

CHAPTER 16

Zoning

Article 1 General Provisions

- Sec. 16-1-10 Short title
- Sec. 16-1-20 Purposes
- Sec. 16-1-30 Intent
- Sec. 16-1-40 Recordation of waiver of district regulations
- Sec. 16-1-50 Exemption for certain essential services
- Sec. 16-1-60 Authority to require additional studies
- Sec. 16-1-70 Applicability to public agencies
- Sec. 16-1-80 Conceptual or preliminary approval
- Sec. 16-1-90 Definitions

Article 2 Administrative Provisions

- Sec. 16-2-10 Applications for amendments
- Sec. 16-2-20 Applications; information required
- Sec. 16-2-30 Permit requirement
- Sec. 16-2-40 Quasi-judicial matters, generally
- Sec. 16-2-50 Hearing notice; procedure; records
- Sec. 16-2-60 Criteria for zoning or rezoning approval
- Sec. 16-2-70 Planning and Zoning Commission decisions
- Sec. 16-2-80 Zoning or rezoning ordinance; scheduling
- Sec. 16-2-90 Public record
- Sec. 16-2-100 Board of Trustees decision
- Sec. 16-2-110 Appeal of Town Planner and Planning Commission Decision or a Prior Decision of Board of Trustees
- Sec. 16-2-120 Notation to map
- Sec. 16-2-130 Revocation and invalidation of permits
- Sec. 16-2-140 Interpretation; conflict with other laws
- Sec. 16-2-150 Liability of Town
- Sec. 16-2-160 Violations, penalties and remedies
- Sec. 16-2-170 Enforcement; Planning Director; right of entry

Article 3 Zone Districts and Official Map

- Sec. 16-3-10 Zone districts created
- Sec. 16-3-20 Zone district determination of uses
- Sec. 16-3-30 Zoning district map; incorporated; official map
- Sec. 16-3-40 Zoning district map; interpretation; authority and standards

Article 4 Zone District Regulations

- Division 1 Districts*
- Sec. 16-4-10 Industrial and Commercial – IC
- Sec. 16-4-20 Mixed Use/Town Center – MU/TC
- Sec. 16-4-30 Mixed Use/Neighborhood Commercial – MU/NC
- Sec. 16-4-40 Residential – R-1
- Sec. 16-4-50 Open Space, Landscaping and Drainage – OSLD
- Sec. 16-4-60 Government, Park and Employee Housing – GPEH
- Sec. 16-4-70 Rural Residential – RR
- Division 2 Planned Unit Developments*
- Sec. 16-4-110 Planned Unit Development – PUD
- Sec. 16-4-120 Preliminary development plan

- Sec. 16-4-130 Preliminary development plan maps and drawings
- Sec. 16-4-140 Final development plan
- Sec. 16-4-150 Final development plan maps and drawings
- Sec. 16-4-160 Conditions and standards for approval
- Sec. 16-4-170 Amendments to preliminary and final development plans
- Sec. 16-4-180 Recording of amendments
- Sec. 16-4-190 Control of development; enforcement
- Sec. 16-4-200 Assurance of completion
- Sec. 16-4-210 Exemption for a PUD
- Sec. 16-4-220 Administrative amendment procedures
- Sec. 16-4-230 Major modifications of PUD
- Sec. 16-4-240 Lapse of PUD
- Sec. 16-4-250 Preliminary subdivision application with PUD

Article 5 Zoning Variances

- Sec. 16-5-10 Purpose of provisions; limitations
- Sec. 16-5-20 Application; public hearing
- Sec. 16-5-30 Application; contents
- Sec. 16-5-40 Approval criteria
- Sec. 16-5-50 Findings required
- Sec. 16-5-60 Conditional granting
- Sec. 16-5-70 Fees; term
- Sec. 16-5-80 Action notice

Article 6 Special Review Use

- Sec. 16-6-10 Special review use permit
- Sec. 16-6-20 Application filing and processing
- Sec. 16-6-30 Submittal requirements for special review use
- Sec. 16-6-40 Criteria for review, recommendation and approval of special review uses
- Sec. 16-6-50 Amendments to special review use permit
- Sec. 16-6-60 Special review use permit for home occupation child day care homes

Article 7 Nonconforming Uses and Structures

- Sec. 16-7-10 Intent
- Sec. 16-7-20 Uses of land
- Sec. 16-7-30 Nonconforming structures
- Sec. 16-7-40 Uses of structures or of structures and premises in combination
- Sec. 16-7-50 Lot reduction prohibition against establishing new nonconforming uses
- Sec. 16-7-60 Priority of use classifications

Article 8 Off-Street Parking and Loading

- Sec. 16-8-10 Scope and application
- Sec. 16-8-20 Parking; general requirements
- Sec. 16-8-30 Shared parking provisions
- Sec. 16-8-40 Reduction in parking requirements for mixed-use projects
- Sec. 16-8-50 Computation
- Sec. 16-8-60 Utilization
- Sec. 16-8-70 Design and maintenance
- Sec. 16-8-80 Parking; specific requirements
- Sec. 16-8-90 Off-street parking by use
- Sec. 16-8-100 Payment-in-lieu program
- Sec. 16-8-110 Loading; general requirements
- Sec. 16-8-120 Loading; specific requirements

Article 9	Sign Code	
	Sec. 16-9-10	Authority, purpose and relation to other laws
	Sec. 16-9-20	Intent
	Sec. 16-9-30	Signs allowed without a permit
	Sec. 16-9-40	Sign schedule
	Sec. 16-9-50	Exceptions and additional criteria
	Sec. 16-9-60	Informational signs
	Sec. 16-9-70	Board of Trustees decision
Article 10	Environmental Impact Reports	
	Sec. 16-10-10	Purposes
	Sec. 16-10-20	Applicable projects
	Sec. 16-10-30	Exemptions
	Sec. 16-10-40	Studies and data
	Sec. 16-10-50	Report contents
	Sec. 16-10-60	Additional materials
	Sec. 16-10-70	Application and review
Article 11	Flood Damage Prevention	
	Sec. 16-11-10	Purpose
	Sec. 16-11-20	Methods of reducing flood losses
	Sec. 16-11-30	Definitions
	Sec. 16-11-40	Basis for establishing the areas of special flood hazard
	Sec. 16-11-50	Lands to which this Article applies
	Sec. 16-11-60	Compliance
	Sec. 16-11-70	Abrogation and greater restrictions
	Sec. 16-11-80	Interpretation
	Sec. 16-11-90	Warning and disclaimer of liability
	Sec. 16-11-100	Permit requirement
	Sec. 16-11-110	Duties and responsibilities for administration
	Sec. 16-11-120	General standards
	Sec. 16-11-130	Specific standards
Article 12	Vested Property Rights	
	Sec. 16-12-10	Purpose
	Sec. 16-12-20	Definitions
	Sec. 16-12-30	Creation; notice and hearing
	Sec. 16-12-40	Notice of approval
	Sec. 16-12-50	Effective date
	Sec. 16-12-60	Duration and amendment
	Sec. 16-12-70	Payment of costs
	Sec. 16-12-80	Other provisions unaffected
	Sec. 16-12-90	Rights by agreement
	Sec. 16-12-100	Effect of termination on public rights-of-way
	Sec. 16-12-110	Limitations

ARTICLE 1

General Provisions

Sec. 16-1-10. Short title.

This Chapter shall be known and may be cited as the "Zoning Code of the Town of Red Cliff," "this Zoning Code" or "this Chapter." (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-1-20. Purposes.

The purposes of this Chapter are to:

- (1) Divide the Town into zones or districts restricting and requiring therein the location, erection, construction, reconstruction, alteration and use of buildings, structures and land for trade, industry, residence and other specified uses.
- (2) Regulate the intensity of the use of lot areas.
- (3) Regulate and determine the area of open spaces surrounding such buildings.
- (4) Establish building lines and locations of buildings designed for specified industrial, business, residential and other uses within such areas.
- (5) Fix standards to which buildings or structures shall conform.
- (6) Fix standards for use of areas adjoining such buildings or structures.
- (7) Implement the goals of the adopted comprehensive plan and other planning documents of the Town. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-1-30. Intent.

As authorized by the state statutes and by Article XX of the Colorado Constitution, this Chapter is intended to ensure the following benefits to the citizens:

- (1) To promote the health, safety and welfare of the community.
- (2) To lessen congestion on the roads and enhance pedestrian and vehicular movement with the least detriment to environmental quality.
- (3) To secure the safety of the people against fire hazards, avalanche, unstable slopes, rock fall areas, mudslides and flood danger.
- (4) To provide adequate light and open space and avoid undue concentration of population.
- (5) To provide clean air by protecting the clean air drainage basin and reducing pollutants into the air.

(6) To protect water sources by maintaining the natural watershed, preventing accelerated erosion, reducing runoff and consequent sedimentation, eliminating pollutants introduced directly into streams and enhancing public access to recreational water sources.

(7) To prevent overcrowding of land and avoid transportation and service demands that cannot be satisfied.

(8) To facilitate adequate provisions for water, sewage, schools, parks, open space, medical facilities, recreation and other public requirements to achieve community self-sufficiency.

(9) To preserve areas of historical and archaeological importance and provide for adequate open spaces and preservation of scenic views.

(10) To maintain the natural scenic beauty of the Eagle River Valley to sustain the tourist-based economy.

(11) To provide for phased development of government services and facilities and to aid in realizing the policies, objectives and goals of the Town.

(12) To encourage innovations in residential development and renewal so that the growing demand for housing may be met by greater variety in type and design of dwellings and by the conservation of more efficient and attractive use of open space.

(13) To encourage moderate- and low-income housing to satisfy local needs and encourage a proper balance between tourist and residential housing.

(14) To advance a more effective use of land and a higher quality of site planning reflecting improvements in the technology of land development.

(15) To provide a planned and orderly use of land, protection of the environment and preservation of viability as a tourist area, all to conserve the value of the investments of the people of the community and encourage the most appropriate use of land throughout the Town.

(16) To assist in controlling the effect of any proposed improvement on the outlook of any adjacent or neighboring property. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-1-40. Recordation of waiver of district regulations.

(a) Whenever the zoning classification of an area of land is changed by legislative action and such change, in whole or in part, is based upon a representation by the applicant that he or she will waive certain rights available to him or her under the proposed district classification and that he or she will use the area of land involved or erect structures thereon in a manner more restrictive than otherwise would be required, no building permits shall be issued except in strict compliance with such waiver.

(b) Whenever permission to develop is based, in whole or in part, upon a representation by an applicant that he or she will waive certain rights available to him or her under an existing district classification and that he or she will use the area in a manner more restrained than would otherwise be required, no building permits shall be issued except in strict compliance with such waiver.

(c) Whenever an applicant for rezoning or development permission has waived such rights or consented to such restraints and the waiver or restraints do not appear on a plat or building site plan of record, then the secretary of the Planning and Zoning Commission shall make notation of the same in the records of the County Clerk and Recorder.

(d) All such limitations shall be binding upon the applicant and his or her successors and assigns, all of whom shall be deemed conclusively to have assented to all of these conditions, waivers or limitations and to have waived objection to the same. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-1-50. Exemption for certain essential services.

(a) Certain essential services shall be allowed as authorized by law, it being the intention of this Section to exempt such services from the application of this Zoning Code.

(b) For purposes of this Section, essential services exempted from the application of this Zoning Code shall include the normal maintenance by public utilities, special districts or municipal departments of underground, surface or overhead electrical, television, steam, gas, fuel, water, sewer or storm drainage transmission, collection or distribution systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar equipment in connection therewith.

(c) Not included in the exemption granted by this Section is the construction or alteration by public utilities, special districts or municipal departments of any aboveground systems, such systems requiring special review approval.

(d) Business offices and maintenance yards of such public utilities, special districts or municipal departments are not included in the exemption granted by this Section. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-1-60. Authority to require additional studies.

Whenever the Planning and Zoning Commission conducts a review of a development proposal by means of the provisions of this Zoning Code, it shall be necessary to adequately apprise itself of the consequence of a development, including all applicable items listed in Sections 16-1-20 and 16-1-30 above. The applicant, at his or her cost, shall furnish information and data needed for his or her project. All required statements or analyses shall be executed by professionals or other persons qualified to provide the requested reports. If the Planning and Zoning Commission refuses to accept said persons as qualified, which refusal shall not be arbitrary, the applicant shall present alternate qualified persons to the satisfaction of the Planning and Zoning Commission. The results of any study or analysis shall not dictate either approval or disapproval of the proposed project. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-1-70. Applicability to public agencies.

The provisions of this Chapter, to the extent permitted by law, shall apply to all public bodies, districts and agencies of the federal, state, county and municipal governments. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-1-80. Conceptual or preliminary approval.

Except as specifically provided in Article 12 of this Chapter, whenever within the requirements of this Chapter provision is made for a conceptual or preliminary approval by the Planning and Zoning Commission or Board of Trustees of a plan, project, rezoning activity or other action, such approval shall not be considered binding or as a final approval, and any person who expends time or funds in reliance thereon shall do so at his or her own risk. The Town shall have no liability or responsibility for any detriment incurred thereby, nor shall its agencies be stopped by reasons thereof from withholding final approval. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-1-90. Definitions.

For the purpose of this Zoning Code, certain words and phrases shall be defined as set forth in this Article. When not inconsistent with the text, words used in the present tense include the future, words used in the singular number include the plural, words in the plural include the singular and the masculine includes the feminine. The word *shall* is mandatory, and the word *may* is permissive.

Access means the place, means or way by which pedestrians and vehicles shall have adequate and usable ingress and egress to property, use or parking space.

Accessory apartment means an additional dwelling unit, either in or added to the existing principal building on the lot, for use as a complete, independent living facility with provision within the accessory apartment for cooking, eating, sanitation and sleeping. Such a dwelling is an accessory use to the main dwelling or use of the lot and shall not be sold separately.

Accessory building or accessory use means a subordinate building or use which is located on the same lot on which the main building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such building or main use and does not change the basic character thereof as determined by its principal use. Accessory buildings shall not be provided with kitchen or bath facilities sufficient to render them suitable for permanent residential occupancy, and approval of the Planning and Zoning Commission and a building permit are required. Accessory building and uses shall be permitted in every zone district.

Accommodation unit means any room or group of rooms used primarily for transient lodging and accessible from common corridors, walks or balconies without passing through another accommodation unit, and shall be no larger than six hundred (600) square feet. An accommodation unit may only include an efficiency kitchen. Each accommodation unit shall be counted as one-third ($\frac{1}{3}$) of a dwelling unit for purposes of calculating allowable units per acre except as set forth in the definition of dwelling, single-family below.

Alley means a public or private way permanently reserved as a secondary means of access to abutting property.

Apartment means a room or suite of rooms in a multi-family structure, which is arranged, designed, used or intended to be used as a housekeeping unit for a single family.

Automobile service station and repair means any premises where gasoline and/or other petroleum products are sold and/or light maintenance activities such as engine tune-ups,

lubrication and minor repairs are conducted, but shall not include premises where heavy automobile maintenance activities such as engine overhauls, tire recapping and body repainting or repair are conducted.

Automobile storage yard means any place where two (2) or more motor vehicles are stored in the open, or any land, building or structure used for wrecking or storing such motor vehicles or parts thereof, including farm vehicles or farm machinery and other commercial or contractor's equipment and machinery.

Balcony means that portion of a structure which is essentially open and outward from the main building with a floor and a railing, with or without a ceiling, and over four (4) feet above the existing ground level.

Basement means that area of a structure, fifty percent (50%) or more of which is below grade, subordinate to the principal use of the building and used for parking, storage and other secondary purposes. Those areas beneath a basement shall be designated subbasements.

Bed and breakfast residence means an owner-occupied dwelling unit that contains no more than three (3) guest rooms where lodging, with or without meals, is provided for compensation.

Bedroom means any room separate from the primary living area of a dwelling unit conforming to the applicable building codes and this Code for habitable space or rooms.

Buildable area means the area of any site, lot, parcel or any portion thereof which does not contain land under water, public rights-of-way or areas in excess of forty percent (40%) slope.

Building means any permanent structure built for the shelter or enclosure of persons, animals, chattels or property of any kind and does not include advertising signboards or fences.

Building area ratio:

a. For the purpose of calculating building area ratio, there shall be included that area within the surrounding exterior walls (measured from their exterior surface) of a building or portion thereof. The building area of a building or portion thereof shall include all exterior walkways, terraces, courts, stairways or other constructed areas under a horizontal projection of a roof or floor above.

b. Garages shall not be included in building area ratio calculations to the extent they do not exceed the following square footage limitations:

1. One-car garage: four hundred (400) square feet maximum.
2. Two-car garage: six hundred (600) square feet maximum.

Garage square footage in excess of these square footages shall be included in building area ratio calculations.

c. Decks which are above grade and are uncovered and which extend out from the enclosed space of the structure shall be included in building area ratio calculations to the extent that fifty

percent (50%) of such decks shall be calculated, and decks which do not exceed height restrictions established in this Zoning Code and which are constructed on the roofs of floors below shall not be included in building area ratio calculations.

d. Crawlspace without windows, suitable only for storage and not in excess of four (4) feet in height, shall not be included in building area ratio calculations.

Building height means the distance measured vertically from the existing grade or finished grade (whichever is more restrictive) at any given point outside the building to the top of a flat roof, mansard roof or sloping roof. Within a building, height shall be measured vertically from any point on a flat roof, mansard roof or sloping roof to the existing grade directly below said point.

Building line means the same as the front lot setback line.

Building site means the area or lot upon which a building or structure may be erected.

Carport means a structure attached or made a part of the main structure, and which is open to the weather on at least two (2) sides, for the purpose of sheltering motor-driven vehicles used by occupants of the main structure.

Common area means that portion of a condominium project held in common ownership by the owners or the condominium association or that portion of a project other than a condominium project which is not under the exclusive ownership or possession of the owners or occupants of a limited portion of the project.

Court means an open unoccupied space, other than a yard, on the same lot with a building and bounded on two (2) or more sides by such building.

Density exclusion. Density exclusion is calculated as follows:

a. Whenever there is proposed for development a tract of land partially underwater at any time during the year, there shall be excluded from the calculation in determining allowable density those area of the development tract under water and up to *the* mean waterline, except where such a requirement would prevent construction of a single-family residence; and

b. Whenever there is proposed for development a tract of land containing slope in excess of forty percent (40%), there shall be excluded from the calculation in determining allowable density those areas of the development tract in excess of forty percent (40%) slope, except where such a requirement would prevent construction of a single-family residence.

District means a section or sections of the incorporated area of the Town for which the regulations and provisions governing the use of buildings and land are uniform for each class of use permitted therein.

Dwelling means a building or portion thereof used for residential purposes, including single-family, duplex and multi-family dwellings, but not including hotel or lodge units.

Dwelling, duplex means a detached building containing two (2) dwelling units, designed for or used as a dwelling exclusively by two (2) families, each living as an independent housekeeping unit.

Dwelling, multi-family means a building containing three (3) or more dwelling units, not including hotels or lodges, but including townhouses, condominiums and apartments with accessory use facilities limited to an office, laundry, recreation facilities and off-street parking used by the occupants.

Dwelling, single-family means a residential building containing not more than one (1) dwelling unit occupied exclusively by one (1) family as an independent housekeeping unit.

Dwelling unit means:

- a. One (1) or more rooms, including cooking facilities, intended or designed for occupancy by a family or guests independent of other families or guests; or
- b. An aggregate of accommodation units provided as follows:
 1. Three (3) accommodation units shall be counted as one (1) dwelling unit.
 2. Two (2) accommodation units in association with a dwelling unit shall be counted as one (1) dwelling unit.

Easement means an ownership interest in real property entitling the holder thereof to *the* use, but not possession, of that real property for one (1) or more specific purposes, public or private.

Efficiency kitchen means a portion of a room within an accommodation unit or dwelling that may contain a sink, refrigerator, dishwasher, microwave oven, cook top, wet bar or similar facility but expressly not a stove or oven. Stub-outs for natural gas, propane or 220-V electric hookups are not allowed.

Employee housing means that housing used exclusively for persons employed in the Red Cliff area.

Family means any individual, two (2) or more persons related by blood or marriage or between whom there is a legally recognized relationship, or a group of not more than four (4) unrelated adults occupying the same dwelling unit.

Garage, parking means a building, either public or private, used only for parking of motor vehicles.

Garage, private means an accessory building for the storage of motor-driven vehicles used by occupants of the main structures.

Garage, public means a building other than a private garage, used for the care, repair or maintenance of motor-driven vehicles, or where such vehicles are parked or stored for remuneration, hire or sale within the structure.

Grade, existing means the existing or natural topography of a site prior to construction.

Grade, finished means the grade upon completion of a project.

Home occupation means an occupation, profession, activity or use that is conducted within a dwelling unit and is meant to produce income or revenue, or any activity associated with a nonprofit organization, which:

- a. Does not produce noise audible outside the dwelling unit where such activity is taking place.
- b. Limits the amount of customers, visitors or persons, other than the occupants, to no more than five (5) per day. In the case of day care, no more children than allowed by the state license for a childcare home (a state license is also required to operate a childcare home).
- c. Does not cause the visible storage or parking of vehicles or equipment not normally associated with residential use, which shall include, but is not limited to, the following: trucks with a rating greater than three-quarter-ton, earth-moving equipment and cement mixers.
- d. Does not alter the exterior of the property or affect the residential character of the neighborhood.
- e. Does not interfere with parking, access or other normal activities on adjacent properties, or with other units in a multi-family residential development.
- f. Does not require or allow employees to work on the property.
- g. Does not require alteration to the residence to satisfy applicable Town fire or building codes or County health regulations.

Home office means any occupation, profession or other activity that takes place in a dwelling unit and is meant to produce income or revenue, or any activity associated with a nonprofit group or corporation, which:

- a. Does not produce noise audible outside the dwelling unit where such activity is taking place.
- b. Does not cause or require customers, delivery persons, employees or any person, other than the occupants of the dwelling unit, to enter the property on which the dwelling unit is located.
- c. Does not require alteration to the residence to satisfy applicable Town fire or building codes or county health regulations.
- d. Does not change the appearance or residential character of the structure. Any activity that meets the above definition shall be considered an accessory use and shall not require Town approval.

Hospital means an institution providing health services primarily for human inpatient medical or surgical care for the sick or injured and includes related facilities, such as laboratories, outpatient departments, training facilities, central services facilities and staff offices, that are an integral part of the facilities.

Hotel means a building containing three (3) or more accommodation units, occupied by paying guests on a temporary basis. Accessory use facilities may consist of an office, laundry facilities used by the occupants, recreation facilities, a lobby or lounge, kitchen and dining facilities and similar accessory uses commonly found in association with a commercial hotel operation and meeting the requirements of the particular zone district in which the building is located.

Kennel means any lot or premises on which four (4) or more dogs, of at least four (4) months of age, are kept.

Kitchen means a room or portion of a room devoted to the preparation or cooking of food for a person or a family living independently of any other family, which contains a sink and a stove, cook top or oven powered by either natural gas, propane or 220-V electric hookup.

Laboratory means a place devoted to experimental study such as testing and analyzing. Manufacturing of product or products is not to be permitted within this definition.

Landscape area means that portion of a parcel of land with any combination of living plants, such as trees, shrubs, vines, groundcover, flowers or lawns; natural features and nonliving groundcover, such as rock, stone and bark; and structural features, such as fountains, reflecting pools, art works, screen walls, fences and benches; but shall not include paved walkways or parking areas.

Loading space means an off-street space or berth on the same lot with a building, or contiguous thereto, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

Lodge means a building containing common kitchen and dining facilities occupied by paying guests on a temporary (thirty-one [31] days or less) basis, but not including a bed and breakfast residence.

Lot means a parcel of real property as shown with a separate and distinct number or letter on a plat recorded with the County Clerk and Recorder or, when not so platted in a recorded subdivision, a parcel of real property abutting upon at least one (1) public street and held under separate ownership.

Lot area means the total horizontal area within the lot lines of a lot, except that *area* beneath the mean waterline of a body of water.

Lot depth means the shortest horizontal distance between the front and rear lot lines measured in the mean direction of the side lot line.

Lot line (front, rear and side).

a. Lot lines defined:

1. *Front lot line* means the property line dividing a lot from a street.
2. *Rear lot line* means the property line opposite the front lot line.
3. *Side lot line* means any lot lines other than front or rear lot lines.

b. If a question arises as to what line shall be the front, rear or side lot line, the Planning and Zoning Commission shall make the necessary determination.

Lot setback means the distance from a lot or site line, creek or stream measured horizontally to a line or location within the lot or site which establishes the permitted location of uses, structures or buildings on the site. No building projections shall be permitted into required lot setback areas, either above or below grade, except that there shall be no restriction on walks and steps. No encroachment into easements or stream setbacks shall be permitted.

Lot setback, front means an area extending the full width of the lot or parcel, the depth of which is measured by the least horizontal distance between the front lot line and the nearest wall of any building.

Lot setback, rear means an area extending the full width of the lot or parcel, the depth of which is measured by the least horizontal distance between the rear lot line and the nearest wall of any building.

Lot setback, stream is defined as a thirty-foot strip of land measured horizontally from the mean annual flood high water mark on each side of any live stream located within the boundaries of a proposed subdivision and protected in its natural state, with the exception that footpaths, bridges, landscape area, irrigation structures, flood-control and erosion-protection devices may be constructed thereon. If such stream is along the outer boundaries of the subdivision, this requirement shall apply to that part of such stream and strip which is within the subdivision. Underground utilities may be located in such protected area, provided that there is no practical alternative location for such utilities, that the plans are approved by the Board of Trustees through its designated representative and that all construction scars are revegetated.

Lot width means the distance between the side lot lines measured congruent with the front lot setback lines.

Manufactured home means a single-family dwelling which:

- a. Is partially or fully manufactured in a factory;
- b. Is installed on an engineered permanent foundation;
- c. Has brick, wood or cosmetically equivalent exterior siding and a pitched roof; and

d. Is certified pursuant to the National Manufactured Housing Construction and Safety Standards Act, 1974, 42 U.S.C. § 5401, et seq., and such certification is confirmed prior to issuance of a building permit.

Mixed-use project means the development of a lot, tract or parcel of land, building or structure with two (2) or more different uses, such as but not limited to residential, office, retail, public, personal service or entertainment designed, planned and constructed as a unit.

Mobile home means a structure constructed partially or entirely in a factory, designed for long-term residential or temporary office use and transported to its occupancy site on its own wheels, arriving at the site as a complete dwelling unit, equipped with the necessary service connections (electrical, plumbing and sanitary facilities) and designed to be installed in a permanent or semi permanent manner, but does not meet the definition which is certified pursuant to the National Manufactured Housing Construction and Safety Standards Act,-1974, 42 U.S.C. § 5401, et seq., and such certification is confirmed prior to issuance of a building permit.

Motor home means a self-propelled vehicle with accommodations for sleeping, eating, cooking, bathing or similar activities and includes campers having such facilities when mounted on a motive means.

Nonconforming building means a building, structure or portion thereof conflicting with the provisions of this Chapter applicable to the zone in which it is situated.

Nonconforming use means the use of a structure or premises thereof conflicting with the provisions of this Chapter.

Nursing home or rest home means a public or private home for the care of children or the aged or infirm or a place of rest for those suffering bodily disorders, but does not include facilities for the treatment of sickness or injuries or for surgical care.

Occupied means and includes arranged, designed, built, altered, converted, rented, leased, or intended to be occupied.

Open-use recreation site means land devoted to public or private use for recreation and includes, but is not limited to, such facilities as playgrounds and playfields, golf, tennis and similar court installations, riding rings, racks and stables and similar facilities.

Parking area, private means an open area for the parking of privately owned automobiles and not for public use.

Parking area, public means an open area, other than streets, used for the temporary parking of more than four (4) automobiles and available for public use, whether free, for compensation or as an accommodation for clients or customers.

Parking space means an area, enclosed in the main building, in an accessory building or unenclosed, sufficient in size to store one (1) standard automobile, which has adequate access to a public street or alley which permits satisfactory ingress and egress of an automobile.

Person means natural person, joint venture, joint stock company, partnership, association, club, company, firm, corporation, business, trust or organization, or the manager, lessee, agent, servant, officer or employee of any of them.

Personal service shops means shops primarily engaged in providing services generally involving the care of the person or such person's apparel such as laundry and dry cleaning, retail outlets, portrait/photographic studios and beauty shops and barbershops.

Planned Unit Development means an area of land, controlled by one (1) or more landowners, to be developed under unified control or a unified plan and is developed as a whole in a single development operation or programmed series of development stages. The development may include dwelling units, commercial, educational, recreational or industrial uses, or any combination of the foregoing, the plan for which may not correspond in lot size, bulk or type of use, density, lot coverage, open space or other restrictions to the existing land use regulations.

Porch means a roofed entrance to a building, projecting out from the wall or walls of the main structure and commonly open to the weather in part.

Professional office means an office for use by those such as physicians, dentists, lawyers, architects, engineers, accountants and others who, through training, are qualified to perform services of a professional nature, and where a very limited storage or sale of merchandise exists.

Public institution means a building occupied by a nonprofit corporation or a nonprofit establishment for public or semipublic use.

Public way means any parcel of land unobstructed from the ground upward, dedicated to or appropriated for the free passage of the general public.

Recreation club means a building devoted to public or private use and includes such facilities as golf clubhouse, swimming pool club or clubhouses and may include kitchen facilities, assembly halls, meeting rooms, locker facilities, etc.

Road or street means a public way, other than an alley, which affords the principal means of access to abutting property, including private streets.

Self-storage means buildings in which a number of storage units or vaults are rented for the storage of goods. Each unit is physically separated from other units, and access is usually provided through an overhead door or other common access point. Units are nonhabitable and contain no plumbing, running water or electric outlets.

Service yard means any yard area utilized for storage of materials accessory to or used in conjunction with the principal use of the lot or building, or used for garbage or trash containers or the location of mechanical equipment accessory to the principal building or use.

Showroom means a room where goods are displayed for advertising or sale.

Signs and displays, indoor with outdoor exposure, outdoor advertising, etc., mean and refer to any card, cloth, paper, metal, painted, glass, wood, plaster, stone, art craft or other sign of any kind or character whatsoever, placed for outdoor advertising or identification purposes on the ground or on any tree, wall, bush, rock, post, fence, building, structure or thing whatsoever. The term *placed*, as used in the definition of *outdoor advertising sign* and *outdoor advertising structure*,

includes erecting, constructing, posting, painting, art crafting, printing, tacking, taping, mailing, gluing, sticking, carving or other fastening, affixing or making visible in any manner whatsoever.

Single-use project, large means any building intended for commercial use which exceeds ten thousand (10,000) square feet in area, which is designed for one (1) or more commercial premises, at least one (1) of which premises is more than twenty-five percent (25%) of the total area. A large single-use project may include residential uses, provided that the total commercial premises are at least ten thousand (10,000) square feet in area.

Site coverage means the portion of a site covered by buildings, excluding roof or balcony overhangs, measured at the exterior walls or supporting members of the building at ground level.

Snow storage is required for any property which, when developed, is intended to contain impermeable surface area, used for purposes other than aboveground construction and shall satisfy the following criteria:

a. An area equal to twenty percent (20%) of impermeable surfaced area upon which aboveground construction does not occur shall be designated as a snow storage area and not developed in a manner inconsistent with such use. Landscaping shall not be considered to be inconsistent with such use.

b. Any designated snow storage area shall be adjacent to the impermeable surface area from which the snow is to be removed, shall not be included in any parking area required by the minimum parking requirements of the Town and shall be contained in such a manner that runoff is directed through a treatment facility, as described in Subparagraph c. below, when such treatment facility is required as a part of the drainage plan.

c. Whenever a treatment facility is required to be installed in association with a snow storage area, the design of the same shall be approved by the Town Engineer as part of the site drainage plan and shall be designed to remove from the runoff petroleum-based liquids and settleable solids.

d. The foregoing requirements for on-site snow disposal areas may be waived by the reviewing body of the Town upon the demonstration that:

1. Provision for on-site snow melt, or an appropriate alternative snow storage site available for removal of snow to an off-site location suitable and available for such purpose, meeting with the approval of the Community Development Department; and

2. Arrangements for the off-site removal have been made in a manner assuring the continuation of such practice throughout the life of the project.

Story means that portion of a building included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, the space between the floor and the ceiling next above it.

Structure means anything constructed or erected, which requires location on the ground, or attached to something having a location on the ground, but does not include poles, lines, cables or other existing transmission or distribution facilities of public utilities.

Open terrace means a level and narrow plane or platform which, for purposes of this Chapter, is located adjacent to one (1) or more faces of the main structure, and which is constructed not more than four (4) feet in height above the average level of the adjoining ground.

Timesharing unit means any parcel or lot of land or condominium unit, whether fee interest, leasehold or contractual right, whereby more than four (4) persons (ownership of an interest in joint tenancy by two [2] persons being considered one [1] person for the purpose of this Section) are entitled to the use, occupancy or possession of such lot, parcel or unit according to a fixed or floating time schedule occurring periodically over any period of time (the use, occupancy or possession by each person being exclusive of that by the others). *Timesharing unit* includes, but is not limited to, a timeshare estate as defined in Section 38-33-110, C.R.S.

Townhouse means a single-family dwelling in a structure containing three (3) or more units sharing one (1) or more vertical common or party walls.

Trailer, automobile means a vehicle without motive power, designed to be drawn by a motor vehicle and to be used for human habitation or for carrying persons or property.

Use means the purpose for which land or a building is designated, arranged or intended, or for which it either is or may be occupied or maintained. Uses not expressly allowed in this Chapter as an allowed use are expressly prohibited, unless otherwise approved.

Warehouses are primarily devoted to the storage of materials and may also include office and maintenance areas.

Wholesale sales outlet means the sale of merchandise to retailers rather than directly to the public. (Ord. 9, 2008; Ord. 7 §1, 2010)

ARTICLE 2

Administrative Provisions

Sec. 16-2-10. Applications for amendments.

Application for any amendment, supplement or change to any zoning district as shown on the Town zoning map may be made at any regular scheduled meeting by the Board of Trustees, the Planning and Zoning Commission or the property owner or the property owner's duly authorized representative. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-2-20. Applications; information required.

(a) Applications for any such amendments, supplements or changes shall contain the following information, and applicants shall provide such additional information and materials as specified in the Town's development regulations:

- (1) The name and address of the applicant.
- (2) An accurate legal description of the property included in the application.
- (3) A recent survey of the property.
- (4) The names and addresses of all persons having any legal or equitable interest in the property to be zoned or rezoned.
- (5) The location of the property with reference to streets and addresses, if any.
- (6) The current zoning designation.
- (7) The requested zoning or rezoning.
- (8) A statement of the reasons for requesting the zoning or rezoning.

(b) The application shall be signed by the applicant or the duly authorized representative of the applicant.

(c) The application shall be accompanied by a fee in the amount set forth in the Town's development regulations, payable to the Town. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-2-30. Permit requirement.

(a) It is unlawful to erect, construct, reconstruct, alter, move or change the use of any building or other structure or improvement within the Town without obtaining a building permit from the Building Administrator, and such permit shall not be issued until the plans of and for the proposed erection, construction, reconstruction, alteration, moving or use fully conform to the zoning regulations then in effect and unless plans to be kept as a permanent public record are submitted to the Building Administrator and approved by the Planning and Zoning Commission.

(b) In all zoning districts, no development shall be permitted until the Planning and Zoning Commission approves the development plans.

(1) Nothing in this Section shall exempt any applicant from satisfying the requirements of the subdivision regulations of the Town, unless the Board of Trustees determines that an exemption from the requirements of subdivision is appropriate.

(2) Any landowner seeking development permission shall, prior to filing an application for a building permit, file with the Planning and Zoning Commission a prescribed application for the approval of a development for all or a portion of his or her area.

(3) No building or other structure or improvement shall be erected or constructed except in compliance with the development plan approved by the Planning and Zoning Commission, and no completed building or other structure or improvement shall be reconstructed or altered as to use, density, parking lot requirements, height or lot coverage, unless such reconstruction or alteration has first been approved by the Planning and Zoning Commission.

(4) No application for approval of a development plan or for amendment of a development plan shall be received for processing or approved, and no application for a building permit shall be granted, when the applicant is in default under any related or unrelated agreement or obligation to the Town. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-2-40. Quasi-judicial matters, generally.

All matters relating to the zoning or rezoning of property within the corporate limits shall be deemed quasi-judicial in nature, except amendments, supplements or changes which are generally applicable in effect, terms or context, which shall be deemed legislative in character and not quasi-judicial. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-2-50. Hearing notice; procedure; records.

(a) All public hearings shall be conducted under procedures designed to ensure due process of law for all interested parties and shall, in all cases, provide for the following:

(1) The Planning and Zoning Commission shall provide to the Board of Trustees a recommendation on the zoning application. A public hearing before the Planning and Zoning Commission shall be held prior to submitting its recommendation or report. The Board of Trustees shall then complete a public hearing on the zoning application.

(2) Notices of the time, place and subject matter of the hearing shall be published, at the expense of the applicant, once in a newspaper of general circulation in the area at least twelve (12) days prior to the hearing date or posted in at least three (3) public places within the Town, in addition to posting at the office of the Town Clerk at least twelve (12) days prior to the hearing date.

(3) The Town Clerk shall place the application on the agenda for a meeting of the Planning and Zoning Commission and of the Board of Trustees and shall give notice thereof in writing in person or by mail to the applicant, which notice shall contain a statement of the date, time and place of the meeting of the Planning and Zoning Commission and the Board of Trustees at which such application shall be considered.

(4) The applicant shall, twelve (12) days or more before the date of the Planning and Zoning Commission hearing, mail by certified mail, return receipt requested, notice of such meeting to all owners of legal or equitable interests in the land and owners of adjoining property within three hundred (300) feet of the outside boundaries of the property, as shown by the application, and shall file proof of such mailing, and/or return receipts received, with the Town Clerk. If a property requiring notification is a condominium project, notice may be mailed to the managing agent, registered agent or any member of the board of directors thereof.

(5) Notice of the requested zoning application and of the holding of such hearing shall be posted on the property at least twelve (12) days in advance of the hearing. The specifications for such posting shall be as described in the application.

(6) The applicant's right to be represented by counsel.

(7) The applicant's right to be present and rebut testimony and evidence.

(8) The right of a party in interest to cross-examine other persons giving testimony, provided that:

a. Such right is asserted at the meeting in which the person is giving testimony.

b. Such right is asserted at the first available opportunity.

(9) A record of the hearings produced by the Town, whether by electronic or stenographic reproduction, or both. Any party who submits evidence or testimony shall be entitled to listen to the electronic reproduction of the proceedings at reasonable times, places and circumstances and shall be entitled to a copy of the transcript of the minutes, or any portion thereof, upon payment of a reasonable fee.

(10) The right, insofar as *is* possible, to have the members of the Planning and Zoning Commission and the Board of Trustees free from personal interest or a prehearing contact on quasi-judicial matters heard by them. At the commencement of the hearing, any member of the Planning and Zoning Commission or Board of Trustees who has a substantial interest in the subject matter of the zoning or rezoning matter to be heard, or who has been unable to avoid a prehearing contact with the applicant or any interested party with respect to the subject matter of the zoning or rezoning matter to be heard, shall reveal such substantial interest or such prehearing contact. If, in the opinion of that member, such interest or contact impairs the member's ability to vote on the matter, the member shall so state and shall abstain from the proceeding.

(11) The right to a written decision setting forth the findings of facts and conclusions, with the reasons or basis for the decision, on the material and relevant issues presented on the record.

(b) The provisions set forth in this Section shall be applied uniformly in all quasi-judicial hearings. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-2-60. Criteria for zoning or rezoning approval.

The burden of proof is placed upon the applicant seeking to justify his or her application. Zoning and rezoning applications shall be granted only if the following criteria, to the extent applicable, have been met:

(1) Granting the request is in the public interest; the greater the departure from present land use patterns, the greater the burden of the applicant.

(2) The public interest is best served by granting the application for zoning or rezoning and, further, that such public interest is best served by granting the application at the time of hearing.

(3) The proposed action is fully in accordance with the applicable goals and policies of the community development plan or other applicable goals and policies of the Planning and Zoning Commission and Board of Trustees.

(4) Other factors were consciously considered, including that the proposed action will:

- a. Lessen congestion in the streets.
- b. Secure safety from fire, panic, floodwaters and other dangers.
- c. Promote health and general welfare.
- d. Provide adequate light and air.
- e. Provide a variety of housing to accommodate needs of the community, including but not limited to senior citizens, workforce housing and deed-restricted units.
- f. Facilitate adequate transportation, water, sewage, schools, parks and other public requirements.

(5) Other factors include reasonable consideration, among other things, as to the character of the area and its peculiar suitability for particular uses with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Town.

(6) There has been a change in the neighborhood or community or a mistake in the planning or zoning of the land, and, as presently zoned, it is inconsistent with the applicable goals and policies of the community development plan or ~~it~~ is in the public interest to encourage redevelopment of the area. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-2-70. Planning and Zoning Commission decisions.

(a) Within thirty (30) days after filing a complete application and any required materials, notice shall be provided that the Planning and Zoning Commission shall hold a public hearing, unless the applicant requests or consents to a longer period of time. Upon completion of the hearing, the Planning and Zoning Commission shall, after discussion, vote on the matter. Any motion must briefly state the findings of fact and conclusions of the Planning and Zoning Commission with reference to the relevant and material evidence and testimony supporting such findings of fact and conclusions.

(b) The Planning and Zoning Commission may vote to recommend either approval, approval with modifications or denial of the application. If the Planning and Zoning Commission approves an application with modifications, the applicant shall make such modifications to the required text, maps, studies, etc., before the Chairperson of the Planning and Zoning Commission signs any necessary approval blocks.

(c) Notwithstanding the provisions of Subsection (b) above, and as alternatives to Subsection (b), the Planning and Zoning Commission may act in accordance with the following upon a vote of the majority of the members present:

(1) Make a decision and vote on the date of hearing but request that the Town Attorney prepare findings of fact and conclusions for approval and adoption at the next regularly scheduled meeting.

(2) Defer a decision and direct the Town Attorney to prepare findings of fact and conclusions to be submitted to the Planning and Zoning Commission at its next regularly scheduled meeting,

with final deliberation, decisions and adoption of the findings of fact and conclusions at that meeting.

(3) Defer a decision until the date certain as is mutually agreed upon by the applicant and the Planning and Zoning Commission, by which time the record and all evidence can be reviewed. At that time, the Planning and Zoning Commission can either vote to recommend approval, approval with modifications or denial of the application and adopt findings of fact and conclusions for adoption at the next regularly scheduled meeting after the meeting to which the matter has been deferred. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-2-80. Zoning or rezoning ordinance; scheduling.

No later than thirty (30) days after recommendation of the Planning and Zoning Commission, notice shall be provided thereof, and the Board of Trustees shall hold a public hearing. If the recommendation of the Planning and Zoning Commission is to approve or grant the proposed zoning or rezoning, the Town Clerk shall place an ordinance embodying the proposed rezoning on the agenda of a regularly scheduled meeting of the Board of Trustees. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-2-90. Public record.

The findings of fact and conclusions and recommendations of the Planning and Zoning Commission, responses to referrals and recommendations of the Town Planner or staff shall be submitted to the Town Clerk immediately after the final decision of the Planning and Zoning Commission and shall become part of the record of the case before the Board of Trustees. The same shall be considered to be a public record and available in the office of the Town Clerk for examination by any person, including a member of the Board of Trustees, from the time of filing during regular business hours. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-2-100. Board of Trustees decision.

(a) Upon completion of the hearing, the Board of Trustees shall, after discussion, vote on the matter. Any motion must briefly state the findings of fact and conclusions of the Board of Trustees with reference to the relevant and material evidence and testimony supporting such findings of fact and conclusions.

(b) The Board of Trustees shall vote to approve, approve with modifications or deny the application. If the Board of Trustees approves the application with modifications, the applicant shall make such modification to the required text, maps, studies, etc., before the Mayor signs any approval blocks.

(c) Notwithstanding the provisions of Subsection (b) above, and as alternatives to Subsection (b), the Board of Trustees may act in accordance with the following upon vote of the majority of members present:

(1) Make a decision and vote on the date of hearing, but request the Town Attorney to prepare findings of fact and conclusions for approval and adoption at the next regularly scheduled meeting.

(2) Defer a decision and direct the Town Attorney to prepare findings of fact and conclusions to be submitted to the Board of Trustees at its next regularly scheduled meeting, with final deliberation, decision and adoption of the findings of fact and conclusions at that meeting.

(3) Defer a decision until a date certain as is mutually agreed upon by the applicant and the Board of Trustees, by which time the record and all evidence can be reviewed. At that time, the Board of Trustees can either vote to approve, approve with modifications or deny the application, adopt findings of fact and conclusions or direct the Town Attorney to prepare findings of fact and conclusions for the next regularly scheduled meeting to which the matter has been deferred. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-2-110. Appeal of Town Planner and Planning Commission Decision or a Prior Decision of Board of Trustees.

(a) Authority: The Board of Trustees shall have the authority to hear and decide appeals from any decision, determination, or interpretation by the Town Planner, Planning Commission or a prior decision of the Board of Trustees with respect to the provision of this title and the standards and procedures set forth.

(b) Initiation: An appeal may be initiated by an applicant, adjacent property owner, or any aggrieved or adversely affected person from any order, decision, determination, or interpretation by the Town Planner, or a prior decision of the Board of Trustees with respect to this Title.

(c) *Aggrieved or adversely affected person* means any person who will suffer an adverse effect to an interest protected or furthered by this Title. The alleged adverse interest may be shared in common with other members of the community at large, but shall exceed in degree the general interest in community good shared by all persons. The Board of Trustees may also call up a decision of the Town Planner, Planning Commission and a prior decision of the Board of Trustees by a majority vote of those Trustee members present.

(d) Procedures: A written notice of appeal must be filed with the Town Clerk within ten (10) calendar days of the Town Planner, Planning Commission, or Board of Trustees decision becoming final. If the last day for filing an appeal falls on a Saturday, Sunday or a Town-observed holiday, the last day for filing an appeal shall be extended to the next business day. Such notice shall be accompanied by the name, mailing address, and physical address of the appellant, applicant, property owner, and adjacent property owners as well as specific and articulate reasons for the appeal. The filing of such notice of appeal will require the Town Clerk, Town Planner, and Planning Commission to forward to the Board of Trustees at the next regularly scheduled meeting a summary of all record concerning the subject matter of the appeal and for the Town Clerk to send a written notice to the appellant, applicant, property owner, and adjacent property owners at least fifteen (15) calendar days prior to the hearing. A hearing shall be scheduled to be heard before the Board of Trustees on the appeal within thirty (30) calendar days of the appeal being filed. The Board of Trustees may grant a continuance to allow the parties additional time to obtain information. The continuance shall be allowed for a period not to exceed an additional thirty (30) calendar days. Failure to file such an appeal shall constitute a waiver of any rights under this Title to appeal any interpretation or determination made by the Town Planner, Planning Commission or Board of Trustees.

(e) Effect of filing an Appeal: The filing of a notice of appeal shall stay all permit activity and any proceedings in furtherance of the action appealed unless the Town Planner rendering such decision, determination or interpretation certifies in writing to the Board of Trustees and the appellant that a stay poses an imminent peril to life or property, in which case the appeal shall not stay further permit activity and any proceedings. The Board of Trustees shall review such certification and grant or deny a stay of the proceedings. Such determination shall be made at the next regularly scheduled meeting of the Board of Trustees.

(f) Findings: The Board of Trustees shall on appeals make specific findings of fact based directly on the particular evidence presented to it. These findings of fact must support conclusions that the standards and conditions imposed by the requirements of this Title have or have not been met.

(g) Fee: The Board of Trustees may set a reasonable fee for filing an appeal to a Town Planner, Planning Commission, and Board of Trustees prior decision.

(h) Conduct of Hearing: The Board of Trustees shall have the authority to set standards, by administrative rule, on appellant hearing procedures including, but not limited to, time allowance from the presentation of evidence and the time allowance for oral arguments. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-2-120. Notation to map.

In the event the Board of Trustees has adopted an ordinance recommending approval of a change to the zoning district map, within thirty (30) days of such ordinance, notation to the zoning district map shall be made to show the pending amendment, and failure to make such notation shall suspend the effect of the ordinance until such is made; provided, however, that if the required notation is made within the thirty-day period, it shall have effect retroactively to the date of the ordinance. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-2-130. Revocation and invalidation of permits.

(a) Any building permit authorized by this Zoning Code, issued in reliance upon any materially false statement in the application thereof or in supporting documents or oral statements, is absolutely void *ab initio* and shall be revoked.

(b) No permit issued pursuant to this Zoning Code shall remain in force and effect if the use or structure authorized therein becomes nonconforming; provided, however, that, if subsequent to and in reliance upon the issuance of the permit, an applicant has so substantially changed his or her position or incurred extensive obligations and expenses that it would be highly inequitable and unjust to destroy the rights acquired by issuance of the permit, then such permit shall not be invalidated, and the approved development shall be allowed to proceed to completion if not otherwise unlawful. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-2-140. Interpretation; conflict with other laws.

(a) In their interpretation and application, the provisions of this Zoning Code shall be held to be minimum requirements adopted for the promotion of the public health, safety and welfare.

(b) Whenever the requirements of this Zoning Code are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances or other legislative actions by the Board of Trustees, the more restrictive or that imposing the higher standard shall govern.

(c) Whenever restrictions imposed by this Zoning Code are either more or less restrictive than regulations adopted by any state or federal agency, the rules or regulations which are more restrictive or which impose higher standards or requirements shall govern. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-2-150. Liability of Town.

This Zoning Code shall not be construed to hold the Town or its authorized agents responsible for any damage to property or injury to persons by reason of inspection authorized herein or failure to inspect, or by reason of issuance of a building permit as herein provided. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-2-160. Violations, penalties and remedies.

(a) The erection, construction, reconstruction, alteration, moving, conversion or maintenance of any building or structure, and the use of any land, structure or building which is continued, operated or maintained contrary to any provisions of this Zoning Code, is declared to be a violation of this Zoning Code and unlawful.

(b) Any person or corporation, whether as principal, agent or employee, who violates any provision of this Zoning Code shall be, for each offense, punished in accordance with the provisions of Section 1-4-20 of this Code and any other legal remedies provided by law.

(c) The Town Attorney shall, immediately upon such violation being called to his or her attention, institute injunctive, abatement or other appropriate action to prevent, enjoin, abate or remove such violation. Such right of action shall also accrue to any property owner who may be especially damaged by any violation of this Zoning Code.

(d) The imposition of any penalty under this Zoning Code shall not preclude the Town or the affected property owner from instituting any appropriate action or proceeding to require compliance with the provisions of this Zoning Code.

(e) Any remedies provided for in this Section shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-2-170. Enforcement; Planning Director; right of entry.

(a) A Planning Department may be established under the administration and control of a Planning Director, who is authorized and directed to enforce all provisions of this Chapter. For such purpose, he or she shall have the powers of a law enforcement officer. Whenever the term *Zoning Administrator* or other similar designation is used in this Chapter or in any other provision of this Code, it shall be construed to mean the Planning Director or other authorized representative appointed by the Board of Trustees.

(b) Whenever necessary to make an inspection to enforce any of the provisions of this Chapter, or whenever the Planning Director has reasonable cause to believe that there exists in any building or upon any premises any violation of this Chapter, the Planning Director may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Planning Director by this Chapter; provided that, if such building or premises is occupied, he or she shall first present proper credentials and demand entry. If such building or premises is unoccupied, he or she shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and demand entry. Should entry be refused, the Planning Director shall have recourse to every remedy provided by law to secure entry. When the Planning Director has first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner, occupant or any other person having charge, care or control of any building or premises shall fail or neglect, after proper demand is made as herein provided, to promptly permit entry therein by the Planning Director for the purpose of inspection and examination pursuant to this Chapter. Any person failing or refusing to permit entry shall be deemed to have committed a violation of this Section. (Ord. 9, 2008; Ord. 7 §1, 2010)

ARTICLE 3

Zone Districts and Official Map

Sec. 16-3-10. Zone districts created.

In order to carry out the purposes of this Chapter, the Town is divided into the following zone districts:

- (1) Industrial and Commercial – IC.
- (2) Mixed Use/Town Center – MU/TC.
- (3) Mixed Use/Neighborhood Commercial – MU/NC.
- (4) Residential – R-1.
- (5) Planned Unit Development – PUD.
- (6) Open Space, Landscaping and Drainage – OSLD.
- (7) Government, Park and Employee Housing – GPEH.
- (8) Rural Residential – RR. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-3-20. Zone district determination of uses.

If a question arises as to whether a specific use does or does not come within any of the expressed use categories set forth in Section 16-3-10 above, any person may apply to the Planning and Zoning Commission for a determination as to whether a specified use is an allowed or special review use, which determination shall be made on an analysis of the intention for the district and the

compatibility of the proposed use with allowed and special review uses. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-3-30. Zoning district map; incorporated; official map.

(a) The location and boundaries of the zoning districts established in Section 16-3-10 above are set forth on the zoning district map of the Town, which map, with all notations, references and other information shown thereon, is incorporated in and is as much a part of this Zoning Code as if fully described and set forth in this Chapter.

(b) If, in accordance with the provisions of this Zoning Code, changes are made in district boundaries or other matters portrayed on the official zoning district map, such changes shall be entered on the map.

(c) Regardless of the existence of purported copies of the official zoning district map which from time to time may be made or published, the official map, which shall be located in the office of the Town Clerk, shall be the final authority as to the current zoning status of land, buildings and other structures in the Town. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-3-40. Zoning district map; interpretation; authority and standards.

When, due to the scale, lack of detail or illegibility of the zoning district map, there is any uncertainty, contradiction or conflict as to the intended location of any zoning district boundary as shown thereon, the Zoning Administrator shall make an interpretation of said map upon the request of any person, and any person aggrieved by any such interpretation may appeal the same to the Planning and Zoning Commission. The Zoning Administrator and the Planning and Zoning Commission, in interpreting the map or deciding any appeal, shall apply the following standards:

(1) The zoning district boundary lines are intended to follow lot lines, subdivision lines, incorporation lines or centerlines of rights-of-way.

(2) Where zoning district boundary lines are so indicated that they approximately follow lot lines, subdivision lines or incorporation lines, such lines shall be construed to be the boundary lines.

(3) In such cases where the zone district cannot be determined from the map, it shall be classified as the OSLD zone district, subject to rezoning according to the provisions of this Zoning Code. (Ord. 9, 2008; Ord. 7 §1, 2010)

ARTICLE 4

Zone District Regulations

Division 1 Districts

Sec. 16-4-10. Industrial and Commercial – IC.

(a) Intention. The Industrial and Commercial District is intended to provide sites for light industrial and manufacturing uses, wholesale outlets, warehousing, offices and storage facilities.

(b) Allowed uses. The following uses shall be permitted in the IC District:

- (1) Warehouses.
- (2) Laboratories.
- (3) Electrical substations.
- (4) Light manufacturing plants.
- (5) Wholesale sales outlets.
- (6) Showrooms.
- (7) Industrial, construction and wholesale offices.
- (8) Self-storage.

(9) Additional uses determined to be similar to allowed uses in accordance with the intent of this zone district.

(c) Special review uses. The following uses shall be permitted in the IC District subject to the issuance of a special use permit:

- (1) Four (4) residential units per lot in conjunction with business operation.
- (2) Automobile or other vehicular sales and repair shops.
- (3) Retail sales and other personal service outlets.
- (4) Restaurants.
- (5) Public uses.
- (6) Outside storage areas.
- (7) General commercial offices.

(d) Development standards.

(1) Maximum building height: thirty-five (35) feet.

(2) Minimum building setbacks:

a. Front: five (5) feet.

b. Side: five (5) feet.

c. Rear: ten (10) feet.

(3) Maximum site coverage: fifty percent (50%).

(4) Minimum landscaped area: twenty percent (20%).

(5) Maximum density: four (4) dwelling units per lot when approved as a special review use. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-4-20. Mixed Use/Town Center – MU/TC.

(a) Intention. The Mixed Use/Town Center District is intended to provide sites for a variety of uses, such as lodges, commercial establishments and offices in a predominantly pedestrian environment. In accordance with the Comprehensive Master Plan, these regulations are intended to provide development which distinguishes the Town Center from other areas within the Town.

(b) Allowed uses. The following uses shall be permitted in the MU/TC District:

(1) Retail stores.

(2) Specialty shops.

(3) Restaurants, excluding drive-through windows.

(4) Cocktail lounges.

(5) Personal service shops.

(6) Professional offices.

(7) Hotels.

(8) Lodges.

(9) Apartments.

(10) Condominiums.

(11) Indoor recreation and/or entertainment facilities;

- (12) Theaters.
 - (13) Financial institutions.
 - (14) Bed and breakfast lodges.
 - (15) Churches.
 - (16) Additional uses determined to be similar to allowed uses in accordance with the intent of this zone district.
- (c) Special review uses.
- (1) Public transportation facilities.
 - (2) Public parking facilities.
 - (3) Timeshare, interval ownership and fractional fee ownership projects.
 - (4) Aboveground public utility installations.
 - (5) Drive-through windows.
 - (6) Medical centers and hospitals.
- (d) Development standards.
- (1) Maximum building height: thirty-five (35) feet.
 - (2) Minimum building setbacks:
 - a. Front: five (5) feet.
 - b. Side: five (5) feet.
 - c. Rear: ten(10) feet.
 - (4) Maximum site coverage: fifty percent (50%).
 - (5) Minimum landscaped area: twenty percent (20%).
 - (6) Maximum density: thirty (30) dwelling units per acre of buildable area or ninety (90) accommodation units per acre of buildable area. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-4-30. Mixed Use/Neighborhood Commercial – MU/NC.

(a) Intention. The Mixed Use/ Neighborhood Commercial District is intended primarily for major retail establishments, smaller retail shops, personal service establishments, offices and limited apartments.

(b) Allowed uses. The following uses shall be permitted in the MU/NC District:

- (1) Department stores.
- (2) Grocery stores.
- (3) Retail shops.
- (4) Professional offices.
- (5) Personal service shops.
- (6) Financial institutions.
- (7) Theaters.
- (8) Bakeries.
- (9) Medical centers and hospitals.
- (10) Restaurants.
- (11) Cocktail lounges.
- (12) Bowling alleys.
- (13) Accessory apartments, exclusive of the ground-level story.
- (14) Condominiums, townhomes, apartments or other residential uses.
- (15) Churches.
- (16) Additional uses determined to be similar to allowed uses in accordance with the intent of this zone district.

(c) Special review uses.

- (1) Automobile service and repair stations.
- (2) Car washes.
- (3) Aboveground public utility installations.

(d) Development standards.

- (1) Maximum building height: thirty-five (35) feet.
- (2) Minimum building setbacks:

a. Front: five (5) feet.

b. Side: five (5) feet.

c. Rear: ten (10) feet.

(3) Maximum site coverage: fifty percent (50%).

(4) Minimum landscape area: twenty percent (20%).

(5) Maximum density: seven and one-half (7½) units per acre of buildable area for accessory units. The maximum residential floor area of the accessory units shall not exceed a 2:1 ratio of the commercial floor area. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-4-40. Residential – R-1.

(a) Intention. The Residential District is intended to provide for single-family and two-family residential development. Higher density development may be permitted if compatible in scale and adjoining residential areas.

(b) Allowed uses. The following uses shall be permitted in the R-1 District:

(1) Single-family homes.

(2) Duplex homes.

(3) Accessory caretaker apartments (one [1] per unit).

(c) Special review uses.

(1) Home occupations.

(2) Residential bed and breakfast establishments.

(3) Aboveground public utility installations.

(4) Churches.

(5) Townhomes.

(d) Development standards.

(1) Maximum building height: thirty-five (35) feet.

(2) Minimum building setbacks:

a. Front: five (5) feet.

b. Side: five (5) feet.

- c. Rear: ten (10) feet.
- (3) Maximum site coverage: fifty percent (50%).
- (4) Minimum landscaped area: twenty-five percent (25%).
- (5) Maximum density: two (2) dwelling units per lot, plus one (1) accessory caretaker apartment per dwelling unit. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-4-50. Open Space, Landscaping and Drainage – OSLD.

(a) Intention. The areas in the Open Space, Landscaping and Drainage District are intended to remain primarily as they exist and to be public or private undeveloped open spaces. Some landscaping and drainage control work may be necessary and desirable.

(b) Allowed uses. The following uses shall be allowed in the OSLD District:

- (1) Dams.
- (2) Small lakes.
- (3) Ponds.
- (4) Erosion protection structures.
- (5) Landscaping and erosion protection and screening.
- (6) Equestrian and pedestrian trails.
- (7) Bicycle paths.

(c) Special review uses.

- (1) Water storage tanks and facilities.
- (2) Municipal authorized horse corral, barn and livery operations.
- (3) Agricultural uses.

(d) Development standards.

- (1) Minimum lot size: N/A.
- (2) Maximum building height: N/A.
- (3) Minimum building setbacks: N/A.
- (4) Maximum site coverage: N/A.

(5) Minimum landscape area: one hundred percent (100%).

(6) Maximum density: N/A. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-4-60. Government, Park and Employee Housing – GPEH.

(a) Intention. The Government, Park and Employee Housing District is intended to provide sites for parks, community centers, park and recreation facilities, water storage, treatment and distribution systems, fire station, governmental facilities and public and/or private housing units for Red Cliff area employees.

(b) Allowed uses. The following uses shall be allowed in the GPEH District:

- (1) All buildings for governmental uses.
- (2) Parks and recreation areas.
- (3) Transportation facilities.
- (4) Schools.
- (5) Fire, water and sanitation district uses.
- (6) Public parking lots.
- (7) Heliports for official and emergency use only.
- (8) Planned bicycle paths.
- (9) Equestrian and pedestrian trails.
- (10) Railroads.
- (11) Access ways, including roads.
- (12) Public housing units for Red Cliff area employees.
- (13) Accessory buildings and uses.

(c) Special review uses.

- (1) Public assembly facilities.
- (2) Residential units for the efficient operation of the facilities.
- (3) Private employee housing for Red Cliff area employees.

(d) Development standards.

- (1) Minimum lot size: N/A.
- (2) Maximum building height: thirty-five (35) feet.
- (3) Minimum building setbacks:
 - a. Front: five (5) feet.
 - b. Side: five (5) feet.
 - c. Rear: ten (10) feet.
- (4) Maximum site coverage: fifty percent (50%).
- (5) Minimum landscape area: twenty-five percent (25%).
- (6) Maximum density: N/A. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-4-70. Rural Residential – RR.

(a) Intention. The Rural Residential District is intended to provide areas for low-density rural residential development on land surrounding the core areas of Town.

(b) Development standards.

- (1) Uses: Single-family homes with accessory accommodation units.
- (2) Density: Minimum lot size is one (1) acre.
- (3) Building height: thirty-five (35) feet.
- (4) Parking: three (3) spaces per unit.
- (5) Setbacks:
 - a. Front: twenty-five (25) feet.
 - b. Side: twenty-five (25) feet.
 - c. Rear: twenty-five (25) feet. (Ord. 9, 2008; Ord. 7 §1, 2010)

*Division 2
Planned Unit Developments*

Sec. 16-4-110. Planned Unit Development – PUD.

The Planned Unit Development (PUD) District is intended to provide for flexibility and creativity in the development of land in order to promote its most appropriate use, but does not strictly comply

with the provisions of this Zoning Code. A Planned Unit Development or PUD is intended to allow developments which benefit the Town more than a development that complies with the specific requirements of this Zoning Code. Development in the PUD zone will be permitted only in accordance with an approved plan for the PUD. The approved plan for the standards for guiding development of the property within a PUD and the elements of the approved plan shall be as outlined in this Division. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-4-120. Preliminary development plan.

A preliminary development plan (PDP) shall include PDP maps and drawings, a written textual statement and such other forms as required by the Town. An approved PDP shall be valid for no more than three (3) years, within which time a final development plan must be submitted for all or a portion of the area covered by the PDP. The approval of a PDP shall not result in the creation of any vested property rights. Such approval shall allow the applicant to proceed to the next development plan stage, subject to compliance with the time limits set forth in this Division and the other requirements of this Chapter and the Town's development regulations. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-4-130. Preliminary development plan maps and drawings.

(a) The following PDP maps and drawings, insofar as applicable, shall be required and shall contain the minimum information specified in this Section and the Town development regulations:

(1) Site plan. The PDP site plan shall at least contain the following:

- a. The title block, scale, north arrow and vicinity map.
- b. The location and size of all existing and proposed buildings and structures.
- c. Proposed land uses and their respective acreage within the PUD.
- d. The location, dimension and surfacing, if applicable, of all existing and proposed streets, rights-of-way, drives, parking areas and pedestrian ways and easements.
- e. The location of lot lines, setback lines, parks, open space and other areas dedicated for public use.
- f. A delineation of the one-hundred-year floodplain and floodway.

(2) Environmental site plan. The PDP environmental site plan shall at least contain the following:

- a. The location of all existing and proposed structures within the PDP and within one hundred fifty (150) feet of its external boundary.
- b. Any existing forested or uniquely vegetated areas to remain after development.
- c. The location of significant natural, environmental, historical, archaeological or paleontological features.

- (3) Grading plan.
 - (4) Landscape plan. A PDP landscape plan showing spacing and types of landscaping materials shall be submitted.
 - (5) Proposed architectural elevations.
 - (6) Cross-sections as required by the Town development regulations.
 - (7) Utility plans. Utility plans shall be submitted for all major utilities and drainage facilities showing necessary easements, including but not limited to water, sanitary sewer, storm sewer, gas, telephone and electrical.
 - (8) The following technical studies and reports shall be submitted with the PDP maps:
 - a. Preliminary soils report.
 - b. Master drainage study.
 - c. Master traffic study.
- (b) Preliminary development plan text. The PDP written textual statement shall contain the following information:
- (1) A statement of the character and development concept of the PUD.
 - (2) A land use table showing building coverage and square footage and providing the percentage of paved, open space and landscaped areas in relation to the gross area of the PDP.
 - (3) A statement of assessment and mitigation for the preservation or other special treatment of significant natural, environmental, historical, archaeological or paleontological features.
 - (4) A development schedule setting forth the timing and phasing, if any, for construction of the development.
 - (5) A general description of signs and lighting devices indicating type, size, material, color and text.
 - (6) Approval block for the Board of Trustees.
- (c) The PDP shall be processed in accordance with the Town's development regulations. The Planning and Zoning Commission and the Board of Trustees shall provide notice and hold a public hearing on the PDP submittal in accordance with Article 2 of this Chapter.
- (d) The PDP is not a mandatory review and approval process for PUD zoning. The applicant may elect to proceed directly with a final development plan as set forth in Section 16-4-140 below. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-4-140. Final development plan.

A final development plan (FDP) shall include FDP maps and drawings, a written textual statement and such other forms as required by the Town. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-4-150. Final development plan maps and drawings.

(a) The following FDP maps and drawings, insofar as applicable, shall be required and shall contain the minimum information specified in this Section and the Town's development regulations:

(1) Site plan. The FDP site plan shall contain the following:

- a. The title block, scale, north arrow and vicinity map.
- b. Identification of the present ownership and developer, if different from the owner.
- c. Proposed land uses and their respective acreage within the PUD.
- e. The location, dimension and surfacing, if applicable, of all existing and proposed streets, rights-of-way, drives, parking areas, pedestrian ways, service areas, including trash disposal areas, outdoor storage areas and easements.
- f. The location of all existing and proposed points of ingress to and egress from the property, proposed turning movements to and from streets and median cuts.
- g. The location and dimension of lot lines, setback lines, parks, open space and other areas dedicated for public use.
- h. The location, height and size of proposed lighting, signs, advertising devices and mailboxes.
- i. The maximum height of all buildings.
- j. The location and screening of all utilities.
- k. A delineation of the one-hundred-year floodplain and floodway.

(2) Environmental site plan. The FDP environmental site plan shall contain the following:

- a. The location of all existing and proposed structures within the FDP and within one hundred fifty (150) feet of its external boundary.
- b. Existing forested or uniquely vegetated areas to remain after development.
- c. The location of any existing major wildlife habitat or migration routes.
- d. The location of significant natural, environmental, historical, archaeological or paleontological features.

- (3) Grading plan.
- (4) Landscape plan. An FDP landscape plan showing spacing, sizes and specific types of landscaping materials shall be submitted.
- (5) Proposed architectural elevations.
- (6) Cross-sections as required by the Town's development regulations.
- (7) Utility plans. Utility plans shall be submitted for all major utilities and drainage facilities showing necessary easements, including but not limited to water, sanitary sewer, storm sewer, gas, telephone and electrical.
- (8) Transportation plan as required by the Town development regulations.
- (9) The following technical studies and reports shall be submitted with the FDP maps:
 - a. Soils report.
 - b. Drainage study.
 - c. Traffic study.

(b) Final development plan text. The FDP written textual statement shall contain the following information:

- (1) The title block, legal description, submittal date, identification of the present ownership and developer, if different from the owner, and identification of technical consultants.
- (2) A statement of the character and development concept of the PUD.
- (3) A land use table showing building coverage and square footage and providing the percentage of paved, open space and landscaped areas in relation to gross area of the FDP.
- (4) A statement of assessment and mitigation for the preservation or other special treatment of significant natural, environmental, historical, archaeological or paleontological features.
- (5) Copies of any agreements, conveyances, restrictions or covenants which will govern the use, maintenance and continued protection of the PUD and any of its park, open space, common or joint ownership area.
- (6) A development schedule setting forth the timing and phasing, if any, for construction of the development.
- (7) A general description of signs and lighting devices, indicating type, size, material, color and text.
- (8) Approval block for the Board of Trustees.

(c) The FDP shall be processed in accordance with the Town's development regulations. The Planning and Zoning Commission and the Board of Trustees shall provide notice and hold a public hearing on the FDP submittal in the manner prescribed. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-4-160. Conditions and standards for approval.

The Planning and Zoning Commission and the Board of Trustees may approve a PUD application if it meets the intent of this Article and complies with this Code and other controlling regulations and documents, including the development standards specified in the Town's development regulations. The Planning and Zoning Commission and the Board of Trustees shall consider the following in making their decision for approval, approval with conditions or denial of a PUD:

(1) The proposed PUD district is compatible with present development in the surrounding area and will not have a significant adverse effect on the surrounding area.

(2) The proposed PUD district is consistent with the public health, safety and welfare, as well as efficiency and economy in the use of land and its resources.

(3) The proposed PUD district is consistent with the overall direction and intent of this Article, the intent and policies of the Town's Comprehensive Plan and other pertinent policy documents of the Town.

(4) The proposed PUD district provides for a creative and innovative design which could not otherwise be achieved through other standard zoning districts.

(5) The exceptions from the zoning regulations requested in the proposed PUD are warranted by virtue of innovative design and amenities incorporated in the PUD district.

(6) The PUD provides adequate circulation in terms of the internal street circulation system, designed for the type of traffic generated, for separation from living areas, convenience, safety access and noise and exhaust control. Proper circulation in parking areas has been provided in terms of safety, convenience, separation and screening. The PUD provides for buffering from collector and arterial streets through earthen berms, landscaping and other methods.

(7) The PUD provides functional open space in terms of practical usability and accessibility and optimum preservation of natural features, including trees and drainage areas, recreation areas, views, natural stream courses, bodies of water and wetlands.

(8) To the extent practicable, the PUD provides variety in terms of housing types, housing size, densities, affordability, facilities and open space.

(9) The PUD provides for pedestrian and bicycle traffic in terms of safety, separation, convenience, access, destination and attractiveness. If possible, there shall be an internal pedestrian circulation system separate from the vehicular system which allows access to adjacent parcels, parks, open space or recreational facilities within the PUD, as well as links to trail systems of the Town.

(10) Building types in terms of appropriateness to density, site relationship and bulk.

(11) Building design in terms of orientation, spacing, materials, color, texture, storage, signs and lighting.

(12) Landscaping of the site in terms of purpose, such as screening, types and materials used, maintenance suitability, water demands and effect on the area.

(13) Services, including utilities, fire and police protection and other such services which are available or can be made available to adequately serve the development.

(14) No structures in the PUD shall encroach on a floodplain except as permitted by the floodplain regulations contained in Article 11 of this Chapter.

(15) No occupied structure shall be located on ground showing severe subsidence potential without adequate design and study approved by the Town.

(16) Visual relief and variety of visual sitings shall be located within the PUD through building placement, shortened or interrupted street vistas, visual access to open space and other design methods. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-4-170. Amendments to preliminary and final development plans.

(a) Except as provided below, no changes may be made in the approved PDP or FDP except upon application *to* and approval by the Board of Trustees under the same procedures and requirements as specified for the initial submittal of a PDP or FDP. The Planning Director may, at the Planning Director's sole discretion, approve an amendment to a PDP or FDP, provided that the amendments are only:

(1) Architectural. Minor changes in the color, exterior appearance, lot coverage, screening of outdoor storage areas or location, siting and height of buildings, structures or divisional walls if required for engineering reasons or other circumstances not foreseen at the time the PDP or FDP was approved. No change authorized by this Paragraph may increase or decrease the dimensions of any building or structure by more than ten percent (10%) of the area of the principal building or structure.

(2) Landscaping and site features. Changes in plant materials, minor alterations in the location of plantings, change in plant quantities or sizes, changes to the location of internal sidewalks or changes in location of parking spaces if required for engineering reasons or other circumstances not foreseen at the time the PDP or FDP was approved. No change authorized by this Paragraph may increase or decrease landscaping or sidewalks by more than ten percent (10%).

(b) Any changes which are approved shall constitute an amendment to the PDP or FDP.

(c) Any administrative amendments authorized by the Planning Director shall be transmitted to the Planning and Zoning Commission and Board of Trustees for their information by written communication from the Planning Director. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-4-180. Recording of amendments.

Any changes which are approved for a PDP or an FDP shall constitute an amendment thereto and must be on file with the Town and noted as amendments to the PDP or FDP. Any administrative amendments authorized by the Planning Director shall be transmitted to the Planning and Zoning Commission and Board of Trustees for their information by written communication from the Planning Director. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-4-190. Control of development; enforcement.

(a) After the PUD has been approved, the use of land and the construction, modification or alteration of any buildings or structures within the PUD will be governed by the approved FDP rather than the other provisions of this Chapter. The FDP shall constitute the zoning document for the PUD and shall govern all land development within such PUD zone.

(b) From time to time, the Planning and Zoning Commission shall compare the actual development accomplished in the various previously approved PUDs with the development schedule and the development plan of the project. If the owners of the property in the PUD have failed to meet the approved development schedule or development plan and any supplementary agreements, the Board of Trustees, the Planning and Zoning Commission or the Planning Director may initiate proceedings to review the previously approved FDP. Such review shall occur in the same manner as review of the FDP in Section 16-4-150 of this Article. Upon such review, the FDP may be revoked or the limits of the development schedule may be extended.

(c) If the time limit established by the development schedule has passed, no building permit or certificates of occupancy shall be issued until after the Planning and Zoning Commission has reviewed the development plan and a new development schedule has been established. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-4-200. Assurance of completion.

(a) In those cases where a PUD is applied for on one (1) or more subdivided lots, but which does not have in place assurances of completion in the form of a guarantee acceptable to the Town as required or which involves any required on-site or off-site public improvements which, in the opinion of the Town, require an assurance of completion, such improvement assurances shall be made pursuant to the terms of the developer's agreement. For the purposes of this Section, the term *developer* means the person making application for approval of a PUD or the property owner of the land, if other than the applicant.

(b) The assurance of completion in the form of a guarantee acceptable to the Town must be furnished by the developer to assure the installation and completion of all required public improvements in a reasonable period of time.

(c) The developer shall execute a developer's agreement with the Town that requires guarantees to be furnished for the construction of the required public improvements and establishes the developer's responsibility for the provision of such improvements. Building permits will be issued only for that part of the plan for which the required finance guarantee has been provided.

(d) The developer's agreement shall be recorded prior to the issuance of any building permit. Upon written request from the developer, a release from the Town may be obtained for lots when the terms of the agreement have been satisfied for the lots involved.

(e) The developer's agreement shall provide that no certificates of occupancy shall be issued prior to the Town's conditional acceptance of the required improvements. The developer's agreement shall further provide that, if at any time there is a breach of such agreement, the Town may withhold approval of all building permits within the PUD until any breach has been cured. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-4-210. Exemption for a PUD.

The Director may determine that a modification to a previously approved PUD is exempt from further review under the administrative amendment process or as a new application, provided that the following criteria are met:

(1) The change is necessary because of natural features of the subject property unforeseen by the applicant or the Town prior to the approval of the PUD.

(2) The change will not have the effect of significantly reducing any area of landscaping, open space, natural area or parking.

(3) The change will not have the effect of increasing the density of the PUD.

(4) The change will not add square footage that is more than twenty percent (20%) of the existing gross square footage of the PUD.

(5) If an addition or expansion has been approved within the preceding twenty-four-month period, the combined additions will not add square footage that exceeds twenty percent (20%) of the existing gross square footage of the PUD.

(6) The change will not result in any structure, circulation or parking area being moved significantly in any direction.

(7) The change will not reduce any approved setback by more than ten percent (10%).

(8) The change will not result in any significant increase in the height of any structure.

(9) The change does not result in any significant adverse impact beyond the site. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-4-220. Administrative amendment procedures.

The Director may approve modifications to an approved PUD District as an administrative amendment subject to the procedures set forth in Section 16-4-210 above, if the following criteria are met:

(1) The amendment maintains the design intent or purpose of the original approval.

(2) The amendment maintains the quality of design or product established by the original approval.

(3) The amendment is not materially detrimental to uses or property in the immediate vicinity of the subject property.

The Director may impose conditions upon any administrative amendment to ensure the proposal complies with the decision criteria and the purpose and intent of the original approval. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-4-230. Major modifications of PUD.

If an applicant seeks a modification to an approved PUD that does not meet all of the requirements of Section 16-4-210 above, he or she may do so by submitting the application material required for approval of a new PUD. The Town will process and decide upon such application, using the provisions of this Article, as if it were an application for a new PUD. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-4-240. Lapse of PUD.

If the applicant does not begin and diligently work toward the completion of the PUD or any stage of the PUD within the limits imposed by Section 16-4-230 above, the approval of said PUD shall lapse. If an approved PUD lapses under the time limits set forth in this Article, any development on the subject property must comply with all applicable laws of the Town as if the PUD had not been granted. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-4-250. Preliminary subdivision application with PUD.

Where subdivision approval will be required to implement development in a proposed PUD, a preliminary subdivision plan application must be filed concurrently and in conjunction with the PUD application. The provisions and procedures for public notice, hearing and review for a PUD as prescribed in this Chapter shall apply to the preliminary subdivision plan application. No development may be implemented in a PUD prior to approval and recording of a corresponding final subdivision plat. (Ord. 9, 2008; Ord. 7 §1, 2010)

ARTICLE 5

Zoning Variances

Sec. 16-5-10. Purpose of provisions; limitations.

In order to prevent or to lessen such practical difficulties and unnecessary physical hardships inconsistent with the objectives of this Chapter as would result from strict or literal interpretation and enforcement, variances from certain regulations may be granted. A practical difficulty or unnecessary physical hardship may result from the size, shape or dimensions of a site or the location of existing structures thereon; from topographic or physical conditions on the site or in the immediate vicinity; or from other physical limitations, street locations or traffic conditions in the immediate vicinity. Cost or inconvenience to the applicant of strict or literal compliance with a regulation shall not be a reason

for granting a variance. It is not the intent of this Article, however, to allow variances in the classification of uses of property. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-5-20. Application; public hearing.

(a) Application for a variance shall be made to the Planning and Zoning Commission. The Planning and Zoning Commission, within thirty (30) days of receipt of the application, shall study and review the application and accompanying evidence and hold a public hearing thereon.

(b) A public hearing shall be held in accordance with Section 16-2-50 of this Chapter. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-5-30. Application; contents.

The application shall be supported by documents, maps, plans and other material containing the following information:

(1) The name and address of the owner and/or applicant and a statement that the applicant, if not the owner, has the permission of the owner to make application and act as agent for the owner.

(2) The legal description, street address and other identifying data concerning the site.

(3) A description of the precise nature of the proposed variance and its operating characteristics and measures proposed to make the variance compatible with other properties in the vicinity.

(4) A site plan showing proposed development of the site, including topography, building or structure locations, parking, traffic circulation, usable open space, landscaped area and utilities and drainage features.

(5) Preliminary building plans and elevations sufficient to indicate the dimensions, general appearance, scale and interior plan of all buildings.

(6) Such additional materials as the Planning and Zoning Commission may prescribe or the applicant may submit pertinent to the application and to the findings prerequisite to the issuance of a variance. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-5-40. Approval criteria.

Before acting on a variance application, the Planning and Zoning Commission shall consider the following factors with respect to the requested variance:

(1) The relationship of the requested variance to other existing or potential uses and structures in the vicinity.

(2) The degree to which relief from the strict or literal interpretation and enforcements of a specified regulation is necessary to achieve compatibility and uniformity of treatment among sites in the vicinity or to attain the objectives of this Chapter without the grant of special privilege.

(3) The effect of the requested variance on light and air, distribution of population, transportation and traffic facilities, public facilities and utilities and public safety.

(4) Such other factors and criteria as the Planning and Zoning Commission deems applicable to the proposed variance. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-5-50. Findings required.

The Planning and Zoning Commission shall make the following written findings before granting a variance:

(1) That the granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same district.

(2) That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.

(3) That the variance is warranted for one (1) or more of the following reasons:

a. The strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of this Chapter.

b. There are exceptional or extraordinary circumstances or conditions applicable to the site of the variance that do not apply generally to other properties in the same zone.

c. The strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties in the same district. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-5-60. Conditional granting.

The granting of a variance may be conditioned on action by the applicant. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-5-70. Fees; term.

Variance fees shall be paid at the time of the application for the variance and prior to its receipt by the applicant. The variance shall lapse if construction is not commenced within one (1) year of the date of issuance and diligently pursued to completion. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-5-80. Action notice.

The Town Clerk shall notify the applicant for a variance in writing of the Board of Trustees' action within seven (7) days after a decision has been rendered. (Ord. 9, 2008; Ord. 7 §1, 2010)

ARTICLE 6

Special Review Use

Sec. 16-6-10. Special review use permit.

(a) A special review use shall require a special review use permit prior to the issuance of a building permit or the commencement of the use identified as a special review use in the appropriate zone district.

(b) A special review use shall not be considered a use by right without review and approval, as set forth in Section 16-6-20 below, nor shall the use vest unless a development plan is approved for the property. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-6-20. Application filing and processing.

(a) An application with required materials (see Section 16-6-30 below) shall be filed with the Town. Only complete submittals shall be accepted.

(b) Staff shall review the application in accordance with the criteria established in this Section and present the application at a public hearing in accordance with Section 16-6-50 below.

(c) Developments and uses granted by a special review use permit shall be developed or established in accordance with an approved development schedule, or within one (1) year of the date of approval if no development schedule is established. Failure to develop or establish such development or uses in accordance with the time period approved on the permit shall cause the Zoning Administrator to revoke the permit.

(d) A special review use permit is valid as long as conditions of approval are maintained by the applicant unless a specific time limit for the use is set forth as part of the approval. If an approved use ceases operation for any reason for a period of one (1) year, the special review use permit shall be deemed to have expired. If the conditions of a permit become the responsibility of a person or entity other than the applicant, the Town shall be notified in writing, identifying the new person or entity responsible for maintaining the conditions of the permit. Until such notice is received, the applicant shall remain responsible. Such notice shall be attached to the permit on file with the Town.

(e) If conditions of approval are not maintained, it shall be considered a violation of this Code and subject to revocation proceedings. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-6-30. Submittal requirements for special review use.

The applicant shall submit to the Town any or all of the following materials which are, in the opinion of the Zoning Administrator, relevant to the particular permit being requested. Only complete submittals shall be accepted.

- (1) A complete special review use permit application and required fee.
- (2) A legal description of the parcel.

- (3) A site plan showing proposed uses and structures on the property.
- (4) Scaled elevations and/or perspective drawings of any proposed structures.
- (5) A proposed development schedule indicating:
 - a. The date of the beginning of the use and/or construction.
 - b. Phases in which the project may be developed and the anticipated rate of development.
 - c. The date of completion of the project.
- (6) Any agreements, provisions or covenants to be recorded.
- (7) Restoration or reclamation plans, which shall be required for all uses requiring extensive grading, for extractive uses and may be required for other uses as necessary.
- (8) A statement regarding any provisions for proper ongoing maintenance of the use and site which shall be provided.
- (9) Any additional materials, which, in the opinion of the Zoning Administrator, are necessary to adequately review the application. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-6-40. Criteria for review, recommendation and approval of special review uses.

The Town staff and the Planning and Zoning Commission shall consider the following criteria when evaluating an application for a special review use permit:

- (1) Whether the proposed use otherwise complies with all requirements imposed by this Zoning Code.
- (2) Whether the proposed use is in conformance with the Comprehensive Plan.
- (3) Whether the proposed use is compatible with adjacent uses. Such compatibility may be expressed in appearance, architectural scale and features, site design and the control of any adverse impacts, including noise, dust, odor, lighting, traffic, safety, etc. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-6-50. Amendments to special review use permit.

No approved special review use may be modified, structurally enlarged or expanded in ground area, unless such modification, enlargement or expansion receives the prior approval of the Planning and Zoning Commission, which shall be obtained by repetition of the granting procedures provided in this Article. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-6-60. Special review use permit for home occupation child day care homes.

(a) The provisions of this Section apply in cases in which a special review use permit is sought for a licensed child day care home as a home occupation within a duplex or multi-family dwelling unit where the occupants of such dwelling units share a common wall.

(b) When a special review use permit is sought for a licensed child day care home as a home occupation within a duplex or multi-family dwelling unit where the occupants of such dwelling units share a common wall, in addition to the submittal requirements set forth in Section 16-6-30 above, the applicant shall also submit to the Town the following:

(1) In the case of an applicant living in a duplex dwelling unit, the applicant shall submit the written consent of the owner of the neighboring unit within the duplex to a licensed child day care home.

(2) In the case of an applicant living in a multi-family dwelling unit (including a condominium), the applicant shall submit the written consent of all the owners of property which share a common and adjoining wall with the property owned by the applicant to a licensed child day care home.

(c) Once a special review use permit has been granted for a licensed child day care home as a home occupation within a duplex or multi-family dwelling unit, notwithstanding Section 16-6-20 above, there shall be no requirement that the special review use permit is valid only so long as the consent given as provided by Subsection (b) above is maintained. In the event a consent given as provided by Subsection (b) is withdrawn after a special review use permit has been granted, the Town will review the use and in its discretion decide whether to continue to permit the use in accordance with the criteria set forth in Section 16-6-40 above. No special review use permit for a licensed child day care home as a home occupation issued pursuant to this Section will be cancelled by the Town based solely upon the withdrawal of consent as provided in Subsection (b) above. In cases where the consent provided for herein has been withdrawn, no special review use permit issued pursuant to this Section shall be cancelled unless a hearing has been held on the issue of the cancellation of the use, unless the holder of the special review use permit waives entitlement to a hearing. (Ord. 9, 2008; Ord. 7 §1, 2010)

ARTICLE 7

Nonconforming Uses and Structures

Sec. 16-7-10. Intent.

Within the districts established by this Zoning Code, or amendments thereto that may be adopted, there may exist lots, structures and uses of land and structures, which were lawfully established before this Zoning Code was passed or amended, but which would be prohibited, regulated or restricted under the terms of this Zoning Code or any future amendment. It is the intent of this Article to permit these nonconformities to continue until they are removed, abandoned or more than fifty percent (50%) destroyed. It is the further intent of this Article that nonconforming structures and uses

shall not be enlarged upon, expanded or extended or be used as grounds for adding other structures or uses prohibited elsewhere in the same district. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-7-20. Uses of land.

(a) Where, at the time of the passage of this Zoning Code, or amendment thereof, lawful use of land exists which would not be permitted by the regulations imposed by this Zoning Code, the use may be continued so long as it remains otherwise lawful, provided that:

(1) No such nonconforming use shall be enlarged, increased or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of the ordinance codified in this Zoning Code.

(2) No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of the ordinance codified in this Zoning Code.

(3) When any such nonconforming use of land ceases for any reason for a period of one (1) year, then any subsequent use of such land shall conform to the regulations specified by this Zoning Code for the district in which such land is located.

(4) No additional structure not conforming to the requirements of this Article shall be erected in connection with such nonconforming use of land.

(b) A nonconforming use shall not be changed to a use of a lower or less restrictive classification, but such nonconforming use may be changed to another use of the same or higher classification. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-7-30. Nonconforming structures.

Where a lawful structure exists at the effective date of adoption or amendment of the ordinance codified in this Zoning Code that could not be built under the terms of this Zoning Code by reason of restrictions on area, lot coverage, height, location on the lot or other requirements concerning the structure, such structure may continue to exist so long as it remains otherwise lawful, subject to the following provisions:

(1) No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

(2) Should fifty percent (50%) or more of such nonconforming structure or nonconforming portion of a structure be destroyed by any means and not be repaired or replaced within one (1) year from the date of loss, it shall not be reconstructed except in conformity with the provisions of this Zoning Code.

(3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after having been moved. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-7-40. Uses of structures or of structures and premises in combination.

If lawful use involving individual structures, or structures and premises in combination, exists at the effective date of adoption or amendment of the ordinance codified in this Zoning Code that would not be allowed in the district under the terms of this Zoning Code, that use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No existing structure devoted to a use not permitted by this Zoning Code in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

(2) Any nonconforming use may not be extended throughout any parts of a building, unless such building was manifestly arranged or designed for such use at the time of adoption or amendment of the ordinance codified in this Zoning Code, but no such use shall be extended to occupy any land outside such building.

(3) If no alterations to the structure are made, any nonconforming use of a structure, or structure and premises in combination, may be changed to another use of a higher classification.

(4) Any structure, or structures and premises in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.

(5) When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for a period of one (1) year, the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.

(6) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. *Destruction*, for the purpose of this Section, is defined as loss of fifty percent (50%) or more or substantial damage to the structure. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-7-50. Lot reduction prohibition against establishing new nonconforming uses.

(a) No lot or parcel of land, nor any interest therein, shall be transferred, conveyed, sold, subdivided or acquired either in whole or in part, so as to create a new nonconforming use, to avoid, circumvent or subvert any provision of this Zoning Code, or so as to leave remaining any lot or width or area below the requirements for a legal building site as described in this Zoning Code; nor shall any lot or portion of a lot required for a legal building site under the provisions of this Zoning Code be used as a portion of a lot required as a site for another structure.

(b) No building permit shall be issued for any lot or parcel of land which has been transferred, conveyed, sold, subdivided or acquired in violation of this Section.

(c) Any transferee who acquires a lot or parcel of land in violation of this Section without knowledge of such violation, and any subsequent transferee, shall have the right to rescind and/or

receive damages from any transferor who violates the provisions of this Section. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-7-60. Priority of use classifications.

Whenever in this Article reference is made to a higher (or more restrictive) classification and lower (or less restrictive) classification of uses in providing that a nonconforming use may be converted to a higher but not a lower classification, uses shall be considered higher or lower according to the following sequence (highest to lowest): open space, residential, public, office, accommodations, commercial, industrial. (Ord. 9, 2008; Ord. 7 §1, 2010)

ARTICLE 8

Off-Street Parking and Loading

Sec. 16-8-10. Scope and application.

(a) Scope of regulations. The off-street parking and loading provisions of this Article shall apply as follows:

(1) For all buildings and structures erected, and all uses of land established after the effective date of the initial ordinance codified herein, accessory parking and loading facilities shall be provided in accordance with the provisions of this Section and subject to any restrictions contained elsewhere in this Chapter for the district in which such facilities are located. However, where the final development plan has been approved prior to said effective date and if a building permit is applied for within six (6) months after such effective date, parking and loading facilities in the amounts required at the time of approval of the plan may be provided in lieu of any different amounts required by this Article. Construction shall be diligently pursued to completion. Any final plans receiving approval after said effective date shall conform to the parking and loading requirements herein.

(2) When the intensity of use of any building, structure or premises is increased through the addition of dwelling or accommodation units, gross floor area, seating capacity or other units of measurement specified herein, required parking or loading facilities as required herein shall be provided for such increase in intensity of use.

(3) Whenever the existing use of a building or structure is hereafter converted to a new use, parking or loading facilities shall be provided as required for such new use.

(b) Existing parking and loading facilities. Accessory off-street parking and loading facilities in existence on said effective date and located on the same lot as the building or use served, shall not hereafter be reduced below the requirements of this Article for a similar new building or use. If such existing facilities are already below the required amount, they shall not be hereafter further reduced.

(c) Permissive parking and loading facilities. Nothing in this Article shall be deemed to disallow the voluntary establishment of off-street parking or loading facilities to serve any existing use of land

or buildings, provided that all regulations herein governing the location, design and operation of such facilities are satisfied.

(d) Damage or destruction. For any conforming or legally nonconforming building or use which is in existence on said effective date, which subsequently thereto is damaged or destroyed more than fifty percent (50%) of the total value by fire, collapse, explosion or other cause, and which is reconstructed, reestablished or repaired, off-street parking or loading facilities shall be provided as required by this Article.

(e) Submission of site plan. Any application for a building permit, or for a certificate of occupancy where no building permit is required, shall include therewith a site plan, drawn to scale and fully dimensioned, showing all off-street parking or loading facilities and points of access to be provided. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-8-20. Parking; general requirements.

(a) Location.

(1) All parking spaces required to serve buildings or uses erected, established, altered or enlarged after the effective date of the initial ordinance codified in this Article shall be located on the same lot as the building or use served, except that up to forty percent (40%) of the parking spaces required to serve commercial and residential buildings or uses may be located within three hundred (300) feet of such building or use served, but only if such parking is developed in accord with all the applicable district regulations. Off-site parking shall not be located in such a location so as to require the user to cross a major barrier, such as a street, river, ditch, etc., in order to reach the use requiring the parking. Establishment of off-site parking shall be a special review use.

(2) Buildings or uses existing on effective date which are subsequently altered or enlarged so as to require the provision of parking spaces under this Article may be served by parking facilities located on land other than the lot on which the building or use served is located, provided that such facilities are within three hundred (300) feet walking distance of a main entrance to the use served for commercial uses.

(3) Owners of property nonconforming as to parking requirements who elect to provide additional parking may locate such parking on land other than the lot on which the building is located, subject to the provisions listed immediately above.

(4) Off-street parking spaces, including the adjacent area used for turning movements necessary to enter or leave the parking spaces when open to the sky, may be located in any yard except the front ten (10) feet of the required front yards, and unless otherwise specifically restricted by this Article. Enclosed buildings and carports containing off-street parking shall be subject to the applicable district yard requirements.

(b) Control of off-site parking facilities.

(1) In cases where parking facilities are permitted on land other than the lot on which the building or use served is located, such facilities shall be in the same possession as the lot occupied

by the building or use to which the parking facilities are accessory. Such possession shall be by deed or lease, and such deed or lease shall be filed with the County Clerk and Recorder.

(2) If possession is by lease, the term of the lease shall be perpetual in nature, running for the duration of the use requiring the parking. Should the lease be terminated prior to the termination of the use, the person operating the use shall provide evidence that all off-street parking requirements are being met. Failure to do so shall classify the use as an illegal nonconforming use, and appropriate action shall be taken by the Zoning Administrator to terminate the use or bring it into compliance with the requirements of this Article.

(c) Size and vertical clearance. All minimum requirements as to size, shape and design of spaces, aisles and drives shall meet standard Town specifications. Such space shall have a vertical clearance of at least seven and one-half (7½) feet, a minimum width of nine (9) feet and a depth of eighteen (18) feet for ninety-degree parking. All spaces exposed to the weather shall be marked with yellow striping at least once a year.

(d) Access. Except on lots accommodating single-family or duplex dwellings, each off-street parking space shall open directly upon an aisle or driveway of a width of twenty-four (24) feet for ninety-degree parking and design meeting standard Town specifications. All off-street parking facilities shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement, and all such points of access must be approved by the Town Engineer. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-8-30. Shared parking provisions.

(a) Private facilities. Off-street parking facilities for separate uses may be provided collectively if the total number of spaces so provided is not less than the sum of the separate requirements governing location of accessory parking spaces in relation to the use served and adhered to. Further, no parking space or portion thereof shall serve as a required space for more than one (1) use unless otherwise authorized by the Planning and Zoning Commission.

(b) Public facilities.

(1) Where the Town has constructed or proposes to construct public off-street parking facilities, the Board of Trustees may, by resolution, establish a shared parking district within the boundaries of an area set forth in the resolution. When such a shared parking district has been established, all or a part of the private off-street parking spaces required within the parking district may be provided by a public off-street parking facility located within such district. Prior to property owners within the established parking district being allowed to so reduce the number of private off-street parking spaces, such owners shall submit, and the Board of Trustees must approve, a parking and site development plan for the affected properties within the parking district. Such plan shall show proposed development of the area and how the total number of required off-street parking spaces will be provided by the use of public and private facilities. In addition to an approved parking and site development plan, the Board of Trustees may, as it deems necessary and appropriate, require formal agreements with the property owners concerning land dedications and easements, participation in construction and maintenance costs of the public facilities and other related matters. Subsequent to formal execution of agreements and availability

of the parking facilities, property owners may reduce the number of private off-street spaces required in accordance with the approved parking and site development plan.

(2) The total number of off-street parking spaces provided by the combined public and private facilities within the shared parking district shall not be at any time less than the number required by this Article. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-8-40. Reduction in parking requirements for mixed-use projects.

(a) Notwithstanding the provisions of Section 16-8-90 below, the minimum parking requirement for a mixed-use project shall be determined by the Planning and Zoning Commission as part of its review of any plan for development and shall be calculated as follows:

- (1) Main level: Five and one-half (5½) spaces per one thousand (1,000) square feet.
- (2) Additional levels, including basements: Four (4) spaces per one thousand (1,000) square feet.
- (3) Residential: In accordance with Table 16-1.

(b) Such minimum requirement may be reduced by a factor of fifteen percent (15%) upon determination by the Planning and Zoning Commission (as part of plan approval and not as a special review use) that the following criteria are met:

- (1) No parking spaces are reserved for use (except by handicapped persons).
- (2) The mixed-use project is located within an MU/TC, MU/NC or PUD zone district.
- (3) Adequate snow storage on site will be provided.

(4) At least seventy-five (75) parking spaces are provided; if application of the reduction formula results in the requirement of less than seventy-five (75) spaces, the minimum requirement hereinabove provided shall govern and reduction will not be permitted. Reductions in the number of required parking spaces for mixed-use projects shall not be made in combination with a reduction made on a large single-use basis.

(c) Parking space size reduction for compact cars. Up to thirty percent (30%) of the total number of parking spaces provided in covered or underground structures or lots containing twenty-five (25) or more parking spaces may be reduced in size down to a minimum of eight (8) feet in width by sixteen (16) feet in length for use by compact cars. Such spaces shall be clearly signed for compact cars only.

(d) Reduction in parking requirements for large single-use projects. Minimum requirements for large single-use projects shall be determined in accordance with Section 16-8-90 below. The minimum parking requirements for commercial uses established by Section 16-8-90 may be reduced by a factor of fifteen percent (15%) in the case of large single-use projects upon determination by the Planning and Zoning Commission (as part of its review of any plan for development but not as a special review use) that the following criteria are met:

- (1) No parking spaces are reserved for use (except by handicapped persons).
- (2) The large single-use project is located within an MU/TC, MU/NC or PUD zone district.
- (3) Adequate snow storage on site will be provided.

(4) At least seventy-five (75) parking spaces are provided. If application of the reduction formula results in the requirement of less than seventy-five (75) spaces, the minimum requirement hereinabove provided shall govern and reduction will not be permitted. Reduction in the number of required parking spaces for large single-use projects shall not be made in combination with a reduction made on a mixed-use basis. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-8-50. Computation.

When determination of the number of off-street parking spaces required by this Article results in a requirement of a fractional space, shall be rounded to the nearest integer. Parking spaces required on an employee basis shall be based on the maximum number of employees on duty and/or residing on the premises at any one (1) time. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-8-60. Utilization.

Except as may additionally be provided for the parking of trucks and other large vehicles, accessory off-street parking facilities provided in accordance with the requirements of this Article shall be solely for the parking of passenger motor vehicles of patrons, occupants, visitors or employees of such uses. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-8-70. Design and maintenance.

(a) Plan. Except for single-family and two-family residential uses, the design of parking lots or areas shall meet standard Town specifications.

(b) Character. Accessory parking spaces may be open to the sky or enclosed in a building.

(c) Surfacing. All open, off-street parking areas shall be surfaced with asphaltic concrete, concrete or other approved hard surface, which shall be constructed and maintained in accordance with specifications of the Engineering Department.

(d) Drainage. All open off-street parking areas shall be graded and drained to dispose of surface water accumulation in accordance with standard Engineering Department practices.

(e) Landscaping. All open vehicle parking areas containing more than six (6) parking spaces shall contain at least five percent (5%) of the area in landscaping that blends in compatibly with adjacent existing or proposed developments. Such landscaping shall be in keeping with the character of the Town. Large lots containing more than thirty (30) parking spaces shall be periodically divided with islands containing landscaping similar in character to that found throughout the Town. Said landscaping shall be evenly spread throughout the parking area. The area located outside the actual perimeter of the parking lot shall not be counted in the five-percent landscaping area.

(f) Lighting. Any lighting used to illuminate off-street parking areas shall be directed away from residential properties and public streets in such a way as not to create a nuisance. All lighting shall be an energy efficient type light.

(g) Wheel guards. All perimeter parking spaces, except for single-family and duplex family use, shall be provided with wheel guards or bumper guards so located that no part of parked vehicles will extend beyond the property line.

(h) Vehicle repair and service restrictions. No vehicular repair, service or maintenance activities done anywhere upon a residential district lot shall be done for remuneration; additionally, no such activities whether or not for remuneration shall be permitted on any vehicle with either a gross weight or a gross carrying weight of ten thousand (10,000) pounds or more. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-8-80. Parking; specific requirements.

(a) All off-street parking spaces required by this Article, except those required for single-family and two-family dwellings, shall be designed in accordance with the standard Town specifications. Off-street parking spaces shall be provided in accordance with the specified parking requirements as set forth in the Table 16-1, Off-Street Parking, in Section 16-8-90 below.

(b) Parking spaces for major accessory uses which are specifically enumerated within Table 16-1 shall be provided in addition to those required by the principal use. Parking spaces for accessory uses not specifically enumerated within Table 16-1 shall be assumed to be included in the principal use requirement.

(c) If, for any reason, the classification of any use for the purpose of determining the amount of off-street parking, or the number of spaces to be provided by such use, is not readily determinable hereunder, the parking requirements of such use or the number of spaces to be provided shall be determined by the Zoning Administrator, after recommendation by appropriate Town departments, based upon the most similar uses for which specific requirements are provided. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-8-90. Off-street parking by use.

The following table sets forth the minimum off-street parking requirements by use:

**Table 16-1
Off-Street Parking**

<i>Use</i>	<i>Minimum Requirements</i>
Residential (per dwelling unit)	
Single-family or duplex	2 spaces/unit 3 spaces/unit for units over 2,500 sq. ft., not including garage
Multi-family building and townhouses	
Studio	1 space
One bedroom	1½ spaces
All others	2 spaces

Per accommodation unit including lockoffs	
One bedroom	1 space
Over one bedroom	1 space plus ½ space for each additional bedroom in excess of one
Guest parking spaces	
Multi-family and townhouses	
3—5 units	2 spaces
5—10 units	3 spaces
11—15 units	4 spaces
16—20 units	5 spaces
21—25 units	6 spaces
Over 25 units	7 spaces plus 1 space for each 5 units in excess of 25 up to a maximum of 10 additional spaces
Mobile home parks	2 spaces/mobile home space
Timesharing units	1 space per 600 sq. ft. but not less than 1 space per unit unless reduced as part of a mixed-use project reduction
Commercial	
Shopping and convenience goods retail	4/1,000 sq. ft. GFA
Personal services and repair establishments, businesses and professional services offices and banks	3/1,000 sq. ft. GFA
Drive-through banks	3/1,000 sq. ft. GFA plus 5 storage spaces/outside teller window or drop station
Restaurants, food consumed within structure only. Outside patio used with a bar or restaurant do not require any additional parking	1/60 sq. ft. of seating area
Restaurants, carry-out only, food consumed on premises	10/1,000 sq. ft. GFA
Restaurants with drive-up window	1/60 sq. ft. of seating area, plus storage for 7 car/drive-up window
Service stations	2/1,000 sq. ft. GFA
Commercial recreation facilities	
Bowling alleys	4/lane, plus 1/employee
Tennis courts	4/court, plus 1/employee
Handball and racquetball courts	2/court, plus 1/employee
Swimming pools	20/1,000 sq. ft. GWA
Skating rinks	10/1,000 sq. ft. GFA
Industrial	
Manufacturing plants, warehousing, wholesaling establishments, freight terminals	1/800 sq. ft. GFA
Industrial and Commercial	
Warehousing	1.2/1,000 sq. ft. GFA
Light manufacturing plants	1/800 sq. ft. GFA

Wholesale outlets/ showrooms	1/800 sq. ft. GFA
Self-storage	1/2,500 sq. ft. GFA
Utility company	1/800 sq. ft. GFA, plus 1 space per employee vehicle parked on-site
Industrial, construction and wholesale offices	3/3,000 sq. ft. GFA
Laboratories	1/800 sq. ft. GFA
Educational	
Nursery schools and day care centers	2/1,000 sq. ft. GFA
Elementary and junior high schools	1/employee
Senior high schools	1/employee, plus 1/each 6 students based on design capacity
Trade schools	1/each 2 students
Medical	
Doctors' offices, including optometrists, medical, dental, chiropractor, chiroprapist and all others	5/1,000 sq. ft. GFA
Hospitals	1/bed
Public buildings	
Auditoriums, theaters, stadiums and arenas	1/4 seats
Museums and libraries	4/1,000 sq. ft. GFA
Public utilities companies	3/1,000 sq. ft. GFA
Other	
Churches	1/each 3 seats provided in main seating area
Clubs and lodges	5/1,000 sq. ft. GFA
Other uses	As determined by Zoning Administrator

(Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-8-100. Payment-in-lieu program.

(a) Designation of exempt areas. Notwithstanding any other provision of this Section, the Board of Trustees by resolution may exempt designated areas from the off-street parking requirement of this Article if alternative means will meet the off-street parking needs of all users in the area. Prior to exempting any area from the off-street parking requirement, the Board of Trustees shall determine that the exemption is in the interest of the area to be exempted and in the interest of the Town at large.

(b) Payment in lieu.

(1) Application. An applicant for planning and zoning approval for a development plan in an area exempted from the off-street parking requirements may seek a mitigation of the off-street parking requirements via a payment in lieu. Such an application may be approved by the Planning and Zoning Commission only if the applicant demonstrates that the parking needs of the residents, customers, guests and employees of the project have been met, taking into account potential uses of the parcel, the projected traffic generated by the project, how the project impacts the parking of

the neighborhood and the project's proximity to mass transit routes. The decision of the Planning and Zoning Commission may be appealed to the Board of Trustees.

(2) Approval. Approval of an application for payment in lieu shall be at the discretion the Town.

(3) Fee. In all cases in which approval has been given for a payment in lieu of parking, the applicant shall make a one-time payment to the Town, in the amount of thirty-five thousand dollars (\$35,000.00) per parking space. This fee has been established for the calendar year of 2008, and shall be automatically adjusted on the first day of January annually thereafter, by the percentage the Consumer Price Index of the City of Denver has increased over each successive year. The payment in lieu shall be due and payable at the time of the issuance of a building permit. All funds collected shall be transferred by the Building Official to the Finance Director, for deposit in the Town Parking Fund established at Section 4-3-40 of this Code. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-8-110. Loading; general requirements.

(a) Location. All required loading berths shall be located on the same lot as the use served. No permitted or required loading berth shall be located within thirty (30) feet of the nearest point of intersection of any two (2) streets. No loading berth shall be located in a required front yard.

(b) Size. Unless otherwise specified, a required off-street loading berth shall be at least twelve (12) feet in width by thirty-five (35) feet in length, exclusive of aisle and maneuvering space, and shall have a vertical clearance of at least fifteen (15) feet.

(c) Access. Each required off-street loading berth shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement, and shall meet standard Engineering Department specifications. All driveways servicing off-street loading berths shall be in accordance with applicable Town driveway standards.

(d) Utilization. Space allocated to any off-street loading use shall not, while so allocated, be used to satisfy the space requirements for any required off-street parking facilities or portions thereof.

(e) Central loading. Central loading facilities may be substituted for loading berths on individual lots, provided that the following conditions are fulfilled:

(1) Each lot served shall have direct access to the central loading area without crossing streets or alleys at grade.

(2) Total off-street loading berths provided shall meet the minimum requirements herein specified, based on the sum of the several types of uses served.

(f) Minimum facilities. Uses for which off-street loading facilities are required herein, but which are located in buildings of less floor area than the minimum prescribed for such required facilities, shall be provided with the adequate receiving facilities accessible by motor vehicle off any adjacent alley, service drive, parking lot or open space located on the same lot. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-8-120. Loading; specific requirements.

The minimum amount of off-street loading or unloading space to be provided shall be as follows:

**Table 16-2
Minimum Requirements for Off-Street Loading**

<i>Land Use</i>	<i>Gross Floor Area</i>		
	<i>Floor Area Requiring One 12' x 35' Berth</i>	<i>Floor Area Requiring an Additional 12' x 35' Berth</i>	<i>Floor Area Requiring One 12' x 55' Berth</i>
Residential			
Multi-family dwellings	As determined by the Planning and Zoning Commission		
Office, Institutional and Educational			
Health and medical institutional uses; educational, cultural, religious institutions; recreation and social establishments; banks and financial institutions; medical and dental clinics; business and professional offices	—	10,000 sq. ft.	Over 100,000 sq. ft.
Commercial			
Retail	5,000 sq. ft.	Over 20,000 sq. ft.	Over 35,000 sq. ft.
Hotels/motels	10,000 sq. ft.	Over 100,000 sq. ft.	—
Commercial recreation (including bowling alleys)	10,000 sq. ft.	Over 100,000 sq. ft.	—
Wholesale	10,000 sq. ft.	Over 40,000 sq. ft.	—
Restaurants	5,000 sq. ft.	Over 25,000 sq. ft.	—
Laundry establishments	10,000 sq. ft.	Over 25,000 sq. ft.	—
Funeral homes	5,000 sq. ft.	Over 100,000 sq. ft.	—
Industrial			
Manufacturing and warehousing	Up to 5,000 sq. ft.	Over 40,000 sq. ft.	—
Storage	Up to 10,000 sq. ft.	Over 25,000 sq. ft.	—
Other			
Stadiums, auditoriums and arenas	Up to 20,000 sq. ft.	—	Over 20,000 sq. ft.
Transportation terminals	5,000 sq. ft.	Over 40,000 sq. ft.	—
Sewage treatment plants, municipal	10,000 sq. ft.	—	—

(Ord. 9, 2008; Ord. 7 §1, 2010)

ARTICLE 9

Sign Code

Sec. 16-9-10. Authority, purpose and relation to other laws.

The sign standards set forth in this Article are intended to and shall apply to the all standard zoning districts established in Article 3 of this Chapter and to all PUD zone districts within the Town. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-9-20. Intent.

The intent of these standards is to coordinate the type, placement and physical dimensions of signs within the standard zoning districts and PUD zoning districts within the Town. It is also the intent of these regulations to:

- (1) Recognize the commercial sign requirements of all sectors of the business community.
- (2) Encourage the innovative use of design.
- (3) Promote both renovation and proper maintenance of signs.
- (4) Allow for special circumstances.
- (5) Guarantee equal treatment through accurate record keeping and uniform enforcement.
- (6) Encourage signs that are attractive and compatible with the adjacent property.
- (7) Encourage signs that will preserve and enhance property values within the community.
- (8) Provide for public safety with regard to signs.
- (9) Preserve the environmental character of the community and prevent overload of visual stimuli.
- (10) Promote safe visual perception of signs from a moving vehicle. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-9-30. Signs allowed without a permit.

Generally, the following types of signs are allowed in all standard zoning districts and PUD zone districts as long as they meet the requirements of this Section and do not require the issuance of a building permit:

(1) Official flags. Up to three (3) official flags of any government, governmental agency or nonprofit agency, provided that the following restrictions are met:

a. For residential uses, the height of the pole on which the flag is mounted does not exceed the height of the principal structure on the lot or the distance from the flagpole to the lot line, whichever is less.

b. For commercial, employment office and other nonresidential uses, the height of the pole on which the flag is mounted does not exceed the height of the principal structure on the lot or forty (40) feet, whichever is less, unless otherwise approved as part of a final development plan.

c. The vertical dimension of the flag is not more than one-fifth ($1/5$) of the height of the flagpole (i.e., if the height of the flagpole is twenty [20] feet, the vertical dimension of the flag cannot exceed four [4] feet).

d. The size of the flag does not exceed twenty (20) square feet.

e. The location of the flagpole is set back a distance from the property line, equal to its height.

(2) Other flags. One (1) flag in addition to permitted official flags, provided that the following restrictions are met:

a. For residential uses, the height of the pole on which the flag is mounted does not exceed the height of the principal structure on the lot or the distance from the flagpole to the lot line, whichever is less.

b. For commercial, employment office and other nonresidential uses, the height of the pole on which the flag is mounted does not exceed the height of the principal structure on the lot or forty (40) feet, whichever is less, unless otherwise approved as part of a final development plan.

c. The vertical dimension of the flag is not more than one-fifth ($1/5$) of the height of the flagpole (i.e., if the height of the flagpole is twenty [20] feet, the vertical dimension of the flag cannot exceed four [4] feet).

d. The size of the flag does not exceed twelve (12) square feet.

e. The location of the flagpole is set back a distance from a property line, equal to its height.

(3) Large special event banners. Up to two (2) large special event banners may be suspended from the sides of a building housing a permitted community services use (events center, assembly hall or cultural facility), provided that:

a. Each such banner shall relate to a public event;

b. Each such banner shall be removed no later than one (1) week after the event to which it relates to ends; and

c. The maximum size of any such banner shall be two hundred (200) square feet.

(4) Small special event and other small special banners. In commercial areas and in the vicinity of Town Hall or public park areas, in connection with ongoing seasonal events, any number of small banners may be suspended from light poles, utility poles or building-mounted fixtures, provided that:

a. Each such banner shall relate to a public event or shall identify a specific neighborhood within the Town;

b. When related to a one-time or special event, each such banner shall be removed no later than one (1) week after the event to which it relates ends;

c. No more than two (2) such banners may be suspended from any one (1) pole or fixture; and

d. The maximum size of any such banner shall be six (6) square feet.

(5) Public signs. Signs erected by any governmental agency, including but not limited to federal, state, county and Town governments, school and recreational districts, but not including private water companies.

(6) Public warning signs. Any number of protective, warning or traffic signs erected by a governmental agency.

(7) Interior signs. Any number of signs that are located within any structure and are not visible from adjacent properties or from public streets.

(8) Historical signs. Any number of historical commemorative plaques, memorials or tables that are built into a building or mounted flat against the wall of a building, that contain the name of that building or the date of reception and use of the building, or that are erected in any particular locations designated by the Town as having historical significance.

(9) Real estate signs. One (1) freestanding or wall-mounted sign per street frontage that advertises the sale, rental or lease of the property on which the sign is located. In commercial zoning districts, such signs shall not be larger than twelve (12) square feet in total area. In residential zone districts, such signs shall not exceed four (4) square feet in total area. Traffic visibility requirements shall be met in all cases.

(10) Address and building identification signs. Signs that include a letter, number, word or address used to identify a particular parcel of land, individual building or buildings located in a business, industrial or residential building complex or center, for purposes of information and not for advertising, including an individual house address sign, provided that each sign:

a. Is attached to the building identified;

- b. Is limited to two (2) per building;
- c. Is not more than four (4) square feet in total area for each sign; and
- d. Is not illuminated.

(11) Permanent window signs. Permanent window signs may occupy up to ten percent (10%) of the total window area of each establishment in commercial zoning districts. Such signs may be illuminated during the times the establishment is in operation.

(12) Temporary window signs. Temporary window signs may occupy up to seventy percent (70%) of the total window area in the commercial zoning districts for not more than two (2) periods of not more than four (4) consecutive days each (a total of eight [8] days) in any calendar month.

(13) Temporary freestanding sidewalk signs. In commercial zoning districts, temporary freestanding signs shall be permitted to be placed on the sidewalks in front of commercial and retail uses, provided that:

- a. The maximum of each side of each sign shall be six (6) square feet.
- b. No such freestanding sign shall be placed within twenty-five (25) feet of another temporary freestanding sign.
- c. Each such sign shall be maintained in good condition and repair so that it does not create a hazard to pedestrians.
- d. No such sign shall be anchored to or cause damage to the sidewalk surface or other elements of the public right-of-way. Each such sign may be placed on the sidewalk only during the business hours of the business to which it relates, shall not impede pedestrian movement and must be removed immediately upon the request of any Town official who determines that it is in violation of this Code or is unsafe.

(14) Election/campaign signs. Any number of election/campaign signs that are located on private property, provided that:

- a. The size and location of those signs do not create a hazard for automobile or pedestrian traffic or a public nuisance.
- b. All such signs are removed within one (1) week after the election to which they relate.

(15) Garage, yard and estate sale signs. Signs directing the public to a garage, yard or estate sale shall be allowed as follows:

- a. Any number of garage, yard or estate sale signs may be located on private property.
- b. No such sign shall be posted on private or public property or placed in a public right-of-way except in compliance with this Section.

c. All garage, yard and estate sale signs shall comply with all of the following requirements:

1. No sign shall be attached to any utility pole, utility box or other public facility, located within a sight triangle established for an intersection or street or otherwise placed in a manner that creates a hazard for automobiles or pedestrian traffic.
2. No sign shall be posted more than forty-eight (48) hours prior to the first day of the sale, or remain posted later than 7:00 p.m. on the day after the last day of the sale.
3. No sign shall be larger than six (6) square feet.
4. No sign shall be posted higher than six (6) feet above ground level.
5. On each sign, the name and address of the person conducting the sale shall be legibly stated, as well as the end date of the sale.

d. A violation of this Section shall be punishable by a fine in an amount of up to one hundred dollars (\$100.00). (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-9-40. Sign schedule.

The number, types and sizes of signs set forth in the sign schedule are allowed in a standard zoning district or PUD zoning district for the permitted uses indicated in the following table, unless otherwise approved in a final development plan. Each sign shall also comply with the exceptions and additional criteria listed in this Section unless otherwise approved in a final development plan and with the structural requirements set forth in the Town Building Code.

**Table 16-3
Sign Schedule**

<i>Type of Sign</i>	<i>Freestanding</i>	<i>Wall-Mounted</i>	<i>Use</i>
Bed and breakfast	Minimum 10 ft. setback Maximum area 2 sq. ft. Maximum height 8 ft.	Parallel or perpendicular to the building wall Minimum 10 ft. setback Maximum area 2 sq. ft. Maximum height 6 ft.	
Conditional use	Minimum 10 ft. setback Maximum area 20 sq. ft. Maximum height 6 ft.	Minimum 10 ft. setback Maximum area 20 sq. ft. Maximum height 6 ft. Lighting permitted	
Home occupations	N/A	Maximum area 1 sq. ft. Maximum height 6 ft. No lighting permitted	
Informational	Minimum 10 ft. setback	Maximum area 5 sq. ft. Maximum height 6 ft. Lighting permitted	Relating to principal permitted
Office centers 0—2	Minimum 15 ft. setback	Maximum area 5 sq. ft.	Commercial and

acres	Maximum area 8 sq. ft. Maximum height 6 ft.	Maximum height 6 ft. Lighting permitted	Office/MU
Identification	Minimum 25 ft. setback Maximum area 40 sq. ft. Maximum height 8 ft.	Maximum area 24 sq. ft. Maximum height 12 ft. Lighting permitted	Nursing homes, hospitals and housing or complexes
All office centers	Minimum 15 ft. setback Maximum height 6 ft.	Maximum area 24 sq. ft. Maximum height 6 ft.	Commercial and Office/MU
Commercial building 4 acres or less	Minimum setback 15 ft. Maximum area 10 sq. ft. Maximum height 6 ft. Lighting permitted	N/A	Commercial center
Commercial building more than 4 acres	Minimum setback 15 ft. Maximum area 10 sq. ft. Maximum height 6 ft. Lighting permitted	N/A	MU/Commercial
Office	Maximum area 3 sq. ft. per tenant up to maximum of-24 sq. ft. Maximum height 6 ft. Lighting permitted	N/A	Freestanding tenant panel sign located within 5 ft. of building listing tenants

(Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-9-50. Exceptions and additional criteria.

All signs permitted pursuant to the sign schedule in all standard zoning districts and PUD zoning districts shall meet the following additional requirements and/or are eligible for the following exceptions:

- (1) No sign attached to a building shall project above the top of the building.
- (2) No flags or banners shall be displayed from poles or standards placed on the roof of a building or structure.
- (3) The rear service entrance to any business establishment may have one (1) sign no more than two (2) square feet in area, stating only the name and/or address of the business.
- (4) No freestanding sign shall be located closer than two (2) feet to a front property line.
- (5) Freestanding signs located within one hundred (100) feet of any residential zoned property shall not exceed six (6) feet in height.
- (7) All freestanding signs must meet the corner visibility requirements set forth in this Code.
- (8) Each residential subdivision may have one (1) freestanding permanent subdivision identification sign or more than one (1) permanent subdivision identification sign incorporated into entryways or fences. Such signs shall:

- a. Include only the name of the subdivision or development.
- b. Be located at the principal street entrance to the subdivision.
- c. Not be located within three (3) feet of a sidewalk or curb.
- d. Have a maximum combined sign area of forty (40) square feet.
- e. Have a maximum height of six (6) feet.
- f. Be constructed of masonry or other substantial materials.
- g. May be lighted where the light source is not visible.
- h. Have adequate provisions to maintain the sign through a homeowners' association or the subdivision covenants.

(8) Signs may only be constructed in a public right-of-way with the approval of the Town Engineer and pursuant to the procedures for a revocable permit. Any sign located within a public right-of-way shall not be located over any existing or future utilities and may be removed by the Town if necessary for reconstruction of a street, sidewalk, utilities or to protect the health, safety and welfare of the citizens of the Town, with no liability to the Town for replacement or repair.

(9) Signs on awnings and canopies may be used as a portion of the wall signage area allowed in the sign schedule on any building in commercial zoning districts. The area of the awning or canopy sign shall be included in the total signage area allowed for frontage. Awnings and canopies may be backlit.

(10) If more than ten percent (10%) of any wall or roof surface of any nonresidential building or any accessory structure to a nonresidential use is painted, finished or surfaced in a distinctive color scheme that includes some or all of the same colors, shapes, symbols, images, patterns or textures used on any sign identifying an owner, tenant or user of the building, and the Planning Director determines that such wall or roof surfaces serve as a sign for an owner, tenant or user of the building, such wall or roof area shall be counted as wall signage and shall be subject to the limitations on wall signage area in the sign schedule.

(11) Special signs, such as super graphics or murals occupying more than ten percent (10%) of a wall or roof surface or an accessory building, architectural sculpture, nostalgic or period signs, such as barber poles and special district and historic district signs, all may be approved pursuant to sign permits. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-9-60. Informational signs.

Signs that give specific instructions to the public using a building or facility are permitted, provided that such signs:

- (1) Have letters that do not exceed four (4) inches in height.
- (2) Do not exceed five (5) square feet in area.

(3) Display only instructional information pertaining to the use of the site (such as "Enter," "Exit," "Warning," "Self-Service," "Drive-Thru," "One Way," etc.)

(4) Do not contain any word symbol or image identifying the owner, tenant or user of the building or facility. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-9-70. Board of Trustees decision.

(a) Upon completion of the hearing, the Board of Trustees shall, after Board discussion, vote on the matter. Any motion must briefly state the finding of fact and conclusions of the Board of Trustees with reference to the relevant and material evidence and testimony supporting such findings of fact and conclusions.

(b) The Board of Trustees shall vote to approve, approve with modifications or deny the application. If the Board of Trustees approves the application with modifications, the applicant shall make such modifications to the required text, maps, studies, etc., before the Mayor shall sign any necessary approval blocks.

(c) Notwithstanding Subsection (b) above, and, as alternatives to Subsection (b) above, the Board of Trustees may act in accordance with the following upon vote of the majority of the members present:

(1) Make a decision and vote on the date of hearing, but request the Town Attorney to prepare findings of fact and conclusions for approval and adoption at the next regularly scheduled meeting.

(2) Defer a decision and direct the Town Attorney to prepare findings of fact and conclusions for approval and adoption at the next regularly scheduled meeting.

(3) Defer a decision until a date certain as is mutually agreed upon by the applicant and the Board of Trustees, by which time the record and all evidence can be reviewed. At that time, the Board of Trustees can vote to approve, approve with modifications or deny the application, adopt findings of fact and conclusions or direct the Town Attorney to prepare findings of fact and conclusions for adoption at the next regularly scheduled meeting after the meeting to which the matter has been deferred. (Ord. 9, 2008; Ord. 7 §1, 2010)

ARTICLE 10

Environmental Impact Reports

Sec. 16-10-10. Purposes.

Where required in these regulations, submission and review of an environmental impact report on any proposed zone change or PUD development plan which may affect to any significant degree the quality of the environment in the Town shall achieve the following objectives:

(1) To ensure that complete information on the environmental effects of the proposed development is available to the Board of Trustees, the Planning and Zoning Commission and the general public.

(2) To ensure that long-term protection of the environment is a criterion to be considered in development planning and that land use and development decisions, both public and private, take into account the relative merits of possible alternative actions.

(3) To provide procedures for local review and evaluation of the environmental effects of proposed projects prior to *the* granting of permits or other authorizations for commencement of building and development. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-10-20. Applicable projects.

An environmental impact report shall be submitted with an application for any proposal which the Planning and Zoning Commission determines may significantly change the environment, either during construction or on a continuing basis, in one (1) or more of the following respects:

(1) By altering an ecological unit or landform, such as a ridgeline, saddle, draw, ravine, hillside, cliff, slope, creek, marsh, watercourse or other natural landform 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 landform change or hazard to health and safety.

(6) By discharging toxic or thermally abnormal substances, 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 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 preempting 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 being a part of a larger project which, at any future stage, may involve any of the impacts listed above. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-10-30. Exemptions.

An environmental impact report shall not be required for the following:

(1) A phase of a development for which an environmental impact report was previously submitted and reviewed covering the entire development, provided that the development was approved originally and not subsequently altered in any material respect.

(2) A development which, on the basis of a preliminary environmental assessment covering each of the factors prescribed in Section 16-10-20 above, is found to have an insignificant impact on the environment. The preliminary environmental assessment and the finding on environmental impact shall be made by the Zoning Administrator.

(3) Alteration, repair and maintenance of existing structures and site improvements. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-10-40. Studies and data.

(a) The environmental impact report shall be prepared by independent, qualified professional consultants or personnel.

(b) The range of studies needed to develop the technical data for an environmental impact report includes the following natural systems and other studies:

(1) Hydrologic conditions, such as surface drainage and watershed characteristics, groundwater and soil permeability characteristics, natural water features and characteristics and any potential changes or impacts.

(2) Atmospheric conditions, such as air shed characteristics, potential emissions and any potential changes or impacts.

(3) Geologic conditions, such as landforms, slope, soil characteristics, potential hazards and any potential changes or impacts.

(4) Biotic conditions, such as vegetation habitats, and any potential changes or impacts.

(5) Noise levels and odor characteristics and any potential changes thereto or impacts thereon.

(6) Visual conditions, such as views and scenic values, and any potential changes, impacts or marked contrasts.

(7) Land use conditions, such as characteristics of uses, compatibility with officially approved land use and open space policies and objectives, including the Master Plan, and potential changes or impacts.

(8) Circulation and transportation conditions, such as volumes and traffic flow patterns, transit service needs, alternative transit systems and potential changes or impacts.

(9) Population characteristics, such as residential densities, neighborhood patterns, potential displacement of residents or businesses and potential changes or impacts.

(c) The environmental impact report shall summarize the findings and recommendations of the technical and other supporting studies in terms that can be assessed and evaluated by Town officials and the general public. Technical data shall be submitted as supporting documentation. Technical data prepared as a part of any other procedure or requirement of this Code, or of any ordinance or federal, state or Town regulation, also may be used to support an environmental impact report. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-10-50. Report contents.

(a) The environmental impact report shall contain information and analysis, in sufficient detail and adequately supported by technical studies, to enable the Planning and Zoning Commission to judge the environmental impact of the proposal and to judge measures proposed to reduce or negate any harmful impacts.

(b) The environmental impact report shall include a general statement, identifying and describing the proposed subdivision and its purpose. To the extent that such items are not otherwise included in other materials submitted with any application or preliminary plan, descriptive materials, maps and plans shall be submitted showing the following information:

(1) Project boundaries and boundaries of the area within which environmental impact is likely to be significant.

(2) Present and proposed uses of the site.

(3) Present and proposed zoning of the site.

(4) Quantitative information relative to the development, such as site area, numbers of residential units, proposed height and bulk of buildings, building floor area in square feet and such other data as will contribute to a clear understanding of the scale of the development.

(5) A list of regulatory or review agencies and the specific regulations to which the proposed development will be subject.

(c) The environmental impact report shall include an environmental inventory, providing reasonably complete information on the environmental setting existing prior to the proposed development and containing sufficient information to permit independent evaluation by reviewers of

factors that could be affected by the proposed development. The environmental inventory shall include maps, photographs or other appropriate illustrative material. Areas categorized according to type of possible impact shall be identified. The environmental inventory shall describe both the physical and biological natural setting and the man-made setting of the site and its surroundings.

(d) The environmental impact report shall include a comprehensive qualitative and quantitative analysis of any significant impact that the proposed development will have on the environment. The analysis shall describe temporary effects that will prevail after completion. The analysis shall describe both beneficial effects and detrimental effects. The analysis shall consider primary effects and secondary effects which will result from the proposed development. The analysis portion of the environmental impact report shall assess the following items in reasonable detail:

- (1) Adverse effects which cannot be avoided if the proposal is implemented.
- (2) Mitigating measures proposed to minimize the impact.
- (3) Possible alternatives to the proposed action.
- (4) Cumulative and long-term effects of the proposal, which either significantly reduce or enhance the state of the environment.
- (5) Irreversible environmental changes resulting from implementation of the proposal.
- (6) Population and economic growth-inducing impacts of the proposal. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-10-60. Additional materials.

The Planning and Zoning Commission may further prescribe the form and content of the environmental impact report, setting forth in greater detail the factors to be considered and the manner in which the report shall be prepared, and may require submission of information in addition to that required in Section 16-10-50 above. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-10-70. Application and review.

The Planning and Zoning Commission and the Board of Trustees shall review the environmental impact report as part of the review process of any zone change application. The Planning and Zoning Commission and the Board of Trustees may receive additional statements or supporting materials from the applicant, the planning staff, professional consultants or others. Such additional materials may be considered as a supplement or as an amendment to the environmental impact report. (Ord. 9, 2008; Ord. 7 §1, 2010)

ARTICLE 11

Flood Damage Prevention

Sec. 16-11-10. Purpose.

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

- (1) Protect human life and health.
- (2) Minimize expenditure of public money for costly flood-control projects.
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- (4) Minimize prolonged business interruptions.
- (5) Minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard.
- (6) Help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood-blight areas.
- (7) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-11-20. Methods of reducing flood losses.

In order to accomplish its purposes, this Article includes methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities.
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- (3) Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel floodwaters.
- (4) Controlling filling, grading, dredging and other development which may increase flood damage.
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-11-30. Definitions.

Unless specifically defined below, words or phrases used in this Article shall be interpreted so as to give them the meanings they have in common usage and to give this Article its most reasonable application.

Area of special flood hazard means the land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year.

Base flood means the flood having a one-percent chance of being equaled or exceeded in any given year.

Development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- a. The overflow of inland or tidal waters; and/or
- b. The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM) means the official map issued by the Federal Emergency Management Agency where the areas of special flood hazard have been designated Zone A.

Structure means a walled and roofed building or mobile home, whether or not it is principally aboveground.

Substantial improvement means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either:

- a. Before the improvement or repair is started; or
- b. If the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, *substantial improvement* is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- a. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
- b. Any alteration of a structure listed on the National Register of Historic Places or the State Registers of Historic Properties. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-11-40. Basis for establishing the areas of special flood hazard.

The Flood Insurance Rate Map (FIRM) for unincorporated Eagle County, dated January 25, 1983, serves as the basis for this Article and is adopted by reference. The FIRM is on file with the Town Clerk. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-11-50. Lands to which this Article applies.

This Article shall apply to all areas of special flood hazards within the jurisdiction of the Town. The areas of special flood hazards identified on the Flood Insurance Rate Map shall be presumed to be areas of special flood hazards governed by this Article. The presumption shall be conclusive unless and until the Town receives further technical evidence from the Federal Emergency Management Agency establishing that the areas of special flood hazard are other than those located on the Flood Insurance Rate Map. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-11-60. Compliance.

No structure or land shall hereafter be constructed, located, extended, converted or altered, nor shall any development occur, without full compliance with the terms of this Article and other applicable regulations. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-11-70. Abrogation and greater restrictions.

This Article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Article and another provision of this Code, any easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-11-80. Interpretation.

In the interpretation and application of this Article, all provisions shall be:

- (1) Considered minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-11-90. Warning and disclaimer of liability.

(a) The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Article does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

(b) This Article shall not create liability on the part of the Town, any officer or employee thereof or the Federal Emergency Management Agency for any flood damages that result from reliance on

this Article of any administrative decision lawfully made thereunder; nor shall any person rely on the provisions of this Article in seeking assurance that any property is safe from flooding or that any measures required hereby will prevent or mitigate the effects of flooding. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-11-100. Permit requirement.

It is unlawful to commence construction of any development within any area of special flood hazard established in Section 16-11-50 of this Article without obtaining a permit from the Town. Application for a permit required by this Article shall be made on forms furnished by the Town and may include, but not be limited to, the requirement that the following be provided: plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- (1) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;
- (2) Elevation in relation to mean sea level to which any structure has been flood-proofed;
- (3) Certification by a registered professional engineer that the floodproofing methods for any residential or nonresidential structure meet the floodproofing criteria in Section 16-11-130 below; and
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-11-110. Duties and responsibilities for administration.

(a) Submittal to Town. The Town shall forward to the Town Engineer, for review and report, all building permit applications requesting approval for structures to be located in an area of special flood hazard. No permit shall be acted on until the Town Engineer's report is received by the Building Administrator.

(b) Review by Town Engineer.

(1) The Town Engineer shall review building permit applications submitted to him or her for the following:

a. To determine whether this Article is applicable and, if so, whether the permit requirements of this Article have been satisfied.

b. To determine that all necessary permits have been obtained from those federal, state or local governmental agencies for which approval is required.

c. To determine if the proposed development adversely affects the flood-carrying capacity of the area of special flood hazard. For the purpose of this Article, *adversely affects* means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.

After reviewing the permit application in accordance with the above requirements, the Town Engineer shall report his or her findings to the Town Administrator.

(2) Use of other base flood data. When base flood elevation data has not been provided in accordance with Section 16-11-40 of this Article, the Town Engineer shall obtain, review and reasonably utilize any flood elevation data available from a federal, state or other source in order to administer Section 16-11-130 below.

(3) Information to be obtained and maintained, required notification and interpretations. The Town Engineer shall:

a. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and whether or not the structure contains a basement.

b. For all new or substantially improved floodproofed structures:

1. Obtain and record the actual elevation (in relation to mean sea level) to which the structure has been floodproofed.

2. Maintain the floodproofing certifications required in Paragraph 16-11-100(3) above.

c. Maintain for public inspection all records pertaining to the provisions of this Article.

d. Notify adjacent communities and the Colorado Water Conservation Board prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency.

e. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

f. Make interpretations where needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).

(c) Action by Administrator.

(1) If it is determined that there is no adverse effect and the development is not a building, then the permit shall not be withheld under the provisions of this Article

(2) If it is determined that there is an adverse effect, then technical justification (i.e., from a registered professional engineer) for the proposed development shall be required.

(3) If the proposed development is a building, then the provisions of this Article shall apply. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-11-120. General standards.

In all areas of special flood hazards, the following standards are required:

(1) Anchoring.

a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

b. All mobile homes shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:

1. Over-the-top ties be provided at each of the four (4) corners of the mobile home, with two (2) additional ties per side at intermediate locations, with mobile homes less than fifty (50) feet long requiring one (1) additional tie per side.

2. Frame ties be provided at each corner of the home, with five (5) additional ties per side at intermediate points, with mobile homes less than fifty (50) feet long requiring four (4) additional ties per side.

3. All components of the anchoring system be capable of carrying a force of four thousand eight hundred (4,800) pounds.

4. Any additions to the mobile home be similarly anchored.

(2) Construction materials and methods.

a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(3) Utilities.

a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.

c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during the flooding.

(4) Subdivision proposals.

a. All subdivision proposals shall be consistent with the need to minimize flood damage.

b. All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical and water systems, located and constructed to minimize flood damage.

c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

d. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres.

(5) Encroachments. Any proposed development shall be analyzed to determine effects on the flood-carrying capacity of the area of special flood hazard as set forth in Subparagraph 16-11-110(b)(1)c. above. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-11-130. Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Paragraph 16-11-110(b)(2) above, the following standards are required:

(1) Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.

(2) Nonresidential construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation or, together with attendant utility and sanitary facilities, shall:

a. Be floodproofed so that, below the base flood level, the structure is watertight with walls substantially impermeable to the passage of water.

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

c. Be certified by a registered professional engineer or architect that the standards of this Paragraph are satisfied. Such certifications shall be provided to the official as set forth in Paragraph 16-11-100(3) above. (Ord. 9, 2008; Ord. 7 §1, 2010)

ARTICLE 12

Vested Property Rights

Sec. 16-12-10. Purpose.

The purpose of this Article is to provide the procedures necessary to implement the provisions of Article 68 of Title 24, C.R.S. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-12-20. Definitions.

As used in this Article, unless the context otherwise requires:

Landowner means any owner of a legal or equitable interest in real property and includes the heirs, successors and assigns of such ownership interests.

Site specific development plan means and is limited to either:

a. A Final Development Plan (FDP) approved pursuant to Section 16-40-140 of this Chapter, together with a development agreement approved pursuant to Subsection 16-12-60(a) of this Chapter; or

b. A development agreement approved pursuant to Subsection 16-12-60(a), supplemented with such other materials as the Board of Trustees and the Planning Director deem appropriate based on the circumstances of the project. No other type of land use application shall be considered as a site specific development plan.

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. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-12-30. Creation; notice and hearing.

(a) A vested property right pursuant to Article 68 of Title 24 C.R.S., is created only upon Board of Trustees approval or conditional approval of a site specific development plan which has been processed in accordance with the provisions of this Article.

(b) Any landowner seeking the creation of a vested property right through approval of a site specific development plan shall invoke the procedures of this Article by specific written request to the Town. The request shall be made to the Town Administrator at least thirty (30) days prior to the date the Board of Trustees is to consider approval of a site specific development plan. The failure of the landowner to make such a request renders the FDP not a site specific development plan, and no vested rights shall be deemed to be created by its approval or conditional approval.

(c) No site specific development plan shall be approved until after a Board of Trustees public hearing, preceded by notice of the hearing published once in a newspaper designated by the Town for the publication of notices. The notice shall be published by the Town at least fifteen (15) days prior to the Board of Trustees hearing date and may, at the Town's option, be combined with any notice required for the FDP or with any other required notice, or may be given separately. Interested persons shall have the opportunity to be heard at the hearing.

(d) The Board of Trustees' intention to create a vested property right shall be set forth in the approval or conditional approval granting approval of the site specific development plan. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-12-40. Notice of approval.

(a) Not more than twelve (12) days after Board of Trustees approval or conditional approval of a site specific development plan, there shall be published a public notice in a newspaper designated by the Town for the publication of notices. The notice shall contain the following:

(1) A statement that a site specific development plan has been approved and a vested property right created.

(2) A statement generally describing the type and intensity of use approved in the site specific development plan and a reference to the specific Board of Trustees approval.

(3) A description of the subject property, which shall include a vicinity description by reference to the adjacent or nearest road intersection and shall include a legal description.

(b) Each map, plan or other document constituting a site specific development plan shall contain the following language:

"Approval of this plan may create a vested property right pursuant to Article 68 of Title 24, C.R.S. as amended."

Failure to include this statement shall prevent the creation of a vested property right. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-12-50. Effective date.

A site specific development plan shall be deemed approved upon the effective date of the Board of Trustees' final action granting approval or conditional approval of such plan, if such approval is otherwise granted in compliance with the procedures of this Article. Failure to comply with the procedures set forth in this Article shall prevent the creation of a vested property right. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-12-60. Duration and amendment.

(a) A property right vested pursuant to this Article shall remain vested for a period not to exceed five (5) years or as otherwise designated in a development agreement, provided that nothing contained in this Section shall be construed so as to prevent the Board of Trustees from agreeing as a part of the development agreement for extensions of the period of vesting upon further public hearing and demonstration by the landowner that it meets the conditions for such extension contained in the development agreement and that the site specific development plan complies with the Comprehensive Plan in effect at the time of consideration of the extension.

(b) Any site specific development plan for a multiple-phase development may have separate vesting created for each phase. The vesting for any subsequent phase may be contingent upon completion of the preceding phase and review by the Board of Trustees. Such review shall include, but not be limited to, whether the landowner or developer is in compliance with his or her obligations to the Town, including but not limited to the site specific development plan, the development agreement and any other agreements between the landowner and the Town, as they may have been amended from time to time.

(c) The vesting period shall not be extended by any amendments to a site specific development plan. Therefore, in the event the Board of Trustees approves amendments to a site specific development plan, the effective date of such amendments, for purposes of duration of any vested property right, shall be the date of the Board of Trustees approval of the original site specific development plan, unless the Board of Trustees by resolution expressly finds and determines

otherwise. Vested property rights shall not attach to any administrative amendment and may attach to amendments to the site specific development plan only if approved in compliance with the procedures set forth in this Article. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-12-70. Payment of costs.

The applicant for approval of a site specific development plan shall pay all costs incurred by the Town resulting from such plan, including but not limited to costs of review, consultation and advice; costs of drafting and publication of notices, resolutions and other documents and costs of conducting public hearings. Reimbursement of such costs shall be provided for through a cost and funds deposit agreement with the Town. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-12-80. Other provisions unaffected.

(a) Approval of a site specific development plan shall not constitute an exemption from or waiver of any other provisions of this Code or other applicable ordinances, resolutions or regulations pertaining to the development or use of the property.

(b) The establishment of a vested property right 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 and mechanical codes. Further, the establishment of a vested property right shall not preclude the application of ordinances or regulations as otherwise permitted by Article 68 of Title 24, C.R.S.

(c) A site specific development plan for which a vested right has been created shall not be exempt from subsequent reviews and approvals to ensure compliance with the terms and conditions of the plan's approval. Failure to abide by the terms and conditions of approval of a site specific development plan will result in forfeiture of vested property rights. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-12-90. Rights by agreement.

(a) Any consideration of an amendment to a site specific development plan shall include compliance with the Comprehensive Plan then in effect.

(b) The Board of Trustees may enter into an agreement with landowners providing that property rights shall be vested for a period exceeding five (5) 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. Such agreement shall be adopted as legislative acts subject to referendum. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-12-100. Effect of termination on public rights-of-way.

The termination of a vested property right shall have no effect upon public streets, alleys or rights-of-way previously dedicated with respect to such property. (Ord. 9, 2008; Ord. 7 §1, 2010)

Sec. 16-12-110. Limitations.

Nothing in this Article is intended to create any vested property right, but only to implement the provisions of Article 68 of Title 24, C.R.S. In the event that this Article is repealed or deemed by a

court to be invalid or unconstitutional, this Article shall be deemed to be repealed, and the provisions hereof shall no longer be effective. (Ord. 9, 2008; Ord. 7 §1, 2010)