



**FIRESTONE  
DEVELOPMENT  
CODE**

**FEBRUARY 2025**

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# CHAPTER 1: GENERAL PROVISIONS

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## 16.1.1 TITLE AND EFFECTIVE DATE

The Firestone Development Code may be referred to throughout this document as “this FDC.”

## 16.1.2 AUTHORITY

This FDC is enacted pursuant to the powers granted and limitations imposed on municipalities by the laws of the State of Colorado, including without limitation C.R.S. §29-20-101 *et seq.* (Local Government and Land Use Enabling Act). This FDC has been adopted by reference into the Firestone Municipal Code (Ordinance No. 976) and as amended (Ordinances No. 982, 1003 and 1022).

## 16.1.3 PURPOSE OF THIS TITLE

### A. General Purpose

This FDC has as its general purpose the promotion of the health, safety, and general welfare of the Town of Firestone (“Town”).

### B. Specific Purposes

The provisions of this FDC are specifically intended to:

1. Foster quality, compatible, and efficient relationships among land uses;
2. Promote a healthy and convenient distribution of population by regulating and limiting the density of development;
3. Ensure greater public safety and accessibility through quality physical design and location of land use activities;
4. Encourage the efficient use of the available land supply;
5. Promote a balanced supply of residential, commercial, industrial, institutional, and transportation land uses that are substantially compatible with adjacent land uses and that have good access to transportation networks;
6. Preserve the character and quality of the Town’s residential neighborhoods;
7. Promote a balanced, diverse supply of quality housing located in safe and livable neighborhoods;
8. Enhance the appearance, visual scale, orientation, quality, and mix of land uses of new developments;
9. Ensure that developments are substantially compatible with the Town’s Comprehensive Master Plan;
10. Promote the vitality and development of the Town’s major employment centers, town centers, and its other commercial and mixed-use districts;
11. Manage traffic congestion in the streets;
12. Ensure the provision of adequate open space for light, air, and recreation;
13. Preserve the value of buildings and land;
14. Manage the preservation of existing trees and vegetation, wetlands, floodplains, wildlife and habitat, stream corridors, scenic views, and other areas of scenic and environmental significance from adverse impacts of land development;

15. Encourage development of a sustainable and accessible system of recreational facilities, parks, trails, and open space that meets year-round neighborhood and community-wide needs;
16. Facilitate and cooperate with other governments to provide adequate and safe provision of transportation, water, wastewater, storm drainage, schools, parks, and other public facilities;
17. Provide a clear, timely, business friendly development processing atmosphere, particularly for retail, commercial, and primary employer developments; and
18. Ensure that service demands of new development will not exceed the capabilities of existing streets, utilities, or other public facilities and services.

#### **16.1.4 APPLICABILITY AND JURISDICTION**

##### **A. Jurisdiction**

This territorial jurisdiction of this FDC shall include all land located within the legal boundaries of the Town or to a limited extent those lands that desire to annex to the Town through a formal petition process outlined in this FDC.

##### **B. Application to Governmental Agencies**

To the extent permitted by law, the provisions of this FDC shall apply to all land, buildings, structures, and uses owned by government agencies in the Town. Where the provisions of this FDC do not legally apply to such land, buildings, structures, and uses owned by government agencies, such agencies are encouraged to meet the provisions of this FDC. Land, buildings, structures, and uses owned, maintained, or operated by the Town or their agents and assigns are expressly exempted from the requirements of this FDC.

##### **C. Compliance Required**

No building or structure shall be designed, erected, converted, enlarged, reconstructed, altered, used or occupied, nor shall any land be used, occupied or changed, except in conformity with this FDC. No lot of record that did not exist on the effective date of this FDC shall be created, by subdivision or otherwise, that does not conform to the applicable requirements of this FDC.

#### **16.1.5 EASEMENTS**

Development or encroachment within any easement area shall require authorization from the easement holder. Development within any easement owned by or benefiting the Town shall require specific written permission from the Town.

#### **16.1.6 INTERPRETATION**

The provisions of this FDC shall be held to be minimum requirements adopted for the promotion of the public health, safety, and welfare.

#### **16.1.7 LIABILITY FOR DAMAGES**

This FDC shall not be construed to hold the Town or its authorized representatives responsible for any damage to persons or property by reason of inspection or re-inspection authorized in this FDC or failure to inspect or re-inspect, or by reason of issuing a building permit as provided in this FDC.

#### **16.1.8 CONFLICTING PROVISIONS**

##### **A. Conflict with Other Public Laws, Ordinances, Regulations, or Permits**

This FDC is intended to complement other Town, State, and Federal regulations that affect land use. This FDC is not intended to revoke or repeal any other Town, State or Federal law, ordinance, regulation, or permit. However, where conditions, standards, or requirements imposed by any provision of this FDC are either more restrictive or less restrictive than comparable standards imposed by any other Town, State or Federal law, ordinance, or regulation, the provisions that are more restrictive or that impose higher standards or requirements shall govern.

**B. Conflict with Private Agreements**

This FDC is not intended to revoke or repeal any easement, covenant, or other private agreement. In no case shall the Town be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

**16.1.9 TRANSITIONAL REGULATIONS**

**A. Purpose**

The purpose of transitional regulations is to resolve the status of properties with pending applications or recent approvals, as those terms are used below, and properties with outstanding violations, at the time of the adoption of this FDC.

**B. Violations Continue**

Any violation of the previous Zoning Regulation or Subdivision Regulation of the Municipal Ordinance shall continue to be a violation under this FDC and shall be subject to the penalties and enforcement set forth in Chapter 10, unless the use, development, construction, or other activity complies with the provisions of this FDC. Payment shall be required for any civil penalty assessed under the previous codes, even if the original violation is no longer considered a violation under this FDC.

**C. Uses, Structures, and Lots Rendered Nonconforming**

1. When a building, structure, or lot is used for a purpose that was a lawful use before the date of adoption of this FDC or modifications thereto, and this FDC no longer classifies such use as a permitted use in the zone district in which it is located, such use shall be considered legally nonconforming and shall be controlled by Chapter 9.
2. Where any building, structure, or lot that legally existed on the date of adoption of this FDC or modifications thereto, does not meet all standards set forth in this FDC, such building, structure, or lot shall be considered legally nonconforming and shall be controlled by Chapter 9.

**D. Processing of Applications Commenced or Approved Under Previous Ordinances**

**1. Pending Applications**

- a. Any complete application that has been submitted for approval, but upon which no final action has been taken by the appropriate decision-making body prior to the adoption of this FDC, shall be reviewed in accordance with the ordinance in effect on the date the application was deemed complete. If the applicant fails to comply with any applicable required period for submittal or other procedural requirements, the application shall expire and subsequent applications shall be subject to the requirements of this FDC. Any re-application for an expired project approval shall meet the standards in effect at the time of re-application.
- b. An applicant with a complete application that has been submitted for approval, but upon which no final action has been taken prior to the adoption of this FDC, may request review under this FDC by a written letter to the Director.

**2. Preliminary Approvals**

An application for which preliminary approval of a plat or planned unit development (PUD) was granted prior to the adoption of this FDC may be processed for a final decision in accordance with the preliminary approval, and applicable terms of this FDC in place at the time of preliminary approval, even if the application does not comply with one (1) or more requirements set forth in this FDC. Preliminary approvals granted under the previous Zoning Code may be extended no more than once, and for no longer than six (6) months.

**3. Approved Projects**

- a. Special Use Permits, Preliminary and Final Plats, Final Development Plans, grading permits, building permits, sign permits, and Variances that are valid upon the adoption of any updates to this FDC, shall remain valid until their expiration date. Projects with valid approvals or permits may be completed with the development standards in effect at the time of approval.

- b. Any building or development for which a building permit was granted prior to the adoption of any updates to this FDC may be permitted to proceed to construction.
- c. If the development for which the building permit is issued prior to the adoption of any updates to this FDC fails to comply with the time frames for development established for the building permit, the building permit shall expire and future development shall comply with the requirements of this FDC.

#### **16.1.10 SEVERABILITY**

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

# CHAPTER 2: ZONING DISTRICTS

## 16.2.1 GENERAL PROVISIONS

This Chapter establishes the zoning districts and contains basic information pertaining to zoning districts, primarily statements of purpose and district-specific regulations. Chapter 3, and Chapter 4, set forth the land uses permitted within the districts and the dimensional standards applying to development in the districts, respectively.

### A. Districts Established; Zoning Map

#### 1. Zoning Districts Established

The following zoning districts are established:

| DISTRICT TYPE   | ABBREVIATION | DISTRICT NAME                                   |
|-----------------|--------------|---|
| Residential     | RR           | Rural Residential                               |
|                 | R-A          | Low-Density Residential                         |
|                 | R-B          | Medium-Density Residential                      |
|                 | R-C          | High-Density Residential                        |
|                 | OTR          | Old Town Residential                            |
| Commercial      | OTC          | Old Town Commercial                             |
|                 | NC           | Neighborhood Center                             |
|                 | RC           | Regional Commercial                             |
|                 | LI           | Light Industrial (previously Employment Center) |
| Other Districts | AG           | Agricultural                                    |
|                 | OS           | Open Space                                      |
|                 | PLI          | Public Land and Institutions                    |
|                 | PUD          | Planned Unit Development                        |
|                 | DR           | Developing Resource                             |
|                 | FPO          | Floodplain Overlay                              |
|                 | DO           | Design Overlay                                  |
|                 | UO           | Use Overlay                                     |

#### 2. Zoning Map

The zoning districts are shown on the “Town of Firestone, Colorado Zoning Map” (“Zoning Map”). The boundaries of zoning districts set out in this FDC are delineated upon the Zoning Map, adopted as part of this FDC as fully as if the same were set forth in this Section in detail. Procedures for amending the Zoning Map are set forth in Sections 7.4 and 7.5.

- a. Unless otherwise indicated, the zone district boundaries are the centerlines of physical streets, roads, highways, alleys, railroad rights-of-way, and channelized waterways, or such lines extended. In cases where the platted and physical rights-of-way do not coincide, the Director will determine the location of the zone district boundary.
- b. In unsubdivided property, zone district boundaries shall be determined by use of the scale on the map. A legal description acceptable to the Director shall be made available in the event of a controversy arising concerning zone district boundaries.
- c. Where a zone district boundary is shown by specific dimension as being located at any given distance from any right-of-way line, such specific dimension shall govern.

### 3. Vacations

Whenever any street, alley, or other public way is vacated by official action of the Town, in accordance with Section 7.9 of this FDC, the zoning district adjoining each side of such street, alley, or public way shall be automatically extended to the center of such vacation and all area included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended district.

### 4. Newly Annexed Areas

Unless otherwise zoned at annexation, all undeveloped or unplatted territory hereafter annexed to the Town shall be zoned DR-Developing Resource. The procedure for establishing the zoning on any annexed territory shall be the same as is provided by this FDC in Section 7.4.

## 16.2.2 RESIDENTIAL DISTRICTS

### A. General Purposes of Residential Districts

The residential zoning districts contained in this Section are intended to:

1. Provide appropriately located areas for residential development that are substantially consistent with the Town's Comprehensive Master Plan and with standards for public health, safety, morals, and general welfare;
2. Allow for a variety of housing types that meet the diverse economic and social needs of residents;
3. Allow mixed-density residential development in certain districts where district and development standards ensure that mixed use development will maintain and improve the function and appearance of surrounding development and traffic flow;
4. Provide the opportunity to protect sensitive environmental and cultural resources;
5. Protect the scale and character of existing residential neighborhoods and community character;
6. Ensure adequate light, air, privacy, and open space for each residential dwelling unit, and protect residents from the potentially harmful effects of excessive noise, glare and light pollution, traffic congestion, and other significant adverse environmental effects;
7. Protect residential areas from commercial and industrial hazards such as fires, explosions, toxic fumes and substances, natural hazards such as mining subsidence and flooding, and other public safety hazards;
8. Facilitate the provision of services, such as utilities, telecommunications technology, and streets and roads to accommodate planned population densities; and
9. Protect residential development from neighboring uses that are incompatible with a residential environment.

### B. Rural Residential (RR)

#### 1. Purpose

To provide areas for residential uses of a rural character, at a gross density not to exceed one (1) dwelling unit per one (1) acre.

### C. Low-Density Residential (R-A)

#### 1. Purpose

To provide areas for residential uses of an urban character, at a gross density not to exceed five (5) dwelling units per acre. The zone district classification of R-1 from former Town zoning code and development regulations located outside of the Old Town Firestone area is intended to be included in the R-A district.

**D. Medium-Density Residential (R-B)**

**1. Purpose**

To provide areas for residential uses of an urban character, at a gross density not to exceed ten (10) dwelling units per acre. A minimum gross density of five (5) dwelling units per acre is required. The zone district classification of R-2 from former Town zoning code and development regulations is intended to be included in the R-B district.

**E. High-Density Residential (R-C)**

**1. Purpose**

To provide areas for residential uses of an urban character, at a gross density not to exceed twenty (20) dwelling units per acre. A minimum gross density of ten (10) dwelling units per acre is required. The zone district classification of R-3 from former Town zoning code and development regulations is intended to be included in the R-C district.

**F. Old Town Residential (OTR)**

**1. Purpose**

To ensure the preservation of the unique character and quality of life in the historic residential area of the Town by encouraging compatible redevelopment and infill development. The zone district classification of R-1 from former Town zoning code and development regulations located within Old Town Firestone is intended to be included in the OTR district.

**2. District-Specific Standards**

**a. *Single-Family Detached***

Single-family residential development of up to five (5) dwelling units per acre.

**b. *Multi-Family Development***

Multi-family residential development of up to ten (10) dwelling units per acre.

**16.2.3 COMMERCIAL AND INDUSTRIAL DISTRICTS**

**A. General Purposes of Commercial and Industrial Districts**

The commercial and industrial zoning districts contained in this Section generally are intended to:

1. Provide appropriately located areas substantially consistent with the Town's Comprehensive Master Plan for industrial, retail, service, and office uses;
2. Expand the Town's economic base and provide employment opportunities primarily for Firestone residents and the region;
3. Minimize any potentially negative impact of commercial and industrial development on adjacent residential districts;
4. Ensure that the appearance and effects of commercial and industrial buildings and uses are of an appropriate high quality and are substantially consistent with the character of the area in which they are located; and
5. Provide sites for residential, public, and semi-public uses needed to complement commercial and industrial development.

**B. Old Town Commercial (OTC)**

**1. Purpose**

To provide for and encourage development and redevelopment that preserves and enhances the unique character and vitality of Old Town Firestone. Small-scale offices, retail, and residential uses are permitted. New development is encouraged to place residential above the ground floor. Design standards focus on creating a human-scaled, pedestrian-oriented and walkable downtown that invites commercial development and complementary residential opportunities. Continuous retail frontages, largely uninterrupted by driveways and parking, are encouraged. The zone district classifications of C-1, C-2, C-M, and NC from former Town zoning code and development regulations along First Street in Old Town Firestone are

intended to be included in the OTC district. Developing and redeveloping non-residential properties adjacent to Grant Avenue between Colorado Boulevard and Second Street are intended to be included in the OTC district.

**C. Neighborhood Center (NC)**

**1. Purpose**

To provide areas for a full range of community-oriented retail and service commercial uses. The zone district classification of C-1 from former Town zoning code and development regulations outside of Old Town Firestone is intended to be included in the NC district.

**D. Regional Commercial (RC)**

**1. Purpose**

To provide areas for a variety of regionally oriented large retail and service commercial uses, and highway-oriented commercial uses such as shopping centers, big-box retail, gas stations, restaurants, hotels and similar and associated land uses. The zone district classifications of C-2 and M-2 from former Town zoning code and development regulations are intended to be included in the RC district.

**E. Light Industrial (LI)**

**1. Purpose**

To provide areas for light industrial uses including warehousing and limited outdoor sales and storage. Heavy industrial uses may only be approved as a Special Review Use. The zone district classifications of EC, C-M, and M-1 from former Town zoning code and development regulations are intended to be included in the LI district.

**16.2.4 OTHER DISTRICTS**

**A. Agricultural**

**1. Purpose**

To provide areas to be used for agricultural purposes. The zoning classification is intended to recognize and preserve lands suitable for long-term production of agricultural commodities, lands suitable for grazing, animal husbandry, and agro-tourism.

**B. Open Space (OS)**

**1. Purpose**

To provide areas to be used for open space purposes. The zoning classification is intended to recognize and preserve lands suitable for habitat, view protection, passive and active recreation, and conservation uses.

**C. Developing Resource (DR)**

**1. Purpose**

To provide for the annexation of those areas that are presently used for agriculture or other nonurban uses that are adjacent to Town limits. These areas are designated in the comprehensive plan as potentially suitable for urban development, but not in the immediate future because of lack of utilities, other services, or other needs. No uses other than those existing at the time of annexation are permitted until the property is rezoned to another zoning classification pursuant to this FDC.

**D. Public Land and Institutions (PLI)**

**1. Purpose**

To provide areas for the development of public or quasi-public facilities or private facilities of a non-commercial character, including churches, schools, libraries, and cultural facilities.

**E. Planned Unit Development (PUD)**

**1. Intent and General Purpose**

- a. The Planned Unit Development zone district ("PUD District") is intended to respond to unique and extraordinary circumstances, where more flexible zoning than what is achievable through a standard zone district is desirable and multiple variances, waivers, and conditions can be avoided.

- b. The general purpose of a PUD District is to provide an alternative to conventional land use regulations, combining use, density, site plan, and building form considerations into a single process, and substituting procedural protections for the more prescriptive requirements in this Code.
- c. “Unique and extraordinary circumstances” that justify use of a PUD District include, but are not limited to, the following:
  - i. Where a development site has special physical characteristics, including but not limited to irregular or odd-shaped lots, or lots with significant topographical barriers to standard development or construction practice; or,
  - ii. Where a development site is subject to an existing PUD and rezoning to a new PUD District will bring the site closer to conformance with current zoning regulations and adopted plans; or,
  - iii. A development proposal is unable to meet the standard zoning district requirements due to unique development design; or,
  - iv. Where the proposed scale or timing of a development project demands a more customized zoning approach to achieve a successful, phased development.
- d. A PUD District is not intended as either a vehicle to develop a site inconsistent with the applicable neighborhood context and character, or solely as a vehicle to enhance a proposed development’s economic feasibility.
- e. In return for the flexibility in site design with respect to the arrangement, heights, and setbacks of buildings, densities, open space and circulation elements, development under a PUD District should provide significant public benefit not achievable through application of a standard zone district, including but not limited to diversification in the use of land; innovation in development; more efficient use of land and energy; exemplary pedestrian connections, amenities, and considerations; and development patterns compatible in character and design with nearby areas and with the goals and objectives of Town’s Comprehensive Master Plan, Transportation Master Plan; Parks, Open Space, and Trails Master Plan, and other pertinent Town plan and policy documents.

**2. Planned Unit Development Districts Adopted Prior to this FDC**

The Planned Unit Development (PUD) ordinances or parts of ordinances approved prior to the adoption of this FDC shall be carried forth in full force and effect as to their original approval and adoption and are the conditions, restrictions, regulations, and requirements that apply to the respective planned unit development districts shown on the Zoning Map at the date of adoption of this FDC. Amendments to an existing PUD District after adoption of this FDC shall be processed the same as a PUD District Amendment (Subsection 7.5.B).

**3. Concurrent Processing**

At the applicant’s option, and with the Director’s approval, a final development plan for one or more stages of a General PUD District Plan (see Section 7.5) may be submitted with the filing of a PUD District rezoning application.

**4. Coordination with Subdivision Review**

It is the intent of this FDC that the subdivision review required under Section 7.6, if applicable, be carried out concurrently with the review of an overlay zone district under this Section.

**5. Effect of Approval of PUD District Plan**

All development in a PUD District shall conform to the approved PUD District Plan. Minor deviations may be permitted only according to this section.

**6. Minor Deviations to Approved PUD District Plans**

The Director or Town Manager may authorize minor modifications to previously approved PUD District Plans based upon the standards in this Section, or during the final development plan review stage (see Section 7.7), only when such modifications do not include any changes that constitute “amendments” under this section, and the Director determines that the requested changes are generally consistent with the intent of the original PUD District approval. Approved minor modifications shall be recorded as addendums to the PUD-DP. Denial of a minor modification does not preclude the filing of a new rezoning or PUD application.

**7. Amendments to Approved PUD District Plan**

- a. Changes to an approved PUD-DP shall constitute “amendments” when such modifications will cause any of the following:
  - i. Ten (10) percent or more increase in gross floor area of any building;
  - ii. Ten (10) percent or more increase in residential density of any usage area;
  - iii. Any increase in overall residential density;
  - iv. A change in permitted land use that would result in a more intensive use;
  - v. Changes which significantly alter traffic circulation, or increases safety, utility service, or environmental concerns;
  - vi. Ten (10) percent or more reduction in the originally approved setbacks;
  - vii. Ten (10) percent or more increase in the ground coverage by buildings; or
  - viii. Ten (10) percent or more increase in building height.
- b. The process for approving an amendment to a PUD District Plan is the same as for approving an application for rezoning to a PUD District. See Section 7.5 Official Zone Map Amendment.

**16.2.5 OVERLAY DISTRICTS**

**A. General Purpose**

Overlay Zone Districts are generally intended, in special and unique cases, to provide a vehicle to supplement otherwise generally applicable zone district standards with additional use or design limits, allowances, and prohibitions in order to promote creative design efforts on the part of owners, builders, architects, and developers, and also to produce developments that are in keeping with the overall land use intensity and open space objectives of the Town’s Comprehensive Master Plan. Overlay Zone Districts are generally intended, in special and unique cases, to provide a vehicle to supplement otherwise generally applicable zone district standards with additional use or design limits, allowances, and prohibitions. Overlay zoning is typically used when there is special public interest that does not coincide with a specific zoning district. Overlay zones contain restrictions in addition to or less than those in the underlying zone district.

To carry out the provisions of this FDC, the following overlay zone districts have been established and are applied to property as set forth on the Official Zoning Map:

1. Floodplain Overlay
2. Design Overlay
3. Use Overlay

**B. Effect of Underlying Zone District Designation**

All of the provisions of the underlying zone district shall be in full force and effect, unless such provisions are specifically varied by the provisions of the applicable overlay zone district.

**C. Effect of Overlay Zone District Designation**

All zoning applications within a specific overlay zone district shall comply with the applicable provisions of that overlay zone district, and the underlying zone district, and shall be reviewed under this FDC to assure such compliance. Where the provisions of the overlay zone district are different from (e.g., in the case of a design overlay use district), or more restrictive than (e.g., in the case of a conservation overlay zone district) the provisions of the underlying zoning designation, the provisions of the overlay zone district shall apply. A change in the underlying zone district does not change the content or applicability of the overlay zone provisions.

**D. Text Amendment and Rezoning Required**

Creation of certain overlay zone districts may require an official map amendment according to Section 7.4, Rezoning, to apply an overlay district to the property, and a text amendment according to Section 7.19, Text Amendment, to codify the standards established within the desired overlay. With the Director's approval, the map amendment may be filed and reviewed concurrent with the text amendment. In no case, however, shall the map amendment be approved until the text amendment creating the overlay zone district is approved.

**E. Floodplain Overlay District (FPO)**

**1. Findings of Fact**

The flood hazard areas of the Town are subject to periodic inundation which could possibly result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the overall tax base. All of which could collectively have an adverse effect on public health, safety and general welfare.

Such potential flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood proofed, elevated or otherwise protected from flood damage may also contribute to the flood loss.

**2. Purpose**

To promote the public health, safety, and general welfare, to minimize flood losses in areas subject to flood hazards, and to promote wise use of the floodplain, this Section has been established with the following purposes intended:

- a. To reduce the potential hazard of floods to life and property through:
  - i. Prohibiting certain uses which may be dangerous to life or property during a flood.
  - ii. Restricting land uses which may be hazardous to the public health during a flood.
  - iii. Restricting land uses which are particularly susceptible to flood damage, so as to alleviate hardship and minimize demands for public expenditures for relief and protection.
  - iv. Requiring permitted floodplain uses, including public facilities which serve such uses, to be protected against flood by providing flood proofing and general flood protection at the time of initial construction.
  - v. Restricting or prohibiting uses which are known to be 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.
  - vi. Requiring that uses vulnerable to floods, including facilities which serve such uses be protected against flood damage at the time of initial construction.

- b. To protect floodplain occupants from a flood which is or may be caused by their own or other land use and which is or may be undertaken without full realization of the danger, through:
  - i. The prohibition of residential uses from being platted in the floodplain.
  - ii. Regulating the manner in which structures designed for human occupancy may be constructed so as to prevent danger to human life within such structures.
  - iii. Regulating the method of construction of water supply and sanitation systems so as to prevent disease, contamination and unsanitary conditions.
  - iv. Delineating and describing areas that could be inundated by floods so as to protect individuals from purchasing floodplain lands for purposes which are not in fact suitable.
  - v. Minimizing the need for rescue and relief efforts associated with flooding which are generally undertaken at the expense of the general public.
  - vi. Minimizing prolonged business interruptions.
  - vii. Ensuring that potential buyers in the area are notified that property is in an area of special flood hazard.
  - viii. Ensuring that those who occupy flood hazard areas assume responsibility for their actions.
- c. To protect the public from the burden of avoidable financial expenditures for flood control and relief by:
  - i. Regulating all uses within the floodplain areas so as to produce a method of construction and a pattern of development which will minimize the probability of damage to property and loss of life or injury to the inhabitants of the flood hazard areas.
  - ii. Minimizing 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.
  - iii. Helping maintain a stable tax base by providing for the sound use and development in flood hazard areas and to minimize future flood hazard areas.
- d. To protect the flood water storage capacity of floodplains and to assure retention of sufficient floodway area to convey flood flows which can reasonably be expected to occur by:
  - i. Regulating filling, dumping, dredging, and alteration of channels by deepening, widening, or relocating.
  - ii. Prohibiting unnecessary and damage creating encroachments.
  - iii. Encouraging uses such as agriculture, recreation and parking.
  - iv. 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 water elevations or velocities.

- e. To protect the hydraulic characteristics of the small watercourses, including the gulches, sloughs and artificial water channels used for conveying floodwaters, which make up a portion of the urban drainage system, by:
  - i. Regulating filling, dumping, and channelization so as to maintain the natural storage capacity and slow flow characteristics.
  - ii. Regulating encroachment into the small watercourses to maintain their natural storage capacity and slow flow characteristics.
  - iii. Encouraging uses such as greenbelt, open space, recreation, and pedestrian and non-motorized vehicle trails.
  - iv. Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel floodwaters.
  - v. Controlling filling, grading, dredging, and other development which may increase damage caused by flooding.
  - vi. Preventing or regulating the construction of flood barriers which could divert floodwaters or which may increase flood hazards in other areas.

### 3. General Provisions

#### a. *Jurisdiction*

The jurisdiction of this Section includes all lands adjacent to any water course within the town that would be inundated by the 100-year flood as defined by this floodplain overlay.

#### b. *Basis for Establishing the Areas of Special Flood Hazard*

This floodplain overlay district shall apply to all special flood hazard areas and areas removed from a special flood hazard area through a LOMR-F within the Town. The areas of special flood hazard identified by the Federal Emergency Management Agency ("FEMA") in a scientific and engineering Flood Insurance Study with accompanying Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps ("FIRM" and/or "FBFM" and "FIS"), are hereby adopted by reference and declared to be a part of this Section. The DFIRM and FIS in effect on the date of a property owner's complete application for any permit or process in this FDC, in particular those portions of the DFIRM and FIS that define the 100-year floodplain, is the foundational floodplain for the FPO District (the "FEMA Floodplain"). The term "DFIRM" includes all flood risk zone designations and technical information displayed on the maps, explanatory matter, technical addenda, modeling and calculations, water surface elevations, profiles, and cross sections, and other underlying detailed study data, such as information published in the FIS report and supporting documentation, as well as approved Letters of Map Revision ("LOMR"), Letters of Map Amendment ("LOMA"), and Letters of Map Revision based on Fill ("LOMR-F").

#### c. *Boundaries*

- i. This district shall encompass the 100-year floodplain, as it is noted on the FEMA floodplain map. The FEMA floodplain constitutes the area identified as the FPO District. The FPO District boundary and the floodplain maps are on file in the Planning and Zoning Department. Changes to the floodplain maps occur from time to time making it necessary for those changes to be adopted as a part of the FPO District. The FEMA Floodplain within the FPO District will be deemed updated when FEMA issues a Letter of Final Determination associated with any map action, or after the effective date of any Letter of Map Change ("LOMC"), without need for review or approval by the Board of Trustees, regardless of how many parcels are affected. Except

for an automatically adopted DFIRM update, a change in the boundary of the FPO District requires an amendment according to Sections 7.4 and 7.19.

- ii. The floodplain district shall overlay that portion of any other district, including any PUD District, located in the floodplain. The regulations of this district shall be construed as being supplementary to the regulations imposed on the same lands by any underlying district. When regulations of this district conflict with any provisions of the underlying district, the provisions of this district shall control. Any underlying district shall remain in full force and effect to the extent that its provisions do not conflict with the provisions of this district.
- d. ***Effect of Floodplain Regulations***  
The regulations of this Section shall be construed as being supplementary to the regulations imposed on the same lands by any underlying zoning district. This Section supersedes provisions of any zoning relating to floodplain. Any underlying zoning shall remain in full force and effect to the extent that its provisions are more restrictive than those of this Section.
- e. ***Interpretation***  
The interpretation and application of the provisions of this Section shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by Colorado statutes.
- f. ***Warning and Disclaimer of Liability***  
The degree of flood protection intended to be provided by this Section is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods can and will occur upon occasion, or the flood height may be increased by manmade or natural causes, such as ice jams, and bridge openings restricted by debris. This Section does not imply that the areas outside the floodway district and floodway fringe district boundaries or land uses permitted within such districts will always be totally free from flooding or flood damage. This Section shall not create liability on the part of the Town, any officer or employee thereof, or the FEMA, for any flood damage that results from reliance on this Section or any administrative decision lawfully made hereunder.
- g. ***Compliance with Provisions***  
No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this Section and other applicable regulations.
- h. ***Abrogation and Greater Restrictions***  
This Section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Section and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- i. ***Letter of Map Revision Based On Fill (LOMR-F)***  
Any new structure constructed in an area removed from the flood hazard area utilizing a LOMR-F shall be constructed on fill so that the lowest floor (including basement) is at least one (1) foot above the previous base flood elevation.
- j. ***Critical Facilities***  
A Critical Facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulation for Regulatory Floodplains in Colorado, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

Critical Facilities constructed within flood hazard area shall be constructed on fill so that the lowest floor (including basement), together with attendant utility and sanitary facilities, is at least two (2) feet above the base flood elevation.

#### 4. Floodway Districts and Mapping

##### a. *Districts Established*

In order to carry out the provisions of this Section, the areas of the 100-year flood are hereby divided into the following overlay zoning districts:

##### i. *Floodway District (FW)*

The FW shall be those areas identified as floodway in the flood insurance study. In areas outside of the boundaries of the flood insurance study, the FW shall be those areas identified as floodway in floodplain studies approved by the Town.

##### ii. *Floodway Fringe District (FF)*

The FF shall be those areas identified in the flood insurance study as being within the boundaries of the 100-year flood, but outside of the floodway. In areas outside of the boundaries of the flood insurance study, the FF shall be those areas identified in studies approved by the Town as being within the boundaries of the 100-year flood, but outside of the floodway.

##### b. *Mapping of District Boundaries*

The boundaries of the FW and the FF as established in Subsection 2.5.E.4.a above shall be shown upon the flood boundary-floodway map.

##### c. *Interpretation of District Boundaries*

The flood boundaries shall be established by flood elevations set forth in the flood insurance study. Where interpretation is needed of the exact boundaries of the FW and FF as shown in the flood insurance study, a survey shall be prepared by a licensed professional engineer or surveyor and submitted to the Town for review. If necessary, an elevation certificate along with other required documentation shall be submitted by the applicant to FEMA for obtaining a Letter of Map Amendment.

##### d. *Amendment of District Boundaries*

The boundaries of the FW and the FF districts shall be changed on the zoning district map by the amendment procedure contained in this FDC. Amendment of said district boundaries shall be subject to the following limitations:

i. In areas within the boundaries of the flood insurance study, the flood boundaries shall be amended only to conform to changes previously approved by FEMA.

ii. In areas outside of the boundaries of the flood insurance study, the boundaries of the FW and the FF districts shall be changed only upon the presentation of evidence, prepared by a registered professional engineer competent in open channel hydraulics, which shows clearly and conclusively that the boundaries of the districts, as mapped, are incorrect.

#### 5. Floodway Fringe District (FF)

##### a. *Development Standards*

All uses or development in the FF shall comply with the following requirements:

##### i. *Permits*

Development within a FF site shall only be permitted which is authorized by a floodplain development permit and one of the following; a building permit, a manufactured home permit or a Special Review Use.

For waterways with Base Flood Elevations for which a regulatory Floodway has not been designated, no new construction, substantial improvements,

or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half (1/2) foot at any point within the community.

ii. *Certificate of Occupancy*

No land shall be occupied or used and no building or manufactured home which is hereafter erected, placed, moved or structurally altered, shall be used or changed in use until the Chief Building Official or the Official's agent approves a Certificate of Occupancy stating compliance with the provisions of this Section.

iii. *New Construction and Substantial Improvements:*

(A) All new construction and substantial improvements (including the placement of prefabricated buildings and manufactured homes) shall:

- (1) Be anchored to prevent flotation, collapse, or lateral movement of the structure and capable of resisting the hydrostatic and hydrodynamic loads;
- (2) Be constructed with materials and utility equipment resistant to flood damage; and
- (3) Be constructed by methods and practices that minimize flood damage.

(B) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(C) Manufactured homes that are placed or substantially improved within zones A1-30, AH, and AE on sites:

- (1) Outside of a manufactured home park or subdivision;
- (2) In a new manufactured home park or subdivision;
- (3) In an expansion to an existing manufactured home park or subdivision; or
- (4) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home, together with attendant utility and sanitary facilities, is elevated to one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(D) Manufactured homes to be placed or substantially improved on sites in existing manufactured home parks or subdivisions within zones A1-30, AH, and AE that are not subject to the provisions of

Subsection (A).(C).(3) of this Section shall be elevated so that either:

- (1) The lowest floor of the manufactured home, together with attendant utility and sanitary facilities, is at or above one (1) foot above the base flood elevation; or
- (2) The manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than thirty-six (36) inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

iv. *Preservation of Channel Capacity*

No use shall adversely affect the capacity of the channels or floodways of any tributary to the main stream, any drainage ditch, or any other drainage system or facility. Original channel capacity must be maintained in an altered portion.

v. *Subdivisions and Other New Development*

All subdivisions and other new development shall meet the following requirements:

- (A) New residential lots shall not be platted in the FF.
- (B) All such activities shall be generally consistent with the need to minimize flood damage.
- (C) All public utilities and facilities, such as sewer, gas, electrical, and water systems, shall be located and constructed to minimize or eliminate flood damage.
- (D) Adequate drainage shall be provided to reduce exposure to flood hazards.
- (E) 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 (whichever is less).
- (F) The boundaries of the FW and FF districts shall be shown upon preliminary and final subdivision plats. If a subdivision is located entirely within the FW or the FF districts, that information shall be stated on the Preliminary and Final Plats.

vi. *Water and Sewage Systems*

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

vii. *On-Site Waste Disposal Systems*

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

viii. *Manufactured Homes*

All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement and capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to, use of over the top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces. Manufactured homes shall be placed in the FF only upon the issuance of a manufactured home permit. Such a permit shall require that

the placement of the manufactured home for which it is issued meets the following conditions:

- (A) The manufactured home shall be placed on a designated manufactured home space in a manufactured home park.
- (B) The manufactured home shall be anchored to the ground in the following manner:
  - (1) Over the top ties shall be provided at each of the four (4) corners of the home. Homes at least fifty (50) feet long shall have two (2) additional ties per side at intermediate locations, and homes under fifty (50) feet long shall have one (1) additional tie per side.
  - (2) Frame ties shall be provided at each corner of the home. Homes at least fifty (50) feet long shall have five (5) additional ties per side, and homes under fifty (50) feet long shall have four (4) additional ties per side.
  - (3) All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.
  - (4) Any additions to the manufactured home shall be similarly anchored.

ix. *Establishment of Floodplain Development Permit*

A floodplain development permit shall be obtained before construction or development begins within any area of special flood hazard established in Subsection 2.5.E.3.b. Application for a floodplain development permit shall be made on forms furnished by the administrative official and may include, but not be limited to: 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:

- (A) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- (B) Elevation in relation to mean sea level to which any structure has been flood proofed;
- (C) Certification by a registered professional engineer or architect that the flood proofing methods for any nonresidential structure meet the flood proofing criteria in Subsection 2.5.E.5.b.ii below; and
- (D) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

x. *Enclosures*

New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered

professional engineer or architect or meet or exceed the following minimum criteria:

- (A) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
- (B) The bottom of all openings shall be no higher than one (1) foot above grade.
- (C) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

xi. *Recreational Vehicles*

Require that recreational vehicles placed on sites within zones A1-30, AH, and AE on the Town's FIRM either:

- (A) Be on the site for fewer than one-hundred eighty (180) consecutive days,
- (B) Be fully licensed and ready for highway use, or
- (C) Meet the permit requirements of Subsection 2.5.E.5.a.ix, and the elevation and anchoring requirements for "manufactured homes" in Subsection 2.5.E.5.a.viii. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

xii. *Below Grade Residential Crawlspace Construction*

New construction and substantial improvement of any below grade crawlspace shall:

- (A) Have the interior grade elevation that is below base flood elevation no lower than two (2) feet below the lowest adjacent grade;
- (B) Have the height of the below grade crawlspace measured from the interior grade of the crawlspace to the top of the foundation wall, not to exceed four (4) feet at any point;
- (C) Have an adequate drainage system that allows floodwaters to drain from the interior area of the crawlspace following a flood;
- (D) Be anchored to prevent flotation, collapse, or lateral movement of the structure and be capable of resisting the hydrostatic and hydrodynamic loads;
- (E) Be constructed with materials and utility equipment resistant to flood damage;
- (F) Be constructed using methods and practices that minimize flood damage;
- (G) Be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and
- (H) Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a

registered professional engineer or architect or must meet or exceed the following minimum criteria:

- (1) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided;
- (2) The bottom of all openings shall be no higher than one (1) foot above grade; and
- (3) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

**b. *Uses Permitted***

Any use which is permitted by the underlying zoning district and those which involve fill, excavation, storage of materials or equipment, or construction or substantial improvement of a building or manufactured home park, is permitted upon approval of the necessary building permit, provided the use meets the requirements of Subsection A of this Section and the following requirements:

i. *Residential Buildings*

All new construction and substantial improvement of residential buildings shall be constructed on fill so that the lowest floor (including basement), together with attendant utility and sanitary facilities, is at least one (1) foot above the base flood elevation. The fill shall be at an elevation at least one (1) foot above the base flood elevation and shall extend at that elevation at least fifteen (15) feet beyond the limits of any structure or building erected thereon.

ii. *Nonresidential Buildings*

All new construction or substantial improvement of nonresidential buildings shall have the lowest floor (including basement), together with attendant utility and sanitary facilities, elevated one (1) foot above the base flood elevation, or together with attendant utility and sanitary facilities, be flood proofed so that below the base flood elevation, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

iii. *Certification*

Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provision of this Subsection. Such certifications shall be provided to the official as set forth in Subsection 2.5.E.8.

**c. *Storage of Materials and Equipment***

- i. The storage or processing of materials that are buoyant, flammable, or which in times of flooding could be injurious to human, animal or plant life, shall be at or above a point two (2) feet above the base flood elevation or in a building which has been flood proofed to a point two (2) feet above the base flood elevation.
- ii. The storage of materials or equipment which is not subject to major damage by floods and which are firmly anchored to prevent flotation or are readily removable from the flood hazard area within the time available after flood warning, may be permitted below the base flood elevation.

**6. Floodway District (FW)**

**a. Special Provisions**

The following regulations, in addition to the requirements of Subsection 2.5.E.5.a shall apply to all uses within the floodway district. Additionally, a regulatory floodway is hereby adopted to which the following provisions shall apply:

- i. No new construction, placement or substantial improvement of existing buildings or manufactured homes shall be permitted.
- ii. No filling or excavating shall be permitted.
- iii. Storage of materials which are buoyant, flammable, or explosive, or which in times of flooding could be injurious to human, animal, or plant life, is prohibited.
- iv. No use shall be permitted which would result in any increase in the base flood elevation.

**b. Uses Permitted by Right**

The following uses have low flood damage potential and, provided they do not obstruct flood flows, shall be permitted subject to the provisions of the underlying zoning and Subsection 2.5.E.5.a and Subsection 2.5.E.6.a above, provided they do not require structures, fill, excavation, or storage of materials or equipment:

- i. Agricultural uses such as general farming, truck farming, sod farming, plant nurseries, and horticulture.
- ii. Industrial and commercial uses such as loading areas and parking areas.
- iii. Open space.
- iv. Private and public recreational uses such as parks, picnic grounds, golf courses, driving ranges, swimming areas, wildlife and nature preserves, fishing areas, and trails for hiking, bicycling and horseback riding.
- v. Residential uses such as lawns, gardens, parking areas and play areas.

**c. Special Review Uses Permitted**

The following uses which involve structures other than buildings, fill, or storage of materials or equipment may be permitted only upon the approval and issuance a Special Review Use permit:

- i. Circuses, carnivals, and similar transient amusement enterprises.
- ii. Storage yards for equipment, machinery or materials, as long as such storage does not conflict with the provisions of Subsection 2.5.E.5.a.

**d. Provisions within Floodways**

Located within areas of special flood hazard established in Subsection 2.5.E.3.b are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potentials, the following provisions apply:

- i. Prohibit encroachments, including fill, new construction, substantial improvements, and other development, unless certification by a Colorado licensed, registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- ii. If Subsection 2.5.E.6.d.i above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Section.

## 7. Special Review Use Permits

### a. Purpose

Certain uses may have an adverse impact when located in the floodplain because of their effect upon floods or because of the effect of flood upon them. The intent of the Special Review Use permit is to provide the means for review of such uses to assure that the purposes of this Section are met and the potential for adverse effects is minimized.

### b. Authority to Grant a Special Review Use

At a public hearing, the Board of Trustees, after review and recommendation by the Planning & Zoning Commission, shall hear and decide all requests for Special Review Use permits and construction application within the 100-year floodplain in the manner prescribed by this Section.

### c. Conditions for Authorizing Construction Under a Special Review Use Permit

#### i. Exceptions

Authorizations for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places may be issued without regard to the procedures set forth in the remainder of this Section.

#### ii. Restrictions and Limitations on Issuance

(A) Special Review Use permits shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(B) Authorization shall be issued only upon a determination that the same is the minimum necessary, considering the flood hazard, to afford relief.

(C) Authorization shall only be issued upon:

(1) A showing of good and sufficient cause;

(2) A determination that failure to grant the authorization would result in exceptional hardship to the applicant; and

(3) A determination that the granting of an authorization will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

(D) Lot Size: Generally, Special Review Use permits may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided Subsection 2.5.E.9.c have been fully considered. As the lot size increases beyond the one-half (1/2) acre, the technical justifications required for issuing the Special Review Use permits increase.

## 8. Administration of Provisions

### a. *Duties of Administrative Official*

Duties and responsibilities of the Director of Public Works (i.e. Administrative Official) in carrying out the provisions of this Section shall include, but not be limited to, the following:

- i. The review of permits for proposed development to determine whether proposed building sites will be reasonably safe from flooding by a 100-year flood.
- ii. The review of permits for proposed development to assure that the permit requirements of this Section have been satisfied and that all necessary permits have been obtained from those federal, state or local agencies from which prior approval is required.
- iii. 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 FEMA; require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
- iv. The approval of certificates of occupancy for all lands in the FW and the FF upon verification that the premises and structures thereon conform with all of the requirements of this Section.
  - (A) When there has been fill, excavation, erection or substantial improvement of a structure, or construction, enlargement or substantial improvement of a manufactured home park, the administrative official shall require the applicant to provide certification by a registered professional engineer or surveyor that the finished fill, excavation, building floor elevations, flood proofing measures, or other flood protection measures were accomplished in compliance with the provisions of this Section. Certification of the adequacy of the flood proofing of a non-residential use building may be provided by a registered architect in lieu of a professional engineer or surveyor.
  - (B) The certification provided by the professional engineer or architect shall include the elevation (in relation to mean sea level) of the lowest floor (including basement) of all buildings that have not been flood proofed.
  - (C) Records of all certificates provided by professional engineers or architects in compliance with this Section shall be maintained by the Town.
- v. The maintenance of records of all Special Review Use permits granted from the requirements of this Section, including justification for the granting of the Special Review Use permits.
- vi. An annual inspection of all properties in the FW and the FF district to assure conformance to the provisions of this Section and to all permits issued there under.
- vii. Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Subsection 2.5.E.9.

- viii. Review all floodplain development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Subsection 2.5.E.6 are met.
- b. Use of Other Base Flood Data**
- When base flood elevation data has not been provided in accordance with Subsection 2.5.E.3.b, the administrative official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source as criteria for new construction, substantial improvements or other development in Zone A in order to administer Subsection 2.5.E.5.a.
- c. Information to be Obtained and Maintained**
- i. 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, shall be obtained and recorded.
  - ii. For all new or substantially improved flood proofed structures, the following shall be done:
    - (A) Verify and record the actual elevation (in relation to mean sea level to which the structure has been flood proofed); and
    - (B) Maintain the flood proofing certifications required in Subsection 2.5.E.5.a.ix(C).
  - iii. All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.
  - iv. Maintain for public inspection all records pertaining to the provisions of this Section.
- d. Approval or Denial of a Floodplain Development Permit**
- Approval or denial of a floodplain development permit by the Director of Public Works shall be based on all of the provisions of this Section and the following relevant factors:
- i. The danger to life and property due to flooding or erosion damage;
  - ii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - iii. The danger that materials may be swept onto other lands to the injury of others;
  - iv. The compatibility of the proposed use with existing and anticipated development;
  - v. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - vi. The costs of providing governmental, public or quasi-public services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
  - vii. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
  - viii. The necessity to the facility of a waterfront location, where applicable;

- ix. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and
- x. The relationship of the proposed use to the Town's Comprehensive Master Plan for that area.

## 9. Appeals

### a. **Authority**

The Board of Adjustment shall hear and decide all appeals when it is alleged that there is an error in any requirement, decision or determination made by the administrative official in the enforcement or administration of this Section.

### b. **Filing Appeal**

Any person alleging such an error shall file an appeal to the Board of Adjustment, in writing, within thirty (30) days from the determination of the administrative official, in which he shall set forth in detail a basis for such alleged error.

### c. **Scope of Appeal**

In passing upon any appeal, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other Subsections of this Section, and:

- i. The danger that materials may be swept onto other lands to the injury of others;
- ii. The danger of life and property due to flooding or erosion damage;
- iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- iv. The importance of the services provided by the proposed facility to the Town;
- v. The necessity to the facility of a waterfront location, where applicable;
- vi. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- vii. The compatibility of the proposed use with existing and anticipated development;
- viii. The relationship of the proposed use to the Town's Comprehensive Master Plan and floodplain management program for that area;
- ix. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- x. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- xi. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

### d. **Conditions of Appeal**

The Board of Adjustment may attach any reasonable conditions to authorizing construction within the 100-year floodplain that it deems necessary to further the purposes of this Section.

e. **Records Kept**

The Board of Adjustment shall maintain through its administrative officer the records of all appeal and application actions and report any decisions to the FEMA upon request.

f. **Further Appeals to District Court**

The decision of the Board of Adjustment may be appealed to the appropriate County District Court, as provided in C.R.S. §31-23-307, as amended.

**10. Penalties**

a. **Fine**

Any person found guilty of violating any provision of this Section shall be punishable as provided in the Municipal Code. Each day that such violation continues to exist shall be considered a separate offense.

b. **Additional Actions**

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

**11. Variance Procedures**

- a. The Board of Adjustment as established by the Town shall hear and render judgment on requests for variances from the requirements of this Section.
- b. The Board of Adjustment shall hear and render judgment on a variance request only when it is alleged there is an error in any requirement, decision, or determination made by the administrative official in the enforcement or administration of this Section.
- c. Any person or persons aggrieved by the decision of the Board of Adjustment may appeal such decision as set forth in Subsection 2.5.E.9.
- d. The administrative official shall maintain a record of all actions involving a variance request and shall report variance requests to the FEMA upon request.
- e. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Section.
- f. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Subsection 2.5.E.8.d have been fully considered. As the lot size increases beyond the one-half (1/2) acre, the technical justification required for issuing the variance request increases.
- g. Upon consideration of the factors noted above and the intent of this Section, the Board of Adjustment may attach such reasonable conditions to the granting of a variance request as it deems necessary to further the purpose and objectives of this Section.
- h. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- i. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the

structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

- j. Prerequisites for granting a variance request:
  - i. Variances shall only be issued upon a determination that the variance request is the minimum necessary, considering the flood hazard, to afford relief.
  - ii. Variances shall only be issued upon:
    - (A) Showing a good and sufficient cause;
    - (B) A determination that failure to grant the appeal would result in exceptional hardship to the applicant; and
    - (C) A determination that the granting of a variance request will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  - iii. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- k. Variances may be issued by the Board of Adjustment for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
  - i. The criteria outlined in Subsections 2.5.E.11.a through j, are met, and
  - ii. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

## **F. Design Overlay Districts (DO)**

### **1. Purpose**

Design Overlay Districts are intended to serve one or more of the following purposes:

- a. To implement land use and urban design recommendations and standards.
- b. To reinforce the desired character for newly developing or redeveloping areas.
- c. Ensure orderly and thorough planning and review procedures that will result in high-quality urban design.
- d. Encourage variety and avoid monotony in large developments by allowing greater freedom in selecting the means to provide access, light, open space, and amenity.
- e. To provide uniform standards for mitigating the impact of more intensive uses adjacent to less intensive uses.
- f. Provide a mechanism for considering mixes of uses that can be made compatible by application of careful and imaginative treatment of interrelationships of activity.
- g. To provide for the enactment of urban design standards for specific segments of designated parkways and boulevards, and areas with cohesive design characteristics.
- h. To implement design standards in a geographically specific area or multiple areas or districts with similar conditions and objectives throughout the town.

**2. Applicable Standards and Modifications Allowed**

**a. Applicable Standards-In General**

A design overlay zone district includes standards that modify otherwise applicable standards in the underlying zone district. Modifications include but are not limited to reducing or increasing a quantitative zoning standard, such as building height or setback standards, and may include new zoning standards not otherwise applicable in the underlying zone district.

**b. Applicable Standards-Exceptions**

All development and design standards applicable to new development in the underlying zone district may be modified, except there shall be no variation of:

- i. The underlying zone districts maximum density requirements;
- ii. Parking requirements;
- iii. Public street and alley standards;
- iv. Exterior lighting standards;
- v. Operational standards;
- vi. Parks, Open Space and trails dedication requirements;
- vii. Natural and Scenic Resource Protection requirements;
- viii. Abandoned mine requirements;
- ix. Oil and gas wells and production facility requirements;
- x. Floodplain protection; and
- xi. Stormwater requirements.

**G. Use Overlay Districts (UO)**

**1. Purpose**

Use Overlay districts are a vehicle to permit specific land uses in delineated parts of the Town that otherwise are prohibited in a variety of underlying zone districts and portions of zone districts. The purpose of the Adult Use overlay zone districts created herein is to maintain the status quo of entitlement relating to the establishment, maintenance, and operation of adult uses as those rights existed before adoption of this FDC.

**2. Modification of Underlying Zone District Standards**

**a. Modification of Permitted Uses Allowed**

- i. A Use Overlay District may be used to add to the specific permitted uses in the underlying zone district.

**b. Applicable Standards-Modifications Not Allowed**

- i. All of the provisions of the underlying zone district shall be in full force and effect, and shall not be modified by the provisions of the applicable overlay zone district.

**3. Limitation on Applicability of Use Overlay Zone Districts**

The Adult Use Overlay District may be applied to properties through a rezoning application approved after adoption of this FDC.

**4. Adult Use Overlay District (UO-1)**

**a. Established**

There is hereby created a Use Overlay District designated as the Adult Use Overlay District, and the provisions of this UO-1 district shall apply only to those areas within this FDC's LI-Light Industrial Zone District that is designated with the UO-1 Zone District on the Official Zone Map and located south of WCR 20 and West of Colorado Boulevard.

**b. Allowance for Adult Business Uses**

Notwithstanding the limitations applicable in the underlying zone district, adult business uses, as defined by this FDC, shall be permitted in this overlay zone district.

**c. Distance and Spacing Requirements**

All Adult Business uses shall comply with the following distance and spacing requirements, shown in the table below.

| Adult Business Use   | Distance or Spacing Requirement  |
|--|--|
| Adult Bookstore<br>Adult Photo Studio<br>Adult Theater<br>Adult Amusement or Entertainment<br>Eating place with adult amusement or entertainment | No adult business use listed in this table row shall be established within seven-hundred fifty (750) feet of one or more of the following zone districts or uses (see related definitions): <ul style="list-style-type: none"> <li>• All residential zone districts</li> <li>• All residential uses</li> <li>• Parks</li> <li>• Open Space</li> <li>• Library</li> <li>• Community and Recreation Center</li> <li>• Day-care facility</li> <li>• Religious assembly</li> <li>• Private or Public School</li> </ul> |
| Adult Bookstore<br>Adult Photo Studio<br>Adult Theater<br>Adult Amusement or Entertainment<br>Eating place with adult amusement or entertainment | Not more than two (2) of the uses listed in this table row shall be established, operated or maintained within seven-hundred fifty (750) feet of each other  |

**5. Manufactured Home Park Use Overlay District (UO-2)**

**a. Established**

There is hereby created a Use Overlay District designated as the Manufactured Home Park Use Overlay District, and the provisions of this UO-2 district shall apply only to those areas within this FDC’s R-A Low-Density Residential Zone District that is designated with the UO-2 Zone District on the Official Zone Map and located east of Weld County Road 17.

**b. Allowance for Manufactured Home Park Uses**

Notwithstanding the limitations applicable in the underlying zone district, manufactured home park uses, as defined by this FDC, shall be permitted in this overlay zone district.

**c. General Provisions**

- i. All manufactured homes and manufactured home parks shall conform to the R-A zone district and single-family residential standards of this FDC unless otherwise modified by this section.
- ii. All manufactured home parks shall conform to the Town of Firestone Design Standards & Construction Specifications for Public Improvements (Standards and Specifications).
- iii. All manufactured homes shall be located only in a Manufactured Home Park.
- iv. Existing manufactured homes whether they be located within or outside of a manufactured home park shall be deemed conforming as of the effective date of this FDC. Existing manufactured homes shall only be upgraded or replaced with newer and higher quality contemporary manufactured homes.

- v. Permitted Principal Uses: The following uses shall be permitted within a manufactured home park:
    - (A) Any single-family dwelling unit regardless of its method of assembly including Type 1 and Type 2 manufactured homes, module homes assembled after 1976, factory-built homes or on-site built homes, provided said dwelling units have been constructed no more than 10 years prior to the effective date of this FDC.
    - (B) Community center.
    - (C) Group care facilities.
  - vi. Permitted Accessory Uses:
    - (A) Uses that are customarily incidental to any of the permitted principal uses and are located on the same lot or on an adjacent lot.
    - (B) Recreational facilities.
- d. Development Standards**
- i. All manufactured homes are required to meet the provisions of C.R.S. § 24-32-3301 et seq., as amended, and the Colorado Division of Housing administrative rules set forth in 8 C.C.R. 1302-14, as amended, which provide for comprehensive regulation of the installation of manufactured homes to ensure the safety, affordability and performance of such dwelling units.
  - ii. All interior streets shall meet all adopted Town Standards and Specifications.
  - iii. Interior streets, parking areas and walkways shall be adequately lighted to provide safe movement of vehicles and pedestrians at night.
  - iv. Landscaping that complies with the provisions set forth in this FDC shall be submitted as part of the required Final Development Plan for the park. All setback areas, with the exception of driveways and sidewalks, and other open space shall be landscaped to soften the exterior appearance of the mobile home park.
  - v. All manufactured homes shall be skirted between the floor and the ground surface with durable, all-weather construction as manufactured specifically for covering the undercarriage area of the mobile home.
  - vi. All manufactured homes constructed on existing lots located in the floodplain shall be installed on a permanent foundation.
- e. Replacement**
- No replacement manufactured home shall be moved onto any lot unless such manufactured home is certified pursuant to the "National Mobile Home Construction and Safety Standards Act of 1974", 42 U.S.C. §5401 et seq., as amended or is certified by the Colorado Division of Housing pursuant to C.R.S. §24-32-701, et seq. A manufactured home presently located within a manufactured home park that is relocated within the same manufactured home park is exempted from the requirements of this Chapter.

# CHAPTER 3: USE REGULATIONS

## 16.3.1 TABLE OF PERMITTED USES

Table 3-1 below lists the principal uses permitted within all standard zoning districts. For the PUD district, unless expressly modified in the PUD Development Plan, uses shall be as specified in Table 3-1 for the appropriate land use category. Each of the listed uses is defined in Chapter 11.

### A. Explanation of Table Abbreviations

#### 1. Permitted Uses

“P” in a cell indicates that the use is permitted by right, without special conditions other than those imposed upon other uses by right in the district. Permitted uses are subject to all other applicable regulations of this FDC, including the use-specific standards set forth in this Chapter and the requirements of Chapter 6.

#### 2. Special Review Uses

“S” in a cell indicates that, in the respective zoning district, the use is permitted only if reviewed and approved as a Special Review Use in accordance with the procedures of Section 7.11. Special Review Uses are subject to all other applicable regulations of this FDC, including the use-specific standards set forth in this Chapter and the requirements of Chapter 6.

#### 3. Prohibited Uses

A blank cell indicates that the use is prohibited in the respective zoning district.

#### 4. Use-Specific Standards

Regardless of whether a use is permitted by right or permitted as a Special Review Use, there may be additional standards that are applicable to the use. Use-specific standards are noted through a cross-reference in the last column of the table. Cross-references refer to Section 3.2. These standards apply in all districts unless otherwise specified.

### B. Table Organization

In Table 3-1, land uses and activities are classified under a "primary use classification" (such as Residential or Commercial) and then into specific "use types" based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions. This classification provides a systematic basis for assigning present and future land uses into appropriate zoning districts. This classification does not list every use or activity that may appropriately exist within the categories and specific uses may be listed in one category when they may reasonably have been listed in one or more other categories. The use categories are intended merely as an indexing tool and are not regulatory.

### C. Use for Other Purposes Prohibited

Approval of a use listed in Table 3-1, and compliance with the applicable use-specific standards for that use, authorizes that use only. Development or use of a property for any other use not specifically permitted in Table 3-1, and approved under the appropriate process is prohibited, unless otherwise permitted as noted below.

### D. Classification of New and Unlisted Uses

Notwithstanding the prohibition stated in Subsection 3.1.C above, new types of land use will develop and forms of land use not anticipated may seek to locate in the Town. In order to provide for such situations, a determination as to the appropriate classification of any new or unlisted form of land use shall be made. When application is made for a use category or use type that is not specifically listed in Table 3-1, the procedure set forth below shall be followed.

1. The Director shall provide an interpretation as to the zoning classification into which such use should be placed. In making such interpretation, the Director shall consider its potential impacts, including but not limited to: the nature of the use and whether it involves dwelling

unit activity; sales; processing; type of product, storage and amount, and nature thereof; enclosed or open storage; anticipated employment; transportation requirements; the amount of noise, odor, fumes, dust, toxic material, and vibration likely to be generated; and the general requirements for public utilities such as water and sanitary sewer.

2. Standards for new and unlisted uses may be interpreted as those of a similar use by the Director.
3. Appeal of the Director's decision shall be made to the Board of Adjustment following procedures under Subsection 7.20.A.

**E. Table of Permitted Uses**

[See following pages]

| TABLE 3-1: TABLE OF PERMITTED USES  |  |             |     |     |     |     |            |    |    |     |       |    |    |     |               |         |
|---|--|-------------|-----|-----|-----|-----|------------|----|----|-----|-------|----|----|-----|---------------|---------|
| P = PERMITTED USE BY RIGHT    S = SPECIAL REVIEW USE    BLANK CELL = PROHIBITED |  |             |     |     |     |     |            |    |    |     |       |    |    |     |               |         |
| USE CATEGORY  | USE TYPE   | RESIDENTIAL |     |     |     |     | COMMERCIAL |    |    |     | OTHER |    |    |     | USE STANDARDS |         |
|   |  | RR          | R-A | R-B | R-C | OTR | NC         | RC | LI | OTC | DR    | AG | OS | PLI |               |         |
| <b>RESIDENTIAL USES</b>   |  |             |     |     |     |     |            |    |    |     |       |    |    |     |               |         |
| Household Living  | Dwelling, Live/Work  |             |     |     |     |     |            |    | S  | P   |       |    |    |     |               | 3.2.A.1 |
|   | Dwelling, Multi-Family   |             |     |     | P   | S   |            |    |    |     |       |    |    |     |               |         |
|   | Dwelling, Single-Family Attached   |             | P   | P   | P   | S   |            |    |    |     |       |    |    |     |               |         |
|   | Dwelling, Single-Family Detached   | P           | P   | P   | P   | P   |            |    |    |     |       | P  |    |     |               | 3.2.A.2 |
|   | Model Home   | P           | P   | P   | P   | P   |            |    |    |     |       |    |    |     |               | 3.2.A.3 |
|   | Manufactured Home Park   |             | P   |     |     |     |            |    |    |     |       |    |    |     |               | 2.5.G.5 |
| Group Living  | Group Home, State-licensed   | P           | P   | P   | P   | P   |            |    |    |     |       | P  |    |     |               | 3.2.A.4 |
|   | Group Home, Large  |             | S   | S   | S   |     |            |    |    |     |       | S  |    |     |               |         |
|   | Group Home, Small  | S           | S   | S   | S   | S   |            |    |    |     | S     |    |    |     |               |         |
|   | Retirement Home, Nursing Home, Hospice Care Residential Facility or Assisted Living Facility |             | S   | S   | P   | S   |            |    |    |     |       |    |    |     |               | 3.2.A.5 |
| <b>PUBLIC / INSTITUTIONAL USES</b>  |  |             |     |     |     |     |            |    |    |     |       |    |    |     |               |         |
| Aviation  | Helistop   |             |     |     |     |     | S          | S  | S  |     |       |    |    |     | S             |         |
| Cemetery  | Cemetery   | S           |     |     |     |     |            |    |    |     |       | S  | S  | S   |               |         |

| TABLE 3-1: TABLE OF PERMITTED USES  |                             |             |     |     |     |     |            |    |    |     |       |    |    |     |                                  |
|---|-----------------------------|-------------|-----|-----|-----|-----|------------|----|----|-----|-------|----|----|-----|----------------------------------|
| P = PERMITTED USE BY RIGHT    S = SPECIAL REVIEW USE    BLANK CELL = PROHIBITED |                             |             |     |     |     |     |            |    |    |     |       |    |    |     |                                  |
| USE CATEGORY  | USE TYPE                    | RESIDENTIAL |     |     |     |     | COMMERCIAL |    |    |     | OTHER |    |    |     | USE STANDARDS                    |
|   |                             | RR          | R-A | R-B | R-C | OTR | NC         | RC | LI | OTC | DR    | AG | OS | PLI |                                  |
| Child Care  | Child Care Center, Large    | S           | S   | S   | S   | S   | P          | P  | S  | S   |       |    |    | S   | 3.2.B.1                          |
|   | Child Care Center Small     | P           | P   | P   | P   | P   | P          | P  | S  | S   |       |    |    | P   | 3.2.B.1                          |
| Community Facilities  | Community Center            | S           | S   | S   | S   | S   | P          | P  | P  | P   |       |    | P  | P   |                                  |
|   | Governmental Office         | P           | P   | P   | P   | P   | P          | P  | P  | P   |       | P  | P  | P   |                                  |
|   | HOA/Metro District Facility |             | P   | P   | P   |     |            |    |    |     |       |    |    |     |                                  |
|   | Public Works Facility       |             |     |     |     |     |            | S  | P  |     |       | S  | S  | S   |                                  |
|   | Public Safety Station       | S           | S   | S   | S   | S   | P          | P  | P  | P   |       |    |    | P   |                                  |
|   | Recreation Center           |             | S   | S   | S   | S   | P          | P  | P  | P   |       | P  | P  | P   |                                  |
|   | Transit Center              |             |     |     |     |     | S          | P  | P  | S   |       |    |    | P   |                                  |
| Cultural Facilities   | Library                     |             |     |     |     |     | P          | P  | S  | P   |       | S  | S  | P   |                                  |
|   | Museum                      |             |     |     |     |     | P          | P  | S  | P   |       | S  | S  | P   |                                  |
| Educational Use   | College or University       |             |     |     |     |     | S          | S  | P  | S*  |       |    |    | P   | * Limited to satellite classroom |
|   | Instructional Studio        |             |     |     |     |     | P          | P  | P  | P   |       |    |    | P   |                                  |
|   | School - Public             | P           | P   | P   | P   | P   | P          |    |    |     |       |    |    | P   |                                  |
|   | School - Private            | S           | S   | S   | S   | S   | S          | S  | S  | S*  |       |    |    | P   | *Limited to instructional studio |
|   | Vocational School           |             |     |     |     |     | S          | S  | P  | S*  |       |    |    | P   | *Limited to instructional studio |

| TABLE 3-1: TABLE OF PERMITTED USES  |  |             |     |     |     |     |            |    |    |     |       |    |    |     |  |
|---|--|-------------|-----|-----|-----|-----|------------|----|----|-----|-------|----|----|-----|--|
| P = PERMITTED USE BY RIGHT    S = SPECIAL REVIEW USE    BLANK CELL = PROHIBITED |  |             |     |     |     |     |            |    |    |     |       |    |    |     |  |
| USE CATEGORY  | USE TYPE                                       | RESIDENTIAL |     |     |     |     | COMMERCIAL |    |    |     | OTHER |    |    |     | USE STANDARDS  |
|   |  | RR          | R-A | R-B | R-C | OTR | NC         | RC | LI | OTC | DR    | AG | OS | PLI |  |
| Human Health Services   | Dental or Medical Office, Clinic, Lab          |             |     |     |     |     | P          | P  | P  | P   |       |    |    |     |  |
|   | Emergency Room                                 |             |     |     |     |     | S          | S  | S  |     |       |    |    |     |  |
|   | Hospital                                       |             |     |     |     |     | S          | P  | P  |     |       |    |    | S   |  |
|   | Substance Abuse Treatment Facility, Outpatient |             |     |     |     |     | S          | S  | S  |     |       |    |    | S   |  |
|   | Urgent Care Center                             |             |     |     |     |     | P          | P  | P  | S   |       |    |    | S   |  |
|   | Natural Medicine Healing Center                |             |     |     |     |     |            |    | P  |     |       |    |    |     | Minimum 1000' from Interstate, Arterial, and Section Line Roadways; 16.3.2.E.3 |
|   | Natural Medicine Services                      |             |     |     |     |     |            |    | P  |     |       |    |    |     | Minimum 1000' from Interstate, Arterial, and Section Line Roadways; 16.3.2.E.3 |
| Park and Open Space   | Athletic Fields and Courts                     | P           | P   | P   | P   | P   | P          | P  | P  | P   |       | S  | S  | P   |  |
|   | Outdoor Amphitheater                           |             |     |     |     | S   | S          | S  | S  | S   |       |    | P  | P   |  |
|   | Parks/Open Space                               | P           | P   | P   | P   | P   | P          | P  | P  | P   |       | P  | P  | P   |  |
| Religious Assembly  | Religious Assembly                             | S           | S   | S   | P   | P   | P          | P  | S  | P   |       | S  |    | P   |  |
|   | Base Station and Tower                         | S           | S   | S   | S   | S   | S          | S  | S  | S   |       | S  | S  | S   | Chapter 12   |

| TABLE 3-1: TABLE OF PERMITTED USES  |   |             |     |     |     |     |            |    |    |     |       |    |    |     |               |
|---|---|-------------|-----|-----|-----|-----|------------|----|----|-----|-------|----|----|-----|---------------|
| P = PERMITTED USE BY RIGHT    S = SPECIAL REVIEW USE    BLANK CELL = PROHIBITED |   |             |     |     |     |     |            |    |    |     |       |    |    |     |               |
| USE CATEGORY  | USE TYPE  | RESIDENTIAL |     |     |     |     | COMMERCIAL |    |    |     | OTHER |    |    |     | USE STANDARDS |
|   |   | RR          | R-A | R-B | R-C | OTR | NC         | RC | LI | OTC | DR    | AG | OS | PLI |               |
| Tele-communication Facilities   | Small-cell and Micro-wireless                       | P           | P   | P   | P   | P   | P          | P  | P  | P   |       | P  | P  | P   | Chapter 12    |
| Utility Facilities  | Utility Facility                                    | S           | S   | S   | S   | S   | S          | S  | S  | S   |       | S  | S  | S   |               |
| <b>COMMERCIAL USES</b>  |   |             |     |     |     |     |            |    |    |     |       |    |    |     |               |
| Agricultural  | Agricultural Cultivation                            |             |     |     |     |     |            |    |    |     |       | P  | P  | S   |               |
|   | Agricultural Grazing                                |             |     |     |     |     |            |    |    |     |       | P  | P  |     | 3.2.C.2       |
| Animal Sales and Care   | Animal Hospital, Large Animals (indoor only)        |             |     |     |     |     |            | S  | P  |     |       | P  |    |     | 3.2.C.3       |
|   | Animal Hospital, Large Animals (outdoor facilities) |             |     |     |     |     |            |    | S  |     |       | S  |    |     | 3.2.C.3       |
|   | Animal Hospital, Small Animals (indoor only)        |             |     |     |     |     | P          | P  | P  | P   |       | P  |    |     | 3.2.C.3       |
|   | Animal Hospital, Small Animals (outdoor facilities) |             |     |     |     |     | S          | S  | S  |     |       | S  |    |     | 3.2.C.3       |
|   | Horse Boarding, Training, Riding, Instruction       |             |     |     |     |     |            |    |    |     |       | S  |    |     |               |
|   | Kennel or Animal Day Care (indoor only)             |             |     |     |     |     | P          | P  | P  |     |       | P  |    |     | 3.2.C.4       |
|   | Kennel or Animal Day Care (outdoor facilities)      |             |     |     |     |     |            | S  | S  |     |       | S  |    |     | 3.2.C.4       |
| Assembly  | General Assembly Uses                               |             | S   | S   | S   | S   | S          | S  | S  | S   |       | S  | S  | S   |               |
| Financial Institution   | Automated teller machine (freestanding)             |             |     |     |     |     | P          | P  | P  | P   |       |    |    |     |               |

| TABLE 3-1: TABLE OF PERMITTED USES  |  |             |     |     |     |     |            |    |    |     |       |    |    |     |               |
|---|--|-------------|-----|-----|-----|-----|------------|----|----|-----|-------|----|----|-----|---------------|
| P = PERMITTED USE BY RIGHT    S = SPECIAL REVIEW USE    BLANK CELL = PROHIBITED |  |             |     |     |     |     |            |    |    |     |       |    |    |     |               |
| USE CATEGORY  | USE TYPE   | RESIDENTIAL |     |     |     |     | COMMERCIAL |    |    |     | OTHER |    |    |     | USE STANDARDS |
|   |  | RR          | R-A | R-B | R-C | OTR | NC         | RC | LI | OTC | DR    | AG | OS | PLI |               |
|   | Bank   |             |     |     |     |     | P          | P  | P  | P   |       |    |    |     |               |
|   | Bank, with drive-through service                   |             |     |     |     |     | P          | P  | P  |     |       |    |    |     | 3.2.C.5       |
| Food and Beverage Service   | Bar/Tavern   |             |     |     |     |     | P          | P  | P  | P   |       |    |    | S   |               |
|   | Bar/Tavern (outdoor facilities)                    |             |     |     |     |     | P          | P  | P  | P   |       |    |    | S   | 3.2.C.8       |
|   | Nightclub  |             |     |     |     |     | S          | P  | S  | P   |       |    |    |     | 3.2.C.6       |
|   | Restaurant   |             |     |     |     |     | P          | P  | P  | P   |       |    |    | S   |               |
|   | Restaurant, with drive-through or drive-up service |             |     |     |     |     | P          | P  | P  |     |       |    |    |     | 3.2.C.5       |
|   | Restaurant, with outdoor seating area              |             |     |     |     |     | P          | P  | P  | P   |       |    |    |     | 3.2.C.8       |
| Office  | Office, Business or Professional                   |             |     |     |     |     | P          | P  | P  | P   |       |    |    | P   |               |
| Parking   | Parking Lot  |             |     |     |     |     | S          | S  | S  | S   |       |    |    | S   |               |
|   | Parking Structure                                  |             |     |     |     |     | S          | S  | S  | S   |       |    |    |     |               |
|   | Bus Lot/Maintenance Facility                       |             |     |     |     |     |            |    | S  |     |       |    |    | S   |               |
| Recreation/ Entertainment, Indoor   | Commercial Amusement, Indoor, Minor                |             |     |     |     |     | P          | P  | P  | P   |       |    |    |     |               |
|   | Commercial Amusement, Indoor, Major                |             |     |     |     |     | S          | P  | P  | S   |       |    |    |     |               |
|   | Adult Business                                     |             |     |     |     |     |            |    | P  |     |       |    |    |     | 3.2.C.1       |

| TABLE 3-1: TABLE OF PERMITTED USES  |   |             |     |     |     |     |            |    |    |     |       |    |    |     |               |
|---|---|-------------|-----|-----|-----|-----|------------|----|----|-----|-------|----|----|-----|---------------|
| P = PERMITTED USE BY RIGHT    S = SPECIAL REVIEW USE    BLANK CELL = PROHIBITED |   |             |     |     |     |     |            |    |    |     |       |    |    |     |               |
| USE CATEGORY  | USE TYPE                                      | RESIDENTIAL |     |     |     |     | COMMERCIAL |    |    |     | OTHER |    |    |     | USE STANDARDS |
|   |   | RR          | R-A | R-B | R-C | OTR | NC         | RC | LI | OTC | DR    | AG | OS | PLI |               |
|   | Shooting Range, Indoor                        |             |     |     |     |     |            | S  | S  |     |       |    |    |     |               |
|   | Arena/Stadium                                 |             |     |     |     |     |            | S  | S  |     |       | S  | S  | S   |               |
| Recreation/<br>Entertainment,<br>Outdoor  | Agro tourism                                  |             |     |     |     |     |            |    |    |     |       | S  |    |     |               |
|   | General Outdoor Recreation, Commercial, Minor |             |     |     |     |     | S          | P  | P  | S   |       |    |    | S   |               |
|   | General Outdoor Recreation, Commercial, Major |             |     |     |     |     |            | S  | S  |     |       |    |    | S   |               |
|   | Golf  | S           | S   | S   | S   |     | S          | S  | S  |     |       |    |    | S   |               |
|   | Recreational vehicle park                     |             |     |     |     |     |            |    |    |     |       |    |    |     |               |
|   | Shooting Range, Outdoor                       |             |     |     |     |     |            |    |    |     |       |    |    |     |               |
| Retail Sales and Service  | Funeral Parlor, Mortuary or Crematory         |             |     |     |     |     |            | P  | P  |     |       |    |    |     |               |
|   | General Retail                                |             |     |     |     |     | P          | P  | P  | P   |       |    |    |     |               |
|   | Personal Service Establishment                |             |     |     |     |     | P          | P  | P  | P   |       |    |    |     |               |
|   | Pharmacy                                      |             |     |     |     |     | P          | P  | P  | P   |       |    |    |     |               |
|   | Pharmacy with drive-through service           |             |     |     |     |     | P          | P  | P  |     |       |    |    |     | 3.2.C.5       |
|   | Repair Shop                                   |             |     |     |     |     | P          | P  | P  | P   |       |    |    |     |               |

| TABLE 3-1: TABLE OF PERMITTED USES  |                                      |             |     |     |     |     |            |    |    |     |       |    |    |     |   |
|---|--------------------------------------|-------------|-----|-----|-----|-----|------------|----|----|-----|-------|----|----|-----|---|
| P = PERMITTED USE BY RIGHT    S = SPECIAL REVIEW USE    BLANK CELL = PROHIBITED |                                      |             |     |     |     |     |            |    |    |     |       |    |    |     |   |
| USE CATEGORY  | USE TYPE                             | RESIDENTIAL |     |     |     |     | COMMERCIAL |    |    |     | OTHER |    |    |     | USE STANDARDS   |
|   |                                      | RR          | R-A | R-B | R-C | OTR | NC         | RC | LI | OTC | DR    | AG | OS | PLI |   |
| Vehicles and Equipment  | Car Wash                             |             |     |     |     |     |            | S  | S  |     |       |    |    |     | Minimum 1000' from Interstate, Arterial, and Section Line Roadways; 3.2.C.7.b |
|   | Outdoor Recreational Vehicle Storage |             |     |     |     |     |            |    | S  |     |       |    |    |     | Minimum 1000' from Interstate, Arterial, and Section Line Roadways            |
|   | Fueling Station                      |             |     |     |     |     | S          | P  | P  |     |       |    | S  |     | 3.2.C.7   |
|   | Towing Facility                      |             |     |     |     |     |            |    | S  |     |       |    |    |     | Minimum 1000' from Interstate, Arterial, and Section Line Roadways            |
|   | Truck Stop                           |             |     |     |     |     |            |    | S  |     |       |    |    |     | Minimum 1000' from Interstate, Arterial, and Section Line Roadways            |
|   | Vehicle Sales and Rental             |             |     |     |     |     |            |    | S  |     |       |    |    |     | Minimum 1000' from Interstate, Arterial, and Section Line Roadways            |
|   | Vehicle Service and Repair, Heavy    |             |     |     |     |     |            |    | P  |     |       |    |    |     | 3.2.C.7.b   |
|   | Vehicle Service and Repair, Light    |             |     |     |     |     | P          | P  | P  |     |       |    |    |     | 3.2.C.7.b   |
|   | Bed and Breakfast                    | S           | S   | S   | S   | S   |            |    |    | S   |       | S  |    |     |   |

| TABLE 3-1: TABLE OF PERMITTED USES  |   |             |     |     |     |     |            |    |    |     |       |    |    |     |  |
|---|---|-------------|-----|-----|-----|-----|------------|----|----|-----|-------|----|----|-----|--|
| P = PERMITTED USE BY RIGHT    S = SPECIAL REVIEW USE    BLANK CELL = PROHIBITED |   |             |     |     |     |     |            |    |    |     |       |    |    |     |  |
| USE CATEGORY  | USE TYPE                                    | RESIDENTIAL |     |     |     |     | COMMERCIAL |    |    |     | OTHER |    |    |     | USE STANDARDS  |
|   |   | RR          | R-A | R-B | R-C | OTR | NC         | RC | LI | OTC | DR    | AG | OS | PLI |  |
| Visitor Accommodation   | Hotel or Motel                              |             |     |     |     |     | P          | P  | P  | S   |       |    |    |     |  |
| <b>MANUFACTURING AND LIGHT INDUSTRIAL USES</b>                                  |   |             |     |     |     |     |            |    |    |     |       |    |    |     |  |
| Industrial Service  | Building Materials Sales                    |             |     |     |     |     | S*         | P  | P  |     |       |    |    |     | *Based off of size 3.2.D.1 (Outdoor Sales/Storage/Screening) |
|   | Contractor's Office                         |             |     |     |     |     |            |    | P  |     |       |    |    |     |  |
|   | Contractor's Shop with Outdoor Storage      |             |     |     |     |     |            |    | P  |     |       |    |    |     | 3.2.D.1  |
|   | Heavy Equipment Sales, Service and Rental   |             |     |     |     |     |            |    | S  |     |       |    |    |     |  |
|   | Industrial, Heavy                           |             |     |     |     |     |            |    | S  |     |       |    |    |     |  |
|   | Industrial, Light                           |             |     |     |     |     |            |    | P  |     |       | S  |    |     |  |
|   | Light Equipment Sales, Service and Rental   |             |     |     |     |     |            |    | P  |     |       |    |    |     |  |
|   | Research and Development Facility - Indoor  |             |     |     |     |     | S          | S  | P  |     |       |    | S  |     |  |
|   | Research and Development Facility - Outdoor |             |     |     |     |     |            |    | S  |     |       |    | S  |     | 6.4.G.9  |
| Manufacturing and Production  | Heavy Manufacturing, General                |             |     |     |     |     |            |    | S  |     |       |    |    |     |  |
|   | Light Manufacturing, General                |             |     |     |     |     |            |    | P  |     |       | S  |    |     |  |

| TABLE 3-1: TABLE OF PERMITTED USES  |  |             |     |     |     |     |            |    |    |     |    |       |    |     |   |  |
|---|--|-------------|-----|-----|-----|-----|------------|----|----|-----|----|-------|----|-----|---|--|
| P = PERMITTED USE BY RIGHT    S = SPECIAL REVIEW USE    BLANK CELL = PROHIBITED |  |             |     |     |     |     |            |    |    |     |    |       |    |     |   |  |
| USE CATEGORY  | USE TYPE   | RESIDENTIAL |     |     |     |     | COMMERCIAL |    |    |     |    | OTHER |    |     |   | USE STANDARDS  |
|   |  | RR          | R-A | R-B | R-C | OTR | NC         | RC | LI | OTC | DR | AG    | OS | PLI |   |  |
|   | Mining and Mineral Extraction                                    | S           | S   | S   | S   | S   | S          | S  | S  | S   | S  |       | S  | S   | S | 6.14   |
|   | Natural Medicine Cultivation, Manufacturing, or Testing Facility |             |     |     |     |     |            |    | P  |     |    |       |    |     |   | Minimum 1000' from Interstate, Arterial, and Section Line Roadways; 16.3.2.E.3 |
| Warehouse and Freight Movement  | Mini-warehouse/Self Storage                                      |             |     |     |     |     |            |    | S  |     |    |       |    |     |   | Minimum 1000' from Interstate, Arterial, and Section Line Roadways             |
|   | Warehouse/Wholesale Distribution Center                          |             |     |     |     |     |            |    | S  |     |    |       |    |     |   | Minimum 1000' from Interstate, Arterial, and Section Line Roadways             |
| Waste-Related Uses  | Auto Wrecking and Salvage Yard/Junkyard                          |             |     |     |     |     |            |    |    |     |    |       |    |     |   |  |
|   | Hazardous Materials Handling and Transfer Facility               |             |     |     |     |     |            |    |    |     |    |       |    |     |   |  |
|   | Recycling Collection Point                                       |             |     |     |     |     |            |    |    |     |    |       |    | P   |   | 3.2.D.2  |
|   | Recycling Center   |             |     |     |     |     |            |    |    |     |    |       |    |     |   |  |
|   | Sanitary Landfill  |             |     |     |     |     |            |    |    |     |    |       |    |     |   |  |

## 16.3.2 USE-SPECIFIC STANDARDS

### A. Residential Uses

#### 1. Dwelling, Live/Work

Work areas of the dwelling shall be located in the front and/or ground level of the structure closest to adjacent right-of-way to the maximum extent practicable. Natural Medicine Businesses or Natural Medicine Services shall be prohibited within the work areas and all other non-residential components of a live/work dwelling.

#### 2. Dwelling, Single-Family Detached

Lots within any AG district shall be limited to one (1) Single-Family Detached Dwelling per lot.

#### 3. Model Homes

The following standards shall apply to all model homes:

##### a. Approval

- i. Model homes shall require the approval of the Director through an administrative Plot Plan review. Building permits for model homes shall be issued after paved streets are completed and accepted by the Town Engineer and the applicant has demonstrated the model homes will be connected to the Town's potable water and sanitary sewer system as applicable; and
- ii. Off-street parking, sidewalks and landscape improvements servicing the model home shall be installed prior to the issuance of a Temporary Certificate of Occupancy for any model home.

##### b. Plot Plans

Plot plans shall be filed that demonstrate:

- i. Paved street access with sidewalk and landscaping that conform to district and development standards;
- ii. The location of temporary on-site sales offices within the model home; temporary parking lots with all-weather surfacing; and temporary trap fencing; and
- iii. Connection to the Town's potable water and sanitary sewer system as applicable.
- iv. For sales trailers, a Temporary Use Permit shall be required in conformance with Subsection 3.4.E.2.

##### c. Development Standards

Model homes and associated parking shall conform to the development and design standards applicable to residential uses in the zone district, and with the following additional standards:

##### i. Standards for Temporary Off-Street Parking

Model homes shall provide temporary off-street parking onsite or on an adjacent lot that conforms to the development and design standards for parking lots for similar commercial uses, as may be modified by the Director to reflect the temporary nature of the use. The temporary off-street parking shall have all-weather surfacing. Temporary parking lots shall be removed prior to the issuance of the last Certificate of Occupancy for a dwelling unit in the development is issued. Within thirty (30) days of a parking lot being removed, the owner shall re-vegetate the lot.

- ii. **Standards for Temporary Fencing**  
Temporary fencing or trap fencing, if provided, shall be located within the lot(s), at least one foot away from the back of sidewalk, and in conformance with fence standards located within front setbacks detailed in Subsection 6.4.H. No such temporary fencing shall be constructed without first obtaining a fence permit. Temporary fencing shall be removed prior to sale of the model homes for residential use.

#### 4. Group Home, State-licensed

##### a. **Generally**

All group homes:

- i. Shall obtain and maintain all required state, county, and local licenses and all other certifications required from any other applicable certifying or regulatory body for occupation and operation.
- ii. Shall comply with all standards, rules, regulations and policies promulgated and adopted by the applicable state, county, and local licensing authority or other designated certifying or regulatory body.
- iii. Shall comply with all applicable state statutes, including without limitation all provisions of Art. 80 of Title 27, Colorado Revised Statutes, as amended, and C.R.S. §31-23-303, as amended, and all applicable fire, building and safety codes, as adopted by the Town.
- iv. **Separation requirements.** No group home within any residential zone district shall be located on an adjacent lot or parcel or within the spacing requirements provided in C.R.S. § 31-23-303(2), as amended.
- v. **Threats to Public Safety.** As authorized by 42 U.S.C. § 3604(f)(9), no group home shall provide housing to any individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical danger to the property of others.

##### b. **Supplemental Standards for Recovery Residences**

The following supplemental standards apply to all residential group homes, as defined in Section 16.11.3, which qualify and receive certification as “recovery residences” pursuant to C.R.S. §27-80-129:

- i. Meetings or gatherings on-site that are consistent with this Code’s definition of a Family use shall be allowed, however they shall only be for residents, family of residents, and necessary persons required for the support, care and supervision of the resident persons. This does not permit conducting ministerial activities of any private or public organization or agency or permit types of treatment activities or the rendering of services in a manner substantially inconsistent with the activities otherwise permitted in the particular zoning district.
- ii. No client, resident or occupant of a recovery residence, who has been discharged for possessing alcohol, nonprescription drugs, or illicit drugs or otherwise discharged according to the recovery residence’s discharge and transfer policy, shall enter or remain upon the premises of the recovery residence, unless that person has been expressly invited onto or permitted to remain upon the premises by the owner or operator thereof.

- iii. No owner or operator of a recovery residence shall encourage, permit, or allow any individual, including a client:
  - (1) to engage or continue engaging in any criminal activity or other acts in violation of the Firestone Municipal Code occurring on or within the premises; or
  - (2) to use, adapt, or modify all or a part of the premises in any way to conceal or facilitate the commission of any activity that constitutes a felony, misdemeanor, business offense or petty offense under federal, state or municipal law, whether occurring on- or off-premises.
- iv. The owner or operator of a recovery residence shall notify the Director if the recovery residence's Colorado Agency for Recovery Residences ("CARR") certification is revoked, suspended, limited, modified, or denied for any reason, or if the owner or operator has voluntarily surrendered the recovery residence's CARR certification. Written notification shall be provided within (10) days of CARR's action or decision on the certification or the date of surrender
- v. The owner or operator of a recovery residence shall semi-annually (by March 31 and September 30 of each year), and otherwise upon request by the Town, provide a certificate to the Town, in a form provided by the Town, documenting compliance with this section and verifying adherence to all CARR certification and inspection requirements.

**5. Retirement Home, Nursing Home, or Assisted Living Facility**

- a. Uses shall comply with the multi-family residential design standards in Chapter 6.

**B. Institutional and Public Uses**

**1. Child Care Center**

All Child Care Centers, both Large and Small, shall meet all of the applicable state law and regulations for licensed child care facilities, as set forth in C.R.S. §26-6-102 *et seq.*, as amended, and the Regulations of the Colorado Department of Human Services (12 CCR 2509-8), as amended.

**C. Commercial Uses**

**1. Adult Business Uses**

Pursuant to Subsection 2.6.G.4.

**2. Agricultural Grazing**

The raising of hogs, pigs or other livestock fed from silage, garbage or offal is prohibited as part of this use.

**3. Animal Hospitals, Large and Small Animals**

- a. Unless outdoor facilities are authorized under Table 3-1, all facilities, including all treatment rooms, cages, pens, kennels, training rooms and exercise runs, shall be maintained within a completely enclosed, soundproof building and shall be sufficiently insulated so that, to the maximum extent feasible, noise or odor cannot be detected off-premises.
- b. Kennels or animal day care facilities with outdoor facilities shall be located a minimum of five-hundred (500) feet from any residential zone district except that any existing facility as of the date of adoption of this FDC shall not be rendered legally nonconforming. Relief from the five-hundred (500) feet separation may be granted given alternative design or remediation of impacts.

**4. Kennel or Animal Day Care**

- a. Unless outdoor facilities are authorized under Table 3-1, all facilities, including cages, pens, kennels, training rooms and exercise runs, shall be maintained within a completely enclosed, soundproof building, and shall be sufficiently insulated so that, to the maximum extent reasonably feasible, noise or odor cannot be detected off-premises.
- b. Kennels or animal day care facilities with outdoor facilities shall be located a minimum of five-hundred (500) feet from any residential zone district except that any existing facility as of the date of adoption of this FDC shall not be rendered legally nonconforming. Relief from the five-hundred (500) feet separation may be granted given alternative design or remediation of impacts.

**5. Drive-Through Service or Drive-Up Service**

Drive-through or drive-up services are permitted as accessory uses to certain primary uses identified in Table 3-1. The following standards apply to all drive-through or drive-up services:

**a. Stacking Spaces**

Stacking spaces shall be provided pursuant to Table 6-6.1, Schedule A.

**b. Impact on Adjacent Uses**

- i. A drive-through or drive-up shall be located, sized, and designed to minimize traffic, noise, air emissions, and glare impacts on surrounding properties and rights-of-way.
- ii. The drive-through or drive-up shall be screened from adjacent rights-of-way and properties through architectural elements, screening, landscaping, or site design.
- iii. A landscaping buffer creating an adequate screen with a minimum width of ten (10) feet is required when drive-through or drive-up uses abut residential lots in a residential or mixed-use district.
- iv. The noise generated on the site by talk boxes shall be inaudible at the property line.

**6. Nightclub**

- a. All facilities shall be maintained within a completely enclosed, soundproof building, and shall be sufficiently insulated so that, to the maximum extent reasonably feasible, noise cannot be detected off-premises.
- b. Notwithstanding the general dimensional standards in Chapter 4, except for the OTC zone district, the minimum setback requirement shall be twenty-five (25) feet if adjacent to a public right-of-way or to an industrial zoning district, and fifty (50) feet if adjacent to a non-industrial zoning district.

**7. Fueling Station, Car Wash, and Vehicle Service and Repair**

**a. Fuel Pump Canopy Design and Illumination**

- i. A fuel pump canopy and supporting structure shall utilize the same architectural design and materials as the principal building(s) on the lot.
- ii. Light fixtures mounted under canopies shall be full cut-off, recessed, and shielded so that there is no glare or light spillage at the property line.
- iii. Lights shall not be mounted on the top or sides (fascia) of the fuel pump canopy and the sides (fascia) of the canopy shall not be externally illuminated, except as part of an internally illuminated sign that meets the standards of Section 6.10.

**b. Car Wash Bays and Vehicle Repair Bays**

- i. To the maximum extent reasonably practicable, the entrance/exit to a car wash bay or vehicle repair bay shall not be oriented to a street frontage.
- ii. Notwithstanding the general setback requirements in Chapter 4, a twenty (20) foot landscaped area is required between vehicle service areas, bays, or canopies and any adjacent street. Such area shall be landscaped with a mixture of groundcover, shrubs, trees, and other plants in accordance with Subsection 16.6.4. in order to screen the automotive wash, repair or maintenance facility from view from adjacent streets.
- iii. Vehicle wash or service bays facing adjacent residential properties shall be adequately screened by a wall, fence, and/or landscaping of at least six (6) feet in height.
- iv. Outdoor vacuuming facilities may be outside, but not in the front building setback nor adjacent to any residential district without adequate visual and sound mitigation.

**c. Water Recycling for Car Washes**

- i. All in-bay automatic and conveyor car wash installations that obtain a certificate of occupancy or a temporary certificate of occupancy from the Town after March 1, 2025, and that will receive water supplied by the Town of Firestone's water system, shall be equipped with, and shall at all times maintain in operation, a water recycling system that recycles not less than fifty (50) percent of the water being consumed by such car wash installation.
- ii. Any operator of an in-bay automatic and/or conveyor car wash installation that has already obtained a certificate of occupancy or a temporary certificate of occupancy from the Town prior to March 1, 2025, must install, and at all times maintain in operation, a water recycling system that will recycle not less than fifty (50) percent of the water being supplied by the town water system to such car wash installation, as a condition of the Town approving or granting any permit to:
  - (A) Enlarge the water tap, meter or service line in any such car wash installation; or
  - (B) Demolish, destroy or remove and then replace more than fifty (50) percent of the gross square footage of the floor area of the car wash installation building as it exists on March 1, 2025, except for the purpose of replacing under-floor heating equipment; or
  - (C) Expand the gross square footage of the floor area of the car wash installation building by more than fifty (50) percent of the square footage of the car wash installation building as it exists on March 1, 2025.
- iii. All self-service car wash installations shall be exempt from the provisions of this article.

**8. Restaurant with Outdoor Seating Area**

- a. Eating and drinking establishments, permitted under this FDC, may provide outdoor seating areas on their property. The outdoor seating shall meet the following criteria:
  - i. The pedestrian circulation and building entries shall not be impaired. If a private sidewalk is adjacent to the outdoor seating area then a minimum of four (4) feet of open sidewalk shall be maintained free of obstructions.
  - ii. Outdoor trash receptacle(s) shall be available.

- iii. The operators of the outdoor seating area shall be responsible for maintaining a clean, litter-free and well-kept appearance for the outdoor seating area.
- iv. Alcoholic beverages shall only be served or consumed within the outdoor seating area in conformance with State law and Town Municipal Code.
- v. The outdoor seating area shall comply with applicable State and County Health Department regulations.
- vi. The Director may impose conditions relating to the design, location, configuration and operation aspects of the outdoor seating to ensure that such area is compatible with surrounding uses.

#### **9. Outdoor Café License**

- a. Eating and drinking establishments, permitted under this FDC, may provide outdoor seating areas on a sidewalk or in a designated parking area within a public right-of-way, provided that pedestrian circulation, vehicular circulation and building entries are not impaired. An application is required for an Outdoor Café License that is subject to issuance by the Director. The Director shall make a determination whether to issue a permit for outdoor seating based on compliance with the following criteria:
  - i. To allow for pedestrian circulation, a minimum of four (4) feet of open sidewalk shall be maintained free of obstructions adjacent to the outdoor seating area.
  - ii. Pedestrian circulation to the building and building entries shall not be impaired.
  - iii. Vehicular circulation within the right-of-way shall not be impaired.
  - iv. Within the outdoor seating area, chairs, tables, umbrellas, planters and trash receptacles may be permitted.
  - v. A fence or barrier delineating the outdoor seating area shall be permitted within the public right-of-way and may be required as a condition of the issuance of the Outdoor Café Permit.
  - vi. All furniture and encumbrances placed within the outdoor seating area must be compatible with the character of the street furniture and be moveable (not permanently attached) to allow maintenance of public infrastructure in the right-of-way as needed, upon request by the Town.
  - vii. The operators of the outdoor seating area shall be responsible for maintaining a clean, litter-free and well-kept appearance for the outdoor seating area.
  - viii. Alcoholic beverages shall only be served or consumed within the outdoor seating area in conformance with State law and Town Municipal Code.
  - ix. The outdoor seating area shall comply with applicable State and County Health Department regulations.
  - x. The Outdoor Café License applicant shall be required to enter into a License Agreement with the Town for the use of the right-of-way as a condition of the issuance of the Outdoor Café Permit.
  - xi. The Director may impose additional conditions on the issuance of the Outdoor Café Permit relating to the design, location, configuration and operation aspects; including but not limited to lighting, utility extensions and deck height, of the outdoor seating area to ensure that such area is compatible with surrounding uses.

**D. Manufacturing and Light Industrial Uses**

**1. Contractor's Shop with Storage Yard**

- a. Location of Site: The use shall not be located within three-hundred (300) feet of any residential zone district, school, hospital, park, open space, governmental office, or any other place of public assembly.
- b. Surface Requirement: Parking lots/vehicle stacking spaces designated to meet the minimum parking requirements shall be paved in concrete or asphalt. Recycled concrete, recycled asphalt or equivalent may be approved by the Director for non-public storage areas.
- c. Materials and vehicles located in the outdoor storage area shall not exceed the height of the screen wall or fence.
- d. For screening of outdoor storage, see Subsection 6.4.G.9.

**2. Recycling Collection Point**

The following regulations apply:

- a. Recycling collection points located on a parking lot may not occupy required off-street parking spaces and shall be located so as not to impede free traffic flow.
- b. No processing of the goods or products may be performed on the site.
- c. Any container used as a recycling collection point must be fully enclosed, kept in proper repair and the exterior must have a neat and clean appearance.

**E. Natural Medicine Businesses**

**1. Generally**

All Natural Medicine Businesses:

- a. Shall obtain and maintain all required licenses from the Natural Medicine State Licensing Authority pursuant to the Colorado Natural Medicine Code ("CNMC") and a general business license required from the Town for occupation and operation within the Town.
- b. Shall comply with all standards, rules, regulations and policies promulgated and adopted by Natural Medicine State Licensing Authority pursuant to the CNMC.
- c. Shall comply with all provisions of the CNMC, as amended, and all applicable fire, building and safety codes, as adopted by the Town.
- d. Shall operate only between the hours of 8:00 a.m. to 5:00 p.m, Monday thru Friday.

**2. Supplemental Standards for all Natural Medicine Businesses**

The following supplemental standards apply to all Natural Medicine Businesses, as defined in Section 16.11.3:

**a. Co-location**

No Natural Medicine Business may be co-located with another Natural Medicine Business nor shall any combination of two or more Natural Medicine Businesses be on the same lot, parcel of land, or licensed premises.

**b. Operations and Storage within Buildings for all Natural Medicine Businesses**

All operations and storage associated with a Natural Medicine Business, except loading and unloading of Regulated Natural Medicine Products, shall occur within a lawfully constructed and permitted principal building. There shall be no business operations (including storage and clinical sessions) outside of an enclosed principal building.

**i. Odor Control**

Natural Medicine Businesses shall use an air filtration and ventilation system designed to ensure that the odors from Natural Medicine and Natural

Medicine Products are confined to the premises and are not detectable beyond the property boundaries on which the facility is located. Natural Medicine Businesses located in a multi-unit building shall use an air filtration and ventilation system designed to ensure that the odors from Natural Medicine and Natural Medicine Products are confined to the premises and are not detectable beyond the unit in which the facility is located.

**c. Processing of Natural Medicine**

- i. For purposes of this section, “processing” means the cultivation, manufacturing, and testing of natural medicine product, or preparation of Natural Medicine for facilitation and administration of Natural Medicine Services.
- ii. The processing of Natural Medicine that includes the use of hazardous materials, including, without limitation, and by way of example, flammable and combustible liquids, carbon dioxide, and liquified petroleum gases, such as butane, is prohibited.
- iii. Nonhazardous materials used to process Natural Medicine shall be stored in a manner so as to mitigate and ensure odors are not detectable beyond the property boundaries on which the processing facility is located or the exterior walls of the processing facility associated with the processing of Natural Medicine.
- iv. The processing of Natural Medicine shall meet the requirements of all building, fire and life and safety codes as adopted by the Town.
- v. The processing of Natural Medicine shall meet all the requirements of all adopted water and sewer regulations promulgated by the Town and all applicable water and sanitation districts providing water and sewer services within the Town.

**d. Screening and Exterior Impacts for all Natural Medicine Businesses**

The operations of a Natural Medicine Business shall not be perceptible from the exterior of the premises by means including, but not limited to:

- i. Common visual observation; or
- ii. Odors, smells, fragrances or other olfactory stimulus generated by the cultivation, production, testing, possession or processing of Natural Medicine.

**e. Secure Disposal**

Natural Medicine Business shall provide secure disposal of Natural Medicine and Natural Medicine Product remnants or byproducts. Natural Medicine and Regulated Natural Medicine Product remnants or by-products shall not be placed within the exterior refuse container of the business or facility.

**f. Spacing Standards**

- i. No Natural Medicine Business shall operate out of a building that is within one thousand (1,000) feet of property used for a Childcare Center (as defined in Section 16.11.3), preschool, elementary, middle, junior or high school, or a Family Care Home (as defined in Section 16.11.3), or another Natural Medicine Business, a residential zone district designated under the Firestone Development Code, parks, playgrounds, or open space, Place of Worship or Recreation Center.
- ii. The distances referred to in this subsection shall be computed by direct measurement from the nearest property line of the land used for a school, residential childcare facility or childcare center to the nearest portion of the building in which Natural Medicine Businesses are provided, using a route of direct pedestrian access.
- iii. Subsection (i) above does not apply to a Natural Medicine Business located on land owned by the state of Colorado, or a licensed facility that was actively doing business under a valid license issued by the Natural Medicine State Licensing Authority before the Childcare Center (as defined in Section 16.11.3), preschool, elementary, middle, junior or high school, or Family Care Home (as defined in Section 16.11.3), or another Natural Medicine Business, a residential zone district designated under the Firestone Development Code, parks, playgrounds, or open space, Place of Worship or Recreation Center was constructed.

**3. Supplemental Standards for Natural Medicine Healing Centers**

The following supplemental standards apply to all Natural Medicine Healing Centers, as defined in Section 16.11.3:

**a. Hours of Operation for Natural Medicine Healing Centers**

Notwithstanding 16.3.2.E.1.d, a Natural Medicine Healing Center may not offer or cause to extend the duration of Natural Medicine Services beyond the hours set forth herein.

**b. Operations**

- i. Facilitators may only provide Natural Medicine Services to Participants at a Natural Medicine Healing Center.
- ii. A Natural Medicine Healing Center may not provide Natural Medicine Services to five (5) or more Participants per session during authorized hours of operation.

**16.3.3 ACCESSORY USES AND STRUCTURES**

**A. Purpose**

This Section authorizes the establishment of accessory uses. An accessory use is “incidental and customarily subordinate” to a principal use if it complies with the standards set forth in this Section.

**B. Approval of Accessory Uses and Structures**

1. All principal uses permitted in a zone district shall be deemed to include the accessory uses, structures, and activities set forth in this Section, unless specifically prohibited. In addition, Chapter 11 (Definitions), identifies typical accessory uses associated with many principal uses as part of that principal use’s definition.
2. All accessory uses shall be subject to the general standards set forth in this Subsection, as well as any use-specific standards set forth in Section 3.2 above.

**C. Explanation of Table Abbreviations**

**1. Permitted Uses**

“P” in a cell indicates that the use is permitted by right, without special conditions other than those imposed upon other uses by right in the district. A use by right requires no further approval from the Board of Trustees; however, it shall be subject to Final Development Plan review if the associated principal use requires Final Development Plan review. Permitted uses are subject to all other applicable regulations of this FDC, including the use-specific standards set forth in this Chapter and the requirements of Chapter 6.

**2. Special Review Uses**

“S” in a cell indicates that, in the respective zoning district, the use is permitted only if reviewed and approved as a Special Review Use in accordance with the procedures of Section 7.11. Special Review Uses are subject to all other applicable regulations of this FDC, including the use-specific standards set forth in this Chapter and the requirements of Chapter 6.

**3. Prohibited Uses**

A blank cell indicates that the use is prohibited in the respective zoning district.

**4. Use-Specific Standards**

Regardless of whether a use is permitted by right or permitted as a Special Review Use, there may be additional standards that are applicable to the use. The existence of these use-specific standards is noted through a cross-reference in the last column of the table. Cross-references refer to Section 3.2. These standards apply in all districts unless otherwise specified.

**D. Classification of New and Unlisted Uses**

When application is made for an accessory use category or use type that is not specifically listed in Table 3-2, the procedure described in Subsection 3.1.D, shall be followed.

**E. Table of Permitted Accessory Uses**

Table 3-2 below lists the accessory uses permitted within all zoning districts.

| TABLE 3-2: TABLE OF ACCESSORY USES                                |             |     |     |     |     |            |    |    |     |       |    |    |     |                        |
|---|-------------|-----|-----|-----|-----|------------|----|----|-----|-------|----|----|-----|------------------------|
| P=PERMITTED USE BY RIGHT S=SPECIAL REVIEW USE BLANK=NOT PERMITTED |             |     |     |     |     |            |    |    |     |       |    |    |     |                        |
| ACCESSORY USE   | RESIDENTIAL |     |     |     |     | COMMERCIAL |    |    |     | OTHER |    |    |     | Use-Specific Standards |
|   | RR          | R-A | R-B | R-C | OTR | NC         | RC | LI | OTC | DR    | AG | OS | PLI |                        |
| Accessory dwelling unit   | S           | P   | P   | P   | P   |            |    |    |     |       |    |    |     | 3.3.G.1                |
| Backyard Chicken Hens   | P           | P   | P   | P   | P   |            |    |    |     |       | P  |    |     | 3.3.G.5                |
| Family Child Care Home (Small)                                    | P           | P   | P   | P   | P   |            |    |    |     |       | P  |    |     | 3.3.G.2                |
| Family Child Care Home (Large)                                    | P           | P   | P   | P   | P   |            |    |    |     |       | P  |    |     | 3.3.G.2                |
| Garage, Private Detached  | P           | P   | P   | P   | P   | P          | P  | P  | P   |       | P  | P  | P   | 3.3.G.11               |
| Greenhouse, Private   | P           | P   | P   | P   | P   |            |    |    |     |       | P  |    |     | 3.3.G.3                |
| Heliport  |             |     |     |     |     | S          | S  | S  |     |       |    |    |     |                        |
| Home occupations  | P           | P   | P   | P   | P   |            |    |    |     |       | P  |    |     | 3.3.G.4                |
| Keeping of Household Pets   | P           | P   | P   | P   | P   |            |    |    |     |       | P  |    |     | 3.3.G.6                |

**TABLE 3-2: TABLE OF ACCESSORY USES**

**P=PERMITTED USE BY RIGHT S=SPECIAL REVIEW USE BLANK=NOT PERMITTED**

| ACCESSORY USE   | RESIDENTIAL |     |     |     |     | COMMERCIAL |    |    |     | OTHER |    |    |     | Use-Specific Standards |
|---|-------------|-----|-----|-----|-----|------------|----|----|-----|-------|----|----|-----|------------------------|
|   | RR          | R-A | R-B | R-C | OTR | NC         | RC | LI | OTC | DR    | AG | OS | PLI |                        |
| Keeping of Large Animals                                      | S           |     |     |     |     |            |    |    |     |       | P  | P  |     | 3.3.G.7                |
| Outdoor display and sales                                     |             |     |     |     |     | P          | P  | P  | P   |       |    |    |     | 3.3.G.8                |
| Outdoor storage   |             |     |     |     |     | P          | P  | P  | P   |       |    | P  | P   | 3.3.G.9                |
| Private Structure, Large                                      | P           | P   | P   | P   | P   | P          | P  | P  | P   |       | P  | P  | P   | 3.3.G.11               |
| Private Structure, Small                                      | P           | P   | P   | P   | P   | P          | P  | P  | P   |       | P  | P  | P   | 3.3.G.12               |
| Quarters for caretaker/guard as part of a permanent structure |             |     |     |     |     |            |    | S  |     |       | S  |    |     |                        |
| Refuse/Recycling/Donation Collection Receptacle               |             |     |     |     |     | P          | P  |    |     |       |    |    |     |                        |
| Swimming Pool/Hot Tub   | P           | P   | P   | P   | P   | P          | P  | P  | P   |       | P  | P  | P   | 3.3.G.10               |
| Truck/Fleet Fueling & Carwash                                 |             |     |     |     |     |            |    | S  |     |       |    |    |     |                        |

**F. General Standards**

All accessory uses and structures shall comply with the general standards in this Section. No accessory use shall be located on any lot as the principal use.

**1. Compliance**

- a. All accessory uses and structures shall be subject to the standards set forth in this Section, and also the use-specific standards of Section 3.2 above and the dimensional standards of Chapter 4. In the case of any conflict between the accessory use/structure standards of this Section and any other requirement of this FDC, the more restrictive standards shall control.
- b. Accessory uses shall comply with all standards of this FDC applicable to the principal use with which they are associated. Parking requirements shall be met for both the principal use and any accessory use.

**2. Same Lot Required**

The accessory use or structure shall be conducted and/or located on the same lot as the principal use.

**3. Same Ownership Required**

The property where the principal use and the accessory use are occurring shall be under the same ownership.

**4. Same Utility Meter Required**

The principal use and the accessory use shall utilize the same utility meter.

**5. Temporary Accessory Uses and Structures**

Temporary accessory uses and structures shall be governed by the temporary use permit procedures and standards set forth in Sections 7.14 and 3.4.

**6. Size of Structure**

Unless specified below, an accessory use structure shall be subordinate in gross floor area, extent and purpose to the principal use. When multiple accessory use structures are associated with a principal use, the total of all accessory use structures shall be subordinate in gross floor area, extent and purpose to the principal use.

Notwithstanding Subsection 3.3.G.1.d, the following are not required to be subordinate in gross floor area:

- a. Barns and other agriculture buildings located in the AG district, shall be exempt.
- b. Within the RR district, accessory structures shall not exceed two (2) times the gross floor area of the principal building.

**G. Additional Standards for Specific Accessory Uses and Structures**

**1. Accessory Dwelling Units**

**a. Purpose**

Accessory dwelling units are intended to:

- i. Provide a mix of housing that responds to changing family needs;
- ii. Provide a means for residents, seniors, single parents and families with grown children to remain in their homes and neighborhoods, obtain extra income, security, companionship and services;
- iii. Provide a broader range of accessible and more affordable housing;
- iv. Create new housing dwelling units while respecting the look and scale of single-family detached neighborhoods; and
- v. To establish a procedure to minimize potential impacts from these conversions on abutting single-family uses.

**b. Exception from Impact Fee Requirements**

New accessory dwelling units shall not be subject to impact fee charges.

**c. Construction of New Accessory Dwelling Units**

An accessory dwelling unit may be created by:

- i. Converting an existing living area, attic, basement or garage;
- ii. Addition of floor area to a single-family house;
- iii. Construction of a detached accessory dwelling unit on the single-family lot;  
or
- iv. Construction of a new single-family detached house with an internal or detached accessory dwelling unit.

**d. General Standards**

All accessory dwelling units shall meet the following standards:

*i. Districts Permitted*

Accessory dwelling units shall be permitted as accessory uses to single-family detached residential uses as depicted in Table 3-2. A minimum lot size of 4,500 square feet is required.

*ii. Where Permitted on Lot*

A permitted accessory dwelling unit shall comply with all applicable site and building design, access, and other standards in the zoning district in which the accessory dwelling unit will be located. Mobile homes, recreational vehicles, and travel trailers shall not be used as accessory dwelling units.

- iii. **Size of Accessory Dwelling Unit**  
No accessory dwelling unit shall exceed thirty-three (33) percent of the size of the habitable floor area of the principal dwelling unit, or nine-hundred (900) square feet, whichever is less. In addition, accessory dwelling units shall be no less than five-hundred (500) square feet. An accessory dwelling unit shall contain private sanitary facilities with hot and cold running water and cooking and food storage facilities.
- iv. **Limit on Number**  
There shall be no more than one (1) accessory dwelling unit on a lot in addition to the principal single-family detached dwelling. An accessory dwelling unit shall not serve as the principal dwelling on the site.
- v. **Parking Requirements**
  - (A) On-site parking is not required if an accessory dwelling unit is built on a site with an existing single-family detached house that has on-street parking on the abutting street frontage.
  - (B) One (1) additional parking space is required when:
    - (1) The street abutting the site does not have on-street parking;  
or
    - (2) The accessory dwelling unit is built at the same time as the single-family detached house.
- vi. **Design Standards**
  - (A) All accessory dwelling units shall be designed to maintain the appearance, architectural style and character of the principle dwelling unit. Exterior siding, roofing, and trim shall match the appearance of the materials on the principal dwelling unit. Roof style shall match the predominant style of the principal dwelling unit. Exterior window trim, window proportions (width to height), patterns, and orientation (horizontal to vertical) shall match those of the principal dwelling unit.

**e. Permit Required**

New accessory dwelling units shall be required to receive an Accessory Dwelling Unit Permit through the Town. Review of the permit application shall be reviewed by the Director for compliance with the standards included in this section and Town code.

**2. Family Child Care Home**

Family Child Care Homes shall comply with the Colorado licensing statutes codified at C.R.S. §26-6-102 *et seq.*, as amended, and the Department of Human Service Regulations codified at 12 CCR 2509-8 *et seq.*, as amended. Family Child Care Homes (Small) may serve no more than six (6) full time and two (2) part time children or students within a Single-Family Detached residence. Family Child Care Homes (Large) shall conform to the following standards:

- a. Family Child Care Homes (Large) shall serve no more than twelve (12) children;
- b. Family Child Care Homes (Large) shall not be located adjacent to or directly across the street from other Family Child Care Homes (Large); and
- c. Family Child Care Homes (Large) shall only be located on streets that accommodate on-street parking.

**3. Greenhouse**

A greenhouse shall be permitted as an accessory use to a residential dwelling unit only if there are no sales from the premises.

#### 4. Home Occupations

Home occupations shall be a permitted accessory use governed by the following regulations:

- a. A home occupation shall not be conducted until a home occupation has been reviewed and approved and a license has been issued by the Director. Said license shall cite the conditions of the approval, if any.
- b. Home occupations must be clearly secondary to the use of the building as a residence and shall not occupy more than twenty-five (25) percent of the total floor area.
- c. The home occupation shall use the same water, electric and gas meters as the residence.
- d. Home occupations shall be operated entirely from an enclosed structure with no exterior storage of business-related vehicles, materials or equipment. The home occupation owner's individual business/personal passenger vehicle is exempt from this requirement.
- e. There shall be no visible evidence of the operation, and it shall not change the residential character thereof.
- f. Only persons residing in the residence can operate the home occupation at the residence. A maximum of two (2) non-occupant employees, independent contractors or others associated with the business may be at the residence at the same time for work, work assignments, supplies, etc.
- g. The operation shall not generate objectionable traffic in the area, and off-street parking must be provided to accommodate all needs created by the home occupation.
- h. The operation shall not be objectionable due to odor, dust, smoke, noise, vibration or other similar impacts.
- i. The following uses, because of their tendency to go beyond the limits permitted for home occupations and thereby impair the use and value of the residential area shall not be permitted as home occupations: auto repair or motorized implement repair; dance, music or other types of instruction (if more than four (4) students are being instructed at one (1) time); dental offices; medical offices; Natural Medicine Businesses or Natural Medicine Services; the painting of vehicles, trailers or boats; private schools with organized classes; motor vehicle towing operation; barber shops having more than one (1) chair, beauty shops having more than one (1) chair; welding shops; nursing homes; bed and breakfast and other such transient lodging; and retail sales where products are stocked and sold to purchasers at the home occupation residence like a retail store.

#### 5. Keeping of Backyard Chicken Hens

The keeping of backyard chicken hens shall be a permitted accessory use to single-family detached dwelling units on lots greater than 4,500 square feet in lot area that meet the following regulations:

- a. No more than six (6) backyard chicken hens are permitted per dwelling unit.
- b. Roosters are prohibited.
- c. Backyard chicken hens are required to be located within a designated chicken coop and chicken run that meet the following standards:
  - i. The chicken coop and chicken run shall be located in the rear yard of a property.

- ii. The chicken coop and chicken run, nor any part thereof, shall be located between the rear of the principle structure and the front yard lot line.
  - iii. The chicken coop and chicken run shall have a minimum five (5) foot setback from any side or rear property line.
  - iv. The chicken coop shall not be located within any utility easement.
  - v. The chicken coop shall be predator resistant with a solid covered roof.
  - vi. Water shall be provided onsite and be accessible at all times.
  - vii. During daylight hours, chicken hens shall have access to a chicken run that is adequately fenced and protected from predators and shall also have access to the chicken coop.
  - viii. From dusk to dawn, chicken hens shall be protected from predators by being enclosed within a chicken coop.
  - ix. The maximum chicken coop is one-hundred (100) square feet in area
  - x. A minimum of four (4) square feet of area per chicken hen shall be provided in both the coop and run.
  - xi. The maximum height of the chicken coop shall be no more than seven (7) feet at the highest point of the roof.
- d. The chicken coop and run shall be maintained and shall regularly be cleaned to control dust, odor and waste and not constitute a nuisance, safety hazard or health problem to surrounding properties.
  - e. No onsite slaughtering is permitted.
  - f. Chicken feed shall be stored in metal re-sealable, airtight, predator proof containers.
  - g. The keeping of backyard chicken hens shall not be conducted until a backyard chicken permit has been reviewed and approved and a permit has been issued by the Director. Said permit shall cite the conditions of the approval, if any. The following are the application requirements need for review of a backyard chicken license:
    - i. Completed Backyard Chicken Permit Application.
    - ii. Non-refundable application fee.
    - iii. Scaled Plot Plan of the property showing location of chicken coop and run.

## 6. Keeping of Household Pets

Household pets including, but not limited to dogs, cats, potbelly pigs or similar domesticated animals shall be permitted in all zoning districts allowing for residential use provided that no more than four (4) animals over four (4) months of age are kept by the occupant of any residential dwelling unit. This provision limiting the number of pets does not apply to tropical fish, small rodent animals such as gerbils, hamsters, and small birds kept as pets, unless the animals are raised for commercial purposes. Kennels, boarding facilities, and commercial activities are not a permitted accessory use. Animals typically found on farms including but not exclusive of, turkeys, goats, sheep, cows, and pigs are not considered household pets. For regulations regarding keeping of large animals such as donkeys, horses, and llamas, etc., see Subsection 3.3 G.7 below.

## 7. Keeping of Large Animals

Horses, donkeys, mules, and llamas for non-commercial use may only be kept as a permitted accessory use in the AG and OS Districts, provided at least one (1) acre of pasture area is available for each animal.

## 8. Outdoor Display and Sales

Outdoor display and/or sales may be permitted as an accessory use for all commercial uses, and requires Final Development Plan approval. It is the intent of this FDC to allow the display of merchandise for sale, but not where the display of such items impedes the flow of pedestrian or vehicular traffic, or creates an unsafe condition. The display of goods shall meet all of the following requirements:

### a. *Procedural Requirements*

Outdoor display and/or sales shall require approval of the Director. All new development plans must show the location of such areas in accordance with this Section. Existing non-residential uses must submit a plan showing the location of the outdoor display or sales areas and how the requirements of this Section are to be met. Approval may be subject to appropriate conditions established by the Director.

### b. *Where Permitted*

- i. All outdoor display of goods shall be located immediately adjacent to the storefront and not in drive aisles, loading zones, fire lanes, or parking lots.
- ii. No outdoor display of goods shall be located within Town right-of-way without obtaining a License Agreement from the Town.
- iii. The area used for outdoor display or sales shall not occur on the sides and rear of buildings and shall be limited to no more than one-half (1/2) of the length of the store front, unless increased by the Director after taking into account aesthetics, and safety concerns or other relevant factors. In the case of a shopping center, the "storefront" shall include the entire frontage of the shopping center, meaning that the total amount of display for all the in-line tenants combined shall not exceed fifty (50) percent of the aggregate store front of the overall shopping center.
- iv. The area of outdoor display or sales shall not encompass the width of the entrance doors to the facility as projected straight out from the facility. For example, if the width of the entrance doors is ten (10) feet, then there shall be at least a ten (10) foot clearance from the doors as projected straight out and away from the facility.
- v. Outdoor displays shall be incorporated into the architecture of the building and shall not obscure any architecture features including windows.
- vi. The height of the outdoor display shall not exceed six (6) feet, unless an exception to this provision has been granted by the Director.
- vii. The outdoor display area shall take place on an improved surface such as the sidewalk or pavement.
- viii. A maximum of two (2) outdoor vending machines are permitted subject to the requirements above.

### c. *No Pedestrian Obstruction*

At least five (5) feet along the parking lot side of the display shall be maintained free of obstruction to allow for pedestrian and handicap movement.

### d. *Temporary Sales Distinguished*

The provisions of Subsection 3.3.G.7.c above shall not apply in cases of temporary sales events, such as weekend sidewalk sales, seasonal vegetable sales and other similar temporary uses. See Section 3.4 for regulations applying to temporary uses.

## 9. Outdoor Storage

In no case shall the storage or parking of trailers, semi-trailers, cargo containers or shipping containers outdoors, or the warehousing of goods in such containers, be permitted as a

principal use. Outdoor storage may be permitted as an accessory use through the Final Development Plan review process described in Section 7.10. The storage area shall meet all of the requirements and design criteria found in Subsection 6.4.G.9.

**10. Swimming Pool/Hot Tub**

A swimming pool and/or hot tub may be permitted in any district as an accessory use subject to the following additional requirements:

- a. For single family residential, no swimming pool or hot tub may be located in any front yard or side yard abutting a street. No swimming pool shall be located closer than ten (10) feet to any side or rear lot line.

**11. Private Detached Garage or Structure, Large**

A garage or structure that is accessory to a residential structure and is over two-hundred (200) square feet in gross floor area shall meet the following standards:

- a. Facades shall not be constructed of metal materials.
- b. The accessory garage or structure shall be designed to maintain or compliment the architectural style and character of the principal residential structure. Exterior siding, roofing and trim should match the principal residential structure.

**12. Private Detached Shed or Structure, Small**

A shed, gazebo, playhouse or structure that is accessory to a residential structure and is less than two-hundred (200) square feet in gross floor area shall meet the following standards:

- a. Facades shall not be constructed of metal materials.
- b. An accessory shed structure, small, shall not exceed twelve (12) feet in height.

**16.3.4 TEMPORARY USES AND STRUCTURES**

**A. Purpose**

This Section allows for the establishment of certain temporary uses of limited duration, provided that (1) a Temporary Use Permit is properly obtained pursuant to Section 7.14 of this FDC; (2) such uses do not negatively affect adjacent properties or Town facilities; (3) such uses are discontinued upon the expiration of a set time period as defined by the Temporary Use Permit; and (4) temporary uses do not involve the construction or alteration of any permanent building or structure.

**B. Temporary Uses Permitted**

The following temporary uses may be permitted in accordance with the requirements of this Section.

1. Retail sales of products including but not limited to Christmas trees, agricultural produce, and fireworks, is permitted in any nonresidential district for a period not to exceed the number of days specified in the Temporary Use Permit. Display of products need not comply with the yard and setback requirements of this FDC provided that no display shall be located within an area restricted by the Corner Sight Distance requirements of Section 4.2 or encroach into any pedestrian, bicycle, or vehicular way.
2. Temporary office space and equipment storage is permitted when accessory to an approved construction project in accordance with Subsection 3.4.E.
3. Sales offices are permitted on residential development sites in any zoning district until all lots or houses are sold or leased in accordance with Subsection 3.4.E. Use of the sales office for sites outside of the project is prohibited.
4. Temporary office space (one (1) per site) for hiring, membership solicitation, apartment office/leasing, and general office use following the issuance of a building permit for the construction of a permanent office building.
5. Mobile Food Vendors are permitted when accessory to an existing non-residential use and conducted in accordance with Subsection 3.4.E.

6. The Director may approve other temporary uses or structures using the process established in Subsection 3.1.D.

**C. Temporary Use Permits**

**1. Permit Required**

All temporary uses and structures shall obtain a Temporary Use Permit pursuant to the procedures set forth in Section 7.14. A Temporary Use Permit shall be reviewed, approved, or revoked only in accordance with the regulations of Section 7.14 and this Section.

**2. Permit Exceptions**

Notwithstanding Subsection 3.4.C.1 above, the following temporary uses are deemed approved in any district and are exempted from the Temporary Use Permit requirements provided that the proposed temporary use complies with the general requirements below:

- a. Town sponsored events utilizing Town property, public streets, or public rights-of-way, provided that the applicant shall coordinate the event with the Town's Public Works Department and Police Department, and the Fire District, and comply with any conditions required by those departments;
- b. Up to seven (7) days of garage or yard sales per calendar year per residential dwelling unit;
- c. Temporary car washes lasting no more than seven (7) days per year; and,
- d. Gatherings of less than one-hundred (100) people, such as block parties, nonprofit events, and fundraisers.

**D. General Requirements for all Temporary Uses and Structures**

All temporary uses or structures shall meet the following general requirements, unless otherwise specified in this FDC:

1. The temporary use shall comply with all applicable general and specific regulations, including zoning regulations, of this Section unless otherwise expressly stated.
2. Permanent alterations to the site are prohibited. If any alterations to the site occur the site shall be restored to its previous condition.
3. Unless otherwise stated in this FDC or in the terms of the Temporary Use Permit, the temporary use shall expire thirty (30) days after approval of the Temporary Use Permit. Renewal of the permit may be permitted pursuant to the procedures outlined in Section 7.14.
4. All signs associated with the temporary use or structure shall be required to follow the Town sign regulations.
5. The temporary use or structure shall not violate any applicable conditions of approval that apply to a principal use on the site.
6. The temporary use regulations of this Section do not exempt the applicant or operator from any other required permits, such as health department permits.
7. If the property is undeveloped, it shall contain sufficient land area to allow the temporary use or structure to occur, as well as any parking and traffic movement that may be associated with the temporary use, without disturbing sensitive or protected resources, including required buffers, 100-year floodplains, stream protection setbacks, wetlands, and areas of slope greater than twenty (20) percent.
8. If the property is developed, the temporary use shall be located in an area that is not actively used by an existing approved principal use, and that would support the proposed temporary use without encroaching or creating a negative impact on existing buffers, open space, landscaping, traffic movements, pedestrian circulation, or parking space availability.
9. Tents and other temporary structures shall be located so as to not interfere with the normal operations of any permanent use located on the property.

10. Off-street parking shall be adequate to accommodate the proposed temporary use.
11. Temporary structures shall not be located within the 100-year floodplain.

**E. Additional Use-Specific Regulations for Certain Temporary Uses**

In addition to complying with the general regulations in Subsection 3.4.D above, the temporary uses listed below shall comply with the additional use-specific regulations below.

**1. Construction Trailer and Outdoor Storage for Construction**

Construction trailers and outdoor storage locations for construction shall be reviewed and if appropriate approved by the Director. Plans shall be submitted illustrating that the application meets all of the following requirements:

- a. The use shall be located on a lot or tract.
- b. The use shall meet zoning category setback and height requirements.
- c. The use shall provide an all-weather access road to the trailer with a turn-around that is approved by the Fire District. The access and turn-around is required to be constructed before the trailer is occupied.
- d. The construction trailer is not required to tap into the Town's water system. A port-a-let shall be provided.
- e. The trailer and associated site elements shall be removed within thirty (30) days of the last Certificate of Occupancy being issued within the filing within the development in which the trailer is located or for non-residential within thirty (30) days of the Certificate of Occupancy being issued for the non-residential structure.
- f. Within thirty (30) days of the trailer being removed from the site, the owner shall either have a building permit(s) issued for the site to construct a residence, a building permit to construct a non-residential building subject to an approved Final Development Plan, or the site shall be restored with appropriate ground cover in accordance with Town erosion control standards.

**2. Temporary Sales Trailer or Temporary Sales Office**

A temporary sales trailer or temporary sales office shall be reviewed and if appropriate approved by the Director. Plans shall be submitted illustrating that the application meets all of the following requirements:

- a. The use shall be located on a lot.
- b. The owner shall provide a paved road to Town of Firestone Design Standards & Construction Specifications for Public Improvements (Standards and Specifications) as accepted on the construction plans, and shall provide secondary access if required by Fire District; to their standards.
- c. The use shall meet zoning category setback and height requirements.
- d. A water and sewer tap is required on the lot where the trailer/office is located to provide adequate public facilities within the sales trailer.
- e. ADA access is required.
- f. A minimum of four (4) temporary off-street parking stalls shall be provided on-site or on an adjacent vacant lot.
- g. Off-street parking shall have all-weather surfacing.
- h. Off-street parking shall maintain five (5) foot setbacks to all property lines excluding the access way to the parking area.
- i. Access to a sales trailer and associated parking shall come from a local or collector street.

- j. The trailer and associated site elements shall be removed within thirty (30) days of the last Certificate of Occupancy being issued within the filing within the development in which the trailer is located or as otherwise authorized by the Director.
- k. Within 30 days of the trailer being removed from the site, the owner shall either have a building permit(s) issued for the site to construct a residence, a building permit to construct a non-residential building subject to an approved Final Development Plan, or the site shall be restored with appropriate ground cover in accordance with Town erosion control standards.

**3. Mobile Food Vendor**

Mobile Food Vendors, permitted under this FDC, shall meet the following criteria:

- a. Mobile food vendor sales shall only be conducted on properties with the appropriate zoning allowing food sales.
- b. Mobile food vendor sales shall be an accessory use to an existing commercial business and shall not be conducted from any vacant property.
- c. The mobile food vendor shall meet principal structure setbacks for the zone district in which it is located.
- d. The mobile food vendor shall not be located in public right-of-way or on Town Property unless permitted by Town special event permit.
- e. The mobile food vendor and other associated items such as signs, trash receptacles, chairs, tables, etc., shall not be parked or located in such a way to block, obstruct or interfere with fire lanes, travel lanes, or pedestrian ways on or adjacent to the property on which sales are conducted.
- f. A mobile food vendor may not use amplified sound.
- g. When not in operation, storage of the vehicle must comply with all Town ordinances regulations.
- h. Mobile food vendors shall meet all state and county health requirements and obtain applicable permits.
- i. The operator must obtain a business license through the Town.
- j. Prior to issuance of a business license, the operator shall have written authorization of the property owner(s) on which the mobile food vendor conducts business and shall provide such written authorization to the Town. Written authorization shall be kept in mobile food vendor vehicle at all times.
- k. This license is nontransferable and shall be conspicuously posted in the place above described.

# CHAPTER 4: DIMENSIONAL STANDARDS

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## 16.4.1 TABLE OF DIMENSIONAL STANDARDS

This Section contains tables that list the requirements for lot dimensions and building bulk, density, location, and height for all types of development. All primary and accessory structures are subject to the dimensional standards set forth in the following tables. These general standards may be further limited or modified by other applicable Sections of this FDC. General rules for measurement and exceptions are in Section 4.2.

**A. Dimensional and Density Standards**  
[See following pages]

**TABLE 4-1: DIMENSIONAL AND DENSITY STANDARDS – RESIDENTIAL AND COMMERCIAL DISTRICTS**  
(ADDITIONAL STANDARDS MAY APPLY. SEE USE-SPECIFIC STANDARDS IN SECTION 3.2)

| District | Max/Min Density (DU/Acre) | Minimum Lot Standards   |  | Minimum Setbacks (ft.) ②  |                   |  |   | Max Height (ft)  |
|----------|---------------------------|---|--|---|-------------------|--|---|--|
|          |                           | Width④ (ft)   | Net Area ③ (sq ft)   | Front   | Street (all uses) | Interior Lot Line  | Rear  |  |
| RR       | 1/na                      | 100 (Flag lots: 50)   | 43,560   | Principal: 30<br>Accessory: 40  | 30                | 10   | Principal: 30<br>Accessory: 10  | 40   |
| R-A      | 5/na                      | SFD: 45<br>Corner: 55<br>SFD-Alley: 35<br>Corner: 45<br>SFA: 35 | SFD: 4,500<br>SFD-Alley: 3,000<br>SFA: 2,000<br>SFA-Alley: 1,500 | Principal SF: 14<br>10 for alley loaded<br>20 to front load<br>garage<br>5 to Motor Court<br>2 to Garden Court<br>Principal MF: 20<br>Accessory: 30 | SF: 10<br>MF: 20  | Principal SF: 5 <sup>①</sup><br>Principal MF: 10 <sup>①</sup><br>Accessory: 5 <sup>①</sup> | Principal SFD: 20<br>SFD-Alley: 2<br>Principal SFA: 15<br>SFA-Alley: 2<br>SF-Motor Court: 10<br>Principal MF: 20<br>Accessory SF: 5<br>Accessory MF: 10 | Prin-SF: 35<br>SF: Motor Court: 45<br>Prin-MF: 45<br>Acc: 25 |
| R-B      | 10/5                      | Corner: 45<br>SFA-Alley: 20<br>Corner: 30<br>MF: none           | SF-Motor Court: 2,500<br>MF: 1,500 per DU                        |   |                   |  |   |  |
| R-C      | 20/10                     |   |  |   |                   |  |   |  |

① Zero lot line setbacks shall be permitted for attached buildings provided that the building meets the zone district interior lot line setback on the side of the building not attached.

② Multiple principal buildings on a single lot shall be separated a distance equal to the distance that would be required if they were separated by a lot line.

③ Net area is the size of the lot; not to include tracts and streets and their rights-of-way.

④ Single Family lots facing a Motor Court may be reduced by 5 feet from their respective minimum lot widths.

| District | Max/Min Density (DU/Acre) | Minimum Lot Standards |                                 | Minimum Setbacks (ft.) ②  |                   |   |   | Max Height (ft)                      |
|----------|---------------------------|-----------------------|---------------------------------|---|-------------------|---|---|--------------------------------------|
|          |                           | Width (ft)            | Net Area ③ (sq ft)              | Front   | Street (all uses) | Interior Lot Line                           | Rear  |                                      |
| OTR      | SFD: 5/na<br>SFA: 10/na   | SF: 50<br>SFA: 25     | SFD: 5,000<br>SFA: 2,500 per DU | Principal SF: 14<br>10 for alley loaded<br>20 to front load garage<br>Accessory: 30 | SF: 10            | Prin: 5 <sup>①</sup><br>Acc: 5 <sup>①</sup> | Principal SF: 20<br>2 for alley loaded<br>Accessory SF: 5 | Prin: 35<br>Acc: 25                  |
| OTC      | N/A                       | N/A                   | 0                               | 0   | 0                 | 0   | Prin: 20<br>Acc: 5  | Prin: 35<br>2 stories max<br>Acc: 20 |
| NC       |                           | N/A                   | N/A                             | Principal: 20<br>Accessory: 30  | 20                | Prin: 10 <sup>①</sup><br>Acc: 5             | Principal: 20<br>Accessory: 5                             | Prin: 35'<br>Acc: 25                 |
| RC       |                           |                       |                                 |   |                   |   |   | Prin: 45'                            |
| LI       |                           |                       |                                 |   |                   |   |   | 45<br>Acc: 25                        |

① Zero lot line setbacks shall be permitted for attached buildings provided that the building meets the zone district interior lot line setback on the side of the building not attached.

② Multiple principal buildings on a single lot shall be separated a distance equal to the distance that would be required if they were separated by a lot line.

③ Net area is the size of the lot; not to include tracts and streets and their rights-of-way.

**B. Other Districts Standards**

| <b>TABLE 4-3: TABLE OF DIMENSIONAL STANDARDS - OTHER DISTRICTS</b><br>(ADDITIONAL STANDARDS MAY APPLY. SEE USE-SPECIFIC STANDARDS IN 3.2.) |                                    |                        |  |      |      |                |      |
|--|------------------------------------|------------------------|--|------|------|----------------|------|
| District   | Min. Lot Size                      |                        | Minimum Setbacks (ft.)   |      |      | Maximum Height |      |
|  | Net Area <sup>③</sup><br>(sq. ft.) | Width (ft.)            | Front  | Side | Rear | Prin.          | Acc. |
| AG   | 87,120                             | 100<br>(Flag lots: 50) | 50   | 30   | 50   | 35             | 40   |
| OS   | N/A                                | N/A                    | 20   | 20   | 20   | 35             | 20   |
| PLI  | N/A                                | N/A                    | Front, side and rear yard setbacks shall be 25 feet when the abutting district is AG, OS, or any residential property. Otherwise, the setbacks shall be equal to the analogous minimum setback in the abutting district. |      |      | 45             | 35   |
| DR   | N/A                                | N/A                    | N/A  |      |      | N/A            | N/A  |

- ① Zero lot line setbacks shall be permitted for attached buildings provided that the building meets the zone district interior lot line setback on the side of the building not attached.
- ② Multiple principal buildings on a single lot shall be separated a distance equal to the distance that would be required if they were separated by a lot line.
- ③ Net area is the size of the lot; not to include tracts and streets and their rights-of-way.

## 16.4.2 MEASUREMENTS AND EXCEPTIONS

### A. Setbacks

#### 1. General Setback Requirements

##### a. *Required Setbacks*

Setbacks shall be unoccupied and unobstructed by any structure or portion of a structure from thirty (30) inches above grade upward; provided, however, that fences, walls, trellises, poles, posts, ornaments, furniture and other customary yard accessories may be permitted in any setback subject to height limitations and requirements limiting obstruction of visibility.

- i. A building, structure, or lot shall not be developed, used, or occupied unless it meets the minimum setback requirements set forth in Table 4-1 for the zoning district in which it is located, except as otherwise established in this FDC or unless a variance has been granted.
- ii. A setback or other open space required by this FDC shall not be included as part of a setback or other open space required by this FDC for another building or structure or lot.

##### b. *Encroachments into Required Setbacks, General*

The following structures may encroach into required front, side or rear setbacks as specified in this Subsection and as permitted by building code:

##### i. *Paved Patios or Terraces*

Paved patios or terraces may encroach into any required setback, provided that no structures placed on them shall violate other requirements of this FDC.

##### ii. *Unroofed Landings, Decks and Stairs*

Unroofed landings, decks and stairs may encroach into side and rear required setbacks, provided that the floor shall not extend higher than thirty (30) inches above the finished grade level and the projection is at least five (5) feet from the lot line.

##### iii. *Covered Decks, Covered Patios, and Exterior Balconies*

Covered Decks, Covered Patios, and Exterior Balconies may encroach into a required rear setback provided these encroachments are at least ten (10) feet from the rear lot line.

##### iv. *Incidental Architectural Features*

Cornices, eaves, canopies, chimneys, bay windows, ornamental features, and other similar architectural features may encroach not more than two (2) feet into any required setback. Window well openings may encroach not more than three (3) feet into any required setback.

##### v. *Covered Porches and Roofs Over Other Exterior Approaches*

Roofs over porches, stairways, landings, terraces, or other exterior approaches to pedestrian doorways may project up to four (4) feet into a front setback. The projection shall be at least ten (10) feet from the front property line.

##### vi. *Handicap Ramps*

The Director may allow the installation of handicap access ramps in required front, side, and rear setbacks. The design and placement of the ramps shall be reviewed to ensure that:

- (A) The ramp has minimal visual impact on abutting properties;

(B) The width of the ramp does not exceed forty-eight (48) inches except as required by law.

vii. *Fences and Walls*

Fences and walls may project into any required setback and shall be in accordance with other requirements of this FDC.

viii. *Driveways*

Residential driveways may encroach into any required interior side setback provided these encroachments are at least three (3) feet from the side lot line and do not impact drainage conveyance or utilities.

c. ***Encroachments into Easement and Rights-of-way Prohibited***

Encroachments shall not extend into any easement(s) or public right-of-way except as legally authorized by the easement holder.

d. ***Contextual Front Setbacks***

In addition to permitted projections described in Subsection 4.2.A.1.b above, the following exceptions to the front setback requirement for dwellings abutting local streets (not collector or arterial streets) are authorized for a lot in any district.

- i. If there are dwelling units on both abutting lots with front setbacks of less than the required depth for the district, the front setback for the lot need not exceed the average front yard of the abutting dwelling units.
- ii. If there is a dwelling unit on one (1) abutting lot with a front setback of less than the required depth for the district, the front setback for the lot need not exceed a depth one-half (1/2) way between the depth of the abutting lot and the required setback depth.
- iii. Regardless of contextual front setback, any garage portion of the dwelling facing the front or street side shall have a setback of twenty (20) feet.

e. ***Corner Sight Distance (a.k.a. Sight or Vision Clearance Triangle)***

Where a driveway or private street intersects a public right-of-way or where property abuts the intersection of two (2) public rights-of-way, unobstructed sight distance as described in the Town Standards and Specifications shall be maintained at all times within the sight triangle area on the property adjacent to the intersection in order to ensure that safe and adequate sight distance is provided for the public use of the right-of-way.

**B. Height Exceptions for Appurtenances**

Except as specifically provided elsewhere in this FDC, the height limitations contained in this FDC do not apply to spires, belfries, cupolas, chimneys, heating and ventilation equipment, elevator housings, stairwell towers or similar appurtenances; provided, however, the following:

1. The appurtenance does not interfere with FAA Regulations;
2. The appurtenance does not extend more than twenty-five (25) feet above the maximum permitted building height;
3. The appurtenance is not constructed for the purpose of providing additional occupiable floor area in the building; and
4. The appurtenance complies with the screening requirements for mechanical equipment and appurtenances in Subsection 6.4.G.

# CHAPTER 5: SUBDIVISION STANDARDS, DESIGN, AND IMPROVEMENTS

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## 16.5.1 PURPOSE

The purpose of this Chapter is to:

- A. Assist orderly, efficient, and integrated development, and to promote the health, safety, convenience, order, prosperity, and general welfare of the present and future residents of the Town;
- B. Encourage the proper arrangement of subdivisions in relation to existing or planned subdivisions in order to facilitate safe, efficient and pleasant walking, biking and driving;
- C. Provide for a variety of lot sizes and housing types;
- D. Ensure an adequate and efficient street system by regulating the location, design, class, and type of street, sidewalk and other transportation corridors; and
- E. Secure adequate provisions of water, electric service, drainage, sewers and other facilities and services for the health and safety of Town citizens.

## 16.5.2 APPLICABILITY

The provisions of this Chapter shall be applicable to any person who divides, or participates in the division of a lot, tract, or parcel of land into two or more lots, tracts, parcels or other divisions of land for any purpose including, but not limited to, the immediate or future purpose of conveyance, sale or building development, whether residential, industrial, office, business or otherwise, within the Town. Any plat for the subdivision of land, within the Town, including the re-subdivision of land previously subdivided, shall be submitted to the Town for action in accordance with this FDC. The following shall be excepted from the provisions of this Chapter: (1) Any division of land created for the sole purpose of establishing public rights-of-way, public utility rights-of-way, or other lands for municipal and school district purpose; (2) the sale of cemetery lots within a permitted cemetery, where the cemetery maintains records as to the size, location, and ownership of the lots; and (3) granting of easements. No subdivision plat shall be used for purposes of sale or development until approved by the Town and recorded with the Weld County Clerk and Recorder as provided in this FDC. Every plat shall be recorded in the office of the Weld County Clerk and Recorder. It shall be unlawful for the owner or an agent of the owner of any land to transfer or sell any unsubdivided land or lands by reference to, exhibition of, or by use of a plat of a subdivision before such plat has been approved by the Town and recorded in the office of the Weld County Clerk and Recorder. It shall be unlawful to erect, construct, reconstruct, use or alter any building or structure or to use any land in violation of this chapter.

## 16.5.3 GENERAL PROVISIONS

### A. Permits

No building shall be erected on any lot, nor shall a building permit be issued for a building unless the lot is part of a subdivision approved in accordance with this Chapter or prior subdivision regulations.

### B. Stormwater Permits

All construction activities that disturbs one (1) or more acres of land, as well as activities that disturb less than 1 acre of land, but are part of a larger common plan of development, must comply with both local and state regulations regarding stormwater drainage on construction sites.

#### 1. Colorado Stormwater Discharge Permit

Owners or contractors must obtain a Colorado Stormwater Discharge Permit for construction activities from the Colorado Department of Public Health and Environment (CDPHE).

**2. Stormwater Quality Permit**

Owners and contractors must also obtain a Stormwater Quality Permit from the Town.

**C. Minimum Standards**

The standards in this Chapter are minimum standards. The Town may impose more restrictive standards when it finds that they are necessary to conform the design of a proposed subdivision to sound engineering or design standards or other standards in this FDC.

**D. Compliance with Other Provisions of this FDC**

All subdivisions shall comply with all other applicable zoning, design, and development regulations set forth in this FDC, including but not limited to:

1. The requirements of the zoning district in which the property is located (see Chapter 2, 3 and 4);
2. The requirements relevant to Special Review Uses (see Chapter 3); and
3. Generally applicable development and design standards (see Chapter 6).

**E. Compliance with other Town of Firestone Adopted Plans and Policies**

The design of subdivisions shall be generally consistent with all other adopted plans and policies adopted by the Town, including but not limited to:

1. The Town of Firestone Comprehensive Master Plan, as amended;
2. The Town of Firestone Parks, Open Space, and Trails Master Plan, as amended;
3. Town of Firestone Transportation Plan, as amended;
4. Town of Firestone Utility Master Plans, as amended;
5. The Town of Firestone Standards and Specifications, as amended; and
6. All subdivisions shall result in the creation of lots which are developable and capable of being built upon in compliance with all engineering regulations. Subdivisions may also contain tracts which are not intended as building lots but are necessary for other purposes. All such tracts shall be shown on the plat and designated as to their purpose.

**16.5.4 LAYOUT AND DESIGN GENERALLY**

No subdivision shall be approved unless it complies with all of the following standards:

**A. Name of Subdivision**

The title under which the subdivision will be recorded shall not duplicate the name of any existing subdivision in the Town.

**B. Natural and Scenic Resource Protection**

The standards and requirements in Section 6.2, shall apply to all subdivisions.

**C. Natural Hazard Areas**

Land subject to hazardous conditions such as landslides, rock falls, expansive soils, mine subsidence, mine shafts, shallow water table, open quarries, floodplains, and polluted or non-potable water supply shall be identified and shall not be subdivided until the hazards have been mitigated or will be mitigated by the subdivision and construction plans.

**D. Adjoining Subdivisions**

A proposed subdivision shall be designed in such a manner as to be coordinated with adjoining subdivisions (existing and proposed) with respect to the alignment of street rights-of-way, utility and drainage easements, open space, view corridors, pedestrian/bicycle paths, and other relevant design considerations.

**E. Lots**

1. Lot size, width, depth, shape, and orientation and minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use

contemplated, and shall facilitate the placement of buildings with sufficient access, outdoor space, privacy, and view. All lots shall conform to the applicable zoning regulations affecting the property.

2. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for off-street parking, landscaping or planting area, and loading areas required by the type of use and development contemplated.
3. No single lot shall be divided by a municipal boundary line.
4. No single lot shall be divided by a zone district boundary line.
5. A lot shall not be divided by a street, alley, or other lot.
6. Each residential lot shall be provided with lot frontage on a street. Residential lots may be permitted to front on common greens, parks, auto-courts, and other common areas located within a tract with a minimum width of thirty (30) feet and subject to the provisions of this FDC. Non-residential lots shall be provided with lot frontage on a street or private drive.
7. Corner lots for residential use shall have extra width to accommodate the required building setback line on both street frontages.
8. Wedge-shaped lots shall not be less than thirty-five (35) feet in width at the front property line. Such lots shall conform to the minimum lot width for the district at the front setback line.
9. Side lot lines shall be at substantially right angles and radial to curved streets. Where lot lines are not at right angles to the street lines, it shall be indicated on Preliminary and Final Plats.
10. Triple frontage lots and flag lots are prohibited in residential zone districts.
11. Lot widths and minimum square footage shall conform to the requirements of Chapter 4 of this FDC.
12. Double frontage residential through lots are prohibited. To prevent such double frontage lots, a landscape tract of not less than thirty (30) feet shall be required between the rear of a lot and street right-of-way. Alley loaded lots shall not be considered double frontage lots for the purpose of this section.

**F. Blocks**

The requirements and standards set forth in Section 6.5, shall apply to all subdivisions.

**G. Streets**

All streets shall comply with the requirements and standards set forth in Section 6.5, in addition to the following:

**1. Compliance with Town Standards Required**

All new streets within a subdivision shall be constructed in accordance with the Town of Firestone Transportation Master Plan and the Standards and Specifications.

**2. General Street Design Considerations**

All new streets should be designed in relation to existing or planned streets, to public convenience and safety, and in relation to the proposed use of land to be served. To the maximum extent reasonably practicable, streets shall be arranged to follow the natural contours of the site. Streets shall be extended to connect with existing streets, except where such extension is prevented by topography or other physical conditions or where the connection of streets with existing or probable future streets is deemed unnecessary by the Town for the advantageous development of adjacent properties.

**3. Private Streets**

Private streets may be permitted provided they meet all Standards and Specifications required for public streets and rights-of-way and demonstrate that private streets and rights-of-way can be perpetually maintained.

**4. Street Intersections**

- a. Arterial streets shall not be intersected by local streets.
- b. No more than two (2) streets shall intersect at one (1) point unless approved by the Town Engineer.
- c. Streets shall intersect at ninety (90) degrees, except where this may be impractical. Angles of less than ninety (90) degrees may be designed, subject to the approval of the Town Engineer.
- d. Two local streets meeting a third street from opposite sides shall meet at the same point, or their centerlines shall be offset at least one-hundred fifty (150) feet.

**5. Street Right-of-Way Widths**

Street right-of-way widths within the proposed subdivision, or boundary streets impacted by the proposed subdivision, shall follow the Town's Transportation Master Plan and Standards and Specifications.

**6. Cul-de-sacs**

All cul-de-sacs shall be designed in accordance with the Standards and Specifications of the Town and the Fire District. A cul-de-sac on a local street shall not be longer than seven-hundred and fifty (750) feet and at the closed end shall provide a turnaround in a configuration approved by the Town Engineer and Fire District. The cul-de-sac length shall be measured from the centerline of the intersecting street to the centerline of the cul-de-sac turnaround.

**7. Street Arrangement and Connections**

- a. Local streets shall be arranged so that their use by through traffic will be discouraged. Traffic calming techniques such as use of grid patterning, diverters and curvilinear alignments are encouraged to reduce speeds and cut-through traffic. All traffic calming measures shall be approved by the Town Engineer.
- b. Where a subdivision borders the following, a minimum landscaped buffer area shall be provided as follows: thirty (30) feet adjacent to arterial streets and section line roadways, fifty (50) feet adjacent to railroad right-of-way, and one-hundred (100) feet adjacent to Interstate right-of-way. This buffer is in addition to any required right-of-way, and exclusive of any lot size requirements. No driveway access shall be permitted from the lot directly to any highway, freeway, arterial, section line roadways, or railroad right-of-way.
- c. Dead-end streets (excluding cul-de-sac or stub streets) shall not be permitted unless approved by the Board of Trustees.
- d. Visibility into residential subdivision from arterial, section line, and collector roadways shall be emphasized and coordinated with street configurations including cul-de-sacs and parallel road loops, open space, and trail corridors. The backing of lots to arterials, section line, and collector roadways shall be limited. Continuous runs of lots which back to such roadways shall not exceed five-hundred (500) feet in length.
- e. Openings in the perimeter fence frontage shall serve to visually link intersecting streets, view corridors into and out of the development, pedestrian entryways, and parks or open space.

**H. Alleys**

Alleys are permitted subject to meeting all the standards in this Section and other pertinent sections of this FDC. All new alleys shall be constructed in accordance with Town of Firestone Standards and Specifications.

1. Alleys in developments approved after the effective date of this FDC shall be privately owned and maintained within a tract. An easement in such alleys shall be granted to the Town

and/or other service providers for installation and maintenance of utilities, refuse collection, and similar facilities and services.

2. In residential districts, alleys should be parallel, or approximately parallel, to the frontage of the street. Alleys in residential districts shall provide a minimum of thirty (30) feet of right-of-way. A minimum of twelve (12) feet of pavement is required unless otherwise required by the Town or Fire District.
3. Dead-end alleys shall not exceed one-hundred fifty (150) feet in length.
4. If an alley is provided, garage driveway connections shall be from an alley. In areas where no alley is provided, garage driveway connection shall be from the street.
5. Alleys may not exceed a maximum length of six-hundred (600) feet without having a secondary outlet to a residential street.

**I. Sidewalks, Curbs and Gutters**

In all subdivisions, streets shall be constructed according to Standards and Specifications. Handicap accessible ramps from the sidewalk to street grade shall be provided, in conformance with the Americans with Disabilities Act criteria.

**J. Utility Easements**

In addition to the following, the requirements and standards set forth in Subsection 6.4.G, shall apply to all subdivisions provisions for utility easements.

1. Utility easements shall follow rear and side lot lines whenever practical, and the centerline of any easement should coincide with a joint property line.
2. Easements shall be determined so as to provide efficient installation of utilities and should integrate well with the Town's street design criteria.
3. Public utility installations shall be so located as to permit multiple utility installations within the easements, to avoid cross connections, to minimize trenching and adequately separate incompatible systems. No utilities shall be placed within one (1) foot of the property line of any property.
4. The location and width of all utility easements shall be subject to the approval of the Town and the utility providers.
5. Utility lines shall be placed underground. The applicant shall make the necessary arrangements including any construction or installation charges with each of the serving utilities for the installation of such facilities.
6. Other utility equipment (including but not limited to transformers, switching boxes, terminal boxes, meter cabinets, pedestals, ducts, street lighting utilities, and other facilities necessarily appurtenant to such underground utilities) shall be placed underground whenever practicable. If placed above-ground, such equipment shall not be located in street medians or on utility poles unless no practicable alternative exists. Such equipment shall also be screened as required by the screening requirements of Subsection 6.4.G.
7. The applicant shall establish rough-cut final utility grades prior to the utility installations.

**K. Storm Water Drainage**

**1. General Provisions**

- a. Drainage improvements shall be designed according to Town Standards and Specifications.
- b. Drainage areas shall be left in a natural state or designed to appear natural in form unless otherwise approved by the Town.
- c. Complete drainage systems for the entire subdivision area shall be designed by a professional engineer, licensed in the State of Colorado and qualified to perform

such work, and shall be shown graphically. All existing drainage features that are to be incorporated in the design shall be so identified.

**2. Design of Drainage Systems**

- a. The drainage system shall be designed to consider the drainage basin as a whole and shall accommodate not only runoff from the subdivision area but also, where applicable, the system shall be designed to accommodate the runoff from those areas adjacent to and upstream from the subdivision itself, as well as its effects on lands downstream.
- b. Native re-vegetation techniques shall be used.
- c. Storm water drainage systems shall be designed according to Town Standards and Specifications.
- d. The drainage report to be included with the Preliminary Plat submittal materials shall be subject to review by the Town and outside referral agencies.
- e. A final drainage report shall be submitted and accepted by the Town prior to Final Plat approval.

**L. Water and Wastewater Lines**

**1. Oversizing Water Lines**

Oversizing of water lines may be required by the Town beyond the needs of the subdivision development and standard Town specification. In such cases the applicant shall pay for the cost of the line. In the event oversized utilities are required and are greater than twelve (12) inches in diameter, applicants can initiate requests for oversize recovery or reimbursement following final acceptance of the water line as part of a Development Agreement. The method and time of payment shall be established in accordance with the current policies of the Town and/or agreement between the applicant and Board of Trustees.

**2. Wastewater Line Standards**

Design standards for wastewater lines shall be in accordance with the requirements of the St. Vrain Sanitation District.

**M. Water Courses and Ditches**

The requirements and standards in Subsection 6.2.B, shall apply to all subdivision plats.

**N. Water Supply**

The requirements and standards in the Municipal Code apply to all subdivision applications.

**16.5.5 SUBDIVISION DEVELOPMENT**

**A. Improvements Required**

Applicants shall be required to pay for and construct all on-site and off-site public improvements and common facilities that are required to adequately serve the proposed development or are deemed necessary to address the impact caused by the proposed development. Payment for and construction of such on-site and off-site public improvements and common facilities shall be a requirement of the approval of a proposed development under this FDC.

The public improvements and common facilities required to be paid for and constructed as part of the proposed development shall be governed by a separate Subdivision Agreement or Development Agreement. The Subdivision Agreement or Development Agreement shall meet the requirements of this FDC and all other applicable adopted Town manuals and ordinances regarding the provision of the required public improvements and common facilities, including the current edition of the Town's Standards and Specifications.

**B. Subdivision Agreement**

In conjunction with final approval of a final plat by the Board of Trustees, the Applicant shall enter into a Subdivision Agreement with the Town providing for the construction and/or provision of public improvements, substantially in the form as set forth in Section 7.16. The agreement shall require the

Applicant to construct or improve all streets, thoroughfares, public ways, drainage structures and water and sanitary sewer systems, and stormwater quality improvements both within and outside the subdivision. No public improvement work shall be commenced until Final Construction Plans have been approved by the Town Engineer. Improvements shall be installed to the satisfaction of the Town and in accordance with the engineering regulations as directed by the approved construction plans. The Subdivision Agreement shall be recorded concurrently with the recording of the final plat.

**C. Restriction of Conveyance and Certificates of Occupancy**

In order to secure the performance of the work to be done by an Applicant, there shall be no conveyance, sale, or transfer of title of the entire subdivision, or any individual lot, lots, tract or tracts of land within the subdivision nor will the Town issue any certificates of occupancy for any lots therein until all improvements which are the subject of the development agreement are fully completed and operational as solely determined by the Town for public improvements and acknowledged by the Town for private improvements, and the Town issues a certificate of compliance releasing this prohibition. The foregoing notwithstanding, the Applicant may convey to a single developer one-hundred (100) percent of the lots in the subdivision, with the prior written consent of the Town Manager, provided, however, that such conveyance shall be subject to all provisions of the development agreement and this section, including restrictions upon subsequent conveyances and restrictions upon certificates of occupancy. Restrictions on conveyances and certificates of occupancy shall be noted on the final subdivision plat unless substituted contract security is posted as provided by this section. This provision shall not restrict the Applicant from accepting financial deposit for lot reservations nor shall it restrict the issuance of building permits upon lots held by the Applicant.

**D. Substitution of Improvement Guarantees**

At any time, the Applicant may offer substituted contract security to assure completion of the developer's obligations as set forth in the development agreement, and to release the restrictions of conveyances and certificates of occupancy as provided in this section. The requirements and standards for Improvement Guarantees set forth in Section 7.18 shall apply to all Final Development Plan and/or subdivision improvements.

**E. Initial Acceptance of public improvements.**

Upon completion of the public improvements the Applicant shall submit to the Town "as built" drawings of the improvements, proposed documents of conveyance, certified cost estimates of the public improvements, and a statement certifying that the improvements are fully complete, have been fully paid for, and the Applicant has fully paid all persons or entities having furnished labor or materials for the design and construction of the improvements. Upon inspection and finding of satisfactory completion of the improvements in compliance herewith and all applicable standards and ordinances of the Town, and upon submission and approval of an acceptable warranty performance guarantee, the Town shall issue a "initial acceptance" to the developer which shall commence the running of the warranty period.

**F. Warranty**

1. The Applicant shall warrant that all improvements are free from defects, including but not limited to defects of materials, workmanship or design, and that the improvements otherwise fully comply with the applicable approved plans and profiles, and Town Standards and Specifications.
2. The developer will repair or replace any improvement that fails during a two (2) year period, commencing with the date of initial acceptance, without regard to whether such failure is due to a defect or otherwise. A repair/replacement performance guarantee shall be posted and shall be equal to twenty-five (25) percent of the total cost of the improvements and landscape improvements, including all vegetative materials and irrigation and recreation facilities. The repair/replacement guarantee shall be in such form and issued by such institution as provided in this section. The repair/replacement guarantee shall provide security for the cost which may be incurred in repairing and/or replacing improvements during the repair/replacement period of two years following initial acceptance by the Town, and in

defending or removing claims of unpaid laborers, material suppliers and/or subcontractors who may attempt to assert a lien upon the property. The repair/replacement performance guaranty shall not be subject to reduction, pursuant to this section.

3. In the event that any substantial repair or replacement is required to any of the improvements during the repair/replacement period and such repair or replacement is not made within thirty (30) days upon notice of defect or in any event before expiration of the guaranty period, the Town, may, in addition to any other legal remedies available to the Town:
  - a. Extend the repair/replacement period for up to one year following initial approval of the completed repair or replacement;
  - b. Require that the developer adjust the amount or term of the repair/replacement guarantee as may be appropriate;
  - c. Call the repair/replacement guarantee and, at the Town's discretion, secure repair or replacement of the nonconforming improvements; and/or
  - d. Order denial or suspension of building permits, utility services or certificates of occupancy outstanding until repair or replacement of any nonconforming improvements have been performed.

**G. Final Acceptance of public improvements**

No earlier than sixty (60) days prior to the expiration of the repair/replacement period, the Applicant shall submit a written request for final acceptance of the public improvements. The Town shall conduct a final inspection of the improvements and if such improvements appear to fully conform to the development agreement and the applicable Town Standards and Specifications, and/or all repairs, if any, that are needed, have been made to bring the same into such conformance, then the Town shall issue final acceptance of the public improvements and the Town shall release the performance and/or repair/replacement guarantee provided no lien claims or statements have been filed with respect to the project. Neither the Town's final acceptance, nor release of the performance or repair/replacement guarantee, shall relieve the Applicant from the obligation to construct the improvements and warrant them as provided herein.

**H. Private Improvements**

1. Upon completion of any improvements required by the development agreement other than public improvements, the Applicant shall request a final inspection by the Town of said improvements. Upon inspection and finding of apparent completion of the private improvements in compliance herewith the development agreement and all applicable standards and ordinances of the Town, and upon submission and approval of an acceptable warranty performance guarantee, the Town shall commence the running of the warranty period for private improvements.
2. No earlier than sixty (60) days prior to the expiration of the repair/replacement period, the Applicant shall submit a written request for release of the guaranty for private improvements. The Town shall conduct a final inspection of the improvements and if such improvements appear to fully conform to the agreement and the applicable Standards and Specifications, and/or all repairs, if any, that are needed, have been made to bring the same into such conformance, then the Town shall release the performance repair/replacement guarantee, provided no lien claims or statements have been filed with respect to the project. Release of the performance repair/replacement guarantee, shall not relieve the Applicant from the obligation to construct the improvements and warrant them as provided herein. Neither the Town's initial acknowledgement of completion of private improvements, nor the release of the repair/replacement performance guarantee for private improvements shall create a liability of, or cause action against, the Town by third parties.

**I. Town Utilities and Facilities and Reimbursement for Qualifying Public Improvements**

1. A proposed subdivision shall not, by reason of its location or design, cause an undue burden on existing Town utility systems or community facilities. What constitutes a burden shall be

determined by the Town, and shall be fully examined during the annexation, zoning, and preliminary plat processes for this possibility, prior to the final platting of the property. Where extension, enlargement, or construction of Town utility systems or community facilities are necessitated by a specific subdivision, the applicant will bear the costs of the necessary expansion, enlargement or construction.

2. In the event that the Town has constructed a utility or facility to serve future development and the proposed subdivision connects to said utility or facility, the Town and applicant may enter into an agreement for the Town to recover an equitable portion of the excess born by the Town.

**J. As-Built Plans**

Finished as-built plans of all public improvements as installed shall be required before the Town will accept the improvements.

**K. Construction of Buildings**

No proposed buildings designated on the approved Final Development Plan shall be erected nor shall building permits be issued for any subdivision until such time as the required public improvements or common facilities affecting all the lots designated on the approved Final Development Plan or Final Plat have been constructed or suitable provisions have been made for phasing of such construction in conformance with this FDC.

## 16.5.6 DEDICATION AND FEES IN-LIEU

**A. Public Dedications**

The subdivider of property for residential or nonresidential purposes shall dedicate or reserve land for public purposes as described below, except to the extent previously required and satisfied in conjunction with an annexation or zoning action.

**B. Parks and Open Space**

The requirements and standards set forth in Section 6.3 shall apply to all subdivisions.

**C. Contribution for Public School Sites**

**1. Contribution Required**

For all subdivisions of land within or affecting the St. Vrain Valley School District RE-1J or the Weld County School District RE-1 ("School District") attendance areas, the subdivider shall dedicate land for a public school site to that School District the subdivision is located within.

In the event the dedication of land is not deemed practicable or in the best interest of the School District, as determined by the superintendent or designee of the School District, the subdivider shall make a payment in lieu of land dedication. The amount of such contribution of either land or payment in lieu of land (the "fair contribution for public school sites") shall be determined pursuant to Town's Municipal Code or Intergovernmental Agreement (IGA) between the Town and the School District.

**2. Exceptions from Contribution**

The following uses shall be excepted from the fair contribution for public school sites requirements:

- a. Construction of any nonresidential building or structure;
- b. Alteration, replacement, or expansion of any legally existing building or structure with a comparable new building or structure which does not increase the number of residential dwelling units;
- c. Construction of any building or structure for a limited term stay or for long term assisted living, including, but not limited to, bed and breakfast establishments, boarding or rooming houses, family care homes, group care homes, halfway houses, hotels, motels, nursing homes, or hospices; and

- d. Construction of any residential building or structure classified as housing for seniors, pursuant to the federal fair housing act, as amended.

**3. Land Dedication and Site Related Requirements**

In the event the fair contribution for public school sites includes the dedication of land and site related requirements (such as water dedication, utility extensions, etc.), the subdivider shall include on the Final Plat, dedication of the site to the school district. The developer's requirements for dedication of the site and site related requirements shall be in conformance with the current Inter-Governmental Agreement (IGA) between the Town and the School District.

**4. Proof of Payment**

If the fair contribution for public school sites includes payment in lieu of dedication of land, then prior to the issuance of any building permit for any residential dwelling unit in the subdivision not otherwise exempt under this Section, the Town shall be provided with proof that, for the lot for which the permit is sought, the required payment in lieu of dedication of land has been made to the School District.

# CHAPTER 6: DEVELOPMENT AND DESIGN STANDARDS

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## 16.6.1 GENERAL PROVISIONS

### A. Purpose

The standards in this Chapter apply to the physical layout and design of development in the Town. These provisions address the physical relationship between development and adjacent properties, public streets, neighborhoods, and the natural environment. The general intent is to implement the Town's Comprehensive Master Plan vision of an attractive, efficient, and livable community that features stable neighborhoods and promotes a mix of uses in well-designed community focal points. The specific purposes of this Chapter include:

1. To encourage the proper use of the land by promoting an appropriate balance between the built environment and the preservation and protection of open space and natural resources;
2. To protect public and private investment through preservation of open spaces, protection of natural resources including existing trees, providing buffers between incompatible uses and along roadways, and encouraging the planting of new trees and vegetation as deemed appropriate;
3. To promote sound management of water quality and quantity through preservation of natural areas and by encouraging the use of native plant materials;
4. To provide appropriate standards to ensure a high-quality appearance for the Town and promote good design while also allowing flexibility, individuality, creativity, and artistic expression;
5. To strengthen and protect the image, identity, and unique character of the Town and thereby to enhance its business economy;
6. To encourage high-quality retail commercial businesses that provide positive sustainable revenue sources to the Town;
7. To protect and enhance residential neighborhoods, commercial districts, and other areas by encouraging physical development that is of high quality and is compatible with the character, scale, and function of its surrounding area; and
8. To encourage developments that relate to adjoining public streets, open spaces, parks, trails, and neighborhoods with building orientation and physical connections that contribute to the surrounding network of streets and walkways.

### B. Applicability

This Chapter shall apply to new development including modification to existing development in the Town with the exception of individual single-family residential lots and structures existing before the adoption of this FDC. Individual single-family residential lots and structures existing before the adoption of this FDC shall be subject to the following Sections of this Chapter: Sections 6.4; 6.6; 6.11; and 6.12. Single-family lots that change use from single-family to another use or lots that further subdivide to create additional lots are subject to the standards of the entire Chapter.

### C. Alternative Equivalent Compliance

#### 1. Purpose

Alternative equivalent compliance is a procedure that allows development to occur where the intent of the design-related provisions of this Chapter is met through an alternative design. It is not a general waiver of regulations. Rather, the procedure permits a site-specific plan that is equal to or better than the strict application of a design standard.

## 2. Applicability

The alternative equivalent compliance procedure shall be available only for the following Sections of this Chapter:

- a. Section 6.4, Landscaping, Screening, and Fencing;
- b. Section 6.7, Residential Use Category Design Standards;
- c. Section 6.8, Commercial and Public/Institutional Use Categories Design Standards; and
- d. Section 6.9, Manufacturing and Light Industrial Use Categories Design Standards.
- e. Section 6.12, Signs

## 3. Pre-Application Conference Required

An applicant proposing to use alternative equivalent compliance under this Section shall request and attend a pre-application conference prior to submitting a subdivision or Final Development Plan application for the development, to determine the preliminary response from the Director. The pre-application conference shall be conducted as set forth in Subsection 7.2.A of this FDC. Based on the Director's response, the subdivision or Final Development Plan application shall include sufficient explanation and justification, in both written and graphic form, for the alternative equivalent compliance requested.

## 4. Decision-Making Responsibility

Final approval of any alternative equivalent compliance proposed under this Section shall be the responsibility of the decision-making body responsible for deciding upon the application. Use by-right projects proposing alternative equivalent compliance shall require only written approval of the alternative equivalent compliance from the Director.

## 5. Criteria

To grant approval for alternative equivalent compliance, the decision-making body shall find that the following criteria are met:

- a. The proposed alternative achieves the intent of the subject design standard to the same or better degree than the subject standard.
- b. The proposed alternative substantially achieves the goals and policies of the Town's Comprehensive Master Plan to the same or better degree than the subject standard.
- c. The proposed alternative results in benefits to the community that are equivalent to or better than compliance with the subject design standard.

## 6. Effect of Approval

Alternative equivalent compliance shall apply only to the specific site for which it is requested and shall not establish a precedent for assured approval of other requests.

## 16.6.2 NATURAL AND SCENIC RESOURCE PROTECTION

### A. General Site Design Requirements to Protect Natural and Scenic Features

#### 1. Purpose

The purpose of this Section is to:

- a. Protect and enhance the natural and man-made features that contribute significantly to the Town's scenic quality and small-town character, including: varying topography and hillsides, reservoirs, stream corridors, floodplains, irrigation ditches, wetlands, native and specimen trees and vegetation, wildlife habitat and corridors, dramatic view corridors to the mountains, historic or cultural sites, and other significant features; and
- b. Preserve the topographic features of individual development sites.

**2. Applicability**

This Subsection shall apply to all new development in the Town.

**3. Design Standards**

- a. To the maximum extent reasonably practicable, where significant natural features or areas of historic or cultural value exist on a property or an adjacent property and have been identified in the required submittal documents, an applicant shall give priority to their preservation through required public open space dedication or as common private open space.
- b. Priority for protection shall be given to the following features which are not listed in their order of significance:
  - i. Wetlands;
  - ii. Floodplains and natural drainage ways;
  - iii. Reservoirs, stream corridors, and other bodies of water;
  - iv. Prominent valleys;
  - v. Native and specimen trees and vegetation;
  - vi. Significant slopes;
  - vii. Historically significant irrigation ditches or those ditches integrated with existing or planned trail systems;
  - viii. Historic, cultural, or archeological sites, buildings, or areas recognized by the town or other government agency as significant;
  - ix. Significant wildlife corridors and habitat;
  - x. Sites with federally or state-recognized endangered species; and
  - xi. Other significant and/or unique features.
- c. To the maximum extent reasonably practicable, developments shall be designed in a manner that preserves the natural topography of the site and minimizes the use of cut and fill.
- d. Grading or other land disturbance prior to the issuance of a grading permit is prohibited.

**B. Water Courses and Ditches**

**1. Preservation of Existing Main Ditches**

Existing irrigation ditches shall be incorporated in subdivision plats and preserved as open space areas to the maximum extent reasonably practicable. This requirement shall apply only to residential subdivision plats where a main ditch or any of its branches that receives water directly from a river or an original source of supply, not to lateral ditches leading from a main ditch.

**2. Above-ground Main Ditches**

All development shall be setback a minimum of seventy-five (75) feet from the centerline of an above-ground main ditch on both sides (one-hundred fifty (150) feet total width) unless the applicant submits a study demonstrating to the Town's satisfaction that by the nature of the use of the ditch, safety considerations, and other factors, the ditch should be covered, piped, or otherwise treated. The one-hundred fifty (150) foot setback area shall be located in a non-buildable tract in residential development or residentially zoned property. The Town may consider either a one-hundred fifty (150) foot minimum width non-buildable tract or one-hundred fifty (150) foot easement for a ditch in a non-residential development or non-residential zoned property.

**3. St. Vrain Creek**

All development, excluding parks, open space, trails and associated uses and structures, shall be setback a minimum of two-hundred fifty (250) feet from the centerline of St. Vrain Creek on both sides (five-hundred (500) feet total). The owner shall create an open space tract over the setback area. If the floodplain extends outside of this setback, such setback areas shall also include land encumbered by the extents of the floodplain within the project area.

- a. Existing platted lots within two-hundred fifty (250) feet of the centerline of St. Vrain Creek shall be exempt from complying with this setback requirement.

**C. Tree and Vegetation Protection**

**1. Purpose**

Protection of existing native and specimen tree and vegetation cover is intended to preserve the visual and aesthetic qualities of the Town; to encourage site design techniques that preserve the natural environment and enhance the developed environment; to control erosion, and sediment run-off into streams, creeks, and rivers; and to protect and increase the value of properties within the Town.

**2. Applicability**

This Subsection shall apply to all new development in the Town.

**3. Survey/ Protection Plan**

**a. When Required**

All proposed development subject to this Subsection 6.2.C, shall prepare and submit a landscape plan identifying existing and protected trees with the Final Development Plan or Preliminary Plat application.

**b. Contents**

As a part of any Final Development Plan required by this FDC, the landscape plan shall contain sufficient detail to enable the Town to verify compliance with this Section. The landscape plan shall, at a minimum, include the following information:

- i. The height and caliper of the existing trees on the site;
- ii. The species of each tree;
- iii. The general appearance of the trees with regard to health;
- iv. Areas of native vegetation, wetlands, and riparian areas.

**c. Prepared by Knowledgeable Professional**

Landscape plans shall be prepared by a professional landscape architect.

**4. Relationship to Landscaping Requirements**

Development shall meet the requirements of this Section, in addition to the requirements of Section 6.4. However, any existing trees or vegetation that are in appropriate locations, in sufficient quantities, and of acceptable quality to be utilized to fulfill landscaping or buffering requirements of this FDC shall be preserved to the maximum extent practicable and shall result in corresponding credit against any additional landscaping required.

**5. Standards for Tree Protection and Replacement**

**a. Tree Retention Generally**

To the maximum extent reasonably practicable, healthy trees in locations that reasonably avoid conflict with the development shall be retained.

**b. Tree Protection Before and During Construction**

As part of the required landscape plan, protection measures including but not limited to flagging, protective fencing, boring, trenching separation, and general methods shall be identified for trees designated for protection taking place prior to construction and during construction. Protection measures shall prohibit the storage of materials,

vehicular traffic, grade changes, and any other activities that would impact the health of the protected tree. The protection measures shall be maintained until construction activities around the protected trees are complete.

**D. Community Gateways**

**1. Applicability**

This Section shall apply to all new development in the Town.

**2. Standards for Community Gateway Corridors**

Along the following gateway corridors, the following additional standards shall apply to protect distinct entryways into the community:

**a. Arterials and Section Line Roadways**

- i. A minimum thirty (30) foot landscaped buffer shall be maintained on either side of the arterial or section line roadway and located in a tract when adjacent to residential subdivisions and within a tract or non-exclusive landscape easement when adjacent to non-residential subdivisions. This buffer should utilize a variety of live plant material and berming to provide year-round visual interest. A minimum ten (10) foot wide sidewalk shall be incorporated as an integral component of the landscape buffer and landscape area within the right-of-way.
- ii. Single-family detached residential lots shall be set back a minimum of one-hundred fifty (150) feet from the right-of-way along Firestone Boulevard west of Colorado Boulevard.
- iii. All fencing facing the arterial or section line roadway shall be a maximum of four (4) feet in height and should have an open character, such as split rail or picket. Opaque fencing is prohibited.
- iv. Parking shall be screened to the greatest extent reasonably practicable from the arterial or section line roadway using a combination of berming, walls, fencing and landscaping with a minimum cumulative height of three (3) feet. Such berming or screening walls and fencing may be located within the landscaped buffer prescribed in this Section. Parking, internal drives or streets may not extend into the landscape buffer excepting access drives from the right-of-way running perpendicular to the arterial or section line roadway.
- v. Garages and carports may not be used as a screen or barrier between the arterial or section line roadway and a development site.

**16.6.3 PARKS, OPEN SPACE, AND TRAILS**

**A. Purpose**

This Section is intended to regulate the planning, development, construction, preservation, and maintenance of parks, open space, and trails throughout the Town. Parks, open space, and trail regulations are intended to preserve natural areas and resources, preserve scenic views, provide access to open areas and recreational opportunities, create public health benefits, and generally enhance the quality of life for residents. Particular emphasis should be placed on providing a diversity of parks, trails, and open space opportunities that serve residents of all ages and abilities and that are accessible from a variety of locations within the community.

**B. Park Land Dedication, Construction and Neighborhood Park Construction Fee**

**1. Purpose**

This Section is intended to provide lands and construction of parks for park demand generated by new residential subdivisions to ensure that new development bears the proportionate share of the costs of capital expenditures necessary to provide pocket, neighborhood, and community parkland and related parks and recreation capital facilities.

## 2. Applicability

Any person applying for a Preliminary, Final, or Minor Plat for development of any area zoned and to be used for residential purposes in the Town for which subdivision approval under Subsections 7.6.C, 7.6.D, and 7.6.E is required, shall, as a condition precedent to the approval of the subdivision, dedicate a portion of land toward a community goal of eight and one-half (8.5) acres of park land per one-thousand (1,000) residents, shall construct and provide such park and recreation capital facilities in accordance with this Section, and shall pay the Neighborhood Park Construction Fee in accordance with this Section.

## 3. Amount of Park Land to be Dedicated

- a. The amount of park land dedicated shall not be less than eight and one-half (8.5) acres of park land per one-thousand (1,000) residents within the development. Projections shall be based on current Town housing and population data available from the department. The following formula shall be used for determining the amount of parkland to be dedicated:

$$\frac{8.5 \text{ acres} \times (\text{number of dwelling units}) \times (\text{persons per dwelling unit})}{1,000} = \text{area to be dedicated}$$

- b. The distribution of this land should generally be as follows:
  - i. Pocket Parks: one-half (0.5) acres/1,000 residents
  - ii. Neighborhood Parks: three (3) acres/1,000 residents
  - iii. Community Parks: five (5) acres/1,000 residents
- c. The Board of Trustees shall have discretion to re-allocate acreage within the Neighborhood Park and Community Park categories for the benefit of the community.
- d. The Director shall determine the number of persons per dwelling unit based upon data compiled by the Town at least once every five (5) years, which shall be reviewed and adjusted by the Board of Trustees as necessary to reflect current figures.
- e. The developer shall submit with each subdivision plat for multi-family residential development information concerning the number of dwelling units. Should the developer fail to do so, the Planning & Development Department shall assume the highest density permitted in such multi-family residential district.

## 4. Improvement of Dedicated Land

Pocket and Neighborhood Parkland required to be dedicated pursuant to this Section shall be improved in accordance with Subsection 5 below.

## 5. Characteristics of Park Land to be Dedicated and Constructed

### a. *Standard Criteria for Pocket, Neighborhood, and Community Parks*

To the maximum extent reasonably practicable, park land to be dedicated shall be generally consistent with the standard characteristics of parks identified in the Town's Comprehensive Master Plan and the Town's Park, Open Space and Trails (POST) Master Plan.

#### i. *Pocket Parks*

Pocket parks provide opportunities for passive outdoor recreation at a sub-neighborhood scale. Pocket parks shall be located within one-quarter (1/4) mile of the residences they are intended to serve and may include lawn areas, picnic shelters and tables, play equipment, artwork or other amenities that are appropriate for the demographics and types of activities that the neighborhood may desire. Pocket parks shall be:

- (A) One-quarter (1/4) acre to two (2) acres in size;

- (B) Centrally located within sub-neighborhoods served;
- (C) Bordered on at least one (1) side by public streets (excluding major collector, section line, and arterial streets) to provide easy public access, visual surveillance, and on-street parking;
- (D) Accessible from the surrounding neighborhoods using sidewalks and/or trails;
- (E) Pocket Parks shall be owned and maintained by an HOA or metropolitan district;
- (F) Pocket Parks shall be platted with a dedicated public access easement;
- (G) Each pocket park within a subdivision shall be unique and thematically different from other Pocket Parks within the subdivision; and
- (H) Pocket Parks shall be constructed to POST Master Plan requirements and the Town's Standards and Specifications.

ii. *Neighborhood Parks*

Neighborhood Parks shall provide places for recreation and gathering places within approximately one-half (1/2) mile from most residences being served. Neighborhood Parks may include multi-use lawn areas, picnic areas, playground equipment, small court games, community gardens and playing fields and facilities as appropriate. Neighborhood Parks shall be:

- (A) Of a size determined by Subsection 10.6.3.B.3 above, but not less than a minimum size of seven (7) acres;
- (B) Centrally located within or adjacent to the neighborhood(s) served;
- (C) Bordered on at least two (2) sides by public streets (excluding arterial or section line streets) to provide easy public access, visual surveillance and parking;
- (D) Accessible from surrounding neighborhoods by sidewalks and/or trails;
- (E) As reasonably practicable, parks shall be integrated into the Town's overall open space, parks, and trail system;
- (F) At the time of Preliminary Plat approval, the developer shall provide the Town with a master concept plan for the Neighborhood Park, which shall include all of the park's amenities. The park design and amenities included within the master concept plan shall be coordinated with and determined by the Town and shall be subject to, and contingent upon, approval and acceptance by the Town.
- (G) At the time of Final Plat approval in which the neighborhood park is located, the developer shall, in coordination with Town Staff, refine the master concept plan and develop corresponding construction documents in conformance with the Town's Standards and Specifications and subject to Town Staff review and approval.
- (H) At the time of the subdivision's construction, the developer shall construct the Neighborhood Park. Construction of the Neighborhood Park shall be at the sole expense of the developer as an obligation of, and as part of, the development of the residential subdivision. The Neighborhood Park shall be

constructed pursuant to the Town approved construction documents and the Town Standards and Specifications. The developer shall additionally be responsible for the cost of grading, grass, irrigation and water taps and raw water acquisition and fees for the Neighborhood Park. If available, the developer shall connect the park's irrigation system to the Town's reuse water system and pay the fees and costs associated therewith; and

- (l) Neighborhood Parks shall be owned by the Town. Maintenance of Neighborhood Parks shall be the responsibility of the applicant, developer, HOA, or metropolitan district as applicable until construction acceptance by the Town of the Neighborhood Park improvements by the developer.

iii. *Community Parks*

Community Parks serve multiple neighborhoods and focus on the recreational needs of the whole community. They provide opportunities for organized recreational activities as well as maintain a balance between programmed sports facilities and other community activity areas, such as performance areas, festival spaces, gardens, water features, etc. that have broad appeal for community and regional events and gatherings. Community Parks shall be:

- (A) A minimum size of thirty (30) acres;
- (B) Sited in an area level enough to accommodate play fields or recreational facilities as needed;
- (C) Accessible from a major collector or arterial street;
- (D) As reasonably practicable, parks shall be integrated into the Town's overall open space, parks, and trail system; and
- (E) Community Parks shall be owned. The Town shall assume the responsibility of development of all Community Parks.

b. ***Additional Criteria for Park Land Dedications***

Except as otherwise required by the Board of Trustees at the time of Preliminary Plat approval, all dedications of land under this Section shall meet the following criteria. These criteria should be considered general guidelines to ensure that dedicated land is suitable for park development.

i. *Usability*

In general, the dedicated land required by this Section shall be well-drained and suitable for playing fields, recreational facilities, and amenities as designed or intended for design for the specific park. Such park land shall be generally free of encumbrances.

ii. *Connectivity*

All dedicated land shall, to the maximum extent reasonably feasible, be linked to parks, open space, and trails or adjacent parcels to form a connected system throughout the Town.

iii. *Environmental Considerations*

All parks should be located, designed, constructed, and maintained to minimize environmental impacts.

iv. *Water Rights*

Water rights sufficient to irrigate and serve the intended uses of the dedicated park land shall be transferred to the Town prior to the recordation of the Final Plat.

v. *Areas Not Eligible*

Lands within the following areas shall not be accepted to meet the minimum requirements for park land dedication:

- (A) Private yards;
- (B) Public or private streets or rights-of-way not intended for park, open space, or trail-related purposes;
- (C) Open parking areas and driveways for dwelling units not intended for park, open space, or trail-related purposes;
- (D) Streetscape or landscape buffers and median strips;
- (E) Easements and/or related utilities or uses that inhibit the ability to develop, program, or maintain the park for its intended purposes;
- (F) Oil and gas wells and facilities setbacks;
- (G) Storm water detention and water quality ponds greater and sumps;
- (H) Mine shafts and associated setbacks;
- (I) Irrigation ditches, railroad right-of-way, and storm water channels;
- (J) Areas encumbered by environmental hazards or restrictions; and
- (K) Land located within floodplain or floodway.

**6. Method of Dedication of Parkland**

- a. The dedication of parkland shall be reviewed and approved as part of the preliminary plat and accepted as part of the final plat. The subdivider or developer shall designate on the preliminary plat and final plat the area or areas of land to be dedicated pursuant to this Section.
- b. The subdivider or developer shall convey to the Town Neighborhood Park and Community Park land by means of a final plat dedication, and the land dedicated to the Town shall be free and clear of all liens and encumbrances including real property taxes prorated to the time of conveyance. The subdivider or developer shall convey to the HOA, Metro District, or such other governmental entity Pocket Park land by means of a final plat dedication or warranty deed, free and clear of all liens and encumbrances, including real property taxes prorated to the time of conveyance. The deed shall be submitted prior to Final Plat recordation, or as directed by the Town.

**7. Cash Payment In-Lieu-Of Neighborhood or Community Park Land Dedication Requirement**

a. ***Applicability***

If there is insufficient acceptable land available within the subdivision to satisfy the Neighborhood Park or Community Park land dedication requirements based upon the park standards in this Section, that the expansion of adjacent park facilities would be more appropriate to satisfy the need created by the proposed development than land within the proposed development, or in cases in which the cash value of park land dedication is deemed, by the Board of Trustees, to be more appropriate in satisfying the park demands generated by the proposed development, the owner, subdivider or developer shall pay a cash fee, or transfer other suitable property, in lieu of neighborhood or community parkland dedication requirements. This cash-in-lieu of dedication fee will be calculated at the time of payment based upon the fair market value of the land which was otherwise to be dedicated. A per square foot land value will be determined by the Town by means of an appraisal, if available, or by comparing the cash value of comparably zoned land in the county. The cash-in-lieu fee shall be paid and collected prior to or upon the recording of the final plat,

unless a different time of payment is otherwise provided in the subdivision agreement. If the Board of Trustees determines to accept other property instead of, or as a partial payment toward the cash payment hereunder, the fair market value of the other property shall be used as the basis of the satisfaction of the requirement.

**b. *Payment into Parks Capital Fund***

Cash-in-lieu of parkland dedication monies shall be deposited into the Capital Projects Fund.

**c. *Administration of Parks Capital Fund***

Cash-in-lieu of parkland dedication monies shall be used solely for the purchase, acquisition, development or improvement of new neighborhood or community parks in the Town, including purchases of new park site equipment and plantings related to the provision of such parks, which may benefit the residents of the Town in general, as such improvements are described in the POST Master Plan as amended. The Town shall account for all money deposited to the fund, which may be expended for such purposes.

**8. Neighborhood Park Construction Fee**

**a. *Applicability***

If the Board of Trustees determines the dedication and improvement of land for a Neighborhood Park within the subdivision is inconsistent with the Town's Comprehensive Master Plan or POST Master Plan, the acreage proposed for dedication is less than the amount required to provide a usable park, or that the expansion of adjacent park facilities would be more appropriate to satisfy the need created by the proposed development than land within the proposed development, the subdivider or developer shall pay to the Town a cash fee in lieu of subdivider or developer's obligation to construct and complete the required Neighborhood Park improvements for the proposed residential development in an amount equal to the average cost per acre to improve land as a Neighborhood Park in accordance with this Section. This cash-in-lieu of development fee will be established by the Board of Trustees by resolution and consistent with the criteria of the POST Master Plan. The cash-in-lieu fee shall be paid and collected prior to the recording of the Final Plat, unless a different time of payment is otherwise provided in the subdivision agreement.

**b. *Payment into Capital Projects Fund***

All fees collected under this section shall be deposited into the Town's Capital Project Fund under a separate neighborhood park construction fee account. Funds withdrawn from the account shall be used only for the purposes specified in Subsection (a) of this Section and said expenditures shall be subject to the provisions of this Section.

**c. *Administration of Neighborhood Park Construction Fee Account***

All fees collected under this Section shall be used solely to finance or to recoup the costs of any capital improvement related to the provision of neighborhood parks. Eligible costs which may be paid from revenues derived from such fees may include, without limitation, planning, design, surveying, permitting and engineering costs; the cost of purchasing or leasing real property; construction costs; water rights acquisition; other capital improvement costs; and the costs of administering the collection and expenditure of the fees. The proceeds of such fees may also be used to pay the principal sum and interest and other finance costs on bonds, notes or other obligations issued by or on behalf of the Town to finance such capital improvements.

Fees collected under the provisions of this Section shall not be used to pay for costs incurred for the repair or maintenance of existing or new neighborhood parks or facilities expansions, or costs incurred for the ongoing administration or operation of

the funded and constructed neighborhood parks. All fees collected pursuant to this Subsection shall be appropriated by the Board of Trustees for expenditure within seven (7) years from the date of payment of such fees and shall be expended by the Town for purposes approved herein within ten (10) years of the date of payment. Any fees not so appropriated or expended shall be refunded, upon application, to the record owner of the property for which the fee was paid or, if the impact fee was paid by another governmental entity, to such governmental entity; provided, however, that the Town shall retain two (2) percent of the fee to offset the cost of refund.

### C. Open Space Dedications and Fees In-lieu

#### 1. Intent

The intent of this section is to provide land for active and specialized recreation on trails, land for open space, land for the preservation of unique landforms or natural areas, to help organize and direct growth, maintain rural character, protect sensitive environmental areas, scenic views and historic resources, and provide opportunities for education, wildlife protection and observation, hiking, and other passive and active recreation activities for existing and future Town residents.

#### 2. Applicability

Any person applying for a Preliminary, Final, or Minor Plat for development of any area zoned and to be used for residential purposes in the Town for which subdivision approval under Subsections 7.6.C, 7.6.D, and 7.6.E is required shall, as a condition precedent to the approval of the subdivision, dedicate: (1) a portion of land toward a community goal of fourteen (14) acres of open space per one-thousand (1,000) residents; or (2) pay an in-lieu fee pursuant to Subsection 6.3.C.6.

#### 3. Amount of Open Space to be Dedicated

- a. The amount of open space to be dedicated shall not be less than fourteen (14) acres of open space land per one-thousand (1,000) ultimate residents of the development. Projections shall be based on current Town housing and population data available from the department. The following formula shall be used for determining the amount of land to be dedicated:

$$\frac{14 \text{ acres} \times (\text{number of dwelling units}) \times (\text{persons per dwelling unit})}{1,000} = \text{area to be dedicated}$$

- b. The Director shall determine the number of persons per dwelling unit based upon data compiled by the Town at least once every five (5) years, which shall be reviewed and adjusted by the Board of Trustees as necessary to reflect current figures.
- c. The developer shall submit with each subdivision plat for multi-family residential development information concerning the number of dwelling units. Should the developer fail to do so, the Planning & Development Department shall assume the highest density permitted in such multi-family residential district.

#### 4. Characteristics of Open Space to be Dedicated

##### a. Standard Criteria for Open Space

Open space is characterized as undeveloped land that is generally permanently maintained in a natural or agricultural state. Open space land shall have the following characteristics:

- i. A minimum of ten (10) contiguous acres;
- ii. A parcel that is no less than three-hundred (300) feet at the narrowest width, unless the Town approves a lesser amount for a trail;

- iii. Organized to create continuous, integrated systems that physically and visually connect with the following features dedicated or identified in the POST Master Plan.
    - (A) Parks and greenways;
    - (B) School sites;
    - (C) Historic, cultural, archeological or environmental sites and features; and
    - (D) Trail and open space systems.
  - iv. At the point of connection to adjacent lands or uses as described above and where topography or other site features would prevent the above standards from being met, the point of connection between open spaces may be reduced at the discretion of the Town.
  - v. Trail corridors outside of open space areas shall have a minimum corridor width of thirty (30) feet.
  - vi. Open space shall not consist of undevelopable or “left- over” pieces of the site, but shall be designed as an integral part of the overall development plan, incorporating identified environmentally and historically significant components of the site.
  - vii. Generally unencumbered by utility lines, built structures, and paved surfaces;
  - viii. If the Town has not approved the open space dedication for agricultural purposes, then the property shall be covered with native vegetation and generally free of weeds and other noxious plants and trees. If land being dedicated is not in a native condition acceptable to the Town, then applicant shall be responsible for restoration of the property to native vegetation before the Town accepts it for maintenance; and
  - ix. Typically, open space shall be owned and maintained by the Town. The Town may consider a conservation easement as an alternative. Approval of a conservation easement shall be at the discretion of the Town approving body. The Town may consider maintenance by an HOA, Metro District, or similar entity as determined at Final Plat.
- b. *Permissible Functions/Use***
- Open space shall serve one (1) or more of the following functions:
- i. Preserving rural/agricultural land;
  - ii. Producing crops for revenue;
  - iii. Protecting significant archeological, historic and cultural resources;
  - iv. Providing aquatic, wetland and riparian habitat and buffers;
  - v. Providing hedgerows, feeding, cover, breeding, foraging and nesting habitat;
  - vi. Preserving native wildlife habitat and their migration and travel corridors;
  - vii. Creating and preserving pastoral-scenic views to mountains, plains, and agricultural lands;
  - viii. Providing corridors and natural area destinations;
  - ix. Providing passive recreational experiences and trails;

- x. Providing environmental education opportunities;
  - xi. Shaping growth; protecting landmark topographic features;
  - xii. Protecting the public from natural and geologic hazards; providing visual and physical linkages between community resources; and
  - xiii. Uses identified in Table 3.1.
- c. Resource Preservation**  
To the maximum extent practicable, where significant natural and scenic resource assets exist on a property, the subdivider, developer, or owner shall give priority to their preservation as open space. In reviewing the proposed location of open space areas, the Director shall use all applicable plans, maps, and reports to determine whether significant resources exist on a proposed site that should be protected, with priority being given to the following areas (which are not listed in a particular order):
- i. Floodplain and floodway areas;
  - ii. Lakes, rivers, creeks, wetlands, stream/riparian corridors, sump basin and similar features;
  - iii. Wildlife habitat and migration corridors;
  - iv. Native and specimen trees and plants; and
  - v. Ditches and resources of historical, cultural, or archaeological significance.
- d. Water Rights**  
Water rights sufficient to irrigate and serve the intended uses of the dedicated open space shall be transferred to the Town prior to the recordation of the Final Plat.
- e. Environmental Considerations**  
All open space and trails should be located, designed, and maintained to minimize environmental impacts.
- f. Areas Not Eligible**  
Lands within the following areas shall not be counted towards required open space dedication:
- i. Private yards;
  - ii. Public or private streets or rights-of-way not intended for open space-related purposes;
  - iii. Open parking areas and driveways not intended for open space and trail purposes;
  - iv. Pocket, neighborhood, and community parks;
  - v. Land covered by structures not intended for open space purposes;
  - vi. Streetscape, landscape buffers, or medians;
  - vii. Easements and/or related utilities or uses that inhibit the ability to develop, program, or maintain the open space for its intended purposes;
  - viii. The first 150' of oil and gas well and facility setbacks or the setback as identified in a Surface Use Agreement (SUA), whichever is greater; and
  - ix. Storm water channels, detention and water quality ponds, and sump basins unless such drainage areas are regional in nature, designed to be natural in form, and integrated into the adjacent open space consistent with Subsection 6.3.C.4.b above.

**5. Procedure and Method for Dedication of Open Space**

- a. The dedication of open space shall be reviewed and approved as part of the preliminary plat and accepted as part of the final plat. The developer shall designate on the Preliminary Plat and Final Plat the area or areas of land to be dedicated pursuant to this Section.
- b. The conveyance of dedicated land to the Town shall be by means of a final plat dedication, and the land dedicated to the Town shall be free and clear of all liens and encumbrances, including real property taxes prorated to the time of conveyance.

**6. Payments of Cash Fee In-Lieu of Open Space Land Dedication**

**a. Applicability**

- i. If there is insufficient acceptable land available within the subdivision to satisfy the open space land dedication requirements based upon the standards in this Section, the expansion of adjacent open space area would be more appropriate to satisfy the need created by the proposed development than land within the proposed development, or in cases in which the cash value of open space land dedication is deemed, by the Board of Trustees, to be more appropriate in satisfying the open space demands generated by the proposed development, the owner, subdivider or developer shall pay a cash fee in lieu of open space dedication requirements.
- ii. This cash-in-lieu of dedication fee will be calculated at the time of payment based upon the fair market value of the land which was otherwise to be dedicated. A per square foot land value will be determined by the Town by means of an appraisal, if available, or by comparing the cash value of comparably zoned land in the county. The cash-in-lieu fee shall be paid and collected prior to or upon the recording of the final plat, unless a different time of payment is otherwise provided in the subdivision agreement. If the Board of Trustees determines to accept other property instead of, or as a partial payment toward the cash payment hereunder, the fair market value of the other property shall be used as the basis of the satisfaction of the requirement

**b. Payment into Capital Projects Fund**

Cash-in-lieu of open space dedication monies shall be deposited into the Capital Projects Fund.

**c. Administration of Capital Projects Fund**

Cash-in-lieu of open space land dedication monies shall be used solely for the purchase, acquisition, development or improvement of new open space or capital improvements related to the provision of open space in the Town, which may benefit the residents of the Town in general, as such improvements are described in the POST Master Plan as amended. The Town shall account for all money deposited to the fund, which may be expended for such purposes.

Fees collected under the provisions of this Subsection shall not be used to pay for costs incurred for the repair or maintenance of existing or new trails or open space facilities expansions, or costs incurred for the ongoing administration or operation of the funded and constructed open space trails. All fees collected pursuant to this Subsection shall be appropriated by the Board of Trustees for expenditure within seven (7) years from the date of payment of such fees and shall be expended by the Town for purposes approved herein within ten (10) years of the date of payment. Any fees not so appropriated or expended shall be refunded, upon application, to the record owner of the property for which the fee was paid or, if the fee was paid by another governmental entity, to such governmental entity; provided, however, that

the Town shall retain an additional two (2) percent of the fee to offset the cost of refund.

#### **16.6.4 LANDSCAPING, SCREENING, AND FENCING**

##### **A. Purpose**

This Section is intended to ensure that new landscaping and the retention of existing vegetation is an integral part of all development and that it contributes added high quality to development, retains and increases property values, conserves water, and improves the environmental and aesthetic character of the community. It is also the intent of this Section to provide flexible requirements that encourage and allow for creativity in landscape design.

##### **B. Applicability**

This Section shall apply to the following:

###### **1. New Development**

All new development unless specifically excepted in Subsection 6.4.B.4 below;

###### **2. Expansion of Existing Development**

- a. Additions;
- b. An increase of the number of stories for a building on a lot;
- c. An increase of the combined gross floor area of a building of more than ten (10) percent or five-thousand (5,000) square feet, whichever is less; and
- d. An increase in the non-permeable lot coverage by more than two-thousand (2,000) square feet.

###### **3. Change of Use**

Any change of use from one (1) primary use classification to another (for example, residential use to commercial use).

###### **4. Exceptions**

- a. The following development types and areas are excepted from the requirements of this Subsection, unless they make application that qualifies as applicable under Subsections 6.4.B.2, or 6.4.B.3 above:
  - i. Temporary uses approved pursuant to this FDC; and
  - ii. All landscape plans approved under prior ordinances of the Town shall remain in effect subject to fulfillment of all terms of such plans previously filed and approved.
- b. The following development types and areas shall be subject to Subsections 6.4.E.2; 6.4.E.4; 6.4.F.1; 6.4.F.2; 6.4.F.5; 6.4.F.8; 6.4.F.9; and 6.4.H and exempted from the remainder of Section 6.4:
  - i. Individual single-family and duplex dwelling units on separate lots, where such residential use is the primary use on the lot; and
  - ii. New single-family detached and duplex subdivisions with four (4) or fewer lots and four (4) or fewer dwelling units.
- c. All development shall be subject to Subsection 6.4.H.

##### **C. Alternative Equivalent Compliance**

The alternative equivalent compliance procedure in Subsection 6.1.C may be used to propose alternative means of complying with the intent of this Section.

##### **D. Landscape Plan**

All development applications shall be accompanied by a landscape plan meeting the requirements of this Section. The landscape plans shall be submitted and reviewed as part of the Final

Development Plan process. Installation of approved landscaping shall occur prior to issuance of a Certificate of Occupancy or during the first month of the planting season, whichever is sooner. If the landscaping installation does not occur before issuance of a Certificate of Occupancy for multi-family residential or non-residential projects, then the Town will require a letter of credit or other guarantee for improvements not installed as detailed in Subsection 6.4.F.7. For single-family residential, a landscape waiver request shall be submitted to the Planning and Development Department.

## **E. Minimum Landscaping Requirements**

The minimum landscaping requirements in this Chapter are cumulative.

### **1. Water Efficiency in Landscape Design**

Landscape improvements shall be designed with water efficiency as a major goal. All required landscaping shall be irrigated as required for plant establishment and maintenance. Landscape plans shall use the following design treatments to facilitate water conservation as applicable:

- a. Appropriate turf selection to minimize the use of bluegrass;
- b. Artificial turf as detailed in Subsection 6.4.F.2 if integrated into the overall landscape design and subject to Town approval;
- c. Use of mulch to maintain soil moisture and reduce evaporation;
- d. Zoning of plant materials according to their microclimate needs and water requirements;
- e. Improvement of the soil with organic matter if needed;
- f. Efficient irrigation systems including rain and wind sensors, controllers accessing weather stations, or other alternative methods that adjust irrigation based off of weather events;
- g. Proper maintenance and irrigation schedules;
- h. Irrigation systems shall be designed to achieve water efficiency as a major goal and is encouraged to generally conform to the irrigation design guidelines set forth in Subsection 4.A.4 of the publication "Water Efficient Landscape Design: A Model Ordinance For Colorado Communities" published by the Colorado Department of Local Affairs (2004 and as amended);
- i. Connection to non-potable water supplies; and
- j. Recirculation of water for water features.

### **2. Right-of-way**

The property owner shall provide:

- a. One (1) deciduous or ornamental street tree for every forty (40) linear feet of street frontage or portion thereof, with a minimum of two (2) trees per lot for lots that have a minimum width of sixty (60) feet. Street trees shall be planted within the tree lawn portion of the right-of-way with adequate spacing to allow for the mature spread of the trees. When a tree lawn is not provided, trees shall be planted within ten (10) feet of the back of curb.
- b. Live groundcover as appropriate to the use and function of the area described in Subsection 6.4.E.1.a above, including grass, trees, flowers, or shrubs. In commercial areas, such area may be paved if it functions as pedestrian access to storefronts and is integrated into the overall design of the other improvements on the site.
- c. With the exception of the owners of single-family dwelling units, the property owner shall install an automatic irrigation system for all landscaping within adjacent public right-of-way.

- d. Maintenance of adjacent right-of-way and landscaping unless otherwise executed by separate agreement with the Town.

**3. Common Open Area**

Landscaping shall be appropriate to the use and function of the area and include trees, shrubs, live plant groundcover, a water-efficient irrigation system for all landscaped areas, and landscape paving. Artificial turf may be installed pursuant to Subsection 6.4.F.2 if integrated into the overall landscape design and subject to Town approval. Common open areas shall be connected to a non-potable irrigation supply if available.

**4. Single-family and Duplex Dwelling Units**

In addition to the right-of-way landscaping described in Subsection 6.4.E.2 above, the property owner shall:

- a. Provide landscaping in the front yard of each home. There shall be a minimum of seventy-five (75) percent of the gross front yard area, excluding driveways, landscaped with live plant materials.
- b. Install landscaping within the side and rear yard such that fifty (50) percent of the combined (side and rear) yards is landscaped with live plant material.
- c. Artificial turf may be installed pursuant to Subsection 6.4.F.2 if integrated into the overall landscape design and subject to Town approval.

**5. Multi-Family Dwelling Units**

In addition to the right-of-way landscaping described in Subsection 6.4.E.1 above, the property owner shall:

- a. Provide a minimum of fifteen (15) percent of the entire lot with landscaping of live plant materials.
- b. Install trees on-site, a minimum of one (1) tree per 1,000 square feet of landscaped area, distributed on the site.
- c. Install a minimum of one (1) shrub per one-hundred fifty (150) square feet of landscaped area. Shrubs shall be distributed into groupings throughout the site and located within planting beds.
- d. Trees may be substituted for up to one-half (1/2) of the required shrubs at the rate of one (1) tree for ten (10) shrubs and vice-versa, subject to Town approval.
- e. Install groundcover. Xeriscape landscaping is encouraged. Native grass shall be weed-free and maintained at an appropriate height according to species. Use of irrigated turf is discouraged unless installed within a non-potable irrigation system and shall be minimized to the maximum extent reasonably practicable.
- f. Artificial turf may be installed pursuant to Subsection 6.4.F.2 if integrated into the overall landscape design and subject to Town approval.
- g. Install parking lot landscaping as required in Subsection 6.4.E.7 below.
- h. Provide a water-efficient irrigation system for all landscaped areas. Connect to a non-potable water source if available.

**6. Nonresidential**

- a. A minimum of fifteen (15) percent of the gross site area shall be landscaped area.
- b. Install trees on-site, a minimum of one (1) tree per 1,000 square feet of landscaped area, distributed on the site.
- c. Install a minimum of one (1) shrub per one-hundred fifty (150) square feet of landscaped area. Shrubs shall be distributed into groupings throughout the site and located within planting beds.

- d. Trees may be substituted for up to one-half (1/2) of the required shrubs at the rate of one (1) tree for ten (10) shrubs and vice-versa, subject to Town approval.
- e. Install groundcover. Xeriscape landscaping is encouraged. Native grass shall be weed-free and maintained at an appropriate height according to species. Use of irrigated turf is discouraged unless installed within a non-potable irrigation system and shall be minimized to the maximum extent reasonably practicable.
- f. Artificial turf may be installed pursuant to Subsection 6.4.F.2 if integrated into the overall landscape design and subject to Town approval.
- g. Install parking lot landscaping as required in Subsection 6.4.E.7 below.
- h. Provide a water-efficient irrigation system for all landscaped areas. Connect to a non-potable water source if available.

## 7. Parking Lots

- a. Parking lot landscaping shall break up expanses of pavement, create shade, buffer views of parking lots from adjacent streets and development, and enhance the overall appearance of each project. Parking lot landscaping requirements are in addition to any other landscaping that may be required for the site.
- b. Parking spaces shall not encroach into any required setback or landscape buffer area unless that parking area is part of a shared assemblage that crosses a property line.
- c. In Old Town Firestone, all off street parking shall be located to the rear or side of all primary buildings and not along street frontages.
- d. Live plant material intended as a buffer shall be planted at a density so as to provide effective screening within two (2) years from the date of installation.
- e. All developments shall provide:
  - i. Landscape islands at the end of all parking rows and landscape islands at intervening locations for every fifteen (15) consecutive parking stalls. If cart returns are provided, such returns shall be integrated into the parking lot design and co-located with landscape islands.
  - ii. Landscape islands at least ten (10) feet wide and shall be nineteen (19) feet deep if located along a single row of parking and a minimum of thirty-eight (38) feet deep if located along a double row of parking.
  - iii. Landscaped median or center promenade for large parking lots to break up large expanses of parking. Such median shall be coordinated with the pedestrian network.
  - iv. A minimum of one (1) tree and three (3) shrubs and/or ornamental grasses for single row islands and a minimum of two (2) trees and six (6) shrubs and ornamental grasses for double row islands.
  - v. A minimum of one (1) shrub and/or ornamental grass per parking space, to be located around the parking lot perimeter.
  - vi. Shrubs and ornamental grasses shall be located in planting areas not less than ten (10) feet wide.
  - vii. Outside of Old Town Firestone, the parking lot setback is intended to provide a buffer and screen between the street and parking areas. The setback may be reduced by ten (10) feet if used in combination with a three (3) to four (4)-foot articulated masonry or stone decorative wall with trees and shrubs on both sides of the wall to soften its appearance. However, in all cases a minimum ten (10) foot setback shall be maintained.

- viii. In Old Town Firestone, one (1) of the following landscape options for a parking lot adjacent to the street right-of-way:
- (A) A perimeter landscaped area at least three (3) feet wide with ornamental fencing or masonry walls and wheel stops or curbing in the parking lot that prevent any vehicle overhang into the landscaped areas; or
  - (B) An ornamental fence or masonry wall without landscaping, provided that a planting strip exists between the sidewalk and the adjacent public streets and the planting strip is planted with trees to the minimum specifications of this Section.

#### **8. Stormwater Facilities**

- a. To the maximum extent reasonably feasible, stormwater facilities shall be located, designed, and managed for use as year-round neighborhood open space and passive recreation areas. Alternatively, appropriately designed stormwater facilities may be located, designed, and managed to serve as an entryway feature for a development.
- b. Stormwater facilities shall be designed to appear as an extension of the surrounding landscape, with a natural shape, natural slopes of four-to-one (4:1) or less and naturalized landscape plantings. Stormwater facilities shall be designed to allow for naturalization with trees and woody plant materials.
- c. Berming to increase facility capacity shall be discouraged. If permitted, the maximum height of the berm shall be three (3) feet with berming to be contoured to take on a naturalized shape.
- d. The use of concrete or other impervious materials in stormwater facilities shall be limited to areas necessary to prevent erosion that cannot be accomplished using other stormwater design or landscape techniques. Such erosion devices shall either be buried below live plant materials or designed in a naturalized manner.
- e. In commercial and industrial developments, a more structured facility that is designed to complement the architecture and site design will be considered by the Town.

#### **F. General Landscaping Requirements and Standards**

##### **1. Landscape Materials**

Live plant materials shall be selected that are equally suitable for local soil and water conditions and would provide a high level of visual benefits. Plants shall not be invasive, noxious, or prohibited by the American Nursery and Landscape Association.

##### **2. Artificial Materials**

###### **a. General Standards**

- i. Location, materials, appearance, installation, and maintenance of artificial turf areas shall comply with all requirements of this FDC.
- ii. Artificial turf shall be natural in appearance and integrated into the overall landscape design.
- iii. Turf material and aggregate or infill materials shall not be toxic to humans or pets or be harmful to the environment.

###### **b. Locations**

- i. For single-family dwellings, artificial turf shall be limited to a maximum of seventy-five (75) percent of the rear or side yard area. A minimum of twenty (25) percent of the rear and side yard landscape area shall be permeable surfaces with living and organic landscape material. The maximum area of artificial turf shall consider other impervious surfaces such as patios and

walkways to ensure a minimum of twenty-five (25) percent of the yard area remains a permeable surface with living and organic landscape material.

- ii. Artificial turf shall be permitted in multi-family residential and non-residential developments pursuant to the requirements of this FDC.
  - iii. A minimum of three (3) foot buffer comprised of permeable surfaces with living and organic landscape material shall be required between the edge of the artificial turf and any property line.
  - iv. Artificial turf shall not be installed on slopes greater than a five to one (5:1) slope.
  - v. Artificial turf placement, particularly under the dripline of trees, shall avoid negative impacts to trees at the time of placement and during the lifespan of the tree.
- c. Materials**
- i. The blade material shall be made of either lead-free polyethylene, polypropylene, vegetable based product or a blend of the three (3). Nylon or other plastic shall be prohibited.
  - ii. Backing
    - (A) The backing shall be of a lead-free polyethylene, polypropylene, vegetable based product or a blend of the three. Felt backing is not permitted.
    - (B) The backing shall be permeable with holes spaced in a uniform grid pattern not to exceed four (4) inches by six (6) inches on center.
  - iii. Materials shall be protected with a minimum of an eight (8) year warranty.
  - iv. All materials shall be non-flammable.
- d. Appearance**
- i. Blade yarn colors shall mimic natural turf including green blade color(s) and include a tan thatch layer.
  - ii. Blade pile height shall be between one and three-quarters (1.75) inches and three (3) inches.
  - iii. Pile face weight shall be at least seventy (70) ounces.
- e. Installation**
- i. Artificial turf shall be installed in accordance with manufacturer specifications.
  - ii. The drainage pattern of the lot shall not be impeded or altered by the installation of artificial turf.
  - iii. Artificial turf shall be installed over a compacted and porous aggregate base material that is a minimum of three (3) inches deep to allow for adequate drainage both horizontally and vertically and to prevent excessive runoff or pooling. Artificial turf shall not be installed over existing grass or compacted dirt.
  - iv. Artificial turf shall be anchored at all edges and seams.
  - v. Artificial turf seams shall be taped or glued and not sewn.
  - vi. Artificial turf shall be separated from other landscape areas by a bender board, concrete curbing or similar material to conceal edges of the turf.

**f. Maintenance**

- i. Artificial turf shall be maintained in a manner to mimic healthy living turf.
- ii. Artificial turf shall be cleaned as necessary and groomed to maintain its appearance.
- iii. Artificial turf areas shall not contain weeds, holes, tears, stains, discolorations, seam separations, uplifted surfaces, heat degradation, depressions, odors, excessive wear, or similar deformities and measures of deterioration. Damaged or worn areas shall be repaired or removed and replaced in manner that results in consistent appearance with the existing artificial turf.
- iv. Artificial turf shall be replaced after the life expectancy has been reached.
- v. Infill material shall be a non-toxic anti-microbial material such as silica sand or acrylic coated sand to prevent odors and bacteria formation. Crumb rubber filler shall be prohibited.

**g. Limitations**

Artificial turf or other artificial materials shall not be used as a means of complying with the live plant material landscaping regulations of this section.

**h. Permit**

Any person seeking to install artificial turf must first apply for and obtain a permit from the Town. All permit applications shall be submitted on a form supplied by the Town, and for single-family dwellings no fee shall be required to issue a permit under this section.

**3. Plant Quality**

Xeriscape plant materials are strongly encouraged. All landscape materials shall be in compliance with the current Nursery Stock Standards recommended by the American Nursery and Landscape Association. Plants shall have a habit of growth that is normal for the species and shall be of good health, vigorous growth, and free from insect pests, diseases, and injuries. All plants shall equal or exceed the measurements specified on the landscape plan. Substitutions shall not be permitted without the written approval of the Director.

**4. Plant Measurements**

In order to satisfy landscaping requirements of this Section, all new live plant materials shall meet or exceed the following measurements: two (2) inch caliper for deciduous trees, one and one-half (1 ½) inch caliper for ornamental, and eight (8) feet in height for evergreen trees.

**5. Sight Distance Triangles**

Landscaping shall comply with sight distance triangle requirements as described in the Town Standards and Specifications.

**6. Irrigation**

All landscape areas shall be provided with an adequate and complete-coverage automatic water-efficient irrigation system as provided in Subsection 6.4.E.1.

**7. Guarantee of Installation**

Required landscape improvements for non-residential and multi-family residential projects shall be installed prior to issuance of a Certificate of Occupancy. However, if the landscaping is not able to be installed prior to a Certificate of Occupancy being issued due to weather, the property owner shall post a financial guarantee in the form of cash or cashier's check for the improvements equal to one-hundred fifteen (115) percent of the cost of improvements as itemized in an engineer or landscaper estimate accepted by the Town before the Certificate of Occupancy is issued. Installation shall then occur by June 30th of the following year. This guarantee shall be released upon verification by the Town for the installation of the completed

landscaping. This requirement is separate from those that may be found in the Development or Subdivision Agreement.

#### **8. Maintenance**

Every property owner and any tenants shall maintain and keep their landscaped areas in a well-maintained, safe, clean, and attractive condition at all times. Such maintenance shall include, but is not limited to, the following:

- a. Landscaped areas shall be kept free of trash, litter, weeds, and other such materials or plants not part of the landscape.
- b. All live plant material shall be maintained in a healthy and growing condition, and must be replaced with live plant material consistent with the approved landscape plan, as applicable if diseased, damaged, destroyed, or removed.
- c. The property owner or tenants shall provide all regular and normal maintenance of landscaping including weeding, irrigation, fertilization, pruning, and mowing necessary to comply with this Section.
- d. Maintenance shall include public right-of-way adjacent to the property including but not limited to landscaping, drainage facilities, and sidewalks unless such area is expressly maintained by a designated governmental authority, metropolitan district, or HOA.
- e. The property owner shall not use live plant materials that exhibit evidence of insect, pest, or disease, and shall appropriately treat any and all damaged plants, and shall remove and replace any and all dead plant material with living plant materials.

#### **9. Failure to Maintain Landscaping**

If the required maintenance is not being performed pursuant to the terms of this Section, corrective actions shall be enforced pursuant to the municipal code.

### **G. Screening**

#### **1. Purpose**

Screening consists of landscaping, the retention of natural vegetation, or the use of physical structures to block views of specific activities or specific parts of a property or structure. Applicants are encouraged to locate the types of features listed in this Section where they are not visible from off-site or public areas of a site, so that screening is unnecessary.

#### **2. Applicability**

Unless otherwise excepted in Subsection 6.4.B above, all uses shall be required to provide screening as specified in this Section to block the views of the specified features from any adjacent street, public open space or park, or other areas designated in this section.

#### **3. Outdoor Refuse/Recycling Collection and Donation Bin Facilities**

For purposes of this Section, the term "refuse/recycling collection receptacles" includes dumpsters, garbage cans, trash compactors, recycling receptacles, donation bins, debris piles, or grease containers, but does not include trash or recycling receptacles for pedestrians or for temporary construction sites. This Section also does not apply to refuse collection receptacles such as garbage cans and recycling receptacles that are stored indoors and brought outdoors on garbage pickup days.

In order to reduce the visual impacts of outdoor refuse/recycling collection receptacles, and to avoid problems with blown trash and pests, all outdoor refuse/recycling collection receptacles shall adhere to the following standards:

##### **a. Location**

Outdoor refuse/recycling collection receptacles shall not be located in a required front setback, and should, depending on the size of the site and need for access by refuse/recycling collection vehicles, be set back from the front plane of the principal structure. Refuse/recycling collection receptacles shall not be located in any setback

area or required landscaping area which abuts an adjacent residential use. Refuse/recycling collection receptacles shall not be located in a manner that obstructs or interferes with any designated vehicular or pedestrian circulation routes onsite.

**b. Screening Enclosure**

All outdoor refuse/recycling collection receptacles, other than those used by single-family dwelling units, shall be screened from view on all sides by a durable sight-obscuring enclosure consisting of a wall and gate six (6) feet in height that matches or is complimentary to the building materials of the principal building that it serves.

**c. Maintenance of Refuse/Recycling Collection Receptacles and Screening Enclosures**

The enclosure shall be maintained in working order, and remain closed except during deposits and pick-ups. Lids are required on all outdoor refuse/recycling collection receptacles in screening enclosures without roof structures. Lids shall remain closed between pick-ups, and shall be maintained in working order. Screening enclosures and gates shall be kept in good repair.

**4. Service and Off-Street Loading Areas**

Service and off-street loading areas shall be designed and located to reduce the visual and acoustic impacts of these functions on adjacent properties and public streets. Non-enclosed service and off-street loading areas adjacent to residential properties and public streets shall be screened with opaque materials that are an integral part of the building architecture, including, durable, sight-obscuring walls and/or fences to a height consistent with the object, structure, and use to be screened. Screening materials shall be the same as, or of equal quality to, the materials used for the primary building. Landscaping shall also be incorporated to aid in screening the non-enclosed service and off-street loading areas and softening the appearance of the screening wall or fence.

**5. Drive Through Service and Stacking Drives**

Drive through service areas and stacking drives shall be designed and located to reduce the potential visual and acoustic impacts of these functions on adjacent residential property, public streets, and primary internal drive circulation routes in a multi-building complex.

- a. Drive through service ordering and pick-up window areas shall not be orientated toward residential property, arterial streets, and collector streets.
- b. The minimum landscape setback to drive through service areas and stacking drives from streets, and primary internal drive circulation routes in a multi-building complex shall be ten (10) feet.

**6. Rooftop Mechanical Equipment**

Rooftop mechanical equipment, including HVAC equipment, venting, and utility equipment that serves the structure, shall be screened. Screening shall be accomplished through the use of parapet walls or a sight-obscuring enclosure around the equipment constructed of one (1) of the primary materials used on the primary facades of the structure, and that is an integral part of the building's architectural design. The parapet or screen shall completely surround the rooftop mechanical equipment to an elevation equal to or greater than the highest portion of the rooftop mechanical equipment being screened. In the event such parapet wall does not fully screen all rooftop equipment, then the rooftop equipment shall be enclosed by a screen constructed of one (1) of the primary materials used on the primary facade of the building so as to achieve complete screening.

**7. Wall-Mounted Mechanical Equipment and Meters**

Wall-mounted mechanical equipment should not be placed on the front facade of a building or on a facade that faces a right-of-way to the maximum extent reasonably practicable. Wall-mounted mechanical equipment, including air conditioning or HVAC equipment and groups of multiple utility meters, shall be screened from view from streets; from residential, public,

and institutional properties; and from public areas of the site or adjacent sites through the use of sight-obscuring enclosures constructed of one (1) of the primary materials used on the primary facade of the structure or trees or shrubs that screen the equipment from view year around.

**8. Ground-Mounted Mechanical Equipment and Utility Fixtures**

In addition to the requirements and standards set forth in Subsection 5.4.J, ground-mounted above-grade mechanical equipment shall be screened by ornamental fences, screening enclosures, trees, or shrubs. Such equipment and fixtures shall be:

- a. Installed underground within a vault to the maximum extent practicable.
- b. Installed away from the intersection of public streets rights-of-way to the maximum extent reasonably practicable as determined by the Director. When this standard is deemed impracticable an alternative placement shall be reviewed and determined by the Director.
- c. Installed outside of any street medians, vehicular, and pedestrian way.

**9. Outdoor Storage**

Outdoor storage permitted as an accessory use through the Final Development Plan review process shall meet all of the following requirements as well as design criteria found in Subsection 6.4.G.9.g.

- a. Each outdoor storage area shall be incorporated into the overall site design and screening shall be complimentary in design to the primary structure on the site and shall be located at the rear or side of the primary structure. The outdoor storage shall not be located in front of the primary structure. Surfacing of the outdoor storage area shall be asphalt or concrete. Recycled asphalt, recycled concrete or equivalent may be considered for industrial uses, and the final approval of the alternative shall be the final decision maker for the application.
- b. Goods stored in an approved outdoor storage area shall be limited to storage of materials associated with the business on the lot; business of vehicle storage; or storage of businesses' vehicles and equipment.
- c. If the outdoor storage area is covered, then the covering shall be designed to be complimentary to the principal structure by integrating the same roofing materials and color, and roof slope as the primary structure.
- d. Each outdoor storage area shall be screened from view from all property lines and adjacent rights-of-way by an opaque fence or wall between six (6) and eight (8) feet in height that is compatible with the architecture and materials of the primary structure. Additionally, two (2) foot by two (2) foot masonry columns shall be placed a minimum of every seventy-five (75) feet of fence length. Materials may not be stored higher than the height of the fence or wall. The perimeter of the fence or wall must be landscaped with a ten (10)-foot wide strip containing a minimum of one (1) tree and twenty-five (25) shrubs and ornamental grasses for every forty (40) linear feet of fence or wall.
- e. A landscaped earth berm may be used instead of or in combination with a required fence or wall. The total height of the screening, including fence and berming, shall not exceed the maximum fencing height requirement.
- f. No materials may be stored in areas intended for vehicular or pedestrian circulation including emergency access.

- g. Additional Screening for Outdoor Storage for Industrial Uses and Commercial Vehicle Storage: The following design criteria shall be required in addition to the design criteria above and design criteria found in Subsection 3.3.G.9:
  - i. A minimum thirty (30) foot wide planting area composed of screening landscaping is required around the perimeter of the site when the site is adjacent to residential districts. The thirty (30) foot wide planting area shall not be located within a street right-of-way.
  - ii. A minimum fifteen (15) foot wide planting area composed of screening landscaping is required around the perimeter of the site when the site is adjacent to non-residential districts or street rights-of-way. The fifteen (15) foot wide planting area shall not be located within a street right-of-way.
  - iii. No outdoor storage shall occur within a front or side setback on the lot.

#### 10. Cluster Mailbox Facilities

Cluster mailbox facilities shall follow the following design standards:

- a. Cluster mailbox facilities shall be conveniently located for residents and not impede vehicular traffic or create access or safety conflicts with pedestrians.
- b. Cluster mailbox facilities shall be located on a concrete pad with concrete walk access to a sidewalk.
- c. Cluster mailbox facilities shall be located in a properly lighted area for safety and convenience.

### H. Fencing and Walls

#### 1. Purpose

The purposes of these fencing and wall standards are:

- a. To permit the construction of appropriate fences and walls while preventing the monotonous appearance of uninterrupted walls and fences from dominating the Town's streetscapes;
- b. To establish a generally consistent landscaped buffer along major roadways and community entrance corridors, in lieu of more typical fencing and walls, that provides an element of consistency between individual developments and enhances the rolling topography and rural character of the Town; and
- c. To promote a more open character for development that visually integrates such development with the surrounding community.

#### 2. Applicability

These fencing and wall standards shall apply to all development.

#### 3. Fences and Walls Permitted as Accessory Uses

Fences and walls are permitted in the various zone districts as accessory uses in accordance with the limitations provided in this Chapter.

#### 4. Location

- a. Fences and walls must be located within or on the property lines and maintained by the property owner.
- b. A fence or wall located in interior side or rear yard areas that abut an interior side property line or rear property line of another property may be located within or on the property line; except, that if the side or rear property line is adjacent to a driveway, alley or street, the site distance triangle requirements shall apply.
- c. Fences adjacent to sidewalks must be placed at least four (4) feet from the edge of the sidewalk. Gates adjacent to sidewalks shall open inward to the property.

- d. Fences shall be required adjacent to ditches when ditches are immediately adjacent to or in close proximity to sidewalks, trails, and other pedestrian ways. Such fences shall conform to the open space, parks, and trails fence standards.

#### **5. Height Restrictions**

- a. A fence located in a front yard or street side yard area shall have a maximum height of forty-two (42) inches within the front yard or street side yard setback or forward of the front face of the principal structure, whichever is greater. Such fence shall be not more than fifty (50) percent opaque. A wall located in a front yard area shall have a maximum height of three (3) feet.
- b. Fences abutting open space, parks, and trails shall be limited to four (4) feet in height and shall be not more than fifty (50) percent opaque. The finished side of the fence shall face the open space, park, or trail area.
- c. No fence in any district shall exceed six (6) feet in height; except:
  - i. Fences may be up to eight (8) feet in height in certain districts pursuant to Subsection 6.4.G.9. Outdoor Storage.
  - ii. Fences around a court (e.g., tennis, squash racquet, squash tennis or badminton) or around a publicly owned recreation area may exceed six (6) feet in height if constructed of limited solid material.

#### **6. Construction Standards for Fences**

- a. Compliance with Building Code: Fences must be constructed to meet the adopted building code of the Town. Fences and walls shall be constructed of durable, easily maintained materials such as, but not limited to, stone or simulated stone, brick, vinyl, or wood sections. All wood fence materials shall be treated wood or wood with natural resistance to decay, or equivalent.
- b. All fences must be of durable material and kept in good repair. Fence posts and all vertical members of a fence shall be plumb.
- c. The finished side of the fence or wall shall face the adjacent street, trail, open space, park, or common area.
- d. Open fencing styles may include wire mesh attached to the interior of the fence.

#### **7. Restrictions Regarding Certain Materials**

- a. Fences in the LI zoning district may include up to four (4) strands of barbless wire, with the lowest strand at least six (6) feet above ground level. The barbless wire may be placed vertically or at a forty-five (45) degree angle; provided, that it does not extend across the property line.
- b. Electric fences and barbed wire stock fences are permitted only in the AG zoning district. Barbed wire or electric fences shall not be placed adjacent to a residential zone, open space, park, trail, or street.
- c. Fences constructed primarily of sheet metal, chicken wire, wafer board, particleboard, plywood, or any other substandard, not durable or unsafe material are prohibited.

#### **8. Fences within Residential Districts**

##### **a. Fencing Required**

- i. For new residential development, wing fencing, street side fencing, and fencing against open space, parks and landscape tracts shall be required and in a manner pursuant to this FDC as applicable.

#### **9. Fences and Walls in Districts Adjacent to Residential Districts**

- a. Chain link, wire mesh, or other similar products shall be prohibited.

- b. In the B, NC, RC, LI, and PUD zoning districts, a solid material fence, wall, or a combination of landscaped earthen berms, fences and walls shall be constructed between land uses when adjacent to a residential zone or district. Such buffer shall consider the proximity, context, and nature of uses in the non-residential district for proper mitigation.

#### 10. Perimeter Fencing and Walls

##### a. *Uninterrupted Fencing and Walls Prohibited*

The use of uninterrupted fencing and walls to separate developments from perimeter streets, adjacent developments and the surrounding community is prohibited.

##### b. *Perimeter Fencing*

Where perimeter fencing or walls are provided around a subdivision or development, such fences shall be subject to the following standards:

- i. Perimeter fencing shall include columns at termini, changes of direction, and runs greater than two-hundred (200) feet. Individual columns shall be a minimum of two (2) feet by two (2) feet, with a minimum of one (1) foot projecting in front of the fence towards the street. Columns shall include a cap detail for visual interest.
- ii. A variety of landscaping shall be provided in the right-of-way buffer in combination with any of the fencing options to incorporate seasonal color, plant variety, and berming to break up the visual mass of walls and fences. Landscaped berms may be used in lieu of fencing or walls or in combination with fencing or walls. Such berms shall incorporate the curvilinear characteristics of natural landforms.
- iii. Fences or walls shall not exceed six (6) feet in height.

### 16.6.5 TRANSPORTATION AND ACCESS

#### A. Purpose

The purpose of this Section is to support the creation of a highly connected transportation system within the Town in order to provide choices for drivers, bicyclists, and pedestrians; increase effectiveness of municipal service delivery; promote walking and bicycling; connect neighborhoods to each other and to local destinations such as employment, schools, parks, and shopping centers; reduce vehicle miles of travel and travel times; improve air quality; reduce emergency response times; mitigate the traffic impacts of new development, and free up arterial capacity to better serve regional long-distance travel needs.

#### B. Applicability

The standards of this Section 6.5 shall apply to all new development and expansion of existing buildings except for development on a single-family detached lot in an approved subdivision.

#### C. Traffic Impact Mitigation

A Traffic Impact Analysis shall be required with application submittal unless waived or modified by the Town Engineer. The Town Engineer may require additional information or studies.

#### D. Streets and On-Site Vehicular Circulation

##### 1. Street Standards

All streets shall meet the standards and requirements set forth in Subsections 5.4.G and H, the Town Transportation Master Plan and the Town Standards and Specifications.

##### 2. Street Connectivity

###### a. Purpose

Street and block patterns should include a clear hierarchy of well-connected streets that distribute traffic over multiple streets and avoids traffic congestion on principal routes. Within each residential development, the access and circulation system should accommodate the safe, efficient, and convenient movement of vehicles,

bicycles, and pedestrians through the development, and provide ample opportunities for linking adjacent neighborhoods, properties, parks, schools, shopping, and land uses.

**b. Vehicular Access to Public Streets**

Any development shall be required to provide adequate vehicular access to public streets for circulation, and public safety unless deemed impractical by the Director due to topography, natural features, or the configuration of adjacent developments.

**c. Connections to Vacant Land**

Where new development is adjacent to land likely to be developed or redeveloped in the future, all streets, bicycle paths, and access ways in the development's proposed street system shall continue through to the boundary lines of the area to provide for the orderly subdivision of such adjacent land or the transportation and access needs of the community. In addition, all redevelopment and street improvement projects shall take advantage of opportunities for retrofitting existing streets to provide increased vehicular and pedestrian connectivity to maximum extent practicable.

**d. Access**

- i. All driveways shall be paved in concrete or asphalt.
- ii. All non-residential development shall be designed to allow for cross-access to adjacent properties to encourage shared parking and shared access points on public or private streets. When cross-access is deemed impractical by the Director on the basis of topography, the presence of natural features, vehicular safety, or convenience factors, this requirement may be waived provided that appropriate bicycle and pedestrian connections are provided between adjacent developments or land uses. Cross access easements shall be referenced as a note on the plat.
- iii. Whenever feasible, there shall be no direct driveway access (ingress or egress) from any single-family residential lots to any non-residential collector street, arterial street, section line roadway or highway. Whenever feasible, all single-family residential lots driveway access shall be limited to residential collector and local residential streets.

**e. Cul-de-Sacs and Dead-End Streets**

The use of dead end streets or cul-de-sacs should be minimized unless their use is required by site constraints including but not limited to topography, the preservation of natural features, open space, and trail corridors. Should they be incorporated, a view corridor, at the cul-de-sac head or dead-end street, a minimum of thirty-five (35) feet in width shall be provided to maintain open views and pedestrian access. View corridors shall be created in a separate tract from buildable lots. View corridors shall contain a pedestrian walkway or trail connection whenever possible unless deemed unfeasible by the Town.

**f. Neighborhood Circulation**

Street connections shall connect neighborhoods to each other and to local destinations such as schools, parks, greenbelt trail systems, and shopping centers, while minimizing neighborhood cut-through vehicle traffic movements that are non-local in nature.

**g. Gated Communities Prohibited**

Gated communities that feature entry guardhouses, gates across access routes, or similar features are prohibited.

### 3. Block Standards

#### a. *Purpose*

Block standards are designed with the following intents:

- i. To help break-down the scale and size of developments into a series of smaller, more human-scale, and walkable blocks.
- ii. To ensure that blocks are organized in terms of both their orientation and size in a manner that limits disturbance of a site's natural features.
- iii. To ensure that residential developments incorporate a well-defined pattern of blocks that provide frequent connections and serve as a framework for a varied mix of residential uses.

#### b. *General Design Considerations*

Generally, blocks shall be designed subject to the following considerations:

- i. To provide for adequate building sites suitable to the special needs of the type of use contemplated.
- ii. To accommodate the requirements of this FDC for lot sizes and dimensions.
- iii. To create convenient access and control, and safety of vehicular and pedestrian traffic circulation, and emergency vehicles.

#### c. *Maximum Block Lengths*

The maximum length of blocks between intersecting streets shall be one-thousand two-hundred (1,200) feet. The average block face across each development site shall be a maximum of six-hundred (600) feet. In cases where physical barriers or property ownership creates conditions where it is appropriate that these standards be varied, the length may be increased or decreased to meet the existing conditions having due regard for connecting streets, circulation of traffic, and public safety.

### E. Standards for Emergency Lanes and Access

1. Emergency access, required by the Fire District, shall meet the following requirements:

- a. The access must be able to support the weight of emergency apparatus.
- b. The access must be a minimum of twenty-six (26) feet wide and usually run in a fairly straight line unless coordinated and approved by the Fire District.
- c. The access must be comprised of an all-weather surface.
- d. The access must be maintained and usable at all times during the year.
- e. The point of entry must be signed subject to district requirements.
- f. Any form of barricade shall be subject to district requirements.

### F. Standards for Pedestrian Facilities

#### 1. Sidewalks

- a. All sidewalks shall be designed to comply with the Town's Standards and Specifications.

#### 2. On-site Pedestrian Walkways

##### a. *Continuous Pedestrian Access*

Pedestrian walkways shall form an on-site circulation system that minimizes conflict between pedestrians and traffic at all points of pedestrian access to streets, sidewalks, on-site parking and building entrances.

##### b. *On-site Pedestrian Connections*

Final Development Plans shall orient to pedestrian access points and connections to surrounding street and trails networks, to destinations such as schools or shopping, and to pedestrian linkage points on adjacent parcels, including building

entrances, transit stops, walkways, and signalized street crossings. On-site pedestrian walkways shall connect (1) building entrances to one another and (2) from building entrances to public sidewalk connections and existing or planned transit stops. If buildings are not placed directly adjacent to the public sidewalk, then pedestrian walkways shall link the principal pedestrian site access to building entrances. All developments that contain more than one (1) building shall provide walkways between the principal entrances of the buildings.

**c. Multi-Family On-Site Walkways**

For internal circulation of multi-family development all sidewalks shall be detached and separated by a tree lawn that is a minimum of eight (8) feet in width except where adjacent to parking.

**d. Through-Block Connections**

Within all developments, to the maximum extent reasonably practicable, pedestrian ways, crosswalks, or multi-purpose trails no less than five (5) feet in width, located within a tract or easement a minimum of thirty (30) feet in width, shall be constructed near the center and entirely through any block that is eight-hundred (800) feet or more in length.

**e. Cul-de-sacs and Dead-end Streets**

Where residential developments have cul-de-sacs or dead-end streets, such streets shall be connected to the closest local or collector street or to cul-de-sacs in adjoining subdivisions via a sidewalk or multi-use path, except where deemed impractical by the Director.

**3. Trails**

- a. Trails shall be located and constructed in general conformance with the Town's Comprehensive Master Plan, the POST Master Plan and Section 6.3 of this FDC.
- b. Subdivisions shall provide trail connections to future adjacent development and existing adjacent trails.
- c. The minimum width for a trail corridor shall be thirty (30) feet.
- d. If a trail is located on land not dedicated to the Town, a public access easement shall be granted by identification on the plat and by plat note.

**G. Standards for Bicycle Facilities**

**1. Bicycle Parking**

All development shall provide bicycle parking areas that comply with the following standards:

**a. Location**

Bicycle parking spaces shall be conveniently located and adjacent to pedestrian walkways, but in no case shall such facilities be located farther than one-hundred (100) linear feet from the primary building entrance.

**b. Spaces Required**

Bicycle parking spaces shall be provided at the following rates:

- i. A minimum of two (2) bicycle parking spaces or one (1) bicycle parking space per twenty (20) off-street parking spaces for all non-single family residential uses, whichever is greater unless deemed impractical by the Director.

**c. Securing Device**

A rack or other structure shall be provided to secure parked bicycles.

## 16.6.6 OFF-STREET PARKING AND LOADING

### A. Purpose

This Section is intended to provide for the location and design of off-street parking areas to accommodate motor vehicles, while balancing the needs of pedestrians, bicyclists, and transit users. Parking areas are secondary and supportive to the primary land uses on the site and parking lot design should reduce the prominence of these areas while emphasizing the primary facade and orienting pedestrians toward the principal entranceways and walkways.

### B. Applicability

#### 1. Generally

- a. The off-street parking and loading standards of this Section shall apply to all parking lots and parking structures accessory to any new building constructed and to any new or changed use in every district.
- b. The requirements of this Section shall apply to all temporary parking lots and parking lots that are the principal use on a site.

#### 2. Expansions and Enlargements

The standards of this Section shall apply when an existing structure or use is expanded or enlarged. Additional off-street parking and loading spaces shall be required to serve the enlarged or expanded area. Based off anticipated or historical use and patterns, the number of off-street parking and loading spaces provided for the entire use (pre-existing plus expansion) may be required to equal one-hundred (100) percent of the minimum ratio established in this Section.

### C. Parking Lot Layout and Design Plan

For all proposed parking lots, the applicant shall submit a parking lot layout and design plan for review and approval by the Director. The plan shall contain sufficient detail to enable the Director to verify compliance with this Section 6.6. Subject to approval of the Director, the parking layout and design plan may be combined with other plans required under this FDC, such as the landscaping plan required in Section 6.4.

#### 1. Minimum Plan Requirements

- a. The parking lot layout and design plan shall be prepared by a design professional.
- b. All parking layout and design plans and Final Development Plans are subject to review and approval by the Director to ensure that provisions have been made to minimize interference with street traffic flow and assure safe interior vehicular and pedestrian circulation, transit, and parking.

### D. Off-Street Parking Requirements

#### 1. Schedule A

Unless otherwise expressly stated in this FDC, off-street parking spaces shall be provided in accordance with Table 6.6-1.

- a. Fleet parking shall be in addition to the minimum parking calculated from Table 6.6-1. One fleet parking space shall be provided for each fleet vehicle. Parking of fleet vehicles outside of a building shall be classified as outdoor storage and shall be required to be screened in accordance with Subsection 6.4.G.9.
- b. Development with zoning or development approvals that would permit a future change of use that will require additional parking to meet the standards of this Section shall provide an undeveloped area on the site that can accommodate any future parking needs.

- c. Off-Street Parking Location:
- i. Off-street parking for residential uses shall be located within approximately two-hundred fifty (250) feet of the primary building entrance of the primary building.
  - ii. Off-street parking for non-residential uses shall be located within six-hundred (600) feet of the primary building entrance of the primary building.
  - iii. Off-street parking shall be located on the same lot or parcel of land as the structure they are intended to serve unless off-site parking is approved through the process in Subsection 6.6.E.2.
  - iv. Off-street parking spaces for non-residential uses shall not be located in front of garage doors.
  - v. Off-street parking spaces for non-residential uses may only be located adjacent to building doors when a pedestrian walkway is provided between the building and all parking spaces on that side of building.
  - vi. The following shall count toward the minimum parking requirement:
    - (A) Surface parking;
    - (B) Accessible parking;
    - (C) Vanpool and carpool parking;
    - (D) Electrical vehicle charging station parking; and
    - (E) Structured parking, underground parking and parking within, above or beneath the building(s) it serves.

| <b>TABLE 6.6-1: OFF-STREET PARKING SCHEDULE A</b>         |  |   |
|---|--|---|
| <b>“DU” = DWELLING UNIT      “SF” = GROSS SQUARE FEET</b> |  |   |
| <b>USE CATEGORY</b>                                       | <b>USE TYPE</b>  | <b>OFF-STREET SPACES REQUIRED</b>   |
| Household Living Residential                              | Dwelling, Duplex   | 2 per du  |
|   | Dwelling, Live/Work  | See Subsection 6.6.D.3  |
|   | Dwelling, Manufactured Home                                | 2 per du  |
|   | Dwelling, Multi-Family                                     | 1.5 spaces per efficiency, studio or 1-bedroom du; 2 spaces per du with 2 or more bedrooms, plus 1 guest space per 3 du's |
|   | Dwelling, Single-Family Attached                           | 2 spaces per du, + 1 guest space per 3 du's   |
|   | Dwelling, Single-Family Detached                           | 2 spaces per du   |
|   | Manufactured Home Park                                     | 2 spaces per du, + 1 guest space per 4 du's   |
|   | Model Home   | See Subsection 6.6.D.3  |
| Group Living  | Group Home   | See Subsection 6.6.D.3  |
|   | Retirement Home, Nursing Home, or Assisted Living Facility | See Subsection 6.6.D.3  |

| TABLE 6.6-1: OFF-STREET PARKING SCHEDULE A    |  |   |
|---|--|---|
| “DU” = DWELLING UNIT “SF” = GROSS SQUARE FEET |  |   |
| USE CATEGORY                                  | USE TYPE   | OFF-STREET SPACES REQUIRED  |
| Aviation                                      | Helistop   | See Subsection 6.6.D.3  |
| Cemetery                                      | Cemetery   | See Subsection 6.6.D.3  |
| Child Care                                    | Child Care Center  | 1 per 6 children of licensed capacity   |
| Community Facilities                          | Community Center (Public)  | See Subsection 6.6.D.3  |
|   | HOA/Metro District Facility                                      | See Subsection 6.6.D.3  |
|   | Recreation Center (Indoor/Outdoor)                               | See Subsection 6.6.D.3  |
|   | Public Safety Station  | See Subsection 6.6.D.3  |
|   | Transit Center   | See Subsection 6.6.D.3  |
| Cultural Facilities                           | Library  | 1 per 400 sf  |
|   | Museum   | 1 per 400 sf  |
| Educational Use                               | College or University  | See Subsection 6.6.D.3  |
|   | Instructional Studio   | 1 per 300 sf  |
|   | School (public or private)                                       | See Subsection 6.6.D.3  |
| Human Health Services                         | Dental or Medical Office, Clinic, Lab                            | 1 per 300 sf  |
|   | Emergency Room   | 1 per 200 sf  |
|   | Hospital   | See Subsection 6.6.D.3  |
|   | Substance Abuse Treatment Facility, Outpatient                   | 1 per 200 sf  |
|   | Urgent Care Center   | 1 per 200 sf  |
| Natural Medicine                              | Natural Medicine Healing Center                                  | 1 per 300 sf  |
|   | Natural Medicine Cultivation, Manufacturing, or Testing Facility | 1 space per 300 sf. of floor area; or 1 space per employee on maximum shift                                   |
| Park and Open Space                           | Athletic Fields and Courts                                       | See Subsection 6.6.D.3  |
|   | Parks/Open Space   | See Subsection 6.6.D.3 for Trailheads, Neighborhood and Community Parks; No parking required for Pocket Parks |
| Religious Assembly                            | Religious Assembly   | See Subsection 6.6.D.3  |
| Telecom. Facilities                           | Telecom Facilities   | none  |
| Utility Facilities                            | Utility Facility, All types                                      | See Subsection 6.6.D.3  |
| Agricultural                                  | Agricultural Cultivation   | See Subsection 6.6.D.3  |

| TABLE 6.6-1: OFF-STREET PARKING SCHEDULE A    |   |   |
|---|---|---|
| “DU” = DWELLING UNIT “SF” = GROSS SQUARE FEET |   |   |
| USE CATEGORY                                  | USE TYPE  | OFF-STREET SPACES REQUIRED  |
|   | Agricultural Grazing                                | See Subsection 6.6.D.3  |
| Animal Sales and Care                         | Animal Hospital, Large Animals (Indoor)             | See Subsection 6.6.D.3  |
|   | Animal Hospital, Large Animals (outdoor facilities) | See Subsection 6.6.D.3  |
|   | Animal Hospital, Small Animals (Indoor)             | See Subsection 6.6.D.3  |
|   | Animal Hospital, Small Animals (outdoor facilities) | See Subsection 6.6.D.3  |
|   | Horse Boarding, Training, Riding, Instruction       | See Subsection 6.6.D.3  |
|   | Kennel or Animal Day Care (Indoor)                  | See Subsection 6.6.D.3  |
|   | Kennel or Animal Day Care (outdoor facilities)      | See Subsection 6.6.D.3  |
| Assembly                                      | General Assembly Uses                               | 1 per 4 seats of principal assembly area for fixed seating. If no fixed seating, see Subsection 6.6.D.3     |
| Financial Institution                         | Automated teller machine (freestanding)             | Vehicle stacking  |
|   | Bank  | 1 space per 300 sq. ft. of gross floor area   |
|   | Bank, with drive-through or drive-up service        | 1 per 300 sf (plus vehicle stacking spaces for drive-through)   |
| Food and Beverage Service                     | Bar/Tavern  | 1 space per 3 seats plus 1 space per employee on maximum shift  |
|   | Bar/Tavern with outdoor seating area                | 1 space per 3 seats plus 1 space per employee on maximum shift  |
|   | Nightclub   | 1 per 3 seats or if no fixed seating, then based on max capacity plus 1 space per employee on maximum shift |
|   | Restaurant  | 1 space per 3 seats plus 1 space per employee on maximum shift  |
|   | Restaurant, with drive-through or drive-up service  | 1 space per 3 seats plus 1 space per employee on maximum shift plus vehicle stacking space                  |
|   | Restaurant, with outdoor seating area               | 1 space per 3 seats plus 1 space per employee on maximum shift  |
| Office  | Office, Business or Professional                    | 1 per 300 sf  |
| Recreation/ Entertainment, Indoor             | Commercial Amusement, Indoor Minor                  | See Subsection 6.6.D.3  |
|   | Commercial Amusement, Indoor Major                  | See Subsection 6.6.D.3  |
|   | Fitness Studio                                      | See Subsection 6.6.D.3  |
|   | Shooting Range, Indoor                              | See Subsection 6.6.D.3  |

| TABLE 6.6-1: OFF-STREET PARKING SCHEDULE A    |  |  |
|---|--|--|
| “DU” = DWELLING UNIT “SF” = GROSS SQUARE FEET |  |  |
| USE CATEGORY                                  | USE TYPE   | OFF-STREET SPACES REQUIRED   |
|   | Arena/Stadium                                      | See Subsection 6.6.D.3   |
| Recreation/<br>Entertainment,<br>Outdoor      | General Outdoor<br>Recreation, Commercial<br>Minor | See Subsection 6.6.D.3   |
|   | General Outdoor<br>Recreation, Commercial<br>Major | See Subsection 6.6.D.3   |
|   | Golf Course  | 4 per green  |
|   | Recreational vehicle park                          | See Subsection 6.6.D.3   |
| Retail Sales<br>and Service                   | Funeral Parlor or Mortuary                         | See Subsection 6.6.D.3   |
|   | General Retail                                     | 1 per 250 sf   |
|   | Personal Service<br>Establishment                  | 1 per 250 sf   |
|   | Repair Shop  | 1 per 250 sf   |
| Vehicles and<br>Equipment                     | Car Wash   | 1 per employee max shift plus vehicle stacking   |
|   | Fuel Station                                       | 1 per 200 sf plus vehicle stacking   |
|   | Vehicle Service and Repair,<br>Heavy               | See Schedule B   |
|   | Vehicle Service and Repair,<br>Light               | 1 per 250 sf   |
| Visitor<br>Accommodation                      | Bed and Breakfast                                  | 1 space per guest room, plus 2 spaces for the permanent residents  |
|   | Hotel or Motel                                     | 1 space per guest room, plus 1 space per employee on the maximum shift, plus 50 percent of the spaces otherwise required for accessory uses (e.g., bars and restaurants) |
| Industrial<br>Service                         | Building Materials Sales                           | See Schedule B   |
|   | Contractor’s Shop with<br>Outdoor Storage          | See Schedule B and/or 6.6.D.3  |
|   | Heavy Equipment Sales,<br>Service and Rental       | See Schedule B and/or 6.6.D.3  |
|   | Industrial, Heavy                                  | See Schedule B and/or 6.6.D.3  |
|   | Industrial, Light                                  | See Schedule B and/or 6.6.D.3  |
|   | Research and<br>Development Facility               | See Schedule B and/or 6.6.D.3  |
| Manufacturing<br>and Production               | Heavy Manufacturing,<br>General                    | See Schedule B   |
|   | Light Manufacturing,<br>General                    | See Schedule B   |
|   | Mining and Mineral<br>Extraction                   | See Schedule B   |

| TABLE 6.6-1: OFF-STREET PARKING SCHEDULE A    |   |                            |
|---|---|----------------------------|
| “DU” = DWELLING UNIT “SF” = GROSS SQUARE FEET |   |                            |
| USE CATEGORY                                  | USE TYPE                                | OFF-STREET SPACES REQUIRED |
| Warehouse and Freight Movement                | Warehouse/Wholesale Distribution Center | See Schedule B             |
| Waste-Related Uses                            | Recycling Collection Point              | See Subsection 6.6.D.3     |

**2. Schedule B**

Uses subject to Off-Street Parking Schedule “B” shall provide the following minimum number of off-street parking spaces, as set forth in Table 6.6-2. Unless otherwise approved, lots containing more than one (1) activity shall provide parking in an amount equal to the total of the requirements for each individual activity that composes the use as listed in the table. For a multi-tenant building, each individual business shall calculate their parking requirement individually, not as an aggregate.

| TABLE 6.6-2: OFF-STREET PARKING SCHEDULE B            |                           |
|---|---------------------------|
| Activity  | Number of Spaces Required |
| Office area   | 1 per 300 sq. ft.         |
| Indoor sales area                                     | 1 per 250 sq. ft.         |
| Outdoor sales or display area (3,000 sq. ft. or less) | 1 per 750 sq. ft.         |
| Outdoor sales or display area (over 3,000 sq. ft.)    | 1 per 2,000 sq. ft.       |
| Indoor storage/warehousing/manufacturing area:        |                           |
| 1–5,000 sq. ft.                                       | 1 per 500 sq. ft.         |
| 5,001–10,000 sq. ft.                                  | 1 per 750 sq. ft.         |
| 10,001–50,000 sq. ft.                                 | 1 per 1,250 sq. ft.       |
| 50,001 sq. ft.+                                       | 1 per 1,500 sq. ft.       |
| Vehicle Service                                       | 1 per bay                 |

**3. Parking Requirements for Unlisted and Miscellaneous Uses**

Uses that reference this Section have widely varying parking and loading demand characteristics, making it impossible to specify a single off-street parking or loading standard. Upon receiving a development application for a use subject to this Section, the Director shall apply the off-street parking and loading standard specified for the listed use that is deemed most similar to the proposed use or establish minimum off-street parking requirements on the basis of a parking and loading study prepared by the applicant. Such a study shall include estimates of parking demand based on acceptable professional estimates as approved by the Director, and should include other reliable data collected from uses or combinations of uses that are the same as or comparable with the proposed use. Comparability will be determined by density, scale, bulk, area, type of activity, and location. The study shall document the source of data used to develop the recommendations.

**4. Maximum Number of Spaces Permitted**

**a. General Maximum Requirement**

For any use categorized as a “Commercial” or “Industrial” use in Chapter 3, off-street vehicle parking spaces shall not be provided in an amount that is more than one-

hundred twenty-five (125) percent of the minimum requirements established in Table 6.6-1, *Off-Street Parking Schedule A*. The maximum number of allowable parking spaces may be adjusted by the Director if the applicant provides written information documenting that the proposed commercial or industrial use would not be economically viable without such adjustment. The request shall be the minimum necessary variation from the standards.

**b. Exceptions**

- i. If application of the maximum parking standard would result in less than six (6) parking spaces, the development shall be permitted six (6) parking spaces.
- ii. Exceptions to the maximum parking requirement may be permitted by the Director if the proposed development has unique or unusual characteristics such as high sales volume per floor area or low parking turnover, which create a parking demand that exceeds the maximum ratio and which typically does not apply to comparable uses.

**c. Calculation of Maximum Parking Requirements**

For the purpose of calculating parking requirements, the following types of parking spaces shall not count against the maximum parking requirement, but shall count toward the minimum requirement:

- i. Accessible parking;
- ii. Vanpool and carpool parking;
- iii. Electrical vehicle parking; and
- iv. Structured parking, underground parking, and parking within, above, or beneath the building(s) it serves.

**E. Parking Alternatives**

The Director may approve alternatives to providing the minimum number of off-street parking spaces in accordance with the following standards.

**1. Shared Parking**

The Director may approve non-residential shared parking facilities for developments or uses with different operating hours or different peak business periods if the shared parking complies with all of the following standards:

**a. Location**

Non-residential shared parking spaces shall be located within approximately six-hundred (600) feet of an entrance unless approved by the Director.

**b. Shared Parking Study**

Applicants proposing to use shared parking as a means of satisfying off-street parking requirements shall submit a shared parking analysis that clearly demonstrates the feasibility of shared parking. The study shall be provided in a form established by the Director. It shall address, at a minimum, the size and type of the proposed development, location of required parking, the composition of tenants, the anticipated rate of parking turnover, and the anticipated peak parking and traffic loads for all uses that will be sharing off-street parking spaces. The applicant shall also demonstrate that any parking reduction requested as part of the shared parking study will not result in the spillover of parking onto other properties.

**c. Agreement for Shared Parking**

The parties involved in the joint use of off-street parking facilities shall submit a written agreement in a form to be recorded for such joint use, approved by the Director as to form and content. The Director may impose such conditions of approval as may be necessary to ensure the adequacy of parking in areas affected

by such an agreement. Recordation of the agreement shall take place before issuance of a building permit for any use to be served by the shared parking area. A shared parking agreement may be revoked only if all required off-street parking spaces will be provided in accordance with the requirements of Off-Street Parking Schedule A and shall not be amended or modified without Town consent.

## 2. Off-Site Parking

The Director may approve the location of required off-site parking spaces on a separate lot from the lot on which the principal use is located if the off-site parking complies with all of the following standards:

### a. *Location*

No off-site nonresidential parking space may be located more than six-hundred (600) feet from an entrance and no residential parking space more than two-hundred (200) feet (measured along the shortest legal pedestrian route) unless approved by the Director. Off-site parking spaces shall be connected to the use by acceptable pedestrian facilities. Off-site parking spaces may not be separated from the use served by a street right-of-way with a width of more than eighty (80) feet, unless a grade-separated pedestrian walkway, a traffic signal, a shuttle bus, or other traffic control is provided or other traffic control or remote parking shuttle bus service is provided.

### b. *Zoning Classification*

Off-site parking areas shall have the same zoning classification applicable to the primary use served.

### c. *Control of Site*

Off-site parking spaces shall be located within a lot or tract in common ownership by all the owners of the properties that will use the lot or tract.

### d. *Ineligible Activities*

- i. Off-site parking may not be used to satisfy the parking requirements for single-family residential uses.

### e. *Agreement for Off-Site Parking*

A written off-site parking agreement between the record owners shall be required. The agreement shall guarantee the use of the off-site parking area in perpetuity. An attested copy of the agreement between the owners of record shall be submitted to the Town for recordation in a form established by the Town Attorney. Recordation of the agreement shall take place before issuance of a building permit for any use to be served by the off-site parking area. An off-site parking agreement may be revoked only if all required off-street parking spaces will be provided in accordance with the requirements of this FDC. No use shall be continued if the parking is removed unless substitute parking facilities are provided, and the agreement shall not be amended or modified without Town consent.

### f. *On-street Parking*

On-street parking spaces in the right-of-way adjacent to the property may be counted to satisfy the minimum off-street parking requirements, if approved by the Director. In mixed-use districts, on-street parking meeting the above criteria shall be counted towards off-street parking requirements.

## 3. Old Town District Parking

### a. *Commercial Uses*

There shall be no minimum off-street parking requirements for any commercial use in the OTC district.

**b. Residential Uses**

There shall be minimum off-street parking requirements for any residential uses in the OTR District and for non-conforming residential uses in the OTC District.

**4. Other Eligible Alternatives**

At the Town's discretion, the Director may approve any other alternative to providing off-street parking spaces on the site of the subject development if the applicant demonstrates to the satisfaction of the Director that the proposed plan will protect surrounding neighborhoods, maintain traffic circulation patterns, and promote quality urban design to at least the same extent as would strict compliance with otherwise applicable off-street parking standards.

**F. Off-Street Loading Requirements**

No building or structure used for any commercial, business, industrial, or public/institutional use shall be erected, nor shall any such existing building or structure be altered so as to increase its gross floor area by twenty-five (25) percent, without prior provision for off-street loading space in conformance with the following minimum requirements:

**1. Loading Hours**

To the maximum extent practicable, loading and unloading, when not in a dedicated loading dock area, shall during off-peak or non-business hours to minimize disruption to businesses.

**2. Location of Off-Street Loading Facilities**

Loading facilities shall be in all cases on the same lot or parcel of land as the structure they are intended to serve and shown on the FDP. To the maximum extent reasonably feasible, loading areas shall be located to the rear of a site, shall not face adjacent residential areas or in an area with a residential zoning classification, and shall be oriented away from views from the street. Mitigation techniques, including appropriate siting and site design measures, may be required by the Director. Off-street loading facilities shall not obstruct or interfere with pedestrian ways, accessible parking, and emergency access and ways.

**3. Manner of Using Loading Areas**

No space for loading or unloading of vehicles shall be so located that a vehicle using such loading space projects into any street. Adequate access and turnaround area shall be provided on-site. Any required side or rear yard may be used for loading unless otherwise prohibited by this FDC. Service and off-street loading areas shall comply with the screening requirements for such areas set forth in Subsection 6.4.G.

**G. Computation of Parking and Loading Requirements**

**1. Fractions**

When measurements of the number of required spaces result in a fractional number, any fraction shall be rounded up to the next higher whole number.

**2. Multiple Uses**

Lots containing more than one (1) use shall provide parking and loading in an amount equal to the total of the requirements for all uses.

**3. Area Measurements**

Unless otherwise specified, all square footage-based parking and loading standards shall be computed on the basis of gross floor area of the use in question. Structured parking within a building shall not be counted in such measurement.

**H. Dimensions of Parking Spaces**

The parking configuration stated in the following Table 6.6-4 shall apply to all required off-street passenger vehicle parking.

| TABLE 6.6-4: PARKING DIMENSIONS |                   |              |             |         |           |         |
|---------------------------------|-------------------|--------------|-------------|---------|-----------|---------|
| Parking Angle                   | Curb Length       | Stall Length | Aisle Width |         | Bay Width |         |
|                                 |                   |              | One Way     | Two Way | One Way   | Two Way |
| A                               | B                 | C            | D           | D       | E         | E       |
| 90 degrees                      | 9 feet<br>10 feet | 19 feet      | 26 feet     | 26 feet | 64 feet   | 64 feet |
| 60 degrees                      | 10.5 feet         | 21 feet      | 18 feet     | 22 feet | 60 feet   | 64 feet |
| 45 degrees                      | 13 feet           | 20 feet      | 13 feet     | 20 feet | 53 feet   | 60 feet |
| 30 degrees                      | 18 feet           | 18 feet      | 12 feet     | 20 feet | 48 feet   | 56 feet |
| Parallel                        | 23 feet           | 8 feet       | 12 feet     | 20 feet | 20 feet   | 36 feet |

**1. Parking Dimensions for Miscellaneous Uses**

For miscellaneous uses authorized under Subsection 6.6.D.3, dimensions for non-passenger vehicle parking spaces and circulation shall be determined at FDP.

**I. Parking Design Standards**

**1. Purpose**

The general purpose statement for Off-Street Parking Requirements set forth in Subsection 6.6.A shall apply to the standards of this Section.

**2. Limitations on Parking Spaces in Front Yards and Setbacks**

The parking limitations set forth in Section 6.4 shall apply to the design standards of this Section.

**3. Design and Location of Parking Lots/Vehicular Stacking Spaces**

**a. Design and Maintenance**

- i. All parking lots/vehicular stacking spaces shall be designed, constructed, and drained in accordance with Town ordinances and regulations.
- ii. Parking lots/vehicular stacking spaces shall be continually maintained in compliance with the approved site and/or subdivision plan.
- iii. Each parking lot/vehicular stacking spaces shall meet all applicable landscaping, screening, and buffering requirements in Section 6.4 of this FDC.
- iv. Parking lots/vehicular stacking spaces and driveways designated to meet the minimum parking requirements shall be paved in concrete or asphalt. Recycled concrete, recycled asphalt or equivalent may be considered by the Director for non-public storage areas.
- v. For single-family residential drives longer than one-hundred (100) feet in length, the first one-hundred (100) feet shall be paved (concrete or asphalt). The remaining length of driveway shall be a paved or crushed surface.
- vi. Two-way internal circulation drives without parking spaces shall have a minimum drive width of twenty-six (26) feet. One-way internal circulation drives without parking shall have a minimum drive width of twelve (12) feet.

- vii. All parking areas shall be separated at least ten (10) feet from buildings, in order to allow room for sidewalks, landscaping, and other plantings between the building and the parking area. This separation may be eliminated in the rear of buildings in areas designed for unloading and loading of materials; this applies primarily to industrial and warehousing buildings.

**b. Vehicular Circulation**

- i. All parking areas shall be located and designed so as to avoid undue interference with the use of public streets and alleys. Parking areas shall provide suitable maneuvering room so that all vehicles may enter an abutting street in a forward direction. The backing of a motor vehicle onto a public street from a parking lot shall be prohibited unless approved by the Town Engineer.
- ii. Vehicle stacking shall not interfere with public streets.
- iii. Vehicle stacking shall not impede ingress, egress, or emergency access to the maximum extent practicable.

**4. Stacking Spaces for Drive-Through Uses**

In addition to meeting the off-street parking requirements of this Section, drive-through facilities specified in Table 6.6-4 shall comply with the following minimum stacking space standards unless modified by the Director pursuant to an accepted study identified in Subsection 6.6.D.3 for unique or specific uses:

| TABLE 6.6-5: SCHEDULE OF VEHICULAR STACKING SPACES       |                                   |                  |
|--|-----------------------------------|------------------|
| Type of Use  | Minimum Vehicular Stacking Spaces | Measured From    |
| Bank, teller lane  | 3                                 | Teller window    |
| Bank, ATM  | 2                                 | Teller machine   |
| Restaurant, with drive through                           | 8                                 | Pick up window * |
| Pharmacy, with drive through                             | 4                                 | Pick-up window * |
| Car Wash, automatic                                      | 6                                 | Bay entrance     |
| Car Wash, self-service                                   | 2                                 | Bay entrance     |
| Car Wash, full service                                   | 4                                 | Bay entrance     |
| Auto Service Station, gas pump island                    | 30 feet from each end of island   |                  |
| Other retail   | 4                                 | Pick-up window * |
| * To include at least 2 stacking spaces at the order box |                                   |                  |

**5. Handicapped Parking Requirements**

**a. Residential Uses**

Handicapped-accessible parking for residential uses shall be provided pursuant to the Americans with Disabilities Act Accessibility Guidelines (ADAAG) and the Federal Fair Housing Act.

**b. Non-Residential Uses**

Handicapped-accessible parking spaces shall be provided pursuant to the ADAAG.

**J. Prohibited Occupation of Parking Spaces**

- 1. Except for special and temporary events authorized by permit or as shown on an approved Final Development Plan, required parking spaces shall be available for the parking of operable passenger vehicles of residents, customers, patrons, and employees only, and shall not be used for the storage of vehicles or materials, for the parking of fleet vehicles

used in conducting the business or use, for the purpose of displaying goods, or for the purpose of advertising.

## 16.6.7 RESIDENTIAL USE CATEGORY DESIGN STANDARDS

### A. Purpose

The standards of this Section are intended to promote high-quality residential development and construction; protect property values; encourage visual variety and architectural compatibility; and promote an integrated character for the Town's neighborhoods. Specifically, the standards shall:

1. Promote new residential developments that are distinctive, have character, and relate and connect to established neighborhoods;
2. Provide variety and visual interest in the exterior design of residential buildings;
3. Provide for a variety of lot sizes and housing types for a range of households and age groups;
4. Enhance the residential streetscape and diminish the prominence of garages and parking areas;
5. Enhance public safety by preventing garages from obscuring main entrances or blocking views of the street from inside residences; and
6. Improve the compatibility of attached and multi-family residential development with the residential character of surrounding neighborhoods.

### B. Applicability

This Section applies to development of all uses classified as "residential" in the "use category" by Chapter 3, unless otherwise indicated.

### C. Alternative Equivalent Compliance

The alternative equivalent compliance procedure in Section 6.1 may be used to propose alternative means of complying with the intent of this Section.

### D. General Standards for All Residential Development

#### 1. Mix of Housing Types

##### a. Intent

- i. To promote a more diverse community through the provision of a variety of housing types.
- ii. To encourage developments that are not dominated by a single type of home or dwelling unit, within a narrow range of price points and densities.
- iii. To encourage "neighborhood-oriented" multi-family developments that incorporate a variety of housing types, such as a combination of duplex, townhomes, condominiums, apartments, live-work units, and single-family dwelling units in a range of sizes.

##### b. Diversification Standards

- i. Diversification Standards shall not apply to:
  - (A) All zone districts that do not allow residential uses.
  - (B) Certain zone districts that allow residential: RR and AG.

- ii. Residential development parcels, including parcels part of a phased development, shall provide a minimum mix of housing, based on the size of the development as required in Table 6.7-1 below:

| <b>TABLE 6.7-1: HOUSING DIVERSITY</b> |                                     |
|---------------------------------------|-------------------------------------|
| <b>Development Parcel Size</b>        | <b>Required Mix of Housing Type</b> |
| 0-40 Acres                            | 1 housing type                      |
| 41-80 Acres                           | 2 housing types                     |
| 81-160 Acres                          | 3 housing types                     |
| 161-320 Acres                         | 4 housing types                     |
| 321-640 Acres                         | 5 housing types                     |
| 641+ Acres                            | 6 housing types                     |

- iii. Housing types that apply to Table 6.7-1 include:
  - (A) Single-Family Detached;
  - (B) Duplex;
  - (C) Single-Family Attached - Townhouse;
  - (D) Multi-Family – six (6) units or less;
  - (E) Multi-Family – Apartments (seven (7) units or more); and,
  - (F) Live-Work units.
- iv. For purposes of Housing Type, front loaded garage products versus alley or rear-loaded garage products shall be considered a unique and separate Housing Type.
- v. For unlisted, unique or miscellaneous products such as age restricted products, patio homes, motor court products, or detached townhomes that are distinct from the housing types above may be considered for designation as unique housing types through the Preliminary Plat, Overlay Rezoning or PUD Rezoning processes.

**E. Additional Standards for Single-Family Detached and Attached Dwelling Units**

**1. Architectural Variety and Character**

**a. General Purpose**

The purposes of these architectural variety and character standards are to:

- i. Encourage creativity in design and architectural interest on all sides of single-family detached and attached dwelling units that results in attractive, long-lasting neighborhoods; and

**b. Applicability**

These standards shall apply to all uses classified as “single-family detached dwelling unit” and “single-family attached dwelling unit” by Chapter 3, for all new lots, in subdivisions created under this FDC except for lots located within the RR zone district or over two (2) acres in size.

**c. Architectural Variety**

**i. Design Standards**

- (A) No model plan elevation shall be repeated directly across any street from the same model plan and elevation.

- (B) No model plan elevation shall be repeated more than once every four (4) lots on the same side of the street. For single-family attached duplex buildings, each building shall be considered an elevation.
- (C) For elevations of the same model to be considered unique for the purpose of architectural variety, elevations shall be distinct in character, style, form, and massing.
- (D) Change in paint color shall not be considered distinct for the purposes of architectural variety.

ii. *Tracking*

- (A) It shall be the responsibility of the developer to maintain a record of home model variety for every development parcel.
- (B) It shall be the responsibility of the developer to disclose these architectural variety standards to potential homebuyers. Failure on the part of the developer to disclose these requirements shall not be grounds for relief from these architectural variety standards as applied to any individual home.

d. **Architectural Character**

Each single-family model plan and elevation shall demonstrate the following attributes:

i. *Design Standards*

- (A) Each elevation shall include a minimum of two windows (or one window and one door) per floor. Total face feet of such openings per floor shall not be less than twenty (20) square feet;
- (B) Each front and rear elevation shall include more than one wall plane with a horizontal separation of at least eighteen (18) inches. Articulation that adds shadow and visual interest is encouraged;
- (C) A variety of roof forms shall be used. Single unbroken roof pitches and pitches less than four-to-twelve (4:12) shall be avoided, except where such roof is an essential element of the architectural style. Where flat roofs are the dominant roof form, such roof shall include a parapet of at least eighteen (18) inches in height;
- (D) The roof shall extend beyond the primary façade by a minimum of one (1) foot except where a flat roof and parapet is incorporated.
- (E) An elevation of the home that faces a street, park, trail corridor, or open space area shall provide an enhanced elevation. An enhanced elevation shall provide three (3) or more of the following design enhancements listed in (1) through (5) below. Application of the design enhancement shall be applied in a manner that is consistent with the style of the home. Side and rear elevation design enhancements shall be consistent with the design elements of the front elevations.
  - (1) The addition of one (1) window or door;
  - (2) A change in wall plane by providing one (1) or more of the following options:
    - An additional wall plane change. Minimum six (6) feet in width and one (1) foot projection;
    - A projecting or cantilevered living space;

- A bay or boxed window.
  - (3) A covered porch or deck;
  - (4) The addition of architectural detail elements such as: window grids, shutters, eave brackets, exposed rafter tails, corbels, lintels, trellises, columns and pilasters;
  - (5) The use of a minimum of two (2) exterior cladding materials that may include materials such as masonry (cultured stone, stone, brick, stucco, or tile), lap siding, shingles, board and batten, or other decorative siding treatment consistent with style of the elevation.
  - (F) Columns of posts extending more than thirty-six (36) inches above the ground which support structural elements such as porches, decks, or roofs should appear to be of adequate mass to support the structure above. (No exposed four-inch by four-inch (4" x 4") posts shall be allowed more than thirty-six (36) inches above the ground). Columns supporting upper story decks should be a minimum of eight-inch by eight-inch (8" x 8") finished.
- ii. *Materials*
- (A) All exterior materials shall be of high quality, used in applications and treated appropriately to provide an attractive and long-lasting appearance. Vinyl siding, pressboard, and Exterior Insulating and Finish System (EIFS) are prohibited.
  - (B) When masonry cladding is used, it should be in locations where its mass is logical and appropriate. In instances where masonry wraps the exterior corner of the home, the masonry shall continue to a natural transition point such as an inside corner of a projecting wall, column, door, window, or other logical point. In cases where no such feature exists near the corner, the masonry wrap shall extend at least six (6) feet from the corner.

## 2. Orientation of Dwellings to the Street

Each residence shall have at least one (1) primary pedestrian doorway for access to the dwelling unit generally visible from the front lot line of the property and within twelve (12) feet of the most forward plane of the ground level living space within the house. On corner lots, the pedestrian doorway may face any adjacent street. For dwelling units that do not have street frontage but front onto a park or landscaped common area, the primary pedestrian doorway shall be oriented toward such common area and include a pedestrian walk that connects to adjacent streets.

## 3. Garages

The regulations for garages shall be applied to non-living space or storage areas within garages when used for the storage of automobiles or other items.

### a. Diversity of Garage Location

- i. Except for garages oriented to alleys, all single-family homes shall provide garages that meet one of the requirements below:
  - (A) Recessed garage where the primary garage door generally faces the front lot line and the garage is recessed a minimum of two (2) feet behind the most forward plane of the main floor living space or a front porch;

- (B) Projecting garages where the primary garage door generally faces the front lot line and the garage projects no more than fifteen (15) feet from the front door;
- (C) Side-loaded garages;
- (D) Garages recessed a minimum of two (2) feet beneath a second floor living space.

**b. Width/Facade Ratio**

The width of a front-loaded garage shall not exceed fifty-five (55) percent of the width of the front elevation for two-car garages or sixty-five (65) percent of the width of the front elevation for three-car garages.

**c. Three Car or More Garage Orientation**

The additional bay of any three (3) car or more garage shall:

- i. Have a different orientation from the first two (2);
- ii. Shall be off-set by at least two (2) feet from the first two (2) garages when having the same orientation; or
- iii. Shall be tandem to the first two (2).

**4. Minimum Front Porch**

Each home shall include a covered front porch. The front porch shall be a minimum size of fifty (50) square feet in floor area excluding the area required to access the front door and shall have a minimum depth of five (5) feet. For unique products or specific architectural style that may not accommodate a front porch, Alternative Equivalent Compliance and justification shall be provided.

**5. Townhomes**

- a. No more than six (6) townhome dwelling units may be attached in any single row or building cluster.
- b. Within each townhome building, individual dwelling units shall be differentiated through two (2) or more of the following methods:
  - i. Use of distinct variations in materials between individual dwelling units;
  - ii. Use of distinct variations in architectural style or features, such as a porch or similar feature, between individual dwelling units;
  - iii. Use of distinct variations in roof form;
  - iv. Variation in garage orientations; or
  - v. A variation in the plane of the front facade to provide a minimum three (3) foot variation between individual dwelling units.

**6. Motor Court Designs**

- a. Residential housing products oriented around a Motor Court shall have the following additional requirements:
  - i. The motor court, which includes the driveway on the shared tract and the private garage aprons on private lots, shall consist of colored pavers installed in decorative pattern;
  - ii. Each residential lot shall be provided with lot frontage on the motor court which provides access to a public street;
  - iii. Dwellings in the middle and rear of the motor court shall be oriented towards the motor court with both the primary pedestrian door and garage facing the motor court;

- iv. Dwellings on street side lots shall have the primary pedestrian door facing the street and the garage door shall face the motor court;
- v. The width of a two-car garage shall not exceed 67% of the width of the elevation;
- vi. Front doors shall be located within 8' of the face of the garage door and porches shall project past the face of the garage by at least two (2) feet;
- vii. A front porch that is a minimum of fifty (50) square feet and five (5) feet in depth inclusive of the front stoop is required on all models not adjacent to the street;
- viii. Street side models shall include a wrap-around porch that extends a minimum of twelve (12) feet wide on the side with a minimum depth of five (5) feet. The porch shall be a minimum of 100 square feet inclusive of the front stoop;
- ix. Windows are required in the garage door;
- x. No more than two (2) of the same model are permitted within a single motor court; and,
- xi. If two (2) of the same model do exist within the same motor court, they shall be of different elevations.

**F. Additional Standards for Multi-family Residential**

**1. Building Design and Character**

**a. General Purpose**

The purposes of these building design and character standards are to establish an approach to multi-family development that encourages creativity in design of buildings or dwelling units that results in attractive, long-lasting multi-family neighborhoods.

**b. Application**

These standards shall apply to all multi-family residential development within the Town. Multi-family development shall include multi-family buildings of six (6) units or less, and apartments.

**c. Building Orientation**

**i. Intent**

To create an integrated neighborhood appearance for multi-family developments that establishes a pattern that is integrated with adjacent uses instead of segregated as a separate sub-community.

**ii. Design Standards**

(A) The primary entrance and facade of individual buildings within a multi-family development shall be oriented, in the following order, towards:

- (1) Primary internal or perimeter streets, or
- (2) Common open space, such as interior courtyards, parks, or on-site natural areas or features with a clearly defined and easily accessible pedestrian circulation system. or
- (3) Other similar but unique features integrated into the design.

(B) Primary entrances and facades shall be integrated into the on-site pedestrian network and emphasized through entryway design.

**d. Architectural Character**

i. *Intent*

- (A) To improve the appearance of multi-family developments through the incorporation of architectural detailing, facade articulation, and other features designed to provide a more distinct character and pedestrian scale for multi-family buildings of all sizes.

ii. *Design Standards*

- (A) All sides of a multi-family building shall display a similar level of quality and architectural detailing. The majority of a building's architectural features and treatments shall not be restricted to a single facade. Building details, including roof forms, windows, doors, trim, and siding materials, shall reflect the architectural style of the building.
- (B) The maximum length of any multi-family building shall be one-hundred sixty (160) feet. Lengths exceeding one-hundred sixty (160) feet may be considered for buildings with greater articulation, variety in massing, and enhanced detail and also where contextual design is incorporated including the type and scale of adjacent uses or such buildings are located internal to the development.
- (C) At the perimeter of the development and where located adjacent to streets, parks, open space, trails, or lower density residential, buildings shall step down adjacent to such features or uses in a manner consistent with the context of the adjacent feature or use.
- (D) Blocky, uniform facades are prohibited. The facades of all multi-family buildings shall be articulated through the incorporation of two (2) or more of the following:
  - (1) Balconies;
  - (2) Bay or box windows;
  - (3) Insets or other relief in the wall plane;
  - (4) Porches;
  - (5) Dormers;
  - (6) Variations in materials; or
  - (7) Variations in roof forms.
- (E) External stairwells are prohibited. Stairwells shall be enclosed within the building or incorporated into the façade architecture. This provision shall also apply to motels and hotels.
- (F) The incorporation of a variety of roof forms is strongly encouraged. Generally, multi-family buildings shall incorporate roof pitches of between three-to-twelve (3:12) and twelve-to-twelve (12:12); however, alternative roof forms may be permitted at the discretion of the Director.
- (G) Roof overhangs shall be a minimum of twelve (12) inches to establish strong shadow lines and complement the pitch and architectural style of the structure.
- (H) Horizontal variations in materials along the facade of a multi-family building shall occur in conjunction with a change in wall plane, preferably at the inside corner of a wall.

**e. Architectural Variety**

i. *Intent*

- (A) To ensure that individual groupings of multi-family buildings within a larger development exhibit a distinct variation in size and mass.

ii. *Design Standards*

**(A) Apartments**

- (1) Apartment developments shall incorporate a variety of distinct building designs according to the scale of the development, as follows:

- One (1) model for every four (4) buildings minimum. Models shall be evenly utilized to the maximum extent practicable.

- (2) Distinct building designs, as required above, shall be easily distinguished through a minimum of two (2) of the following:

- A variation in length of thirty (30) percent or more;
- A variation in the footprint of the building of thirty (30) percent or more;
- A distinct variation in use of materials;
- A variation in the type of dwelling unit contained in the building that results in a significantly different scale and mass, i.e., apartments vs. townhomes or duplexes; or
- A distinct variation in building height and roof form.

- (3) Apartment buildings shall be designed to incorporate visually heavier and more massive elements at the building base, and lighter elements above the base. Upper stories shall not appear heavier or demonstrate greater mass than the lower stories of the building.

- (4) Apartment buildings shall provide concentrated dwelling unit access points. Monotonous access balconies and corridors running the length of a building shall be prohibited.

**f. Materials**

i. *Intent*

- (A) To maximize the quality, value, and longevity of multi-family neighborhoods through the use of durable materials that will minimize maintenance costs and improve the overall appearance of the development.

ii. *Design Standards*

- (A) Primary exterior building and roofing materials shall be constructed from durable materials with product warranties or an industry expected life of a minimum of twenty-five (25) years.

- (B) Vinyl siding and EIFS shall not be permitted.

**2. Parking and Garage Placement**

On-street parking spaces may be counted towards guest parking for a multi-family development, provided the on-street spaces are located on an adjacent or internal street that allows on-street parking. On-street parking spaces being counted towards the minimum requirement for guest parking shall be identified on plans at time of submittal to the Town.

Required dwelling unit parking shall be off-street and may consist of garages, driveways, and surface parking.

**a. Apartments**

- i. To the maximum extent reasonably feasible, garage entries, carports, parking lots, and parking structures shall be internalized in building groupings and located away from street frontages.
- ii. Parking lots and freestanding parking structures (detached garages or carports) shall not occupy more than thirty (30) percent of each perimeter public street frontage.
- iii. To the maximum extent reasonably practicable, freestanding parking structures (detached garages or carports) that are visible from perimeter public streets shall have enhanced architectural articulation and screened through a combination of landscaping and berms in order to reduce visual impacts on the streetscape.
- iv. Carports and common garages shall be limited to sixty (60) feet in length. Length may be increased to a maximum of one-hundred (100) feet with enhanced architecture. Garages shall be separated from each other by a landscape area at least fifty (50) feet in width.
- v. Garage doors of attached garages shall not comprise more than forty-five (45) percent of the total length of an apartment building's front facade, and the plane of not more than four (4) adjacent garage doors shall be offset by at least two (2) feet from the plane of any additional adjacent garage doors.
- vi. Detached garages and carports shall incorporate compatible materials, scale, colors, architectural details, and roof slopes similar to those of the primary multi-family buildings.
- vii. Rear walls of detached garages that back onto a perimeter street, park, open space, trail, or common area shall be articulated or punctuated through the use of two (2) or more of the following options every twenty (20) feet in length:
  - (A) Window openings defined by frames, sills and lintels;
  - (B) Projecting architectural features such as trellis structures spaced along the rear wall and coordinated with windows;
  - (C) Change in wall plane of at least twelve (12) inches;
  - (D) Vertical change in material or masonry pattern; or
  - (E) Change in roof form.

**3. Alleys**

To break up the appearance of long expanses of garages, a variety of garage setbacks and configurations along the length of the alley including change in wall plane and architectural features shall be incorporated.

**16.6.8 COMMERCIAL AND PUBLIC/INSTITUTIONAL USE CATEGORIES DESIGN STANDARDS**

**A. Alternative Equivalent Compliance**

The alternative equivalent compliance procedure in Section 6.1 may be used to propose alternative means of complying with the intent of this Section.

**B. Standards for the Old Town Commercial (OTC) District**

**1. Purpose**

These standards are intended to provide guidance for all mixed-use, commercial and public/institutional infill and redevelopment within the OTC District and to ensure that new development respects the small-town scale and historic context of the area. The standards will assist investors in making design choices that will have a positive impact on both the historic and future character of the OTC District and provide attractive, pedestrian-oriented structures and streetscape.

**2. Applicability**

These standards shall apply to development in the OTC District of any structure categorized in Chapter 3, as a “commercial” or “public/institutional” use.

**3. Site Layout**

**a. *Parallel to Lot Lines***

New construction shall be built parallel to lot lines to reflect the historical orientation of non-residential structures. Structures shall not be oriented at an angle to lot lines.

**b. *Building to Sidewalk Edge***

In the OTC District, the primary building facade for new buildings shall be located adjacent to the sidewalk edge to the maximum extent practicable. The building façade may be set back if pedestrian areas are incorporated that activate the street such as outdoor patios and seating.

**c. *Orientation of Primary Facade***

The primary facade of a structure shall be oriented to First Street.

**4. Building Front Width Pattern**

- a. A single, large, dominant building mass on a building front shall be avoided. Buildings shall integrate variation in height, texture, color and façade depth. All building facades shall have similar levels of architectural detailing.

**5. Building Design**

**a. *Historic Building Styles***

New designs shall draw upon the common elements of historic buildings. Examples of common elements include similar fenestration, cornice lines, building widths, and other exterior features.

**b. *Ground-Floor Pedestrian Interest***

- i. The ground floor of a new building or addition to a building shall encourage pedestrian activity by providing along primary pedestrian ways elements such as large display windows, awnings, kick plates and transoms, public art and landscaping, and decorative wall surfaces and trims.
- ii. Buildings shall avoid blank walls or a vacant lot appearance along streets, primary pedestrian ways, and adjacent residential.
- iii. All primary entry doors to the building shall be oriented to the adjacent street. Primary entry doors and entry ways into buildings shall feature at least three (3) of the numbered elements below:
- (A) Awnings;
  - (B) Recesses or projections;
  - (C) Arcades;
  - (D) Outdoor patios;
  - (E) Large display windows;

- (F) Decorative moldings that are integrated with other decorative moldings on the building; or
- (G) Accent landscaping beds.

**c. *Upper-Floor Distinction***

New buildings shall maintain the distinction between the upper floor and the street level.

- i. The distinction between the street level and upper levels should be expressed through detailing, changes in materials, and fenestration.
- ii. Upper floors shall be perceived as being more opaque than the lower floor.

**d. *Wall Articulation***

- i. Structure's having single walls exceeding fifty (50) feet in length shall incorporate a minimum of three (3) or more of the numbered choices below at least every fifty (50) feet in length:

- (A) Changes in color, graphical patterning, texture or material;
- (B) Projections, recesses, and reveals, expressing structural bays or other aspects of the architecture with a minimum change of plane of twelve (12) inches;
- (C) Windows and fenestration;
- (D) Awnings; or
- (E) Other projecting architectural features.

**e. *Roofs***

In the OTC District, the primary roof form for new buildings shall appear to be flat and include parapets. Additions to structures should have similar roof forms and pitches.

**f. *Building Materials***

- i. No more than twenty-five (25) percent of each façade of the building shall be finished with metal material.
- ii. Façade building materials shall not create excessive glare. Mirrored glass shall not be permitted.

**g. *Awnings***

- i. Awnings shall have a matte finish. Awnings with high-gloss finishes shall not be used.
- ii. Illuminated, plastic awnings shall be prohibited.
- iii. Awning colors shall be compatible with the overall color scheme of the façade.

**C. Standards for the Neighborhood Center (NC), Regional Commercial (RC), and Public Land and Institutions (PLI)**

**1. Purpose**

This Section is intended to promote high-quality building design, foster a more human scale and attractive street front in Commercial, Business, and Public Land and Institution Districts, project a positive image to encourage economic development in the Town, and protect property values both of the subject property and surrounding areas.

**2. Applicability**

These standards apply to development outside of the OTC District to any structure categorized in Chapter 3, as a "commercial," "public/institutional" use category.

### 3. Building Orientation

- a. All primary buildings shall be oriented towards a public street.
- b. If the proposed development consists of more than one (1) building, all primary and pad site buildings shall be arranged and grouped so that their primary orientation compliments and addresses parking areas, public spaces, pedestrian ways, other site amenities, and adjacent, existing development.
- c. Building functions such as garages, maintenance bays, loading and delivery areas, mechanical areas and other similar functions shall not be oriented towards the street.

### 4. Building Massing and Façade

#### a. *Building Mass*

A single, large, dominant building mass shall be prohibited. Buildings shall be designed to integrate variations in height, texture, color, and façade depth.

#### b. *Four-sided Architecture.*

All building facades shall have similar levels of architectural detailing.

#### c. *Wall Articulation*

Primary structures shall incorporate, in substantial and proportional means, three (3) or more of the following features at least every forty (40) feet in length:

- i. Changes in texture or changes in material;
- ii. Projections, recesses, and reveals, expressing structural bays or other aspects of the architecture with a minimum change of plane of twelve (12) inches;
- iii. Windows and fenestrations;
- iv. Awnings or other projecting architectural features; or
- v. Changes in roof line or form.

#### d. *Entrances*

Each primary structure shall have a clearly defined main pedestrian entrance featuring at least three (3) of the following elements:

- i. Canopies or porticos;
- ii. Overhangs;
- iii. Recesses or projections;
- iv. Arcades;
- v. Arches;
- vi. Peaked roof forms;
- vii. Outdoor patios;
- viii. Display windows;
- ix. Architectural tilework or moldings integrated into the building design; or
- x. Integrated planters or wing walls that incorporate landscaped areas or seating areas.

### 5. Roofs

- a. Where flat roofs are used, a parapet wall at least eighteen (18) inches in height shall be used on all sides of the structure. Long continuous runs of parapets shall be prohibited. Parapet detailing shall be integrated into overall building architecture.

- b. On all structures exceeding two (2) stories in height, roofs shall internally drain, and external scuppers and wall drains shall be prohibited.

**6. Ground Floor Treatment**

Buildings shall incorporate a human scale at ground level on commercial buildings and along street facades and entryways through the use of such scale elements as windows, doors, columns, and beams.

**7. Building Materials**

- a. No more than twenty-five (25) percent of each façade of the building shall be finished with metal material.
- b. Vinyl siding, EIFS, and smooth face block are prohibited.
- c. Façade building materials shall not create excessive glare when viewed from any public street or from any residential area. Mirrored glass is prohibited

**8. Bright Colors**

Intense, bright, or fluorescent colors shall not be used as the predominant color on any wall or roof of any primary or accessory structure. These colors may be used as building accent colors, but shall not constitute more than ten (10) percent of the area of each elevation of a building. Permitted sign areas shall be included in this calculation.

**16.6.9 MANUFACTURING AND LIGHT INDUSTRIAL CATEGORIES AND DESIGN STANDARDS**

**A. Purpose**

To encourage high-quality design appropriate for manufacturing and light industrial uses while promoting economic development, protecting adjacent uses and fostering a positive image for the community.

**B. Application**

All development or any structure in manufacturing and light industrial use categories in Chapter 3.

**C. Standards**

All standards from this Section 6.8.C. Standards for Neighborhood Center (NC), Regional Commercial (RC), and Public Land and Institutions (PLI) shall apply except as modified below.

**1. Wall Articulation**

Features shall be incorporated at least every one-hundred (100) feet in building length.

**2. Ground Floor Treatment**

Not applicable

**3. Materials**

No more than twenty-five (25) percent of each façade of the building facing a public street, open space, park, trail, or any residential area shall be finished with metal material.

**16.6.10 EXTERIOR LIGHTING**

**A. Purpose**

The general purpose of this Section is to require efficient outdoor lighting that is adequate for safety and convenience; in scale with the activity to be illuminated and its surroundings; directed to the surface or activity to be illuminated on-site; and prevent spillover, glare, and light pollution.

**B. Applicability**

**1. General**

All exterior lighting for any type of multi-family residential development, non-residential development, or common areas and streetlights within subdivisions shall comply with the standards of this Section, unless excepted in Subsection 6.10.B.3.

**2. Lighting Plan Requirement**

All non-residential developments and all multi-family residential developments shall submit a proposed exterior lighting plan. The plan must be submitted concurrently with the Final Development Plan. The exterior lighting plan shall include photometric plans and specifications for streetlights, parking lot lights, and exterior building lights. The specifications shall include details of the pole, fixture height and design, lamp type, wattage, and spacing of lights.

**3. Excepted Lighting**

The following types of lighting are excepted from the requirements of this Section.

- a. Soffit or wall-mounted luminaries that are permanently attached to single-family residential dwelling units, not to exceed the height of the eave.
- b. Public street and right-of-way lighting.
- c. Temporary decorative seasonal lighting.
- d. Temporary lighting for emergency or nighttime work and construction.
- e. Temporary lighting for performance areas, or special public events, and other similar events.
- f. Lighting for a special district, street, or building that, according to an adopted municipal plan or ordinance, is determined to require special lighting aesthetics as part of its physical character.
- g. Lighting for outdoor recreational uses such as ball fields, playing fields, tennis courts, and similar uses, provided that such lighting is reviewed subject to a Final Development Plan such that the purpose of this section is met.

**C. General Review Standard**

If installed, all exterior lighting shall meet the functional security needs of the proposed land use without adversely affecting adjacent properties or the community. For purposes of this Section, properties that comply with the design standards of Subsection 6.10.D below shall be deemed to not adversely affect adjacent properties or the community.

**D. Design and Illumination Standards**

Exterior lighting is not required except for purposes of public safety. However, if installed, all exterior lighting shall meet the following design standards:

1. Any light source or lamp shall be concealed or shielded with a full cut-off style fixture.
2. All fixtures shall utilize light emitting diode (LED) bulb types.
3. The maximum height of any light pole shall be twenty-five (25) feet. For parking lots larger than five (5) acres, the maximum height shall be thirty-five (35) feet if the pole is located at least one-hundred (100) feet from any residential use.
4. To the maximum extent practicable, lighting levels shall be uniform.
5. Floodlights shall not be permitted.
6. Lighting on automobile service station, convenience store, and other outdoor canopies shall be fully recessed into the canopy.
7. The style of light standards and fixtures shall be generally consistent with the style and character of architecture proposed on the site.
8. In no case shall exterior lighting add more than one (1) foot-candle to illumination levels at any point off-site adjacent to residential.
9. In no case shall exterior lighting add more than five (5) foot-candles to illumination levels at any point off-site adjacent to non-residential.

10. All outdoor light not necessary for security purposes shall be reduced, activated by motion sensor detectors, or turned off during non-operating hours.
11. Light fixtures used to illuminate flags, statues, or any other objects mounted on a pole, pedestal, or platform shall use a narrow cone beam of light that will not extend beyond the illuminated object.
12. For upward-directed architectural, landscape, and decorative lighting, direct light emissions shall not be visible above the building roofline.
13. No flickering or flashing lights shall be permitted, except for temporary decorative seasonal lighting.

#### **16.6.11 OPERATIONAL STANDARDS**

##### **A. Purpose**

The purpose of these operational standards is to prevent land or buildings within the Town from being used or occupied in any manner so as to create any dangerous, injurious, noxious, or otherwise objectionable conditions that would create adverse impacts on the residents, employees, or visitors on the property itself or on nearby properties.

##### **B. Applicability**

The provisions of this Section shall apply to all land within the Town.

##### **C. Standards**

###### **1. Vibration**

No vibration shall be produced that is transmitted through the ground and is discernible without the aid of instruments at or at any point beyond the lot line.

###### **2. Air Pollution**

There shall not be discharged into the atmosphere any contaminant for which threshold limit values are listed for working atmosphere by the American Conference of Governmental Industrial Hygienists in such quantity that the concentration of the contaminant at ground level at any point beyond the boundary of the property shall at any time exceed the threshold limit. Visible emissions of any kind at ground level past the lot line of the property on which the source of the emissions is located are prohibited.

###### **3. Odors**

Any condition or operation that results in the creation of odors, vapors, or gaseous emissions of such intensity and character as to be detrimental to the health and welfare of the public or that interferes unreasonably with the comfort of the public shall be removed, stopped, or so modified as to remove the odor.

###### **4. Electromagnetic Radiation**

It shall be unlawful to operate, or cause to be operated, any planned or intentional source of electromagnetic radiation for such purposes as communication, experimentation, entertainment, broadcasting, heating, navigation, therapy, vehicle velocity measurement, weather survey, aircraft detection, topographical survey, personal pleasure, or any other use directly or indirectly associated with these purposes that does not comply with the then-current regulations of the Federal Communications Commission regarding such sources of electromagnetic radiation.

###### **5. Materials and Waste Handling**

No person shall cause or permit any materials to be handled, transported, or stored in a manner that allows particulate matter to become airborne or liquid matter to drain onto or into the ground. All materials or wastes that might cause fumes or dust or that constitute a fire hazard or that may be edible by or otherwise be attractive to wildlife or insects shall be stored outdoors only in closed, impermeable trash containers that are screened in accordance with this FDC. Toxic and hazardous materials and chemicals shall be stored, secured and maintained so that there is no contamination of ground, air, or water sources at or adjacent

to the site. Notwithstanding anything contained herein, all treatment, storage, disposal, or transportation of hazardous waste shall be in conformance with all Federal and State statutes, codes, and regulations. Provisions shall be provided so that all lubrication and fuel substances shall be prevented from leaking and/or draining onto the property.

## 6. Noise

[Reserved]

### 16.6.12 SIGNS

#### A. Purpose

The purpose of this article is to protect the health, safety and general welfare of the citizens by providing uniform regulations and standards of signs within the town, with recognition that:

1. Signs are a useful means of visual display for the convenience of the public and for the efficient communications of commercial and noncommercial speech;
2. The public needs to be protected from signs which obscure the vision of motorists or interfere with official traffic control devices and the orderly movement of traffic;
3. A reasonable balance is sought between the interests of signage and the interest of the Town to secure for its citizens the opportunity to enjoy pleasant and attractive surroundings protected from visual discord and clutter that may result from the unrestricted proliferation and placement of signs;
4. Regulation of sign design, construction, installation, repair and maintenance is necessary to protect the public from potential hazards;
5. Regulation of signs is necessary to preserve and enhance the aesthetic quality of life in the community; and
6. Reasonable regulations are necessary to conserve the character and economic value of property and neighborhoods.

#### B. Alternative Equivalent Compliance

The alternative equivalent compliance procedure in Section 6.1 may be used to propose alternative means of complying with the intent of this Section.

#### C. Applicability and Exemptions

##### 1. Generally

This article shall apply to, govern and control the display, construction, installation, erection, alteration, use, location, maintenance, and removal of all signs within the Town that are not specifically exempt from such application, provided, that whenever both a provision of this article and any other law, statute or ordinance of any kind restrict the same subject matter, the most restrictive standard shall govern. Non-commercial speech is permitted to be substituted on any sign where commercial speech is allowed.

##### 2. Exemptions

This Section does not apply to the following:

- a. The United States flag, state flags, pennant flag strings and any flag, crest or insignia of any official governmental agency or of any civic, charitable or religious organization.
- b. Any item of merchandise or models of products or services that may be visible in a store window but does not inhibit proper visibility into the space for safety and security.
- c. Scoreboards, time and temperature, or stock exchange information devices not related to any product or service.
- d. Required signs.

- e. Memorial signs.
- f. Governmental signs.
- g. Murals which do not advertise or identify a business or depict a business name, symbol, trademark or logo.
- h. Address signs which contain only the street address and number.
- i. Town decorations, banners, signs or other elements located on Town property, right-of-way, utility poles, or streetlights and elements approved through the Town's Special Events process.
- j. Freestanding works of art and building architectural features that are integral to the design of a building.

**D. Sign Permit Requirements and Exceptions**

**1. Sign Permits Required**

No sign shall be displayed, constructed, installed, erected, remodeled, relocated, expanded, altered or have the copy of the sign changed or altered (unless the sign was approved to allow such modifications) until a sign permit for such sign has been obtained from the Town unless the sign qualifies as an exception to the permit requirements. No permit is required for routine sign maintenance.

**2. Sign Permit Fees**

The fee for a sign permit shall be the building permit fee charged for the sign as determined by the currently adopted building and electrical codes.

**3. Compliance with Provisions**

- a. No permit shall be issued unless there is full compliance with the provisions of this Section.
- b. All signs must conform to the regulations and design standards of the adopted building and electrical codes.

**4. Exceptions from Sign Permit**

The following signs may be displayed without a sign permit, but are not exempt from other applicable provisions of this article:

- a. Building Numbers and addresses
- b. Interior signs
- c. Signs accessory to utility cabinets or pedestals
- d. Small Signs
- e. Temporary Signs in single-family districts

**E. General Standards**

**1. Owner Consent**

A sign shall not be placed on non-residential property without the written consent of the owner or the owner's authorized representative or upon residential property without the consent of the property owner.

**2. Responsibility**

Business owners and property owners shall be jointly and severally responsible for and assume all liability for the safe installation and display of all signs and advertising devices installed pursuant to this article.

**3. Maintenance and Upkeep**

Every sign and its supporting structure shall be constructed of durable materials and properly maintained in good structural condition. All signs, sign finishes, supports and electrical work shall be kept in good repair and safe condition.

Signs that are damaged or have materials that are missing, broken or deteriorated, shall be repaired or removed within thirty (30) days. The maintenance, renovation, or repair of a sign without structural alteration and without change of sign copy shall not require a new sign permit, but may require a building permit under the Town's adopted building codes.

**4. Safety**

Should a sign, in the determination of the Town's Chief Building Official (CBO or Building Official), become unsecured or in danger of failing, or otherwise unsafe, the CBO or Director may give written notice of the condition of the sign and an order to correct the condition to the person owning, leasing or responsible for the sign. Said person so ordered shall correct the unsafe condition of the sign in a manner to be approved by the Town's building official in conformity with the provisions of this article.

**5. Appearance**

All power units and their appurtenances shall be concealed. All wiring to freestanding signs shall be underground.

**6. Nuisance**

Signs that do not meet the standards of this section shall be deemed a nuisance in accordance with Chapter 8.06 of the Firestone Municipal Code.

**7. Attaching Structures or Objects**

No sign shall be attached to a tree, utility cabinet or pedestal, mailbox, traffic control device, utility pole, or other similar structures or objects whether on public or private property.

**8. Interference with Traffic; Imitation of Traffic Signs and Signals**

No sign shall be permitted in the site distance clearance area per the Town's Standards and Specifications or at any location where, because of its position, size, shape or color, it may obstruct, impair, obscure, interfere with the view of, or be confused with, any traffic control sign, signal or device, nor may it interfere with, mislead or confuse traffic.

**9. Public Right-of-way**

No sign shall be permitted on public right-of-way except governmental traffic control, governmental informational signs, or Town-owned or authorized directional and information signs.

**10. Illuminated Signs**

Illuminated signs shall be shaded to avoid casting bright light upon property in any residential district or upon any public street, park, or public facility.

**F. Prohibited Signs and Sign Elements**

**1. Generally.**

The prohibitions in this section apply to temporary and permanent signs in all areas of the Town.

- a. Animated signs or signs with animated or moving parts, including any moving, swinging, rotating or spinning parts or flashing, blinking, scintillating, fluctuating, or otherwise animated light, except electronic message displays, clocks, and temperature signs that are in conformance with this section.
- b. Abandoned or inoperable signs.
- c. Roof signs or any sign extending above the roofline of the building on which it is placed.
- d. Vehicle Signs
- e. Any sign that obstructs building egress or ingress; any opening required for ventilation or light; or any equipment or structures that are related to public safety, building operations, or utility service or architectural features.

**G. Design Standards for Permanent Signs****1. Wall Signs**

Wall signs include projecting, canopy, awning, hanging, window, and wall signs and are subject to the following:

**a. Sign Area**

- i. In general, sign area is the area that completely encloses the limits of text and graphics of a sign, together with any frame or other material or color forming an integral part of the sign face.
- ii. Allowable total wall sign area for each tenant or building elevation in the non-residential zoning districts (see Table 6.12-1) shall be calculated as ten (10) percent of the total wall area for that elevation. Tenants with less than thirty-two (32) square feet of total wall area are permitted to have up to thirty-two (32) square feet of sign area.

**b. Location**

- i. Wall signs shall be permitted on each tenant or building elevation that faces or is immediately visible from a street, drive aisle, or parking lot.
- ii. Wall signs shall not be located on the roof of a building nor extend beyond the roofline of the building on which it is placed.
- iii. Signs that project from the wall face shall provide a minimum clearance above a sidewalk, public place, or other pedestrian way of eight (8) feet.
- iv. Signs that project from the wall face shall not extend into parking lots, drive aisles, fire lanes or loading areas.
- v. Signs that project from the wall face may project into adjacent rights-of-way up to a distance of two (2) feet subject to an approved license agreement with the Town.
- vi. Permanent applied window signs shall be affixed to the window in a professional manner (e.g. without wrinkles, bubbles, tape, etc.)

**2. Freestanding Signs**

Freestanding signs include monument, subdivision identification, development identification, and multi-tenant signs and are subject to the following:

**a. Sign Area**

- i. In general, sign area is the area that completely encloses the limits of text and graphics of a sign, together with any frame or other material or color forming an integral part of the sign face.
- ii. Allowable freestanding sign area for each lot shall be calculated as one (1) square foot of sign area for each lineal foot of lot frontage facing a public street, private street, or highway.
- iii. For double-sided signs, if the faces are equal in size, then only one (1) side shall be considered when determining the sign area. If the faces are not equal in size, then the larger sign face shall be considered when determining the sign area. If the entire angle of double-sided sign exceeds forty-five (45) degrees, then all faces are considered in calculating the sign area.

**b. Location**

- i. Freestanding signs shall be permitted on each lot frontage that faces a public street, private street, or highway.
- ii. Freestanding signs shall not be located within the site distance clearance area as determined in the Town Standards and Specifications.

- iii. Freestanding signs shall not be located within easements unless allowed by the easement holder.
  - iv. Freestanding signs shall be located at least five (5) feet from the front property line, five (5) feet from the street sidewalk, or ten (10) feet from the curb line, whichever is greater.
  - v. Freestanding signs shall be spaced at least twenty-five (25) feet from adjacent freestanding signs.
  - vi. Freestanding signs shall be located in landscaped beds that extend at least four (4) feet from the base.
- c. Base Construction**  
Freestanding signs must include a solid base that matches or is complimentary in design and materials of the associated building or development. The base shall be equal to or greater in width than the sign face.
- d. Small Signs**  
Small signs shall include permanent freestanding signs not more than four (4) square feet in size and less than three (3) feet in height for the convenience of the public to identify entrance and exit drives, circulation, and other wayfinding on site.
- e. Town of Firestone Identification**  
All residential subdivision and development identification freestanding signs shall include the Town's name Firestone, CO or Firestone, Colorado on the sign.
- 3. Changeable Copy Displays ("CCDs")**  
Changeable Copy Displays ("CCDs"), including Electronic Message Displays ("EMDs") and manual changeable copy displays, may be incorporated into signs in the non-residential zoning districts (see Table 6.12-1) and operated only as provided in this subsection.
- a. Number, Design, Dimensions.**
    - i. CCDs shall be integrated into the sign face area of a permanent sign.
    - ii. EMDs shall not have a pixel pitch that is greater than twenty (20) millimeters.
    - iii. Not more than one-third, (33.3) percent, of a permitted monument sign may be occupied by a CCD.
  - b. Electronic Message Display Operations.**
    - i. The displayed message of an EMD shall not change more frequently than once per sixty (60) seconds.
    - ii. The EMD shall contain static messages only. No transition between images or messages is permitted.
    - iii. The EMD shall have automatic dimmer software or solar sensors to control brightness for nighttime viewing and variations in daytime ambient light. The intensity of the light source shall not produce glare, the effect of which constitutes a traffic hazard or is otherwise detrimental to the public health, safety or welfare.

## H. Zoning Districts

### 1. Generally

In recognition that the Town is a place of diverse physical character, and that different areas of the Town have different functional characteristics, signs shall be regulated based on zoning district in which they are located.

**I. Permanent Sign Standards**

**1. Single Family Residential Permanent Sign Standards.**

Table 6.12-2 below details the standards for the RR, R-A, R-B, OTR, PUD with Single Family, and AG. Districts.

| <b>TABLE 6.12-2: SINGLE-FAMILY RESIDENTIAL SIGN STANDARD</b> |  |  |                                       |                             |
|--|--|--|---------------------------------------|-----------------------------|
| <b>Sign Type</b>   | <b>Maximum Number</b>                            | <b>Maximum Area</b>                      | <b>Maximum Height</b>                 | <b>Allowed Illumination</b> |
| Wall   | 1 per lot  | 4 sf                                     | n/a                                   | None                        |
| Freestanding   | 1 per entry point into a residential subdivision | 100 sf (inclusive of text and logo only) | 8 ft (inclusive of sign and monument) | Yes                         |

**2. Multi-Family Residential Permanent Sign Standards.**

Table 6.12-3 below details the standards for the R-C and PUD with multi-family Zoning Districts.

| <b>TABLE 6.12-3 MULTI-FAMILY RESIDENTIAL SIGN STANDARDS</b> |   |  |                                       |                             |
|---|---|--|---------------------------------------|-----------------------------|
| <b>Sign Type</b>  | <b>Maximum Number</b>   | <b>Maximum Area</b>                      | <b>Maximum Height</b>                 | <b>Allowed Illumination</b> |
| Wall  | 1 sign per qualifying elevation                                       | 32 sf                                    | n/a                                   | Yes                         |
| Freestanding  | 1 per entry point into a multi-family residential subdivision or site | 100 sf (inclusive of text and logo only) | 8 ft (inclusive of sign and monument) | Yes                         |

**3. Non-Residential Permanent Sign Standards.**

Table 6.12-4 below details the standards for the NC, RC, LI, OTC, PLI and OS Zoning Districts.

| <b>TABLE 6.12-4: NON-RESIDENTIAL SIGN STANDARDS</b>  |  |   |                       |                             |
|--|--|---|-----------------------|-----------------------------|
| <b>Sign Type</b>   | <b>Maximum Number</b>  | <b>Maximum Area</b>                             | <b>Maximum Height</b> | <b>Allowed Illumination</b> |
| Wall   | 1 Principal per elevation/tenant<br>4 Secondary per elevation/tenant                       | Principal Sign: 100 sf<br>Secondary Sign: 32 sf | n/a                   | Yes                         |
| Freestanding   | 1 per street frontage<br>(1 additional for every 500' of frontage)                         | 32 sf   | 10 ft                 | Yes                         |
| Freestanding –<br><b>Development Identification</b> (for developments over 20 acres in size) | 1 per arterial or collector street frontage<br>(1 additional for every 1,000' of frontage) | 200 sf*   | 35 ft*                | Yes                         |

\* For Development Identification signs located within one-thousand two-hundred (1,200) feet of the Interstate 25 right-of-way, the maximum sign height may be increased to fifty (50) feet and the maximum sign area may be increased to three-hundred (300) square feet.

**J. Temporary Sign Standards**

**1. Temporary Wall Signs.**

Table 6.12-5 below details the standards for temporary signs attached to buildings.

| <b>TABLE 6.12-5: STANDARDS FOR TEMPORARY SIGNS ATTACHED TO BUILDINGS</b> |   |                                      |                                       |
|--|---|--------------------------------------|---------------------------------------|
| <b>Standards</b>   | <b>Non-Residential Zoning Districts</b> | <b>Multi-Family Zoning Districts</b> | <b>Single-Family Zoning Districts</b> |
| Maximum Number per Building Elevation                                    | 1 per street frontage or tenant space   | 1 per complex                        | 1                                     |
| Maximum Sign Area  | 40 sf                                   | 8 sf                                 | 6 sf                                  |
| Allowed Lighting   | External                                | none                                 | none                                  |
| Maximum Duration per Sign  | 60 days                                 | 60 days                              | 60 days                               |
| Maximum Posting  | 180 days per year                       | 90 days per year                     | 90 days per year                      |

**2. Temporary Freestanding Signs.**

Table 6.12-6 below details the standards for temporary freestanding signs.

| <b>TABLE 6.12-6 STANDARDS FOR TEMPORARY FREESTANDING SIGNS</b> |  |                                      |                                       |
|--|--|--------------------------------------|---------------------------------------|
| <b>Standards</b>   | <b>Non-Residential Zoning Districts</b>                                | <b>Multi-Family Zoning Districts</b> | <b>Single-Family Zoning Districts</b> |
| Maximum Number   | 1 per street frontage**<br>(1 additional for every 500' of frontage)** | 1 per street frontage                | 1 per street frontage                 |
| Maximum Sign Area per Sign                                     | 32 sf**  | 32 sf                                | 8 sf                                  |
| Maximum Sign Height  | 8 ft**   | 8 ft                                 | 8 ft                                  |
| Allowed Lighting   | External   | none                                 | none                                  |
| Setbacks and Spacing   | 10 ft from all property lines  | 2 ft from property lines             | 2 ft from property lines              |
| Maximum Duration per Sign                                      | 60 days*   | 60 days*                             | 60 days*                              |
| Maximum Posting  | 180 days per year*   | 90 days per year*                    | 90 days per year*                     |

\* Exclusive of the duration of a new construction project with an active building permit; exclusive of a parcel that is vacant, undeveloped, or listed for sale or rent.

\*\* For non-residential zoning district temporary freestanding signs located within one-thousand two-hundred (1,200) feet of the Interstate 25 right-of-way, the maximum sign height may be increased to twelve (12) feet, the maximum sign area may be increased to sixty-four (64) square feet, and the maximum number of signs may be doubled.

**16.6.13 ABANDONED MINES**

**A. General Provisions**

All development with undermining and/or mine shafts shall provide the Town with Geological and Geotechnical Hazards reports prepared, signed and stamped by a professional in the field of undermining. The reports shall be referred to the Colorado Geological Survey for review and comment. Recommendations from the reports and Colorado Geological Survey shall be evaluated by the Town when considering appropriate land uses, restrictions applicable to land development, and foundation design due to undermining constraints. Undermining and/or mine shafts shall be noted on Plot Plans, Preliminary Plats, Final Plats and Final Development Plans.

**B. Mineshafts**

1. All mineshafts shall be capped and monumented in accordance with State requirements, and accepted by the State before Final Plat or Final Development Plan approvals.
2. Mineshafts shall not be located on a residential lot.
3. Mineshafts may be located in a street right-of-way, tract, or in a non-residential lot with an easement restricted for parking, open space or landscape use. Any modifications to this provision proposed by the applicant for Town consideration shall be in compliance with recommendations from the Geological and Geotechnical Hazards reports and the Colorado Geological Survey.
4. Minimum dimensions for tracts/easements and minimum distances from abandoned mineshafts to residential lots and non-residential structures shall be determined based on recommendations from the Geological and Geotechnical Hazards reports and the Colorado Geological Survey.

**C. Mine Tailings**

If mine tailings are located on a property, the removal of mine tailings shall be addressed in a Subdivision or Development Agreement. The Town shall require submittal of a professional certification that the mine tailings and hazard associated with the tailing has been removed and completed.

**16.6.14 STANDARDS TO ACCOMMODATE OIL AND GAS WELLS AND FACILITIES**

**A. Existing Oil and Gas Wells and Production Facilities**

1. All development shall provide the following setback to lots, buildings, streets, trails and parks from existing wells and associated above ground production facilities:
  - a. Street rights-of-way and trails shall be setback a minimum of one-hundred fifty (150) feet.
  - b. Residential lots and non-residential buildings, community parks, neighborhood parks and pocket parks, shall be set back a minimum of three-hundred fifty (350) feet.
  - c. Assembly buildings or the portion of a building containing an assembly use shall be set back a minimum of five-hundred (500) feet.
  - d. Exceptions to A.1.b above shall be as follows:
    - i. Residential lots platted prior to the effective date of this FDC and residential lots designated in plats submitted to the Town pursuant to completed Preliminary Plat, Final Plat, or Minor Subdivision applications prior to the effective date of this FDC shall be subject to the former minimum one-hundred fifty (150) foot setback standard.
    - ii. Non-residential buildings, other than assembly buildings, shall be subject to the former minimum one-hundred fifty (150) foot setback standard if at least one (1) of the following conditions exists prior to the effective date of this FDC:
      - (A) The non-residential building is existing.
      - (B) The non-residential lot is existing.
      - (C) The non-residential lot is proposed in a completed Preliminary Plat, Final Plat, or Minor Subdivision application submitted to the Town.
2. In a residential subdivision the well and associated production facilities shall be placed in a non-development tract.

3. In order to minimize the impact on streets and pedestrian paths and tracking of debris onto streets and pedestrian paths, subdivision design shall provide the following Town requirements and improvements for access roads to oil and gas wells and associated production facilities:
  - a. Subdivision shall minimize the need for access roads to connect to streets with local street classifications.
  - b. An access plan for the well and production facilities shall be submitted to the Town identifying which local streets that are impacted by well access needs. The streets identified shall be designed to address the weight load requirements of the vehicles accessing the well and production facilities.
  - c. The well and production facilities access road shall be improved as a hard surface (concrete or asphalt) for the first one-hundred (100) feet from the street, sidewalk, or trail and then improved as a crushed surface (concrete or asphalt) for the next one-hundred (100) feet past the hard surface in the appropriate depth to support the weight load requirements of the vehicles accessing the well and production facilities.
  - d. The Town may require the developer to gate or restrict access (bollards) to the access road to minimize unauthorized use of the access.
  - e. If an access road intersects with a pedestrian trail or walk, the developer shall pave, as a hard surface (concrete or asphalt), the access road one-hundred (100) feet either side of the trail or walk and if necessary, replace the trail or walk to address the weight load requirements of the vehicles accessing the well and production facilities.
  - f. All proposed access road changes or restrictions shall be approved by the mineral right owner before Final Plat or Final Development Plan approval.
4. Developments with existing oil and gas wells and associated above ground production facilities shall provide screening by installing naturally-shaped berms with landscaping to a height proportional to the facilities being screened. All proposed landscape improvements shall be approved by the mineral right owner either before Final Plat or Final Development Plan approval.
5. When fencing is required by the operator or for safety or security purposes, developments with existing oil and gas wells and associated above ground production facilities shall add fencing to non-fenced wells and facilities or upgrade fencing for wells and facilities in conformance with the following requirements.
  - a. Oil and gas well facilities (above ground) within the Town shall be fenced with wrought iron fencing or Ameristar Impasses or Stronghold fencing or approved equivalent, as determined by the Director.
  - b. The fencing color shall be black.
  - c. All proposed fencing changes shall be approved by the mineral right owner before Final Plat approval or for sites already platted, before Final Development Plan approval.
6. Developments with existing oil and gas wells and associated above ground production facilities shall paint the wells and associated above ground production facilities a color determined by the Director. All proposed paint improvements shall be approved by the mineral right owner either before Final Plat or Final Development Plan approval.

**B. Abandoned Oil and Gas Wells and Production Facilities**

1. Oil and gas wells and production facilities shown as plugged and abandoned on the Final Plat shall be plugged and abandoned before approval of a Final Plat. The following shall be completed before approval is granted by the Town:
  - a. The ECMC Well Abandonment Report shall be submitted to the Town regarding the completion of the abandonment and reclamation process in accordance with State law and ECMC regulations.
  - b. Recorded documentation of abandonment of drilling windows, operation areas, setbacks, easements, and other associated encumbrances with the well shall be submitted to the Town.
2. Capped wellheads shall be identified by a concrete and brass monument on site and will be tied to survey point and noted on the Final Plat.
3. All subdivisions with wellheads abandoned and reclaimed in accordance with state law and ECMC regulations shall use the following standards to plat lots and streets:
  - a. Streets may be platted over abandoned wellheads if conflicts do not occur with infrastructure requirements within the street.
  - b. A non-residential lot may contain an abandoned wellhead. The plat shall identify a building setback of fifty (50) feet from the monumented abandoned wellhead.
  - c. A residential lot one (1) acre or greater in area may contain an abandoned wellhead. The Final Plat shall identify a building setback of fifty (50) feet from the monumented abandoned wellhead.
  - d. Abandoned wellheads, and the required setback of fifty (50) feet surrounding the abandoned wellhead, shall not be located in single-family lots.
  - e. Abandoned wellheads, and the required setback of fifty (50) feet surrounding the abandoned wellhead, shall not be located in multi-family lots.
  - f. In subdivisions where an abandoned wellhead cannot be placed in a street or non-residential lot meeting the standards of this Subsection; the abandoned wellhead shall be placed in a tract. The abandoned wellhead and required setback surrounding the abandoned wellhead may not be located in a Town required park as outlined in Section 6.3.

**C. Future Oil and Gas Wells and Production Facilities**

1. All subdivisions that have oil and gas rights associated with the property that have not been executed need to take those rights into consideration when platting. Co-location of future and/or existing wells may reduce the impact on subdivision of the property.
2. Any agreements between the property owner and mineral right owner shall be submitted to the Town upon application. Recordation of such agreements shall occur prior to recordation of the final plat. Location and setback information agreed to in the agreement shall be reflected on the plat.
3. The following setbacks shall be provided to future oil and gas wells and above ground production facilities:
  - a. Residential lots and non-residential buildings shall be set back a minimum of five-hundred (500) feet. Developers shall provide the Town with a copy of a recorded surface use agreement with the mineral right owner/lessee prior to approval of a Final Development Plan and prior to recordation of a Final Plat or Minor Subdivision. For applications that require a Preliminary Plat, the applicant shall provide the Town with a draft of the surface use agreement and/or a letter from the mineral right owner/lessee acknowledging that they are actively negotiating a surface use agreement to locate the facilities as represented by the applicant.

- b. Street rights-of-way shall be setback a minimum of five-hundred (500) feet from future oil and gas wells and above ground facilities.
4. The future oil and gas well and production facilities setbacks identified above shall be identified on the plat. If all future wells and facilities are identified and located within the Oil and Gas Operation Area (OGO) of the Surface Use Agreement (SUA), the setback shall be measured from such wells and facilities. If locations of such wells and facilities are not identified in the SUA, the setback shall be measured from the edge of the OGO.
5. In a residential subdivision the future well and associated production facilities shall be placed in a tract.
6. Subdivision design shall address the following Town requirements for future access roads and pipelines to future oil and gas wells and associated production facilities:
  - a. Subdivision design shall minimize the need for future access roads to connect with local street classifications. If future access roads are designed to connect to local streets, then the local streets accessed shall be designed to address the weight load requirements of the vehicles accessing the well and production facilities.
  - b. An access plan for the future well, production facilities, and pipelines shall be submitted to the Town. The access plan shall identify which local streets that are impacted by well access needs. The streets identified shall be designed to address the weight load requirements of the vehicles accessing the well and production facilities. The access plan shall also identify routing of future pipelines so that the appropriate easements and or tracts can be created during the platting process to accommodate the pipelines.
  - c. Landscaping and berms shall be provided to screen all future oil and gas wells and facilities.

**D. Oil and Gas Well Pipelines**

1. Existing and future gas and oil well pipelines and their appurtenant underground facilities and easements shall not be located on residential lots.
2. Streets should be platted so both existing and future pipelines cross at a substantially right angle to the street.
3. The Final Plat shall show easements for gas and oil well pipelines that are a minimum of fifty (50) feet wide.
4. All abandoned pipelines and appurtenant facilities shall be removed. In the cases of portions of abandoned pipelines conflicting with structures, utilities, roads, or rights-of-way, pipeline owner shall coordinate with Town Staff on the appropriateness of capping and structurally filling such portions. Cutting, cleaning, removal, and potential structural filling of pipelines shall be observed and documented by a qualified third-party inspector which verifies, documents, and certifies such activity as applicable.
5. All operating pipeline and underground facilities to remain shall be shown on the Final Development Plan and construction drawings and tied to survey points. Owner/Operator shall place and maintain permanent, above-grade monumentation and marking at all locations where the underground facilities enter upon the boundaries of lots or tracts, at changes of direction, and upon the boundaries of road right-of-way, as approved by the Town Engineer. Markers shall include phone numbers to call for line locates and 24-hour emergency repair. Owner/Operator shall install tracer wire no more than eighteen (18) inches above and along the entire length of the underground pipelines and facilities.

# CHAPTER 7: REVIEW AND APPROVAL PROCEDURES

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## 16.7.1 SUMMARY AND ORGANIZATION OF THIS CHAPTER

- A. This Chapter describes the procedures for review and approval of all applications for development activity in the Town. Common procedures, which are applicable to all or most types of development applications, are in Section 7.2. Subsequent Sections set forth additional provisions that are unique to each type of application, including staff and review board assignments, review standards, and other information.
- B. Table 7.1 summarizes the review and decision-making responsibilities for the administration of the procedures described in this Chapter. The table is a summary tool and does not describe all possible types of decisions made under this FDC. Other duties and responsibilities are described in this Chapter.
- C. Table 7.2 summarizes the process and procedures required for specific applications described in this Chapter. The table is a summary tool identifying the common procedures required for each application in addition to any modified or additional provisions unique to each application.
- D. The Director may also refer applications to other boards, commissions, government agencies, and non-governmental agencies not referenced in this Chapter.

**TABLE 7.1: SUMMARY OF ADMINISTRATION AND REVIEW ROLES**

NOTE: This table summarizes the general review and decision-making responsibilities for the procedures contained in Chapter 7.

R = Review (Responsible for Review or Recommendation)

H = Hearing (Public Hearing Required)

D = Decision (Responsible for Final Decision)

A = Appeal (Authority to Hear/Decide Appeals)

| Procedure   | Section | DECISION-MAKING BODY |  |                    |                         |            |                                   | NOTICE REQUIRED |                 |                 |   |
|---|---------|----------------------|--|--------------------|-------------------------|------------|-----------------------------------|-----------------|-----------------|-----------------|---|
|   |         | Board of Trustees    | Planning Comm.                                     | Board of Adjstmnt. | Chief Building Official | Town Staff | Referral Agencies/<br>Consultants | Town            | Mailed          | Property Posted |   |
| Annexation  | 7.3     |                      | D-H  |                    |                         |            | R                                 | R               | X               | X               | X |
| Initial Zoning  | 7.4     |                      | D-H  |                    |                         |            | R                                 | R               | X               | X               | X |
| Rezoning  | 7.4     |                      |  |                    |                         |            |                                   |                 |                 |                 |   |
| Rezoning: Overlay                                       | 7.4     |                      | D-H  | R-H                |                         |            | R                                 | R               | X               | X               | X |
| Rezoning: PUD   | 7.5     |                      |  |                    |                         |            |                                   |                 |                 |                 |   |
| Subdivision:<br>Preliminary Plat                        | 7.6.C   |                      | D-H  | R-H                |                         |            | R                                 | R               | X               | X               | X |
| Subdivision: Final Plat                                 | 7.6.D   |                      | D  |                    |                         |            | R                                 | R               |                 |                 |   |
| Subdivision: Minor Plat                                 | 7.6.E   |                      |  |                    | A-H                     |            | D                                 | R               |                 |                 |   |
| Subdivision:<br>Non-Residential Minor Plat              | 7.6.F   |                      | D-H  | R-H                |                         |            | R                                 | R               | X               | X               | X |
| Minor Modifications                                     | 7.7     |                      | See Section 7.7 for Process & Decision-Making Body |                    |                         |            |                                   |                 | See Section 7.7 |                 |   |
| Variance  | 7.8     |                      |  |                    | D-H                     |            | R                                 | R               | X               | X               | X |
| Vacation  | 7.9     |                      | D  |                    |                         |            | R                                 | R               |                 |                 |   |
| Final Development Plan                                  | 7.10    |                      |  |                    | A-H                     |            | D                                 | R               |                 |                 |   |
| Special Review Use                                      | 7.11    |                      | D-H  | R-H                |                         |            | R                                 | R               | X               | X               | X |
| Architectural Review                                    | 7.12    |                      |  |                    | A-H                     |            | D                                 | R               |                 |                 |   |
| Building Permit, C/O's,<br>and Performance Requirements | 7.13    |                      |  |                    | A-H                     | D          | R                                 |                 |                 |                 |   |
| Temporary Use Permit                                    | 7.14    |                      |  |                    | A-H                     |            | D                                 | R               |                 |                 |   |
| Annexation Agreement                                    | 7.15    |                      | D  |                    |                         |            | R                                 |                 |                 |                 |   |
| Subdivision Agreement                                   | 7.16    |                      | D  |                    |                         |            | R                                 |                 |                 |                 |   |

**TABLE 7.1: SUMMARY OF ADMINISTRATION AND REVIEW ROLES**

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**R = Review (Responsible for Review or Recommendation)**

**H = Hearing (Public Hearing Required)**

**D = Decision (Responsible for Final Decision)**

**A = Appeal (Authority to Hear/Decide Appeals)**

| Procedure                              | Section                        | DECISION-MAKING BODY |                |                    |                         |            |                                   | NOTICE REQUIRED                |        |                 |
|--|--------------------------------|----------------------|----------------|--------------------|-------------------------|------------|-----------------------------------|--------------------------------|--------|-----------------|
|  |                                | Board of Trustees    | Planning Comm. | Board of Adjstmnt. | Chief Building Official | Town Staff | Referral Agencies/<br>Consultants | Town                           | Mailed | Property Posted |
| Development Agreement                  | 7.17                           | D                    |                |                    |                         | R          |                                   |                                |        |                 |
| Improvement Guarantees                 | 7.18                           |                      |                |                    |                         | D          |                                   |                                |        |                 |
| Amendment to Text of this FDC          | 7.19                           | D-H                  | R-H            |                    |                         | R          |                                   | X                              |        |                 |
| Appeals                                | 7.20                           |                      |                | D-H                |                         | R          |                                   | X                              |        |                 |
| Other Permits, Licenses, and Approvals | See Corresponding Code Section |                      |                |                    |                         |            |                                   | See Corresponding Code Section |        |                 |

**TABLE 7.2: SUMMARY OF DEVELOPMENT REVIEW PROCEDURES**

NOTE: This table summarizes the processes and procedures contained in Chapter 7.

Y = Yes – The Common Procedure Applies

(7.XX) = The Section listing the Additional or Modified Procedure for a Specific Application

Blank Field = Not Applicable

| Procedure                            | Step 1<br>Pre-App<br>Conf. | Step 2<br>Submittal | Step 3<br>Comp.<br>Review | Step 4<br>Referral | Step 5<br>Neigh.<br>Meeting | Step 6<br>Notice | Step 7<br>Hearing | Step 8<br>Decision/<br>Findings | Step 9<br>Approval<br>Criteria | Step 10<br>Conditions | Step 11<br>Amend | Step 12<br>Lapse |
|--------------------------------------|----------------------------|---------------------|---------------------------|--------------------|-----------------------------|------------------|-------------------|---------------------------------|--------------------------------|-----------------------|------------------|------------------|
| Annexation                           | Y                          | Y (7.3)             | Y                         | Y (7.3)            |                             | Y (7.3)          | Y                 | Y (7.3)                         | Y (7.3)                        | Y                     |                  | Y (7.3)          |
| Initial Zoning                       | Y                          | Y                   | Y                         | Y                  | Y                           | Y                | Y                 | Y (7.4)                         | Y (7.4)                        | Y                     |                  | Y                |
| Rezoning                             | Y                          | Y                   | Y                         | Y                  | Y                           | Y                | Y                 | Y (7.4)                         | Y (7.4)                        | Y                     |                  | Y (7.4)          |
| Rezoning: Overlay                    | Y                          | Y (7.4)             | Y                         | Y                  | Y                           | Y                | Y                 | Y (7.4)                         | Y (7.4)                        | Y                     | Y (7.4)          | Y (7.4)          |
| Rezoning: PUD                        | Y (7.5)                    | Y (7.5)             | Y                         | Y                  | Y                           | Y                | Y                 | Y (7.5)                         | Y (7.5)                        | Y                     | Y (7.5)          | Y (7.5)          |
| Subdivision:<br>Preliminary Plat     | Y                          | Y (7.6.C)           | Y                         | Y                  | Y                           | Y                | Y                 | Y (7.6.C)                       | Y (7.6.C)                      | Y                     | Y                | Y (7.6.C)        |
| Subdivision: Final Plat              | Y                          | Y (7.6.D)           | Y                         | Y                  |                             |                  |                   | Y (7.6.D)                       | Y (7.6.D)                      | Y                     | Y                | Y                |
| Subdivision: Minor Plat              | Y                          | Y                   | Y                         | Y                  |                             |                  |                   | Y (7.6.E)                       | Y (7.6.E)                      | Y                     | Y                | Y                |
| Subdivision:<br>Non-Residential Plat | Y                          | Y                   | Y                         | Y                  | Y                           | Y                | Y                 | Y (7.6.F)                       | Y (7.6.F)                      | Y                     | Y                | Y                |
| Minor Modification                   |                            |                     |                           |                    |                             |                  |                   | Y (7.7)                         | Y (7.7)                        |                       |                  |                  |
| Variance                             | Y                          | Y                   | Y (7.8)                   | Y                  |                             | Y                | Y                 | Y (7.8)                         | Y (7.8)                        | Y                     |                  | Y (7.8)          |
| Vacation                             | Y                          | Y                   | Y                         | Y                  | Y (7.9)                     |                  |                   | Y (7.9)                         | Y (7.9)                        | Y                     |                  |                  |
| Final Development Plan               | Y                          | Y                   | Y                         | Y                  |                             |                  |                   | Y (7.10)                        | Y (7.10)                       | Y                     | Y (7.10)         | Y (7.10)         |
| Special Review Use                   | Y                          | Y                   | Y                         | Y                  | Y                           | Y                | Y                 | Y (7.11)                        | Y (7.11)                       | Y                     | Y                | Y (7.11)         |
| Architectural Review                 | Y                          | Y                   | Y                         | Y                  |                             |                  |                   | Y (7.12)                        | Y (7.12)                       | Y                     | Y                | Y (7.12)         |
| Temporary Use Permit                 | Y                          | Y (7.14)            | Y                         | Y                  |                             |                  |                   | Y (7.14)                        | Y (7.14)                       | Y                     | Y                | Y (7.14)         |
| Amendment to Text of<br>this FDC     |                            |                     |                           |                    |                             | Y (7.19)         | Y (7.19)          | Y (7.19)                        | Y (7.19)                       |                       |                  |                  |

## 16.7.2 COMMON DEVELOPMENT REVIEW PROCEDURES

The common development review procedures in this Section 7.2 shall apply to all types of development applications under this Chapter, unless an exception to the common procedures is expressly called for in the particular development application requirements in subsequent Sections of this Chapter.

### A. Step 1: Pre-Application Conference

#### 1. Purpose

The purpose of a Pre-Application conference is to provide an opportunity for an informal evaluation of the applicant's proposal and to familiarize the applicant and the Town Staff with the applicable provisions of this FDC, the Town's Comprehensive Master Plan, and other documents as may be appropriate, including the Town's POST Master Plan and the Town's Standards and Specifications, infrastructure requirements, and any other issues that may affect the applicant's proposal.

#### 2. Applicability

##### a. *Required for New Applications*

A Pre-Application conference is required prior to certain types of applications, as listed in Table 7.2. Applications for these types of approvals shall not be accepted until after the Pre-Application conference is completed. The conference shall take place prior to any formal development application submittal to the Town.

##### b. *Optional for All Other Applications*

A Pre-Application conference is optional prior to submission of any other application under this FDC not listed as requiring a conference in Table 7.2.

#### 3. Initiation of Pre-Application Conference

The applicant shall request a Pre-Application conference with the Planning & Development Department. With the request for a Pre-Application conference, the applicant shall provide to the Planning & Development Department a description of the character, location, and magnitude of the proposed development and any other supporting documents, such as maps, drawings, models, and the type of application. It is the applicant's responsibility to provide sufficiently detailed plans and descriptions of the proposal for staff to make the informal recommendations discussed below.

#### 4. Pre-Application Conference Content

The Planning & Development Department shall schedule a Pre-Application conference after receipt of a proper request. At the conference, the applicant, the Planning & Development designee, and any other persons the Planning & Development designee deems appropriate to attend shall discuss the proposed development. Based upon the information provided by the applicant and the provisions of this FDC, the parties should discuss in general the proposed development and the applicable requirements and standards of this FDC.

#### 5. Informal Evaluation Not Binding

The informal evaluation of the Planning & Development Department Staff provided at the conference are not binding upon the applicant or the Town, but are intended to serve as a guide to the applicant in making the application and advising the applicant in advance of the formal application of issues which may be presented to the appropriate decision-making body.

#### 6. Application Required Within 6 Months

After a Pre-Application conference has been held, an application must be submitted within six (6) months. If an application is not filed within such timeframe, a new Pre-Application conference shall be required prior to filing an application, unless waived by the Director.

**B. Step 2: Development Application Submittal**

**1. Form of Application**

Applications and submission materials required under this Chapter shall be submitted in a form and in such number as required by the Director and described in the applicable User's Guide.

**2. FDC User's Guide**

The Director shall compile the requirements for each application's contents including forms, fees, and the submission materials and review schedule in a User's Guide, which shall be made available to the public. The Director may amend and update the User's Guide from time to time.

**3. Concurrent Development Applications and Review**

Multiple applications cannot be consolidated into one application; however, multiple development applications for the same development proposal may be submitted and reviewed concurrently as permitted or required by the Director depending upon the complexity of the proposal. Subdivision and Final Development Plan applications may be processed concurrently with Annexation and Initial Zoning Applications; however, such applications shall only be given final approval after Annexation and Initial Zoning of the subject property are effective. Final Development Plans shall only be given final approval after a Final Plat approval is granted.

**4. Authority to File Applications**

- a. Unless otherwise specified in this FDC, applications for review and approval may be initiated by:
  - i. The owner of the property that is the subject of the application; or
  - ii. The owner's authorized agent; or
  - iii. The Board of Trustees or designee; or
  - iv. Other entities that have rights provided by law.
- b. When an authorized agent files an application under this FDC on behalf of a property owner, the agent shall provide the Town with written documentation that the owner of the property has authorized the filing of the application.
- c. When a review or decision-making body initiates action pursuant to this FDC, it does so without influencing the approval or denial of the application.

**5. Development Review Fees**

**a. Development Review Fee Schedule**

The amount of the Town's development review fees shall be established by resolution of the Board of Trustees, and shall be assessed at such amounts as reasonably necessary to defray the actual costs of processing and reviewing applications under this FDC. The schedule of fees is adopted by the Board of Trustees by resolution and noted on the Development Review Application. The schedule of fees may be reviewed annually by the Director, on the basis of actual expenses incurred by the Town to reflect the effects of inflation and other changes in costs.

**b. Outstanding Fees and Costs**

All fees and costs shall be paid by the applicant prior to scheduling of hearings or meetings for any development application. No new applications shall be accepted by the Town until all previous fees and costs associated with an applicant, application or property are paid in full.

**c. Recovery of Costs**

The applicant shall pay the development review fees and initial deposit imposed pursuant to this Section at the time of submittal of any development application. The initial deposit shall cover the costs billed by the Town for costs incurred, as required, for processing and reviewing the development application, including attorney fees, review fees from consultants acting as staff, referral agencies, or other fees. Should the application be withdrawn at any time, the deposit shall be adjusted to cover the Town's actual costs, including overhead, up to that time. Any funds remaining on deposit at the time of the completion or withdrawal of the application shall be returned to the depositor, after accounting for expenses incurred to date.

**6. Waivers**

The Director may waive certain submittal requirements when such submittal requirements are unrelated to any project impacts, or to reduce the burden on the applicant by tailoring the requirements to produce only the information necessary to review any particular application. The Director may waive such requirements when it is determined that the projected size, complexity, anticipated impacts, or other factors associated with the proposed development clearly support such waiver.

**7. Additional Information**

Additional application-specific information may be required by the Director, Director of Public Works, Town Engineer, Planning & Zoning Commission, and/or Board of Trustees, as necessary and appropriate to evaluate fully whether an application complies with the requirements of this FDC.

**8. Inactive Files**

If an applicant fails to submit required information for a period of more than six (6) months, the application shall become void and the re-submittal of a new application and fees shall be required. The Director may grant no more than two (2) extensions of time to this provision, of no more than six (6) months each, upon a written request by the applicant.

**C. Step 3: Determination of Application Completeness**

After receipt of the development application, the Director or designee shall determine whether the application is complete and ready for formal processing.

1. If the application is determined to be complete, the application shall then be processed according to the procedures set forth in this FDC. An application shall be considered complete if it is submitted in the required form, includes all mandatory information and supporting materials specified in the User's Guide, and is accompanied by the applicable fee or fees. The determination of completeness by the Director shall not be based upon the perceived merits of the development proposal.
2. If an application is determined to be incomplete, the Director or designee shall provide notice to the applicant along with an explanation of the application's deficiencies. Further processing of an incomplete application shall not occur until the deficiencies are corrected and submitted.

**D. Step 4: Application Referral, Review and Staff Report**

After determining that a development application is complete, Town Staff shall process the development application in the following manner.

**1. Referral Packets**

Staff shall notify the applicant of the type and number of copies of the application and submittal information required for distribution to referral agencies. Staff shall distribute the submittals to designated referral agencies for review.

**2. Referral Review**

Referral agencies shall provide comments to Town Staff on the application(s) within twenty-one (21) days of receiving a referral packet. The applicant is encouraged to meet with referral

agencies prior to the end of the referral period. The applicant is required to pay fees assessed by referral agencies.

**3. Resolution of Issues**

Staff shall compile and review all referral comments and provide a copy of all comments to the applicant. The applicant shall resolve outstanding issues to the maximum extent reasonably practicable. The applicant shall provide the Town with written responses addressing all referral and staff comment issues. At the discretion of the Director, referral comments requiring significant changes to a development application, plan or proposal may require re-referral to any and all referral agencies.

**4. Staff Report**

After staff has scheduled an application for a review or public hearing, staff shall prepare a Staff Report. The Staff Report shall indicate whether, in the opinion of the staff, the development application complies with all applicable standards of this FDC. Staff may recommend approval, denial or conditions for approval may also be recommended to eliminate any areas of non-compliance or mitigate any adverse effects of the development proposal. The Staff Report shall be made available for inspection and copying by the applicant and the public prior to the scheduled public hearing on the development application.

**E. Step 5: Neighborhood Meeting**

In general, the Neighborhood Meeting should occur after the applicant has received the first round of referral responses as outlined in Subsection 7.2.D above.

**1. Purpose**

The purpose of a neighborhood meeting is to provide an informal opportunity to inform the residents and landowners of the surrounding neighborhood(s) of the details of a proposed development and application, how the developer intends to meet the standards contained in this FDC, and to receive public comment and encourage dialogue at an early time in the review process. No decision regarding the application will be made at the Neighborhood Meeting.

**2. Applicability**

A neighborhood meeting shall be required for any development proposal that will be subject to Planning & Zoning Commission and/or Board of Trustees review, unless otherwise indicated in this Chapter. However, the Director may waive the neighborhood meeting requirement if it is determined that the development proposal would not have significant impacts in any of the areas listed below. The waiver shall be in writing and shall be included as part of the case record.

- a. Traffic;
- b. Natural resources protected under this FDC;
- c. Provision of public services such as safety, schools, or parks;
- d. Compatibility of building design or scale; or
- e. Operational compatibility, such as lighting, hours of operation, odors, noise, litter, or glare.

**3. Notice of Neighborhood Meeting**

The applicant shall give mailed and posted notice of the neighborhood meeting to property owners, pursuant to the general notice provisions of Subsection 7.2.F. An affidavit shall be submitted to the Town, by the applicant, stating that the notice requirement has been met.

**4. Attendance at Neighborhood Meeting**

If a neighborhood meeting is required, the applicant or applicant's representative shall attend the meeting. The applicant shall be responsible for scheduling the meeting, coordinating the meeting, and for retaining an independent facilitator if needed. Attendance at the meeting by Town Staff is not required.

**5. Summary of Neighborhood Meeting**

The applicant shall prepare a written summary including a list of attendees of the neighborhood meeting. The written summary shall be provided to Town Staff prior to noticing of any public hearing and included in the case record.

**F. Step 6: Notice**

**1. Content of Notices**

Notice of all public hearings required under this Chapter shall, unless otherwise specified in this FDC: (1) identify the date, time, and place of the public hearing, (2) if applicable, describe the property involved in the application by street address or by legal description and nearest cross street; (3) describe the nature, scope, and purpose of the proposed action; (4) indicate that interested parties may appear at the hearing and speak on the matter; and (5) indicate where additional information on the matter may be obtained.

**2. Summary of Notice Requirements**

Table 7.1 summarizes the notice requirements of the procedures set forth in this Chapter.

**3. Town Notices**

- a. When Table 7.1 requires Town notices, the Director shall cause a notice to be published in a newspaper having general circulation in the area. The notice shall be published at least fifteen (15) days prior to the scheduled hearing date. In computing such period, the day of publication shall not be counted, but the day of the hearing shall be counted.
- b. Subdivision applicants shall also comply with the post-approval requirements for published notice contained in C.R.S. §§31-23-221 and 31-23-222.
- c. Notice of public hearings required under this FDC shall also be posted by Town Staff at the locations specified in the Town of Firestone Public Meeting Posting Resolution.

**4. Mailed Notice**

**a. Requirement**

When Table 7.1 requires that mailed notice be provided, the applicant shall provide the Director with a current (prepared within thirty (30) days of the scheduled hearing) list of applicable property owners and organizations as listed below. The noted list shall be prepared by the applicant or their authorized representative. The applicant or their authorized representative shall mail such notice via the United States Postal Service using first class mail at least fifteen (15) days prior to the scheduled date of the hearing. In computing such period, the day of mailing shall not be counted, but the day of the hearing shall be counted. Mailed notice shall be provided to the following persons or groups:

**i. Property Owners**

All persons listed on the records of the County Assessor as owners of land subject to the application or as owners of the parcels within three-hundred (300) feet of the outer boundary of the land subject to the application.

**ii. Additional Persons**

Such additional persons or geographic areas as the Director may designate.

**iii. Subdivision Applicants**

Subdivision applicants shall comply with notice requirements of C.R.S. §31-23-214 *et seq.*

**b. Proof of Notice**

Before the Public Hearing, the applicant shall submit to the Planning & Development Department a notarized affidavit, signed by the person who performed the mailing, that notice was mailed as required by this Subsection.

**5. Property Posting Notice**

- a. When Table 7.1 requires that notice be posted at the property, the applicant shall cause a notice to be posted on the property for at least fifteen (15) days before the scheduled hearing date. In computing such period, the day of posting shall not be counted, but the day of the hearing shall be counted.
- b. Notice shall be posted along the public street rights-of-way bordering the property, or as otherwise approved by the Director.
- c. Posted notices shall include all the content specified in Subsection 7.2.F.1 above except for the legal description.
- d. Before the public hearing, the applicant shall submit to the Planning & Development Department a notarized affidavit, signed by the person who did the property posting or the person who caused the posting to be done, that notice was posted and maintained as required by this Subsection.
- e. The applicant is responsible for ensuring that the posted notices remain in place, in legible condition until the public hearing is concluded, and for removal of said posted notices within two (2) days after the public hearing is concluded.

**6. Constructive Notice**

- a. Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in notice shall be limited to errors in a legal description or typographical or grammatical errors that do not impede communication of the notice to affected parties. Failure of a party to receive written notice shall not invalidate subsequent action. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a hearing shall be strictly construed. If questions arise at the hearing regarding the adequacy of notice, the decision-making body shall make a formal finding as to whether there was substantial compliance with the notice requirements of this FDC.
- b. When the records of the Town document the publication, mailing, and posting of notices as required by this Section, it shall be presumed that notice of a public hearing was given as required by this Section.

**7. Notice of “Major Activities”**

Applicants proposing a subdivision or commercial or industrial activity that will cover five (5) or more acres of land shall comply with the notice requirements for “major activities” contained in C.R.S. §31-23-225.

**8. Mineral Owner Notice Requirements**

All development applicants shall comply with the notice requirements contained in C.R.S. §24-65.5-103, which are designed to protect the interests of mineral owners.

**G. Step 7: Public Hearing**

A public hearing, if required under this FDC, shall be conducted according to the following procedures:

**1. Rights of All Persons**

Any person may appear at a public hearing and submit evidence, either individually or as a representative of a person or an organization. Each person who appears at a public hearing shall state their name, address and, if appearing on behalf of a person or organization, the name and mailing address of the person or organization being represented.

**2. Exclusion of Testimony**

The decision-maker conducting the public hearing may exclude testimony or evidence that it finds to be irrelevant, immaterial, or unduly repetitious.

**3. Continuance of Public Hearing**

The decision-maker conducting the public hearing may, on its own motion or at the request of any person, continue the public hearing to a fixed date, time and place. All continuances shall be granted at the discretion of the body conducting the public hearing.

**4. Court Reporter**

The Director shall have the discretionary authority to require the presence of a court reporter at any public hearing required by this Chapter and to assess the cost of such reporter to the applicant.

**5. Order of Proceedings at Public Hearing**

The order of the proceedings at the public hearing shall be as follows:

**a. Opening of Public Hearing**

The public hearing shall be formally opened by the Town body conducting the public hearing.

**b. Staff Report Presented**

The Director or designee shall present a narrative and/or graphic description of the development application. The Director or designee shall present a Staff Report which includes a written recommendation. The staff presentation may be given before or after the applicant's presentation, at the discretion of the Director. The staff recommendation shall generally address the standards required to be considered by this FDC prior to approval of the development application.

**c. Applicant Presentation**

The applicant shall present any relevant information the applicant deems appropriate. Copies of all writings or other exhibits that the applicant wishes the decision maker to consider shall be submitted to the Director before the public hearing.

**d. Public Comment**

The Public Comment portion of the Public Hearing shall be opened and relevant public testimony shall be heard.

**e. Close of Public Comment**

After all public comments are heard, and questions by the decision-maker to clarify comments made by the public, the decision-maker shall close the public comment portion of the Public Hearing.

**f. Staff Response**

The Director, the Town Attorney, and any other staff member may respond to any statement made or evidence presented by the public, and may answer any questions by the decision-maker to clarify comments by the applicant or the public, if necessary.

**g. Applicant Rebuttal**

The applicant may respond to any testimony or evidence presented by the public or staff, if necessary.

**h. Close of Hearing**

After consideration of the development application, the Staff Report, any additional written and/or exhibit materials submitted, and the evidence from the public hearing, the decision-maker shall close the public hearing comment portion of the Public Hearing.

**i. Deliberation and Action**

The decision-maker shall then deliberate and take action in accordance with Subsection 7.2.H below and as modified in the application-specific procedures detailed thereafter as applicable.

**H. Step 8: Decision and Findings**

**1. Review and Recommendation by Planning & Zoning Commission (if applicable)**

- a. The Planning & Zoning Commission shall hold a Public Hearing (if applicable) on the development application. After consideration of the development application, the Staff Report, comments received from other reviewers (if applicable), and the evidence from the public hearing (if applicable), the Planning & Zoning Commission shall recommend that the Board of Trustees approve, approve with modifications, or deny the application based on its compliance with the applicable approval criteria as described in Step 9 of the Common Development Review Procedures and as modified within the application-specific approval criteria.
- b. The Director shall forward the recommendation to approve, approve with modifications, or deny, to the Board of Trustees with an accompanying resolution as applicable.

**2. Decision by Board of Trustees (if applicable)**

The Board of Trustees shall hold a Public Hearing (if applicable) on the proposed development application. After consideration of the development application, the Staff Report, comments received from other reviewers (if applicable), and the evidence from the public hearing (if applicable), the Board of Trustees shall approve, approve with conditions, or deny the application based on its compliance with the applicable approval criteria as described in Step 9 of the Common Development Review Procedures or as modified within the application-specific approval criteria. The Board of Trustees alternatively may refer the development application to the Planning & Zoning Commission for further consideration.

**3. Decision by Town Staff (if applicable)**

After consideration of the development application, the Staff comments, comments received from other reviewers (if applicable), the Director shall approve, approve with conditions, or deny the application based on its compliance with the applicable approval criteria as described in Step 9 of the Common Development Review Procedures and as modified within the application-specific approval criteria.

**4. Findings**

All decisions shall include at the least the following elements:

- a. A clear statement of approval, approval with conditions, or denial, whichever is appropriate; and
- b. A clear statement of the basis upon which the decision was made, including specific, written findings of fact with reference to the relevant standards of this FDC and other Town regulations, plans and documents.
- c. If denied, or if denial is recommended by the Planning & Zoning Commission, the reasons for denial shall be stated upon the records of that body including within the adopted Resolution or Ordinance as applicable.

**5. Effect of Inaction on Applications**

Except for subdivision applications covered under C.R.S. §31-23-215, when a review or decision-making body fails to take action on an application within the time required (which varies by type of application), such inaction shall be deemed a denial of the application, unless the decision-making body agrees to an extension of the time frame.

**6. Record of Proceedings**

**a. Recording of Public Hearing**

The decision-maker conducting the public hearing shall record the public hearing by any appropriate means. A copy of the public hearing record may be acquired by any person upon application to the Town Clerk, and payment of a fee to cover the cost of duplication of the record.

**b. The Record**

The record shall consist of the following:

- i. All exhibits, including, without limitation, all writings, drawings, maps, charts, graphs, photographs and other tangible items entered into the record by the decision maker at the proceedings.
- ii. All minutes of the proceedings.
- iii. If appealed, a verbatim transcript of the proceedings before the decision maker. The cost of preparing the transcript shall be borne by the applicant.

**7. Recording of Decisions and Plats**

**a. Filing with Town Clerk**

Once approved the decision and required documents of the decision maker shall be filed with the Town Clerk.

**b. Actions Requiring Recordation with County Clerk and Recorder**

Once the plat, map, or plan requiring recordation is approved and all associated conditions, plans, agreements, guarantees, easements, and other required documents are submitted and approved and/or accepted by the Town, the plat, map, or plan and associated agreements and other documents as applicable shall be recorded in the Office of the Weld County Clerk and Recorder. All recording fees shall be paid by the applicant.

**I. Step 9: Approval Criteria**

To approve a development application, the decision-maker must first determine and find that the development application has satisfied and followed the applicable requirements of this Chapter, the general intent of the Towns' Comprehensive Master Plan and other Town plans and documents as applicable, and meets all of the approval criteria required for the applicable development application, which are set forth in subsequent Sections of this Chapter under "Step 9, Approval Criteria."

For denial of an application the decision maker shall determine and find that the development application has not satisfied and followed the applicable requirements of the FDC, the Town's Comprehensive Master Plan and other Town plans and documents, and has not met the approval criteria required for the applicable development application.

**J. Step 10: Conditions of Approval**

1. The decision-maker may impose such conditions on the approval of the application as may be necessary to reduce or minimize any potential adverse impact upon other property in the area, or to carry out the general purpose and general intent of the Town's Comprehensive Master Plan and this FDC. In such cases, any conditions attached to approvals shall be directly related to the impacts of the proposed use or development and shall be roughly proportional in both extent and amount to the anticipated impacts of the proposed use or development. No conditions of approval, except for those attached to Variance or Minor Modification approvals shall be less restrictive than the requirements of this FDC.
2. The applicant may be required to pay reimbursements to the Town or to a party paying for public improvements and/or land acquisitions for public improvements that benefit the applicant's property or potentially benefit the applicant's property or development thereon. This requirement shall be reflected in any agreements entered into by the applicant and the Town.

**K. Step 11: Amendments**

**1. Minor Amendments**

Minor Amendments to any form of approval issued under this Chapter may be approved, approved with conditions, or denied administratively by the Director and may be authorized without additional public hearings. Such Minor Amendments may be authorized by the Director as long as the development approval, as so amended, continues to comply with the standards of this FDC, at least to the extent of its original compliance (so as to preclude any

greater deviation from the standards of this FDC by reason of such amendments). Minor Amendments shall only consist of any or all of the following and are subject to the Director's discretion:

- a. Any change to any form of approval issued under this Chapter that was originally subject only to administrative review and was approved by the Director, provided such change would not have disqualified the original plan from administrative review had it been requested at that time; and provided that:
  - i. The Minor Amendment results in an increase by one (1) percent or less in the approved number of dwelling units; or
  - ii. The Minor Amendment results in a decrease in the approved number of dwelling units; or
  - iii. The Minor Amendment results in an increase or decrease in the amount of square footage of a non-residential land use or structure that does not change the character of the project; or
  - iv. The Minor Amendment results in a change in the housing mix or use mix ratio that complies with the requirements of the zoning district and does not change the character of the project; or
  - v. The Minor Amendment does not result in a change in the character of the development.
- b. Any change to any form of approval issued under this Chapter that was originally subject to review and was approved by the Board of Trustees, provided that:
  - i. The Minor Amendment results in an increase by one (1) percent or less in the approved number of dwelling units; or
  - ii. The Minor Amendment results in a decrease in the approved number of dwelling units; or
  - iii. The Minor Amendment results in an increase or decrease in the amount of square footage of a non-residential land use or structure that does not change the character of the project; or
  - iv. The Minor Amendment results in a change in the housing mix or use mix ratio that complies with the requirements of the zoning district and does not change the character of the project; or
  - v. The Minor Amendment does not result in a change in the character of the development.
- c. The Director may refer any amendment to the Board of Trustees and, if so referred, the decision of the Board of Trustees shall constitute a final decision, subject only to appeal as provided for in Section 7.20.

## **2. Major Amendments**

Amendments to any approval that are not determined by the Director to be Minor Amendments under the criteria set forth in Subsection 7.2.K.1 above, shall be deemed Major Amendments. Major Amendments to approvals under this FDC shall be reviewed and processed in the same manner as required for the original application for which amendment is sought. Any Major Amendments shall be recorded as amendments in accordance with the procedures established for the filing and recording of such initial approvals.

### **L. Step 12: Lapse**

1. If applicable, the lapse of approval time frames established by the procedures of this FDC may be extended only when all of the following conditions exist:
  - a. The provisions of this FDC must expressly allow the extension;

- b. An extension request must be filed prior to the applicable lapse-of-approval deadline;
  - c. The extension request must be in writing and include justification; and
  - d. Unless otherwise noted, authority to grant extensions of time shall rest with the decision-making body that granted the original approval.
2. The conditions of such approvals (if applicable) shall be met within ninety (90) days of approval. The approved documents shall be recorded (if applicable) within ninety (90) days of approval or as otherwise approved by the Decision Making Body. Upon written request by the applicant, the Director may grant one (1) extension for a maximum of ninety (90) days due to unique circumstances that make it impractical to meet conditions of approval or record the approved documents within ninety (90) days from approval.
  3. Approvals of land use applications shall be null and void and shall automatically lapse if not completed or recorded within the approval time frames established by the procedures of this FDC.

### **16.7.3 ANNEXATIONS**

#### **A. Purpose**

Annexation is a discretionary, legislative act. Accordingly, the town shall never be compelled to annex, unless otherwise required by state law, even if all annexation requirements have been satisfied. This Section provides the procedure by which land shall be brought into the municipal limits and jurisdiction of the Town.

#### **B. Procedures as Modified**

##### **1. Step 2 (Development Application Submittal)**

Applicable, with the following modifications:

The applicant shall submit an Annexation Agreement, as follows:

##### **a. Annexation Agreement**

- i. Except for Town-owned property, Town-initiated annexation of enclaves, annexations upon election, or when waived by the Board of Trustees, an Annexation Agreement is required before the Annexation may be approved. The Annexation Agreement shall identify the mutual understanding of the commitments and responsibilities of both the Town and the property owner(s) about the Annexation.

(A) The Director coordinates all Annexation Agreement negotiations. The Director prepares the agreement in a form approved by the Town Attorney.

(B) No ordinance relating to Annexation of the property that is the subject of the annexation petition shall proceed to Public Hearing until an Annexation Agreement in a form approved by the Town Attorney has been signed by the property owner(s).

##### **2. Step 4 (Application Referral, Review and Staff Report)**

Applicable, with the following additional requirement:

##### **a. Resolution Regarding Statutory Compliance**

The Director shall report to the Board of Trustees an assessment of whether the Petition for Annexation substantially complies with C.R.S. §31-12-107. The Board of Trustees shall review the petition and the Director's report and shall, by resolution,

make a finding that the petition is or is not in substantial compliance with C.R.S. §31-12-107.

- i. If the petition is found to be in substantial compliance with C.R.S. §31-12-107, the procedure outlined in C.R.S. §31-12-108 to §31-12-110 shall be followed.
- ii. If the Board of Trustees finds that the petition is not in substantial compliance with C.R.S. §31-12-107, then no further action shall be taken on the application for annexation.

**3. Step 6 (Notice)**

Published and posted notice of the public hearings required Municipal Annexation Act of 1965 (C.R.S. §31-12-101, et seq., as amended) shall be provided as required by C.R.S. §31-12-108. If applicable, the Town shall prepare the Annexation Impact Report in accordance with C.R.S. §31-12-108.5.

**4. Step 8 (Decision and Findings)**

The following additional procedures shall apply:

**a. Action by Board of Trustees**

The Board of Trustees shall hold a hearing on the proposed Annexation and, based upon the recommendations of the Director and the applicable approval criteria listed below, approve the Annexation by ordinance or deny the Annexation.

**b. Annexation Ordinance Required**

After completing a hearing under C.R.S. §31-12-109 and adopting an appropriate resolution under C.R.S. §31-12-110, the Board of Trustees may annex the petitioned area by adopting, with or without conditions, an Annexation Ordinance.

**5. Step 9 (Approval Criteria)**

All annexations shall be reviewed for compliance with the following criteria. However, annexation is a discretionary, legislative act. The Town shall never be compelled to annex, unless otherwise required by State statutes, even if all these review criteria have been satisfied.

- a. The Annexation is in compliance with the Municipal Annexation Act of 1965 (C.R.S. §31-12-101, et seq., as amended).

**6. Step 12 (Lapse)**

Applicable, as follows:

**a. Annexation Not Final Until Satisfaction of All Requirements**

- i. Town action on the Annexation application shall not become final unless all requirements of the Annexation Ordinance and State statutes have been satisfied, as certified by the Director.
- ii. If the requirements of the Annexation Ordinance and State statutes are not satisfied within the applicable time period, the Annexation approval shall lapse and be of no further force and effect.
- iii. When all requirements have been satisfied, the ordinance, the Annexation Agreement, and the Annexation Map shall be recorded with the Weld County Clerk and Recorder, and the Annexation will then be final.

**16.7.4 INITIAL ZONING AND REZONING (OFFICIAL MAP AMENDMENT)**

**A. Purpose**

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

may be required to correct an error in the map, to make adjustments to the official zoning map because of changed or changing conditions in a particular area or in the Town generally, or because of changes in public policy, to rezone an area to implement adopted plans, or to change the regulations and restrictions of an area as reasonably necessary to promote the public health, safety or general welfare of the Town.

**B. Zone Districts Not Available for Rezoning**

No land may be rezoned into any zone district not established in this FDC. In addition, the Adult Use Overlay District established in this FDC, while mapped on the Official Zoning Map, shall not be applied to any lands after adoption of this FDC.

**C. Initiation**

A rezoning may be initiated by:

1. The owner of the property proposed to be rezoned;
2. Any person, firm, or corporation with the written consent of the property owner of the property proposed to be rezoned;
3. The Planning & Zoning Commission ("Town-initiated"); or
4. The Town Manager of the Town of Firestone ("Town-initiated").

**D. Annexation**

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

1. No ordinance initially zoning property annexed to the Town shall be adopted prior to the date the annexation ordinance is adopted on second reading.
2. Property annexed to the town shall be initially zoned by the Town within ninety (90) days after the effective date of the annexation ordinance. Any requirements set forth herein, and not required by statute, shall be modified to the extent necessary to meet the ninety (90) day requirement.

**E. Procedures as Modified**

**1. Step 2 (Development Application Submittal)**

The following additional submittal information shall apply to creation of a design overlay zone district (DO-):

**a. Conceptual Site Plan**

An application for the initial zoning of property annexed or to be annexed to the town shall be accompanied by a conceptual site plan. The conceptual site plan is intended to supply enough information about the development for the Director to evaluate and for the Planning & Zoning Commission and Board of Trustees to make a decision on the rezoning application. The information to be supplied will be determined by the Director as part of the pre-application review, but should generally indicate the feasibility and design characteristics of the development potential of the property.

**b. Final Development Plan**

The application for (DO-) rezoning shall include a final development plan prepared to the specifications in the User's Guide. The Director shall require sufficient detail in the final development plan to provide an opportunity for the approving bodies to make informed decisions and evaluate compliance with the applicable approval criteria. The application shall include, at a minimum:

- i. A quantitative summary of existing conditions on the subject property, as specified in the User's Guide;

- ii. A list of uses to be permitted within the underlying zone district by right and a list of uses to be permitted only with a Special Review Use permit;
- iii. Intensity or density of uses proposed;
- iv. Location of public and private open space, parks and trails;
- v. Location of existing and proposed buildings on the site;
- vi. Road, street, and pedestrian networks proposed;
- vii. Drainage facilities;
- viii. Existing or proposed utilities, public services, and other encumbrances;
- ix. If development is to be phased, a description of the phase components and timing;
- x. A statement that development on the site will meet applicable standards of the underlying zoning district and this FDC, or a statement specifying the standards of the underlying district and this FDC to which modifications are proposed and the justification for such modifications; and
- xi. A statement specifying the public benefit(s) to be contained in or associated with the design overlay district.

**2. Step 8 (Decision and Findings)**

The following additional procedures shall apply:

**a. *Protests***

If a protest to an official map amendment signed by the owners of twenty (20) percent or more either of (1) the area of the land included in such proposed change; or (2) the total land area from the perimeter of the area proposed for change extending a radius of one-hundred (100) feet outside of the perimeter of the area proposed for change, excluding intervening rights-of-way, is filed with the Town Clerk, then the proposed rezoning shall not become effective except by the an affirmative vote of five (5) Board of Trustee members.

- i. For the purpose of defining owners and the area of land represented by the owner, land owned by more than one owner shall be divided to the extent of each owner's percentage of ownership interest in determining whether a protest has the required percentage of signatures.
- ii. All protests to a proposed rezoning and any withdrawal of the protest or specific petition signatures shall be filed with the Town Clerk on or before, and not later than, one (1) business day before the date for the public hearing before the Board of Trustees on the proposed Rezoning.

**b. *Form of Amending Ordinance***

An ordinance amending the zoning map shall contain the following:

- i. The name of each district to which the ordinance applies; and
- ii. The legal description of the land within each zoning district applied by the ordinance.

**c. *Recording***

The Town Clerk shall record the final action of the Board of Trustees on an official map amendment in the real property records of the Weld County Clerk and Recorder, and shall cause the amendment of the official zone map to designate the subject property according to the amendment. The applicant or owner shall be responsible for all recording fees.

**d. Successive Applications**

Following denial of an Initial Zoning with Annexation request, no new application for the same or substantially the same Zoning shall be accepted within one (1) year of the date of denial.

**3. Step 9 (General Review Criteria Applicable to all Official Map Amendments)**

The Board of Trustees may approve an official map amendment if the proposed rezoning meets all of the following criteria:

- a. That the proposed zoning promotes the health, safety or welfare of the inhabitants of the Town and the purposes of this FDC; and
- b. The proposed zoning is generally consistent with the Town's Comprehensive Master Plan, or the proposed zoning is necessary to provide land for a community need that was not anticipated at the time of the adoption of the Town's plan.
- c. Adequate facilities and services (including streets and transportation, water, gas, electric, police and fire protection, and sewage and waste disposal, as applicable) will be available to serve the subject property while maintaining adequate levels of service to existing development;
- d. The proposed zoning is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated;
- e. The proposed zoning is not likely to result in significant adverse impacts upon other property in the vicinity of the subject property;
- f. Future uses on the subject property will be compatible in scale with uses on other properties in the vicinity of the subject property; and
- g. The proposed zoning is generally consistent with the Town's economic development goals and objectives in bringing positive growth and sustainable revenues to the Town.

**16.7.5 REZONING - PLANNED UNIT DEVELOPMENT (PUD) DISTRICT**

**A. Applicability**

**1. General**

- a. The procedures of this Section, shall apply to all PUD zone district applications at initial zoning for annexation or as a rezoning of a property from another district.
- b. There shall be no minimum or maximum size required for a PUD zone district application.
- c. The PUD zoning district specific regulations are required to be outlined in a Planned Unit Development–District Plan (“PUD-DP”). The PUD-DP shall comprehensively detail the layout and design of the entire PUD zoning district in order to show conformance with the purpose of the PUD zoning district; to illustrate where and how modification of specific FDC regulations will occur; and to delineate where and how a greater public benefit has been provided. The PUD-DP is required to be approved before development may occur.
- d. The PUD zoning district application may propose modifications to:
  - i. Chapter 3: Use Regulations;
  - ii. Chapter 4: Dimensional Standards;
  - iii. Section 5.4: Layout and Design of Subdivisions; and,
  - iv. Chapter 6: Development and Design Standards.

- e. The provisions of the PUD-DP shall govern the development within the PUD zone district provided, however, that where the provisions of the PUD-DP do not address a particular subject, the relevant provisions of the FDC, as amended, or any other applicable ordinance or regulation of the Town shall be applicable.

**B. Procedures as Modified**

**1. Step 1: (Pre-Application Conference)**

Applicable. The Pre-Application conference content should additionally include a list, provided by the applicant, of all the proposed modifications of the FDC. Staff will review the applicant's proposed modifications and recommend whether or not the PUD zoning district application is the most appropriate and efficient land use application for the applicant's need. Other FDC modification options available to an applicant, which may be recommended by staff, include the Alternative Equivalent Compliance process in Subsection 6.1.C. or the Overlay district in Subsection 2.6.D.

**2. Step 2: (Development Application Submittal)**

The following additional development application submittal requirements shall also apply.

**a. Choice of a PUD District Plan Type:**

- i. General PUD District Plan. If development is to proceed in phases or over an extended period of time, or if more general zoning is desired prior to preparation of more detailed final development and pre-construction plans, the applicant may submit a "General PUD District Plan" covering the entire PUD District area. After the PUD District rezoning with a General PUD District Plan is approved, one or more final development plans shall be submitted for each phase of development and shall follow the general development concept established in the General PUD District Plan. See Section 7.10, Final Development Plan, for the procedure and review criteria applicable to final development plans.
- ii. Detailed PUD District Plan. If development is not to be completed in phases or over an extended period of time, or if an applicant is prepared to submit more detailed final development plan or pre-construction plans, the applicant may submit a "Detailed PUD District Plan" covering the entire PUD District area. After the PUD District rezoning with a Detailed PUD District Plan is approved, the Detailed PUD District Plan shall constitute a Final Development Plan, enabling the applicant to proceed directly to final zoning/building permit approval (no intervening final development plan review step under Section 7.10).

**b. PUD District Plan Contents—Permitted Uses and Procedures**

All PUD District Plans shall specify permitted primary, accessory and temporary uses, and may specify applicable use and development review procedures, in compliance with the following standards.

- i. A PUD District Plan shall permit any use which is a permitted use in any zone district when such use is provided for, enumerated, and approved in the PUD District Plan.
- ii. All use limitations in this FDC shall apply to the uses in the PUD District unless expressly waived or modified in the PUD District Plan.
- iii. A PUD District Plan may subject the establishment of a permitted use or the development of an allowed building form to any procedure established in Chapter 7. However, a PUD District Plan shall not establish or include any use or development review procedure different from a procedure established in Chapter 7.

- iv. A PUD District Plan may provide for future amendment by subarea, platted lots, or metes and bounds parcels, as allowed in Subsection 7.5.D.5, Amendments to Approved PUD District Plan.
- c. PUD District Plan Contents—Applicable Design Standards.**
- i. *Required PUD District Plan Elements.*

While the level of detail will vary between a General PUD District Plan and a Detailed PUD District Plan, all PUD District Plans shall include or address the following elements, through specific standards wherever possible. Applications for the PUD zoning district shall provide application materials similar to what is submitted for a preliminary plat application. Applications that include residential (other than single-family), public and institutional, commercial or manufacturing and light industrial land uses shall additionally provide application materials similar to what is submitted for a Final Development Plan application. The Director may waive submittal information below if the anticipated impact of the proposed development is minimal or the submittal information is not relevant to the specific application.

    - (A) A written statement that contains information regarding:
      - (1) The character and development concept for the PUD District.
      - (2) A comparative chart that lists the FDC regulation that is requested to be modified and the proposed modified PUD regulation that will replace it.
      - (3) Justification statement for each requested modification to the FDC regulations.
      - (4) Identification of the greater public benefit provided within the PUD zone district.
      - (5) A development schedule that identifies timing and phasing of development.
      - (6) General consistency of the development with the Town of Firestone Comprehensive Master Plan; Transportation Master Plan; POST Master Plan, and other pertinent Town plan and policy documents.
      - (7) General compatibility with, and effect on, surrounding properties.
      - (8) Provision for adequate, police, fire, and school services.
    - (B) A PUD-DP that contains:
      - (1) The requested modifications to the FDC regulations.
      - (2) A land use summary chart that identifies, by each land use type, the:
        - area and percent of total area;
        - number of lots;
        - number of dwelling units;
        - dwelling units per gross acreage;
        - square footage of non-residential;
        - minimum lot sizes;
        - minimum setbacks;

- maximum building height;
- principal and accessory uses permitted by right and by special review use;
- parks and open space dedication total;
- private parks and open space total; and,
- parking requirements.

- (3) Lot, block and tract layout.
- (4) Existing and proposed easements.
- (5) Existing and proposed street rights-of-way.
- (6) Utility plan.
- (7) Grading and drainage plan.
- (8) Oil/gas plan for plugged and abandoned, existing, and proposed facilities, easements, and setbacks.
- (9) Natural and scenic resource protection plan.
- (10) Landscape plan.
- (11) Park, open space and trails plan.
- (12) General location and size of all existing and proposed structures.
- (13) Building floor plans and architectural elevations.
- (14) Parking, loading, and vehicular and pedestrian circulation.
- (15) Signage.
- (16) Photometric plan (single-family residential excepted).

(C) Additional Provisions:

- (1) The Town may require additional reasonable provisions as appear necessary or desirable for the protection of adjoining or nearby properties and to fully evaluate the proposed modifications to the FDC regulations.
- (2) In addition to the required elements stated in this subsection, a PUD District Plan may include design standards different than the type and subject matter of standards included in this Code, including without limitation, enhanced streetscape standards, minimum open space configuration or design standards, and minimum architectural design standards for buildings in the PUD District.

**3. Step 8: (Decision and Findings)**



The following additional procedures shall apply:

**a. Official Zoning Map**

PUD Districts approved in accordance with the provisions of this Section shall be referenced on the Official Zoning Map.

**b. Recording**

Following approval of the PUD zone district application, the Town shall record the PUD-DP, and other appropriate associated documents, in the office of the Weld

County Clerk and Recorder. The applicant shall be responsible for all required recording fees.

**c. Successive Applications**

Following denial of a PUD zone district application, no new application for the same or substantially the same PUD zone district application shall be accepted within one (1) year of the date of denial.

**4. Step 9: (Additional Review Criteria for Rezoning to PUD District)**

In addition to the general review criteria stated in Section 7.4 (Step 9 of 7.4), the Board of Trustees shall find:

- a. The PUD district zoning is generally consistent with the purpose of the PUD zone district as set forth in FDC Subsection 2.4.E.
- b. The PUD District and the PUD District Plan comply with all applicable standards and criteria stated in Section 7.5.
- c. The development proposed on the subject property is not feasible under any other zone districts, and would require an unreasonable number of variances or waivers and conditions.
- d. The PUD District and the PUD District Plan establish permitted uses that are compatible with existing land uses adjacent to the subject property.
- e. The PUD District and the PUD District Plan establish permitted building forms that are compatible with adjacent existing building forms, or which are made compatible through appropriate transitions at the boundaries of the PUD District Plan (e.g., through decreases in building height; through significant distance or separation by rights-of-way, landscaping or similar features; or through innovative building design).

**5. Step 11: (Minor Modifications and Amendments)**

- a. Any changes that constitute amendments under Section 2.4.E.7 require the filing of new application for a PUD District, subject to the submittal requirements listed above in Subsection 7.5.B.2., and shall follow the process identified in Subsection 7.5.B. The Board of Trustee's action regarding an application for an amended PUD-DP shall be by ordinance, following a recommendation from the planning commission.

**6. Step 12: (Lapse)**

Applicable, as modified:

- a. The PUD-DP and other appropriate associated documents to the approved PUD zone district shall be recorded within ninety (90) days of approval or as otherwise approved by ordinance. Upon written request by the applicant or staff, the Director may grant two (2) extensions for a maximum of sixty (60) days each due to unique circumstances that make it impracticable to file the documents.
- b. Effect of Approved Detailed PUD District Plans.
  - i. The standards and provisions of an approved Detailed PUD District Plan shall constitute the zoning regulations for use and development of the subject property. Approval of a Detailed PUD District Plan shall constitute final development plan review for zoning compliance purposes only under Section 7.13 and building permits may be issued and site work commenced according to the approved Detailed PUD District Plan.
  - ii. An approved Detailed PUD District Plan shall expire after three (3) years from the date of Board of Trustees approval, if a building permit (as applicable) has not been obtained and construction of a walled and roofed building intended as shelter for a use or occupancy permitted within the PUD zone district has not started.

- iii. The Board of Trustees may extend the original three (3) year expiration time frame for Detailed PUD District Plans, by ordinance preceded by a Public Hearing, for up to an additional twelve (12) months for good cause, including but not limited to a showing that development was delayed by economic or physical problems beyond the applicant's or property owner's control.
- c. Effect of Approved General PUD District Plans
  - i. Within a PUD District subject to an approved General PUD District Plan, no building permits may be issued and no work may commence until a final development plan has been approved according to Section 7.10, or unless a Detailed PUD District Plan for a portion or portions of the PUD District has been approved by the Board of Trustees according to Section 7.5 of this FDC.
  - ii. A final development plan within a PUD District may be for the entirety of the district, or for only one or more phases of the entire PUD District area. The approval of a final development plan for any one phase of the PUD District may be contingent on improvements that involve other or all phases. In any final development plan application for less than the entirety of the PUD District, the applicant shall submit plan exhibits that clearly show the relation of the subject site development phase(s) to the remainder of the PUD District area.
  - iii. The standards and provisions of the approved PUD District subject to a General PUD District Plan, together with all approved final development plans for the PUD District, shall constitute the zoning regulations regulating all use and development of the subject property.
- d. Areas covered by an approved PUD District with a General PUD District Plan may be considered by the Board of Trustees for rezoning to a more appropriate classification under this FDC, if a complete final development plan for at least one phase of the PUD District has not been submitted within thirty (30) months following approval of the PUD District with a General PUD District Plan. The Board of Trustee's actions regarding a rezoning of the property shall be by ordinance at a Public Hearing, following a recommendation by the planning commission. Alternatively, the Board of Trustees may consider revoking the PUD-DP from the PUD zone district. The revocation of the PUD-DP shall be heard before the Planning & Zoning Commission, wherein the Planning and Zoning Commission shall make a recommendation to the Board of Trustees. The revocation of the PUD-DP shall then be heard by the Board of Trustees at a Public Hearing where a final determination shall be made.
  - i. If a PUD-DP has been revoked by the Board of Trustees, the property will remain zoned as a PUD zone district without a PUD-DP. Development of the property, as a PUD zone district, will require a new PUD-DP that shall be reviewed and processed in the same manner as required for the original application.
- e. The Public Hearing shall be subject to the Town Notice (Subsection 7.2.F.3.), Mailed Notice (Subsection 7.2.F.4), and Posted Notice (Subsection 7.2.F.5.) requirements as well as the Public Hearing requirements of Subsection 7.2.G.

## **16.7.6 SUBDIVISION**

### **A. Purpose**

The purpose of the subdivision review process is to ensure compliance with the subdivision standards and requirements set forth in Chapter 6, while encouraging quality development generally consistent with the goals, policies, and objectives found in the Town's Comprehensive Master Plan.

## **B. Applicability**

### **1. General**

The procedures of this Section, and the standards and requirements set forth in Chapter 6, shall apply to all subdivisions or re-subdivisions that result in the portioning, dividing, combining, or altering of any lot, parcel, or tract of land, including subdivisions or re-subdivisions created by an exercise of the power of eminent domain by an agency of the State or Town, unless specifically excluded by State statute.

### **2. Preliminary Plat – Final Plat Process**

If the subdivision is not a lot line adjustment or minor subdivision, the subdivision shall follow the Preliminary Plat and Final Plat processes in Subsections 7.6.C and 7.6.D.

### **3. Lot Line Adjustment and Minor Plat Process**

The Board of Trustees expressly delegates and grants to the Director the authority to review and approve through the administrative process lot line adjustments and minor subdivisions. The authority granted and delegated hereby shall include the authority to execute and file with the office of the county clerk and recorder a subdivision plat conforming to the requirements of this section. The authority granted and delegated hereby is subject to the following conditions and limitations: (a) No lot split shall be permitted unless both resulting lots abut a street or road on a least one entire side of such lot; (b) No lot split shall be permitted unless both resulting lots meet the minimum lot size requirements of the zone district in which the lots are located; (c) The resulting lots can be served by municipal services through existing public improvements or through the construction of public improvements; (d) If, at the Director's discretion, the lot line adjustment or minor subdivision does not alter the character of the subdivision nor adversely affect the functions of transportation, utilities, drainage, and other services and providers; and (d) the lot line adjustment or minor subdivision is not being utilized to circumvent the regular process of review or other provisions of the subdivision design standards, particularly as it pertains to the number of lots created by the process itself, the impacts of the development or improvements, or in conjunction with other lot line adjustment or minor subdivision applications.

### **4. Subdivision Approval is Prerequisite to Other Approvals**

- a. No building permit or certificate of occupancy may be issued for any building, structure, or improvement located within a subdivision until:
  - i. A plat for the subdivision has been approved and recorded and all required dedications of land have been made, and all required improvements have been installed in accordance with the procedures and requirements of this Section; or
  - ii. A plat for the subdivision of land has been approved and recorded and a Subdivision Agreement has been executed that provides for future improvements pursuant to Section 7.16.

### **5. Restriction on Sale or Transfer of Subdivided Land Without Approved Plat**

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

### **6. Existing Lots of Record**

No provision of this Section or Chapter 6 applies to any lot in a subdivision legally created and filed of record before the effective date of this FDC, unless the lot is further subdivided.

## **C. Procedures as Modified for Review of Preliminary Plats**

### **1. Step 2 (Development Application Submittal)**

The following additional development application submittal requirements shall also apply.

A Preliminary Plat shall include all land under contiguous ownership unless separate legal descriptions exist as a matter of record. If only a portion of the land is intended for immediate development, the remaining portion shall be given a tract number and shall be considered a part of the Preliminary Plat.

**2. Step 8 (Decision and Findings)**

The following additional procedures shall apply:

**a. Additional Documentation**

In its review of the Preliminary Plat the Board of Trustees and/or the Planning & Zoning Commission may determine that additional maps, reports, certifications, or agreements are necessary before making a decision on the proposal. In such cases either decision making body may require that the additional evidence be submitted before a finding is made.

**b. Effect of Approval**

Following approval of a Preliminary Plat, applicant shall submit signed, full-size paper copies of the plat. This plat, along with the approving resolution, shall be kept in the Office of the Town Clerk. Approval of the preliminary plat does not constitute approval of the final plat. The Preliminary Plat shall not be recorded and use of the Preliminary Plat for the purpose of selling or transferring interests in real estate shall be deemed a violation of this FDC.

**c. Construction Work**

No construction work shall begin on the proposed improvements in the proposed subdivision prior to approval of the Final Plat; however, the subdivider may undertake certain ground excavations for grading and drainage purposes if the proper permits are issued by the Town Engineer, and/or Public Works Department, at the subdivider's risk.

**d. New Application Following Denial**

No new application for the same or substantially the same Preliminary Plat shall be accepted by the Director within one (1) year of denial of the original application. The waiting period required by this Section may be waived in an individual case, based upon new evidence or changed circumstances, by the Director.

**3. Step 9 (Approval Criteria)**

The Planning & Zoning Commission and Board of Trustees shall hold at least one Public Hearing on the submitted plat. During the public hearing, the Planning & Zoning Commission and Board of Trustees may approve upon findings that all of the following criteria have been met:

- a. The subdivision is generally consistent with the Town's Comprehensive Master Plan.
- b. The subdivision is generally consistent with and implements the intent of the specific zoning district in which it is located.
- c. The general layout of lots, streets, driveways, utilities, drainage facilities, and other services within the proposed subdivision is designed to meet the Town's standards related to health and safety and in a way that minimizes the amount of land disturbance, maximizes the amount of open space in the development, preserves existing trees/vegetation and riparian areas, protects critical wildlife habitat, and otherwise accomplishes the purposes and intent of this FDC.
- d. The subdivision complies with all applicable use, development, and design standards set forth in Chapters 3, 5 and 6 of this FDC that have not otherwise been modified or waived pursuant to this Chapter or this FDC.
- e. The subdivision complies with all applicable regulations, standards, requirements, or plans of the Federal or State governments and other relevant jurisdictions,

including but not limited to wetlands, water quality, erosion control, and wastewater regulations.

- f. The subdivision will not result in significant adverse impacts on the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated.
- g. The subdivision shall be integrated and connected, where appropriate, with adjacent development through street connections, sidewalks, trails, and similar features.
- h. The subdivision will not result in significant adverse impacts on adjacent properties, or such impacts will be substantially mitigated.
- i. Adequate and sufficient public safety, transportation, utility facilities and services, recreation facilities, parks, and schools are available to serve the subject property, while maintaining sufficient levels of service to existing development.
- j. As applicable, the proposed phasing plan for development of the subdivision is rational in terms of available infrastructure capacity.

#### 4. Step 12 (Lapse)

Applicable, as modified:

- a. Approval of a Preliminary Plat shall be effective for two (2) years. If no development or change in requirements has occurred that would affect the proposed plat at the end of the effective approval period, the Board of Trustees may, at the request of the applicant, extend its approval an additional year without the submission of a new Preliminary Plat by re-approving the original Preliminary Plat. No extensions of approval shall be granted more than once.
- b. An approved Preliminary Plat shall lapse and be of no further force and effect if a complete Final Plat application for the subdivision or a phase of the subdivision has not been submitted within two (2) years after the approval date of the Preliminary Plat or within the Board of Trustees approved extension period. In the case of partial Final Plat submission or subsequent partial Final Plat submissions, the approval of the remaining portion of the Preliminary Plat shall automatically gain an extension of one (1) year with each Final Plat.

#### D. Procedures as Modified for Review of Final Plats

##### 1. Step 2 (Development Application Submittal)

The purpose of the final plat is to review the proposed subdivision for proper final engineering subdivision design; for legal requirements to properly represent real estate interests; to provide for dedication of lands required for public use and for the construction of public improvements; and for conformance with the form of the preliminary plat.

The applicant may proceed with the preparation of the final plat and other documents to be submitted with the application simultaneously with, or following approval of the preliminary plat, at the risk of the subdivider. No final action shall be taken on a Final Plat until the corresponding Preliminary Plat has been approved and, if applicable, associated approval conditions have been satisfied.

##### 2. Step 8 (Decision and Findings)

The following additional procedures shall apply:

###### a. *Board of Trustees Action*

The Board of Trustees shall review at a public meeting the final plat for conformance with the preliminary plat and the applicable approval criteria listed below. The Board of Trustees has final authority to approve, approve with conditions, or disapprove the final plat, accept the dedications, and to enter into and authorize the execution of a development agreement associated with the final plat or to refer the final plat to the

Planning & Zoning Commission. Said referral of the final plat to the Planning & Zoning Commission shall outline the reasons for this referral.

**b. Final Plats that Differ from Approved Preliminary Plats**

If there are significant changes on the final plat from the form of the approved preliminary plat, the Final Plat submittal shall require review and approval in the same manner as the Preliminary Plat (i.e., hearings before the Planning & Zoning Commission and the Board of Trustees). Significant changes include, but are not limited to, modifications of street patterns, lot layout, drainage ways, grading, density, utility systems or public improvements. The Director shall review the final plat changes to determine the conformance to the preliminary plat, and shall determine if the changes are sufficiently significant to require a new preliminary plat submittal. The subdivider may appeal the Director's decision to the Planning & Zoning Commission within fourteen (14) days of the decision.

**c. Effect of Approval**

**i. Recording**

Within sixty (60) days of Board of Trustees approval of a Final Plat, which shall have all permitted modifications, waivers, or variances expressly noted thereon, the applicant shall provide to the Town one (1) fully executed copy of the approved Final Plat along with such other documents and fees as may be required by the Board of Trustees or this FDC. The Final Plat shall be signed by the Mayor and other authorized Town representatives. The Town shall then record the Final Plat and any signed Subdivision Agreement in the office of the Weld County Clerk and Recorder. The applicant shall pay all required recording fees. The time periods provided for in this section may be extended for an additional sixty (60) days by the Director upon written request and a showing of good cause. Board of Trustees approval of any final plat shall be void if the applicant fails to comply with the time requirements of this Section.

**d. Improvement Guarantees**

The subdivider shall provide any required guarantees to the Town Clerk prior to the recording of the Final Plat, unless otherwise authorized by the Board of Trustees. Improvement Guarantees shall be in a form specified and subject to the requirements and conditions detailed within this FDC, the Town's Standards and Specifications, and the approved and executed Subdivision Agreement.

**e. Subdivision Agreements**

The Mayor or other authorized Town representative shall sign any related Subdivision Agreement.

**f. Construction Work**

No construction work shall begin on the proposed improvements in the proposed subdivision prior to approval of the Final Plat. The subdivider may undertake certain ground excavations for grading and drainage purposes if the proper permits are issued by the Town Engineer at the subdivider's risk.

**3. Step 9 (Approval Criteria)**

The Board of Trustees shall consider, the following criteria:

- a. The Final Plat is found to be in substantial compliance with all respects of the approved Preliminary Plat and incorporates all recommended changes, modifications, and conditions attached to approval of the Preliminary Plat;
- b. Plans and specifications for improvements connected with development of the subdivision comply with the subdivision development and design standards set forth in Chapter 6 of this FDC, and any other relevant Town, County, State, or Federal regulations, except to the extent modifications, variances, or exceptions have been

expressly permitted by the terms of the Preliminary Plat approval. All construction plans for improvements shall be approved by the Town Engineer prior to the Board of Trustees action on the Final Plat;

- c. The applicant has either installed all required improvements or has executed a Subdivision Agreement pursuant to Section 7.16; and
- d. The applicant has paid or satisfied all applicable fees and charges.

#### 4. Step 11 (Amendments)

##### a. *Minor Amendments*

The Director may approve Minor Amendments to approved plats, which shall be recorded and shall control over the preceding Final Plat without vacation of that plat, if the application is signed by the applicants only and the sole purpose of the amending plat is to:

- i. Correct an error in a course or distance shown on the preceding plat;
- ii. Add a course or distance that was omitted on the preceding plat;
- iii. Correct an error in a real property description shown on the preceding plat;
- iv. Indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
- v. Show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
- vi. Correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
- vii. Correct an error in courses and distances of lot lines between two (2) adjacent lots if:
  - (A) Both lot owners join in the application for amending the plat;
  - (B) Neither lot is abolished;
  - (C) The amendment does not attempt to remove recorded covenants or restrictions; and
  - (D) The amendment does not have a material adverse effect on the property rights of the owners in the plat;
- viii. Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement; or
- ix. Relocate or remove one (1) or more lot lines between one (1) or more adjacent lots if all of the following have been met:
  - (A) The owners of all those lots join in the application for amending the plat;
  - (B) Lots must be combined so that no lot is created as a non-conforming lot, and no existing non-conforming lot remains.
  - (C) The amendment does not attempt to remove recorded covenants or restrictions; and
  - (D) The amendment does not increase the number of lots.

**E. Procedures as Modified for Review of Lot Line Adjustment and Minor Plats**

**1. Applicability**

The procedure set forth in this Section shall apply to all subdivisions that qualify as lot line adjustments or minor subdivisions, as defined by this FDC, except for non-residential minor subdivisions.

**2. Step 8 (Decision and Findings)**

The Director shall review each lot line adjustment application or proposed Minor Plat relative to the applicable approval criteria listed below. All construction plans for subdivision related public improvements shall be referred to the Town Engineer, Director of Public Works, and applicable utility providers for review and approval. Based on the results of those reviews, the Director shall act to approve, approve with conditions, or deny the lot line adjustment application or proposed Minor Plat. The Director shall make a final decision on the lot line adjustment plat or Minor Plat.

**3. Step 9 (Approval Criteria)**

The Director shall approve a lot line adjustment or Minor Plat application if it meets the following criteria:

- a. The lot line adjustment plat or Minor Plat is generally consistent with the Town's Comprehensive Master Plan;
- b. The lot line adjustment plat or Minor Plat is generally consistent with and implements the intent of the specific zoning district in which it is located;
- c. As applicable, the Minor Plat is generally consistent with the terms and conditions of any previously approved development plan;
- d. The lot line adjustment plat or Minor Plat complies with all applicable use, development, and design standards set forth in this FDC;
- e. Adequate and sufficient public safety, transportation, utility facilities and services, recreation facilities, parks, and schools are available to serve the subject property, while maintaining sufficient levels of service to existing development; and
- f. The lot line adjustment plat or Minor Plat will not result in significant adverse impacts on adjacent properties, or such impacts will be substantially mitigated.

**F. Procedure as Modified for Non-residential Subdivisions**

**1. Applicability**

The procedure set forth in this Section shall apply to all subdivisions that qualify as non-residential subdivisions, as defined by this FDC.

**2. Step 8 (Decisions and Findings)**

The Board of Trustees shall review at a Public Hearing the final plat for conformance with the applicable approval criteria listed below. The Board of Trustees shall, within thirty (30) days of the close of the Public Hearing on the final plat, approve, approve with conditions, or disapprove the final plat as presented, accept the dedications as presented, and enter into and authorize the execution of a development agreement associated with the final plat.

**3. Step 9 (Approval Criteria)**

The Board of Trustees shall approve a Non-residential Subdivision application if it meets the following criteria:

- a. The final plat is generally consistent with the Town's Comprehensive Master Plan;
- b. The final plat is generally consistent with and implements the intent of the specific zoning district in which it is located;
- c. As applicable, the final plat is generally consistent with the terms and conditions of any previously approved development plan;

- d. The final plat complies with all applicable use, development, and design standards set forth in this FDC;
- e. Adequate and sufficient public safety, transportation, utility facilities and services, recreation facilities, parks, and schools are available to serve the subject property, while maintaining sufficient levels of service to existing development; and
- f. The final plat will not result in significant adverse impacts on adjacent properties, or such impacts will be substantially mitigated.

**4. Step 11 (Amendments)**

**a. *Minor Amendments***

The Director may approve Minor Amendments to approved plats, which shall be recorded and shall control over the preceding Nonresidential Plat without vacation of that plat, if the application is signed by the applicants only and the sole purpose of the amending plat is to:

- i. Correct an error in a course or distance shown on the preceding plat;
- ii. Add a course or distance that was omitted on the preceding plat;
- iii. Correct an error in a real property description shown on the preceding plat;
- iv. Correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
- v. Correct an error in courses and distances of lot lines between two (2) adjacent lots if:
  - (A) Both lot owners join in the application for amending the plat;
  - (B) Neither lot is abolished;
  - (C) The amendment does not attempt to remove recorded covenants or restrictions; and
  - (D) The amendment does not have a material adverse effect on the property rights of the owners in the plat;
- vi. Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement; or
- vii. Relocate or remove one (1) or more lot lines between one (1) or more adjacent lots if all of the following have been met:
  - (A) The owners of all those lots join in the application for amending the plat;
  - (B) Lots must be combined so that no lot is created as a non-conforming lot, and no existing non-conforming lot remains.
  - (C) The amendment does not attempt to remove recorded covenants or restrictions; and
- viii. Add one (1) lot line between two (2) adjacent lots if, at the Director's discretion, the lot line does not alter the character of the subdivision nor adversely affect the functions of transportation, utilities, drainage, and other services and providers.

## 16.7.7 MINOR MODIFICATIONS

### A. Purpose and Scope

This Section sets forth the required review and approval procedures for “Minor Modifications,” which are adjustments to certain provisions of this Code otherwise applicable to a property pursuant to the procedures in this Section. Minor Modifications may authorize minor changes to pending applications, or to approved plans and permits, and relief from specified standards as stated in this Section. Minor Modifications are intended to relieve unnecessary hardship in complying with the strict letter of this FDC or with overriding Federal law, and to promote context-sensitive development, which are minor deviations from otherwise applicable standards that may be approved by the Board of Trustees or the Director. Minor Modifications are to be used when the small size of the modification requested, and the unlikelihood of any adverse effects on nearby properties or the neighborhood, make it unnecessary to complete a formal Variance process. Minor Modifications are not intended to relieve specific cases of financial hardship, nor to allow circumventing the intent of this FDC and its standards.

### B. Applicability

#### 1. Administrative Adjustments to Relieve Unnecessary Hardship

As part of the review and approval of any procedure set forth in this Chapter, the Board of Trustees or the Director may approve adjustments of up to a maximum of ten (10) percent from the following general development and zoning district standards, including Design Overlay (DO-) and Planned Unit Development (PUD) District standards, provided that the applicable approval criteria listed in Section 16.7.7.C.2. are met.

- a. Minimum lot area requirements;
- b. Setback, building, and height requirements;
- c. Subdivision design and improvement standards set forth in Section 5.4; and
- d. Quantitative development standards set forth in Chapter 6 (e.g., number of parking spaces);

#### 2. Minor Modifications to Ensure Compliance with Federal Law

##### a. *Compliance with Federal Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA)*

- i. The Board of Trustees or the Director may grant Minor Modifications to any use, building form, or design standard stated in Chapters 3, 4, and 6 of this FDC in order to eliminate a substantial burden on religious exercise as guaranteed by the RLUIPA, as amended.
- ii. In no circumstance shall the Board of Trustees or the Director approve an adjustment that allows a religious assembly use, or any uses/structures/activities accessory to it, in a zone district where this FDC prohibits such use or accessory use/structure/activity.
- iii. In granting an administrative adjustment, the Board of Trustees or the Director may require conditions that will secure substantially the objectives of the modified standard and that will substantially mitigate any potential adverse impact on the environment or on adjacent properties, including but not limited to additional landscaping or screening.

##### b. *Reasonable Accommodations under Federal Fair Housing Act (FFHA)*

- i. The Board of Trustees or the Director may grant administrative adjustments to provide reasonable accommodations under the FFHA. In the application for an administrative adjustment under this subsection, the applicant shall identify the type of housing being provided and cite the specific provisions of the FFHA that require reasonable accommodations be made for such housing. The Board of Trustees or the Director may grant the following types

of administrative adjustments to assure reasonable accommodations required by law:

- (A) Modify any minimum distance or spacing requirements, building setback, height, open space or building coverage, or landscaping requirement by no more than ten (10) percent; or
- (B) Reduce any off-street parking requirement by no more than one (1) space.
- (C) The Board of Trustees or the Director may approve a type of reasonable accommodation different from that requested by the applicant if the Director concludes that a different form of accommodation would satisfy the requirements of the FFHA with fewer adverse impacts on adjacent areas. The decision of the Director shall be accompanied by written findings of fact as to the applicability of the FFHA, the need for reasonable accommodations, and the authority for any reasonable accommodations approved. Requests for types of accommodation that are not listed above may only be approved through a Variance or Official Map Amendment (Rezoning) process.

**C. Procedures as Modified**

**1. Step 8 (Decision and Findings)**

The following additional procedures shall apply:

**a. *Minor Modifications Approved by the Director of Planning & Development***

The Director may initiate or approve a Minor Modification permitted under this Section on an application prior to approval if the request for such administrative adjustment is submitted concurrently with any other required development application.

**b. *Minor Modifications Approved by the Board of Trustees***

The Board of Trustees may initiate or approve a Minor Modification permitted under this Section on an application during consideration and approval of a development application if the request for such administrative adjustment is submitted concurrently with any other required development application.

**c. *Noted on Approving Documents***

Any approved Minor Modifications shall be specified on the approved plat, development plan, approval letter or approving document for which the modifications were sought.

**d. *Conditions of Approval***

The Board of Trustees or the Director may attach any condition to approval to a Minor Modification reasonably necessary to protect the health, safety and welfare of the community, to secure substantially the objectives of the modified standard, and to minimize adverse impacts on adjacent properties.

**2. Step 9 (Approval Criteria)**

The Board of Trustees or the Director may approve the Minor Modification only upon finding that at least one of the following Approval Criteria is met:

- a. The adjustment is necessary to satisfy the federal requirements for reasonable accommodation of housing for protected groups under the Federal Fair Housing Act as provided in Section 7.7.B.2.B; or
- b. The adjustment is necessary to eliminate a substantial burden on religious exercise as guaranteed by the federal Religious Land Use and Institutionalized Persons Act of 2000 as provided in Section 7.7.B.2.A.; or

- c. All of the following criteria have been met:
  - i. The requested modification is generally consistent with the Town's Comprehensive Master Plan and the stated purpose of this FDC;
  - ii. The requested adjustment is consistent with the stated intent and purpose of the applicable zone district or approved PUD District Plan, if applicable;
  - iii. The requested modification meets all other applicable building and safety codes;
  - iv. The requested modification does not encroach into an easement;
  - v. The requested modification will have no significant adverse impact on the health, safety, or general welfare of surrounding property owners or the general public, or such impacts will be substantially mitigated.

## 16.7.8 VARIANCES

### A. Purpose and Scope

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

### B. Limitations

1. No variance shall be granted to permit a use of land not otherwise permitted in the applicable zone district.
2. No variance shall be granted to increase to the size or height of signs by more than ten (10) percent above the requirements and limitations of this FDC.
3. No variance in lot width or lot area shall be granted if the requested variance is associated with a request to subdivide a lot or parcel of property into two (2) or more lots. Any such request will be considered as a part of the subdivision process, except that no minor subdivision plat shall be processed by the town if it involves a lot width or area variance.
4. No variance shall be granted to decrease the amount of required parking by more than ten (10) percent below the requirements of this FDC.
5. The Board of Adjustment may not change or alter this FDC or change the zoning district map of the town.

### C. Procedures as Modified

#### 1. Step 3 (Determination of Application Completeness)

Applicable, with the following modification: A request for Variance may be initiated only by the property owner or their authorized representative. The application must state the relief sought and specify the facts or circumstances that are alleged to show that the application meets the approval criteria listed below.

#### 2. Step 8 (Decision and Findings)

The following additional procedures shall apply:

##### a. Board of Adjustment Review and Decision

- i. Upon receiving the application materials from the Director, the Board of Adjustment shall hold a Public Hearing on the proposed Variance. Town,

published, and posting notice of the hearing shall be provided pursuant to Subsection 7.2.F.

- ii. In considering the application, the Board of Adjustment shall review the application materials, the applicable approval criteria below, and all testimony and evidence received at the Public Hearing.
- iii. After conducting the Public Hearing, the Board of Adjustment may: deny; conduct an additional Public Hearing; or approve the requested Variance. Any approval or denial of the request shall be by resolution, accompanied by written findings of fact that the Variance meets or does not meet each of the criteria set forth in below, stating the reasons for such findings. A concurring vote of a majority of the fully constituted membership of the Board of Adjustment shall be required to grant a Variance.
- iv. In approving any Variance, the Board of Adjustment may attach such reasonable conditions and safeguards as it deems necessary to implement the purposes of this FDC or to mitigate anticipated impacts of the variance.

**b. Recording**

Variances approved by the Board of Adjustment shall be recorded with the Weld County Clerk and Recorder.

**3. Step 9 (Approval Criteria)**

The Board of Adjustment may approve a Variance only if it finds that there is an unnecessary hardship whereby the application satisfies the criteria of any one of paragraph a or b or c of this subsection and satisfies the criteria of paragraph d of this subsection:

**a. Disability**

- i. There is a disability affecting the owners or tenants of the property or any member of the family of an owner or tenant who resides on the property, which impairs the ability of the disabled person to utilize or access the property.

**b. Unusual Conditions**

- i. There are unusual physical circumstances or conditions, including, without limitation: irregularity, narrowness or shallowness of the lot; or exceptional topographical or other physical conditions peculiar to the affected property; or unusual physical circumstances or conditions arising from an existing, nonconforming or compliant structure on the affected property; and
- ii. The circumstances or conditions do not exist throughout the neighborhood or zone district in which the property is located, or the circumstances or conditions relate to drainage conditions and challenges found consistently throughout the neighborhood or zone district in which the property is located; and
- iii. The development or use of the property cannot yield a reasonable return in service, use or income as compared to adjacent conforming property in the same district; however, loss of a financial advantage, hardship that is solely financial, or the fact that a more profitable use of the property might be had if a variance were granted are not grounds for a variance; and
- iv. The unusual physical circumstances or conditions have not been created by the applicant.

**c. Compatibility with Existing Neighborhood**

- i. The property could be reasonably developed in conformity with the provisions of this FDC, but the proposed variance will result in a building form that is reasonable, customary and consistent with or more compatible,

in terms of building height, siting, and design elements, with the existing neighborhood in which the subject property is located.

**d. Review Criteria**

Applicable to All Variance Requests. The Board of Adjustment may grant a variance only if the Board of Adjustment finds that:

- i. The hardship is not shared by many surrounding properties; and
- ii. The Variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property; and
- iii. The Variance, if granted, is the minimum Variance that will afford relief and is the least modification possible of the provisions of this FDC which are in question; and
- iv. The Variance, if granted, would not grant a change to either (a) a condition attached to an approved rezoning or special use, or (b) an approved PUD District plan that would constitute an "amendment" under Subsection 2.4.E.7 or (c) a condition attached to an approved Final Development Plan; or (d) a condition attached to an approved Final Plat.

**4. Step 12 (Lapse)**

Applicable, as follows: Any Variance granted shall become null and void:

- a. If the Variance is not exercised (e.g. building permit obtained, substantial construction commenced) within one-hundred eighty (180) days of the date it is granted;
- b. If the approval or conditions of approval of the Variance is violated;
- c. If the Director finds that redevelopment or modification of the subject property makes compliance with this FDC possible without the previously approved variance; or,
- d. If the Director finds that the alleged hardship or difficulty upon which the variance is based has been eliminated.

**16.7.9 VACATIONS**

**A. Purpose and Scope**

The procedure for vacation of streets, alleys or other public ways, and vesting of title upon vacation, shall conform to state law as provided in Section 43-2-301, et seq., C.R.S., 1973, as amended. In addition, said vacation shall conform to the specific procedure as provided in this Section. The Board of Trustees has the authority to:

1. Vacate public roads, which include any public street, alley, lane, parkway, avenue, road, trail or other public right-of-way designated or dedicated on a subdivision plat, or conveyed by deed, or acquired by prescriptive use, whether or not it has been used as such.
2. Vacate public easements designated or dedicated on a subdivision plat or conveyed by deed or recorded easement.

**B. Procedures as Modified**

**1. Step 5 (Neighborhood Meeting)**

Applicable, at the discretion of the Director of Planning & Development.

**2. Step 8 (Decision and Findings)**

The following additional procedures shall apply:

**a. Planning Commission Review and Recommendation**

After submission of the application, the Director shall determine whether consideration of the Vacation request by the Planning & Zoning Commission is necessary. If there are no unresolved issues regarding the Vacation and the proposal has no material adverse impact on adjacent property owners, the Director may waive Planning & Zoning Commission review and recommendation. If Planning & Zoning Commission review is waived, the Director shall schedule the application for Board of Trustees consideration.

If consideration before the Planning & Zoning Commission is necessary, the Planning & Zoning Commission shall review the proposed Vacation and shall recommend that the Board of Trustees approve, approve with modifications and/or conditions, or deny the application based on the applicable approval criteria listed below.

**b. Board of Trustees Review and Decision**

The Board of Trustees shall review each Vacation application relative to the applicable approval criteria listed below and shall approve, approve with modifications and/or conditions, or deny the application.

**3. Step 9 (Approval Criteria)**

- a. Vacation of public roads and easements shall be left to the sound discretion of the Board of Trustees and the applicant shall have the burden of presenting sufficient information to justify the requested vacation. The Board of Trustees shall not exercise its discretion to vacate any public road or easement, unless it meets the following criteria:
  - i. No property would be left without reasonable access or provision of any public facilities or utility services by reason of the vacation;
  - ii. The public road or public easement is no longer necessary for public use or convenience;
  - iii. The vacation will not restrict access to any parcel so that access is unsafe, unreasonable, or economically prohibitive;
  - iv. The vacation does not result in an easement configuration that could create difficulty in the provision of services or installation of public improvements;
  - v. Adequate easements have been reserved for use and/or maintenance by the town or other utility agencies;
  - vi. The vacation is consistent with the goals of the Town's Comprehensive Plan.
- b. In exercising discretion to vacate a public road, the Board of Trustees may also consider impacts on mobility, parking, traffic, and safety, as well as any benefits to the town that will result from removing the right-of-way from the municipal street system.

**16.7.10 FINAL DEVELOPMENT PLAN**

**A. Purpose**

The purpose of the Final Development Plan review process is to ensure compliance with the development and design standards and provisions of this FDC, and to encourage quality development reflective of the goals, policies, and objectives of the Town's Comprehensive Master Plan. For land uses requiring a Final Development Plan review, such uses may be established in the Town, and building or land use permits may be issued, only after a Final Development Plan showing

the proposed development has been approved in accordance with the procedures and requirements of this Section. Approval of a Final Development Plan pursuant to this section shall not constitute a "vested property right" to develop the property in accordance with the approved plan as "vested property right" is defined in C.R.S. § 24-68-101 et seq. or otherwise, unless specific action is taken by the Board of Trustees, in accordance with the provisions of this FDC.

**B. Applicability**

A Final Development Plan may be reviewed concurrently with other applications as may be necessary.

1. Final Development Plan review shall be required for the following:
  - a. All development including additions in all zone districts except for the following types of residential development:
    - i. Development of a one-household or two-household dwelling use
  - b. Establishment of a primary, accessory, or temporary use permitted in a zone district under this FDC, where such provision explicitly requires final development plan review and approval prior to establishment of the use.
  - c. Any change of use from one (1) primary use classification to another at the discretion of the Director (for example, residential use to commercial use);
  - d. Development within a PUD District; however, development within a PUD District subject to an approved Detailed PUD District Plan under Section 7.5, is exempt from this requirement for final development plan review.
2. Final Development Plan review shall not be required for:
  - a. Town parks and open space. Town parks and open space shall meet Town requirements found in this FDC and the Town Standards and Specifications; and,
  - b. Town Facilities. Town Facilities shall meet Town requirements found in this FDC and the Town Standards and Specifications.
3. Development of the site shall comply with the approved design and all conditions included in the final development plan. A certificate of occupancy shall not be issued for a building constructed in violation of an approved Final Development Plan.

**C. Coordination with Special Review Uses**

If review of a Special Review Use is required pursuant to Section 7.11, then the applicant shall file a Special Review Use application concurrent with the Final Development Plan application. In such cases, the Board of Trustees shall be the final decision-maker for both the Final Development Plan and the Special Review Use, and shall render separate decisions on both applications based on the applicable approval criteria in Section 7.11 (for the Special Review Use) and this Section 7.10 (for the Final Development Plan).

**D. Procedure as Modified for Final Development Plan Review**

**1. Step 8 (Decision and Findings)**

The following additional procedures shall apply:

**a. Director of Planning & Development's Review and Decision**

The Director shall review each Final Development Plan relative to the approval criteria listed below and shall act to approve, approve with conditions, deny, or refer the decision to the Planning & Zoning Commission. Referral of the application to the Board of Trustees shall be at the discretion of the Director.

**b. Referral to Planning & Zoning Commission**

The Director may refer any application involving any requested deviation, modification, or exception from the requirements of this FDC, and/or any application that in the Director's discretion presents issues that require Planning & Zoning

Commission attention, to the Planning & Zoning Commission. Such plans shall state all reasons for requesting any deviation, modification, or exception from the rules, requirements, and regulations of this FDC.

**c. Public Improvements required**

As a condition of approval of any Final Development Plan, the town may require the applicant to construct, install or otherwise provide, including the dedication of any incidental easements or property interests, public improvements that are necessary to serve the property after it is developed, the need for which is caused by reason of the development. Such a condition may require the execution of a development agreement that provides for such construction or installation, and for financial security to ensure completion of such improvement.

**d. Effect of Approval**

Approval of a Final Development Plan means a proposed development complies with the standards and provisions of this FDC and, consequently, the Town may issue building permits to an applicant, assuming all other Town standards and regulations have been satisfied.

**2. Step 9 (Approval Criteria)**

A Final Development Plan may be approved upon a finding that the application meets all of the following criteria:

- a. The Final Development Plan is generally consistent with the Town's Comprehensive Master Plan;
- b. The Final Development Plan is generally consistent with any previously approved subdivision plat, planned development, or any other precedent plan or land use approval as applicable;
- c. No buildings or structures infringe on any easements so as to impact the full use of the easement
- d. The Final Development Plan complies with all applicable development and design standards set forth in this FDC;
- e. Any significant adverse impacts reasonably anticipated to result from the use will be mitigated or offset to the maximum extent reasonably practicable; and
- f. The development proposed on the Final Development Plan and its general location is or will be compatible with the character of surrounding land uses.

**3. Step 11 (Amendments)**

Applicable, with the following addition:

**a. Examples of Minor Amendments**

The following amendments are offered as examples of amendments to approved Final Development Plans that the Director may reasonably determine to be "minor":

- i. Insubstantial changes to the text to add clarity or correct conflicting provisions.
- ii. Changes in drives, parking, and sidewalks, if such changes further the intent of the Final Development Plan and this FDC, and are acceptable to the Town Engineer and Director of Public Works.
- iii. Changes in building height, setback, and similar provisions of ten (10) percent or less, provided that the underlying zone district dimensional standards or as modified in an Overlay or PUD are met.
- iv. Minor changes in building materials, architectural elements, landscaping, sign placement, lighting fixtures, fences, utility boxes, equipment, panels,

and other similar elements that further the intent of the Final Development Plan and this FDC.

**4. Step 12 (Lapse)**

Applicable, in addition:

**a. Expiration of Approval**

- i. Unless stated otherwise in such approval, an approved final development plan shall expire after two (2) years from the date of approval, if a building permit has not been obtained and construction has not started. The Director may grant a one-time extension for a maximum of one (1) year upon written request of the applicant, prior to expiration of the Final Development Plan.
- ii. The remainder of any unbuilt portion of the Final Development Plan at the time of expiration shall be null and void and require new Final Development Plan application and approval.

**16.7.11 SPECIAL REVIEW USE**

**A. Purpose**

This Section provides a discretionary approval process for Special Review Uses, which have unique or widely varying operating characteristics or unusual site development features. The procedure encourages public review and evaluation of a use's operating characteristics and site development features and is intended to ensure that proposed Special Review Uses will not have a significant adverse impact on surrounding uses or on the community-at-large. This review process is intended to provide assurance to the community that such uses will be compatible with their locations and surrounding land uses and will further the purposes of this FDC.

**B. Relationship to Final Development Plan Requirements**

**1. Coordination with Review of Final Development Plans**

If a Final Development Plan is necessary for the proposed Special Review Use, then the Final Development Plan and the Special Review Use applications shall be processed concurrently. In such cases, the Board of Trustees shall be the final decision-making entity for both the Final Development Plan and the Special Review Use. The Board of Trustees shall render separate decisions on the applications based on the applicable approval criteria in this Section 7.11 (for the Special Review Use) and Section 7.10 (for the Final Development Plan).

**C. Procedure as Modified**

**1. Step 8 (Decision and Findings)**

The following additional procedures shall apply:

**a. Indication on Zoning Map**

A Special Review Use shall not be shown on the official Town zoning map.

**b. Alterations of Approved Uses**

No approved Special Review Use may be modified, physically expanded, hours of operation extended, or otherwise altered unless amended in accordance with the procedures applicable to initial approval of a Special Review Use as set out in this FDC.

**2. Step 9 (Approval Criteria)**

The Board of Trustees shall consider following criteria when evaluating a request for approval of a special use:

- a. The proposed use is generally consistent with the Town's Comprehensive Master Plan and all applicable provisions of this FDC and applicable State and Federal regulations;

- b. The proposed use is generally consistent with the purpose and intent of the zoning district in which it is located;
- c. The proposed use is generally consistent with any applicable use-specific standards set forth in Section 3.2;
- d. The proposed use is compatible with adjacent uses in terms of scale, site design, and operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts);
- e. Any significant adverse impacts anticipated to result from the use will be mitigated or offset to the maximum extent reasonably practicable;
- f. Facilities and services (including sewage and waste disposal, water, gas, election, police and fire protection, and streets and transportation, as applicable) will be available to serve the subject property while maintaining adequate levels of service for existing development;
- g. Adequate assurances of continuing maintenance have been provided; and
- h. Any significant adverse impacts on the natural environment will be mitigated to the maximum extent reasonably practicable.

**3. Step 12 (Lapse)**

Applicable, as follows:

**a. Lapse of Special Review Use Approval**

- i. Approval of a Special Review Use by the Town shall lapse and be considered null and void:
  - (A) Upon the expiration of the Final Development Plan approved in conjunction with such Special Review Use;
  - (B) If the use, itself, has not commenced within two (2) years of the approving action or within the time frame established as a condition of approval of the Special Review Use;
  - (C) If a use allowed pursuant to a special review approval has been discontinued for more than one-hundred eighty (180) days;
  - (D) Upon a change of primary use of the property
- ii. The Director may grant a one-time extension for a maximum of one (1) year upon written request of the applicant, prior to expiration of the Special Review Use.
- iii. Failure to use property for the uses authorized by such Special Review Use approval for a period of twelve (12) consecutive months shall terminate the right to use the property for the specified special use approval.

**D. Revocation of Special Review Uses after Approval**

In the event of noncompliance by the applicant with the approved Special Review Use plan, written agreement, development schedule, or any conditions of approval, the applicant; the Director shall notify the applicant in writing of said violation and shall provide the applicant with a thirty (30) day period in which to abate the violation. Failure of the applicant to abate cited violations within thirty (30) days shall result in the commencement of a hearing process before the Board of Trustees to determine whether the Special Review Use approval should be revoked. Such review shall occur in the same manner as for original approval as provided herein, and upon completion of such review, the Board of Trustees may revoke the Special Review Use or amend the original approval.

**E. Approved Special Use Permits Existing Prior to Effective Date of this FDC**

Any approved Special Use Permit that existed prior to the effective date of this FDC shall continue to be an approved Special Use Permit, subject to the provisions of this Section.

## 16.7.12 ARCHITECTURAL REVIEW

### A. Purpose

The purpose of the Architectural Review process is to ensure compliance with the development and design standards and provisions of this FDC, and to encourage quality development reflective of the goals, policies, and objectives of the Town's Comprehensive Master Plan.

### B. Applicability

Architectural Review and approval of single-family detached, single-family attached, multi-family, non-residential, and accessory structures shall be required prior to issuance of a building permit and shall follow the processes detailed in this section.

### C. Types of Architectural Review

#### 1. Coordination with Final Development Plan Review

Architectural Review and approval of single-family attached, multi-family, and non-residential structures shall be required as part of a Final Development Plan and are subject to the process and approval procedures detailed within Subsection 7.10.D as applicable.

#### 2. Administrative Architectural Review

Single-family detached residential structures and accessory structures requiring Architectural Review, which were not reviewed during the Subdivision or Final Development Plan application process, may be approved by the Director using the Administrative Architectural Review approval process.

### D. Procedures Modified for Administrative Architectural Review

#### 1. Step 8 (Decision and Findings)

The following additional procedures shall apply:

##### a. *Director of Planning & Development's Review and Decision*

The Director shall review each Administrative Architectural Review application relative to the approval criteria listed below and shall act to approve, approve with conditions, deny, or defer the decision to the Planning & Zoning Commission.

##### b. *Appeal to the Board of Adjustment*

Appeals of decisions made by the Director or the Planning & Zoning Commission under this Section shall be made to the Board of Adjustment.

#### 2. Step 9 (Approval Criteria)

An Architectural Review may be approved upon a finding that the application meets all of the following criteria:

- a. The Architecture is generally consistent with the Town's Comprehensive Master Plan;
- b. The Architecture is generally consistent with any previously approved Architecture during the subdivision plat, Final Development Plan, or any other precedent plan or approval as applicable;
- c. The Architecture complies with all applicable development and design standards set forth in this FDC;
- d. Any significant adverse impacts reasonably anticipated to result from the use will be mitigated or offset to the maximum extent reasonably practicable; and
- e. The Architecture proposed will be compatible with the character of surrounding land uses.

#### 3. Step 10 (Conditions of Approval)

Applicable, with the following modifications:

- a. Architectural Review shall be required prior to submittal of building permit applications to the Building Division.

- b. Architectural Review approvals shall be effective within subdivision filings that exist at the time of Architectural Review approval. Separate applications and review shall be required for future filings.

**4. Step 12 (Lapse)**

Applicable, with the following modification:

**a. Expiration of Approval**

- i. The Architectural Review approval shall be effective for a period of two (2) years from the date of approval, unless stated otherwise in such approval. Building permits shall not be issued based on architectural plans that have expired.
- ii. The Director may grant a one (1) time extension, of not more than one (1) year, upon a written request by the applicant, prior to the expiration of the Architectural Review approval. Failure by the applicant to request a time extension prior to the expiration of the Architectural Review approval, shall render the Architectural Review approval null and void. The submittal of revised architectural plans and fees shall be required to obtain a building permit after the Architectural Review approval have lapsed. The revised architectural plans shall meet the current Town standards.

**16.7.13 BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY**

**A. Building Permits**

A building permit in a development that requires a Final Development Plan shall be issued only when a Final Development Plan has been approved. However, with the approval of the Director, an applicant may submit a building permit application to the Building Division concurrent with the Final Development Plan application, which permit may be issued upon Final Development Plan approval by the Town. Building permits shall not be issued for any development that is not in conformance with the approved Final Development Plan. Approval of construction drawings by the Town Engineer and Director of Public Works, if applicable, shall be required prior to issuance of building permits.

**B. Certificates of Occupancy**

- 1. When building construction and all site development is completed in accordance with the approved building permit and Final Development Plan, a Certificate of Occupancy may be issued.
- 2. If adverse weather prevents the installation of minor FDC requirements and/or Final Development Plan elements that do not affect the function and access of the occupancy use, a Certificate of Occupancy may be issued upon the applicant providing one (1) of the following forms of security: (1) cash; or (2) cashier's check. This security shall be in an amount equal to the cost of the unfinished work, plus fifteen (15) percent and shall be submitted prior to the issuance of a Certificate of Occupancy. The security will be held by the Town and released when the work is deemed complete by the Director or Town Engineer.
  - a. Prior to the issuance of the Certificate of Occupancy, the applicant shall submit a completed application for "Request for Release of Certificate of Occupancy."
  - b. In order to quantify the required amount of the security, the applicant shall submit an estimate by qualified professionals of the remaining required improvements. Based on this estimate, the Director or Town Engineer shall determine the amount of security required.
  - c. When a Certificate of Occupancy is issued, based on security, prior to the completion of all site improvements, the time for the completion of site improvements shall not exceed six (6) months from the date the Certificate of Occupancy is issued.
  - d. Failure by the applicant to complete the work or to request a time extension within the specified time period shall result in a forfeiture of the security and shall cause

the Town to initiate the construction of such improvements. The Director may grant no more than one (1) time extension of not more than six (6) months upon receipt of a written request, accompanied by an extension of the financial security, prior to the date the construction was to have been completed.

3. If adverse weather prevents the installation of required landscaping and/or fencing for single-family residential structures prior to issuance of a Certificate of Occupancy, the applicant shall apply for a Landscape and Fence Waiver with the Building Division. A surety shall not be required.

#### **16.7.14 TEMPORARY USE PERMIT**

##### **A. Applicability**

No use that is classified as a Temporary Use in the zoning district in which it is to be located shall be placed or established on the property without first receiving a temporary use permit, unless excepted from the permit requirements by Subsection 3.4.C.2.

##### **B. Procedures as Modified**

###### **1. Step 2 (Development Application Submittal)**

Applicable, with the following modification:

###### **a. Filing Deadline**

All applications for Temporary Use permits shall be filed at least four (4) weeks prior to the date the Temporary Use will commence, or at least six (6) weeks prior to the date the Temporary Use will commence if public safety support is requested from the Town. The Director may waive this filing deadline requirement.

###### **2. Step 8 (Decision and Findings)**

The following additional procedures shall apply:

###### **a. Duration of Permit**

A Temporary Use permit shall be valid only for the time period stated on the permit, unless otherwise authorized in this FDC.

###### **3. Step 9 (Approval Criteria)**

Applicable, as follows: The Director shall issue a Temporary Use permit only upon finding that the proposed Temporary Use satisfies the requirements set forth in Section 3.4.

###### **4. Step 12 (Lapse)**

Applicable, as follows: The Temporary Use permit shall lapse and be null and void upon expiration of the time limit specified in the permit.

#### **16.7.15 ANNEXATION AGREEMENT**

##### **A. Purpose**

Annexation Agreements are contracts between the applicant and the Town. Annexation Agreements are typically required with an annexation application.

##### **B. Contents**

The Annexation Agreement shall detail the mutual understanding about the Annexation. The Annexation Agreement may include without limitation the following matters or other development related items:

1. Density or intensity of development and land use mix, including designation of the density distribution within the parcel to be annexed;
2. Phasing of the development in general terms;
3. Drainage, detailing major improvements required, participation in the storm drainage utility, participation in existing improvements, and how drainage requirements will be satisfied;

4. Street and bikeways, detailing participation in existing and proposed improvements, dedication of perimeter rights-of-way and timing of such, major street improvements required and designation of responsibility for construction, treatment of local, interior street and rights-of-way, responsibility for construction or participation in traffic signals and other traffic-control devices, payment for any transportation or site access studies or any addenda;
5. Utilities, detailing participation in existing systems, major improvements to be constructed, dedication of necessary easements and timing of such, and utilities required;
6. Landscaping, detailing responsibility and scheduling of arterial and collector street landscaping and primary greenway development, and maintenance of such facilities;
7. Fire protection, detailing responsibility for fire protection measures;
8. Land dedication or reservation, designating land for public purposes including but not limited to streets, utilities, parks, open space, trails, schools, greenways, or cash-in-lieu agreements. Land reserved for future park, open space or trail purchase will be paid at fair market value with the appraisal value determined by pre-annexation raw land value;
9. Reimbursements to the Town or to the party paying for the public improvements or land acquisitions for public improvements that benefit the property or potentially benefit the property or development thereon;
10. Exclusion from special districts and acknowledgement of the property owner's responsibility in securing exclusion;
11. Special districts, all agreements concerning special districts projected to be created within the Town limits, including, but not limited to, applicant's agreement to use any district for installation, construction warranty, and repair of public improvements;
12. Vested rights and growth management:
  - a. Specifying that the Town's action in annexing the property and approving the Initial Zoning do not create a vested right as defined in the Colorado Revised Statutes, this FDC or other Town regulation or ordinance;
  - b. Specifying that, unless otherwise agreed to by the Town, the landowner requesting annexation shall waive any pre-existing vested property rights as a condition of such annexation; and
  - c. Specifying that the annexed property will be subject to any future phasing or growth management regulations that may be adopted by the Town;
13. Enforcement, specifying that the agreement is binding on heirs, successors and assigns;
14. Non-contestability clause detailing reliance by all on the agreement and providing for disconnection of the Annexation, at the option of the Town, upon noncompliance or nonperformance by the applicant;
15. Other issues as may be unique to the property including, but not limited to, necessary off-site improvements, railroad and river crossing improvements, relocation or maintenance of irrigation ditches and laterals, and purchase of existing electric facilities or electric service territory; and
16. Other issues as may be necessary to evidence compliance with this Section and FDC.

**C. Procedure & Review Criteria**

**1. Decision-Making Body**

The Board of Trustees shall be the decision-making body on all Annexation Agreements and any amendments to the Annexation Agreement.

**2. Procedure for Review**

A proposed Annexation Agreement shall be reviewed by the Board of Trustees at the Public Hearing on the annexation ordinance. The Board shall have the power to make recommendations regarding the proposed Annexation Agreement.

**D. Amendment Procedure**

Any party to the Annexation Agreement may request, through a formal application to the Town, that the Town amend the agreement.

**E. Enforcement**

Unless amended or terminated pursuant to this Section, an Annexation Agreement shall be enforceable by any party thereto.

**16.7.16 SUBDIVISION AGREEMENT**

**A. Purpose**

Subdivision Agreements are contracts between an applicant and the Town. Subdivision Agreements are typically required with a subdivision application when public improvements and private improvements of public interest are identified during review of the application.

**B. Contents**

The Town has a standard Subdivision Agreement format that is to be used in the drafting of a Subdivision Agreement for an application. The standard form is to be used in drafting the Subdivision Agreement with modifications generally occurring only in the special provisions section and related exhibits section. This FDC and other Town laws may not be altered by the Subdivision Agreement. Subdivision agreements may contain the following:

1. Descriptions of the acceptable and prohibited uses on the property;
2. The density of proposed uses, including maximum floor area and height of buildings;
3. Provisions for the reservation or dedication of land for public purposes;
4. Provisions for the timing, location, and maintenance of on-site improvements, including parks, trails, landscaping and open space;
5. Proposed timing and phasing of the development project;
6. Provisions to mitigate the impacts of proposed development on the general public, including the protection of wildlife habitat and other environmentally sensitive lands;
7. Provisions for public benefits or improvements in excess of what is required by current Town policy or law;
8. Reimbursements to the Town or to the party paying for the public improvements and/or land acquisitions for public improvements that benefit the property or potentially benefit the property or development thereon;
9. Terms for subsequent discretionary actions, provided such terms shall not prevent the development of the property for the uses set forth in the agreement;
10. A provision that construction shall begin by a specified date or that certain phases shall be completed within a specified time;
11. Provisions for the vesting of property rights;
12. Termination date for the Subdivision Agreement; and
13. Any other provisions appropriate to guide the completion of the development as proposed.

**C. Procedure & Review Criteria**

**1. Decision-Making Body**

The Board of Trustees shall be the decision-making body on all Subdivision Agreements, and shall approve a Subdivision Agreement and any amendments to the Subdivision Agreement.

**2. Procedure for Review**

A proposed Subdivision Agreement shall be reviewed by the Board of Trustees at the same time that the related subdivision application is reviewed. The Board of Trustees shall have the same power to make recommendations regarding the proposed Subdivision Agreement or amendment as they do for the related development approval. Procedures for review and approval of Subdivision Agreements, by the Board of Trustees, shall be as follows:

- a. At Final Plat, Minor Plat, and Non-Residential Plat, the Board of Trustees shall review a final Subdivision Agreement.

**3. Review Criteria**

In reviewing and acting upon proposed Subdivision Agreements and amendments, the Board of Trustees shall consider the following review criteria:

- a. Whether the Subdivision Agreement is required to mitigate impacts that would otherwise make the proposed development unacceptable.

**D. Amendment Procedure**

1. Any party to the Subdivision Agreement may request, through a formal application to the Town, that the Town amend the agreement.
2. The Procedure and Review Criteria in Section 7.16.C above shall be used for the amendment request.

**E. Enforcement**

Unless amended or terminated pursuant to this Section, a Subdivision Agreement shall be enforceable by any party thereto.

**16.7.17 DEVELOPMENT AGREEMENT**

**A. Purpose**

Development Agreements are contracts between an applicant and the Town. Development Agreements are typically required with a Final Development Plan application when public improvements and private improvements of public interest are identified during review of the application.

**B. Contents**

The Town has a standard Development Agreement format that is to be used in the drafting of a Development Agreement for an application. The standard form is to be used in drafting the Development Agreement with modifications generally occurring only in the special provisions section and related exhibits section. This FDC and other Town laws may not be altered by the Development Agreement. Development Agreements may contain the following:

1. Descriptions of the permitted and prohibited uses on the property;
2. The density of proposed uses, including maximum floor area and height of buildings;
3. Provisions for the reservation or dedication of land for public purposes;
4. Provisions for the timing, location, and maintenance of on-site improvements;
5. Proposed timing and phasing of the development project;
6. Provisions to mitigate the impacts of proposed development on the general public, including the protection of wildlife habitat and other environmentally sensitive lands;

7. Provisions for public benefits or improvements in excess of what is required by current Town policy or law;
8. Terms for subsequent discretionary actions, provided such terms shall not prevent the development of the property for the uses set forth in the agreement;
9. A provision that construction shall begin by a specified date or that certain phases shall be completed within a specified time;
10. Reimbursements to the Town or to the party paying for the public improvements or land acquisitions for public improvements that benefit the property or potentially benefit the property or development thereon;
11. Provisions for the vesting of property rights;
12. Termination date for the Development Agreement; and
13. Any other provisions appropriate to guide the completion of the development as proposed.

**C. Procedure and Review Criteria**

**1. Decision-Making Body**

The Board of Trustees shall be the decision-making body on all Development Agreements and any amendments to the Development Agreement.

**2. Procedure for Review**

A proposed Development Agreement shall be reviewed by the Board of Trustees concurrent with the related Final Development Plan application. The Board of Trustees shall have the power to make recommendations regarding the proposed Development Agreement or amendment.

**3. Review Criteria**

In reviewing and acting upon proposed Development Agreements, the Board of Trustees shall consider the following review criteria:

- a. Whether the Development Agreement is required to mitigate impacts that would otherwise make the proposed development unacceptable.

**D. Amendment Procedure**

1. Any party to the Development Agreement may request, through a formal application to the Town, that the Town amend the agreement.
2. The procedure and Review Criteria in Subsection 7.17.C above shall be used for the amendment request.

**E. Enforcement**

Unless amended or terminated pursuant to this Section, a Development Agreement shall be enforceable by any party thereto.

**16.7.18 IMPROVEMENT GUARANTEES**

**A. Cost Estimate; Overrun Allowance**

The engineer's cost estimate shall state the estimated cost of completion for each required public improvement. Cost estimates for each required public improvement must be approved by the Town. The contract security required for the development agreement shall be one-hundred fifteen (115) percent of the engineer's estimate of the total cost of the required improvements as approved by the Town, which shall include a fifteen (15) percent overrun allowance.

**B. Methods**

The contract security shall be either an irrevocable letter of credit, cash escrow, or such other form of contract security that will satisfy the objectives of Section 5.5. The form of contract security shall meet the following requirements:

**1. Cash Deposit or Escrow**

If in the form of a cash deposit or escrow:

- a. Developer shall deposit a cash sum with the Town, which funds shall be held by the Town in a separate account until released by the Town.

**2. Letter of Credit**

If in the form of an irrevocable letter of credit:

- a. The entity issuing the letter of credit must maintain an office or corresponding bank within fifty (50) miles of the Town, shall have a current rating of one-hundred twenty-five (125) or better from IDS Financial Services, Inc., or otherwise approved by the Town, and shall have an expiration date no earlier than six (6) months following the scheduled completion of the public improvements.
- b. If the Developer elects to use an out-of-state bank, the issuing bank is subject to approval by the Town's Director of Finance, and the form of the letter of credit is subject to review and approval by the Town Attorney.

**C. Default**

If the Developer defaults on any obligation to construct required public improvements or the obligation to warrant and repair such improvements, the Town may demand immediate payment on the performance guarantee. In the case of cash deposits or letters of credit, the Town may demand immediate payment of a portion or all of all sums obligated for the performance or warranty of any improvement. All funds received by the Town shall be used to complete the improvements necessary to ensure that:

1. All required public improvements are built to specifications necessary to receive final acceptance; and
2. The improvements remain in good condition for the completion of the warranty period. The Town may use guarantee funds for the completion of required public improvements from the date of initial default until three (3) years after the funds have become available to the Town for such use. The Town shall release to the developer all guarantee funds which were not used or obligated for the completion of the improvements:
  - a. Within sixty (60) days of the final acceptance of all public improvements; or
  - b. By the three (3) year period provided for in this Section.

**D. Standards May Not be Altered**

All provisions of this Section are mandatory and may not be altered by the Subdivision Agreement or Development Agreement.

**16.7.19 AMENDMENTS TO THE TEXT OF THIS FDC**

**A. Purpose**

The purpose of this Section is to provide standards and requirements for amending the text of this FDC. The purpose of text amendments is to make adjustments to the text of this FDC that are necessary in light of changed conditions or changes in public policy, or that are necessary to advance the general welfare of the Town. Amendments will not be granted to relieve particular hardships or to confer special privileges or rights on any person or organization.

**B. Applicability**

Any amendments to the text of this FDC shall be processed in accordance with the requirements set forth in this Section 7.19. Only the Board of Trustees may, after recommendation of the Planning &

Zoning Commission, adopt an ordinance amending the text of this FDC in accordance with the requirements of this Section.

**C. Procedures as Modified**

**1. Step 6 (Notice)**

Applicable. Published notice only.

**2. Step 8 (Decision and Findings)**

Applicable. The following additional procedures shall apply:

**a. Records of Amendments**

A record of amendments to the text of this FDC in a form convenient for the use of the public shall be maintained in the office of the Town Clerk.

**3. Step 9 (Approval Criteria)**

Applicable, as follows: Recommendations and decisions on text amendments may be approved if the Board of Trustees finds that all of the following approval criteria have been met:

- a. The proposed amendment will promote the public health, safety, and general welfare;
- b. The proposed amendment is generally consistent with the Town's Comprehensive Master Plan and the stated purposes of this FDC, or the proposed text amendment is necessary to provide for a community need that was not anticipated at the time of the adoption of the Comprehensive Plan; and
- c. The proposed amendment is necessary or desirable because of changing conditions, new planning concepts, or other social or economic conditions.

**16.7.20 APPEALS**

**A. Appeals of Administrative Decisions**

**1. Purpose and Scope**

Appeals to the Board of Adjustment from the decisions of the Town's Staff are permitted under this FDC. It is the intention of this Section that all questions arising in connection with the interpretation and enforcement of this FDC shall be presented first to the appropriate Department, that such questions shall be presented to the Board of Adjustment only on appeal from the decisions of that Department, and that recourse from the decision of the Board of Adjustment shall be to the courts. It is further the intention of this Section that the duties of the Board of Trustees in connection with this FDC shall not include the hearing or passing upon disputed questions that may arise in connection with the enforcement thereof.

**2. Decisions That May Be Appealed**

An asserted error in any order, requirement, permit, decision, determination, refusal, or interpretation made by any Town Staff in interpreting and/or enforcing the provisions of this FDC may be appealed to the Board of Adjustment, unless otherwise provided in this FDC.

**3. Filing of Appeal; Effect of Filing**

- a. An appeal to the Board of Adjustment may be brought by any person, firm, corporation, office, department, board, bureau, or commission aggrieved by the order, requirement, permit, decision, or determination that is the subject of the appeal, or by the Director on behalf of the Town.
- b. An application for an appeal shall be filed with the Director. Once the application is determined to be complete, the Director shall schedule the appeal for consideration at a Public Hearing before the Board of Adjustment. The Director and the Staff from whom the appeal is taken shall transmit to the Board of Adjustment all applications and other records pertaining to such appeal. The application shall be filed no later than thirty (30) days after the date of the contested action.

- c. The filing of an appeal shall stay all proceedings in furtherance of the contested action, unless the Director certifies to the Board of Adjustment that, by reason of facts stated in the certification, such a stay would cause imminent peril to life and property. In such case, proceedings shall not be stayed except by a restraining order granted by the Board of Adjustment or by a court of law on notice to the Director or from whom the appeal is taken, with due cause shown.

**4. Action by the Board of Adjustment**

- a. Upon receiving the application materials from the Director, the Board of Adjustment shall hold a public hearing on the appeal.
- b. At the hearing, the Board of Adjustment shall adopt a resolution reversing, affirming, or modifying the contested action. In reversing, affirming, or modifying the contested action, the Board of Adjustment shall have all relevant powers of the Town Staff from whom the appeal is taken.
- c. The Board of Adjustment shall not reverse or modify the contested action unless it finds that Town Staff erred in the application or interpretation of the terms of this FDC or related policies adopted by the Town.
- d. The Board of Adjustment shall not reverse or modify the contested action unless there is a concurring vote of at least four (4) members.

**5. Effect of Reversal or Modification**

In the event that the Board of Adjustment reverses or modifies the contested action, all subsequent actions taken by Town Staff with regard to the subject matter shall be in accordance with the reversal or modification granted by the Board of Adjustment.

**B. Appeal from Board of Adjustment or Board of Trustees**

1. Appeals from decisions made by the Board of Adjustment or the Board of Trustees based upon this FDC shall be to the courts.

# CHAPTER 8: REVIEW AND DECISION-MAKING ENTITIES

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## 16.8.1 PURPOSE

This Chapter identifies the roles, duties, and responsibilities of the Board of Adjustment and Town Staff in the administration of this FDC.

## 16.8.2 BOARD OF ADJUSTMENT

### A. Established

The Board of Adjustment is hereby established. The powers, duties and responsibilities provided by Section 31-23-307(1), C.R.S., as amended, are hereby vested in the Planning and Zoning Commission, which shall serve and act as the Board of Adjustment for the Town.

### B. Review and Decision-Making Responsibilities

The Board of Adjustment shall have the review and decision-making responsibilities set forth in Table 7.1-1.

## 16.8.3 BOARD OF ADJUSTMENT PROCEDURES

### A. Appointment and Confirmation

Appointments to Board of Adjustment within the scope of this FDC shall be made and confirmed by the Board of Trustees in accordance with the rules adopted by the Board of Trustees.

### B. Conduct

This Section sets forth procedures that are common to the Board of Adjustment.

#### 1. Absence of Member

Any member of the Board of Adjustment under this Chapter anticipating an absence from a meeting of the Board of Adjustment shall so advise the chair or secretary prior to the hearing.

#### 2. Agenda

The agenda for each meeting of the Board of Adjustment under this Chapter shall be prepared by the secretary and shall be distributed to each member at least twenty-four (24) hours prior to the hearing, except for special hearings.

#### 3. Quorum-Official Action

- a. A majority of the full membership of the Board of Adjustment shall constitute a quorum for the transaction of business.
- b. Action by the Board of Adjustment shall require the favorable vote of a majority of the fully constituted board. The fully constituted Board of Adjustment shall include all members not excused for conflict of interest in the Board of Adjustment action.

#### 4. Meetings Open to Public

- a. All hearings of the Board of Adjustment under this Chapter shall be open to the public except as otherwise provided in paragraph b. below. Except when voice votes are authorized, the vote shall be conducted in such a manner that the public may know the vote of each person entitled to vote. This Section does not apply to any votes required to be taken to organize the Board of Adjustment.
- b. A Board of Adjustment may at any time go into executive session from which the general public may be excluded by a vote of the majority of the members taken at a public hearing. No subjects may be considered at the executive session except for those mentioned in the motion calling for an executive session unless auxiliary to the main question. No action may be taken at the executive session, except to give direction to an attorney or labor negotiator regarding the handling of a specific legal

matter or pending labor negotiations. Only the following subjects may be discussed at an executive session:

- i. Matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the government unit;
- ii. Subjects that tend to prejudice the reputation and the character of any person, provided the person may request a public discussion;
- iii. Matters that by law are required to be confidential; and
- iv. Matters involving consideration of government records that by law are not subject to public disclosure.

**5. Reconsideration or Rehearing of Decisions**

Decisions of the Board of Adjustment under this Chapter may be brought up for reconsideration or rehearing only if:

- a. There was substantial procedural error in the original proceeding;
- b. The Board of Adjustment acted without jurisdiction in the original proceeding; or
- c. The original decision was based upon fraud or misrepresentation.

Any person seeking reconsideration or a rehearing must file a request with the Town Clerk, together with materials supporting one (1) or more of the grounds stated in this Subsection, within fifteen (15) days of the original decision. The Board of Adjustment, by majority vote, may schedule a rehearing only if it finds the allegations to be correct. A rehearing shall be conducted in the same manner as the original proceedings before the Board of Adjustment.

**6. Removal of Member**

A member of the Board of Adjustment under this Chapter may be removed from office in the following circumstances:

- a. If the member is found to have participated in any matter with a conflict of interest therein;
- b. If the member fails to meet the attendance requirements set forth in the adopted rules and regulations for the applicable body; If the office becomes vacant; or
- c. If the Board of Trustees finds that a member's conduct is contrary to the intent or duty of that position; a member's conduct and/or action is contrary to goals and objectives of the Board of Adjustment; or a member's conduct may jeopardize the finances of the Town.

**7. Representatives**

Persons appearing before the Board of Adjustment may appear in person or through a representative, agent, or attorney. The representative shall provide satisfactory proof of his or her authority upon the request of the Board of Adjustment.

**8. Secretary**

A secretary shall be appointed for the Board of Adjustment in this Chapter. The secretary shall have a record kept of all meetings and shall keep such files as may be required.

**9. Applicability of Other Provisions**

The provisions of this Chapter shall not be a limitation on more restrictive rules regarding the conduct of the board set forth elsewhere in the Town Municipal Code.

**16.8.4 TOWN STAFF**

**A. Review and Decision-Making Responsibilities**

Town departments shall have the review and decision-making responsibilities set forth in Table 7.1-1, to be carried out in accordance with the terms of this FDC.

**B. Other Powers and Duties**

The departments also shall have such additional powers and duties as may be set forth elsewhere in this FDC and other ordinances of the Town. The following departments have the general responsibilities set forth below.

**1. Planning & Development Department**

The Planning & Development Department consists of the Planning Division and the Building Division. Both Divisions serve under the Director. The staff of the Planning & Development Department shall act in an advisory and support capacity to the Board of Trustees and the boards and commissions listed in this Chapter and within the Town's Municipal Code.

**a. Planning Division – Director of Planning & Development**

The Director shall have the following specific responsibilities under this FDC:

- i. Review of all applications under this FDC in coordination with Town Staff and departments.
- ii. Interpretation and enforcement of this FDC. Appeals from a decision of the Director shall be presented in writing by the appellant to the Director who shall forward such appeal with all pertinent information to the Board of Adjustment for hearing.
- iii. The Director is not permitted to make changes, vary, or grant an exception to the actual meaning of any clause, order or regulation contained in this FDC to any person making application to construct, move, alter or use a building, a structure, or land, unless specifically authorized under Section 7.8.

**b. Building Division – Chief Building Official**

The Chief Building Official shall have the following specific responsibilities under this FDC:

- i. The power to make inspections of buildings and premises to carry out the duties of the enforcement of this FDC, subject to special provisions where stipulated in this FDC.
- ii. The issuance of building permits and certificates of occupancy.

**2. Town Engineer**

The Town Engineer shall act in an advisory and support capacity to the Board of Trustees.

**a. Town Engineer**

The Town Engineer or designee shall have the following specific responsibilities under this FDC:

- i. Review of all applications under this FDC in coordination with Town Staff and departments.
- ii. Review and coordination of all applications under the Town's Standards and Specifications; and Flood Plain Regulations.
- iii. Review and coordination of all applications for water acquisition.
- iv. The power to inspect public improvements and carry out the duties of the FDC.

# CHAPTER 9: NONCONFORMITIES

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## 16.9.1 GENERAL PROVISIONS

### A. Purpose

The purpose of this Chapter is to regulate and limit the development and continued existence of zoned legal uses, structures, lots, signs, and use characteristics such as parking and landscaping, established prior to the adoption of this FDC, or the adoption of future amendments to this FDC, that no longer conform to the requirements of this FDC. All such situations are collectively referred to in this Chapter as “nonconformities.” While nonconformities may continue, the provisions of this Chapter are designed to curtail substantial investment in nonconformities to bring about their eventual elimination in order to preserve the integrity of this FDC and the character of the Town.

### B. Authority to Continue

#### 1. Generally

Any nonconformity that lawfully existed as of the adoption of this FDC and that remains nonconforming, and any nonconformity that is created as a result of any subsequent rezoning or amendment to the text of this FDC, may be continued or maintained as a nonconformity only in accordance with the terms of this Chapter.

#### 2. Exception Due to Variances or Minor Modifications

Notwithstanding Subsection 9.1.B.1 above, this Chapter shall not apply to any development standard or feature that is the subject of a variance or minor modification granted under this FDC. Where a Variance or Minor Modification has been granted that results in a development standard or feature that does not otherwise conform to the requirements of this FDC, that development standard or feature shall be deemed conforming.

#### 3. Special Review Uses

- a. A permitted use existing prior to the adoption of this FDC that is permitted as a Special Review Use in the district in which it is located under this FDC, but which lacks an approved Special Review Use permit, shall be considered to exist as a conforming Special Review Use.
- b. A Special Review Use existing prior to the adoption of this FDC that is permitted in its entirety as a principal use in the district in which it is located under this FDC shall be deemed a permitted principal use and the Special Review Use permit shall be null and void.

### C. Determination of Nonconformity Status

In all cases, the burden of establishing the existence of a legal nonconformity shall be solely upon the owner of the nonconformity, not the Town.

### D. Nonconformities Created Through Government Action

If a structure, use of land, use of structure, or characteristic of use does not comply with the requirements of this FDC solely as a result of an acquisition of land or other action by a government agency for a public purpose, then such structure, use of land, use of structure, or characteristic of use on land not acquired by the government shall be deemed conforming. For purposes of this Section the word "land" means fee simple interest in real estate.

### E. Change of Ownership or Tenancy

Changes of ownership, tenancy, or management of property with an existing nonconformity are permitted but such nonconformities shall continue to be subject to the provisions of this Chapter.

### F. Damage or Destruction

1. If a nonconformity is damaged or destroyed by any means to an extent greater than fifty (50) percent of its floor area or its actual value at the time of damage or destruction (as determined by the Weld County Assessor), then such nonconformity shall not be re-established unless it is made to conform to the requirements of this FDC.

2. Where a nonconforming building is damaged less than fifty (50) percent of its floor area or its actual value at the time of damage or destruction (as determined by the Weld County Assessor) it may be repaired or restored, provided any such repair or restoration is started within twelve (12) months and is completed within eighteen (18) months from the date of partial destruction.
3. These requirements shall not apply in the OTC-Old Town Commercial and OTR-Old Town Residential Districts. A nonconforming building, used as such, which has been damaged or destroyed may be restored to its original condition regardless of the extent of the damages, provided that such work is commenced within one (1) year of the date of the damage and substantially complete within two (2) years of the date of the damage.

**G. Maintenance and Minor Repair**

1. Minor repairs or maintenance of nonconformities that are required to keep structures or sites in a safe condition are permitted, provided that the minor repair or maintenance does not increase the extent of nonconformity. For purposes of this Section, "maintenance or minor repair" shall mean:
  - a. Repairs that are necessary to maintain and to correct any damage or deterioration to the structural soundness or interior appearance of a building or structure without expanding or altering the building or structure;
  - b. Maintenance of land areas to protect against health and environmental hazards and promote the safety of surrounding land uses;
  - c. Repairs that are required to remedy unsafe conditions that cause a threat to public safety; and
  - d. Repairs and maintenance of nonconforming signs as set forth in Section 9.5.

**16.9.2 NONCONFORMING USES OF LAND**

**A. Limitations on Continuation of Nonconforming Uses of Land**

Nonconforming uses of land or structures may continue, subject to the general provisions of Section 9.1 and the following limitations:

1. No nonconforming use of land shall be expanded, enlarged or increased. An expansion of a nonconforming use shall include, but is not limited to, any change that results in any of the following: (a) an increase in usable floor area or an increase in percentage of the use of the parcel or lot, of a non-residential use; (b) the addition of a dwelling unit to a residential use. Any nonconforming use on a lot or portion thereof may be altered to decrease its nonconformity.
2. No nonconforming use of land shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of the regulations that make the use nonconforming.
3. Any nonconforming use may be extended throughout any parts of a building that were manifestly arranged or designed for such use at the time of adoption or amendment of the applicable regulations, but no such use shall be extended to occupy any land outside such buildings.
4. No additional structure not conforming to the requirements of this FDC shall be erected in connection with the nonconforming use of land or structure.

**B. Change of Use**

1. A nonconforming use permitted under this FDC shall not be changed or replaced to a different nonconforming use.

**C. Abandonment or Cessation of Use**

1. If a nonconforming use ceases for any reason, except when government action impedes access to the premises, on a lot or any portion of a lot for a period of more than six (6)

consecutive months, the nonconforming use shall be considered abandoned. Once abandoned, the prior legal nonconforming status of the use shall be considered terminated and reestablishment of the use shall be prohibited. Any subsequent use of the property shall comply with all applicable provisions of this FDC.

### **16.9.3 NONCONFORMING STRUCTURES**

#### **A. Continuation of Nonconforming Structures Generally**

Nonconforming structures may continue, subject to the general provisions of Section 9.1 and the following limitations:

1. No nonconforming structure may be enlarged or altered in a way that increases its nonconformity, including but not limited to any new construction in violation of required setbacks or building height in the applicable zone district; but any structure or portion thereof may be altered to decrease its nonconformity. This Subsection shall not be construed to allow the expansion of a nonconforming use of structure.
2. Should a nonconforming structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
3. Structural changes to a nonconforming building that have the effect of increasing the life of the nonconforming building shall not be permitted unless the building official determines that such change is necessary to rectify a hazardous condition or safety concern.

### **16.9.4 NONCONFORMING LOTS OF RECORD**

- A. Unless otherwise provided in this FDC, single-family residences and customary accessory buildings may be erected on any legally created single lot of record existing at the time of adoption of this FDC. Such lot must have been in separate ownership and not of continuous frontage with other lots under the same ownership. This provision shall apply even though such lot fails to meet the requirements of the district in which it is located for area, width or both area and width; provided however, that the minimum setback requirements of the district shall be met unless a variance to said requirements has been granted as provided herein.
- B. If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of adoption of this FDC, and part or all of said lots do not meet the requirements of the zone district in which they are located as to minimum area or width, or both minimum area and width, for the purpose of this Chapter, the lands shall be considered to be an undivided parcel, and no portion of said parcel shall be sold or used in a manner which diminishes compliance with the lot area and width requirements established in this FDC.

### **16.9.5 NONCONFORMING SIGNS**

#### **A. Termination**

A nonconforming sign shall immediately lose its legal nonconforming status, and therefore shall be brought into conformance with this FDC or removed, when any of the following occur:

1. The size or shape of the sign is changed;
2. The sign structure is altered. Alteration does not include repairs and/or maintenance; or
3. The nonconforming sign is accessory to a nonconforming use that has lost its nonconforming status; or
4. The primary structure on the property to which the sign is located is the subject of an application for a building permit for reconstruction, remodeling, expansion, or other improvements to the primary structure on such property, and the value of the proposed improvements total more than twenty-five (25) percent of its replacement cost of such primary structure.

**B. Maintenance of Nonconforming Signs**

Nonconforming signs shall continue to be maintained in safe condition pursuant to the building regulations of the Town.

**C. Alteration, Relocation, or Replacement of Nonconforming Signs**

A nonconforming sign shall not be structurally altered, relocated, or replaced unless it is brought into compliance with the provisions of this Section.

**D. Reconstruction of Damaged Sign**

If a sign and/or its support are damaged to the extent where the repair costs exceed fifty (50) percent of the replacement cost of the sign, the sign shall be removed or brought into compliance.

**16.9.6 NONCONFORMING USE CHARACTERISTICS**

**A. Existing Nonconforming Characteristics**

If the characteristics of a use, lot, or structure such as off-street parking, off-street loading, lighting, landscaping, or other features regulated by this FDC, are not in accord with the requirements of this FDC, no change shall be made in such characteristics that increase the amount of nonconformity with such requirements. Change shall be permitted in the direction of conformity to the requirements of this FDC.

**B. Improvements Triggering Upgrades in Nonconforming Characteristics**

If (a) an application is filed for a building permit or for reconstruction, remodeling, expansion, or other improvements of a multi-family, commercial, industrial, or mixed-use structure, and (b) the value of the proposed improvements total more than twenty-five (25) percent of its replacement cost of the primary structure(s) on the property, the applicant shall be required to address the following nonconformities prior to, or as part of the improvements authorized by, such land use permit or building permit, unless the Director determines in writing that such nonconformities have no significant adverse impact on surrounding properties:

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

# CHAPTER 10: ENFORCEMENT

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## 16.10.1 GENERAL PROVISIONS

### A. Purpose

This Chapter establishes procedures through which the Town seeks to ensure compliance with the provisions of this FDC and obtain corrections for violations of this FDC. The Chapter also sets forth the remedies and penalties that apply to violations of this FDC. The provisions of this Chapter are intended to encourage the voluntary correction of violations, where possible.

### B. Compliance Required

No person shall develop or use any land, building, or structure within the Town in violation of this FDC, regulations authorized under this FDC, or the terms and conditions of permits or other approvals entitlements issued under this FDC.

### C. Permits and Approvals

No permit or approval may be issued under this FDC unless all structures and uses of land and structures permitted under the entitlement conform to this FDC, the regulations promulgated under this FDC, and the terms and conditions of the other permits and approvals issued under this FDC that apply to the use or structure. A permit or approval issued in violation of this Section is void.

### D. Continuation of Prior Enforcement Actions

Nothing in this FDC shall prohibit the continuation of previous enforcement actions undertaken by the Town pursuant to previous regulations.

### E. Continuing Violations

Each day that a violation occurs or remains uncorrected shall constitute a separate and distinct violation of this FDC.

## 16.10.2 RESPONSIBILITIES FOR ENFORCEMENT

The provisions of this FDC shall be administered and enforced by the Director or such other person as may be designated by the Director.

## 16.10.3 VIOLATIONS

Each of the following activities shall constitute a violation of this FDC:

### A. Activity Inconsistent with this FDC

Any erection, construction, reconstruction, remodeling, alteration, maintenance, expansion, movement, or use of any building, structure, or sign, or development or subdivision of any land, in contravention of any provision of this FDC or any regulation promulgated under this FDC.

### B. Activity Inconsistent with Permit or Approval

Any development, use, construction, remodeling, or other activity in any way generally inconsistent with the terms or conditions of any permit or approval required to engage in such activity, whether issued under or required by this FDC.

### C. Illustrative Examples

Examples of activities generally inconsistent with this FDC or with permit or approval issued under this FDC include, but are not limited to, the following:

1. Use of any land, structure, or improvement except in accordance with the requirements of this FDC;
2. Increasing the density or intensity of any use of any land or structure except in accordance with the requirements of this FDC;
3. Filing or recording of a subdivision plat in any public office without approval for recording pursuant to this FDC;

4. Storage or maintenance of goods, materials, products, or other items outside and in plain view including, but not limited to operable vehicles or equipment, abandoned vehicles, or snow, except in compliance with this FDC;
5. Reduction or diminishment of lot area, setbacks, vegetative buffers, or open space below the minimum requirements set forth in this FDC;
6. Damage to or removal of vegetation generally inconsistent with this FDC;
7. Creation, expansion, replacement, or change of a nonconformity generally inconsistent with this FDC and all other applicable regulations;
8. Failure to remove any sign installed, created, erected, or maintained in violation of this FDC, or for which the sign permit has lapsed;
9. Failure to remove a temporary use once authorization for the temporary use under this FDC and all other applicable regulations has lapsed; and
10. Failure of a Homeowner's Association to construct, improve, or maintain any amenity, landscaping, buffers, fencing, or other improvements required by the terms of any permit or approval.

#### **16.10.4 REMEDIES AND PENALTIES**

The Director shall have the following remedies and powers to enforce this FDC:

##### **A. Civil Remedies and Enforcement Powers**

###### **1. Deny/Withhold Entitlements**

The Director may deny or withhold all entitlements, including certificates of occupancy, or other forms of authorization to use or develop any land, structure, or improvements, until an alleged violation, associated civil penalty, and/or lien resulting from a previous final order related to such property, use, or development is corrected. This provision shall apply whether or not the current owner or applicant for the permit or other approval is responsible for the violation.

###### **2. Revoke Entitlements**

Any entitlement or other form of authorization required under this FDC may be revoked when the Director determines that:

- a. There is a departure from the approved plans, specifications, limitations, or conditions as required under the entitlement;
- b. The entitlement was procured by false representation;
- c. The entitlement was issued in error; or
- d. There is a violation of any provision of this FDC.

Written notice of revocation shall be served upon the property owner, agent, applicant, or other person to whom the entitlement was issued, or such notice may be posted in a prominent location at the place of violation. No work or construction shall proceed after service of the revocation notice. An entitlement shall only be revoked by way of a procedure that is equivalent (in terms of due process) to the proceeding that originally granted the entitlement.

###### **3. Stop-Work Orders**

- a. Whenever any building or structure or site or part thereof is being demolished, constructed, reconstructed, altered, or repaired in a hazardous manner, in substantial violation of any State or local Building Codes, or in a manner that endangers life or property, the Director has the authority to issue a stop-work order for the specific part of the work that is in violation or presents the hazard.

- b. With or without revoking permits, the Director may issue an order to stop work on any property on which there is an uncorrected violation of either a provision of this FDC or a provision of an entitlement or other form of authorization issued under this FDC.
- c. The stop-work order shall be in writing and posted at the site of the work, and shall specify the provisions of this FDC or other law allegedly in violation. After any such order has been posted, no work shall proceed on any building, other structure, or tract of land covered by such order, except to correct such violation or comply with the order.
- d. Once conditions for resumption of the work have been met, the Director shall rescind the stop-work order.

**4. Civil Penalties**

Violation of this FDC may be punishable through imposition of a civil penalty as set forth in the Town's Municipal Code.

**5. Injunctive Relief**

The Director may seek injunctive relief or other appropriate relief in district court or other court of competent jurisdiction against any person who fails to comply with any provision of this FDC or any requirement or condition imposed pursuant to this FDC. In any court proceedings in which the Town seeks a preliminary injunction, it shall be presumed that a violation of this FDC is a real, immediate, and irreparable injury to the public; that the public will be irreparably injured by the continuation of the violation unless the violation is enjoined; and that there is no plain and adequate remedy at law for the subject FDC violation.

**6. Abatement**

The Town may abate the violation pursuant to this Subsection.

- a. Before action is taken to abate a violation, a final warning notice shall be posted on the property and served personally or by certified mail with return receipt required to the owner of record of the property.
- b. Unless this notice is appealed, pursuant to Section 7.22, to the Board of Adjustment within ten (10) days of the posting of the final warning, the Director shall proceed to abate the violation.
- c. The Director shall keep an account of the cost, including incidental expenses, incurred by the Town in the abatement of any violation. The Director shall forward a bill for collection to the violator and owner of record of the property specifying the nature and costs of the work performed. For purposes of this Section, the term "incidental expenses" shall include but not be limited to the actual expenses and costs to the Town in the preparation of the notices, specifications and contracts, work inspection, and interest from the date of completion at the rate prescribed by law for delinquent real property taxes.
- d. The responsibility for payment of the charges for abatement as set forth in this Section shall rest solely upon the owners of the property upon which the abatement occurred. Such charges become a lien upon the real property upon which the violation was located. When charges for abatement remain unpaid after thirty (30) days from billing, the Director shall record a claim of lien at the district recorder's office. The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property and shall be paramount to all other liens except for state or municipal property taxes, with which it shall be upon a parity. The lien shall continue until the charges and all interest due and payable thereon are paid.

**B. Criminal Remedies and Enforcement Powers**

**1. Misdemeanor**

A person shall be guilty of a misdemeanor upon conviction in any case where a violation of this FDC exists, where notice of violation, including any stop-work, enforcement, or compliance order has been properly served, and where such person fails to comply with such notice stop-work, enforcement, or compliance order.

**2. Penalty**

Persons found guilty of a misdemeanor pursuant to this Section shall be punishable by a fine of not more than \$1,000.00 or by imprisonment for not more than ten (10) days, or by both such fine or imprisonment, for each violation.

**C. Remedies Cumulative**

The remedies provided for violations of this FDC, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

# CHAPTER 11: DEFINITIONS

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## 16.11.1 GENERAL RULES OF CONSTRUCTION

The following rules shall apply for construing or interpreting the terms and provisions of this FDC.

**A. Meanings and Intent**

All provisions, terms, phrases, and expressions contained in this FDC shall be construed according to the general purposes set forth in Section 1.3 and the specific purpose statements set forth throughout this FDC. When, in a specific Section of this FDC, a different meaning is given for a term defined for general purposes in this Chapter, the specific Section's meaning and application of the term shall control.

**B. Headings, Illustrations, and Text**

In the event of a conflict or inconsistency between the text of this FDC and any heading, caption, figure, illustration, table, or map, the text shall control.

**C. Lists and Examples**

Unless otherwise specifically indicated, lists of items or examples that use terms such as "for example," "including," and "such as," or similar language are intended to provide examples and are not exhaustive lists of all possibilities.

**D. Computation of Time**

The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the Town, the deadline or required date of action shall be the next day that is not a Saturday, Sunday or holiday observed by the Town. References to days are calendar days unless otherwise stated.

**E. References to Other Regulations/Publications**

Whenever reference is made to a resolution, ordinance, statute, regulation, or document, it shall be construed as a reference to the most recent edition of such regulation, resolution, ordinance, statute, regulation, or document, unless otherwise specifically stated.

**F. Delegation of Authority**

Any act authorized by this FDC to be carried out by a specific official of the Town may be carried out by a designee of such official.

**G. Technical and Non-Technical Terms**

Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

**H. Public Officials and Agencies**

All public officials, bodies, and agencies to which references are made are those of the Town, unless otherwise indicated.

**I. Mandatory and Discretionary Terms**

The words "shall," "must," and "will" are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words "may" and "should" are permissive in nature.

**J. Conjunctions**

Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

1. "And" indicates that all connected items, conditions, provisions or events apply;
2. "Or" indicates that one (1) or more of the connected items, conditions, provisions or events apply.

**K. Tenses, Plurals, and Gender**

Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.

**16.11.2 INTERPRETATIONS**

The Director has final authority to determine the interpretation or usage of terms used in this FDC. Any person may request an interpretation of any term by submitting a written request to the Director who shall respond in writing within thirty (30) days.

**16.11.3 TERMS DEFINED**

The following words, terms and phrases, when used in this FDC, shall have the meanings ascribed to them in this Section:

**A.**

**Abut or Abutting:** Touching. An abutting condition shall not be affected by the parcelization or division of land that results in an incidental, non-buildable, remnant lot, tract or parcel.

**Accessory Use:** A structure or use that: (1) is subordinate in area, extent, and purpose to the principal use; (2) contributes to the comfort, convenience, or necessity of the principal use; and (3) is located on the same lot or on a contiguous lot in the same ownership and in the same zone district as the principal use.

**Adequate Public Facilities ("APF"):** Public facilities and services necessary to maintain the adopted level of service standards.

**Adjacent:** Nearby, but not necessarily touching. The determination of "nearby" shall be made on a case-by-case basis, taking into consideration the context in which the term is used and the variables (such as but not limited to size, mass, scale, bulk, visibility, nature of use, intensity of use) that may be relevant to deciding what is "nearby" in that particular context. Adjacency shall not be affected by the existence of a platted street or alley, a public or private right-of-way, or a public or private transportation right-of-way or area.

**Administrative Review/Decision:** Review or decision by the Director of Planning & Development.

**Adult Bookstore:** An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other periodicals and goods and items held for sale which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas, or an establishment with a segment or sections devoted to the sale or display of such material.

**Adult Cabaret, Restaurant or Place of Business:** A cabaret, restaurant or place of business which features waitresses, waiters, dancers, go-go dancers, exotic dancers, strippers, male or female impersonators or similar entertainers attired in such manner as to display "specified anatomical areas."

**Adult Hotel or Motel:** Any hotel or motel in which the presentation of adult material is the primary or principal attraction.

**Adult Material:** Any material including, but not limited to, books, magazines, newspapers, movie films, slides or other photographic or written materials, video tapes, video disks, computer software and/or other items or devices which are distinguished or characterized by their emphasis on depicting, describing or relating to "specified anatomical areas" or "specified sexual activities."

**Adult Mini-motion Picture Theater:** Any theater or establishment with a capacity of less than fifty (50) persons in which the presentation of adult material is the primary or principal attraction.

**Adult Novelty Store or Adult Retail Store:** Any establishment that has adult material as a significant or substantial portion of its stock-in-trade, or derives a significant or substantial portion of its revenues

from such material, or devotes a significant or substantial portion of its interior business or interior advertising to such material, or maintains a substantial or significant portion of its gross floor area or display space for the sale or rental, for any form of consideration, of such material including, but not limited to, books, magazines, newspapers, movie films, slides or other photographic or written material, video tapes, video disks, computer software and/or other items or devices. For the purpose of this definition, "significant or substantial" shall mean more than twenty (20) percent.

**Adult-oriented:** A use of property where the principal use, or a significant or substantial adjunct to another use of the property, is the sale, rental or display of adult material, or is an offering of live entertainment, dancing or material which is distinguished or characterized by its emphasis on depicting, exhibiting, describing or relating to "specified sexual activities" or "specified anatomical areas" as the primary attraction to the premises.

**Adult Photo Studio:** An establishment that, upon payment of a fee, provides on-premises photographic equipment, services and/or models for the purpose of photographing specified anatomical areas.

**Adult Theater:** A theater used for the presentation of material distinguished or characterized by an emphasis on material depicting, describing or relating to specified sexual activities.

**Agricultural:** The use of land for agricultural purposes, including farming, dairying, pasturage, horticulture, floriculture, viticulture, and animal and poultry husbandry; excluding the raising of hogs, pigs or other livestock fed from garbage or offal. Accessory uses may include dwelling units for proprietors and employees, barns, storage of grain, animal raising, feed preparation, and wholesale sales of products produced on-site. Specific use types include, but are not limited to: **Agricultural Cultivation; Agricultural Grazing; or Produce Stand.**

**Agricultural Cultivation:** The raising of agricultural products for consumption, commercial wholesale or development of agritainment uses such as corn mazes and orchid houses. Products may include, but are not limited to, vegetables, grains, fruits, plants, and other similar products.

**Agricultural Grazing:** The practice of keeping cattle, sheep, horses, or other similar animals on fields for the purpose of grazing and feeding.

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

**Alteration:** Any change, addition or modification in construction, occupancy or use.

**Amusement Park:** An outdoor enterprise whose main purpose is to provide the general public with entertaining activity, where tickets are sold or fees collected at the activity. Commercial amusements include miniature golf courses, outdoor arcades, ferris wheels, children's rides, roller coasters, skateboard parks, go-cart tracks, water parks and similar uses.

**Animal Boarding:** The operation of an establishment in which domesticated animals other than household pets are housed, groomed, bred, boarded, trained or sold. This term shall not include the operation of a kennel.

**Animal Day Care:** A facility providing such services for domesticated pets for all or part of a day, obedience classes, training, grooming and/or behavior counseling.

**Animal Hospital, Large Animals:** An animal hospital or rehabilitation center for large animals is a veterinary establishment whose purpose is to provide inpatient and outpatient services to animals such as cows, horses, buffalo, pigs, sheep, goats, donkeys, mules, and other animals of similar size. Such facilities may be indoor only, or may have both indoor and outdoor facilities, depending on the zone district in which they are located; see Table 3-1.

**Animal Hospital, Small Animals:** An animal hospital for small animals is a veterinary establishment whose purpose is to provide inpatient and outpatient services to animals such as cats, dogs, fowl, reptiles and other small domestic animals. Such facilities may be indoor only, or may have both indoor and outdoor facilities, depending on the zone district in which they are located; see Table 3-1.

**Animal Sales and Care:** Animal Sales and Care uses involve the selling, boarding, or care of animals on a commercial basis. Accessory uses may include confinement facilities for animals, parking, and storage areas. Specific use types include, but are not limited to: **Animal Hospital, Large Animals; Animal Hospital, Small Animals; Horse Stables; or Kennel or Animal Day Care.**

**Antenna Collocation on Existing Tower:** Any structure or device used to collect, receive, transmit, or radiate electromagnetic waves, including both directional antennas (such as panels, microwave dishes, satellite earth station antennas over two (2) meters in diameter) and omni-directional antennas (such as whips) that is placed upon an existing telecommunications tower or projection. This term does not include antennas two (2) meters or less in diameter.

**Apartment:** A part of a building consisting of a room or rooms intended, designed, or used as a residence by an individual or a single family.

**Appeal:** A request for a review of the administrative official's interpretation of any provision of this chapter or a request for a variance.

**Applicant:** The legal owners of a lot or of any land included in a proposed development; the holder of an option or contract to purchase, or any other person having enforceable proprietary interest in such land.

**Architectural Projection:** Any projection that is not intended for occupancy and which extends beyond the face of an exterior wall of a building, including arcades, roof overhangs, mansards, unenclosed exterior balconies, marquees, canopies, pilasters, fasciae and the like, but not including signs.

**Area of Shallow Flooding:** A designated AO, AH, or VO zone on a community's flood insurance rate map (FIRM) with a one (1) percent chance or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Area of Special Flood Hazard:** The land in the floodplain subject to a one (1) percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into zones A, AE, AH, AO, A1-99, VO, V1-30, VE or V.

**Artificial Turf:** A manufactured substitute for organic turf, lawn, or sod which effectively simulates the appearance of a well-maintained lawn and meets all the quality, materials and installation standards outlined in this code.

**Assembly:** Assembly uses include facilities owned or operated by associations, corporations, or other persons for social, educational, or recreational purposes primarily for members and their guests. Accessory uses may include offices, meeting areas, food preparation areas, concessions, parking, and maintenance facilities. This use includes assembly of fraternal organizations (Elks, Lions Club, etc.).

**Assembly Building or Place of Assembly:** As related to oil and gas well facility regulations, assembly building shall mean any building or portion of building or structure used for the regular gathering of fifty (50) or more persons for such purposes as deliberation, education, instruction, worship, entertainment, amusement, drinking or dining or awaiting transport.

**Athletic Fields and Courts:** Land, often requiring equipment, designed for outdoor games and sports such as baseball, football, tennis and soccer.

**Automated Teller Machine:** A device that dispenses cash and conducts limited banking transactions for customers using a credit card, bank card, or other similar personal banking card. These devices, known as automatic teller machines (ATMs), may be part of a bank office, a drive-up banking center, or may be freestanding units in retail centers or within other buildings.

**Auto Wrecking and Salvage Yard:** Any lot upon which two (2) or more motor vehicles of any kind, which are incapable of being operated due to condition or lack of license or registration, have been placed for the purpose of obtaining parts for recycling or resale.

**Awning:** A shelter supported entirely from the exterior wall of a building.

**B.**

**Balcony, Exterior:** A projecting platform that is enclosed only by a parapet or railing, and is roofless, and which is suspended or cantilevered from, or supported solely by, the principal structure.

**Bank:** A financial institution that is open to the public and engaged in deposit banking, and that performs closely related functions, such as making loans, investments, and fiduciary activities. Banks may or may not have a drive-through facility, depending on the zone district in which they are located; see Table 3-1.

**Bar/Tavern:** An area or structure primarily devoted to the serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages. Operations may or may not include outdoor seating areas or outdoor service, depending on the zone district in which they are located; see Table 3-1.

**Base Flood:** A flood, having a one (1) percent chance of being equaled or exceeded in any given year. This term is used interchangeably with a one-hundred (100) year flood.

**Base Flood Elevation:** The water surface elevation of the base flood in relation to mean sea level.

**Basement:** That portion of a building that is partly or completely below grade.

**Bed and Breakfast:** An establishment operated in a private residence or portion thereof, which provides temporary accommodations to overnight guests for a fee and which is occupied by the operator of such establishment.

**Bicycle Parking:** An area that includes a bicycle rack and is free of obstructions to allow the convenient and accessible parking of a bicycle.

**Blank Wall:** An exterior building wall with no openings and a single material and uniform texture on a single plane.

**Block:** Land or a group of lots, surrounded by streets or other rights-of-way other than an alley, or land which is designated as a block on any recorded subdivision tract.

**Board:** The Board of Trustees of the Town of Firestone, Colorado.

**Boarding and Rooming House:** A building other than a hotel, motel or bed and breakfast where, for compensation and by prearrangement for definite periods lasting one (1) week or longer, meals or rooming units are provided for three (3) or more persons, but not exceeding twenty (20) persons, provided such persons are not members of the owner's or operators immediate family.

**Botanical Garden:** A public or private facility for the demonstration and observation of the cultivation of flowers, fruits, vegetables or ornamental plants.

**Building:** Any structure constructed in compliance with the Building Code, used or intended for supporting or sheltering any use or occupancy, and any walled or roofed structure, including a gas or liquid storage tank and manufactured homes that are principally aboveground.

**Building Coverage:** Any area of a portion of a lot which is covered by all buildings on that lot.

**Building Frontage:** The horizontal, linear dimension of that side of a building, which abuts a street, a parking area, a mall, or other circulation area open to the public and has either a main window display or a public entrance to the building. In industrial districts a building side with an entrance open to industrial employees shall also qualify as a building frontage. Where more than one (1) use occupies a building, each such use having a public entrance or main window display for its exclusive use shall be considered to have its own building frontage, which shall be the front width of the portion of the building occupied by that use.

**Building Height:** Building height shall be measured as the vertical distance above a reference datum to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. The reference datum shall be selected by either of the following; whichever yields a greater height of building:

- a. The elevation of the highest adjoining sidewalk or ground surface within a five (5) foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than ten (10) feet above lowest grade.
- b. An elevation ten (10) feet higher than the lowest grade when the sidewalk or ground surface described above is more than ten (10) feet above lowest grade.

**Building Mass:** The three (3) dimensional bulk of a building: height, width and depth.

**Building Materials and Lumber Sales:** An establishment for the sale of materials, hardware and lumber customarily used in the construction of buildings and other structures, which includes facilities for storage.

**Building Official:** The Chief Building Official of the Town of Firestone, Colorado.

**Buffer:** Open spaces, landscaped areas, fences, walls, berms, or any combination thereof, used to visually cushion and provide a physical separation between adjacent structures or uses.

**Bus Lot/Maintenance Facility:** Any lot, tract or land area used for the storage, layover or maintenance of passenger buses, motor coaches or school buses.

C.

**Caliper:** The American Association of Nurserymen standard for trunk measurement of nursery stock, as measured at six (6) inches above the ground for trees up to and including four (4) inch caliper size, and as measured at twelve (12) inches above the ground for larger sizes.

**Campground:** An area or tract of land on which accommodations for temporary occupancy are located or may be placed, including tents and recreational vehicle equipment.

**Car Wash:** A facility for the cleaning of automobiles, providing either self-serve facilities or employees to perform washing operations.

**Cemetery:** Land used or dedicated to the interment of human or animal remains, including columbarium, mausoleums, mortuaries and associated maintenance facilities when operated in conjunction with, and within the boundaries of, such cemetery.

**Change of Use:** The act of changing the occupancy of a building or land from a use that is specifically listed as a "Permitted Use" including:

- a. The occupancy of a single-tenant building or of a parcel of land changes from the most recent previously existing use to a different use;
- b. The occupancy of a tenant space in a multi-tenant building changes to a use that is not currently existing in another tenant space of the building or that did not previously exist in any tenant space of the building within the last twelve (12) months; or
- c. The most recent previously existing use of a building or land has been abandoned, by cessation of active and continuous operations during a period of twelve (12) consecutive months, and either the same type of use is proposed to be reestablished or a different use that did not exist on the property is proposed to be established.

**Channel:** A natural or artificial watercourse of perceptible extent, with a definite bed and banks to confine and conduct periodically or continuously flowing water. Channel flow, this, is that water which is flowing within the limits of the defined channel.

**Check-cashing Facility:** An establishment that for compensation engages in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. This classification does not include a state or federally chartered bank, savings association,

credit union, or industrial loan company. Further, this classification does not include establishments selling consumer goods, including consumables, where the cashing of checks or money orders is incidental to the main purpose of the business.

**Child Care:** Child Care uses include facilities that provide care for children on a regular basis away from their primary residence. This category does not include public or private schools or facilities operated in connection with an employment use, shopping center, or other principal use, where children are cared for while parents or guardians are occupied on the premises or in the immediate vicinity. Accessory uses include offices, recreation areas, and parking.

**Child Care Center, Large:** A facility that is maintained for the whole or part of the day for the care of sixteen (16) or more children who are eighteen (18) years of age or younger and who are not related to the owner, operator or manager, whether such facility is operated with or without compensation for such care and with or without stated educational purposes. The term includes, but is not limited to, facilities commonly known as day care centers, school-age child care centers, before and after school programs, nursery schools, kindergartens, preschools, day camps, summer camps, and centers for developmentally disabled children and those facilities that give twenty-four (24) hour care for children and includes those facilities for children under the age of six (6) years with stated educational purposes operated in conjunction with a public, private or parochial elementary school system of at least six (6) grades or operated as a component of a school district's preschool program operated pursuant to Article 28 of Title 22, C.R.S. The term shall not include any facility licensed as a family care home (defined below in the accessory use definitions) or foster care home.

**Child Care Center, Small:** The same type of facility defined as Large Child Care Center above, except that the facility cares for more than five (5), but less than sixteen (16) children.

**College or University:** A permanent facility for the purpose of undergraduate and graduate instruction. The institution may be privately or publicly funded and may also include on-campus dormitories for enrolled students.

**Commercial Amusement:** A commercial establishment designed and equipped for the conduct of sports, exercise, or leisure-time activities within a fully enclosed building. Typical uses include, but are not limited to: billiards, bingo, bowling, gymnasiums and health clubs, pools, skating rinks, motion picture theaters, and related amusements. Accessory uses may include the preparation and serving of food or sale of equipment related to the enclosed uses.

**Commercial Development:** Any land development activity except development activity intended solely for residential, industrial or light industrial use.

**Commission:** The Town of Firestone Planning & Zoning Commission.

**Common Open Area:** Areas held in private ownership and designated for shared use by common owners, their guests and invitees, or members of an owner's association.

**Community Center (public):** A place, structure, area, or other facility used for and providing fraternal, social, or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community, including senior centers and teen centers.

**Community Facility:** Community Facility uses includes buildings, structures, or facilities owned, operated, or occupied by a non-profit or governmental agency to provide a service to the public. Specific use types include, but are not limited to: **Community Center (public); Correctional Facility; Governmental Office; Recreation Center; HOA/Metro District Facilities; Public Utility Services; Public Safety Station; or Transit Center.**

**Community Garden:** A public facility for cultivation of fruits, flowers, vegetables, or ornamental plants by more than one (1) person or family.

**Compatibility:** The characteristics of different uses or activities or design which allow them to be located near or adjacent to each other in harmony. Some elements affecting compatibility include height, scale, mass and bulk of structures. Other characteristics include pedestrian or vehicular traffic, circulation, access and parking impacts. Other important characteristics that affect compatibility are

landscaping, lighting, noise, odor and architecture. Compatibility does not mean "the same as." Rather, compatibility refers to the sensitivity of development proposals in maintaining the character of existing development.

**Comprehensive Plan:** The Comprehensive Master Plan for the Town which has been officially adopted to provide long-range development policies for the Town and which includes, among other things, the plan for land use, land subdivision, circulation and public facilities.

**Concealed Antennae and Towers:** Any man-made trees, clock towers, bell steeples, light poles, water towers and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.

**Condominium:** A single dwelling unit in a multiple dwelling unit structure, which is separately owned and which may be combined with an undivided interest in the common areas and facilities of the property.

**Container (cargo container, shipping container, or truck trailer body):** A standardized, reusable vessel that is or appears to be: (1) originally, specifically or formerly designed for or used in the packing, shipping, movement or transportation of freight, articles, goods or commodities, or (2) designed for or capable of being mounted or moved on a rail car, or (3) designed for or capable of being mounted on a chassis or bogie for movement by truck trailer or loaded on a ship.

**Contractor's Shop or Storage Yard:** A building or part of a building or land area for the construction or storage of materials, equipment, tools, products, and vehicles.

**Convenience Store:** A retail establishment with a floor area of less than five-thousand (5,000) square feet, which sells a limited line of groceries and household items, gasoline, or beer and wine generally intended for the convenience of the neighborhood, but not including an automobile service station.

**Correctional Facility:** A facility for the purpose of incarcerating and rehabilitating offenders.

**County Clerk and Recorder:** Weld County Clerk and Recorder.

**Court Yards:** Open, unoccupied spaces that are wholly or partially enclosed.

**Crosswalk or Walkway:** A right-of-way dedicated to public use and designed to facilitate pedestrian traffic.

**Cultural Facility:** A cultural facility displays or preserves objects of interest or provides facilities for one (1) or more of the arts or sciences. Accessory uses may include parking, offices, storage areas, and gift shops. Specific use types include, but are not limited to: **Botanical Garden; Library; Museum; or Zoo.**

**D.**

**Deck:** An uncovered platform constructed of wood or similar synthetic material.

**Dedication:** A grant of land or the right to use land, by the owner of that land, to the public, involving a transfer of property rights and an acceptance of the dedicated property by the Town.

**Density, Net:** The total number of dwelling units per acre of the total land area to be developed excluding rights-of-way, common areas, parks, open space, and recreational, civic, commercial, and other nonresidential uses.

**Density, Gross:** The total number of dwelling units per gross acre of the total land area to be developed.

**Dental or Medical Office, Clinic, or Laboratory:** A facility for a group of one (1) or more dentists or physicians for the examination and treatment of human outpatients, provided that patients are not kept overnight except under emergency conditions.

**Development:** Any manmade change in improved and unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

**Diameter-at-Breast-Height (DBH):** A tree trunk diameter as measured in inches at a height of 4 1/2 feet above the ground or, in the case of a tree that is divided into multiple trunks below 4 and 1/2 feet, as measured at the narrowest point beneath the point of division.

**Director:** The Director of Planning & Development of the Town of Firestone, Colorado or designated representative.

**Dormitory:** A building or buildings occupied by and maintained exclusively for students affiliated with an academic or vocational institution, including, but not limited to, fraternities, sororities, and dormitories.

**Drip Line:** A vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

**Drive Aisles:** The lanes in a parking lot devoted to the passage of vehicles, as opposed to the parking stalls. The term drive aisle does not include lanes used only or primarily for drive-in customer service.

**Drive-In Use:** An establishment which by design, physical facilities, service or packaging procedures encourages or permits customers to receive services or obtain goods while remaining in their motor vehicles.

**Drive-Through or Up Service:** Business designed to permit customers to remain in their motor vehicles while being accommodated by the business.

**Driveway:** A constructed access serving a property and abutting a public or private street.

**Dwelling, Live/Work:** A building or space within a building combining a residential living space with an integrated workspace used regularly by one (1) or more of the residents of the dwelling unit. Examples of a live-work dwelling unit include, without limitation, a limited business operating on the first floor of a primary residence, or a loft space within a building originally designed for commercial or industrial occupancy that has been remodeled to include a dwelling unit space integrated with work space.

**Dwelling, Mobile Home:** A transportable, factory-built home, designed to be used as a year-round residential dwelling unit and built prior to the enactment of the National Manufactured Housing Construction and Safety Standards Act of 1974.

**Dwelling, Multi-Family:** A building or portion thereof used for occupancy by three (3) or more families living independently of each other and containing three (3) or more dwelling units, including what is commonly known as an apartment building, but not including group, paired homes, duplexes, rowhomes, or townhomes.

**Dwelling, Single-Family Attached:** A single-family dwelling unit attached to one (1) or more dwelling units or buildings, with each dwelling unit located on its own separate lot. Units include what are commonly known as paired homes, duplexes, rowhomes, or townhomes.

**Dwelling, Single-Family Detached:** A residential building containing not more than one (1) dwelling unit entirely surrounded by open areas on the same lot.

**Dwelling Unit:** One (1) room or rooms connected together constituting a separate, independent housekeeping establishment for owner occupancy or for rental or lease on a monthly or longer basis, physically separated from any other rooms or dwelling units which may be in the same structure. The term shall not include hotels, motels or other structures used primarily for temporary occupancy.

**E.**

**Easement:** A grant of one (1) or more of the property rights by the owner to, or for the use by the public, a corporation, or persons, of any designated part of his property for specific purposes.

**Education:** Education uses are public, private, and parochial institutions at the primary, elementary, middle, high school, or post-secondary level, or trade or business schools, which provide educational instruction to students. Accessory uses include play areas, cafeterias, recreational and sport facilities, auditoriums, and before or after school day care. Specific use types include, but are not limited to: **College or University; Commercial School; or School (public or private).**

**Employees:** The total number of persons reasonably anticipated to be employed in a building or on land during normal periods of use.

**Extended-Stay Lodgings:** A hotel or motel typically rented or hired out for periods of one (1) week or more that also provides kitchen facilities with refrigerators, stoves, and ovens for food preparation in individual rooms.

**Extent Reasonably Feasible or Practicable:** That, under the circumstances, reasonable efforts have been undertaken to comply with the regulation, that the costs of compliance clearly outweigh the potential benefits to the public or would unreasonably burden the proposed project, and reasonable steps have been undertaken to minimize any potential harm or adverse impacts resulting from noncompliance with the regulation.

F.

**Facade, Primary:** Those portions of a building which are habitable residential space that faces and are most closely parallel to the front lot line. The entire area of a building face that extends from the roof to the ground and from one (1) corner of the building to another. The front facade shall not include:

- a. Non-habitable spaces such as garages;
- b. Protrusions such as bay windows, chimney chases; and
- c. Porches, architectural entry features and entry stairs.

**Facilitator:** A natural person who is 21 years of age or older, has the necessary qualifications, training, experience, and knowledge to perform and supervise natural medicine services for a participant, and is licensed by the Colorado Department of Regulatory Agencies (“DORA”) division of professions and occupations to engage in the practice of facilitation, as provided by the CNMC.

**Family:** One or more persons occupying a dwelling unit and living as a single, nonprofit housekeeping unit; provided that a group of four (4) or more persons who are not within the second degree of kinship shall not be deemed to constitute a family. (See **Group Home**)

Notwithstanding the definition in the preceding paragraph, not more than eight (8) developmentally disabled persons and appropriate staff occupying a dwelling unit and living as a single, nonprofit housekeeping unit shall be deemed to constitute a family.

**Family Care Home:** A facility for child care in a place of residence of a family or person for the purpose of providing family care and training for a child under the age of sixteen (16) years who is not related to the head of such home. The term includes any family foster home receiving a child for regular twenty-four (24) hour care and any home receiving a child from any state operated institution for child care or from any child placement agency, or any family child care home receiving a child for less than twenty-four (24) hour care.

**Farm Market:** An area that is used by one (1) or more operators of bona fide farms for the direct sale to consumers of agricultural products that are not grown or raised on the same premises as the market.

**Final Development Plan:** A plot of a lot, drawn to scale, showing the actual measurements, the size and location of any existing buildings or buildings to be erected, the location of the lot in relation to abutting streets, and other such information.

**Financial Institution:** Establishments that provide retail banking services, mortgage lending, and similar financial services to individuals and businesses. This classification includes those institutions engaged in the on-site circulation of cash money and check-cashing facilities, but shall not include

bail bond brokers. Accessory uses may include automatic teller machines, offices, and parking. Specific use types include, but are not limited to: **Automated Teller Machine; Bank; or Check-cashing Facility.**

**Fire District:** The Frederick Firestone Fire Protection District.

**Fleet Vehicle:** A group of vehicles with a single owner, typically a company or corporation, rather than an individual or family. Examples are vehicles owned by a car rental company, construction company, or security company.

**Flood or Flooding:** A general and temporary condition of partial or complete inundation of normally dry land areas from:

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

**Flood Insurance Rate Map (FIRM):** The official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the Town.

**Flood Insurance Study (FIS):** The official report provided by the Federal Emergency Management Agency. The report contains the Flood Insurance Rate Map as well as flood profiles for studies flooding sources that can be used to determine Base Flood Elevations for some areas.

**Floodplain:** The relatively flat or lowland area adjoining a river, stream, watercourse, ocean, lake, or other body of standing water which has been or may be covered temporarily by floodwater. For the purpose of this chapter, the "floodplain" is defined as the area that would be inundated by the base flood.

**Floodplain Management:** The operation of an overall program of corrective and preventive measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.

**Flood Proofing:** Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**Flood Protection System:** Those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

**Floodway Fringe:** That area of the floodplain, outside of the floodway, that would be inundated by the base flood.

**Floodway (Regulatory Floodway):** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one-half (0.5) foot in height.

**Floor Area:** The total square feet of floor space within the outside dimensions of a building, including each floor level, but excluding carports, garages, breezeways, porches, verandas, and balconies.

**Food and Beverage Service:** Food and Beverage Service businesses serve prepared food or beverages for consumption on or off the premises. Accessory uses may include food preparation areas, offices, and parking. Specific use types include: **Bar/Tavern; Nightclub; Restaurant; Restaurant, with Drive-Through or Up Service; or Restaurant with Outdoor Seating.**

**Foot-candle:** A unit of measurement referring to illumination incident to a single point. One (1) foot-candle is equal to one (1) lumen uniformly distributed over an area of one (1) square foot.

**Freight or Truck Yard:** An area or building where cargo is stored and where trucks, including tractors and trailer units, load and unload cargo on a regular basis. The use may include facilities for the temporary storage of loads prior to shipment. The use shall also include truck stops or fueling stations where diesel fuel is primarily sold.

**Frontage:** That portion of a lot, parcel, tract or block abutting upon a street or other right-of-way.

**Fugitive Dust:** Solid airborne particulate matter emitted from any source other than an opening which channels the flow of air contaminants and then exhausts the contaminants directly into the atmosphere. Fugitive dust also includes solid particles released into the atmosphere by natural forces or by mechanical processes, such as crushing, grinding, milling, drilling, demolishing, pulverizing, shoveling, conveying, covering, bagging or sweeping.

**Fully Shielded:** Shielded or constructed so that no light rays are emitted by the installed outdoor light fixtures at angles above the horizontal plane, as certified by a photometric test report.

**Funeral Parlor or Mortuary:** A place for the storage of deceased human bodies prior to burial or cremation, or a building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

**G.**

**Garage, Private:** A building for the private use of the owner or occupant of a principal building situated on the same lot of the principal building for the storage of motor vehicles with no facilities for mechanical service or repair of a commercial or public nature.

**Garage, Tandem:** A parking space within a group of two (2) or more parking spaces arranged one (1) behind the other.

**Gas Station:** See Service Station.

**Gazebo:** An accessory structure no larger than two-hundred (200) square feet which may be covered by a roof and enclosed with screening intended to be used for outdoor living activities.

**General Outdoor Recreation, Commercial:** Intensely developed recreational uses such as amusement parks, miniature golf courses, batting cages, skateboard or skate parks or courses, bicycle motocross courses, water parks or slides, drive-in or outdoor movie theaters, courses for paramilitary games, and archery facilities.

**General Retail:** A commercial enterprise that provides goods, products, or materials directly to the consumer. This includes uses such as art galleries, appliance stores, bakeries, bookstores, clothing stores, food stores, grocers, caterers, pharmacies, florists, furniture stores, hardware stores, liquor stores, pet stores, toy stores, and variety stores. This use type shall not include restaurants, personal service establishments, convenience stores, or amusement establishments.

**Geologic Hazards:** Unstable or potentially unstable slopes, faulting, landslides, rock falls, flood, wildfire or similar naturally occurring dangerous features or soil conditions or natural features unfavorable to development.

**Golf Course:** A tract of land laid out with a course having nine (9) or more holes for playing the game of golf, including any accessory clubhouse, driving range, office, restaurant, concession stand, picnic tables, pro shop, maintenance building, restroom facility, or similar accessory use or structure. This term shall not include miniature golf courses as a principal or accessory use, nor shall it include driving ranges that are not accessory to a golf course.

**Golf Driving Range or Putting Course:** A sports facility equipped with tee areas, distance markers, and related features for practicing golf and which may include a pro shop, snack bar, but excludes miniature golf courses.

**Governmental Office:** A building occupied by a governmental agency that provides direct services to the public such as employment, public assistance, motor vehicle licensing and registration, and similar activities.

**Grade:** The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line or, when the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building.

**Greenhouse:** A building or structure used for the growing of plants.

**Group Home, Large:** A group home for nine (9) or more persons who do not live in a Family, according to Section 16.11.3, Family, and who meet this Code's definition of a Group Living use, according to Section 16.11.3, Group Living.

**Group Home, Small:** A group home for eight (8) or fewer persons who do not live in a Family, according to Section 16.11.3, Family, and who do meet this Code's definition of a Group Living use, according to Section 16.11.3, Group Living.

**Group Homes, State-licensed:** A group home for eight (8) or fewer persons who do not live in a Family, according to Section 16.11.3, Family, but do meet this Code's definition of Group Living, according to Section 16.11.3, Group Living, that either:

1. qualify and receive licensure as a "community residential home" for the exclusive use of persons with intellectual and developmental disabilities pursuant to C.R.S. §§25.5-10-202 and 31-23-303(2)(a), as amended;
2. qualify and receive licensure as a "group home for the aged" pursuant to C.R.S. §31-23-303(2)(b)(II), as amended;
3. qualify and receive licensure as a "group home for persons with behavior or mental health disorders" pursuant to C.R.S. §§27-65-102 and 31-23-303(2)(b.5), as amended; or
4. qualify and receive certification as a "recovery residence" pursuant to C.R.S. §§27-80-129 and 31-23-303(2)(b.5), as amended.

**Group Living:** This category is characterized by residential occupancy of a structure by a group of people who do not meet the definition of "Household Living." Tenancy is arranged on a monthly or longer basis, and the size of the group may be larger than a family. Generally, Group Living structures have a common eating area for residents. The residents may receive care, training, or treatment, and caregivers may or may not also reside at the site. Accessory uses commonly include recreational facilities and vehicle parking for occupants and staff. Specific use types include, but are not limited to: **Dormitory; Group Home, Residential; Group Home, Large; or Group Home, Small.**

**H.**

**Hazardous Materials:** Those chemicals or substances which are physical or health hazards as defined and classified in the Fire and Building Codes. Hazardous materials categories include explosives and blasting agents, compressed gases, flammable and combustible liquids, flammable solids, organic peroxides, oxidizers, pyrophoric materials, unstable (reactive) materials, water-reactive solids and liquids, cryogenic fluids, highly toxic and toxic materials, radioactive materials, corrosives, carcinogens, irritants, sensitizers and other health hazards. Each category is defined separately in the Fire and Building Codes in accordance with the Code of Federal Regulations Title 29 and other nationally recognized standards.

**Hazardous Materials Handling and Transfer Facility:** A facility for the treatment, storage, transfer or disposal of hazardous materials.

**Heavy Equipment Sales, Service, and Rental:** A facility that is engaged in the sales, repair or rental of heavy equipment including, but not limited to, tractors, semi-trucks or trailers, harvesters, loaders and all tracked vehicles.

**Heavy Manufacturing, General:** The assembly, fabrication, or processing of goods and materials using processes that ordinarily have greater than average impacts on the environment; or that ordinarily have significant impacts on the use and enjoyment of other properties in terms of noise, smoke, fumes, odors, glare, or health or safety hazards; or that otherwise do not constitute "light manufacturing," or any use where the area occupied by outdoor storage of goods and materials used in the assembly, fabrication, or processing exceeds twenty-five (25) percent of the floor area of all

buildings on the lot. Examples include, but are not limited to: battery manufacture, bottling works, production of dairy products, foundry casting, concrete batching, and plastic products manufacturing.

**Hedge:** A fence or boundary formed by a dense row of shrubs or low trees.

**Height:** See Building Height.

**Heliport:** Any landing area used by helicopters which, in addition, includes all necessary passenger and cargo facilities, maintenance and overhaul, fueling, service, storage, tie down areas, hangars, and other necessary buildings and open spaces.

**Helistop:** Any landing area used for the landing and taking off of helicopters for the purpose of picking up or discharging of passengers or cargo without fueling, refueling, or service facilities.

**Historic Structure:** Any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the department of interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the secretary of interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - i. By an approved State program as determined by the secretary of the interior; or
  - ii. Directly by the secretary of the interior in states without approved programs.

**Home Occupation:** An occupation or activity which is clearly incidental and secondary to use of the premises as a dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood.

**HOA/Metro District Facility:** A building, structure, or facility available for recreational clubs and activities. Such uses commonly include gathering areas, tennis courts, swimming pools, restaurants for members and guests only, and gymnasiums. Such uses may be either public or private, but typically are intended only for the residents and guests of a particular residential development or neighborhood and typically owned and or operated by a Homeowners Association or Metropolitan District.

**Homeowners' Association (HOA):** An incorporated, nonprofit organization operating under recorded land agreements through which:

- a. Each lot or homeowner in a planned unit development or other described land area is automatically a member;
- b. Each lot is automatically subject to charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property; and
- c. Such charge, if unpaid, becomes a lien against the property.

**Horse Stables:** Any area wherein a horse, mule, llama or donkey is maintained for either public commercial hire or private non-commercial recreation.

**Hospital:** An institution providing health services primarily for human inpatient medical or surgical care including trauma centers for the sick or injured and including related facilities such as laboratories, outpatient departments, training and central services facilities and staff offices.

**Hotel or Motel:** A building or a group of buildings primarily containing guest rooms for sleeping purposes, but also including accessory dining areas, meeting rooms, and recreational facilities. A motel is typically arranged so that individual guest rooms are directly accessible from an automobile parking area.

**Household Living:** This use category is characterized by residential occupancy of a dwelling unit by a household. Tenancy is arranged on a month-to-month or longer basis (lodging where tenancy may be arranged for a period of less than thirty (30) days is classified under the “Public Accommodation” category). Common accessory uses include recreational activities, raising of pets, gardens, personal storage buildings, hobbies, and parking of the occupants’ vehicles. Home Occupations and Accessory Dwelling Units are accessory uses that are subject to additional regulations (see Section 2.3, Accessory Uses and Structures). Specific use types include, but are not limited to: **Dwelling, Duplex; Dwelling, Live/Work; Dwelling, Mobile Home; Dwelling, Multi-Family; Dwelling, Single-Family Attached; Dwelling, Single-Family Detached; Mobile Home Park; or Model Home.**

**Human Health Services:** Human Health Services uses are characterized by activities focusing on medical services, particularly licensed public or private institutions that provide primary health services and medical or surgical care to persons suffering from illness, disease, injury, deformity, or other physical or mental conditions. Accessory uses may include laboratories, outpatient, or training facilities, and parking, or other amenities primarily for the use of employees in the firm or building. Specific use types include, but are not limited to: **Dental or Medical Office, Clinic, or Laboratory; Hospital/ Substance Abuse Treatment Facility, Outpatient; or Urgent Care Facility.**

**Human Scale:** The proportional relationship of a particular building, structure, or streetscape element to the human form and function. “Human scale” often refers to the subjective objective that the relationship between a person and his natural or man-made environment should be comfortable, intimate, and contribute to the individual’s sense of accessibility.

I.

**Improvement:** Any man-made, immovable item which becomes part of, is placed upon or is affixed to real estate.

**Industrial, Heavy:** A use engaged in the basic processing and manufacturing of materials or products predominantly from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

**Industrial, Light:** A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

**Industrial Service:** Industrial Service firms are engaged in the repair or servicing of agricultural, industrial, business, or consumer machinery, equipment, products, or by-products. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Contractors and similar uses perform services off-site. Few customers come to the site. Accessory activities may include sales, offices, parking, and storage. Specific use types include, but are not limited to: **Building Materials and Lumber Sales; Contractor's Shop or Storage Yard; Heavy Equipment Sales, Service, and Rental; Industrial, Heavy; Industrial, Light; Light Equipment Sales, Service; or Research and Development Facility.**

**Infill Development:** The development of vacant or partially developed parcels which are surrounded by or in close proximity to areas that are substantially or fully developed.

**Infrastructure:** Those man-made structures which serve the common needs of the population, such as: potable water systems; wastewater disposal systems, solid waste disposal sites or retention areas; storm drainage systems; electric, gas or other utilities; bridges; roadways; bicycle paths or trails; pedestrian sidewalks, paths or trails; and transit stops.

**Inhabitant:** A person who dwells and is domiciled in a place, as distinguished from a transient lodger or visitor.

**Irrigation Ditch or Lateral:** A channel designed to transport irrigation water.

**J.**

**Junk or Salvage:** Used machinery, scrap, iron, steel, other ferrous and nonferrous metals, tools, implements or portions thereof, glass, plastic, cordage, building materials, or other waste that has been abandoned from its original use and may be used again in its present or in a new form.

**Junkyard:** Used machinery, scrap, iron, steel, other ferrous and nonferrous metals, tools, implements or portions thereof, glass, plastic, cordage, building materials, or other waste that has been abandoned from its original use and may be used again in its present or in a new form.

**K.**

**Keeping of Large Animals:** Areas, buildings, or structures secondary to a principal residential use for the boarding of horses, mules, llamas or donkeys for the private, non-commercial benefit of the property owners.

**Kennel:** An establishment where domesticated animals are kept, sold, boarded, bred, groomed, or trained, typically with fenced or enclosed spaces, areas, or runs for individual animals. Kennels may be indoor only, or indoor/outdoor, depending on the zone district in which they are located; see Table 3-1.

**L.**

**Landscape Buffer:** An area of landscaping separating two (2) distinct land uses, or a land use and a public right-of-way, and acts to soften or mitigate the effects of one (1) land use on the other.

**Landscaping:** The finishing and adornment of unpaved yard areas. Materials and treatment generally include naturally growing elements such as grass, trees, shrubs and flowers. This treatment may also include the use of logs, rocks, fountains, water features and contouring of the earth.

**Levee:** A manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

**Levee System:** A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

**Level of Service:** An indicator of the extent or degree of service provided by, or proposed to be provided by, a facility based on, and related to, the operational characteristics of the facility. Level of service shall indicate the capacity per unit of demand for each public facility.

**Library:** A permanent facility for storing and loaning books, periodicals, reference materials, audio tapes, video tapes, and other similar media to Town residents. A library may also include meeting rooms, offices for library personnel, and similar support facilities.

**Light Equipment Sales, Service:** A facility that is engaged in the sales, repair or rental of light equipment including.

**Light Manufacturing, General:** The assembly, fabrication, or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot where such assembly, fabrication, or processing takes place, where such processes are housed entirely within a building; or where the area occupied by outdoor storage of goods and materials used in the assembly, fabrication, or processing does not exceed twenty-five (25) percent of the floor area of all buildings on the lot. Examples include, but are not limited to: book bindery, frozen foods locker, and electronics assembly.

**Light Source:** Includes neon, fluorescent or similar tube lighting, the incandescent bulb (including the light producing elements therein) and any reflecting surface that, because of its construction or placement, becomes in effect the light source.

**Limited Solid Material Fence:** All fences, which have fifty (50) percent or less solid material will be considered "limited solid material fences". Example: rail fences or split rail fences.

**Live-Work Unit:** A dwelling unit combining a residential use with a non-residential use permitted in the zone district in which the dwelling unit is located with at least one (1) person residing in the residential dwelling unit being employed on the premises.

**Loading Berth:** An off-street space where an automotive vehicle can be parked for loading or unloading.

**Lodging Establishment:** See Hotel/Motel.

**Logo:** A graphic symbol or emblem which conveys a recognizable meaning, which symbol or emblem may include script (words) provided that such script is contained entirely within the boundaries of the symbol or emblem; and script alone, or outside of the boundaries of the symbol or emblem, whether registered as a trademark or not, is not included within the meaning of the term logo.

**Lot:** A designated parcel, tract, or area of land established by a plat or other means as permitted by law, which is to be used, developed, or built upon.

**Lot, Corner:** A lot bound by two (2) streets which intersect, with possible access to either or both streets.

**Lot, Double Frontage:** A lot in which both the front lot line and rear lot line abut a street or other right-a-way.

**Lot, Flag:** A lot for which a street is accessed by an extended driveway, often shared with an adjacent lot, such that conceptually the driveway appears to be a flagpole, and the lot the flag.

**Lot, Interior:** A lot other than a corner lot.

**Lot, Triple Frontage:** A lot which is bounded on three (3) sides by a street, thereby presenting a possible access point to the lot from any one (1) of those streets.

**Lot Area:** The total area, measured on a horizontal plane, included within lot lines.

**Lot Area per Dwelling Unit:** The number of square feet of lot area required per dwelling unit.

**Lot Coverage:** The amount (percent) of impervious coverage, including the surface parking and the building footprint.

**Lot Depth:** The average horizontal distance between front and rear lot lines.

**Lot Line, Front:** The property line dividing a lot from the right-of-way of the street. For a corner lot, the shortest street right-of-way line shall be considered as the front line. For a corner lot, double frontage lot or other questionable situations, the front lot line shall be established by the Director based upon architectural character of nearby properties, access and other appropriate considerations.

**Lot Line, Rear:** The property line opposite the front lot line.

**Lot Line, Side:** Any lot line other than a front or rear lot line.

**Lot Size:** The amount of horizontal (plan view) land area within lot lines

**Lot Width:** The distance on a horizontal plane between the side lot lines of a lot, measured at right angles to the line establishing the lot depth at the established building setback line.

**Lowest Floor:** The lowest floor of the lowest enclosed area (including basement or crawlspace). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided,

that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

**M.**

**Manor Home:** A building having accommodations for three (3) or more families living independently of each other that is designed to look like a large single family home.

**Manufactured Home:** A structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a recreational vehicle.

**Manufactured Home Park or Subdivision:** A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

**Manufacturing and Production:** This use category includes firms involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, constructed, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Custom industry is included (i.e., establishments primarily engaged in the on-site production of goods by hand manufacturing involving the use of hand tools and small-scale equipment). Goods are generally not displayed or sold on-site, but if so, such activity is a subordinate part of sales. Relatively few customers come to the manufacturing site. Accessory activities may include retail sales, offices, cafeterias, parking, employee recreational facilities, warehouses, storage yards, repair facilities, truck fleets, and caretaker's quarters. Specific use types include, but are not limited to: **Heavy Manufacturing, General; Light Manufacturing, General; or Mining and Mineral Extraction.**

**Maximum Extent Reasonably Feasible or Practicable:** No feasible or practicable and prudent alternative exists, and all possible efforts to comply with the regulation or minimize potential harm or adverse impacts have been undertaken.

**Mean Sea Level:** For purposes of the national flood insurance program, the North American vertical datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

**Minimum Lot Area:** The total area within the property lines of the lot, excluding adjacent rights-of-way.

**Mining and Mineral Extraction:** The extraction of minerals, including solids like coal and other ores, from their natural occurrences on affected land.

**Mini-Warehouse/Self Storage:** A building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual, compartmentalized, and controlled access stalls or lockers for the storage of customers' goods or wares.

**Mixed-Use:** The development of a lot, tract or parcel of land, building or structure with two (2) or more different uses including, but not limited to, residential, office, retail, public uses, personal service or entertainment uses, designed, planned and constructed as a unit.

**Mobile Food Vendor:** A readily movable, motorized wheeled vehicle, or a towed wheeled vehicle, designed and equipped to serve food. Examples include food trucks, pushcarts, ice cream trucks, hot dog stands, and similar operations.

**Mobile Home:** A transportable, single-family dwelling unit built on a permanent chassis with attached undercarriage consisting of springs, axles, wheels and hubs, and which is suitable for year-round occupancy and contains the same water supply, waste disposal and electrical conveniences as immobile housing. A mobile home is designed to be transported on streets to the place where it is to be occupied as a dwelling unit and may or may not be attached to a permanent foundation.

**Mobile Home Park:** A residential development that consists of mobile homes that are transported to the park site.

**Model Home:** A dwelling unit temporarily used for display purposes as an example of dwelling units available or to be available for sale or rental in a particular subdivision or other residential development approved by the Town. Model homes may also incorporate sales or rental offices for dwelling units within the development.

**Mulch:** Any organic material such as leaves, bark, wood chips, straw, or inorganic material such as crushed stone or gravel, or other materials left loose and applied to the soil surface for the beneficial purpose of reducing evaporation.

**Museum:** A permanent facility for the collection and public display of artwork including, but not limited to, paintings, sculpture, textiles, and antiquities. Support facilities include office space, restoration facilities, parking and storage areas.

**N.**

**Native Vegetation:** Any plant identified in the Firestone Native Plants list: Plant Characteristics and Wildlife Value of Commercial Species, prepared by the Town's Natural Resources Department, updated February 2003 and as amended.

**Natural Medicine:** Psilocybin, psilocin and other substances described as a "natural medicine" in the CNMC, as amended.

**Natural Medicine Business:** Any of the following activities that qualify and receive licensure from the Natural Medicine State Licensing Authority pursuant to the CNMC, as amended:

1. A "Natural Medicine Healing Center";
2. A "Natural Medicine Cultivation Facility";
3. A "Natural Medicine Products Manufacturer";
4. A "Natural Medicine Testing Facility"; or
5. Any other licensed entity created by the Natural Medicine State Licensing Authority.

Except that Natural Medicine Business does not include a Facilitator.

**Natural Medicine Cultivation Facility:** A facility that is licensed by the Natural Medicine State Licensing Authority to cultivate Regulated Natural Medicine for transfer and distribution to Natural Medicine Healing Centers, Natural Medicine Product Manufacturers, or other Natural Medicine Cultivation Facilities.

**Natural Medicine Healing Center:** A facility where an entity is licensed by the Natural Medicine State Licensing Authority that permits a Facilitator, to provide and supervise Natural Medicine Services for a Participant, which includes a Participant consuming and experiencing the effects of Regulated Natural Medicine or Regulated Natural Medicine Product under the supervision of a Facilitator.

**Natural Medicine Product Manufacturer:** A facility where an entity is licensed by the Natural Medicine State Licensing Authority to manufacture Regulated Natural Medicine Product for transfer to a Natural Medicine Healing Center, Facilitator, or to another Natural Medicine Product Manufacturer.

**Natural Medicine Services:** A preparation session, administrative session, and integration session, as defined by the CNMC, provided at a Natural Medicine Healing Center.

**Natural Medicine State Licensing Authority:** The authority created under the CNMC for the purpose of regulating and controlling the licensing of the cultivation, manufacturing, testing, storing, distribution, transfer, and dispensation of Regulated Natural Medicine and Regulated Natural Medicine product, as provided by the CNMC.

**Natural Medicine Testing Facility:** A facility that is licensed the Natural Medicine State Licensing Authority to perform testing and research on Regulated Natural Medicine and Regulated Natural Medicine Product.

**New Construction:** For the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**New Manufactured Home Park or Subdivision:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the town.

**Night Club:** An establishment that stays open late at night and typically serves food and liquor, and provides music and space for patrons to dance.

**Non-Concealed Building-Mounted Antennae and Towers:** Any tower, pole, or similar structure attached to a building that supports telecommunications antennae.

**Non-Concealed Freestanding Towers:** Any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennae, including guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures, and the like.

**Nonconforming Building:** A building or portion thereof legally built prior to the effective date of this FDC or any amendment thereto, which does not conform with the regulations of the district in which it is located.

**Nonconforming Structure:** A structure which was lawful and nonconforming under prior law on the day before the effective date of this FDC or subsequent amendment thereof.

**Nonconforming Use:** Either a use which was lawful and nonconforming under prior law on the day before the effective date of this FDC or subsequent amendment thereof, or with respect to lands newly annexed, a use which was lawful immediately before annexation but which does not conform to the use regulations for the zone district in which such use is located either at the time of annexation or as the result of subsequent amendments to this FDC.

**Nonconformities:** A nonconforming use, structure or building.

**O.**

**Office:** Office uses are characterized by activities generally focusing on business, professional, insurance, or financial services. Accessory uses may include cafeterias, health facilities, parking, or other amenities primarily for the use of employees in the firm or building. Specific use types include, but are not limited to: **Office, Business or Professional; or Recording or Broadcasting Studio.**

**Office, Business or Professional:** The office of an engineer, dentist, doctor, attorney, real estate broker, insurance broker, architect or other similar professional persons; and any office used primarily for accounting, correspondence, research, editing, or administration.

**Off-Street Loading Space:** A space located outside of a public street or alley for the discharge of passengers, or a space directly accessible to the building it serves for bulk pickups and deliveries by delivery vehicles.

**Off-Street Parking Area:** Any parking area located wholly within the limits of one (1) or more lots.

**Off-Street Parking Space:** The space required to park a passenger vehicle which is not located on the street.

**Oil and Gas Well:** A well, the principal production of which at the mouth of the well is either oil or gas.

**Oil and Gas Well, Production Facilities:** All storage, separation, treating, dehydration, artificial lift, power supply, compression, pumping, metering, monitoring, flowline, and other equipment directly associated with oil wells, gas wells, or injection wells.

**Oil and Gas Well Flowlines:** Those segments of pipe from the wellhead downstream through the production facilities ending at:

- a. In the case of gas lines, the gas metering equipment, or
- b. In the case of oil lines, the oil loading point or LACT unit, or
- c. In the case of water lines, the water loading point, the point of discharge to a pit, or the injection well head.

**Oil and Gas Well Gathering Lines:** A pipeline and equipment that transports gas from a production facility (ordinarily commencing downstream of the final production separator at the inlet flange of the custody transfer meter) to a natural gas processing plant or transmission line or main. The term “gathering line” includes valves, metering equipment, communication equipment, cathodic protection facilities, and pig launchers and receivers, but does not include dehydrators, treaters, tanks, separators, or compressors located downstream of the final production facilities and upstream of the natural gas processing plants, transmission lines, or main lines.

**Oil and Gas Well Pipelines:** Flowlines and gathering lines for oil and gas wells.

**Old Town:** An area in the Town of Firestone with the following boundary: Grant Avenue on the north, Fourth Street on the east, McClure Avenue on the south, and Colorado Boulevard on the west.

**Open Space:** An area that is not developable due to environmental constraints or on which development has been limited for aesthetic, environmental, or recreational purposes.

**Orient:** To bring in relation to, or adjust to, the surroundings, situation or environment; to place with the most important parts facing in certain directions; to set or arrange in a determinate position: to orient a building.

**Outdoor Amphitheater:** An outdoor theater, amphitheater or similar structure operated by the Town or other unit of government.

**Outdoor Display and Sales:** Outdoor display of goods or materials for sale, accessory to a commercial principal use. Merchandise may be directly available to the consumer for purchase.

**Outdoor Recreational Vehicle Storage:** An unroofed, controlled access, fenced area designated for the keeping of recreational vehicles including but not limited to motorized homes, travel trailers, boats, campers, and the associated devices utilized to convey said vehicles.

**Outdoor Storage:** Outdoor storage, but not display for sale, of goods or materials accessory to a commercial principal use. Merchandise shall not be directly available to the consumer without the assistance of an employee.

**Owner:** Any person whose name appears on the tax bill for the property or who, alone or jointly or severally with others, has legal title to any dwelling unit, with or without actual possession thereof, or has charge, care or control of any dwelling unit as owner, executor, executrix, administrator, trustee, guardian of the estate of the owner, mortgagee or assignee of rents. Owner shall not include any person, group of persons, company, association or corporation who holds only a security interest or easement on the rental property upon which the dwelling unit is situated.

P.

**Park:** An area open to the general public and reserved for recreational, educational or scenic purposes.

**Park and Open Space:** Park and Open Space uses focus on natural areas, large areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, or public squares. Lands tend to have few structures. Accessory uses may include clubhouses, playgrounds, maintenance facilities, concessions, caretaker's quarters, and parking. Specific use types include,

but are not limited to: **Athletic Fields and Courts; Community Garden; Open Space; Outdoor Amphitheater, Public; or Park.**

**Parking Area, Shared Assemblage:** A parking lot that is constructed on two (2) or more separate but adjacent properties designed for joint use by the businesses or residents of the properties.

**Parking Lot:** An area, not within a building, where, as a principal use, motor vehicles may be parked for purposes of daily or overnight off-street parking.

**Parking Space:** A rectangular area not less than nine (9) feet wide by eighteen (18) feet deep, along with maneuvering and access space necessary to park within the rectangle.

**Parking Structure:** A structure or facility where, as a principal use, motor vehicles may be stored for purposes of temporary, daily, or overnight, off street parking. The facility may be above, below, or partially below ground. Includes parking garages and parking decks.

**Participant:** An individual who is twenty-one (21) years of age or older who receives natural medicine services prescribed by and under the supervision of a Facilitator, as provided by the CNMC.

**Paved Patio or Terrace:** A relatively flat area, that is at ground level, adjacent to a building that is covered in a paving surface.

**Pedestrian Scale (Human Scale):** The proportional relationship between the dimensions of a building or building element, street, outdoor space or streetscape element and the average dimensions of the human body, taking into account the perceptions and walking speed of a typical pedestrian.

**Permit:** A document issued by the Town of Firestone, Colorado, granting permission to perform an act or service which is regulated by the Town.

**Permitted Use:** A use permitted by right, without special conditions other than those imposed upon other uses by right in the district.

**Personal Service Establishment:** A business that provides individual services related to personal needs directly to customers at the site of the business, or that receives goods from or returns goods to the customer, which have been treated or processed at that location or another location. This includes travel agencies, dry cleaning pick-up and drop-off, laundries, tailors, hair stylists, cosmeticians, toning or tanning salons, photocopy centers, shoe repair shops, and interior design studios. This shall not include gas stations, service stations, Commercial Indoor/Outdoor Recreation uses, dry cleaning plants or massage therapy establishments.

**Planned Unit Development:** A project of a single owner or a group of owners acting jointly, involving a related group of residences, businesses, or industries and associated uses, planned as a single entity and therefore subject to development and regulation as one (1) land-use unit rather than as an aggregation of individual buildings located on separate lots. The planned unit development includes usable, functional open space for the mutual benefit of the entire tract; and is designed to provide variety and diversity through the variance of normal zoning and subdivision standards so that maximum long-range benefits can be gained, and the unique features of the development or site preserved and enhanced while still being in harmony with the surrounding neighborhood. Approval of a planned unit development does not eliminate the requirements of subdividing.

**Plat, Final:** A map of land hereon described and prepared as an instrument for recording with the County Clerk which depicts the boundaries of real estate interests.

**Plat, Preliminary:** The preliminary map or maps of a proposed subdivision, drawn and submitted in accordance with the requirements of these regulations.

**Playhouse:** An accessory structure for the use of children with a maximum height of twelve (12) feet and an area not to exceed one-hundred twenty (120) square feet.

**Porch:** A roofed platform that is enclosed only by a parapet or railing, and which is attached to the principal structure.

**Pre-Application Conference:** An informal conference with Staff at which a map or maps of a proposed subdivision along with supporting materials are presented, prepared by the Applicant in accordance with the requirements of the Regulations, to evaluate feasibility and design characteristics at an early stage in the subdivision process.

**Premises:** A general term which means part or all of any lot, parcel or tract, or part or all of any building or structure or group of buildings or structures located thereon.

**Principal Use:** The main use of land or of a structure as distinguished from a subordinate or accessory use.

**Private Utility:** Any utility other than a municipally owned and operated utility, including telephone, electric and gas utilities, and other privately owned and operated utilities.

**Produce Stand:** A structure or area devoted to the small scale retail or wholesale sales of agricultural goods or products which have been grown on the same site or property as the stand.

**Property Line:** The boundary of any lot, parcel or tract as the same is described in the conveyance of such property to the owner; and does not include the streets or alleys upon which the said lot, parcel or tract abuts.

**Public Facilities:** Mean transportation systems or facilities, parks and recreation or natural area program systems or facilities, water systems or facilities, wastewater systems or facilities, storm drainage systems or facilities, fire, police and emergency systems or facilities, electric utilities, gas utilities, cable facilities or other public utilities.

**Public Hearing:** A meeting called by a public body for which public notice has been given and which is held in a place at which the general public may attend to hear issues and to express their opinions.

**Public Improvements:** Public or privately owned infrastructure within public land or dedicated rights-of-way or easements.

**Public Safety Station:** A use designed to protect public safety and provide emergency response services, often located in or near the area where the service is provided. Employees are regularly present on-site. Accessory uses include offices and parking. Examples include fire stations, police stations, and emergency medical and ambulance stations. Public Safety Station does not include private Emergency Rooms, Hospitals, or Urgent Cares.

**Public Use:** Any use intended to be conducted in a facility or upon land which is owned by and operated for public use by school districts or by town, county, state or federal governments.

**Public Utility Services:** Equipment, structures and activities related to the provision of public utility services including, but not limited to, water, waste water, storm water, gas, electrical, wire communication services, including poles, antennas, transmitters, wires, mains, hydrants, drains, pipes, conduits and cables; equipment structures and activities related to the provision of transportation, police and fire protection services, including, but not limited to, traffic control signals and signs, street lights, fire-alarm and assistance call boxes; and other similar equipment, structures and activities in connection therewith which are reasonably necessary for the furnishing of adequate service by such governmental or public utilities for the public health, safety, and general welfare. Facilities for the treatment, production, generation and administration, operation and maintenance of such services, and facilities for wireless communications, are not included in this definition.

**Public Works Facility:** Town owned facility used for administration, operation, storage or maintenance services related to the transportation, parks, open space and recreation infrastructure of the Town. Maintenance or storage facilities that are accessory to parks and opens space are not included in this definition.

Q.

**Quarters for Caretaker/Guard:** An accessory dwelling on a nonresidential property occupied by the person who oversees or guards the operation.

R.

**Racetrack:** A measured course where animals or machines are entered in competition against one another or against time, including tracks used only in the training of animals.

**Recreational Vehicle:** A vehicular unit other than a mobile home, which is designed as a temporary dwelling unit for travel, recreational and vacation use, and which is either self-propelled, mounted on or pulled by another vehicle. Examples include, but are not limited to, travel trailer, camping trailer, truck camper, motor home, fifth-wheel trailer or van.

**Recreational Vehicle Park:** A parcel of land providing space and facilities for motor homes or other recreational vehicles for recreational use or transient lodging.

**Recreation and Entertainment, Indoor:** Indoor Recreation and Entertainment uses provide recreation or entertainment activities within an enclosed environment. Accessory uses may include concessions, snack bars, parking, and maintenance facilities. Specific use types include, but are not limited to: **Adult Amusement or Entertainment; Commercial Amusement, Indoor; Shooting Range, Indoor;** or **Sports Arena.**

**Recreation and Entertainment, Outdoor:** Outdoor Recreation and Entertainment uses provide recreation or entertainment activities outside of an enclosed environment. Accessory uses may include concessions, snack bars, parking, and maintenance facilities. Specific use types include, but are not limited to: **Amusement Park; Campground; General Outdoor Recreation, Commercial; Golf Course; Golf Driving Range or Putting Course; Racetrack; Recreational Vehicle Park; Shooting Range, Outdoor.**

**Recreation Center:** A facility primarily featuring equipment for exercise and other active physical fitness conditioning or recreational sports activities, such as swimming, skating, racquet sports, aerobic dance, gymnasium facilities, yoga, and other kinds of sports and fitness facilities.

**Recycling Center:** A facility in which recoverable resources such as newspapers, glassware, plastics, and metal cans are recycled, reprocessed, and treated to return such products to a condition in which they can again be used for production. This facility is not a junkyard or salvage yard.

**Recycling Collection Point:** A center or collection point with containers or facilities designed and intended for the depositing of clean, separated, and recyclable paper, cardboard, metal, glass, plastic or other recyclable materials and the collection of such materials for processing at another location, but itself having no mechanical facilities for the processing of such materials.

**Redevelopment:** The intensification of use of existing underutilized buildings or development sites, building rehabilitation, or removal or demolition of existing buildings, followed promptly by construction of replacement buildings.

**Regulated Natural Medicine:** Natural Medicine that is cultivated, manufactured, tested, stored, distributed, transported, or dispensed, as provided by the CNMC.

**Regulated Natural Medicine Product:** A Natural Medicine product that is cultivated, manufactured, tested, stored, distributed, transported, or dispensed, as provided by the CNMC.

**Religious Assembly:** Religious Assembly facilities are used primarily for non-profit purposes to provide assembly and meeting areas for religious activities. Accessory uses include parking, caretaker's housing, buildings ancillary to a religious function, pastor's housing, and group living facilities such as convents. Examples include churches, temples, synagogues, and mosques. Accessory uses do not include schools, which shall require approval as a separate primary use.

**Repair Shop:** The maintenance and rehabilitation of appliances customarily used in the home including, but not limited to, washing and drying machines, refrigerators, dishwashers, trash compactors, ovens and ranges, countertop kitchen appliances, vacuum cleaners, and hair dryers.

**Research and Development Facility:** Research, development, and testing laboratories that do not involve the mass manufacture, fabrication, processing, or sale of products.

**Reservation:** An agreement between parties which obligates a property owner to keep property free from development for a stated period of time.

**Residential Development Parcel:** Encompassing an entire development property zoned for residential uses in its configuration before subdivision.

**Restaurant:** An area or structure in which the principal use is the preparation or sale of food and beverages. Operations may or may not include outdoor seating areas or outdoor food service, depending on the zone district in which they are located; see Table 3-1.

**Restaurant, with Drive-Through or Up Service:** An eating/drinking establishment in which the principal business is the sale of foods or beverages to the customer in a ready-to-consume state and in which the design or method of operation of all or any portion of the business allows food or beverages to be served directly to the customer in a motor vehicle without the need for the customer to exit the motor vehicle.

**Restaurant, with Outdoor Seating:** A restaurant with tables on the sidewalk in front or on the sides of the premises.

**Retail Sales and Service:** Retail Sales firms are involved in the sale, lease or rent of new or used products to the general public. No outdoor display is permitted unless specifically authorized by this FDC. Accessory uses may include offices, parking, storage of goods, and assembly, repackaging, or repair of goods for on-site sale. Specific use types include, but are not limited to: Convenience Store; Farm Market; Funeral Parlor or Mortuary; General Retail; Personal Service Establishment; Repair Shop; or Shopping Center.

**Right-Of-Way:** That portion of land dedicated to public use of a street, path, street trees, and/or utility purposes.

**Roof:** The cover of any building, including the eaves and similar projections.

**Roofline:** The point on any building where an exterior wall or any parapet wall encloses usable floor space, including floor area for housing mechanical equipment.

**S.**

**Sanitary Landfill:** A discrete area of land or an excavation for which the final disposal of solid waste employs a method to obtain the densest volume practicable of the waste and covering with earth or other suitable material. A sanitary landfill may receive household waste, community waste, municipal solid waste, commercial waste, and industrial waste.

**School – Private:** A school under the sponsorship of a private or religious agency, having a curriculum generally equivalent to public elementary or secondary schools, not including vocational schools.

**School – Public:** A school under the sponsorship of a Colorado accredited school district. School-Public includes charter schools but does not include **School - Vocational**.

**School – Vocational:** An establishment, other than public or parochial schools, private primary or secondary schools, or colleges and universities, offering training or instruction in a trade, art, or occupation, including but not limited to, beauty schools, dance schools, and trade schools.

**Service Station:** Any premises where gasoline and other petroleum products are sold or light maintenance activities such as engine tune-ups, emissions testing, lubrication, minor repairs, and carburetor cleaning are conducted. Accessory activities may include automatic car wash and convenience items sales. Service stations shall not include premises where heavy motor vehicle maintenance activities such as engine overhauls, motor vehicle painting, and body fender work are conducted. Fuel dispensing may be performed by an employee of the establishment (full-service) or by the customer (self-service).

**Setback:** A required area on the same lot or tract with a principal use that provides for light, air, building separation, and access for emergency personnel and equipment. A setback shall be unoccupied and unobstructed by any portion of a structure from the ground upward, except as

otherwise provided in this FDC. The depth of a setback is measured at right angles to the relevant property line.

**Setback, Front:** A setback that extends across the full frontage of a lot or tract on a public or private street. The front setback is defined by the front property line.

- a. In the case of rounded property corners at street intersections, the front setback is measured as if the corner is not rounded and the front and street side property lines are extrapolated to intersect.
- b. For cul-de-sac lots and lots abutting a curved street, the front setback follows the curve of the front property line.
  - i. The minimum lot width requirement shall be met at the front setback line.
  - ii. In no event shall the front lot line be less than thirty-five (35) feet in width.
- c. In the case of flag lots, a front setback extends across the entire flag portion of the lot and includes the flagpole portion of the lot.
- d. In the case of a corner lot, through lot, or three (3) sided lot, there will be no rear setbacks, but only front and side setbacks.

**Setback, Rear:** A setback that extends across the full rear of a lot or tract. The rear setback is defined by the rear property line.

**Setback, Side:** Any setback that is not a front or rear setback. Generally, side setbacks extend from the inner boundary of the front setback (or from the front property line of the lot or tract where no front setback is required) to the inner boundary of the rear setback (or to the rear property line of the lot or tract where no rear setback is required.) For corner and through lots, setbacks remaining after front setbacks have been established shall be considered side yards.

**Sexually Oriented Business:** Amusement entertainment that is distinguished or characterized by an emphasis on material depicting, describing or relating to specified sexual activities or specified anatomical areas. Uses shall include, but shall not be limited to, the following: **Adult Bookstore**, **Adult Photo Studio**, and **Adult Theater**.

**Shared Parking:** A public or private parking area used jointly by two (2) or more users or uses to fulfill their individual parking requirements.

**Shed:** An accessory building of not more than two-hundred (200) square feet in floor area and not more than twelve (12) feet in height.

**Shooting Range, Indoor:** A soundproof, enclosed building or part thereof, wherein firearms are shot at targets under strict rules of conduct and safety.

**Shooting Range, Outdoor:** An outdoor facility wherein firearms are shot at targets under strict rules of conduct and safety.

**Shopping Center:** A retail shopping area in excess of thirty (30) acres (divided by no interior public streets) containing at least one (1) major retail store of over one-hundred thousand (100,000) square feet of gross leasable area and additional retail area.

**Sidewalk:** An improved pedestrian surface that is typically located adjacent to a street.

**Sight Distance Triangle:** The area required to be clear of obstructions at the intersections of streets, highways, railroads, alleys and driveways. See the Town of Firestone Standards and Specifications for Design and Construction of Public Improvements.

**Sign:** Any name, object, device, identification, image, flag, banner, character, description, display or illustration which is affixed to, painted or represented directly or indirectly upon a building, structure or piece of land designed to attract attention to an object, product, place, activity, facility, service, event, person, institution, business or organization used as a means of identification, advertisement

or announcement and which is visible from any street, right-of-way, sidewalk, park or other public property.

**Sign, Animated:** Any sign or part of a sign that changes physical position or light intensity by any movement, rotation, illumination or other means, or that gives the visual impression of movement, illumination or rotation.

**Sign, Awning:** A wall sign painted, printed, attached, or otherwise applied to any facet or support structure of an awning. Awnings are completely supported by their attachment to a wall and do not include posts, legs or pillars to support themselves directly on the ground.

**Sign, Banner:** Any sign constructed of cloth, canvas, light fabric, other light, non-rigid material with no enclosing framework, other than a flag sign or canopy sign.

**Sign Cabinet:** That portion of a sign's structure containing any advertising display.

**Sign, Canopy:** A wall sign, which is painted, printed, attached, or otherwise applied to any facet or support structure of a canopy. Canopies are comprised of a frame system that can be moveable, retractable or fixed, covered with rigid or non-rigid material, attached and projecting from a building or structure, supported by posts, legs or pillars that have direct contact with the ground. The canopy and structure do not constitute the sign face.

**Sign Copy:** The graphic content of a sign in either permanent or removable words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images.

**Sign, Development Identification:** A freestanding sign which, by means of symbols or text, identifies a non-residential development, shopping center, commercial/business/office/industrial park, or other development that may contain a mixture of uses.

**Sign, Dissolve:** A mode of message transition on an electronic message display accomplished by varying the light intensity or pattern, where the first message gradually appears to dissipate and lose legibility simultaneously with the gradual appearance and legibility of the second message.

**Sign, Double-faced:** A sign with two (2) identically sized faces placed back-to-back that are the same dimensions on both sides.

**Sign, Electronic Message Display (EMD):** A sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means and may consist of either a ground or wall sign for purposes of height and area limitations.

**Sign Face:** The area or display surface used for the graphic message.

**Sign, Fade:** A mode of message transition on an electronic message display accomplished by varying the light intensity, where the first message gradually reduces intensity to the point of not being legible and the subsequent message gradually increases intensity to the point of legibility.

**Sign, Freestanding:** A ground mounted sign that is placed on a solid base and independent of a building.

**Sign, Government:** Any sign authorized, erected and maintained by any federal, state, county or local governmental entity, which includes but is not limited to, signs used to, control or direct, traffic, regulate parking such as accessibility for the disabled and emergency access or to identify streets or warn of delays or dangers, or temporary signs used in conjunction with traffic control, and other signs that any federal, state, county or local governmental entity displays, requires, or licenses to be displayed upon property that said entities own or control.

**Sign, Hanging:** A wall sign suspended from the ceiling of an arcade, marquee or canopy, or from a bracket structure that is attached to the wall of a building.

**Sign Height:** The vertical distance measured from the elevation of the average grade within twenty-five (25) feet of the sign or of the elevation of nearest sidewalk on or adjacent to the parcel to the uppermost point of the sign or its structure (whichever is greater).

**Sign, Interior:** A sign placed within a building that is not visible from the exterior of the building, the public rights of way, abutting property, or property located at a higher elevation than the building in which the sign is displayed.

**Sign, Maintenance:** The cleaning, painting, repair, or replacement of defective parts of a sign in a manner that does not alter the approved signage.

**Sign, Memorial:** Memorial or commemorative plaques or tablets cut into the masonry of a building or inlaid or permanently affixed to become part of the building.

**Sign, Mural:** A painting, illustration or decoration applied to the exterior wall of a building.

**Sign, Permanent:** A type of sign not limited as to the time it can be erected or displayed.

**Sign, Projecting:** A sign that is wholly or partly dependent upon a building for support and which projects horizontally more than twelve (12) inches from such building or wall.

**Sign, Required:** A sign that is required by applicable building or electrical codes or health and safety regulations; or to comply with other laws or regulations.

**Sign, Temporary:** A sign constructed of either rigid or non-rigid material, and physically attached to, or freestanding on, the ground or any improvement thereon, and designed or intended to be used for a limited period of time.

**Sign, Vehicle:** Any vehicle or trailer, so as to be visible from public rights-of-way, that has attached thereto or placed thereon any sign for the purpose of providing advertisement of products or services, or directing people to a business or activity. This definition applies only where the primary purpose of a vehicle is for advertising purposes and is not intended to prohibit signs located on motor vehicles or trailers primarily used for normal business activity and purposes. Such business activity vehicles and trailers shall conform to the fleet, outdoor storage, and other applicable requirements of this FDC.

**Sign, Wall:** A sign permanently fastened to, painted on, or erected against a wall of a building or structure in such a manner that the wall is the supporting structure for the sign and which does not project more than twelve (12) inches from such building or structure. Wall signs include, for example, awning signs, canopy signs, hanging signs, projecting signs, and window signs.

**Sign, Window:** Any sign attached to or painted on glass surfaces, windows or doors and intended to be viewed from the exterior of the premises.

**Special Review Use:** A use permitted in a zone district only if reviewed and approved as a special use in accordance with the procedures of Section 7.13.

**Specimen Trees:** Trees species identified in the Town Standards and Specifications for Design Construction of Public Improvements that meet Subsection 6.2.C.6 of this FDC.

**Sports Arena:** An officially designated area for indoor sports or entertainment.

**Staff:** Any person or persons, whether publicly or privately employed who provides administrative, planning, engineering or other services to or for the Town.

**Start of Construction:** Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one-hundred eighty (180) days of the permit date. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Stoop:** Platform or stairs in front of a door.

**Story:** See Height.

**Street:** Any street, avenue, boulevard, road, lane, parkway, viaduct, alley, or other way for the movement of vehicular traffic which is an existing state, county or municipal roadway, or a street or way shown upon a plat, heretofore or hereafter dedicated and which includes the land between right-of-way lines, whether improved or unimproved, and may be comprised of pavement, shoulders, gutters, sidewalks, parking areas and other areas within the right-of-way.

**Street, Private:** A right-of-way or easement of private ownership not dedicated or maintained as a public street, which affords the principal means of access to two (2) or more sites.

**Street Tree:** A tree typically planted along public or private streets and drives to provide shade to reduce heating of pavements, and to provide spatial definition and visual enhancement.

**Structurally Altered:** Changes which increase, extend, or enlarge the building or convert the existing building into a different structure or affect the form or character of an existing building or structural quality.

**Structure:** A walled and roofed building or manufactured home that is principally aboveground.

**Subdivider or Developer:** Any person, partnership, joint venture, limited liability company, association or corporation who participates as owner, promoter, developer or sales agent in the planning, platting, development, promotion, sale or lease of a development.

**Subdivision:** The division of a lot, tract, or parcel of land into two (2) or more lots, tracts, or parcels. It includes resubdivisions and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided:

**Subdivision (major):** All types of subdivisions except those meeting the definition of minor subdivision, lot line adjustments, and non-residential subdivisions.

**Subdivision (lot line adjustment):** A consolidation of two (2) or more, but not more than six (6), previously platted lots for the purpose of creating a single lot; the division of a single previously platted lot into two (2) lots; or the relocation of a property line between two (2) adjoining lots.

**Subdivision (minor):** The division of land, other than lot line adjustments, which creates six (6) or fewer lots.

**Subdivision (non-residential):** Any subdivision that is entirely for non-residential uses.

**Substance Abuse Treatment Facility, Outpatient:** Structures and land used for the treatment of alcohol or other drug abuse where neither meals nor lodging is provided.

**Substantial Damage:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

**Substantial Improvement:** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage", regardless of the actual repair work performed. This term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure".

**Swimming Pool:** Any structure intended for swimming or recreational bathing that contains water over twenty-four (24) inches deep. This includes in-ground, above-ground and on-ground swimming pools, hot tubs and spas.

T.

**Tenant Frontage:** The horizontal, linear dimension of that side of a building in which a tenant occupancy abuts a street, private drive, parking areas or pedestrian plazas.

**Telecommunication Facilities:** Telecommunications facilities transmit analog or digital voice or communications information between or among points using electromagnetic signals via antennas, microwave dishes, and similar structures. Supporting equipment includes buildings, shelters, cabinets, towers, electrical equipment, parking areas, and other accessory development. Specific use types include: **Antenna Collocation of Existing Tower; Concealed Antennae and Towers; Non-Concealed Building-Mounted Antennae and Towers; or Non-Concealed Freestanding Towers.**

**Towing and Storage Facility:** A commercial establishment engaged in towing of vehicles or equipment from one (1) location to another. Such facilities may also include an indoor or outdoor storage component for such vehicles or equipment, but may not include junked, salvage, or permanently inoperable vehicles or equipment.

**Town:** The Town of Firestone, Colorado.

**Town Manager:** The administrative official appointed by the Board of Trustees to administer the provisions of the FDC or the person designated by the Town Manager.

**Tract:** A tract is a legally defined parcel of land on a plat that will not have residential, commercial, or industrial buildings located on them.

**Trailer:** Any wheeled vehicle, without motive power and having an empty weight of more than two-thousand (2,000) pounds, which is designed to be drawn by a motor vehicle and to carry its cargo load wholly upon its own structure and which is generally and commonly used to carry and transport property over the public highways.

**Transit Center:** An area utilized by public or commercial carriers for pick-up or drop-off of passengers. In addition to loading and unloading areas, transit centers may include shelters, restrooms, concessions, benches, information offices, ticket sales, landscaping, lighting and other such facilities and appurtenances. Individual bus stops, maintenance and storage facilities are not included in this definition.

**Tree Lawn:** The area between the back of curb and sidewalk, primarily used for planting low groundcover and street trees.

**Truck Stop:** An establishment engaged primarily in the fueling, servicing, repair or parking of tractor trucks or similar heavy commercial vehicles, including the sale of accessories and equipment for such vehicles. A truck stop may also include overnight accommodations, showers or restaurant facilities primarily for the use of truck crews.

**Turf:** A surface layer of earth containing mowed grass with its roots.

U.

**Urgent Care Facility:** A medical center that provides limited emergency medical services that may not require twenty-four (24) hour care.

**Utility Facilities:** Buildings, structures, or other facilities used or intended to be used by any utility other than telecommunications facilities. This category includes buildings or structures that house or contain facilities for the operation of water, wastewater, waste disposal, or electricity services. This use also includes water storage tanks; electric or gas substations, water or wastewater pumping stations, electric transformer stations; gas regulator stations; telephone exchange buildings; well, water, and underground utility boxes; sewer pumping stations; or similar structures used as an intermediary switching, boosting, distribution, or transfer station of electricity, natural gas, water, or wastewater. This category includes passageways, including easements, for the express purpose of

transmitting or transporting electricity, gas, water, sewage, or other similar services on a local level. Additionally, a utility facility means any energy device or system that generates energy from renewable energy resources including solar, hydro, wind, biofuels, wood, geothermal, or similar sources. Accessory uses may include control, monitoring, data, or transmission equipment.

V.

**Variance:** A legal modification of applicable zone district provisions, such as yard, lot width, yard depth, sign, setback, and off-street parking and loading regulations, granted due to the peculiar conditions existing within a single piece of property.

**Vehicle and Equipment:** Vehicles and Equipment uses include a broad range of uses for the maintenance, sale, or rental of motor vehicles and related equipment. Accessory uses may include incidental repair and storage, offices, and sales of parts. Specific use types include, but are not limited to: **Car Wash; Service Station; Towing and Storage Facility; Vehicle Sales and Rental; Vehicle Service and Repair, Heavy;** or **Vehicle Service and Repair, Light.**

**Vehicle Sales and Rental:** The storage, display, sale, lease, or rental of new or used vehicles, including but not limited to automobiles, vans, motorcycles, light trucks, boats, and trailers. This use shall not include salvage operations or scrap operations.

**Vehicle Service and Repair, Heavy:** An establishment involved in the major repair and maintenance of automobiles, motorcycles, trucks, vans, trailers, or recreational vehicles. Services include engine, transmission, or differential repair, reconditioning or replacement; bodywork; upholstery work; painting; and associated repairs conducted within a completely enclosed building.

**Vehicle Service and Repair, Light:** An establishment involved in the minor repair and maintenance of automobiles, motorcycles, trucks, or vans not in excess of ten-thousand (10,000) pounds gross vehicle weight. Services include brake, muffler, and tire repair and change; lubrication; tune ups and associated repairs, conducted within a completely enclosed building.

**Vested Property Right:** The right to undertake and complete the development and use of property under the terms and conditions of a site specific development plan.

**Violation:** The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) of the National Flood Insurance Program regulations is presumed to be in violation until such time as that documentation is provided.

**Visitor Accommodation:** For-profit facilities where lodging, meals, and the like are provided to transient visitors and guests for a defined period. Specific use types include: Bed and Breakfast; Boarding or Rooming House; Extended-Stay Lodgings; or Hotel or Motel.

W.

**Warehouse and Freight Movement:** Firms involved in Warehouse and Freight Movement are engaged in the storage or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some will call pickups. There is little on-site sales activity with the customer present. Accessory uses may include offices, truck fleet parking, and maintenance areas. Specific use types include, but are not limited to: **Freight or Truck Yard; Mini-Warehouse/Self Storage;** or **Wholesale Distribution Center.**

**Waste and Salvage:** Waste and Salvage firms receive solid or liquid wastes from others for disposal on the site or for transfer to another location, uses that collect sanitary wastes or uses that manufacture or produce goods or energy from the composting of organic material or processing of scrap or waste material. Waste and Salvage uses also include uses that receive hazardous wastes from others. Accessory uses may include recycling of materials, offices, and repackaging and shipment of by-products. Specific use types include, but are not limited to: **Auto Wrecking and Salvage Yard; Hazardous Materials Handling and Transfer Facility; Junkyard; Recycling Collection Point; Recycling Center;** or **Sanitary Landfill.**

**Watercourse:** A channel, natural depression, slough, artificial channel, gulch, arroyo, stream, creek, pond, reservoir, or lake in which storm runoff and floodwater flows either regularly or infrequently. This includes major drainage ways for carrying urban storm runoff.

**Water Surface Elevation:** The height, in relation to the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

**Wholesale Distribution Center:** A permanent facility for the storage of products, supplies, and equipment offered for wholesale distribution (not for direct sale to the general public).

X.  
Y.

**Yard:** An open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

**Yard, Front:** A yard extending across the front lot line between the side lot lines, and being the minimum horizontal distance between the front lot line and the front wall of any building.

**Yard, Rear:** A yard extending across the rear lot line between the side lot lines, and being the minimum horizontal distance between the rear lot line and the rear of the main building. The rear yard shall in all cases be at the opposite end of the lot from the front yard.

**Yard, Side:** A yard between the main building and the side-line of the lot, and being the minimum horizontal distance between the building and the side lot line and extending from the front lot line to the rear lot line.

Z.

**Zero Lot Line Development Plan:** A development plan where one (1) or more dwelling units (limited to single-family detached or single-family attached dwelling units) are placed on lots in such a manner that at least one (1) of the dwelling units sides rests directly on a lot line, as measured from the outer edge of the dwelling unit's foundation at the ground line, so as to enhance the usable open space on the lot.

**Zone District:** A designated area of the Town within which certain zoning regulations and requirements, or various combinations thereof, apply as set forth in this FDC.

**Zoning Map:** The official zoning map adopted by the Town by ordinance, as amended.

**Zoo:** An area, building, or structures that contain wild animals on exhibition for viewing by the public.

# CHAPTER 12: WIRELESS COMMUNICATION FACILITIES

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## 16.12.1 INTENT AND PURPOSE

- A. The standards of this section are intended to accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare of the Town and community. Specifically, the standards shall:
1. Provide for the managed development and installation, maintenance, modification, and removal of wireless communications infrastructure in the town, including within the rights-of-way, with the goal of having the fewest number of wireless communication facilities ("WCF") required to complete a network without unreasonably discriminating against wireless communications providers of functionally equivalent services including all of those who install, maintain, operate, and remove WCFs;
  2. Promote and protect the public health, safety, and welfare by reducing the visibility of WCFs to the fullest extent possible through techniques including, but not limited to, camouflage design techniques, collocation, and undergrounding of WCFs and the equipment associated therewith;
  3. Enhance the ability of wireless communications service providers to provide such services to the community quickly, effectively, and efficiently;
  4. Manage amateur radio facilities and over-the-air receiving devices in the Town.

## 16.12.2 APPLICABILITY

- A. The requirements set forth in this Chapter shall apply to all WCF applications for base stations, alternative tower structures, small cell facilities, alternative tower structures located within right-of-way, and towers as defined in this chapter and further addressed herein. The requirements set forth in this Chapter shall not apply to:
1. Amateur Radio Antennas, over the air reception devices ("OTARD") and other residential television reception/antenna towers except as required in the operational standards set forth in this section.
  2. Pre-existing WCFs: Any WCF for which a permit has been properly issued prior to the effective date of this FDC shall not be required to meet the requirements of this Chapter, other than the operational standards set forth. Changes and additions to pre-existing WCFs (including trading out of antennas for an equal number of antennas) shall meet applicable operational standards set forth in this chapter.
  3. Miscellaneous Antennas: Antennas used for reception of television, multi-channel video programming and radio such as OTARD antennas, television broadcast band antennas, and broadcast radio antennas, provided that any requirements related to Special Review Uses contained in this Chapter of this FDC and the requirement that the height be no more than the distance from the base to the property line are met. The Director has the authority to approve modifications to the height restriction related to OTARD antennas and OTARD antenna structures, if the Director determines, with reasonable discretion, that modifications are necessary to comply with Federal law.

## 16.12.3 DEFINITIONS

- A. The following words, terms and phrases, when used in this FDC, shall have the meanings ascribed to them in this Section:

**Accessory Equipment:** Any equipment serving or being used in conjunction with a WCF, including, but not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or other structures.

**Alternative Tower Structure:** Manmade trees, clock towers, bell steeples, light poles, traffic signals, buildings, and similar alternative design mounting structures that are compatible with the natural setting and/or surrounding structures, and camouflage or conceals the presence of antennas or towers so as to make them architecturally compatible with the surrounding area. This term also includes any antenna or antenna array attached to an alternative tower structure or a stand-alone pole (including a replacement pole) in the right-of-way that accommodates small cell facilities to the extent the pole meets the camouflage and concealment standards of this chapter.

**Antenna:** Any device used to transmit and/or receive radio or electromagnetic waves such as, but not limited to panel antennas, reflecting discs, microwave dishes, whip antennas, directional and non-directional antennas consisting of one (1) or more elements, multiple antenna configurations, or other similar devices and configurations. Exterior apparatus designed for telephone, radio, or television communications through the sending and/or receiving of wireless communications signals.

**Antenna, dish:** Dish (parabolic or cylindrical) antennas used for microwave and satellite transmission and reception for commercial purposes. This definition shall not apply to wireless cable satellite dish antennas or dish antennas less than one (1) meter measured diagonally.

**Base station:** A structure or equipment at a fixed location that enables Federal Communications Commission ("FCC") licensed or authorized wireless communications between user equipment and a communications network. The definition of base station does not include or encompass a tower as defined herein or any equipment associated with a tower. Base station includes, without limitation:

1. Equipment associated with wireless communications services such as private broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul that, at the time the relevant application is filed with the Town pursuant to this section has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support; and
2. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplied, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small-cell networks) that, at the time the relevant application is filed with the Town pursuant to the Code has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.
3. The definition of base station does not include any structure that, at the time the application is filed with the Town under this Chapter, does not support or house equipment described herein in sub-paragraphs 1 and 2 of this definition.

**Camouflage, Concealment, or Camouflage Design Techniques:** A WCF which is camouflaged or utilizes camouflage design techniques when any measures are used in the design and siting of WCF's with the intent to minimize or eliminate the visual impact of such facilities to surrounding uses. A WCF site utilizes camouflage design techniques when it (i) is integrated as an architectural feature of an existing structure such as a cupola, or (ii) is integrated in an outdoor fixture such as a flagpole, or (iii) uses a design which mimics and is consistent with the nearby natural, or architectural features (such as an artificial tree) or is incorporated into or replaces existing permitted facilities (including without limitation, stop signs or other traffic signs or freestanding light standards) so that the presence of the WCF is not readily apparent.

**Collocation:** The mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

**Director:** The Town's Director of Planning & Development or such person's authorized designee.

**Eligible Facilities Request:** Any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station involving: (i)

colocation of new transmission equipment, (ii) removal of transmission equipment, or (iii) replacement of transmission equipment.

**Eligible Support Structure:** Any tower or base station as defined in this section, provided that it is existing at the time the relevant application is filed with the Town under this Chapter.

**Existing:** A constructed tower or base station that was reviewed, approved, and lawfully constructed in accordance with all requirements of applicable law as of the time of an eligible facilities request, provided that a tower that exists as a legal, non-conforming use and was lawfully constructed is existing for purposes of this definition.

**Monopole:** A single, freestanding pole-type structure supporting one or more antennas.

**OTARD:** An over-the-air receiving device.

**OTARD Antenna:** An antenna that is designed to receive direct broadcast satellite service, including direct-to-home satellite services, that is one (1) meter or less in diameter; or, an antenna that is designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instruction television fixed services, and local multipoint distribution services, and that is one (1) meter or less in diameter or diagonal measurement; or, an antenna that is designed to receive television broadcast signals.

**OTARD Antenna Structure:** Any pole, tower, or other structure designed and intended to support an OTARD antenna.

**Pole-Mounted Small Cell Facility:** A small cell facility with antenna that are mounted and supported on an alternative tower structure, which includes a replacement pole.

**Related Accessory Equipment:** The transmission equipment customarily used with, and incidental to WCF antennas, including by way of example, coaxial or fiber-optic cable, regular and backup power supply and remote radio units.

**Replacement Pole:** A newly constructed and permitted traffic signal, utility pole, street light, flagpole, electric distribution, or street light pole or other similar structure of proportions and of equal height or such other height that would not constitute a substantial change to a pre-existing pole or structure in order to support a WCF or small cell facility or to accommodate collocation and remove the pre-existing pole or structure.

**Right-of-way:** As used within this Chapter, any public street or road that is dedicated to public use for vehicular traffic except for those rights-of-way owned by the Colorado Department of Transportation within Town limits.

**Site:** The area comprising the base of the structure and other related accessory equipment deployed on the ground.

**Site, for Towers Other Than Towers in the Right-of-way and Eligible Support Structures:** The current boundaries of the leased or owned property surrounding the tower or eligible support structure and any access or utility easements currently related to the site. A site, for other towers in the right-of-way, is further restricted to that area comprising the base of the structure and to other related accessory equipment already deployed on the ground.

**Small cell facility:** A WCF where each antenna is located inside an enclosure of no more than three cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three cubic feet; and primary equipment enclosures are no larger than seventeen (17) cubic feet in volume. The following associated equipment may be located outside of the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation box, ground-based enclosure, back-up power systems, grounding equipment, power transfer switch and cut-off switch. Small cell facilities may be attached to alternate tower structures, monopoles, and pole support structures.

**Substantial change:** A modification that substantially changes the physical dimensions of an eligible support structure, which meets any of the following criteria:

1. For towers, other than towers in the public rights-of-way, it may, for one (1) time, increase the height of the tower by more than ten (10) percent or by the height of one (1) additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than ten (10) percent or more than ten (10) feet, whichever is greater;
2. For towers, other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the tower more than twenty (20) feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for eligible support structures it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet;
3. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four (4) cabinets; or for towers in the public right-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten (10) percent larger in height or overall volume than any other ground cabinets associated with the structure;
4. For any eligible support structure, it entails any excavation or deployment outside the current site;
5. For any eligible support structure, it would defeat the concealment elements of the eligible support structure. For the purposes of this Subsection, a change which undermines the concealment elements of an eligible support structure will be considered to defeat the concealment elements; or
6. For any eligible support structure, it does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure equipment, unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that would not exceed the thresholds identified in paragraphs (1), (2), and (3) of this Subsection. For purposes of determining whether a substantial change exists, changes in height are measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height are measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the effective date of this FDC.

**Tower:** Any structure that is built for the sole or primary purpose of supporting one or more FCC licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. The term includes self-supporting lattice towers, guy towers or monopole towers, radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures and the like.

**Transmission Equipment:** Equipment that facilitates transmission for any FCC licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

**Wireless Communications Facility or WCF:** A facility used to provide personal wireless services as defined at 47 U.S.C. Section 332(c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or

unlicensed frequencies; or wireless utility monitoring and control services. A WCF does not include a facility entirely enclosed within a permitted building where the installation does not require a modification of the exterior of the building; nor does it include a device attached to a building, used for serving that building only and that is otherwise permitted under other provisions of the FDC. A WCF includes an antenna or antennas, including without limitation, directions, omni-directional and parabolic antennas, base stations, support equipment, alternative tower structures, and towers. It does not include the support structure to which the WCF or its components are attached if the use of such structures for WCFs is not the primary use. The term does not include mobile transmitting devices used by wireless service subscribers, such as vehicle or hand held radios/telephones and their associated transmitting antennas, nor does it include other facilities specifically excluded from the coverage of this Chapter.

#### **16.12.4 OPERATIONAL STANDARDS**

**A. Federal Requirements.**

All WCFs shall meet the current standards and regulations of the Federal Aviation Authority ("FAA"), the FCC and any other agency of the federal government with the authority to regulate WCFs. If such standards and regulations are amended, then the owners of the WCF governed by this Chapter shall bring such facility into compliance with such revised standards and regulations within the time period mandated by the controlling federal agency. Failure to meet such revised standards and regulations shall constitute grounds for the removal of the WCF at the owner's expense.

**B. Permission to Use Within Rights-of-way or Upon Public Property.**

For WCFs in the right-of-way, the applicant shall execute a master license agreement with the Town, granting applicant a non-exclusive license to use the right of way. Applicants shall also, as applicable, execute supplemental site licenses with the Town for each facility subject to the master license agreement. An annual attachment fee shall be required for each supplemental site license involving the attachment of WCF's to any Town owned structure in the right-of-way. Master licenses and supplemental site licenses are subject to administrative processing fees, and such fees along with the attachment fee shall be established by resolution of the Town Board of Trustees. Attachment of WCFs on an existing traffic signal, street light pole, or similar structure shall require written evidence of a license, or other legal right or approval, to use such structure by its owner. Prior to, or concurrently with, seeking land use approval for a WCF on public property, the applicant shall execute a lease agreement with the Town.

**C. Signal Interference.**

All WCFs shall be designed and sited, consistent with applicable federal regulations, so as not to cause interference with the normal operation of radio, television, telephone and other communication services utilized by adjacent residential and nonresidential properties; nor shall any such facilities interfere with any public safety communications. The applicant shall provide a written statement from a qualified radio frequency engineer, certifying that a technical evaluation of existing and proposed facilities indicates no potential interference problems and shall allow the Town to monitor interference levels with public safety communications during this process. Additionally, the owner or operator shall notify the Town at least ten (10) calendar days prior to the introduction of new service or changes in existing service, and shall allow the Town to monitor interference levels with public safety communications during the testing process.

**D. Legal Access.**

In all applications for WCFs an applicant must warrant and represent that it has the written agreement of the owner of the property which is the subject of the application for legal access to and from the WCF and the applicant must also warrant and represent that it will have legal access to the utilities to operate and maintain the WCF.

**E. Operation and Maintenance.**

To ensure the structural integrity of WCFs, the owner of a WCF shall ensure that it is maintained in compliance with standards contained in applicable local building and safety codes. If upon inspection, the Town concludes that a WCF fails to comply with such codes and constitutes a danger to persons or property, then, upon written notice being provided to the owner of the WCF, the owner shall have

thirty (30) days from the date of notice to bring such WCF into compliance. Upon good cause shown by the owner, the Town's building official may extend such compliance period not to exceed ninety (90) days from the date of said notice. If the owner fails to bring such WCF into compliance within said time period, the Town may remove such WCF at the owner's expense.

**F. Abandonment and Removal.**

If a WCF has not been in use for a period of three months, the owner of the WCF shall notify the Town of the non-use and shall indicate whether re-use is expected within the ensuing three months. Any WCF that is not operated for a continuous period of six months shall be considered abandoned. The Town, in its sole discretion, may require an abandoned WCF to be removed. The owner of such WCF shall remove the same within thirty (30) days of receipt of written notice from the Town. If the WCF is not removed within said thirty (30) days, the Town may remove it at the owner's expense and any approved permits for the WCF shall be deemed to have expired. Additionally, the Town, in its sole discretion, shall not approve any new WCF application until the applicant, if also an owner or operator of an abandoned WCF, has removed such WCF or payment for such removal has been made to the Town.

**16.12.5 DESIGN STANDARDS**

**A. Applicability**

The requirements set forth in this section shall apply to the location and design of all WCFs governed by this section; provided, however, that the Town may waive these requirements if it determines that the goals of this section are better served thereby. To that end, WCFs shall be designed and located to minimize the impact on the surrounding neighborhood and to maintain the character and appearance of the Town, consistent with other provisions of the Code.

**1. Camouflage/Concealment**

All WCFs and any transmission equipment shall, to the maximum extent practicable, use camouflage design techniques including, but not limited to the use of materials, colors, textures, screening, undergrounding, landscaping, or other design options that will blend the WCF to the surrounding natural setting and built environment. Design, materials and colors of WCFs shall be compatible with the surrounding environment. Designs shall be compatible with structures and vegetation on the same parcel and adjacent parcels.

- a. Camouflage design techniques include:
  - i. Integrating the WCF as an architectural feature of an existing structure such as a cupola; or,
  - ii. Integrating the WCF in an outdoor fixture such as a flagpole; or,
  - iii. Using a design which mimics and is consistent with the nearby natural, or architectural features or is incorporated into or replaces existing permitted facilities (including without limitation, stop signs or other traffic signs or freestanding light standards) so that the presence of the WCF is not readily apparent.
- b. Camouflage design may be of heightened importance where findings of particular sensitivity are made (e.g. proximity to historic or aesthetically significant structures, views, and/or community features). In such instances where WCFs are located in areas of high visibility, they shall to the maximum extent practicable be designed (e.g., placed underground, depressed, or located behind earth berms) to minimize their profile.
- c. The camouflage design may include the use of alternative tower structures should the Director determine that such design meets the intent of the FDC and the community is better served thereby.

- d. All WCFs, such as antennas, vaults, equipment rooms, equipment enclosures, and tower structures shall be constructed out of non-reflective materials (visible exterior surfaces only).

**2. Hazardous Materials**

No hazardous materials shall be permitted in association with WCFs, except those necessary for the operations of the WCF and only in accordance with all applicable laws governing such materials.

**3. Colocation**

WCFs shall be designed and constructed to permit the facility to accommodate WCFs from at least two wireless service providers on the same WCF unless the Town approves an alternative design to the extent such design is reasonably feasible based upon construction, engineering and design standards. No WCF owner or operator shall unreasonably exclude a telecommunications competitor from using the same facility or location. Upon request by the Town, the owner or operator shall provide evidence demonstrating why colocation is not possible at a particular facility or site.

**4. Siting**

- a. No portion of any WCF may extend beyond the property line of the lot upon which it is located.
- b. Colocation. WCFs may be required to be designed and constructed to permit the facility to accommodate WCFs from at least two (2) wireless service providers on the same WCF unless the Town approves an alternative design. No WCF owner or operator shall unfairly exclude a competitor from using the same facility or location.
- c. WCFs shall be sited in a location that does not impair vehicle, emergency, and pedestrian ways and does not reduce the parking for the other principal uses on the parcel below FDC standards.

**5. Lighting**

WCFs shall not be artificially lighted, unless required by the FAA or other applicable governmental authority, or the WCF is mounted on a light pole or other similar structure primarily used for lighting purposes. If lighting is required, the Town may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. Lighting shall be shielded or directed to the greatest extent possible so as to minimize the amount of glare and light falling onto nearby properties, particularly residences.

**6. Landscaping and Fencing Requirements**

- a. WCFs shall be sited in a manner that does not reduce the landscaped areas for the other principal uses on the parcel or site, below FDC standards.
- b. WCFs shall be landscaped with a buffer of plant materials that effectively screen the view of the WCF from adjacent property. The standard buffer shall consist of the front, side, and rear landscaped setback on the perimeter of the site.
- c. In locations where the visual impact of the WCF would be minimal, the landscaping requirement may be reduced or waived altogether by the Director.
- d. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent practicable. In some cases, such as WCFs sited on large, wooded lots, natural growth around the site perimeter may be a sufficient buffer.
- e. No "significant trees" may be removed, unless authorized by the Director. To obtain such authorization the applicant shall show that the significant tree removal is necessary, the applicant's plan minimizes the number of significant trees to be removed and any trees removed are replaced at a ratio of two (2) to one (1). For the purposes of this subsection a significant tree is defined as a tree that is a minimum

of six (6) inches in caliper measured twelve (12) inches above soil line for a deciduous tree or a minimum of ten (10) feet in height for a needled evergreen tree.

**7. Noise**

Noise generated on the site must not exceed the standards in the Municipal Code, except that a WCF owner or operator shall be permitted to exceed Municipal Code noise standards for a reasonable period of time during repairs, not to exceed two hours without prior authorization from the Town.

**8. Adjacent to Residential Uses**

WCFs shall be sited in a manner that evaluates the proximity of the facility to residential structures and residential district boundaries.

**9. Additional Design Requirements**

**a. Base Stations**

If an antenna is installed on a structure other than a tower, or alternative tower structure, such as a base station (including, but not limited to the antennas and accessory equipment) it shall be of a neutral, non-reflective color that is identical to, or closely compatible with, the color of the supporting structure, or uses other camouflage/concealment design techniques so as to make the antenna and related facilities as visually unobtrusive as possible, including for example, without limitation, painting the antennas and accessory equipment to match the structure. Additionally, any ground-mounted equipment shall be located, based upon the reasonable discretion of the Town, in a manner necessary to address both public safety and aesthetic concerns and may, where appropriate, require a flush-to-grade underground equipment vault.

**b. Alternative Tower Structures and Small Cell Facilities shall:**

- i. Be designed and constructed to look like a building, facility, or structure typically found in the area;
- ii. Be camouflaged/concealed consistent with other existing natural or manmade features in the immediate proximity of the location where the alternative tower structure will be located.
- iii. Be sited in a manner that is least obtrusive to residential structures and residential district boundaries;
- iv. Take into consideration the uses on adjacent and nearby properties and the compatibility of the facility to these uses;
- v. Be compatible with the surrounding topography, tree coverage, and foliage;
- vi. Be designed utilizing design characteristics that have the effect of reducing or eliminating visual obtrusiveness; and
- vii. Height or size of the proposed alternative tower structure or small cell facility should be minimized as much as possible and shall be subject to the maximum height restrictions of the zoning district in which they are located, subject to a maximum height limit of sixty (60) feet;
- viii. Visual impacts of the proposed ingress and egress shall be minimized.

**c. Alternative Tower Structures and Small Cell Facilities located in Right-of-way shall:**

- i. Be no higher than thirty-five (35) feet.
- ii. Be no more than ten (10) feet higher (as measured from the ground to the top of the pole) than any existing utility or traffic signal within five-hundred (500) feet of the pole or structure.

- iii. Be camouflaged/concealed consistent with other existing natural or manmade features in the right-of-way near the location where the alternative tower structure will be located.
  - iv. To the extent feasible, be consistent with the size and shape of pole-mounted equipment installed by communications companies on utility poles near the alternative tower structure.
  - v. Be designed such that antenna installations on traffic signals are placed in a manner so that the size, appearance, and function of the signal will not be considerably altered.
  - vi. Be sized to minimize visual clutter regarding facility antennas, mast arms, equipment, and other facilities.
  - vii. For any new pole for an alternative tower structure or small cell facility, be separated from any other existing WCF facility by a distance of at least six-hundred (600) feet, unless the new pole replaces an existing traffic signal, street light pole, or similar structure determined by the Director.
  - viii. For pole-mounted components, be located on an existing utility pole serving another utility; or be located on a new utility pole where other utility distribution lines are aerial, if there are no reasonable alternatives.
  - ix. When located near a residential property, be placed in front of the common side yard property line between adjoining residential properties. In the case of a corner lot, the facility must be placed in front of the common side yard property line adjoining residential properties, or on the corner formed by two intersecting streets.
  - x. For any ground mounted equipment, be installed in an underground or partially underground equipment vault (projecting not more than thirty-six (36) inches above grade), or co-located within a traffic cabinet of a design approved by the Director.
  - xi. Not alter vehicular circulation or parking within the right-of-way or impede vehicular, bicycle, or pedestrian access or visibility along the right-of-way. Must comply with the Federal Americans with Disabilities Act and all applicable local, state, and federal law and regulations. No alternative tower structure nor small cell facility may be located or maintained in a manner that causes unreasonable interference. Unreasonable interference means any use of the right-of-way that disrupts or interferes with this use by the Town, the general public, or other person authorized to use or be present upon the right-of-way, when there exists an alternative that would result in less disruption or interference. Unreasonable interference includes any use of the right-of-way that disrupts vehicular or pedestrian traffic, any interference with public utilities, and any other activity that will present a hazard to public health, safety, or welfare.
- d. Towers shall:**
- i. Towers shall either maintain a galvanized steel finish, or, subject to any applicable FAA standards, be painted a neutral color so as to reduce visual obtrusiveness as determined by the Town;
  - ii. Tower structures should use existing land forms, vegetation, and structures to aid in screening the facility from view or blending in with the surrounding built and natural environment;
  - iii. Monopole support structures shall taper from the base to the tip;

- iv. All towers, excluding alternative tower structures in right-of-way, shall be enclosed by security fencing or wall at least six feet in height and shall also be equipped with an appropriate anti-climbing device. Fencing shall conform to the screening requirements in Chapter 6 of this FDC and shall not consist of barbed wire or chain link material;
  - v. Towers shall be subject to the maximum height restrictions of the zoning district in which they are located, subject to a maximum height limit of sixty (60) feet;
  - vi. Towers should be sited in a manner that is least obtrusive to residential structures and residential district boundaries where feasible;
  - vii. Towers should take into consideration the uses on adjacent and nearby properties and the compatibility of the tower to these uses;
  - viii. Visual impacts of the proposed ingress and egress shall be minimized;
  - ix. No new towers shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Town that no existing WCFs can accommodate the needs that the applicant proposes to address with its tower application. Evidence submitted to demonstrate that no existing WCF can accommodate these needs may consist of the following:
    - (A) No existing WCFs are of sufficient height and are located within the geographic area required to meet the applicant's engineering requirements;
    - (B) Existing WCFs do not have sufficient structural strength to support applicant's proposed WCF; and,
    - (C) The applicant demonstrates that there are other limiting factors that render existing WCFs unsuitable for colocation.
  - x. A tower, located outside of the right-of-way, shall meet the greater of the following minimum setbacks from all property lines:
    - (A) The setback for a principal building within the applicable zone district;
    - (B) Twenty-five (25) percent of the facility height, including WCFs and transmission equipment; or
    - (C) The tower height, including antennas, if the tower is in or adjacent to a residential zone district or residential zoned property.
    - (D) Towers over forty (40) feet in height shall not be located within one-quarter ( $\frac{1}{4}$ ) mile from any existing tower that is over forty (40) feet in height, unless the applicant has shown to the satisfaction of the Town that there are no reasonably suitable alternative sites in the required geographic area which can meet the applicant's needs.
- e. *Related Accessory Equipment***  
Accessory equipment for all WCFs shall meet the following requirements:
- i. All buildings, shelter, cabinets, and other accessory components shall be grouped as closely as technically possible;
  - ii. The total footprint coverage area of the WCFs accessory equipment shall not exceed three-hundred fifty (350) square feet;
  - iii. No related accessory equipment or accessory structure shall exceed twelve (12) feet in height;

- iv. Accessory equipment, including but not limited to remote radio units, shall be located out of sight whenever possible by locating behind parapet walls or within equipment enclosures. Where such alternate locations are not available, the accessory equipment shall be camouflaged or concealed.

## **16.12.6 REVIEW PROCEDURES AND REQUIREMENTS**

### **A. Requirements and Procedures**

No new WCF shall be constructed and no colocation or modification to any WCF may occur except after a written request from an applicant, reviewed and approved by the Town in accordance with this section. All WCFs shall be reviewed pursuant to the following procedures:

#### **1. Submittal Requirements**

In addition to an application form, signal interference letter, removal affidavits, and payment of all application and review fees, as established by resolution of the Board of Trustees, each applicant shall submit a scaled site plan, photo simulation, scaled elevation view and other supporting drawings, calculations, and other documentation showing the location and dimension of all improvements, including information concerning topography, radio frequency coverage, tower height, setbacks, drives, parking, fencing, landscaping, adjacent uses, drainage, and other information deemed by the Director to be necessary to assess compliance with this section. Documents requiring signatures and seals by appropriate qualified professionals shall be provided by applicant after approval of the application by the Director.

#### **2. Inventory of Existing Sites**

Each applicant for a WCF shall provide to the Director a narrative and map description of the applicant's existing or then currently proposed WCFs within the Town, and outside of the Town within one (1) mile of its boundaries. In addition, the applicant shall inform the Town generally of the areas of the Town in which it believes WCFs may need to be located within the next three (3) years. The inventory list should identify the site name, site address, and a general description of the facility (for example, rooftop antennas and ground mounted equipment). This provision is not intended to be a requirement that the applicant submit its business plan, proprietary information, or make commitments regarding locations of WCFs within the Town. Rather, it is an attempt to provide a mechanism for the Town and all applicants for WCFs to share general information, assist in the Town's comprehensive planning process, and promote colocation by identifying areas in which WCFs might be appropriately constructed for multiple users.

The Town may share such information with other applicants applying for administrative approvals or conditional permits under this section or other organizations seeking to locate WCFs within the jurisdiction of the Town, provided however, that the Town is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

#### **3. Abandonment and Removal Affidavits**

Prior to approval, affidavits shall be required from the owner of the property and from the applicant acknowledging that each is responsible for the removal of a WCF that is abandoned or is unused for a period of six (6) months.

#### **4. Special Review Use**

In all zone districts, applications for base stations, alternative tower structures, and towers may be permitted only as a special review use in accordance with the requirements of this section. All applications for towers shall demonstrate that other alternative design options such as base stations or alternative tower structures are not viable options as determined by the Town.

**5. Applications for Base Stations, Alternative Tower Structures and Small Cell Facilities Within Right-of-way**

In all zone districts each application for a base station, alternative tower structure or small cell facility within the right-of-way shall be reviewed and considered for approval by the Director for conformance with this section and the applicant's execution of a license agreement as approved by the Director.

Applicants may appeal the Director's decision by submitting a written notice of appeal to the Town Manager within ten (10) calendar days from the date of the Director's decision. The notice of appeal must specifically set forth the grounds for appeal and include all documentation the applicant deems relevant. The Town Manager shall within ten (10) business days of receipt of the notice of appeal and review of all documentation submitted by the applicant and the Director's decision issue a final decision which may affirm, overturn or modify the Director's decision.

Except for WCFs in the right-of-way that meet all requirements of this section, the Director may refer the application to the Planning and Zoning Commission for conditional use review if the Director finds the proposed WCF to have a significant visual impact (e.g., proximity to historic or designated view corridors, or on significant community features), or otherwise is substantially incompatible with the structure on which the WCF will be installed, or it does not meet the clear intent of this section.

**6. Review Procedures for Eligible Facilities Requests**

**a. Application**

In all zone districts, eligible facilities requests shall be considered a use by right subject to administrative review. The Town shall prepare, and make publicly available, an application form which shall be limited to the information necessary for the Town to consider whether an application is an eligible facilities request. Such information may include, without limitation, whether the request:

- i. Would result in a substantial change;
- ii. Violate a generally applicable law, regulations, or other rule codifying objective standards reasonably related to public health and safety.

The application may not require the applicant to demonstrate a need or business case for the proposed modification or colocation.

**b. Type of Review**

Upon receipt of an application for an eligible facilities request pursuant to this section, the Director shall review such application to determine whether the application so qualifies.

**c. Timeframe for Review**

Subject to the tolling provisions of Subparagraph (d) below, within sixty (60) days of the date on which an applicant submits an application seeking approval under this Section, the Town shall approve the application unless it determines that the application is not covered by this Subsection.

**d. Tolling of the Timeframe for Review**

The sixty (60) day review period begins to run when the application is filed, and may be tolled only by mutual agreement of the Town and the applicant, or in cases where the Director determines that the application is incomplete:

- i. To toll the timeframe for incompleteness, the Town must provide written notice to the applicant within thirty (30) days of receipt of the application, specifically delineating all missing documents or information required in the application;

- ii. The timeframe for review begins running again when the applicant makes a supplemental written submission in response to the Town's notice of incompleteness; and
  - iii. Following a supplemental submission, the Town will notify the applicant within ten (10) days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in paragraph (d) (i) above. In the case of a second or subsequent notice of incompleteness, the Town may not specify missing documents or information that were not delineated in the original notice of incompleteness.
- e. Failure to Act**  
In the event the Town fails to act on a request seeking approval for an eligible facilities request under this section within the timeframe for review (accounting for any tolling), the request shall be deemed granted. The deemed grant becomes effective when the applicant notifies the Town in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.
- f. Interaction with Telecommunications Act Section 332(c)(7)**  
If the Town determines that the applicant's request is not an eligible facilities request as set forth in this section the presumptively reasonable timeframe under Section 332(c)(7), as prescribed by the FCC's Shot Clock order, will begin to run from the issuance of the Town's decision that the application is not a covered request. To the extent such information is necessary, the Town may request additional information from the applicant to evaluate the application under Section 332(c)(7) reviews.

**7. Decision**

Any decision to approve, approve with conditions, or deny an application for a WCF, shall be in writing and supported by substantial evidence in a written record. The applicant shall receive a copy of the decision.

**8. Compliance with Applicable Law**

Notwithstanding the approval of an application for colocation as described herein, all work done pursuant to WCF applications must be completed in accordance with all applicable building and safety requirements as set forth in the Municipal Code and any other applicable federal, state, and/or local laws and regulations. In addition, all WCF applications shall:

- a. Comply with any permit or license issued by a local, state, or federal agency with jurisdiction of the WCF;
- b. Comply with easements, covenants, conditions and/or restrictions on or applicable to the underlying real property;
- c. Be maintained in good working condition and to the standards established at the time of application approval; and
- d. Remain free from trash, debris, litter, noxious weeds, graffiti, and other forms of vandalism. Any damage shall be repaired as soon as practicable, and in no instance more than ten calendar days from the time of notification by the Town or after discovery by the owner or operator of the site.

**9. Compliance Report**

Upon request by the Town, the applicant shall provide a compliance report within forty-five (45) days after installation of a WCF, demonstrating that as installed and in operation, the WCF complies with all conditions of approval, all applicable Code requirements and standard regulations.

## 16.12.7 SPECIAL REVIEW USE STANDARDS FOR APPROVAL

### A. Special Review Use

In addition to the design standards set forth in this Chapter, WCFs, subject to acquisition of a special use approval shall be reviewed in accordance with the procedure set forth herein in Subsection 16.12.6, subject to the following criteria:

#### 1. Base Stations

- a. Such facilities shall be architecturally compatible with respect to attachments, and colored to match the building or structure to which they are attached;
- b. The maximum protrusion of such facilities from the building or structure face to which they are attached shall be six (6) feet;
- c. Wall-mounted WCFs shall not extend above the roofline unless mounted to a penthouse; and
- d. Roof-mounted WCFs shall be approved only where an applicant demonstrates a wall mounted WCF is inadequate to provide service and evaluated for approval based upon the following criteria:
  - i. Roof-mounted whip antennas shall extend no more than twelve (12) feet above the parapet of any flat roof or ridge of a sloped roof or penthouse to which they are attached;
  - ii. Roof-mounted panel antennas shall extend no more than seven (7) feet above the parapet of a flat roof or ridge of a sloped roof to which they are mounted; and
  - iii. Other roof-mounted transmission equipment shall extend no more than seven (7) feet above any parapet of a flat roof upon which they may be placed, and shall not be permitted on a sloped roof.

#### 2. Alternative Tower Structures

- a. Such structures shall be architecturally compatible with the surrounding area;
- b. Height or size of the proposed alternative tower structure should be minimized as much as practically possible;
- c. WCFs shall be sited in a manner that evaluates the proximity of the facility to residential structures and residential district boundaries;
- d. WCFs shall take into consideration the uses on adjacent and nearby properties and the compatibility of:
  - i. the facility to these uses;
  - ii. the surrounding topography;
  - iii. the surrounding tree coverage and foliage;
  - iv. the design of the site, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness; and
- e. WCFs shall take into consideration the impact on the surrounding area of the proposed ingress and egress, if any.

#### 3. All Other Towers

The Town shall within the framework of the review criteria set forth in this Chapter consider the following factors in determining whether to issue a special use permit, although the Town may waive or reduce the burden on the applicant of one (1) or more of these criteria if the Town concludes that the goals of this Chapter are better served thereby.

- a. Height or size of the proposed tower;

- b. Proximity of the tower to residential structures and residential zone district boundaries;
- c. Nature of uses on adjacent and nearby properties;
- d. Compatibility with the surrounding topography;
- e. Compatibility with the surrounding tree coverage and foliage;
- f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- g. Proposed ingress and egress; and
- h. No new towers shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Town that no existing WCFs can accommodate the needs that the applicant proposes to address with its tower application. Evidence submitted to demonstrate that no existing WCF can accommodate these needs may consist of the following:
  - i. No existing WCFs with a suitable height are located within the geographic area required to meet the applicant's engineering requirements;
  - ii. Existing WCFs do not have sufficient structural strength to support applicant's proposed WCF; and
  - iii. The applicant demonstrates that there are other limiting factors that render existing WCFs unsuitable for colocation.

**4. Setbacks and Separation**

The following minimum setbacks and separation requirements shall apply to all WCFs for which a special use approval is required; provided, however, that the Town may reduce standard setbacks and separation requirements if the applicant demonstrates that the goals of this section can be better met by reduced setback and separation requirements that protect the public health and safety, view corridors, or minimize adverse impact. A tower shall meet the greater of the following minimum setbacks from all property lines:

- a. The setback for a principal building within the applicable zone district;
- b. Twenty-five (25) percent of the facility height, including WCFs and related accessory equipment;
- c. The tower height, including antennas, if the tower is in or adjacent to a residential district; and
- d. Towers over ninety (90) feet in height shall not be located within one-quarter mile from any existing tower that is over ninety (90) feet in height, unless the applicant has shown to the satisfaction of the Town that there are no reasonably suitable alternative sites in the required geographic area which can meet the applicant's needs.

# CHAPTER 13: SEX OFFENDER RESIDENCY RESTRICTIONS

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## 16.13.1 SEX OFFENDER RESIDENCY RESTRICTIONS

### A. Residency Restrictions

1. "Sex offender" as used in this title means any person who is required to register under the Colorado Sex Offender Registration Act, C.R.S. Sections 16-22-101 et. seq., as amended from time to time.
2. It shall be unlawful for any sex offender to reside with any other sex offender within the town unless such individuals are related as parent and child, as siblings, or by marriage. Notwithstanding the foregoing, regardless of the familial relationship, no more than two (2) sex offenders may reside together.
3. Distance Requirements
  - a. It shall be unlawful for any sex offender to reside within one thousand (1,000) feet of any public, private, charter, or parochial school, state or local licensed child care center, child care facility, family child care homes, school bus stops designated by the school's district, any public or neighborhood parks including athletic fields and playgrounds, public recreational trails, designated open spaces, swimming pools or splash parks excluding those located upon private residences, libraries, churches and recreation or community centers.
  - b. The distance separation determination shall be made by measurement of a straight line from the outer property line or boundary of the designated location to the nearest point of the property of the sex offender's residence. Geographic Information System (GIS) data regarding the locations shall be prima facie evidence of the actual distance.