prior to the issuance of the permit.

F. *Use of funds.*

1. All fees collected pursuant to this section shall be transferred to the Greater Eagle Fire Protection District within 60 days following payment to the Town in accordance with an intergovernmental agreement between the Town and the Greater Eagle Fire Protection District. All funds collected pursuant to this section shall be accounted for in the manner required by C.R.S. § 29-1-801 et seq., and other applicable law.

2. Funds collected from the payment of fire protection impact fees shall be used for the purpose of land acquisition and capital improvements to, and the expansion of, fire protection services. Fire protection impact fee revenues shall be used exclusively for additional capital improvements or expansions of such improvements with and for the benefit of the Greater Eagle Fire Protection District. Funds shall be expended in the order in which they are collected.

3. No funds shall be used for periodic or routine maintenance, personnel costs or operational expenses.

4. In the event that bonds or similar debt instruments are used for the advanced provision of capital improvements for which fire protection impact fees may be expended, such fee revenue may be used to pay debt service on such bonds or similar debt instruments to the extent that the improvements provided are of the type described in Subsection (F)(2) of this section.

5. The Town shall be entitled to retain up to one percent of the fire protection impact fees it collects as an administrative fee to off-set the cost of administering this section.

G. *Refund of fees paid.*

1. If a development approval expires without commencement of construction or development, the developer shall be entitled to a refund, without interest, of the fire protection impact fee paid as a condition for its issuance, except that the Town shall retain one percent of the fee to off-set a portion of its costs of collection and refunding. The developer must submit an application for such refund to the Town Manager within 30 days of the expiration of the development approval granted.

2. Any funds not expended or encumbered by the end of the calendar quarter immediately following ten years from the date the fire protection impact fee was paid by a developer shall, upon application of the then-current landowner, be returned to such landowner with interest at the legal rate, provided that the landowner submits an application for a refund to the Town Manager within 180 days of the

expiration of such ten-year period; provided, however, the Greater Eagle Fire Protection District may, for good cause shown, request the Town to extend the ten-year period of time specified in this subsection. Such request shall be made at a public hearing held by the Town Council. The Council, in its discretion, for good cause shown, may extend such period of time for an additional period as the Town Council deems reasonable and necessary.

H. *Credit for improvements.* Upon approval by the Town Council, any developer obligated to pay a fee as set forth in this section shall receive a credit against the amounts due or to become due for fire protection capital improvements installed, purchased and paid for by such developer when such fire protection capital improvements are in addition to those required under this Title.

I. *Exemption from payment of fee.* The Town Council may, by resolution, grant an exemption from all or any part of the fire protection impact fee required by this section upon a finding that such waiver is in the best interest of the pubic by encouraging activities that provide significant social, economic or cultural benefits. Whenever a fire protection impact fee is waived, the Town Council shall direct that the waived fee be paid by the Town's general fund or other appropriate fund to the Greater Eagle Fire Protection District.

J. *Unpaid fire protection impact fee-lien.* All fire protection impact fees shall constitute a lien upon each lot or parcel of land within a development from the due date thereof, as set forth in this section, until paid. If such fee is not paid when due, in addition to any other means provided by law, the Town Clerk shall certify such delinquent fee to the Treasurer of the county and the fee shall be collected in the same manner as though it were part of the taxes. The Town reserves the right to withhold or revoke any permits, certificates or other approvals granted to any developer who is delinquent in the payment of fire protection impact fees.

K. *Adjustment and review of fee.* The fee imposed by this section and monies expended by the Greater Eagle Fire Protection District for capital improvements shall be reviewed and adjusted as follows:

1. The fire protection impact fee established in this section shall be adjusted annually for inflation effective January 15 of each year. The adjustment shall be based upon the percentage change in the United States Bureau of Labor Statistics Consumer Price Index for Denver-Boulder, all items, all urban consumers, or its successor index.

2. The Town Manager shall, annually, in conjunction with the presentation of the Town's proposed budget, recommend any further adjustments to the fee imposed by this section, following consultation with the Greater Eagle Fire Protection District.

(Ord. No. 2017-3, § 2, 2-14-2017; Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.13.240. Assurance for completion of public improvements.

A. *Public improvements and warranty.* The subdivision agreement or development permit shall set forth the plan, method and parties responsible for the installation of all required public improvements and shall make reasonable provision for the completion of said improvements in accordance with design and time specifications. All water lines, fire hydrants and other water distribution facilities, drainage structures, wastewater lines, public streets and sidewalks, required park land and open space improvements, street lights and signs, survey monuments and other public improvements, as shown on the concept plan and accompanying plans and documents submitted to the Town, shall be installed and completed at the expense of the developer. Said public improvements shall be designed and built in conformance with all Town design standards. The developer shall warrant any and all public improvements which are conveyed or dedicated to the Town, pursuant to the subdivision improvements agreement, for a period of one year from the date the Town's Engineer certifies that the same conform with the approved specifications. Specifically, but not by way of limitation, the developer shall warrant the following:

1. That the title conveyed shall be good and its transfer rightful;

2. Any and all facilities conveyed shall be free from any security interest or other lien or encumbrance; and

3. Any and all facilities so conveyed shall be free of any defects in materials or workmanship.

B. *Inspections.* The Town shall have the right to make engineering inspections and required testing during construction of such public and private improvements in such reasonable intervals as the Town may request in accordance with the Towns street construction regulations and water distribution regulations. Inspection, acquiescence and approval of any engineering inspector of the construction of physical facilities, at any particular time, shall not constitute the approval by the Town of any phase of the construction of such public and private improvements. Such approvals shall be made by the Town only after completion of construction and in the manner hereinafter set forth.

C. *Completion of public improvements.* Upon completion of construction by the developer of such public and private improvements, the Town Engineer shall inspect the improvements and certify with specificity its conformity or lack thereof to the specifications. The developer shall make all corrections necessary to bring the system into conformity with Town standards and the utility, drainage and street improvements plans and others, as approved. The Town shall be under no obligation to provide any water service or street maintenance until all such facilities are brought into conformance with the specifications and approved by the Town Engineer.

D. *Related costs, public improvements.* The developer shall provide all necessary engineering designs, surveyor's field surveys and incidental services related to the construction of the public improvements, at its sole cost and expense. The legal description of said utility service lines shall be prepared by a registered land surveyor at the developer's sole expense.

E. *Improvements to be the property of the Town.* All public improvements shall be dedicated to the Town and warranted for a period of 12 months following completion, as above provided. Upon completion of construction in conformity with the plans, and any properly approved changes, the developer shall convey to the Town, by bill of sale, all physical facilities necessary for the extension, maintenance and repair of municipal utility service. Acceptance of said conveyance shall be made by the Town only by a majority vote of the Town Council.

F. *Performance guarantee.*

1. To ensure the installation of required public improvements, the subdivision improvement agreement or development agreement shall require the developer to guarantee the completion of all such improvements by one or more of the methods specified in this section. The means of a guarantee may be changed during the guarantee period through a written modification of the agreement only. The amount of the guarantee shall be determined on the basis of the developer's engineer's cost estimate, as accepted by the Town. The guarantee shall remain in effect until final acceptance of improvements.

2. The engineer's cost estimate shall state the estimated cost of completion for each required public improvement, and must be approved by the Town. The guarantee of completion of public improvements shall include a ten percent overrun allowance.

3. The following are options for the performance guarantee:

a. Deposit in escrow. The developer may elect to deposit a cash sum equal to the guarantee as required herein. In the case of an escrow account, the developer shall file with the Town an escrow agreement in a form approved by the Town Attorney.

b. Letter of credit. The developer may elect to provide from a bank or other responsible financial institution authorized to do business in the state an irrevocable letter of credit in a form approved by the Town Attorney.

c. Bond. For landscaping improvements only, the Town may, in its sole discretion, accept a bond, in a form approved by the Town Attorney.

4. If the developer fails to complete any specified improvements within the required time period, the Town may immediately and without further action draw upon the escrow or letter of credit as necessary to finance the completion or partial completion of those improvements.

(Ord. No. 1986-03, § 4.13.190, 3-5-1986; Amended 4-16-1995; Amended 11-27-2007; Ord. No. 08-2020 , § 1, 4-28-2020; Ord. No. 15-2022 , §§ 1, 2, 9-13-2022)

Section 4.13.250. Public safety impact fee.

A. *Purpose.* It is the purpose of this section to:

1. Adopt a rational system for identifying and mitigating growth-related costs incurred by the Eagle Police Department and provide for new and expanded public safety infrastructure made necessary by expanded population and economic activity levels. The Town desires to adopt a fee structure to ensure that the Eagle Police Department's facilities and equipment needed to support new development meet or exceed the adopted level of service standards established by the Town for public safety services.

2. Ensure that the public safety impact fees are based upon, and do not exceed, the incremental costs of providing capital improvements necessitated by new development for which the fees are levied.

3. Implement the methodology and analysis for the determination of the impact of new development on the need for, and cost of, additional capital improvements as contained in the Eagle Police Department's Study of Fiscal Impact dated December 2018.

4. Regulate the use and development of land so as to ensure that new developments bear a roughly proportionate share of the cost of capital expenditures necessary to provide adequate public safety and protection by the Eagle Police Department with the Town.

5. Ensure that the system of fees implemented herein will be linked to an implemented capital improvements program designed to provide the facilities and equipment for which the fees are imposed.

B. *Definitions.* For purposes of this section, the following terms shall have the following meanings:

Capital improvement includes without limitation police protection planning, preliminary architectural and engineering services, architectural and engineering design studies, land surveys, land acquisition, site improvements and off-site improvements associated with new or expanded facilities; the construction of buildings and facilities; and the purchase of public safety and police apparatus and equipment, including communications equipment, with an average useable life of at least five years, and other similar expenditures necessary to adequately protect and defend new development and its inhabitants while maintaining the Eagle Police Department's current insurance services organization rating. "Capital improvement" does not include periodic or routine maintenance of facilities and equipment, personnel costs or operational expenses.

Development approval means the approval of any final subdivision plat, other than a lot line adjustment; a planned unit development; a development permit; or a special use.

Land development activity means any change in land use or any construction of buildings or structures, or any change in the use of a structure that requires the rendering of additional public safety services over and above the demand of the previous use.

Public safety services means the services undertaken by the Eagle Police Department for the welfare and protection of the general public to maintain public order and safety, including without limitation enforcing the law,

conducting neighborhood patrols, providing for traffic calming, responding to medical emergencies, disasters, and threats of violence, performing welfare checks, and preventing, detecting, and investigating criminal activities.

C. *Imposition of public safety impact fee.* Any person who seeks approval of any development activity requiring the availability of additional public safety services shall pay a public safety impact fee in the manner and amount set forth in this section.

D. *Computation.*

1. At the option of the applicant, the amount of the public safety impact fee may be determined in accordance with the fee schedule established by resolution of the Town Council, as amended.

    a. If the approval requested is for mixed uses, the fee shall be determined using the applicable schedule by apportioning the space committed to uses specified on the schedule.

    b. For applications for an amendment or change to an approval previously obtained, but not constructed, the amount of the fee is the difference between the fee now applicable and any amount previously paid pursuant to this section.

    c. In the case of a change of use, redevelopment, expansion or modification of an existing use, the fee shall be based upon the net positive increase in the fee for the new use as compared to the previous use.

    d. If the amount of the fee cannot be calculated at the time of approval, because the specific type of uses and the floor area for such uses are unknown, the Town may elect to defer computation and payment of the fee until approval of the development permits, or the Town may require that an estimated fee be paid. If an estimated fee is paid, any underpayment shall be recovered at the time of development permit approval. If an overpayment is made, such overpayment shall be refunded, without interest, within 30 days following the date the fee can be completely computed.

2. If the applicant elects not to have the public safety impact fee determined in accordance with subsection(D)(1) hereof, the applicant shall prepare and submit to the Town Planner a site-specific fiscal impact and fee calculation study for the land development activity for which approval is requested. The site-specific fiscal impact and fee calculation study shall follow the prescribed methodologies and formats established by the Town Planner following consultation with the Eagle Police Department. The fiscal impact study shall show the basis upon which the site-specific fee calculation was made, and shall be prepared and presented by professionals qualified in their respective fields. The Town Planner shall consider the documentation submitted by the applicant, but is not required to accept such documentation he reasonably deems to be inaccurate or not reliable, and may, in the alternative, require the applicant to submit additional or different documentation for consideration. If an acceptable study is not presented, the applicant shall pay the public safety impact fee based upon the fee schedule. A determinations of the Town Planner pursuant to this subsection may be appealed to the Town Council by filing a written request with the Town Manager within ten days of the Town Planner's determination.

E. *Time for payment.*

1. An applicant for subdivision approval shall pay the public safety impact fee prior to the recording of a final plat.

2. An applicant for a planned unit development shall pay the public safety impact fee prior to the approval of the development plan.

3. An applicant requesting issuance of a development permit or special use permit shall pay such fee prior to the issuance of the permit.

F. *Use of funds.*

1. All public safety impact fees shall be transferred to the Eagle Police Department within 60 days following payment to the Town, and shall be accounted for in the manner required by C.R.S. § 29-1-801, et seq., and other applicable law.

2. Funds collected from public safety impact fees shall be used exclusively for the benefit of the Eagle Police Department for purposes of land acquisition and capital improvements to, and the expansion of, public safety services. Funds shall be expended in the order in which they are collected. No funds shall be used for periodic or routine maintenance, personnel costs or operational expenses.

3. If bonds or similar debt instruments are used for the advanced provision of capital improvements for which public safety impact fees may be expended, such fee revenue may be used to pay debt service on such bonds or similar debt instruments.

4. The Town shall be entitled to retain up to one percent of the public safety impact fees collected as an administrative fee to offset the cost of administering this section.

G. *Refunds.*

1. If a development approval expires without commencement of construction or development, the applicant may file a written request for a refund, without interest, of the public safety impact fees paid. The request shall be filed with the Town Manager within thirty days of the expiration of such approval. The Town shall retain one percent to offset the costs of collection and refunding.

2. Any funds not expended or encumbered by the end of the calendar quarter immediately following ten years from the date the public safety impact fee was paid shall, upon application of the then-current landowner, be returned to such landowner with interest at the legal rate, provided that the landowner submits an application for a refund to the Town Manager within 180 days of the expiration of such ten-year period; provided, however, the Eagle Police Department may, for good cause shown, request the Town to extend the ten-year period of time specified in this subsection. Such request shall be made at a public hearing held by the Town Council. The Town Council, in its discretion and for good cause shown, may extend such period of time for an additional period as the Town Council deems reasonable and necessary.

H. *Credit.* Upon approval by the Town Council, any applicant obligated to pay the public safety impact fee shall receive a credit against the amounts due or to become due for public safety capital improvements installed, purchased and paid for by such applicant when such public safety capital improvements are in addition to those required under this title.

I. *Exemption.* The Town Council may, by resolution, grant an exemption from all or any part of the public safety impact fee upon a finding that such waiver is in the best interest of the public by encouraging activities that provide significant social, economic or cultural benefits.

J. *Lien.* All public safety impact fees shall constitute a lien upon each lot or parcel of land within a development from the due date thereof until paid. If such fee is not paid when due, in addition to any other means provided by law, the Town Clerk shall certify such delinquent fees to the County Treasurer to be collected in the same manner as taxes. The Town reserves the right to withhold or revoke any permits, certificates or other approvals if public safety impact fees are unpaid.

K. *Adjustment and review.* The public safety impact fee and the funds expended by the Eagle Police Department for capital improvements shall be reviewed and adjusted as follows:

1. The public safety impact fee shall be adjusted annually for inflation effective January 15 of each year. The adjustment shall be based upon the percentage change in the United States Bureau of Labor Statistics Consumer Price Index for Denver-Boulder, all items, all urban consumers, or its successor index.

2. The Town Manager shall, annually, in conjunction with the presentation of the Town's proposed budget, recommend any further adjustments to the public safety impact fee, following consultation with the Eagle Police Department.

(Ord. No. 10-2019 , § 2, 5-14-2019; Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.13.260. Voluntary parking fee-in-lieu program.

A. *Applicability.* For properties located within the Town's parking fee-in-lieu program boundary (the "program boundary"), defined by Grand Avenue to the north and west, Howard Street to the east, and 5th Street to the south (Figure 3), a property owner or applicant may voluntarily satisfy all or a portion of a property's parking requirements by providing a cash in-lieu payment to the Town; provided that the required parking for the disabled shall be constructed on the subject property.

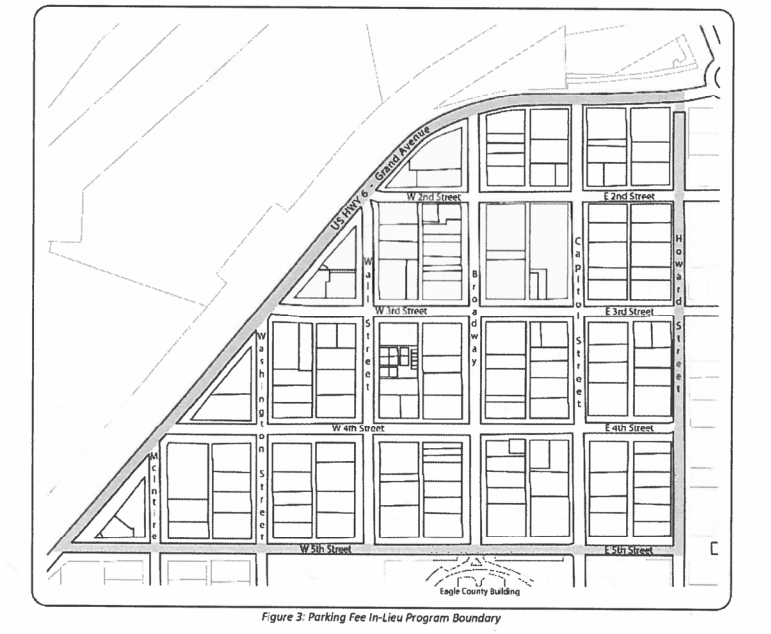


Figure 3: Parking Fee In-Lieu Program Boundary

B. *Amount.* The amount of the parking fee in-lieu shall be $23,100.00 per space. The fee shall be automatically adjusted on January 1 of each year by the percentage that the construction cost index has increased or decreased. The current amount for each year shall be shown in the fee schedule adopted by the Town Council by resolution.

C. *Payment.* The fee-in-lieu shall be due and payable with the application for a development permit, special use permit or building permit, whichever comes first.

D. *Partial payment.* A property owner or applicant, at its expense, may construct public parking adjacent to its property, with all associated infrastructure and improvements required by the Town. If such parking is constructed, the fee-in-lieu shall be reduced to $16,100.00 per space, adjusted on January 1 of each year by the percentage that the construction cost index has increased or decreased. All such parking shall comply with the parking standards set forth in Section 4.07.140 and the standards for construction within the public right-of-way set forth in Chapter 13.18.

E. *Use of funds.* All funds collected pursuant to this section shall be used to conduct parking studies or evaluations, construct parking facilities, operate and maintain parking facilities, and administrative services related to parking, all within the program boundary.

(Ord. No. 01-2022 , § 1, 1-11-2022)

CHAPTER 4.14. ASSURANCE OF ADEQUATE PUBLIC FACILITIES

Section 4.14.010. Intent.

A. It is the intent of this chapter to:

1. Adopt a program to ensure that land for public facilities and the public facilities needed to support new development meet or exceed adopted level of service standards approved by the Town;
2. Ensure that no subdivision approval, planned unit development approval, development permit approval, or special use permit is granted or issued which would cause a reduction in the level of service for any public facilities below the adopted level of service standards approved by the Town;
3. Ensure that adequate public facilities or, in the case of schools, the availability of land needed to support new development or a special use are available concurrent with the impacts of such development or use;
4. Establish uniform procedures for the review of the adequacy of public facilities needed to service new development, new subdivisions or new special uses;
5. Facilitate implementation of the goals and policies of the Town's master plan, including the Eagle Area Community Plan relating to adequacy of public facilities; and
6. Ensure that all applicable legal standards and criteria are properly incorporated in these procedures and requirements.

B. It is the intention of this chapter that, in the case of schools, the adequacy of public facilities may be satisfied by the adequate provision of land that is available to the county school district and specifically designated for the construction of new schools.

(Ord. No. 13-2017, § 11, 4-25-2017)

Section 4.14.020. Applicability.

Except as provided below, the provisions of this chapter shall apply to all applications for subdivision approval pursuant to Chapter 4.12; planned unit development approval pursuant to Chapter 4.11; development permit approval pursuant to Chapter 4.06; and special use permit approval pursuant to Section 4.05.010. In cases where multiple land use applications are required, compliance with APF (Chapter 4.14) shall be required to be demonstrated with the land use application last in sequence (time). No applications for such approval shall be granted unless a positive determination of adequacy or positive determination of adequacy subject to conditions has been made by the Town Council, in its discretion, in accordance with this chapter. This chapter shall not apply to any special use, development, project, structure or activity that does not result in the creation of new residential, commercial, or industrial structure or change of use that materially impacts existing public facilities. For purposes of this chapter, the following shall be deemed not to materially impact existing public facilities:

1. Subdivisions, planned unit developments, development permits, or special use permits for ten or fewer single-family or ten or fewer multifamily units located on one or more contiguous parcels of land held under the same or substantially the same ownership; and

2. Nonresidential developments containing 12 or less equivalent residential units (EQRs), as defined in Chapter 12.26, on one or more contiguous parcels of land held under the same or substantially the same ownership.

Sequential land use applications on contiguous property for the purpose of the avoidance of these regulations are prohibited.

(Ord. No. 13-2017, § 12, 4-25-2017; Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.14.030. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adopted level of service means the level of service (LOS) standards as adopted by the Town.

Applicant means the property owner, or duly designated representative of the property owner who submits an application for development approval.

Application for development approval means an application for approval of a subdivision preliminary or final plan, approval of a planned unit development, approval of a development permit, or approval of a special use permit.

Capacity means the maximum demand that can be accommodated by a public facility without exceeding the adopted level of service standards for such facility.

Capital improvements program means a program adopted by the Town for providing public facilities, including the Town's street improvements plan.

Determination of adequacy means a determination that each public facility will or will not be available concurrent with the impacts of the proposed development of special use at the adopted levels of service standards or will be available subject to certain conditions. A determination of adequacy shall be made by the Town Council, Planning Commission or administrative personnel that is vested with authority pursuant to this Title to review and render a final approval of an application for development approval.

Level of service means an indicator of the extent or degree of service provided by, or proposed to be provided by, a public facility based upon and related to the operational characteristics of the public facility or the capacity per unit of demand for each public facility.

Planned capital improvements means a capital improvement or an extension or expansion of a capital improvement which does not presently exist, but which is included within a capital improvements program.

Public facilities means capital improvements provided by the Town or another governmental entity, including, but not limited to, facilities for providing water, wastewater, fire protection, emergency services, public schools, parks, and transportation facilities which are required by this chapter to be adequate and available as a condition of development or special use approval. In the case of schools, public facilities may also include land owned by the county school district or land to be dedicated that is specifically intended for the construction of schools.

(Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.14.040. Public facilities information report.

A. All applications to which this chapter is applicable pursuant to Section 4.14.020 shall be accompanied by a public facilities information report. Such report shall include sufficient information to allow the Town to

coordinate with applicable service providers to determine the impact of the proposed subdivision, development or special use on public facilities pursuant to the procedures set forth in this chapter. The information required shall include, but shall not be limited to:

1. The total number and type of structures or dwelling units, and the gross density of the proposed subdivision, development or special use;
2. The location of the proposed subdivision, development or special use;
3. An assessment of the anticipated impacts on the Town street system from the proposed subdivision, development, or special use and, if applicable, a statement of any steps proposed to address potential impacts;
4. If an Applicant seeks an exemption from the requirements of this chapter based upon a claim that the applicant has a vested right to undertake and complete the subdivision, development or special use without an evaluation of the impact on public facilities, information sufficient to permit the Town to determine the validity of the applicant's claim of exemption; and
5. All information required by Sections 4.14.110 through 4.14.140; and
6. Any other appropriate information as may be deemed necessary by the Town Planner in evaluation the adequacy of public facilities consistent with the provisions of the chapter.

B. If the public facilities information report is incomplete or the submission requirements have not been satisfied, the Town Planner shall so notify the applicant of any deficiencies in writing. If the public facilities information report is complete and the submission requirements have been satisfied, the Town Planner shall evaluate the proposed subdivision, development or special use for compliance with the applicable adopted level of service standards and shall submit a recommendation regarding the adequacy of the public facilities.

(Ord. No. 13-2017, §§ 13, 14, 4-25-2017)

Section 4.14.050. Recommendation by Town Planner.

A. Upon receipt of a completed public facilities information report, the Town Planner shall evaluate the proposed subdivision, development, or special use, using the criteria set forth in this chapter and any other applicable or relevant and appropriate criteria including:

1. The number and type of structures or units proposed by the applicant;
2. The proposed timing and phasing of the subdivision, development, or special use, if applicable;
3. The specific public facilities impacted by the proposed subdivision, development or special use;
4. The extent of the impact of the proposed subdivision, development, or special use on all public facilities;
5. The capacity of existing public facilities, and, if applicable, in the case of schools the availability of land to construct new schools, to serve the proposed subdivision, development or special use which will be impacted by the proposed subdivision, development, or special use based on the adopted levels of service;
6. The demand on the existing capacity of public facilities from all existing and approved subdivisions, developments, and uses;
7. The availability of existing capacity of the public facility to accommodate the proposed subdivision, development, or special use, and, if applicable, in the case of schools the availability of land to construct new schools;

8. If existing capacity is not available, any capacity that is planned to be added and the year in which such planned capacity is projected to be available to serve the proposed subdivision, development, or special use;

9. If the applicant seeks an exemption from the requirements of this chapter based upon a claim that the applicant has obtained and possesses a vested right to undertake and complete the subdivision or development, an opinion from the Town Attorney regarding the validity of the claim;

10. In the case of schools, if adequate land is currently not available for the construction of new schools necessary to serve the proposed development, the adequacy of any additional land that is proposed to be dedicated as an element of the proposed subdivision, development, or special use specifically for the construction of a new school.

B. If the Town Planner concludes that each public facility will be available concurrent with the impacts of the proposed subdivision, development or special use at the applicable adopted levels of service, or in the case of schools that either facilities are available concurrent with the impacts of the proposed subdivision, development or special use, or that land sufficient to allow for the construction of new schools is available or will be made available, the Town Planner shall make a positive recommendation of adequacy.

C. If the Town Planner concludes that any public facility may not be available concurrent with the impacts of the proposed development, subdivision or special use at the adopted levels of service based upon existing public facilities, the Town Planner may make a negative recommendation of adequacy or, in the alternative, may make a positive recommendation with appropriate conditions consistent with the following:

1. Deferral of further subdivision final plat or development permit or special use permit approval until all public facilities are available and adequate if existing public facilities are not adequate to meet the adopted levels of service for the development or special use proposal;

2. Reduction of the density or intensity of the proposed subdivision, development, or special use, including conditions regarding the phasing of the subdivision, development, or use to a level consistent with the available capacity of the public facility; or

3. Provision by the applicant of the public facilities, or in the case of schools land sufficient to allow for the construction of new schools, necessary to provide capacity to accommodate the proposed subdivision, development or special use at the adopted level of service at the time that the impact of the proposed subdivision, development, or special use will occur; and

4. Any other reasonable conditions that may, in the case of schools, include, but not be limited to, the dedication of land that is intended specifically for the construction of new schools, to ensure that all public facilities will be adequate and available concurrent with the impacts of the proposed subdivision, development, or special use.

D. The Town Planner's recommendation of adequacy shall be made part of any staff report accompanying any administrative, Planning Commission, or Town Council review of applications for development approval.

(Ord. No. 13-2017, §§ 15, 16, 4-25-2017; Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.14.060. Determination of adequacy.

A. Following receipt of the recommendation of adequacy and as a part of the Town's procedures for review and final approval of any application for development approval, and subject to compliance with all other regulations applicable to the application and request for approval, the Town Council, Planning Commission, or administrative staff member vested with authority to approve any subdivision, development or special use may:

1. Make a positive determination of adequacy;

2. Make a negative determination of adequacy; or

3. Make a positive determination of adequacy with appropriate conditions consistent with the conditions contained in Section 4.14.050(C).

B. If the determination of adequacy is different from the Town Planner's recommendation of adequacy, the decision-making body shall make specific findings explaining the basis for concluding that the Town Planner's recommendation of adequacy should not be adopted.

(Ord. No. 13-2017, § 17, 4-25-2017; Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.14.070. Effect and expiration of determination of adequacy.

A. A positive determination of adequacy shall be deemed to indicate that public facilities are or will be available and adequate to serve the proposed subdivision, development or special use until such time that the determination of adequacy expires. No application for subdivision final plat approval, planned unit development plan approval, development permit approval, or special use permit approval shall be granted unless a positive determination of adequacy or a positive determination of adequacy subject to conditions has been made by the Town.

B. A positive determination of adequacy issued pursuant to the chapter shall be deemed to expire at the earlier of:

1. The expiration, waiver, lapse, or revocation of the subdivision, development or special use approval for which the positive determination of adequacy was made;

2. Failure by the applicant to timely comply with the conditions attached to a positive determination of adequacy; or

3. Three years following the date of issuance of a positive determination of adequacy, if development has not commenced.

(Ord. No. 13-2017, § 18, 4-25-2017)

Section 4.14.080. Criteria for determining availability and adequacy of public facilities.

A. *Level of service standards.* Compliance with level of service standards shall be measured in accordance with the standards set forth in this chapter, as they may be amended from time to time.

B. *Range of impacts.* Any proposed subdivision development or special use which could result in a range of potential impacts shall be reviewed as if the greater impact would result. The review and evaluation of public facilities required by this chapter shall compare the capacity of public facilities to the maximum projected demand which may result from the proposed subdivision, development or special use.

C. *Existing demand and capacity.* Where the adequacy and availability of a public facility is based upon an evaluation of available capacity, the existing demand upon the public facility shall be determined by considering:

1. The existing demand placed upon the pubic facility from all users, whether within or outside the Town;

2. The projected demand for the public facility created by the anticipated completion of approved but uncompleted development, considering anticipated phasing of construction;

3. The projected demand upon the public facility created by the anticipated completion of any proposed subdivision, developments or special uses for which a public facilities impact statement has been approved by the Town;

4. The extent to which existing demand may be reduced or mitigated by the adoption of conservation or other measures designed to reduce demand; and

5. Anticipated future improvements to public facilities.

D. *Capital improvements.* No improvement proposed or undertaken by an applicant to increase existing capacity of a public facility or an improvement proposed to be made to avoid a deterioration in the adopted levels of service shall be accepted by the Town unless the improvement is included within the Town's capital improvement program or unless the improvement is determined by the Town Council to directly and substantially advance one or more established goals or policies of the Town and the improvement is part of an improvements agreement between the Town and the applicant. An applicant's commitment to construct or expand a public facility prior to the issuance of a building permit may be included as a condition for the determination of adequacy and any such commitment shall include, at a minimum, the following:

1. A finding that the planned capital improvement is included within the capital improvement program or directly and substantially advances one or more established goals and policies of the Town;

2. An estimate of the total funding needed to construct the planned capital improvement and a description of all the costs associated therewith;

3. A schedule for commencement and completion of construction of the planned capital improvement with specific target dates for multi-phase or large-scale capital improvement projects;

4. At the option of the Town and pursuant to an agreement between the Town and the applicant, and only if the planned capital improvement will provide capacity exceeding the demand generated by the proposed subdivision, development or special use, a reimbursement to the applicant for the pro rata cost of providing the excess capacity.

E. *Availability of land or the dedication of land for schools.* School facilities may be deemed adequate if the county school district owns land sufficient to construct a new school that can provide capacity to serve the proposed subdivision, development or special use. If land is not currently available, school facilities may be deemed adequate if the applicant dedicates land as an element of the subdivision, development or special use sufficient in size to accommodate construction of a new school. In such cases, the dedication of land shall be provided concurrent with the initial final plat or the initial building permit (whichever comes first) for the subdivision, development or special use.

(Ord. No. 13-2017, §§ 19—22, 4-25-2017; Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.14.090. Administration.

A. *Rules and regulations.* The Town Council may adopt, by ordinance or resolution, any necessary rules, regulations, administrative guidelines, and processes to efficiently and fairly administer and implement this chapter.

B. *Administrative fees.* The Town Council may establish, by ordinance or resolution, fees and a fee schedule for each of the administrative procedures, determinations, and approvals required by this chapter.

(Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.14.100. Vested rights.

A. Nothing in this chapter shall limit or modify the rights of an applicant to complete any subdivision or development for which the applicant has obtained and possesses a vested right to undertake and complete the subdivision or development pursuant to C.R.S. Title 4, Art. 68, as amended, and as implemented by Chapter 4.17, or pursuant to State law.

B. A determination of adequacy shall not affect the otherwise applicable provisions of this Title, all of which shall be operative and remain in full force and effect without limitation.

Section 4.14.110. Public schools.

A. Public school facilities shall be deemed to be adequate and available for a proposed subdivision, development or special use in one of three ways:

1. If existing county school district's schools facilities intended to serve residents of the subdivision, development or special use meet or exceed the applicable adopted level of service standards set forth Subsection (C) of this section, or:

   a. Provision of adequate public school facilities are a condition of the subdivision, development or special use approval and are guaranteed to be provided at or before the approval of a final plat, issuance of special use permit, or issuance of the first building permit within the proposed subdivision, development, or particular phase thereof; or

   b. Necessary public school facilities are under construction and will be available at the time the impacts of the proposed subdivision, development, or particular phase thereof, or special use will occur;

2. If the county school district owns land sufficient in size and location to allow for the construction of new school facilities that can adequately serve residents of the proposed subdivision, development or special use, and that the district's long-range plans are to construct a school on such land and that this school is intended to serve the area subject to the proposed subdivision, development or special use; or

3. If land sufficient in size and location to allow for the construction of new school facilities that can reasonably serve the residents of the proposed subdivision, development or special use will be dedicated by the applicant of the subdivision, development or special use to the county school district, and that the district's long-range plans are to construct a school on such land.

B. All applications to which this chapter is applicable pursuant to Section 4.14.020 that contain residential units shall be accompanied by a summary of the total number of dwelling units and the type and the size of dwelling unit. This information will be used by the county school district to estimate the number of school-aged children expected to be generated by the proposed development.

C. The following level of service standards (LOS) shall apply:

1. The maximum number of students per classroom. The following are guidelines used by the county school district for maximum class size:

Kindergarten, First Grade	25 students per class
Second and Third Grade	30 students per class
Grades Four through Six	30 students per class
Grades Seven through 12	A school average of 25 students per class (The nature of a departmentalized school is that some classes will be larger than others)

The guidelines outlined above are established by the county school district when economically feasible. Maximum and average classroom sizes are dependent upon a number of factors and are subject to change over time.

2. Projected enrollments (as estimated based on Section 4.14.080(C)) of schools that will serve the residents of the proposed subdivision, development or special use do not exceed the capacity of said schools. School capacity shall be based on the average of the "stressed" and "functional" capacities as outlined in Eagle County School District Building Capacity Study, dated October 19, 2012, or as may be amended by the district.

D. The Town and the county school district agree to cooperate and collaborate on monitoring the rate of new residential development, existing school capacity and plans for future school capacity. The purpose of this effort is to provide an accurate data base for making future decisions on the adequacy of school facilities as contemplated by this chapter.

1. On an annual or as-needed basis, the county school district will provide to the Town a report summarizing the capacity of all existing schools that serve residents of the Town.

2. On an annual or as-needed basis, the Town will provide to the district a report summarizing the location and type of all existing residential development within the Town boundary.

3. The Town will notify the district of any new proposals for residential development that may not otherwise be addressed by this chapter.

4. On an annual or as-needed basis, the county school district will provide the Town with a report summarizing any plans for new school development contemplated for land the district owns or land that may be dedicated to the district. This report will indicate the anticipated type and size of school to be developed, however, any future plans outlined in this report shall not be binding on the district.

(Amended 11-21-1997; Amended 9-17-1998; Amended 1-26-1999; Amended 3-25-2014; Ord. No. 13-2017, §§ 23, 24, 4-25-2017)

Section 4.14.120. Fire protection services.

A. Public safety facilities and equipment for fire protection and first response emergency medical services shall be deemed to be adequate and available for a proposed subdivision, development or special use if the facilities and equipment available to provide such services to the subdivision, development or special use will meet or exceed the applicable adopted level of service (LOS) standards set forth in Subsection (C) of this section, and:

1. Adequate public safety facilities and equipment for fire protection and first response emergency medical services are currently in place or will be in place prior to issuance of a special use permit or the first building permit within a subdivision, development or a particular phase thereof;

2. Provision of adequate public safety facilities and equipment for fire protection and first response emergency medical services are a condition of the subdivision, development or special use approval and are guaranteed to be provided at or before the approval of a final plat, issuance of special use permit, or issuance of the first building permit within the proposed subdivision, development, or particular phase thereof;

3. Necessary public safety facilities and equipment for fire protection and first response emergency medical services are a condition of the subdivision, development or special use approval and are guaranteed to be provided at or before the approval of a final plat, issuance of special use permit, or

issuance of the first building permit within the proposed subdivision, development, or particular phase thereof;

4. Provision for adequate public safety facilities and equipment for fire protection and first response emergency medical services are guaranteed by an executed and enforceable development agreement or subdivision improvements agreement which ensures that such facilities will be in place at the time that the impacts of the proposed subdivision, development, or any particular phase thereof, or special use will occur; or

5. The Town Council determines that fire protection and first response emergency medical services risks are sufficiently mitigated through the provision of approved, built-in, automatic fire protection systems in all improvements (occupancies); the use of approved fire resistive construction in all improvements (occupancies); the use and maintenance of approved fire resistive landscaping; and/or the private provision of approved first response emergency medical services. In such event, mitigation of fire protection and first response emergency medical service risks will meet the equivalent minimum level of service standards as set forth below and as amended from time to time.

B. All applications to which this chapter is applicable pursuant to Section 4.14.020 shall be accompanied by a public safety impact plan. The Town Planner, in consultation with the Greater Eagle Fire Protection District, shall approve the methodology used to develop the fire protection and first response emergency medical services aspects of such public safety impact plan.

C. Except as otherwise provided in this section, the following level of service (LOS) standards shall apply:

1. The provisions of the current fire code, building code and any other duly adopted code, statute, ordinance, or standard related to fire protection are being met; or approved, enforceable, equivalent protection or mitigation efforts are undertaken.

2. Adequate response times will be maintained if the new development is approved. Response times will adhere to the following except as indicated below:

   a. Provide first response basic life support (BLS) and automatic external defibrillation (AED) in under six minutes for 90 percent of all calls requiring emergency medical assistance within the Town.

   b. Provide rescue services within eight minutes for 90 percent calls within the Town.

   c. The response time requirement for fire response only may be waived at the option of the Town Council in consultation with the Greater Eagle Fire Protection District if approved, built-in, automatic fire protection systems are installed and maintained in all improvements (occupancies).

3. Capability of providing adequate fire flows. These flows represent performance standards for the Greater Eagle Fire Protection District using only its firefighting apparatus and equipment. They do not replace the flow requirements set forth in the fire code, as adopted by the Greater Eagle Fire Protection District. The fire flow requirements set forth in such fire code anticipate the need for additional resources (mutual aid) and are based upon fire loading for particular occupancies.

   a. 250 GPM initial attack flow within two minutes of arrival for 90 percent of all fires.

   b. 250 GPM sustained flow within five minutes of arrival for 90 percent of all fires.

   c. 500 GPM sustained flow within eight minutes of arrival for 80 percent of all structure fires.

   d. 1,000 GPM sustained flow within five minutes of arrival for all areas within 1,000 feet of a fire hydrant.

   e. 3,500 GPM sustained flow within 15 minutes of arrival for hydranted areas.

4. Consistent and adequate emergency dispatching services is maintained.

5. Approval of the proposed subdivision, development or special use will not increase (worsen) the Greater Eagle Fire Protection District's insurance services organization (I.S.O.) fire protection class rating.

6. These LOS standards may be amended from time to time as changes in the Town's fire protection and emergency medical services delivery systems and technology change, and as community expectations change.

D. All or some of the LOS standards contained in Subsection (C) of this section may be waived at the sole discretion of the Town Council, following consultation with the Greater Eagle Fire Protection District, upon satisfaction of the following conditions:

1. Applicant's mitigation of fire protection risks will meet or exceed equivalent protection as set forth in the provisions of the current fire code adopted by the Greater Eagle Fire Protection District, the Town's building code, and any other duly adopted code, statute, ordinance or standard related to fire protection; and the applicant's mitigation of fire protection risks meet or exceed the equivalent minimum LOS standards as set forth in Subsection (C) of this section; and

2. Applicant's proposed plan to mitigate fire protection and first response emergency medical service risk will be done in such a manner so as not to increase (worsen) the Greater Eagle Fire Protection District's insurance service organization (I.S.O.) fire protection class rating; and

3. Applicant's proposed mitigation plan is guaranteed by an executed and enforceable agreement, with performance guarantees, if necessary, between applicant and the Town.

(Amended 9-29-1999; Ord. No. 13-2017, § 25, 4-25-2017; Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.14.130. Emergency medical services.

A. Public safety facilities and equipment for emergency medical response shall be deemed to be adequate and available for a proposed subdivision, development or special use if the facilities and equipment available to provide such series to the subdivision, development or special use will meet or exceed the applicable adopted level of service (LOS) standards set forth below, and:

1. Adequate public safety facilities and equipment for emergency medical services are currently in place or will be in place prior to issuance of a special use permit or the first building permit within a subdivision, development or a particular phase thereof;

2. Provision of adequate public safety facilities and equipment for emergency medical services are a condition of the subdivision, development or special use approval and are guaranteed to be provided at or before the approval of a final plat, issuance of special use permit, or issuance of the first building permit within the proposed subdivision, development, or particular phase thereof;

3. Necessary public safety facilities and equipment for emergency medical services are under construction or contract to purchase and will be available at the time the impacts of the proposed subdivision, development, or particular phase thereof, or special use will occur;

4. Provision for adequate public safety facilities and equipment for emergency medical services are guaranteed by an executed and enforceable development agreement or subdivision improvements agreement which ensures that such facilities will be in place at the time that the impacts of the proposed subdivision, development, or any particular phase thereof, or special use will occur; or

5. Emergency medical series risks are mitigated through the provision of approved private provision of approved emergency medical services. In such an event, mitigation of emergency medical service risks

shall meet the equivalent minimum level of service standards as set forth in Subsection (C) of this section and as amended from time to time.

B. All applications to which this chapter is applicable pursuant to Section 4.14.020 shall be accompanied by a public safety impact plan. The Town Planner, in consultation with the Western Eagle County Ambulance District, shall approve the methodology used to develop the emergency medical services aspects of such public safety impact plan.

C. Except as otherwise provided in this section, the following level of service (LOS) standards shall apply:

1. Adequate response times will be maintained if the new development is approved. Response times will adhere to the following except as indicated below:

a. Provide first response basic life support (BLS) and automatic external defibrillation (AED) in under six minutes for 90 percent of all calls requiring emergency medical assistance within the Town.

b. Provide advanced life support within eight minutes for 90 percent of all requiring emergency medical assistance within the Town.

2. Consistent and adequate emergency dispatching services is maintained.

3. These LOS standards may be amended from time to time as changes in the Town's emergency medical services delivery systems and technology change, and as community expectations change.

D. All or some of the LOS standards contained in Subsection (C) of this section may be waived at the sole discretion of the Town Council, following consultation with the Western Eagle County Ambulance District, upon satisfaction of the following conditions:

1. Applicant agrees to mitigate emergency medical service risks through the provision of approved private emergency medical services; and

2. Applicant's proposed mitigation plan shall meet the equivalent minimum LOS standards set forth above; and

3. Applicant's mitigation plan is guaranteed by an executed and enforceable agreement, including performance guarantees, if necessary, between the Town and the applicant.

(Amended 9-29-1999; Ord. No. 13-2017, § 26, 4-25-2017; Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.14.140. Street facilities.

A. Street facilities shall be deemed to be adequate and available for a proposed subdivision, development or special use if the subdivision, development or special use meets or exceeds the applicable adopted level of service standards set forth below, and:

1. All necessary street facilities are currently in place or will be in place prior to issuance of a special use permit or the issuance of the first building permit for the development;

2. Provision of required street facilities are a condition of the subdivision, development or special use approval and are guaranteed to be provided at or before the approval of a final plat, or the issuance of the special use permit, or issuance of the first building permit for the proposed subdivision or development;

3. Required street facilities are under construction and will be available at the time that the impacts of the proposed subdivision, development or special use will occur;

4. Provision for street facilities needed to achieve the adopted level of service standards are guaranteed by an executed and enforceable development agreement or subdivision improvements agreement

which ensures that such facilities will be in place at the time that the impacts of the proposed subdivision, development or special use will occur; or

5. Street facilities needed to achieve the adopted level of service standards are included in the capital improvements program; and:

    a. The capital improvements program contains a financially feasible funding system from available revenue sources which are adequate to fund the streets required to serve the proposed subdivision, development, or special use; and

    b. The street facilities are likely to be constructed and available at the time that the impacts of the proposed subdivision, development or special use will occur.

B. The Town transportation study guidelines provides information on submittal requirements, level of service standards, and determination of adequacy of facilities. Major elements are summarized in this subsection; however, when preparing a submittal, the Town recommends consulting the full document for guidance.

1. *Traffic impact study submittal requirements.* All applications to which this chapter is applicable pursuant to Section 4.14.120 shall be accompanied by a traffic impact study (TIS) performed by a registered professional engineer in the State. The following "levels of effort" shall be required for a TIS:

    a. Where the daily trip end generation is less than 500 (50 peak hour trip ends) and no access changes are proposed for the development or use, the TIS may be waived at the Town's discretion upon written request from the applicant. Every request for a waiver of the TIS requirement shall contain information sufficient to permit the Town Planner to determine whether the proposed development or special use qualifies for a waiver.

    b. Where the proposed development or special use will present the following conditions, an intermediate level TIS will be required:

        i The daily trip end generation is between 500 and 1,000; and

        ii There are less than 100 peak hour trip ends (when the peak hour occurs on the adjacent facility); and

        iii The LOS of the adjacent facility, when the development or special use is completed, equals or exceed the LOS standard established for that facility.

    c. A full TIS shall be prepared by the applicant for all other proposed developments or special uses and, in particular, for developments or special uses with greater than 1,000 daily trip ends or more than 100 peak hour trip ends (during this peak hour on the adjacent facility).

    d. The Town may require a TIS due to special concerns involving impact to the street system or to track the phased implementation of large developments. All TISs shall be performed at the cost and expense of the applicant and submitted in writing to the Town with formal submittal of the application for the approval requested.

2. *Level of service standards (LOS).* The level of service (LOS) standards for arterial and collector streets in Eagle is level of service C or higher. The LOS standards for local streets is level of service B or higher. The level of service for an intersection shall be the overall level of service for all the movements. The normal analysis periods are the peak hours of usage of the streets.

(Amended 12-21-1997; Amended 9-29-1999; Ord. No. 13-2017, §§ 27, 28, 4-25-2017)

CHAPTER 4.15. ANNEXATION

Section 4.15.010. Annexation procedures.

The following procedures shall govern the annexation of all lands to the Town:

A. Annexation shall be accomplished in accordance with C.R.S. Title 31, Art. 12, as amended.

B. All petitions for annexation and all petitions for an annexation election filed pursuant to C.R.S. § 31-12-107 shall be accompanied by a request for zoning of the area proposed for annexation on an application form provided by the Town in accordance with Section 4.05.030. All petitions for annexation shall also be accompanied by a statement setting forth the proposed water rights to be dedicated to the Town at the time of annexation on a form supplied by the Town in accordance with Chapter 12.06.

C. Following approval of a resolution of intent in accordance with C.R.S. § 31-12-106 or after a petitions for annexation or a petition for annexation election has been found to be valid in accordance with the provisions of C.R.S. § 31-12-107, as amended, the procedures set forth in Section 4.05.030 shall be instituted for the purpose of determining the zoning of the land proposed for annexation; provided, however, the proposed zoning ordinance shall not be passed on final reading prior to the date when the annexation ordinance is passed on final reading. Any area annexed to the Town shall be brought under the Town's zoning ordinance and map within 90 days after the effective date of the annexation ordinance, irrespective of any legal review which may be instituted. During such 90-day period or portion thereof, the Town shall not issue any building or occupancy permit for any portion of the newly annexed area.

D. In the event the area proposed to be annexed is also proposed for development or subdivision, the Town or the developer may, at its option, institute the procedures set forth for development review in Chapter 4.06 or for subdivision review set forth in Chapter 4.12 at any time after a resolution of intent has been passed in accordance with C.R.S. § 31-12-106 or after a petition for annexation or a petition for annexation election has been found to be valid in accordance with the provisions of C.R.S. § 31-12-107. The ordinance accepting the proposed subdivision shall not be passed or a development permit issued prior to the date when the annexation ordinance is passed on final reading.

E. The Town may, at its option, at any time after a petition for annexation has been found to be valid in accordance with the provisions of C.R.S. § 31-12-107, require the petitioner to submit a concept plan for the area proposed to be annexed in accordance with Section 4.12.020(A).

F. All annexation plats filed with the Town shall, in addition to the requirements set forth in C.R.S. Title 31, Art. 12, as amended, also include all of the information set forth in C.R.S. § 38-51-106. Said annexation plats shall also contain all of the applicable certifications set forth in the appendices to this Title.

G. The external boundaries of all annexations shall, prior to the recording of the annexation plat, be monumented on the ground in accordance with C.R.S. § 38-51-101, as amended.

(Ord. No. 1986-03, § 4.14.010, 3-5-1986)

CHAPTER 4.16. FLOOD DAMAGE PREVENTION REGULATIONS

Section 4.16.010. Authorization and findings of fact.

A. *Statutory authorization.* The legislature of the State has, in C.R.S. Title 29, Art. 20, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Town Council does hereby adopt the floodplain management regulations provided in this chapter.

b. *Findings of fact.*

1. 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.

2. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

(Ord. No. 1986-03, § 4.15.010, 3-5-1986; Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.16.020. Title and purpose.

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

A. Protect human life and health;

B. Minimize expenditure of public money for costly flood control projects;

C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

D. Minimize prolonged business interruptions;

E. Minimize damage to critical facilities, infrastructure and other public facilities such as water, sewer and gas mains; electric and communications stations; and streets and bridges located in floodplains;

F. Help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize future flood blight areas; and

G. Ensure that the Town has information available to determine if a property is located in a flood hazard area.

(Ord. No. 1986-03, § 4.15.020, 3-5-1986)

Section 4.16.030. Methods of reducing flood losses.

In order to accomplish its purposes, this chapter uses the following methods:

A. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;

B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

C. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

D. Control filling, grading, dredging and other development which may increase flood damage;

E. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(Ord. No. 1986-03, § 4.15.030, 3-5-1986)

Section 4.16.040. Definitions.

Unless specifically defined in this section, words, terms or phrases used in this chapter shall be interpreted to give them the meaning they have in common usage and to give this chapter its most reasonable application. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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-chance-annual-flood). "One-hundred-year flood" and "one percent chance flood" are synonymous with the term "100-year flood." The term does not imply that the flood will necessarily happen once every 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 flood insurance rate map for zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

Basement means any area of a building having its floor sub-grade (below ground level) on all sides.

Channel means the physical confine of 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. "Community" includes the Town.

Conditional letter of map revision (CLOMR) means FEMA's comment on a proposed project, which does not revise an effective floodplain map, that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

Critical facility means a structure or related infrastructure, but not the land on which it is situated, as specified in Section 4.16.070(H), that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood. See Section 4.16.070(H).

Development means any manmade change in improved and unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

DFIRM Database (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);FEMA digital floodplain map. These digital maps serve as regulatory floodplain maps for insurance and floodplain management purposes.

Elevated building:

A. "Elevated building" means a non-basement building:

   1. 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

   2. 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.

B. 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.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Federal Register means the official daily publication for rules, proposed rules, and notices of Federal agencies and organizations, as well as executive orders and other presidential documents.

FEMA means the Federal Emergency Management Agency of the United States, the agency responsible for administering the National Flood Insurance Program.

Flood or*flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

A. The overflow of water from channels and reservoir spillways;

B. The unusual and rapid accumulation or runoff of surface waters from any source; or

C. Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current).

Flood control structure 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 the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

Flood insurance study (FIS) means the official report provided by the Federal Emergency Management Agency. The report contains the flood insurance rate map as well as flood profiles for studied flooding sources that can be used to determine base flood elevations for some areas.

Floodplain or *floodprone 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 in the community, including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within floodprone areas. Permits are required to ensure that proposed development projects meet the requirements of the NFIP and this chapter.

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, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing means any combination of structural and/or non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway (regulatory floodway) means the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. 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 which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

A. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

    1. By an approved State program as determined by the Secretary of the Interior; or

    2. Directly by the Secretary of the Interior in states without approved programs.

Letter of map revision (LOMR) means FEMA's official revision of an effective flood insurance rate map (FIRM), or flood boundary and floodway map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations (BFEs), or the special flood hazard area (SFHA).

Letter of map revision based on fill (LOMR-F) means FEMA's modification of the special flood hazard area (SFHA) shown on the flood insurance rate map (FIRM) based on the placement of fill outside the existing regulatory floodway.

Levee means a manmade 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 which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). Any floor used for living purposes which includes working, storage, sleeping, cooking and eating, or recreation or any combination thereof. This includes any floor that could be converted to such a use as a basement or crawl space. The lowest floor is a determinate for the flood insurance premium for a building, home or business. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render

the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

Manufactured home means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term does not include a recreational vehicle.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Material safety data sheet (MSDS) means a form with data regarding the properties of a particular substance. An important component of product stewardship and workplace safety, it is intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner, and includes information such as physical data (melting point, boiling point, flash point, etc.), toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment, and spill-handling procedures.

Mean sea level, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's flood insurance rate map, are referenced.

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 44 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 State Professional Engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the flood insurance rate map (FIRM) or flood boundary and floodway map (FBFM).

Physical map revision (PMR) means FEMA's action whereby one or more map panels are physically revised and republished. A PMR is used to change flood risk zones, floodplain and/or floodway delineations, flood elevations, and/or planimetric features.

Recreational vehicle means a vehicle which is:

A. Built on a single chassis;

B. 400 square feet or less when measured at the largest horizontal projections;

C. Designed to be self-propelled or permanently towable by a light duty truck; and

D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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 or not that alteration affects the external dimensions of the building.

Structure means a walled and roofed building, including a gas or liquid storage tank, which 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 which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

A. Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions; or

B. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Threshold planning quantity (TPQ) 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 chapter when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this chapter. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

(Ord. No. 1986-03, § 4.15.040, 3-5-1986)

Section 4.16.050. General provisions.

A. *Lands to which this chapter applies.* This chapter shall apply to all special flood hazard areas and areas removed from the floodplain by the issuance of a FEMA letter of map revision based on fill (LOMR-F) within the jurisdiction of Town.

B. *Basis for establishing the special flood hazard area.* The special flood hazard areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Town of Eagle," dated December 4, 2007, with accompanying flood insurance rate maps and/or flood boundary and floodway maps (FIRM and/or FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this chapter. These special flood hazard areas identified by the FIS and attendant mapping are the minimum area of applicability of this chapter and may be supplemented by studies designated and approved by the Town. The floodplain administrator shall keep a copy of the flood insurance study (FIS), DFIRMs, FIRMs and/or FBFMs on file and available for public inspection.

C. *Establishment of floodplain development permit.* A floodplain development permit shall be required to ensure conformance with the provisions of this chapter.

D. *Compliance.* No structure or land shall hereafter be located, altered, or have its use changed within the special flood hazard area without full compliance with the terms of this chapter and other applicable regulations. Nothing herein shall prevent the Town Council from taking such lawful action as is necessary to prevent or remedy any violation. These regulations meet the minimum requirements as set forth by the State Water Conservation Board and the National Flood Insurance Program.

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

F. *Interpretation.* In the interpretation and application of this chapter, all provisions shall be:

1. Considered as minimum requirements;

2. Liberally construed in favor of the Town Council; and

3. Deemed neither to limit nor repeal any other powers granted under State statutes.

G. *Warning and disclaimer of liability.* The degree of flood protection required by this chapter 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 manmade or natural causes. This chapter does not imply that land outside the special flood hazard area or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Town or any official or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

H. *Severability.* This chapter and the various parts thereof are hereby declared to be severable. Should any section of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this chapter as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

(Ord. No. 1986-03, §§ 4.15.050—4.15.100, 3-5-1986; Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.16.060. Administration.

A. *Designation of the floodplain administrator.* The Town Engineer is hereby appointed as floodplain administrator to administer, implement and enforce the provisions of this chapter and other appropriate sections of 44 CFR (National Flood Insurance Program regulations) pertaining to floodplain management.

B. *Duties and responsibilities of the floodplain administrator.* The duties and responsibilities of the floodplain administrator shall include, but not be limited to, the following:

1. Maintain and hold open for public inspection all records pertaining to the provisions of this chapter, including the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and any floodproofing certificate required by Subsection (C) of this section.

2. Review, approve, or deny all applications for floodplain development permits required by adoption of this chapter.

3. Review floodplain development permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.

4. Review permits for proposed development to ensure 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 USC 1334), from which prior approval is required.

5. Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this chapter, including proper elevation of the structure.

6. Where interpretation is needed as to the exact location of the boundaries of the special flood hazard area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the floodplain administrator shall make the necessary interpretation.

7. When base flood elevation data has not been provided in accordance with Section 4.16.050(B), the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State, or other source, in order to administer the provisions of Section 4.16.070.

8. For waterways with base flood elevations for which a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within zones A1-30 and AE on the Town'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 Town.

9. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in zones A1-30, AE, and AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one-half foot, provided that the community first applies for a conditional FIRM revision through FEMA (conditional letter of map revision), fulfills the requirements for such revisions as established under the provisions of Section 65.12 of the National Flood Insurance Program regulations and receives FEMA approval.

10. Notify, in riverine situations, adjacent communities and the State Coordinating Agency, which is the State Water Conservation Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.

11. Ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.

C. *Permit procedures.*

1. Application for a floodplain development permit shall be presented to the floodplain administrator on forms furnished by him 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 special flood hazard area. Additionally, the following information is required:

a. Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures;

b. Elevation (in relation to mean sea level) to which any nonresidential structure shall be floodproofed;

c. A certificate from a registered State Professional Engineer or Architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Section 4.16.050(B)(2);

d. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;

e. Maintain a record of all such information in accordance with Section 15.10.060(B).

2. Approval or denial of a floodplain development permit by the floodplain administrator shall be based on all of the provisions of this chapter and the following relevant factors:

a. The danger to life and property due to flooding or erosion damage;

b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

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

d. The compatibility of the proposed use with existing and anticipated development;

e. The safety of access to the property in times of flood for ordinary and emergency vehicles;

f. 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;

g. 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;

h. The necessity to the facility of a waterfront location, where applicable;

i. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

j. The relationship of the proposed use to the comprehensive plan for that area.

D. *Variance procedures.*

1. The appeal Board, as established by the Town Council, shall hear and render judgment on requests for variances from the requirements of this chapter.

2. 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 chapter.

3. Any person or persons aggrieved by the decision of the appeal Board may appeal such decision in the courts of competent jurisdiction.

4. The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

5. 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 Subsection (C) of this section have been

fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

6. Upon consideration of the factors noted above and the intent of this chapter, the appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this chapter as stated in Section 4.16.020.

7. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

8. 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.

9. Prerequisites for granting variances.

    a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

    b. Variances shall only be issued upon:

        i. Showing a good and sufficient cause;

        ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

        iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

    c. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

10. Variances may be issued by the Town for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

    a. The criteria outlined in Subsection (D)(1) through (9) of this section are met; and

    b. 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.

E. *Penalties for noncompliance.* No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a Class A municipal offense. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined or imprisoned as provided by the laws of Town. Nothing herein contained shall prevent the Town from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. No. 1986-03, §§ 4.15.110—4.15.140, 3-5-1986; Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.16.070. Provisions for flood hazard reduction.

A. *General standards.* In all special flood hazard areas the following provisions are required for all new construction and substantial improvements:

1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

5. All manufactured homes shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces;

6. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters; and

8. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

B. *Specific standards.* In all special flood hazard areas where base flood elevation data has been provided as set forth in Subsection (G) of this section, Section 4.16.050(B), or Section 4.16.060(B)(7), the following provisions are required:

1. *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 base flood elevation. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered State Professional Engineer, Architect, or Land Surveyor. Such certification shall be submitted to the floodplain administrator.

2. *Nonresidential construction.*

a. With the exception of critical facilities, outlined in Subsection (H) of this section, new construction and substantial improvements of any commercial, industrial, or other nonresidential structure shall either have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be designed so that at one foot above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural

components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

b. A registered State 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 (B). Such certification shall be maintained by the floodplain administrator, as provided in Section 4.16.060(C).

3. *Enclosures.*

a. New construction and substantial improvements with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

b. Designs for meeting this requirement must either be certified by a registered State Professional Engineer or Architect or meet or exceed the following minimum criteria:

i. 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.

ii. The bottom of all openings shall be no higher than one foot above grade.

iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

4. *Manufactured homes.*

a. All manufactured homes that are placed or substantially improved within zones A1-30, AH, and AE on the Town's FIRM on sites:

i. Outside of a manufactured home park or subdivision;

ii. In a new manufactured home park or subdivision;

iii. In an expansion to an existing manufactured home park or subdivision; or

iv. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood;

shall be elevated on a permanent foundation such that the lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are elevated to one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

b. All manufactured homes placed or substantially improved on sites in an existing manufactured home park or subdivision within zones A1-30, AH and AE on the Town's FIRM that are not subject to the provisions of Subsection (B)(4)(a) of this section shall be elevated so that either:

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 base flood elevation; or

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 be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

5. *Recreational vehicles.*

   a. All recreational vehicles placed on sites within zones A1-30, AH, and AE on the community's FIRM shall either:

      i. Be on the site for fewer than 180 consecutive days;

      ii. Be fully licensed and ready for highway use; or

      iii. Meet the permit requirements of Section 4.16.060(C), and the elevation and anchoring requirements for manufactured homes in Subsection (B)(4) of this section.

   b. 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.

6. *Prior approved activities.* Any activity for which a floodplain development permit was issued by the Town or a CLOMR was issued by FEMA prior to the effective date of the ordinance from which this chapter is derived 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 ordinance if it meets such standards.

C. *Standards for areas of shallow flooding (AO/AH zones).* Located within the special flood hazard area established in Section 4.16.050(B), 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 where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

1. *Residential construction.* All new construction and substantial improvements of residential structures must have the lowest floor (including basement), 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 Town'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 State Professional Engineer, Architect, or Land Surveyor. Such certification shall be submitted to the floodplain administrator.

2. *Nonresidential construction.*

   a. With the exception of critical facilities, outlined in Subsection (H) of this section, 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 Town'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 State Professional Engineer or Architect shall submit a certification to the floodplain administrator that the standards of this section, as provided in Section 4.16.060(C), are satisfied.

   b. Within zone AH or AO, adequate drainage paths around structures on slopes are required to guide floodwaters around and away from proposed structures.

D. *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 the term "floodway in Section 4.16.040). Located within special flood hazard areas established in Section 4.16.050(B), are areas designated as floodways. Since the floodway is an extremely

hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

1. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed by a licensed State 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 Town during the occurrence of the base flood discharge.

2. If Subsection (D)(1) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 4.16.070. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a CLOMR and floodway revision through FEMA.

E. *Alteration of a watercourse.* For all proposed developments that alter a watercourse within a special flood hazard area, the following standards apply:

1. Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition, and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.

2. Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.

3. Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable Federal, State and local floodplain rules, regulations and ordinances.

4. Any stream alteration activity shall be designed and sealed by a registered State Professional Engineer or Certified Professional Hydrologist.

5. All activities within the regulatory floodplain shall meet all applicable Federal, State and Town floodplain requirements and regulations.

6. Within the regulatory floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a floodway analysis and report, sealed by a registered State Professional Engineer, that there is not more than a 0.00-foot rise in the proposed conditions compared to existing conditions floodway resulting from the project, otherwise known as a no-rise certification, unless the community first applies for a CLOMR and floodway revision in accordance with Subsection (D) of this section.

7. Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

F. *Properties removed from the floodplain by fill.* A floodplain development permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA letter of map revision based on fill (LOMR-F), unless such new structure or addition complies with the following:

1. *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 base flood elevation that existed prior to the placement of fill.

2. *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 base flood elevation that existed prior to the placement of fill or, together with attendant utility and sanitary facilities, be designed so that the structure or addition is watertight to at least 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 of effects of buoyancy.

G. *Standards for subdivision applications.*

1. All subdivision applications including the placement of manufactured home parks and subdivisions shall be reasonably safe from flooding. If a subdivision or other development application is in a floodprone area, the proposal shall minimize flood damage.

2. All applications for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet floodplain development permit requirements of Section 4.16.050(C); Section 4.16.060(C); and the provisions of this section.

3. Base flood elevation data shall be generated for subdivision application and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or five acres, whichever is lesser, if not otherwise provided pursuant to Section 4.16.050(B) or 4.16.060(D).

4. All subdivision applications including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

5. All subdivision applications including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

H. *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.

1. *Classification of critical facilities.* It is the responsibility of the Town to identify and confirm that specific structures in their community meet the following criteria:

a. Critical facilities are classified under the following categories:

i. Essential services;

ii. Hazardous materials;

iii. At-risk populations; and

iv. Vital to restoring normal services.

b. Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines.

i. These facilities consist of:

1. Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and, emergency operation centers);

2. 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);

3. Designated emergency shelters;

4. 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);

5. Public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines); and

6. 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)).

ii. 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.

iii. 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 chapter, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Town on an as-needed basis upon request.

c. Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials.

i. These facilities may include:

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; and

5. Above ground gasoline or propane storage or sales centers.

ii. Facilities shall be determined to be critical facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the occupational safety and health administration (OSHA) to keep a material safety data sheet (MSDS) on file for any chemicals stored or used in the work place, and the chemical(s) is stored in quantities equal to or greater than the threshold planning quantity (TPQ) for that chemical, then that facility shall be considered to be a critical facility. The TPQ for these chemicals is either 500 pounds or the TPQ listed (whichever is lower) for the 356 chemicals listed under 40 CFR

302 (2010), also known as extremely hazardous substances (EHS); or 10,000 pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the State 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 chapter, but exclude later amendments to or editions of the regulations.

iii. Specific exemptions to this category include:

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.

These exemptions shall not apply to buildings or other structures that also function as critical facilities under another category outlined in this section.

d. At-risk population facilities include medical care, congregate care, and schools. These facilities consist of:

i. Elder care (nursing homes);

ii. Congregate care serving 12 or more individuals (day care and assisted living);

iii. Public and private schools (pre-schools, K-12 schools), before-school and after-school care serving 12 or more children;

e. Facilities vital to restoring normal services including government operations.

i. These facilities consist of:

1. Essential government operations (public records, courts, jails, building permitting and inspection services, Town administration and management, maintenance and equipment centers);

2. Essential structures for public colleges and universities (dormitories, offices, and classrooms only).

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

2. *Protection for critical facilities.* All new and substantially improved critical facilities and new additions to critical facilities located within the special flood hazard area shall be regulated to a higher standard than structures not determined to be critical facilities. For the purposes of this chapter, protection shall include one of the following:

    a. Location outside the special flood hazard area; or

    b. Elevation of the lowest floor or floodproofing of the structure, together with attendant utility and sanitary facilities, to at least two feet above the base flood elevation.

3. *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.

(Ord. No. 1986-03, §§ 4.15.150—4.15.170, 3-5-1986; Amended Ord. No. 19, series 2014)

CHAPTER 4.17. VESTED PROPERTY RIGHTS

Section 4.17.010. Purpose.

The purpose of this chapter is to provide the procedures necessary to implement the provisions of C.R.S. Title 24, Art. 68, which article establishes a vested property right to undertake and complete development and use of real property under the terms and conditions of a site-specific development plan.

Section 4.17.020. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Site-specific development plan.

A. "Site-specific development plan" means a plan describing with reasonable certainty the type and intensity of use proposed for a specific parcel or parcels of property, which plan shall create a vested property right.

B. The following shall be considered site-specific development plans:

Development Review Procedure	Site-Specific Development Plan
Special use permit review pursuant to Section 4.05.010	Site plan approved by Town Council
Minor development review, pursuant to Section 4.06.060, not accompanied by subdivision of land	Final development plan approved by Planning Commission
Major development review, pursuant to Section 4.06.070, not accompanied by subdivision of land	Final development plan approved by Town Council
PUD review, pursuant to Section 4.11.040, not accompanied by subdivision of land	Final PUD development plan approved by Town Council pursuant to Section 4.11.040(I)

PUD review, pursuant to Section 4.11.040, accompanied by subdivision of land	Final plat approval by Town Council
Subdivision review, pursuant to Chapter 4.12, including minor, subdivisions, lot line adjustments, division of property into condominium or townhouse units	Final plat approved by Town Council

C. If not indicated above, "site-specific development plan" shall mean the final approval step, irrespective of the name or designation of such approval, which occurs prior to building permit application.

D. The Town Council may by agreement with the applicant designate an approval other than those indicated above, or the final approval step, to serve as the site-specific development plan approval for a specific project. The following are specifically excluded from, and shall not constitute, a site-specific development plan: variances issued by the Planning Commission, business licenses, floodway or floodplain permits, franchises, temporary use permits, any comprehensive master plan element, designation of areas of state interest, creation of improvement districts, zoning in conjunction with annexation to the Town, or any rezoning.

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 and shall be deemed established upon approval of such site-specific development plan.

(Amended 2-13-2000; Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.17.030. Alternative creation of vested property rights.

If an applicant desires an approval by the Town Council or Planning Commission, as the case may be, other than as defined in Section 4.17.020 to be an approval of a site-specific development plan with the effect of creating vested property rights pursuant to C.R.S. Title 24, Art. 68, the applicant must so request at least 30 days prior to the date of said approval by the Town Council or Planning Commission, as applicable, is to be considered. Failure to so request renders the approval by the Town Council or Planning Commission, as the case may be, not an approval of a site-specific development plan and no vested property rights shall be deemed to have been created by such approval except in the case of an approval as provided for in Section 4.17.020.

(Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.17.040. Notice of hearing.

No site-specific development plan shall be approved by the Town Council or Planning Commission, as applicable, until after a public hearing preceded by written public notice of such hearing. Such notice may, at the option of the Town, be combined with the notice for any other hearing to be held in conjunction with the hearing on the site-specific development plan for the subject property. At such hearing, persons with an interest in the subject matter of the hearing shall have an opportunity to present relevant or material evidence as determined by the Town Council or Planning Commission, as applicable. Said notice shall be in a form substantially similar to appendix "K" at the end of this Title.

(Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.17.050. Action for approval of site-specific development plan, conditions.

A. The action of the Town Council or Planning Commission, as applicable, for approval of a site-specific development plan shall be in the same form as that required to approve any request being considered for the subject property in conjunction with the hearing on the site-specific development plan, such action being either by ordinance, resolution, or motion, as the case may be. The approval may include such terms and conditions as may be reasonably necessary to protect the public health, safety, and welfare, and failure to abide by such terms and conditions may, at the option of the Town Council or Planning Commission, as applicable, and after public hearing, result in the forfeiture of vested property rights. This section shall be strictly construed.

B. Terms and conditions imposed or agreed upon may include, without limitation:

1. Future approvals by the Town not inconsistent with the original approval;
2. Approvals by other agencies or governments;
3. Satisfactory inspections;
4. Completion of all or certain phases of a project by certain dates;
5. Waivers of rights;
6. Completion and satisfactory review of studies or reports;
7. Payment of fees to the Town or other governmental or quasi-governmental agencies as they become due and payable;
8. Payment of costs and expenses incurred by the Town relating to the approval;
9. Continuing review and supervision of the plan and its implementation and development;
10. Obtaining and paying for building permits;
11. Compliance with other codes and laws, including the Uniform Building Code, etc.;
12. Construction of improvements or facilities for the use of future landowners or the public at large; and
13. Dedication of common area or open space, with provision for its maintenance.

(Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.17.060. Vested property rights, duration.

A. A property right which has been vested as provided for in this chapter shall remain vested for a period of three years.

B. Notwithstanding the provisions of Subsection (A) of this section, the Town Council or Planning Commission, as applicable, is hereby authorized to enter into an agreement with the applicant to provide that property rights shall be vested for a period exceeding three years where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of the development, economic cycles, and market conditions.

(Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.17.070. Waiver.

An applicant may waive a vested property right by separate agreement, which shall be recorded in the office of the County Clerk and Recorder. Unless otherwise agreed to by the Town, any landowners requesting annexation to the Town shall waive in writing any pre-existing vested property rights as a condition of such annexation.

Section 4.17.080. Exceptions to vesting of property rights.

A vested property right, even though once established as provided in this chapter, precludes any zoning or land use action by the Town or pursuant to an initiated measure which would alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in the site-specific development plan, except:

A. With the consent of the affected landowner; or

B. Upon the discovery of natural or manmade hazards on or in the immediate vicinity of the subject property, which hazards could not reasonably have been discovered at the time the site-specific development plan was approved, and which hazards, if uncorrected, would pose a serious threat to the public health, safety, and welfare; or

C. To the extent the affected landowner receives just compensation for all costs, expenses, and liabilities incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultants fees incurred after approval by the Town Council or Planning Commission, as applicable, together with interest thereon at the legal rate until paid. Just compensation shall not include any diminution in the value of the property which is caused by such action.

D. The establishment of a vested property right pursuant to law shall not preclude the application of ordinances or regulations which are general in nature and are applicable to all property subject to land use regulation by the Town, including, but not limited to, building, fire, plumbing, electrical, housing, and dangerous building codes.

(Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.17.090. Amendment to site-specific development plan.

In the event amendments to a site-specific development plan are approved, the effective date of such amendments, for the purpose of the duration of a vested property right, shall be the date of the approval of the original site-specific development plan, unless the Town Council or Planning Commission, as applicable, specifically finds to the contrary and incorporates such finding in its approval of the amendment.

(Ord. No. 08-2020, § 1, 4-28-2020)

Section 4.17.100. Notice of approval.

A. Each map plat, or site plan constituting a site-specific development plan shall contain the following language conspicuously displayed on at least the first page of each document:

"APPROVAL OF THIS PLAN CREATES A VESTED PROPERTY RIGHT PURSUANT TO C.R.S. § 24-68-103."

B. Failure to include this statement shall invalidate the creation of the vested property right. In addition, within 14 days of approval of a site-specific development plan, the Town Clerk shall cause to be published, once in a newspaper of general circulation within the Town, a notice describing the general nature of the development

and use approved, describing the property affected, and stating that a vested property right has been created and the duration thereof. Said notice shall be in the form contained in appendix "L" of this Title.

Section 4.17.110. Payment of costs.

In addition to any and all other fees and charges imposed by this Title, the applicant for approval of a site-specific development plan shall pay all costs occasioned to the Town as a result of the site-specific development plan review, including publication of notices, public hearing, and review costs, when such costs are incurred apart and in addition to costs otherwise incurred by the Town or applicant for a public hearing relative to the subject property.

Section 4.17.120. Other provisions unaffected.

Approval of a site-specific development plan shall not constitute an exemption from or waiver of any other provisions of this Title pertaining to the development and use of property.

Section 4.17.130. Limitations.

Nothing in this chapter is intended to create any vested property right, but only to implement C.R.S. Title 24, Art. 68, as amended. In the event of the repeal of said article or judicial determination that said article is invalid or unconstitutional, this chapter shall be deemed to be repealed, and the provisions hereof no longer effective.

Section 4.17.140. Applicability.

This chapter shall apply only to site-specific development plans approved after January 1, 1988.

CHAPTER 4.18. SEXUALLY ORIENTED BUSINESSES

Section 4.18.010. Purpose and description.

A. The purpose of this chapter is to allow the reasonable location of sexually oriented businesses within the Town in a manner which will protect property values, neighborhoods and residents from the potential adverse secondary effects of sexually oriented businesses, while providing to those who desire to patronize sexually oriented businesses such opportunity in appropriate areas within the Town. It is not the intent of this chapter to suppress any speech activities protected by the First Amendment to the United States Constitution but to impose content neutral regulations which address the adverse secondary effects that sexually oriented businesses may have on adjoining properties.

B. It has been determined, and reflected in the land use studies of various U.S. cities, that businesses which have as their primary purpose the selling, renting or showing of sexually explicit materials have negative secondary impacts upon surrounding businesses and residences. The experience in other U.S. cities is that the location of sexually oriented businesses significantly increases the incidence of crimes, especially sex offenses, including sexual assault, indecent exposure, lewd and lascivious behavior, and child molestation.

C. It has been determined, and reflected in the land use studies of various U.S. cities, that sexually oriented businesses in business districts which are immediately adjacent to and which serve residential neighborhoods have a deleterious effect on both the business and the residential segments of the neighborhood, causing blight and down-grading of property values.

D. It is the intent of these regulations to allow sexually oriented businesses to exist within the Town in various dispersed locations rather than to allow them to concentrate in any one business area. It is further the

purpose of these regulations to require separation requirements between sexually oriented businesses and residential uses, churches, parks, and educational institutions in an effort to buffer these uses from the secondary impacts created by sexually oriented business activity.

Section 4.18.020. Definitions.

Unless otherwise defined in this section, terms used in this chapter pertaining to sexually oriented businesses shall be as defined in Section 5.14.020. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Business means and includes a sexually oriented business as defined in Section 5.14.020.

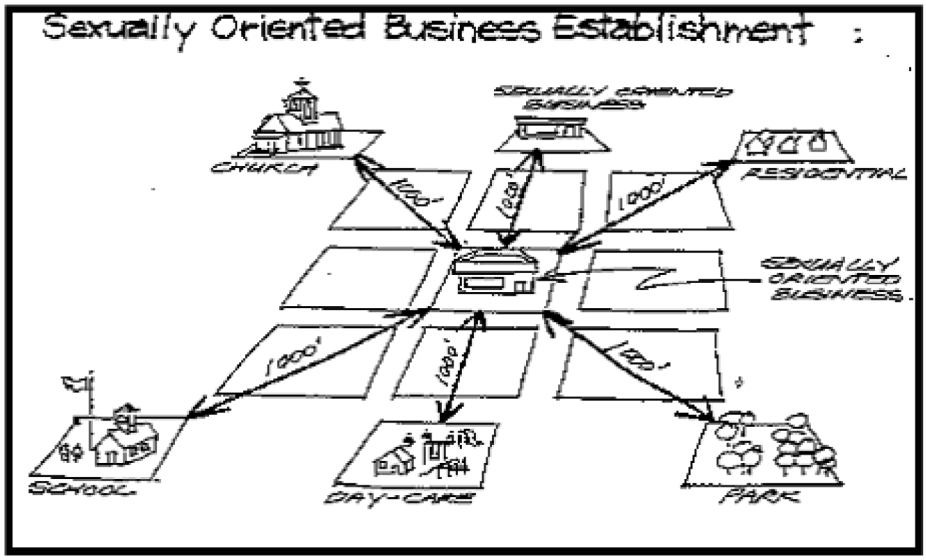
Section 4.18.030. Special use permit required.

A special use permit is required for the operation of a sexually oriented business in the Industrial Zone District. Additional requirements for the granting of a special use permit are found in Section 4.05.010.

Section 4.18.040. Separation requirements.

No sexually oriented business shall be located within 1,000 feet of another sexually oriented business, residentially zoned or used property, church, day care center, park or educational institution (whether within or without the Town). A waiver of the foregoing restrictions may be applied for in accordance with Subsection (B) of this section.

A. *Method of measurement.* The 1,000 feet separation measurement shall be made in a straight line without regard to intervening structures or objects from the nearest property line of the proposed sexually oriented business to the nearest property line of another sexually oriented business, residentially zoned or used property, church, park, day care center or educational institution.



B. *Waiver criteria.* In establishing the provisions of this section, the Town Council hereby finds and determines that there may be exceptional or extraordinary circumstances or conditions which are applicable to properties within the Town or to the intended uses of properties within the Town that do not generally apply to the property or class of uses in the same zone district, and such that denial of an

application for relief would result in an inability to reasonably utilize property. Therefore, it is necessary to provide for such extraordinary relief in the form of a waiver. In reviewing such applications for waivers, the burden shall be upon the applicant to meet the criteria set forth in this section.

1. A waiver to the separation requirements set forth in this section may be granted as a part of the special use review process if the presumptions in Section 4.18.010 are overcome by proof that the establishment of a sexually oriented business within 1,000 feet of another sexually oriented business establishment or establishment of a sexually oriented business within 1,000 feet of any residential zone district, residential use, park, church or educational institution, as applicable, will not have a deleterious effect on surrounding residential and business areas by creating blight, down-grading of property values or tending to cause an increase in crime.
2. In granting a waiver to the separation requirements, the Planning Commission or Town Council may impose reasonable conditions relating to hours of operation, screening, buffering and signage as long as the conditions imposed are not designed to prohibit the dissemination of protected materials under the First Amendment to the United States Constitution.

(Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.18.050. Criteria for permit approval.

It shall be unlawful for any person to conduct or establish any sexually oriented business activity or enterprise until a special use permit for a sexually oriented business has been approved by the Town Council. Such permits shall be approved if the criteria set forth in Section 4.05.010 and the following criteria are met:

A. The subject property is zoned (I) Industrial Zone District;

B. The subject property meets the 1,000-foot separation requirements as set forth in Section 4.18.040 or a waiver has been granted pursuant to Subsection (B) of the same section;

C. The subject property contains off-street parking in accordance with the requirements of Section 4.07.140; and

D. The proposed sexually oriented business building has a certificate of occupancy.

(Ord. No. 08-2020 , § 1, 4-28-2020)

Section 4.18.060. Review process.

Applicants for a special use permit for a sexually oriented business shall submit a completed special use application form which contains the information required by 4.05.010, and, in addition, distances to other sexually oriented businesses, residentially zoned or used property, churches, day care centers, and park or educational institutions. The application shall be reviewed pursuant to the special use permit process as outlined in Section 4.05.010.

CHAPTER 4.19. WIRELESS COMMUNICATIONS FACILITIES

Section 4.19.010. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alternative tower structure means any man-made trees, clock towers, bell steeples, light poles, water towers, farm silos, or similar alternative design mounting structures that conceal where technically feasible the presence of WCFs to make them architecturally compatible with the surrounding area pursuant to this chapter. A stand-alone pole in the right-of-way that accommodates small cell facilities is considered an alternative tower structure provided it meets the concealment standards of this chapter. Alternative tower structures are not considered towers, for the purposes of this chapter.

Antenna means any device used to transmit and/or receive radio or electromagnetic waves such as, but not limited to panel antennas, reflecting discs, microwave dishes, whip antennas, directional and non-directional antennas consisting of one or more elements, multiple antenna configurations, or other similar devised and configurations.

Antennas, panel means an array of antennas, rectangular in shape, used to transmit and receive telecommunication signals.

Antenna, whip means a single antenna that is cylindrical in shape and omni-directional.

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

A. Equipment associated with wireless communications services such as private broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul that, at the time the relevant application is filed with the Town under this chapter, has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

B. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplied, and comparable equipment, regardless of technological configuration (including distributed antenna systems ("DAS") and small-cell networks) that, at the time the relevant application is filed with the Town under this section, has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

The definition of base station does not include any structure that, at the time the relevant application is filed with the Town under this chapter, does not support or house equipment described in paragraphs A and B above.

Camouflage or camouflage design techniques means measures used in the design and siting of wireless communication facilities with the intent to minimize or eliminate the visual impact of such facilities to surrounding uses. A WCF site utilizes camouflage design techniques when it (i) is integrated as an architectural feature of an existing structure such as a cupola, or (ii) is integrated in an outdoor fixture such as a flagpole, while still appearing to some extent as a WCF. This definition does not include the use of concealment design elements so that a facility looks like something other than a wireless tower or base station.

Collocation means:

A. For the purposes of eligible facilities requests, means the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

B. For the purposes of facilities subject to shot clocks governed by 47 U.S.C. Sec. 332, means attachment of facilities to existing structures, regardless of whether the structure or location has previously been zoned for wireless facilities.

Concealment means utilization of elements of stealth design in a facility so that the facility looks like something other than a wireless tower or base station. Language such as "stealth," "camouflage," or similar in any permit or other document required by the Town Code is included in this definition to the extent such permit or other document reflects an intent at the time of approval to condition the site's approval on a design that looks like something else. Concealment can further include a design which mimics and is consistent with the nearby natural, or architectural features (such as an artificial tree), or is incorporated into (including without limitation, being attached to the exterior of such facility and painted to match it) or replaces existing permitted facilities (including without limitation, stop signs or other traffic signs or freestanding light standards) so that the presence of the WCF is not apparent. This definition does not include conditions that merely minimize visual impact but do not incorporate concealment design elements so that the facility looks like something other than a wireless tower or base station.

Eligible facilities request means any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station involving:

A. Collocation of new transmission equipment.

B. Removal of transmission equipment.

C. Replacement of transmission equipment.

A request for modification of an existing tower or base station that does not comply with the generally applicable building, structural, electrical, and safety codes or with other laws codifying objective standards reasonably related to health and safety, or does not comply with any relevant Federal requirements, is not an eligible facilities request.

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

Equipment cabinet means a cabinet or building used to house equipment used by telecommunication providers at a wireless communications facility. This definition does not include relatively small electronic components, such as remote radio units, radio transceivers, amplifiers, or other devices mounted behind antennas, if they are not used as physical containers for smaller, distinct devices.

Existing means for purposes of this chapter, a constructed tower or base station that was reviewed, approved, and lawfully constructed in accordance with all requirements of applicable law as of the time of an eligible facilities request, provided that a tower that exists as a legal, non-conforming use and was lawfully constructed is existing for purposes of this definition.

OTARD means over-the-air receiving device.

OTARD antenna means:

A. An antenna that is designed to receive direct broadcast satellite service, including direct-to-home satellite services, that is one meter or less in diameter; or

B. An antenna that is designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instruction television fixed services, and local multipoint distribution services, and that is one meter or less in diameter or diagonal measurement; or

C. An antenna that is designed to receive television broadcast signals.

OTARD antenna structure means any pole, tower, or other structure designed and intended to support an OTARD antenna.

Related accessory equipment means the transmission equipment customarily used with, and incidental to wireless communication facilities antennas, including by way of example, coaxial or fiber-optic cable, regular and backup power supply and remote radio units.

Right-of-way means in the context of this chapter any public street or road that is dedicated to public use for vehicular traffic except for those rights-of-way owned by the Colorado Department of Transportation within the Town limits.

Site means in the context of this chapter for towers and eligible support structures, a site means the current boundaries of the leased or owned property surrounding the tower or eligible support structure and any access or utility easements currently related to the site. For alternative tower structures, base stations and small cell facilities in the right-of-way, a site is further restricted to that area comprising the base of the structure and to other related accessory equipment already installed on the ground.

Small cell facility means a WCF where each antenna is located inside an enclosure of no more than three cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three cubic feet; and primary equipment enclosures are no larger than 17 cubic feet in volume. The following associated equipment may be located outside of the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation box, ground-based enclosure, back-up power systems, grounding equipment, power transfer switch and cut-off switch.

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

A. For towers other than alternative tower structures, it increases the height of the tower by more than ten percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater, as measured from the top of an existing antenna to the bottom of a proposed new antenna; for other eligible support structures, it increases the height of the structure by more than ten percent or more than ten feet, whichever is greater, as measured from the top of an existing antenna to the bottom of a proposed new antenna;

B. For towers, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;

C. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, as determined on a case-by-case basis based on the location of the eligible support structure but not to exceed four cabinets per application; or for base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent larger in height or overall volume than any other ground cabinets associated with the structure;

D. For any eligible support structure, it entails any excavation or deployment outside the current site;

E. For any eligible support structure, it would defeat the concealment elements of the eligible support structure by causing a reasonable person to view the structure's intended stealth design as no longer effective;

F. For any eligible support structure, it does not comply with record evidence of conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that would not exceed the thresholds identified in paragraphs A, B, and C of this definition.

For purposes of determining whether a substantial change exists, changes in height are measured from the original support structure in cases where deployments are or will be separated horizontally, such as on building rooftops; in other circumstances, changes in height are measured from the dimensions of the tower or base

station, inclusive of approved appurtenances and any modifications that were approved prior to February 22, 2012.

Tower means any structure that is designed and built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. The term includes radio and television transmission towers, self-supporting lattice towers, guy towers, monopoles, microwave towers, common carrier towers, cellular telephone towers and the like. Alternative tower structures and small cell facilities in the rights-of-way are not towers.

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

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

(Ord. No. 8-2021 , 8-10-2021)

Section 4.19.020. Purpose and goals.

The purpose of these provisions is to establish requirements for the siting of wireless communications facilities. The goals of these provisions are to:

A. Provide for the managed development and installation, maintenance, modification, and removal of wireless communications infrastructure in the Town with the fewest number of WCFs to complete a network without unreasonably discriminating against wireless communications providers of functionally equivalent services including all of those who install, maintain, operate, and remove WCFs.

B. Promote and protect the public health, safety, and welfare by reducing the visibility of WCFs to the fullest extent possible through techniques including, but not limited to, concealment design techniques and undergrounding of WCFs and the equipment associated therewith.

C. Encourage the deployment of smaller, less intrusive WCFs to supplement existing larger WCFs.

D. Encourage the use of wall mounted panel antennas.

E. Encourage roof mounted antennas only when wall mounted antennas will not provide adequate service or are not otherwise feasible.

F. Encourage the location of towers in non-residential areas, in a manner that minimizes the total number of towers needed throughout the community.

G. Encourage strongly the collocation of WCFs on new and existing sites.

H. Encourage owners and users of antennas and towers to locate them, to the extent possible, in areas where the adverse impact on the community is minimized.

I. Enhance the ability of wireless communications service providers to provide such services to the community quickly, effectively, and efficiently.

J. Effectively manage small cell facilities in the right-of-way.

(Ord. No. 8-2021 , 8-10-2021)

Section 4.19.030. Applicability; waiver; exemptions.

The requirements set forth in this section shall apply to all WCF applications for base stations, alternative tower structures, alternative tower structures located within right-of-way, and towers as defined elsewhere herein. The Town shall have the authority to waive any requirement or standard set forth in this section, if the Town makes a determination that the specific requirement or standard is preempted by Federal or State law. Prior to applying the waiver to any pending application, the Town shall, in consultation with the Town Manager and Town Attorney, make a written preemption determination which written determination shall identify the specific requirement or standard that is being waived and cite to the specific Federal or State law provision that preempts the specific Town requirement or standard set forth in this section. The requirements set forth in this section shall not apply to:

A. *Amateur radio antennas.* Amateur radio antennas that are owned and operated by a federally licensed amateur radio station operator or are used exclusively for receive-only antennas, provided that the requirement that the height be no more than the distance from the base of the antenna to the property line is met. The Town or his or her designee has the authority to approve modifications to the height restriction, if in the reasonable discretion of the Town, modifications are necessary to comply with Federal law.

B. *Pre-existing WCFs.* Any WCF for which a permit has been properly issued prior to July 1, 2017, shall not be required to meet the requirements of this section, other than the requirements of Section 4.19.040.A, Section 4.19.040.E and Section 4.19.040.F below. Changes and additions to pre-existing WCFs (including trading out of antennas for an equal number of antennas) shall meet applicable requirements of this section.

C. *Miscellaneous antennas.* Antennas used for reception of television, multi-channel video programming and radio such as OTARD antennas, television broadcast band antennas, and broadcast radio antennas, provided that the requirement that the height be no more than the distance from the base to the property line are met. The Town Manager or her/his designee has the authority to approve modifications to the height restriction related to OTARD antennas and OTARD antenna structures, if in the reasonable discretion of the Town, modifications are necessary to comply with Federal law.

(Ord. No. 8-2021 , 8-10-2021)

Section 4.19.040. Operational standards.

A. *Federal requirements.* All WCFs shall meet the current standards and regulations of the FAA, the FCC and any other agency of the Federal government with the authority to regulate WCFs. If such standards and regulations are changed, then the owners of the WCF governed by this section shall bring such facility into compliance with such revised standards and regulations within the time period mandated by the controlling

Federal agency. Failure to meet such revised standards and regulations shall constitute grounds for the removal of the WCF at the owner's expense.

B. *Radio frequency standards.* All WCFs shall comply with Federal standards for radio frequency emissions. If concerns regarding compliance with radio frequency emissions standards for a WCF have been made to the Town, the Town may request that the owner or operator of the WCF provide information demonstrating compliance. If such information is not sufficient, in the reasonable discretion of the Town, to demonstrate compliance, the Town may request and the owner or operator of the WCF shall submit a project implementation report which provides cumulative field measurements of radio frequency emissions of all antennas installed at the subject site, and which compares the results with established Federal standards. If, upon review, the Town finds that the facility does not meet Federal standards, the Town may require corrective action within a reasonable period of time, and if not corrected, may require removal of the WCF pursuant to subsection A above. Any reasonable costs incurred by the Town, including reasonable consulting costs to verify compliance with these requirements, shall be paid by the applicant.

C. *Signal interference.* All WCFs shall be designed and sited so as not to cause interference with the normal operation of radio, television, telephone and other communication services utilized by adjacent residential and non-residential properties; nor shall any such facilities interfere with any public safety communications. The applicant shall provide a written statement ("signal interference letter") from a qualified radio frequency engineer, certifying that a technical evaluation of existing and proposed facilities indicates no potential interference problems, and shall allow the Town to monitor interference levels with public safety communications during this process.

D. *Legal access.* In all applications for WCFs outside of the right-of-way, an applicant shall demonstrate that it owns or has lease rights to the site.

E. *Operation and maintenance.* To ensure the structural integrity of WCFs, the owner of a WCF shall ensure that it is maintained in compliance with standards contained in applicable local building and safety codes. If upon inspection, the Town determines that a WCF fails to comply with such codes and constitutes a danger to persons or property, then, upon written notice being provided to the owner of the WCF, the owner shall have 30 days from the date of notice to bring such WCF into compliance. Upon good cause shown by the owner, the Town may extend such compliance period not to exceed 90 days from the date of said notice. If the owner fails to bring such WCF into compliance within said time period, the Town may remove such WCF at the owner's expense. No hazardous materials shall be permitted in association with WCFs, except those necessary for the operations of the WCF and only in accordance with all applicable laws governing such materials.

F. *Abandonment and removal.* If a WCF has not been in use for a period of three months, the owner of the WCF shall notify the Town of the non-use and shall indicate whether re-use is expected within the ensuing three months. Any WCF that is not operated for a continuous period of six months shall be considered abandoned. The Town, in its sole discretion, may require an abandoned WCF to be removed. The owner of such WCF shall remove the same within 30 days of receipt of written notice from the Town. If such WCF is not removed within said 30 days, the Town may remove it at the owner's expense and any approved permits for the WCF shall be deemed to have expired.

(Ord. No. 8-2021 , 8-10-2021)

Section 4.19.050. Design standards.

The requirements set forth in this section shall apply to the location and design of all WCFs governed by this section as specified below; provided, however, that the Town may waive any one or more of these requirements it if determines that the goals of this section are better served thereby. WCFs shall be designed and located to

minimize the impact on surrounding properties and residential neighborhoods and to maintain the character and appearance of the Town, consistent with other provisions of this Code.

A. *Camouflage/concealment.* All WCFs and any related accessory equipment shall, to the maximum extent possible, use concealment design techniques, and where not possible utilize camouflage design techniques. Camouflage design techniques include, but are not limited to using materials, colors, textures, screening, undergrounding, landscaping, or other design options that will blend the WCF to the surrounding natural setting and built environment.

   1. Where WCFs are located in areas of high public visibility, they shall, where physically possible, be designed to be concealed, and where not possible to be concealed, to minimize the WCF profile through placement of equipment fully or partially underground, or by way of example and not limitation, behind landscape berms.

   2. A concealment design may include the use of alternative tower structures should the Town determine that such design meets the intent of this Code and the community is better served thereby.

   3. All WCFs, such as antennas, vaults, equipment rooms, equipment enclosures, and towers shall be constructed of non-reflective materials (visible exterior surfaces only).

B. *Siting.*

   1. No portion of any WCF may extend beyond the property line.

   2. WCFs shall be required to be designed and constructed to permit the facility to accommodate WCFs from at least two wireless service providers on the same WCF unless the Town approves an alternative design. No WCF owner or operator shall unfairly exclude a competitor from using the same facility or site.

   3. WCFs shall be sited in a location that does not reduce the parking for the other principal uses on the parcel below Code standards.

   4. WCFs shall not encroach into any sight triangles.

C. *Lighting.* WCFs shall not be artificially lighted, unless required by the FAA or other applicable governmental authority, or the WCF is mounted on a light pole or other similar structure primarily used for lighting purposes. If lighting is required, the Town may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. Lighting shall be shielded or directed to the greatest extent possible so as to minimize the amount of glare and light falling onto nearby properties, particularly residences.

D. *Landscape and fencing requirements.*

   1. WCFs shall be sited in a manner that does not reduce the landscaped areas for the other principal uses on the lot or parcel, below any applicable Code standards including without limitation, planned unit development standards.

   2. The site of the WCF shall be landscaped with a buffer of plant materials that effectively screen the view of the WCF from adjacent residential property. The standard buffer shall consist of the front, side, and rear landscaped setback on the perimeter of the site.

   3. In locations where the visual impact of the WCF would be minimal, the landscaping requirement may be reduced or waived in whole or in part by the Town.

   4. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such as WCFs sited on large, wooded lots, natural growth around the site perimeter may be sufficient to buffer.

5. No trees larger than four inches in diameter measured at 4½ feet high on the tree may be removed, unless authorized by the Town. To obtain such authorization the applicant shall show that tree removal is necessary, the applicant's plan minimizes the number of trees to be removed and any trees removed are replaced at a ratio of two to one.

E. *Specific design requirements.* Additional design requirements shall be applicable to the types of WCFs as specified below:

1. *Base stations.*

a. Base stations shall be architecturally compatible with respect to attachments, and colored to match the building or structure to which they are attached;

b. The maximum protrusion of such facilities from the building or structure face to which they are attached shall be two feet;

c. Wall mounted WCFs shall not extend above the roofline unless mounted to a penthouse; and

d. Roof mounted WCFs shall be approved only where an applicant demonstrates a wall mounted WCF is inadequate to provide service and shall be evaluated for approval based upon the following criteria:

i. Roof mounted whip antennas shall extend no more than 12 feet above the parapet of any flat roof or ridge of a sloped roof or penthouse to which they are attached;

ii. Roof mounted panel antennas shall extend no more than seven feet above the parapet of a flat roof or ridge of a sloped roof to which they are mounted; and

iii. Other roof mounted related accessory equipment shall extend no more than seven feet above any parapet of a flat roof upon which they may be placed, and shall not be permitted on a sloped roof.

2. *Alternative tower structures (ATS) and small cell facilities.*

a. ATS shall be designed and constructed to look like a building, facility, or structure typically found in the area, in order that the WCF is concealed.

b. Height or size of the proposed ATS or small cell facility should be minimized as much as possible and shall be subject to the maximum height restrictions of the zoning district in which they are located, subject to a maximum height limit of 60 feet;

c. ATS shall be sited in a manner that is least obtrusive to residential structures and residential district boundaries;

d. ATS should take into consideration the uses on adjacent and nearby properties and the compatibility of the facility to these uses;

e. ATS and small cell facilities shall be compatible with the surrounding topography, tree coverage, and foliage;

f. ATS and small cell facilities shall be designed utilizing design characteristics that have the effect of concealing where technically feasible and generally reducing or eliminating visual obtrusiveness; and

g. Visual impacts of the proposed ingress and egress shall be minimized.

3. *Alternative tower structures and small cell facilities located in the right-of-way.*

a. No ATS pole shall be higher than 35 feet including any cannister or antennas located on top of a pole;

b. No pole or structure shall be more than ten feet higher (as measured from the ground to the top of the pole or structure) than any existing utility or traffic signal within 500 feet of the pole or structure;

c. Any new pole for ATS or small cell facilities shall be separated from any other existing WCF facility by a distance of at least 600 feet, unless the new pole replaces an existing traffic signal, street light pole, or similar structure determined by the Town;

d. With respect to pole-mounted components, small cell facilities shall be located on an existing utility pole serving another utility; or be located on a new utility pole where other utility distribution lines are aerial, if there are no reasonable alternatives;

e. ATS must be concealed consistent with other existing natural or manmade features in the right-of-way near the location where the ATS will be located;

f. To the extent reasonably feasible, be consistent with the size and shape of the pole-mounted equipment installed by communications companies on utility poles near the ATS;

g. When placed near a residential property, any ATS or small cell facilities must be placed in front of the common side yard property line between adjoining residential properties. In the case of a corner lot, the facility must be placed in front of the common side yard property line adjoining residential properties, or on the corner formed by two intersecting streets;

h. Small cell facilities shall:

    i. Be designed such that antenna installations on traffic signals are placed in a manner so that the size, appearance, and function of the signal will not be considerably altered; and

    ii. Be designed such that all antennas, mast arms, equipment, and other facilities are sized to minimize visual clutter, and where possible, concealed within the structure; and

    iii. Be consistent with the size and shape of the pole-mounted equipment installed by communications companies on utility poles near the ATS; and;

    iv. Require that any ground mounted equipment be installed in an underground or partially underground equipment vault (projecting not more than 36 inches above grade), or co-located within a traffic cabinet of a design approved by the Town, unless a use by special review is obtained subject to the requirements of the Town Code; and

    v. Not alter vehicular circulation or parking within the right-of-way or impede vehicular, bicycle, or pedestrian access or visibility along the right-of-way; and

    vi. Comply with the Federal Americans with Disabilities Act and all applicable local, State, and Federal law and regulations; and

    vii. Not be located or maintained in a manner that causes unreasonable interference. Unreasonable interference means any use of the right-of-way that disrupts or interferes with its use by the Town, the general public, or other person authorized to use or be present upon the right-of-way, when there exists an alternative that would result in less disruption or interference. Unreasonable interference includes any use of the right-of-way that disrupts

vehicular or pedestrian traffic, any interference with public utilities, and any other activity that will present a hazard to public health, safety, or welfare.

4. *Towers.*

   a. Towers shall either maintain a galvanized steel finish, or, subject to any applicable FAA standards, be painted a neutral color so as to reduce visual obtrusiveness as determined by the Town;

   b. Tower structures should use existing landforms, vegetation, and structures to aid in concealing the facility from view or blending in with the surrounding built and natural environment;

   c. Monopole support structures shall taper from the base to the tip;

   d. All towers shall be enclosed by security fencing or wall at least six feet in height and shall also be equipped with an appropriate anti-climbing device. No security fencing or any portion thereof shall consist of barbed wire or chain link material; and

   e. Towers shall be subject to the maximum height restrictions of the zoning district in which they are located, subject to a maximum height limit of 60 feet.

   f. Towers should be sited in a manner that is least obtrusive to residential structures and residential district boundaries where feasible;

   g. Towers should take into consideration the uses on adjacent and nearby properties and the compatibility of the tower to these uses;

   h. Towers should be designed utilizing design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

   i. Visual impacts of the proposed ingress and egress shall be minimized;

   j. No new towers shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Town that no existing WCFs can accommodate the needs that the applicant proposes to address with its tower application. Evidence submitted to demonstrate that no existing WCFs can accommodate these needs may consist of the following:

      i. No existing WCFs are of sufficient height and are located within the geographic area required to meet the applicant's engineering requirements;

      ii. Existing WCFs do not have sufficient structural strength to support applicant's proposed WCF;

      iii. The applicant's proposed WCF would cause electromagnetic interference with the WCFs on the existing WCFs or the existing WCFs would cause interference with the applicant's proposed WCF; or

      iv. The applicant demonstrates that there are other limiting factors that render existing WCFs unsuitable for collocation.

   k. A tower shall meet the greater of the following minimum setbacks from all property lines:

      i. The setback for a principal building within the applicable zoning;

      ii. Twenty-five percent of the facility height, including WCFs and transmission equipment; or

iii. The tower height, including antennas, if the tower is in or adjacent to a residential district or residential zoned property.

iv. Towers over 40 feet in height shall not be located within one-quarter mile from any existing tower that is over 40 feet in height, unless the applicant has shown to the satisfaction of the Town that there are no reasonably suitable alternative sites in the required geographic area which can meet the applicant's needs.

l. No towers shall be permitted in the right-of-way.

5. *Related accessory equipment.* Related accessory equipment for all WCFs shall meet the following requirements:

a. All buildings, shelters, cabinets, and other accessory components shall be grouped as closely as technically possible;

b. The total footprint coverage area of the WCF's related accessory equipment shall not exceed 350 square feet;

c. No related accessory equipment or accessory structure shall exceed 12 feet in height; and

d. Related accessory equipment shall be located out of sight whenever possible by locating behind parapet walls or within equipment enclosures. Where such alternate locations are not available, the related accessory equipment shall be concealed where technically feasible or otherwise camouflaged in a manner appropriate for the specific site.

(Ord. No. 8-2021 , 8-10-2021)

Section 4.19.060. Review procedures and requirements.

No new WCF shall be constructed and no collocation or modification to any WCF may occur except after a written request from an applicant, reviewed and approved by the Town in accordance with this section. All WCFs, except eligible facilities requests, shall be reviewed pursuant to the following procedures:

A. *Submittal requirements.* Each applicant for a WCF shall be required to submit the following information:

1. Completed application as required by the appropriate section of the Town Code, depending upon whether the matter requires a land use application, rights-of-way application or both;

2. Submittal fee;

3. Signal interference letter (Section 4.19.040(C));

4. Inventory of existing sites (Section 4.19.060(B)); and

5. Any other information deemed necessary by the Town to determine compliance with this section.

B. *Inventory of existing sites.* Each applicant for a WCF shall provide to the Town a narrative and map description of the applicant's existing or then currently proposed WCFs within the Town, and outside of the Town within one mile of its boundaries. In addition, the applicant shall inform the Town generally of the areas of the Town in which it believes WCFs may need to be located within the next three years. The inventory list should identify the site name, site address, and a general description of the facility (e.g., rooftop antennas and ground mounted equipment). This provision is not intended to be a requirement that the applicant submit its business plan, proprietary information, or make commitments regarding locations of WCFs within the Town. Rather, it is an attempt to provide a mechanism for the Town and all applicants for WCFs to share general information, assist in the Town's

comprehensive planning process, and promote collocation by identifying areas in which WCFs might be appropriately constructed for multiple users.

The Town may share such information with other applicants applying for administrative approvals or conditional permits under this section or other organizations seeking to locate WCFs within the jurisdiction of the Town, provided however, that the Town is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

C. *Applications for base stations, alternative tower structures, and alternative tower structures within right-of-way.* In all zoning districts and planned unit developments, each application for a base station, alternative tower structure, or alternative tower structure within right-of-way shall be reviewed and considered for approval by the Town for conformance to this section. Except for WCFs in the right-of-way that meet all requirements of this section or eligible facilities requests, the Town may refer the application to Planning and Zoning Commission for approval if the Town finds the proposed WCF to have a significant visual impact (e.g., proximity to historic or designated view corridors, or on significant community features) or otherwise is substantially incompatible with the structure on which the WCF will be installed, or it does not meet the clear intent of this section.

D. *Applications for towers.* In all zoning districts and planned unit developments, towers may be permitted only as a special use approved by Planning Commission. Such towers shall be reviewed for conformance to this section using the use by special review procedures set forth in Section 4.05.010 of the Town Code in conjunction with the applicable sections of this section. All applications for towers shall demonstrate that other alternative design options such as base stations or alternative tower structures are not viable options.

E. *Administrative review procedures for eligible facilities requests.*

1. *Application.* In all zoning districts and planned unit developments, eligible facilities requests for collocation on or modification of an existing tower or base station shall be considered a use by right subject to administrative review and determination by the Town. The Town shall prepare, and from time to time revise and make publicly available, an application form which shall be limited to the information necessary for the Town to consider whether an application for collocation or modification is an eligible facilities request. Such information may include, without limitation, whether the project:

    a. Would result in a substantial change;

    b. Violates a generally applicable building, structural, electrical, or safety code or other law codifying objective standards reasonably related to public health and safety.

    The application may not require the applicant to demonstrate a need or business case for the proposed modification or collocation.

2. *Type of review.* Upon receipt of an application for an eligible facilities request pursuant to this section, the Town shall review such application to determine whether the application so qualifies.

3. *Timeframe for review.* Subject to the tolling provisions of subparagraph (4) below, within 60 days of the date on which an applicant submits an application seeking approval under this section, the Town shall approve the application unless it determines that the application is not covered by this section.

4. *Tolling of the timeframe for review.* The sixty-day review period begins to run when the application is filed, and may be tolled only by mutual agreement of the Town and the applicant, or in cases where the Town determines that the application is incomplete:

a. To toll the timeframe for incompleteness, the Town must provide written notice to the applicant within 30 days of receipt of the application, specifically delineating all missing documents or information required in the application;

b. The timeframe for review begins running again when the applicant makes a supplemental written submission in response to the Town's notice of incompleteness; and

c. Following a supplemental submission, the Town will notify the applicant within ten days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in subparagraph 4(a) of this subsection E. In the case of a second or subsequent notice of incompleteness, the Town may not specify missing documents or information that were not delineated in the original notice of incompleteness.

5. *Failure to act.* In the event the Town fails to act on a request seeking approval for an eligible facilities request under this section within the timeframe for review (accounting for any tolling), the request shall be deemed granted. The deemed grant of approval becomes effective when the applicant notifies the Town in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.

6. *Interaction with Telecommunications Act Section 332(c)(7).* If the Town determines that the applicant's request is not an eligible facilities request as delineated in this section the presumptively reasonable timeframe under Section 332(c)(7), as prescribed by the FCC's shot clock order, will begin to run from the issuance of the Town's decision that the application is not a covered request. To the extent such information is necessary, the Town may request additional information from the applicant to evaluate the application under Section 332(c)(7) review. The Town shall identify the need for any such additional information together with the notice that the request is not an eligible facilities request, and if such additional information is requested, the reasonable time frame under Section 332(c)(7) will begin to run beginning on the date that such additional information is received by the Town.

F. *Abandonment and removal.* Prior to approval, affidavits shall be required from the owner of the property and from the applicant acknowledging that each is responsible for the removal of a WCF, including related accessory equipment, that is abandoned or is unused for a period of six months.

G. *Decision.* Any decision to approve, approve with conditions, or deny an application for a WCF shall be in writing, supported by substantial evidence in a written record, and shall be provided to the applicant within ten days of the decision. If the approval is for a concealed WCF, the written decision shall specifically identify that the WCF is a concealed facility.

H. *Compliance with applicable law.* Notwithstanding the approval of an application for collocation as described herein, all work done pursuant to WCF applications must be completed in accordance with all applicable building and safety requirements as set forth in the Town Code, and any other applicable regulations. In addition, all WCF applications shall comply with the following:

a. Comply with any permit or license issued by a local, State, or Federal agency with jurisdiction of the WCF;

b. Comply with easements, covenants, conditions and/or restrictions on or applicable to the underlying real property;

c. Be maintained in good working condition and to the standards established at the time of application approval or as otherwise required by applicable law; and

d. Remain free from trash, debris, litter, graffiti, and other forms of vandalism. Any damage shall be repaired as soon as practicable, and in no instance more than ten days from the time of notification by the Town or after discovery by the owner or operator of the site.

I. *Compliance report.* Upon request by the Town, the applicant shall provide a compliance report within 45 days after installation of a WCF, demonstrating that as installed and in operation, the WCF complies with all conditions of approval, applicable Town requirements and standard regulations.

(Ord. No. 8-2021 , 8-10-2021)

Section 4.19.070. Standards for approval.

No WCF, including related accessory equipment, shall be approved unless it meets the following approval criteria:

A. Visual impacts are minimized and view corridors are protected to the greatest extent feasible.

B. Unless a tower site, or otherwise waived pursuant to this section, the WCF utilizes concealment design techniques to avoid adverse impacts on the surrounding area, by ensuring that the facility looks like something other than a tower or base station;

C. The WCF meets the applicable design standards for the type of WCF in accordance with Section 4.19.050, Design standards; and

D. The WCF is and will be operated at all times in accordance with Section 4.19.040.

(Ord. No. 8-2021 , 8-10-2021)

Section 4.19.080. Miscellaneous.

A. *Severability.* If any portion of this chapter is found to be void or ineffective, it shall be deemed severed from this chapter and the remaining provisions shall remain valid and in full force and effect.

B. *Codification amendments.* The codifier of the Town Code is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this chapter within the Town Code.

C. *Effective date.* This chapter shall take effect and be in force immediately upon final adoption. In the event, this chapter is approved by majority vote, but without a minimum of six affirmative votes of Town Council, it shall be deemed approved and effective 30 days after publication following final adoption.

(Ord. No. 8-2021 , 8-10-2021)

APPENDICES

APPENDIX "A" CERTIFICATE OF OWNERSHIP

(Annexation Plat)

We, _____, the owners of ___ percent of the following described property, excluding any public streets and alleys, to-wit:

INSERT FULL LEGAL DESCRIPTION

have by these presents laid out and platted the same as shown hereon and designate the same as _____ Annexation to the Town of Eagle, County of Eagle, State of Colorado.

EXECUTED this _____ day of _____, 20___.

_____

Owners

STATE OF COLORADO)

) ss.

COUNTY OF)

The foregoing certification was acknowledged before me this _____ day of _____, 20___, by _____.

Witness my hand and official seal _____

My commission expires: _____

_____

Notary Public

Note(s)—The foregoing certificate should be used on all annexation plats submitted to the Town. The exact language of the certificate shown above may be altered if necessary with the consent of the Town Attorney. For additional requirements concerning annexation plats, see C.R.S. § 31-12-107 and Section 4.14.010(F).

(Ord. No. 1986-03, app. A, 3-5-1986)

APPENDIX "B" TOWN COUNCIL CERTIFICATE

(Annexation Plat)

The Town Council of the Town of Eagle, Colorado, by Resolution Number _____, duly adopted on the _____, day of _____, 20___, found and determined that annexation of the property designated herein complies with the requirements contained in Article 12, Title 31, C.R.S., as amended, and that said property is eligible for annexation to the Town of Eagle.

The Town Council of the Town of Eagle, Colorado, by Ordinance Number _____, duly adopted on the _____ day of _____, 20___, did annex the property herein described to the Town of Eagle, Colorado.

_____

Mayor

ATTEST:

_____

Town Clerk

Note(s)—The above certificate shall appear on all annexation plats submitted to the Town.

(Ord. No. 1986-03, app. B, 3-5-1986; Ord. No. 08-2020 , § 1, 4-28-2020)

APPENDIX "C" SURVEYOR'S CERTIFICATE

(Annexation Plat)

I, _____, a registered land surveyor licensed under the laws of the State of Colorado, do hereby certify that this survey was made under my direct supervision and that the information hereon is correct to the best of my knowledge and belief, and that no less than one-sixth (⅙) of the perimeter of the area as shown hereon is contiguous with the existing boundaries of the Town of Eagle, Colorado. I further certify that the external boundaries of the property shown on this plat have been monumented on the ground in accordance with Section 4.15.010(G) of the Eagle Municipal Code.

EXECUTED this _____ day of _____, 20___.

_____

Registered Land Surveyor

Note(s)—The above certificate shall appear on all annexation plats filed with the Town.

(Ord. No. 1986-03, app. C, 3-5-1986)

APPENDIX "D" CERTIFICATE OF DEDICATION AND OWNERSHIP

(Subdivision and Development Plats)

We, _____, the sole owners in fee simple of all that real property described as follows:

INSERT FULL LEGAL DESCRIPTION

have by these presents laid out, platted and subdivided the same into lots and blocks as shown on this plat and designate the same as the _____ Subdivision in the Town of Eagle, County of Eagle, State of Colorado; and do hereby grant, convey, dedicate and set apart to the Town of Eagle, County of Eagle, Colorado, for public use the streets shown hereon, including avenues, drives, courts, places and alleys, the public lands shown hereon for their indicated public use and the utility and drainage easements shown hereon for utility and drainage purposes only.

We hereby accept the responsibility for the completion of all required public improvements for the Subdivision, and further, hereby grant the right to install and maintain all necessary structures to the entity responsible for providing the services for which the easements are established.

We further state that this subdivision shall be subject to the protective covenants filed and recorded for this subdivision in the offices of the Clerk and Recorder of Eagle County, Colorado, in Book _____ at Page ___, as Document No. ___.

EXECUTED this _____ day of _____, 20___.

_____

Owners

STATE OF COLORADO)

) ss.

COUNTY OF)

The foregoing Certificate of Dedication and Ownership was acknowledged before me this _____ day of _____, 20___, by _____.

Witness my hand and official seal _____

My commission expires: _____

_____

Notary Public

Note(s)—The foregoing certificate shall appear on all final subdivision plats and all development plats requiring the dedication of lands or easements for public use. The exact language of the certificate may be altered if necessary with the consent of the Town Attorney.

(Ord. No. 1986-03, app. D, 3-5-1986)

APPENDIX "E" SURVEYOR'S CERTIFICATE

(Subdivision and Development Plats)

I, _____, do hereby certify that I am a registered land surveyor licensed under the laws of the State of Colorado, that this plat is a true, correct, and complete plat of the _____, as laid out, platted, dedicated and shown hereon, that such plat was made from an accurate survey of said property by me and under my supervision and correctly shows the location and dimensions of the lots, staked upon the ground in compliance with Title 38, Article 51, C.R.S., as amended, and all other regulations governing the subdivision of land.

EXECUTED this _____ day of _____, 20___.

_____

Registered Land Surveyor

Note(s)—The foregoing certificate shall appear on all final subdivision plats and development plats filed with the Town. The exact language contained in the certificate may be altered, if necessary, with the consent of the Town Attorney. In addition to the above certificate, all plats shall contain a statement by the land surveyor explaining how bearings, if used, were determined. For additional information concerning the requirements for land survey plats, please see C.R.S. § 38-51-102.

(Ord. No. 1986-03, app. E, 3-5-1986)

APPENDIX "F" TITLE CERTIFICATE

_____, does hereby certify that I have examined the title to all lands shown on this plat and that title to such lands is vested in _____, free and clear of all liens, taxes, and encumbrances, except as follows:

INSERT EXCEPTIONS IN FULL DETAIL

EXECUTED this _____ day of _____, 20___.

_____

Title Examiner

Note(s)—The foregoing certificate shall appear on all annexation plats and final subdivision plats. The disclosures contained in the above certificate do not constitute a release of any lien or mortgage which may be required by Town regulations.

(Ord. No. 1986-03, app. F, 3-5-1986)

APPENDIX "G" MORTGAGEE OR LIENHOLDERS CERTIFICATE

_____ does hereby certify that it is the holder of DESCRIBE NATURE OF ENCUMBRANCE against the lands shown on this plat and hereby consents to the subdivision of the lands shown hereon.

EXECUTED this _____ day of _____, 20___.

_____

Mortgagee or Lienholder

Note(s)—The foregoing certificate shall appear on all final subdivision plats and development plats requiring the dedication of lands or easements to the public if liens, mortgages or other encumbrances against the subject property exist. The above certificate does not serve as a release or subordination of the encumbrance which may be required by the Town.

(Ord. No. 1986-03, app. G, 3-5-1986)

APPENDIX "H" PLANNING COMMISSION CERTIFICATE

This plat approved by the Town of Eagle Planning Commission the _____ day of _____, 20___.

_____

Chairman

Note(s)—The foregoing certificate shall appear on all plats requiring Planning Commission review pursuant to Town ordinance.

(Ord. No. 1986-03, app. H, 3-5-1986)

APPENDIX "I" TOWN COUNCIL CERTIFICATE

(Subdivision and Development Plats)

This plat approved by the Town Council of the Town of Eagle, Colorado, this _____ day of _____, 20___, for filing with the Clerk and Recorder of Eagle County, Colorado, and for conveyance or dedication to the Town of the public dedications shown hereon; subject to the provisions that approval in no way obligates the Town of Eagle for financing or constructing of improvements on said lands, streets or easements dedicated to the public except as specifically agreed to by the Town Council of the Town of Eagle. Further, said approval in no way obligates the Town of Eagle for maintenance of public improvements until construction of said improvements has been completed in accordance with the Town of Eagle's specifications and the Town of Eagle has agreed to accept said improvements. This approval does not guarantee that the size, soil conditions, sub-surface geology, ground

water conditions, or flooding conditions of any lot shown hereon are such that a building permit, development permit, or any other required permit will be issued. This approval is with the understanding that all expenses involving required improvements for all utility services, paving, grading, landscaping, curbs, gutters, sidewalks, road lighting, road signs, flood protection devices, drainage structures, and all other improvements that may be required shall be the responsibility of the owners designated hereon and not the Town of Eagle, unless otherwise specifically agreed to in writing by the Town Council.

TOWN OF EAGLE, COLORADO

By: _____

Mayor

Witness my hand and seal of the Town of Eagle, Colorado.

ATTEST:

_____

Town Clerk

Note(s)—The foregoing certificate shall appear on all final subdivision plats and development plats. In the event the Town Planning Commission has the power to grant final approval of a plat pursuant to the Town's ordinances, the words "Town Council" may be substituted by the words "Planning Commission." The exact language contained in the above certificate may be altered, if necessary, with the consent of the Town Attorney.

(Ord. No. 1986-03, app. I, 3-5-1986; Ord. No. 08-2020 , § 1, 4-28-2020)

APPENDIX "J" CLERK AND RECORDER'S CERTIFICATE

This plat was filed for record in the office of the Eagle County Clerk and Recorder at o'clock at ___.M., on the _____ day of _____, 20___, and is duly recorded in Book ___ at Page ___, as Document No. ___.

EAGLE COUNTY CLERK & RECORDER

By: _____

Deputy

Declarations or Protective Covenants are filed in Book at Page ___, as Document No. ___.

Note(s)—The foregoing certificate shall appear on all plats submitted to the Town for recording.

(Ord. No. 1986-03, app. J, 3-5-1986)

APPENDIX "K" NOTICE OF PUBLIC HEARING

Notice is hereby given that on the _____ day of _____, 20___, at ___ o'clock ___.m., at the Eagle Town Hall, 108 West 2nd, Eagle, Colorado, the Town Council will hold a public hearing for the purpose of considering a site-specific development plan for the property and the purpose described below, approval of which plan may create a vested property right pursuant to Colorado law.

Legal Description:

Type and Intensity of Proposed Use:

Any person may appear at such hearing and present evidence upon any matter to be considered by the Town Council.

_____

Town Clerk

Published:

_____

Note(s)—This notice may be combined with other required notices advertising the public hearing for the approval step which is the triggering event for a vested right.

(Amended 5-2-1991; Ord. No. 08-2020 , § 1, 4-28-2020)

APPENDIX "L" NOTICE OF APPROVAL

Notice is hereby given that on the _____ day of _____, 20___, the Town Council of the Town of Eagle, Colorado, approved a site-specific development plan for the property and purpose described below, which approval may have created a vested property right pursuant to Colorado law. Such approval is subject to all rights of referendum and judicial review.

Legal Description:

Type and Intensity of Proposed Use:

_____

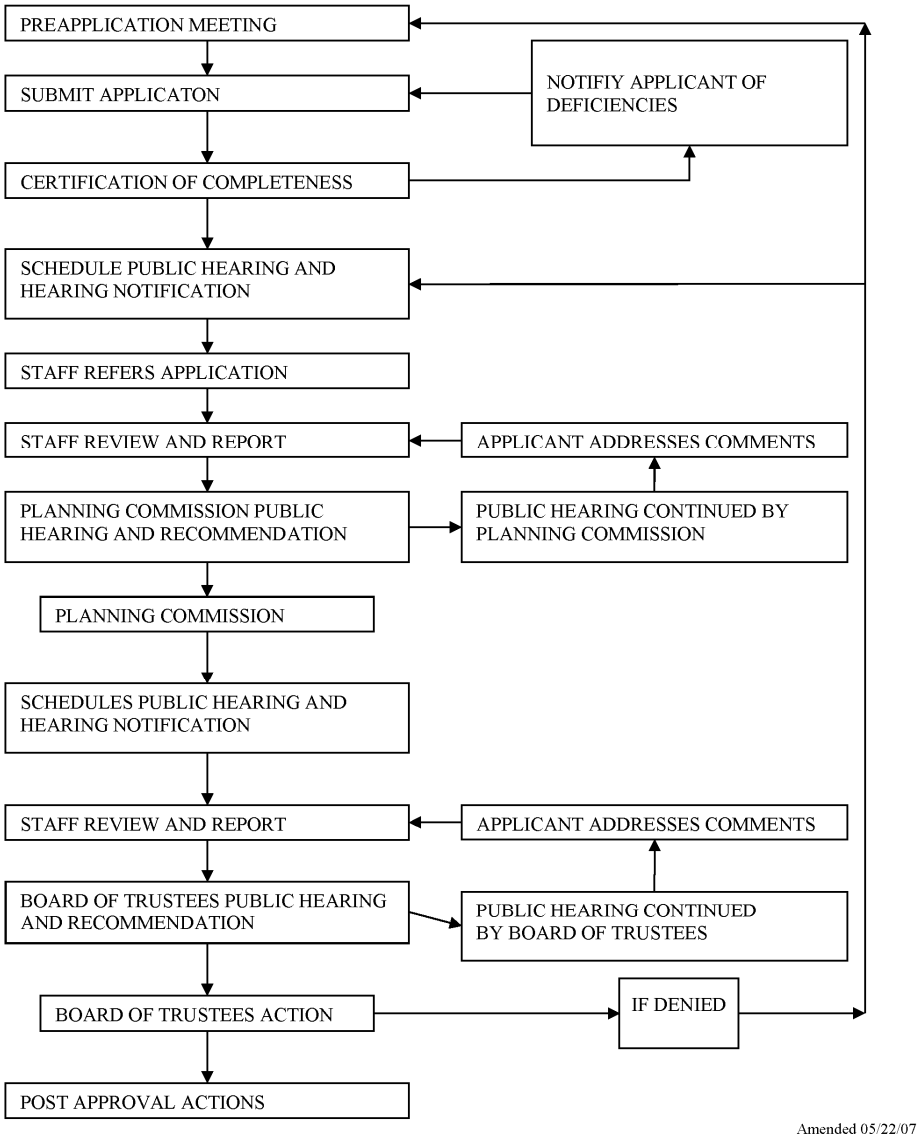
Town Clerk

Published:

_____

(Amended 5-2-1991; Ord. No. 08-2020 , § 1, 4-28-2020)

APPENDIX "M" SUMMARY OF REVIEW PROCEDURES



(Amended 5-22-2007)

APPENDIX "N" COLORADO VERNACULAR ARCHITECTURAL STYLE

Examples of Height and Bulk Plane:

Bulk plane setback on second and third story with matching materials

Third floor residential set-back over mixed-use build-ing

Undesirable Example of Height and Bulk Plane:

Poor example of second and third floor setback: materials are too varied

Examples of Setbacks:

Example of 12-15' setback from public street: creates variation of pedestrian space

Corner setback creates useable public space

Undesirable Example of Setbacks:

Building is not setback from the street and does not present a good orientation to the street

Examples of Architectural Style:

Mixed-use three story building with upper level recesses: modern interpretation of buildings found in traditional western slope communities

Traditional building form and materials on a two story building

Undesirable Example of Architectural Style:

Poor exmaple of architectural style on a two story building

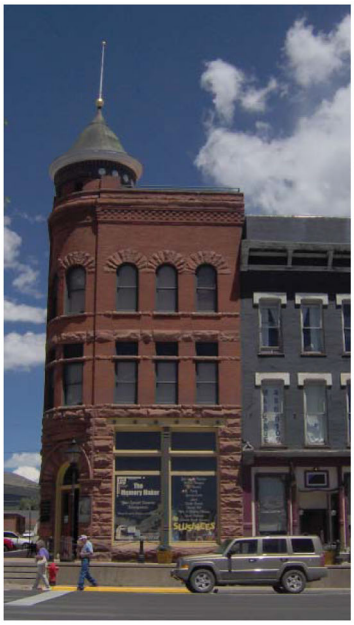
Examples of Corner Treatments:

Historic corner treatment that would be allowed in excess of building height limits - note that the elements are in scale with the building and add appropriate achitectural interest to the district as a whole

Historic corner treatment showing corner entrance and articulated entries at the ground floor level

Contemporary corner treatment with modern materials

Examples of Appropriate Materials:



Amended 05/22/07

(Amended 5-22-2007)