

## **CHAPTER 16 Zoning**

ARTICLE 1 - General Provisions

ARTICLE 2 - Zoning Districts

ARTICLE 3 - General Regulations and Development Standards

ARTICLE 4 - Special Requirements

ARTICLE 5 - Administration and Procedures

ARTICLE 6 - Interpretation and Definitions

### **ARTICLE 1 General Provisions**

[Sec. 16-1-10. Ordinance and authority.](#)

[Sec. 16-1-20. Effective date.](#)

[Sec. 16-1-30. Purpose.](#)

[Sec. 16-1-40. Relationship to Comprehensive Plan.](#)

[Sec. 16-1-50. Jurisdiction.](#)

[Sec. 16-1-60. Application of Chapter.](#)

[Sec. 16-1-70. Overlapping regulations.](#)

[Sec. 16-1-80. Violations.](#)

[Sec. 16-1-90. Enforcement.](#)

[Sec. 16-1-100. Penalties.](#)

[Sec. 16-1-110. Severability.](#)

[Sec. 16-1-120. Repeal and effective date.](#)

[Sec. 16-1-130. Correction of obvious errors.](#)

[Sec. 16-1-140. Amendment.](#)

[Sec. 16-1-150. Definitions.](#)

[Sec. 16-1-160. Vested property rights.](#)

[Sec. 16-1-170. Expiration of land use approvals.](#)

[Sec. 16-1-180. Permit revocation.](#)

#### **Sec. 16-1-10. Ordinance and authority.**

- (a) An ordinance of the Board of Trustees of the Town of Foxfield, Colorado, establishing land use classifications, dividing the Town into districts, imposing regulations, prohibitions, procedures and restrictions, governing the use of land for residential and nonresidential purposes, regulating and limiting lot occupancy, determining the size of yards and other open spaces, establishing standards

## CHAPTER 16 Zoning

of performance and design, adopting a map of said land use districts, prescribing procedures for changes and modifications of districts, uses by special review, variances and other permits, allowing for nonconforming uses, structures and land, providing regulations for accessory uses and buildings, providing for the adjustment, amendment and enforcement thereof, defining certain terms, providing a means of appeal, prescribing penalties for violations of its provisions and repealing existing Town zoning resolutions, regulations and amendments thereof.

- (b) The Town of Foxfield Zoning Ordinance (the "Zoning Ordinance") is authorized by Section 31-23-301, et seq., C.R.S., and is declared to be in accordance with all provisions of the applicable statutes.
- (c) The Town has the authority to plan for and regulate the use of land and to administer and regulate areas and activities of special interest as might be delineated in the Comprehensive Plan under authority of Title 31, Article 23, Part 2, C.R.S.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

### **Sec. 16-1-20. Effective date.**

To the extent that the provisions of this Chapter are the same in substance as the previously adopted provisions that they replace in the Town's Zoning Ordinance, they shall be considered as continuations thereof and not as enactments unless otherwise specifically provided. Any situation that did not constitute a lawful, nonconforming building, use or site under a previously adopted Zoning Ordinance does not achieve lawful nonconforming status under this Chapter.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

### **Sec. 16-1-30. Purpose.**

This Chapter shall be for the purpose of promoting the health, safety, convenience order, prosperity and welfare of the present and future residents of the Town by lessening of congestion on the streets and roads or reducing the waste of excessive amounts of roads, securing safety from fire and other dangers, providing adequate light and air, classifying land uses and the distribution of land development and utilization, protecting and enhancing the tax base, securing economy in governmental expenditures, protecting urban and non-urban development and providing for the implementation of the goals and policies of the Comprehensive Plan or other policies approved by the Board of Trustees.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

### **Sec. 16-1-40. Relationship to Comprehensive Plan.**

It is the intent of the Planning Commission and Board of Trustees that this Chapter implements the planning policies adopted by the Planning Commission and Board of Trustees as reflected in the Comprehensive Plan and other related plans and planning documents. The Planning Commission and Board of Trustees reaffirm their commitment that this Chapter and any amendment to it be in conformity with the adopted planning policies. The Town hereby expresses its intent that neither this Chapter nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document. The Comprehensive Plan shall be used as guide in decision-making and may be reasonable grounds for denial or reconsideration of the application.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

**Sec. 16-1-50. Jurisdiction.**

This Chapter shall apply to all properties within the incorporated area of the Town of Foxfield, Colorado.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

**Sec. 16-1-60. Application of Chapter.**

- (a) Application of Developments in Process. Any application for development initiated on and after December 31, 2009, shall be reviewed pursuant to the review process and standards set forth in this Chapter.
- (b) New applications initiated after December 31, 2009.
  - (1) No building or structure shall be erected and no existing building or structure shall be moved, altered or extended, nor shall any land, building or structure be used for any purpose other than as provided for among the uses hereinafter listed in the district regulations for the zone district in which such land, building or structure is located.
  - (2) No building or structure shall be erected, nor shall any existing building or structure be moved, altered or extended, nor shall any open space surrounding any building or structure be encroached upon or reduced in any manner, except in conformity with the dimensional regulations, district development standards and supplementary regulations or other provisions hereinafter provided in the district regulations for the zone district in which such building, structure or open space is located.
  - (3) The provisions of this Chapter shall apply to all uses as follows:
    - a. New buildings and uses of land.
    - b. Additions involving expansion of the gross floor area of any structure by twenty percent (20%) or more above that in existence prior to the effective date of the ordinance codified herein.
    - c. A change of use. Prior to issuance of a building permit or granting of a change in use, the applicant shall demonstrate that the property will comply with all applicable regulations in this Chapter.
  - (4) All buildings, parking areas, landscaping, signs and other improvements addressed by the development standards in this Chapter shall be constructed and installed in accordance with the approved plans filed with the Town prior to issuance of a certificate of occupancy for the building or use.
  - (5) The Town Planner may allow certain improvements to be constructed or installed within an agreed-upon time allowing for seasonal changes. Such arrangements may involve performance bonds or other methods as deemed appropriate by the Town Planner to assure eventual compliance with this Chapter.
  - (6) Every building shall be located and maintained on a lot as defined in this Chapter.
  - (7) No parcel of land which has less than the minimum width, depth and area requirements for the zone in which it is located may be divided from a larger parcel of land for the purpose, whether immediate or future, of building or development as a lot.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

**Sec. 16-1-70. Overlapping regulations.**

Except with respect to approved official development plans and final development plans for land zoned Planned Development (PD), whenever a provision of this Chapter and any other provision of this Chapter, other law ordinance, resolution, rule or regulation of any kind contains any restrictions which cover the same subject matter, the more restrictive requirements shall govern.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

**Sec. 16-1-80. Violations.**

Land in the Town shall not be used, nor any building or structure erected, constructed, enlarged, altered, maintained, moved or used, in violation of this Chapter or amendments thereto. The Board of Trustees, through the Town Attorney and courts of appropriate jurisdiction, which includes the Municipal Court, may initiate legal or other appropriate action to prevent, abate or remove such unlawful use, maintenance, erection, construction, reconstruction or alteration, in addition to any other remedies provided by law. Any such violation of this Chapter shall be considered unlawful.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

**Sec. 16-1-90. Enforcement.**

- (a) Issuance of Permits. All officials, employees and consultants of the Town vested with the duty or authority to issue permits shall not issue any permit, certificate or license in conflict with the provisions of this Chapter. Any such permit, certificate or license issued in conflict with the provisions of this Chapter shall be null and void.
- (b) Enforcement Responsibilities.
  - (1) It shall be the duty of the Board of Trustees to enforce the provisions of this Chapter pertaining to the use, maintenance, erection, construction, reconstruction, alteration, moving, conversion or addition to any building or structure.
  - (2) No permits shall be issued by any officer of the Town for the construction of any building or other improvements requiring a permit, upon any unplatted land, unless and until the requirements hereof have been complied with.
  - (3) No building or construction permit shall be issued prior to approval of the plot plan or site development plan unless the property has been specifically exempted from the development process by definition or by official action of the Board of Trustees, after Planning Commission review.
  - (4) No plot plan or site development plan shall be approved by the Board of Trustees unless such property is classified in the appropriate zoning district as defined in this Chapter.
  - (5) Any person engaging in development, change of use, modification or enlargement of use of any land, building or structure that is subject to this Chapter who does not obtain any necessary permits, approvals or variances as prescribed by this Chapter, who does not comply with permit, approval or variance requirements, who acts outside the authority of the permit, approval or variance or who otherwise violates any of the provisions of this Chapter, may be enjoined by the Town from engaging in such activity and may be subject to the procedures and penalties described below.
    - a. No building or structure shall be erected, moved or structurally altered unless a building permit has been issued by the Building Official or his authorized representative. All building permits shall be issued in conformance with the provisions of this Zoning Ordinance, and

## CHAPTER 16 Zoning

all other applicable regulations and shall be valid for a period of time not exceeding one (1) year from the date of issue.

- b. No land or building shall hereafter be changed in use, nor shall any new structure, building or land be occupied or used, unless the owner shall have obtained a certificate of occupancy from the Building Official. After inspection by the Building Official and provided that the use shall be in conformance with the provisions of this Chapter and all other applicable regulations, a certificate of occupancy shall be issued. A copy of all certificates of occupancy shall be filed by the Building Official and shall be available for examination by any person with either proprietary or tenancy interest in the property or building.
- c. The Town is empowered, pursuant to Article 5 of this Chapter, to order in writing the remedy of any violation of any provision of this Chapter. After any such order has been served, no work on or use of any building, other structure or tract of land covered by such order shall proceed, except to correct such violation or comply with said order.
- d. Building permits for new nonresidential construction may be referred to the Town Planner and Town Engineer for review of necessary public improvements.
- e. The Town shall not accept any land use application for property currently being used or occupied in violation of this Chapter unless said application seeks to obtain an approval by the Town that would cause the property to be in compliance with the regulations of the Town.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

### **Sec. 16-1-100. Penalties.**

Any violation of the provisions of this Chapter shall be subject to the penalties provided for in Section 1-4-20 of this Code.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012; Ord. 04 §1, 2014)

### **Sec. 16-1-110. Severability.**

If any part, subpart, section, paragraph, sentence, clause or phrase of this Chapter is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this Chapter.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

### **Sec. 16-1-120. Repeal and effective date.**

- (a) All amendments, extensions or initial legislation to this Chapter are hereby declared null and void and superseded by this Chapter.
- (b) Such repeal shall not affect or prevent the prosecution or punishment of any person for the violation of any Regulation repealed hereby, for any offense committed prior to the repeal.
- (c) This Chapter is effective as of thirty (30) days after final publication hereof.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

**Sec. 16-1-130. Correction of obvious errors.**

Nothing in this Chapter shall be construed as a limitation upon the power of the Board of Trustees, Town Administrator, Town Attorney or Town Planner to correct obvious typographical or compositional errors, provided that:

- (1) Such corrections shall not change the legal effect of this Chapter or any part thereof.
- (2) Such corrections will be reported to the Board of Trustees.
- (3) An errata supplement shall be attached to all copies of this Chapter distributed subsequent to the making of such corrections.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

**Sec. 16-1-140. Amendment.**

The process for the amendment of this Chapter shall be as specified in Section 16-5-60 of this Chapter.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

**Sec. 16-1-150. Definitions.**

Definitions are included as Article 6 of this Chapter.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

**Sec. 16-1-160. Vested property rights.**

- (a) Intent. This Article is intended to define a site specific development plan for the Town pursuant to Section 24-68-103, C.R.S., and to establish a procedure to govern the creation of vested rights in accordance with Section 24-68-101, et seq., C.R.S. Nothing in this Article is intended to create a vested property right, but only to implement the provisions of Section 24-68-101, et seq., C.R.S.
- (b) Definition of Site Specific Development Plan. For purposes of this Article, site specific development plan means:
  - (1) For multi-family residential units, apartments and condominiums, the final plat.
  - (2) For commercial and single-family residential construction, the site development plan.
- (c) Creation of Vested Rights.
  - (1) No vested rights shall be created except by the approval of a site specific development plan by the Board of Trustees or by a development agreement between the Town and the applicant or landowner. Such agreement shall be construed in accordance with the terms and conditions of said agreement and not limited nor expanded by the provisions of this Article.
  - (2) If the applicant seeks approval of a site specific development plan to create vested property rights, the plan shall include a statement that it is being submitted for designation as a site specific development plan. Failure to include such statement shall result in no vested property rights being created by the approval of the site specific development plan.
- (d) Other Regulations. Approval of a site specific development plan shall not constitute an exemption from or waiver of any other provisions or requirements of the Town pertaining to the development and use of the property adopted before the approval of a site specific development plan.

## CHAPTER 16 Zoning

- (e) Waiver or Forfeiture.
- (1) Failure to abide by any terms or conditions imposed by the Town on the approval of any site specific development plan shall constitute a forfeiture of any vested right created by the plan unless otherwise expressly agreed to by the Town in writing.
  - (2) A petition for annexation to the Town shall describe all vested property rights approved by any local government in effect at the time of the petition, if any, and be accompanied by all site specific development plans approved by any local government. Failure to so identify any previously approved vested property right and provide all approved site specific development plans shall constitute a waiver of the vested property right created by any other local government upon annexation to the Town, unless expressly provided otherwise in the annexation ordinance adopted by the Town.
  - (3) A site specific development plan submitted by a landowner and approved by the Town as provided in this Article shall supersede any prior vested property rights for that property, and the landowner waives any right to claim a vested property right by a site specific development plan previously approved by the Town or any other local government for the property.
- (f) Notice. It shall be the applicant's responsibility to comply with the publication requirements of Section 24-68-103(1)(c), C.R.S., following approval of a site specific development plan by the Town.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

### **Sec. 16-1-170. Expiration of land use approvals.**

- (a) Approval by the Board of Trustees of any final development plan, subdivision plat, special review use, grading permit or any other land use approval that does not constitute an amendment to the Zoning Map shall remain in effect for one (1) year. Any approval of such an application for which a grading permit or building permit has not been applied for or for which the use has not been otherwise commenced within one (1) year after approval has been obtained shall be null and void. An extension of time of up to six (6) months may be granted by the Board of Trustees upon a finding of good cause. If such an approval expires, the applicant shall be required to resubmit a new application and fee for the same project.
- (b) Nothing in this Article shall be construed to prevent an applicant from obtaining vested rights pursuant to Section 16-1-160 for a site specific development plan within the meaning of Section 24-68-102(4), C.R.S.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

### **Sec. 16-1-180. Permit revocation.**

A zoning, sign, building, special review use, other permit or any certificate of occupancy issued under the provisions and procedures of this Chapter may be revoked by an authorized representative of the Town if the permit recipient fails to develop, improve or maintain the property in accordance with the approved plans, the requirements of this Chapter or any additional requirements lawfully imposed by the Town.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

## **ARTICLE 2 Zoning Districts**

[Sec. 16-2-10. Districts established.](#)

[Sec. 16-2-20. Zoning map.](#)

[Sec. 16-2-30. Minimum sizes for new districts.](#)

[Sec. 16-2-40. Listing of permitted uses.](#)

[Sec. 16-2-45. Medical marijuana and marijuana establishments - prohibited.](#)

[Sec. 16-2-50. Large Lot Rural Residential District \(RR\).](#)

[Sec. 16-2-60. Village Commercial District \(VC\).](#)

[Sec. 16-2-70. Planned Development District \(PD\).](#)

[Sec. 16-2-80. Submittal and processing requirements for official development plan.](#)

[Sec. 16-2-90. Amendments to official development plan.](#)

[Sec. 16-2-100. Obsolete official development plan.](#)

[Sec. 16-2-110. Submittal and processing requirements for final development plan.](#)

**Sec. 16-2-10. Districts established.**

(a) Districts Established. The Town is hereby divided into the following zoning districts:

- (1) RR - Large Lot Rural Residential.
- (2) VC - Village Commercial.
- (3) PD - Planned Development.

(b) Characteristics and Objectives. This Article describes the locational, natural and built characteristics and attributes which shall be applied to each zoning district classification for particular land parcels. In addition, this Article describes the desired characteristics, functions and attributes of appropriate uses for the zone district, carrying out the intent of the Town's Comprehensive Plan. Appropriate uses shall be located and designed to fulfill the desired characteristics and objectives of the zone district in which they fall.

(c) Use Regulations. Each zone district includes the following categories.

- (1) Permitted principal uses are uses by right, which are permitted anywhere within the particular zone district in which they are identified. Permitted principal uses, other than a single-family dwelling unit, require site development plan approval. Single-family dwelling units require plot plan approval. All structures require building permit approval.
- (2) Permitted accessory uses are a use by right that are customarily incidental to the identified permitted principal uses, provided that they meet any applicable regulations. Permitted accessory uses require plot plan approval and building permit approval.
- (3) Special review uses are uses that may be allowed in the zoning district indicated subject to any applicable regulations. Special review uses may be permitted if it can be demonstrated that the location and the site proposed for the use are appropriate, facilitating the use in a manner which supports the purposes of the zone district and which is compatible with the surrounding area. Additional uses which are not listed, but which are consistent with the purpose and objectives of the zone district and are similar in character and level of impacts as identified in the permitted principal and accessory uses for the zone district, may also be permitted subject to review. Special review uses require the issuance of a permit approved by resolution of the Board of Trustees, after public hearings before the Planning Commission and the Board of Trustees.

(d) Dimensional Requirements. Dimensional requirements are minimum restrictions which apply to the siting and massing of buildings and structures on the lot, from which no variance will be permitted,

## CHAPTER 16 Zoning

except as provided under variances and appeals, planned developments and nonconforming uses, structures, lots and parking. Dimensional requirements include:

- (1) Minimum lot area and or maximum gross density.
  - (2) Minimum lot width.
  - (3) Front yard setbacks.
  - (4) Side yard setbacks.
  - (5) Rear yard setbacks.
  - (6) Minimum open space.
  - (7) Maximum impervious coverage.
  - (8) Maximum building height.
  - (9) Minimum separation between structures.
- (e) Development Standards. Development standards are minimum standards that development and uses within the zone district must meet to obtain site development plan or plot plan approval. Development standards specific to each zone district are listed within each zone district. General regulations and standards pertaining to all zone districts are found in Article 3 and apply to both residential and nonresidential development.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

### **Sec. 16-2-20. Zoning map.**

- (a) Zoning Map Adopted. The location and boundaries of the zone districts established by this Chapter are shown on the Zoning District Map of the Town. The Zoning District Map, together with all data shown thereon and all amendments thereto, is by reference made part of this Chapter. The Zoning District Map shall be identified by the signature of the Mayor and attested by the Town Clerk and shall bear the seal of the Town and the date of adoption. The Zoning District Map shall be located in the office of the Town Clerk and shall be available for inspection upon reasonable notice.
- (b) District Boundaries. Except where otherwise indicated, zone district boundaries shall follow municipal corporation limits, section lines, lot lines, right-of-way lines or extensions thereof. In property where a zone district boundary divides a lot or parcel, the location of such boundary, unless indicated by legal description with distance and bearing or other dimensions, shall be determined by using the graphic scale of the Zoning District Map. In interpreting the Official Zoning Map, unless otherwise specified on the Official Zoning Map, zone district boundary lines are intended to be property ownership lines or lot lines; centerline of streets, alleys, channelized waterways or similar rights-of-way; the centerline of blocks; section or township lines; municipal corporate boundaries; the centerline of stream beds; or other lines drawn approximately to scale on the Official Zoning Map.
- (c) Boundary Clarification.
  - (1) In the event that a zone district boundary is unclear or is disputed, it shall be the responsibility of the Town Planner to determine the intent and actual location of the zone district boundary.
  - (2) Any appeal of the determination of the zone district boundary made by the Town Administrator shall be heard by the Board of Adjustment in accordance with the procedures outlined in Article 5. The Town Planner shall have the final determination.
- (d) Amendments to Map. Changes in the boundaries of any zone district shall be made only upon amendment to this Chapter and shall promptly be entered on the Zoning District Map with an entry on the map giving the number of the amending ordinance and the date with the signature of the Mayor, attested by the signature of the Town Clerk.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

**Sec. 16-2-30. Minimum sizes for new districts.**

Unless contiguous to the same zone district, all newly created zone districts shall be at least five (5) acres in size. PD Zone Districts shall be a minimum of seven and one-half (7.5) acres in size. When contiguous to an existing district of the same designation, these minimums shall not apply.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

**Sec. 16-2-40. Listing of permitted uses.**

No use shall be allowed in any zone district unless it is specifically enumerated as an allowed principal use or accessory use in the particular zone district or a special review use has been approved. Designations in lists of uses shall be determined as follows:

- (1) Permitted principal uses are uses by right and are permitted anywhere within the zone districts indicated. All principal and accessory uses require a building permit approval.
- (2) Permitted principal uses, other than a single-family dwelling unit, which only require a plot plan, require a site development plan.
- (3) Uses indicated as accessory uses are permitted only if they meet specific criteria contained in this Chapter and can demonstrate that they are clearly accessory to the principal use. No accessory uses are allowed if not associated with a principal use and are not allowed if the principal use has not been established.
- (4) A special review use may be allowed in the district indicated if it can be demonstrated that the location and the site proposed for the use is appropriate, facilitates the use in a manner which support the purposes of the zone district and is compatible with adjacent properties and uses. Special review uses require the issuance of a permit after public hearings have been held before Planning Commission and the Board of Trustees.
- (5) Uses not listed as permitted principal or permitted accessory uses require determination by the Town Planner. The Town Planner will determine if a principal use or permitted use not listed in this Article for the district in which the use is proposed is similar in character and impact to those listed. If it is determined by the Town Planner to be a substantially different use, then it will be considered and deemed to be prohibited in that zone district.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

**Sec. 16-2-45. Medical marijuana and marijuana establishments - prohibited.**

- (a) The use of property as a medical marijuana center, an optional premises cultivation operation or a facility for which a medical marijuana-infused products manufacturers' license could otherwise be obtained within the Town are all uses prohibited in any zone district.
- (b) The use of property as a marijuana cultivation facility, marijuana product manufacturing facility, marijuana testing facility or retail marijuana store are all uses prohibited in any zoning district in the Town.
- (c) The use of property as a marijuana club is a use prohibited in any zoning district in the Town. For purposes of this Section, the term marijuana club means an organization that allows members and their guests to consume marijuana or marijuana products on the premises in a non-residentially zoned area.

(Ord. 04 §1, 2013)

**Sec. 16-2-50. Large Lot Rural Residential District (RR).**

- (a) Characteristics and Objectives. The Large Lot Rural Residential District is designed to accommodate very low-density single-family residential uses on large lots. The purpose of the RR Zone District is to promote the continuance of single-family neighborhoods by:
  - (1) Allowing for larger lot development that assists in retaining the rural residential character of the Town;
  - (2) Allowing for limited home occupations; and
  - (3) Ensuring that new development retains the natural conditions of the environment and preserves the openness of the land.
- (b) Use Regulations.
  - (1) Permitted principal uses:
    - a. Single-family detached dwelling units.
    - b. Well-maintained and landscaped open space or neighborhood parks with structures of no more than five thousand (5,000) square feet.
  - (2) Permitted accessory uses:
    - a. Structures and uses, subordinate and incidental to the permitted principal structure or use, located on the same lot. Any structure less than one hundred twenty (120) gross square feet shall not be deemed an accessory structure within the meaning of this Article; however, all structures, regardless of size, must meet established setbacks, separation between structures and all other dimensional requirements specified in Subsection (c) below.
    - b. Parking for the principal use.
    - c. Home occupations, as specified in Section 16-4-10 of this Chapter.
    - d. Keeping of animals as specified in Section 16-4-20 of this Chapter. Kennels are prohibited in the RR Zone District.
    - e. Private garages.
    - f. Shelter for agricultural implements and tools used to maintain premises.
    - g. Stables and barns.
    - h. Greenhouses (products to be for use or consumption of lot residents only) not to exceed two hundred (200) square feet GFA.
    - i. Sporting courts, tennis courts, swimming pools and other similar structures, provided that they are located in the side or rear yard of the zoning lot.
    - j. Alternative energy technologies, including but not limited to roof or ground-mounted solar arrays and solar voltaic systems, that serve a single residence or structure are permitted by right and may be constructed as an accessory use on any lot so long as such a use does not create an unreasonable visual impact to any adjacent property.
    - k. Small wind energy conversion systems that are noncommercial and do not exceed fifteen (15) feet in height.
    - l. Other uses which are clearly accessory or incidental to the primary permitted uses.
  - (3) Special review uses:

## CHAPTER 16 Zoning

- a. Public buildings, civic facilities, schools (except public schools exempt from municipal land use control pursuant to state law) and places of worship.
  - b. An owner-occupied or nonprofit group home for the aged and homes for the developmentally disabled, handicapped and mentally ill, as these terms are defined by Section 31-23-303, C.R.S., may be permitted if it serves as a permitted principal use and is for no more than eight (8) persons, is not located within seven hundred fifty (750) feet of another such group home and the owner or operator resides and maintains primary residency within the group home. Where nine (9) or more persons are to occupy a group home or if the group home is not defined in Section 31-23-303, C.R.S., such group home shall be permitted only upon approval of a special review use.
  - c. Alternative energy technology not attached to a structure if over fifteen (15) feet in height and antennae exceeding fifteen (15) feet in height.
  - d. Grading of a site that increases or decreases the original elevation by more than four (4) feet.
  - e. Public utilities.
  - f. Temporary structures over one hundred twenty (120) gross square feet.
  - g. Commercial mobile radio service facilities.
- (c) Dimensional Requirements.
- (1) Minimum lot area: One (1) dwelling unit per one hundred five thousand (105,000) square feet, except that any lot in excess of eighty-five thousand (85,000) square feet but less than one hundred five thousand (105,000) square feet that was a parcel of record at the time of the adoption of these Regulations shall be considered a legal zoning lot.
  - (2) Minimum lot width: one hundred twenty-five (125) feet.
  - (3) Minimum open space: fifty percent (50%).
  - (4) Maximum impervious coverage: twenty-five percent (25%).
  - (5) Front yard setback: fifty (50) feet for principal and accessory structures.
  - (6) Side yard setback: twenty-five (25) feet for principal and accessory structures.
  - (7) Rear yard setback: twenty-five (25) feet for principal and accessory structures.
  - (8) Maximum building height: thirty-one (31) feet principal structure; twenty-one (21) feet accessory structure, except that small, ornamental rooftop appurtenances such as weathervanes may project five (5) feet above the roofline. The maximum height of the structure shall be reduced by the average height of any fill that increases the existing grade under or immediately surrounding the structure.
  - (9) Minimum separation between structures: twenty-five (25) feet.
- (d) Development Standards Specific to the RR Zone District.
- (1) Residential development in the RR (Large Lot Rural Residential) Zoning District may be served by public or private water and sanitary sewer systems; provided, however, that, in the event connection is sought to a public sewer system, connection to the public water system shall be required as a condition of connection to the public sewer system. Any development not consisting of solely single-family residences approved in the RR Zoning District shall be served by approved public water and sanitary sewer. Any development that is required to be served by the Town's public water system or any property or development that chooses to be served by the Town's public water system may still use any properly permitted wells for exterior irrigation use only.

## CHAPTER 16 Zoning

- (2) The parking or storage of vehicles, materials and equipment shall be limited to vehicles and equipment intended for the personal use of the owner or occupant of the residence. A business vehicle provided to a resident for personal use is permitted.
- (3) Exterior lights, whether building-mounted or freestanding, shall be hooded or shielded and meet the requirements of an IES full cutoff fixture so as not to cast light on adjacent properties nor dilute the night sky. Building-mounted exterior lights shall not protrude above the eave line. Freestanding lights shall not exceed twenty-five (25) feet in height. Lights installed for the purpose of outdoor activities must be extinguished between the hours of 10:00 p.m. and 7:00 a.m. the following day.
- (4) No accessory structure shall contain residential living quarters.
- (5) Accessory structures and uses are not permitted unless and until the principal permitted use has been established on the property.
- (6) The total building coverage (footprint) of all accessory structures may not exceed two thousand (2,000) square feet, and there shall be a maximum of two (2) accessory structures.
- (7) No accessory structure may exceed twenty-one (21) feet in height, except that small, ornamental rooftop appurtenances such as weathervanes may project five (5) feet above the roofline. In addition, accessory structures shall have a maximum side wall height of ten (10) feet from finished grade measured five (5) feet from the foundation. The side wall height may be increased one (1) foot vertically for each additional five (5) feet of setback, beyond the minimum required, to a maximum side wall height of fourteen (14) feet.
- (8) The roof pitch shall approximate the predominant roof pitch on the primary residence.
- (9) Any roof overhang constructed on an accessory structure may not encroach into a required front, rear or side yard setback or into the required separation distance between structures.
- (10) Accessory structures that house animals, including stables and barns, shall be located on the rear or side yard of the parcel, not closer than twenty-five (25) feet to property lines and not closer than fifty (50) feet to any dwelling unit.
- (11) Architectural renderings, elevation drawings, materials and site plans for all proposed accessory structures must be submitted to the Town Planner.
- (12) The exterior finish and design of an accessory structure shall either be visually similar to the primary structure on the property as specified below or the exterior finish and design shall be in the style of a traditional barn or stable as specified below. Greenhouses, pavilions, pergolas, gazebos or similar structures are exempt from this Paragraph.
  - a. Design standards for accessory structures visually similar to the primary structure:
    1. The roof pitch of the accessory structure must approximate the predominant roof pitch of the primary structure.
    2. The exterior finish material and appearance, including but not limited to color, siding, roof material, trim, window style, eaves and overhang, shall be visually similar to the exterior of the principal structure.
  - b. Design standards for accessory structures in the style of a traditional barn or stable.
    1. The exterior shall be a barn or stable design similar to those traditionally used on farms and ranches, including but not limited to designs traditionally used for horse stables, run-in sheds, pole barns, shed row barns, raised center aisle barns, gable, gambrel or hipped roof barns.
    2. Exterior walls may be constructed of any material intended for barn walls. Use of wood material or material that simulates the look of traditional wood barn siding is encouraged.

## CHAPTER 16 Zoning

3. If siding material other than wood, material that simulates wood or steel is used, it shall be painted or stained to visually match the color of the primary structure. If the exterior walls are constructed of material intended for barn walls, they may be painted or stained in colors traditionally used on barns or colors matching the exterior of the primary structure.
4. The use of traditional barn ornamentation and architectural elements commonly used on barns, such as Dutch doors, sliding barn doors, cupolas and weathervanes, is encouraged.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012; Ord. 06 §1, 2013; Ord. 04 §§2, 3, 2014)

### **Sec. 16-2-60. Village Commercial District (VC).**

- (a) **Characteristics and Objectives.** Village Commercial Zone Districts shall be established in those areas which have direct access to Parker Road, Arapahoe Road or South Lewiston Way. The VC Zone District is intended to provide shopping goods and services for surrounding neighborhoods, such as small-scale retail, professional services and restaurants. The intent of this zone district is to encourage a mix of complementary sales tax-generating commercial uses that share ingress and egress with clustered on-site parking and that are linked by pedestrian walkways, corridors and plazas. The intent is to develop a broad mixture of uses within a compact pedestrian-oriented environment and to facilitate small business development and vitality.
- (b) **Use Regulations.** Any of the following uses are permitted.
  - (1) **Permitted principal uses:**
    - a. Establishments for the retail sale of goods or merchandise to the general public for personal or household consumption and rendering services incidental and related to the sale of such goods or merchandise, excluding grocery stores, pawn shops, sexually oriented businesses, used merchandise or thrift stores, and stores where goods are displayed for sale and the merchandise is later delivered.
    - b. Commercial establishments engaged in providing personal services provided that no more than twenty percent (20%) of the Gross Floor Area (GFA) on any particular platted lot within the zone district is comprised of this permitted principal use.
    - c. Eating and drinking establishments.
  - (2) **Permitted accessory uses:** Accessory uses, not exceeding ten percent (10%) of the Gross Floor Area (GFA) and wholly included within the principal building.
  - (3) **Special review uses:** Drive-through restaurant.
- (c) **Dimensional Requirements.**
  - (1) **Minimum lot area:** Twenty thousand (20,000) square feet.
  - (2) **Minimum lot width:** Thirty (30) feet of frontage on a public street or easement.
  - (3) **Maximum impervious coverage:** Eighty-five percent (85%).
  - (4) **Minimum open space:** Fifteen percent (15%).
  - (5) **Maximum building height shall be thirty-five (35) feet.**
  - (6) **Setbacks:**
    - a. **Front lot setback:** Zero (0) feet.
    - b. **Side and rear lot setback:** Fifty (50) feet if the lot line is adjacent to property in the Large Lot Rural Residential zone district. Zero (0) feet if the lot line is adjacent to any other zone district or across a street from property in the Large Lot Rural Residential zone district.

## CHAPTER 16 Zoning

- (d) Development Standards for the VC Zone District.
- (1) All buildings and structures must also adhere to the general regulations and standards in Article 3 of this Chapter.
  - (2) Entrances to buildings shall be designed to ensure smooth and safe pedestrian circulation and ease of snow removal.
  - (3) Loading and unloading facilities shall be located in the rear of buildings and shall be screened from public view.
  - (4) Buildings will be designed so as to minimize snow shedding and runoff onto pedestrian areas and public ways.
  - (5) Within the VC District, driveways crossing sidewalks on arterial streets may serve parking and loading only, but may not serve any drive-in, drive-through or auto service facility.
  - (6) All activities within the VC District shall be wholly contained within buildings except for access, parking, loading and, if screened by sight impervious fencing or plantings, storage and refuse containers.
  - (7) New development shall minimize unused or unusable public or private areas in the side or rear yards.
  - (8) All development within the VC District shall be designed to:
    - a. Reduce the number of access points onto an arterial or collector street.
    - b. Minimize adverse impacts on any existing or planned residential uses.
    - c. Improve pedestrian or vehicle safety within the site and egressing from it.
    - d. Reduce the visual intrusion of parking areas, screened storage areas and similar accessory areas and structures.
    - e. Reduce the number of removed trees measuring four (4) inches in diameter and taller than five (5) feet above ground level.
  - (9) Parking and loading areas within the VC Zone District that are adjacent to residential properties must be screened from view, by use of a combination of fences, berms and landscaping.
  - (10) All development including buildings, walls and fences shall be so designed and sited to:
    - a. Complement existing development in scale and location;
    - b. Provide sidewalks at least five (5) feet in width or an off-road system of pedestrian and bicycle trails of greater than five (5) feet in width; and
    - c. Create pocket parks or green spaces that are accessible to the public and at a minimum provide seating and landscaping.
  - (11) An exterior front wall of a building (street grade) shall not exceed an increment of twenty-five (25) feet without being differentiated by providing structural bays, clearly expressed columns or other architectural elements to add interest at the sidewalk edge.
  - (12) All development within the VC Zone District must be served by approved public water and sanitary sewer systems.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012; Ord. 04 §4, 2014; Ord. 01, § 1, 2015)

### **Sec. 16-2-70. Planned Development District (PD).**

- (a) Purpose and Objectives. Planned developments are intended to facilitate the purposes and objectives of this Chapter and the Town's Comprehensive Plan and to permit the application of

## CHAPTER 16 Zoning

additional site, land planning and design concepts in land development than may be possible under the application of standard zone districts of Large Lot Rural Residential or Village Commercial. Developments, however, must demonstrate that flexibility from the provisions of the existing zoning will result in higher quality development. An applicant for a PD Zone District designation must demonstrate that one (1) or more of the following purposes can be achieved:

- (1) The provision of necessary commercial, recreational and educational facilities conveniently located to housing;
  - (2) The encouragement of innovations in residential, commercial and limited industrial development and renewal so that the growing demands of the area population may be met by greater variety in type, design and layout of buildings and by the conservation and more efficient use of open space ancillary to said buildings;
  - (3) A better distribution of induced traffic on the streets and highways;
  - (4) Conservation of the value of the land; and
  - (5) Preservation of the site's natural characteristics.
- (b) Conditions. The use of the PD Zone District must be in accordance with the Town's Comprehensive Plan and is dependent upon the submission of an acceptable plan and satisfactory assurances that the plan will be carried out.
- (1) The PD is an entire development program concept and shall be reviewed as a whole.
  - (2) A PD may be developed for any property within the Town that is greater than seven and one-half (7.5) acres in size.
  - (3) The Planned Development shall be considered by the Planning Commission and Board of Trustees from the point of view of the relationship and compatibility of the individual elements, which make up the development in accordance with the provisions of this Chapter.
  - (4) The parcel being considered for a PD must be a legal building lot.
  - (5) Phasing of development: Each phase within a PD shall be so planned and so related to the existing surroundings and available facilities and services that failure to proceed to the subsequent stages will not have an adverse impact on the PD or its surroundings at any stage of the development.
  - (6) Consent of landowners required. No Planned Development may be approved by the Planning Commission or Board of Trustees without written consent or a letter of authorization of the landowners whose properties are included within the PD. All owners of land within the proposed PD shall sign each application form requesting consideration or approval of any PD.
- (c) Standards Generally. The following standards and requirements shall govern the application of a Planned Development:
- (1) No PD shall be approved without an official development plan setting forth the provisions for development of the PD, including but not necessarily limited to development standards, allowable uses, location and bulk of buildings and other structures; density of development; utilities, streets, roads, pedestrian areas and parking; common (or dedicated) open spaces; and other public facilities.
  - (2) A Planned Development Zone District is created as an amendment to the Official Zoning Map if it is consistent with the intent and policies of the Town's Comprehensive Plan and upon approval of an application for zoning or rezoning. Land uses within a Planned Development Zone District development may be multiple in nature and may include uses not otherwise permitted within the same zone district. The location and relationship of these uses shall be as established in and conform to the policies and standards contained within the Comprehensive Plan and other appropriate adopted and approved plans.
  - (3) Each development phase shall provide its planned share of open space, recreational facilities and common amenities. The official development plan shall include mechanisms to coordinate

## CHAPTER 16 Zoning

the provision and improvement of open space, recreational facilities and common amenities with the construction of any nonresidential space, dwelling units or other land uses.

- (4) The official development plan shall include adequate, safe and convenient arrangements for pedestrian and vehicular circulation, off-street parking and loading space.
  - (5) The PD is a negotiated zone district. While there may be no fixed lot size or lot widths, the Planning Commission and Board of Trustees require minimum dimensional standards including setbacks, height, parking, space between buildings as necessary to provide adequate access and fire protection, to ensure proper ventilation, light, air and snow melt between buildings and to ensure that the PD is compatible with other developments in the area and that the PD does not adversely impact areas zoned Large Lot Rural Residential (RR). If the official development plan does not specify lot size, setbacks or other dimensional requirements for a particular use within the PD, such dimensional requirements shall be those dimensional requirements otherwise required for the particular use under this Chapter.
  - (6) The plans for the proposed PD shall indicate the particular portions of the project that the developer intends to develop under various use categories. Densities, averages and permitted uses shall be detailed for all development areas within the PD Zone District. A summary chart indicating development standards applicable to the entire PD and/or separate areas within the PD is required.
  - (7) Open space for the PD shall be planned to produce maximum usefulness to the residents of the development for purposes of recreation, provision of view corridors and scenery and to produce a feeling of openness. All areas designated as common or public open space pursuant to the requirements of this Section shall be accessible by proper physical and legal access ways.
  - (8) The developer shall provide within the PD central water, wastewater and stormwater drainage facilities as required by the Town.
  - (9) The development shall be designed to provide for necessary commercial, recreational and educational facilities conveniently located to residential housing.
  - (10) Clustered development and a mix of uses shall be encouraged to promote maximum open space, economy of development and variety in type, design and layout of buildings.
  - (11) Relationship to the Subdivision Regulations. All development within a PD Zone District requires a subdivision plat. The provisions of this Chapter concerning Planned Developments are not intended to eliminate or replace the requirements applicable to the subdivision of land or air space, as defined in state statutes and the ordinances and regulations of the Town. However, the uniqueness of each PD may require that specifications for the width and surfacing of streets, public ways, public utility rights-of-way, curbs and other standards may be subject to modifications from the specifications established in the Subdivision Regulations adopted by the Town, if the reasons for such exceptions are well documented. Modifications may be incorporated only with the approval of the Planning Commission and Board of Trustees as a part of their review of the official development plan for a PD and shall conform to acceptable engineering, architectural and planning principles and practices.
- (d) Standards for Approval. The following standards shall be utilized by the Planning Commission and the Board of Trustees in evaluating any plan for Planned Development:
- (1) Open space. A minimum of eight percent (8%) of the total nonresidential PD area and twenty-five percent (25%) of any residential use shall be devoted to open lands, useable open space and common areas that are public or quasi-public. No more than five percent (5%) of the required percentage of usable open space shall be in the form of water surfaces, floodplains, steep slopes or storm water detention areas. Acreage dedicated for school sites and other public land dedications shall be considered at a negotiated percentage in the open space calculation.
  - (2) Residential density. Residential density shall be limited to one (1) dwelling unit per acre unless the applicant pursues a major amendment to the adopted Comprehensive Plan.

## CHAPTER 16 Zoning

- (3) Gross building floor area. The gross building floor area of any use may be limited as required by the Board of Trustees upon consideration of the official development plan and individual characteristics of the subject land.
  - (4) Architecture. The following architectural standard is intended to prevent monotonous streetscapes and to avoid uniformity and lack of variety in design among nonresidential development within any PD. Building facades facing a primary access street or a parking area should have clearly defined, highly visible pedestrian entrances that feature the following:
    - a. Canopies or porticos;
    - b. Overhangs, recesses/projections;
    - c. Distinctive roof forms;
    - d. Arches;
    - e. Outdoor patios, plazas or courtyards;
    - f. Display windows; and/or
    - g. Planters or wing walls that incorporate landscaped areas and/or places for sitting.
  - (5) The PD shall provide an adequate internal street circulation system designed for the type of traffic generated, safety and separation from living areas, convenience and access. Private internal streets may be permitted, provided that adequate access for police and fire protection is maintained and provisions for using and maintaining such streets are imposed upon the private users and approved by the Planning Commission and Board of Trustees. Bicycle lanes, horse paths and trails shall be provided for, if appropriate for the land use.
  - (6) The PD shall provide parking areas in conformance with the minimum parking standards of this Chapter in terms of number of spaces for each use, location, dimensions, circulation, landscaping, safety, convenience, separation and screening.
  - (7) The PD shall strive for optimum preservation of the natural features on the site.
  - (8) Any residential PD shall provide for a variety in housing types and densities, other facilities and common open space.
  - (9) Any residential PD shall provide adequate privacy between dwelling units.
  - (10) The PD shall provide pedestrian ways adequate in terms of safety, separation, convenience and access to points of destination.
  - (11) The uses within any PD must be served by an approved public water and sanitary sewer system.
  - (12) The maximum height of buildings may be increased or decreased above the maximum permitted for like buildings in other zone districts in relation to the following characteristics of the proposed building:
    - a. Its geographic location;
    - b. The probable effect on surrounding slopes and terrain;
    - c. Unreasonable adverse visual effects on adjacent sites or other areas in the vicinity;
    - d. Potential problems for adjacent sites caused by shadows, loss of air circulation or loss of view;
    - e. Influence on vistas and open space;
    - f. Uses within the proposed building; and
    - g. Fire protection.
- (e) Common Open Space and Maintenance.

## CHAPTER 16 Zoning

- (1) Organization for maintenance. No PD shall be approved unless the Board of Trustees is satisfied that the landowner has provided for or established an adequate organization for the ownership and maintenance of common open space and private roads, drives and parking to ensure maintenance of such areas.
- (2) Lot area and coverage, setbacks and clustering. In a multi-lot PD, the averaging of lot areas shall be permitted to provide flexibility in design and to relate lot size to topography, but each lot shall contain an acceptable building site. The clustering of development with usable common open areas shall be permitted to encourage provision for and access to common open areas and to save street and utility construction and maintenance costs. Such clustering is also intended to accommodate contemporary building types, which are not spaced individually on their own lots but share common side walls, combined service facilities or similar architectural innovations, whether or not providing for separate ownership of land and buildings.
- (3) Maintenance provisions. In the event that the organization established to own and maintain common open space or any successor organization, shall at any time after approval of the Planned Development fail to maintain the common open space in reasonable order and condition, the following procedures may be initiated by the Board of Trustees:
  - a. The Board of Trustees may serve written notice upon such organizations or upon the owners of the lots within the PD setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition, and the notice shall include a demand that such deficiencies of maintenance be cured within thirty (30) days thereof and shall state the time, date and place of a hearing thereon, which shall be held within fifteen (15) days of the date of notice.
  - b. At such hearing, the Board of Trustees may modify the terms of the original notice as to deficiencies and may give an extension of time within which they shall be cured.
  - c. If the deficiencies set forth in the original notice and in the modifications thereof are not cured within the period set, the Town, in order to preserve the taxable values of the properties within the PD and to prevent the common open space from becoming a public nuisance, may enter upon the common open space and maintain the same for a period of one (1) year. Such entry and maintenance shall not vest in the public any rights to use the common open space except when it is dedicated to the public by the owners.
  - d. Prior to the expiration of the year of Town maintenance, the Board of Trustees shall call a public hearing upon notice to the organization responsible for the maintenance of the open space or to the residents of the Planned Development, at which hearing the organization or the residents shall show cause why such maintenance by the Town shall not continue for the succeeding year. If the Board of Trustees determines that the responsible organization is not ready and able to maintain the open space in a reasonable condition, the Town, in its discretion, may continue to maintain the open space during the next succeeding year and, subject to a similar hearing and determination, in each year thereafter.
  - e. The cost of maintenance by the Town shall be paid by the owners of properties within the PD who have a right of enjoyment of the open space, and any unpaid assessment shall become a tax lien in the office of the County Clerk and Recorder upon the properties affected by such lien to the Board of Trustees and Town Treasurer for collection, enforcement and remittance in the manner provided by law for the collection, enforcement and remittance of general property taxes.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

### **Sec. 16-2-80. Submittal and processing requirements for official development plan.**

- (a) Application Process for Official Development Plan. The Planned Development process requires the preparation of an official development plan for any project proposed for PD Zone designation and the

## CHAPTER 16 Zoning

preparation of a final development plan for each phase of the PD. An applicant must enter the subdivision process no later than at the time of final development plan preparation. An official development plan is the first step in the PD process. This document establishes the permitted uses, siting restrictions and official development controls and standards for the entire PD Zone. The official development plan constitutes the zoning plan for the property. The Board of Trustees may adjust official development plans over time to reflect changing conditions through minor and major adjustments. See Section 16-2-90. No building, structures or improvements shall be constructed without first obtaining approval for a final development plan and final subdivision plat.

- (b) Application Form, Application Fee and Cost Reimbursement Agreement. The Town Clerk shall provide land use application forms, an application fee schedule and a cost reimbursement agreement form to the applicant. Applicants for land development approvals are responsible for the costs of processing and review by the Town, as well as the Town's cost for notification and publication. The amount to be paid shall be determined based on the current Town Fee Schedule to be established by resolution. An applicant for Planned Development Zoning shall submit an original signed application form and required number of paper plan set copies to the Town Planner for review of completeness and subsequent referral to the Town Attorney, Town Engineer and other agencies for comment. Additional copies may be required after initial review. A signed cost reimbursement agreement shall accompany the original application. The applicant shall include the following information with the application form:
  - (1) Applicable fees.
  - (2) Letter of intent explaining the uses, type of development proposed and reasons for the requested PD Zone classification.
  - (3) List names and addresses of property owners within seven hundred fifty (750) feet and one (1) set of mailing labels for the properties.
  - (4) Proof of ownership.
- (c) Preapplication Conference (Step 1). The applicant is required to have a meeting with the Town Planner. The meeting shall occur prior to submitting a zoning or rezoning application for a PD Zone designation.
  - (1) The purpose of this meeting is:
    - a. To review the general feasibility of the proposal;
    - b. To inform the applicant about procedures, process and submittal requirements;
    - c. To review applicable development standards and provide the applicant with any other information necessary to ensure that the formal application furthers the intentions stated within the adopted Comprehensive Plan and meets the objectives and requirements of the Town; and
    - d. To allow the applicant to ask questions to determine all known issues and concerns about the proposal. (NOTE: Town staff's opinions presented during the preapplication conference are intended to be informational only and do not represent a commitment on behalf of the Town regarding the acceptability of the proposal.)
  - (2) In addition to a preapplication review with the Town Planner, the Town Engineer shall review the PD zoning application to determine if public improvements may be necessitated because of the zoning or rezoning. If public improvements are necessary, the standards, criteria, timing and extent of the public improvements as specified by the Town Engineer shall be outlined in a public improvements agreement detailing the owner's obligations to design and construct the public improvements necessary to serve the development. The public improvements agreement shall be executed prior to the recordation of the required final subdivision plat. The need for public improvements shall consider:
    - a. The extent of existing and contemplated development of the surrounding area.
    - b. The need to ensure that the health, safety and welfare of the public will be maintained.

## CHAPTER 16 Zoning

- c. Whether the zoning or rezoning may ultimately create a need for public improvements to serve the area.
  - d. All rights-of-way, easements and access rights shall be required at the time of zoning or rezoning and other public improvements shall be constructed at a time designated by the Town Engineer.
- (3) Within fourteen (14) days after the date of the preapplication review, the Town Planner shall notify the applicant in writing of its conclusions regarding the desired change with respect to the following items:
- a. Foxfield Municipal Code.
  - b. Appropriateness of the change with respect to the policies set forth in the Comprehensive Plan.
  - c. Need, if any, to replat pursuant to the Subdivision Regulations. Subdivision is required for any PD.
  - d. Any required site development plan considerations.
  - e. General concerns related to the anticipated impact upon public rights-of-way and public improvements and appropriate requirements.
- (d) Mandatory Neighborhood Meeting (Step 2). After receiving the written conclusions of the preapplication review, but prior to filing a formal application, the applicant shall meet with residents and persons owning property in the vicinity of the site. It shall be the obligation of the applicant, unless otherwise waived by the Town, to provide notice of the hearing to the following people or entities:
- (1) The fee owners of the subject property.
  - (2) The applicant.
  - (3) The fee owners of real property within seven hundred fifty (750) feet from the boundary of the subject property.
  - (4) The registered representative of neighborhood homeowners' organizations within one thousand (1,000) feet of the subject property.
- (e) Official Development Plan Submittal (Step 3).
- (1) Graphic Plan. The plan document shall have an outer dimension of 24" x 36" and shall also be duplicated in 11"x17" reproducible size; along with an electronic file, containing the following information:
    - a. Parcel size stated as gross acres and square footage; and perimeter boundary.
    - b. Existing topographical character of the land with elevation contours at ten-foot intervals or less, showing all water bodies and courses, wetlands, floodplains, unique natural features and existing vegetation, critical wildlife habitat as identified by existing habitat conservation plans and/or the Colorado Division of Wildlife.
    - c. Approximate acreage and gross density of each area proposed for residential and nonresidential uses; number and type of residential units; and estimated floor area and types of nonresidential uses.
    - d. Total land area and location and amount of open space.
    - e. Approximate alignment of proposed and existing streets and pedestrian, trail and bicycle routes, including major points of access. Major points of access must be in conformance with the adopted CDOT Access Control Plan.
    - f. Internal traffic and circulation systems, off-street parking areas and loading areas.

## CHAPTER 16 Zoning

- g. Approximate location and number of acres of any public use, such as parks, trails, school sites and other public or semi-public uses.
  - h. Height, yard, lot, setback and other dimensional standards in a development stipulations table as outlined in Appendix 16-A to this Chapter.
  - i. Location of existing and proposed primary utility lines.
  - j. An "existing conditions" map of the area surrounding the site to a distance of at least one-quarter ( $\frac{1}{4}$ ) mile, showing the following:
    - 1. Zoning districts.
    - 2. General location of existing structures (to remain) with square footage and heights.
    - 3. Major public facilities.
    - 4. Location of existing municipal boundaries, service and school district boundaries.
    - 5. Location and building envelope for all new structures and improvements.
  - k. A preliminary landscaping plan that illustrates the following:
    - 1. Areas to be landscaped.
    - 2. General types of plantings (shrubs, trees, groundcover and indicate whether deciduous or coniferous).
    - 3. Berms, buffers and other treatments that serve to mitigate the impact of new development on adjacent land uses.
  - l. Signature blocks for the Board of Trustees, Arapahoe County Clerk and Recorder and owner.
- (2) Written narrative. The applicant shall provide the following written information:
- a. A legal description of the total site, including any recorded easements proposed for development, including a statement of present and proposed ownership. This statement shall include the address of the applicant, all the property owners, developers, parties of interest and any lien holders.
  - b. Evidence of the present ownership or agents thereof of all lands included within the Planned Development in the form of a current commitment for title insurance or title insurance policy issued within thirty (30) days of application.
  - c. A statement of planning objectives.
  - d. A statement of proposed ownership of public and private open space areas.
  - e. A proposed development phasing schedule.
  - f. General physiographic conditions and environmental studies of the proposed site.
  - g. A statement of the proposed method for controlling architectural design throughout the development.
  - h. A generalized drainage plan for the entire project indicating proposed on-site facilities and treatment and abatement of drainage to adjoining properties.
  - i. Water and sewer demand for projected uses and a statement concerning proposed water and sanitary sewer systems, including source and availability prepared by a qualified engineer registered in the State.
  - j. A letter from the Town, appropriate utility districts and boards stating their ability to serve the development with water, sewer, electricity, natural gas, telephone and fire protection service.

## CHAPTER 16 Zoning

- k. A generalized trip generation study for the entire development and its sub-parts. Also, a statement of the general intent of the applicant as regards the use of public versus private roads.
- (f) Completeness Review and Referral.
- (1) Information required for adequate review. Any information or reports required by this Section may be postponed or waived by the Town Planner or Town Engineer on the basis that the information is not necessary for a review of the application. There may be additional information or reports required by the Town staff, the Planning Commission or the Board of Trustees to evaluate the character and impact of the PD Zone request.
  - (2) Acknowledgement of complete application. When all required submissions and copies have been received by the Town Planner, the Town Planner will notify the applicant in writing that the application is complete and the Town Planner shall forward the complete application to the Town Attorney, Town Engineer and other Town consultants. The Town Planner shall determine the number of copies required for each required item.
  - (3) Referral of PD zoning request. Copies of the application shall be referred to the following agencies for their review and comment, if any. Upon receipt of the application for PD zoning, the Town Planner will check the application to determine if additional submissions or copies are needed for referral agencies. If additional submissions or copies are required, the Town Planner will notify the applicant. Referral comments must be received from the referral agencies at least fifteen (15) days prior to of any scheduled public hearings. All referral comments shall be reflected in Town staff reports regarding the PD zoning application.
  - (4) Mandatory Referral Agencies:
    - a. Colorado Department of Transportation.
    - b. Arapahoe County.
    - c. Arapahoe Park and Recreation District.
    - d. Cherry Creek School District.
    - e. South Metro Fire District.
    - f. Tri-County Health Department.
  - (5) Optional Referral Agencies:
    - a. Arapahoe County Water and Wastewater Authority (ACWWA).
    - b. East Cherry Creek Valley Water and Sanitation District.
    - c. Rangeview Water Association.
    - d. Other municipalities within one (1) mile.
    - e. Cherry Creek Basin Authority.
    - f. Homeowners Association as appropriate.
- (g) Review Criteria used by Planning Commission and Board of Trustees. Any official development plan shall be reviewed to ensure that the general public health, safety and welfare are safeguarded and for substantial conformance to the following applicable review criteria:
- (1) The official development plan is consistent with the Town's Comprehensive Plan and other adopted plans.
  - (2) The official development plan achieves the stated objectives of the Planned Development District, by allowing for the mixture of uses and greater diversity of building types, promoting environmental protection, limiting sprawl, improving design quality and a higher quality living environment, encouraging innovative design and a variety of housing types and managing the increase in demand for public amenities.

## CHAPTER 16 Zoning

- (3) The proposed land uses are compatible with other land uses in the development and with surrounding land uses in the area and the type, density and location of proposed land uses are appropriate based on the findings of any required report or analysis.
  - (4) The street design and circulation system are adequate to support the anticipated traffic and the proposed land uses do not generate traffic volumes which exceed the capacity of existing transportation systems or that adequate measures have been developed to effectively mitigate such impacts.
  - (5) The official development plan adequately mitigates off-site impacts to public utilities facilities and the large lot residential development, which is the predominant land use within the Town.
  - (6) The fiscal impacts have been satisfactorily addressed and the Town or special district will be able to provide adequate levels of service for police and fire protection, street maintenance, snow removal and other public services or that adequate measures have been developed to effectively mitigate such impacts.
  - (7) Higher levels of amenities, including open spaces, parks, recreational areas and trails, will be provided to serve the projected population.
  - (8) The official development plan preserves significant natural features and incorporates these features into parks and open space areas.
  - (9) There are special physical conditions or objectives of development that the proposal will satisfy to warrant a departure from the standard regulation requirements.
  - (10) The applicant adequately demonstrates that the proposal is feasible and complies with all adopted development standards set forth in the official development plan and other requirements of this Chapter. In cases of conflicting provisions, the more restrictive shall apply.
- (h) Planning Commission Approval of Official Development Plan. Unless waived by the Board of Trustees, the Planning Commission shall hold at least one (1) public hearing. The Planning Commission shall, within thirty (30) days of the official development plan review meeting, make to the Board of Trustees at least one (1) of the following recommendations:
- (1) Approve the official development plan as submitted, with certain conditions as stated, if any; or
  - (2) Deny the official development plan or certain portions thereof, with all the reasons clearly stated.
- (i) Official Development Plan; Board of Trustees Action. The Board of Trustees shall hold at least one (1) public hearing. The Board of Trustees shall notify the applicant and the Planning Commission in writing of any of the following actions taken:
- (1) Approval of the official development plan as submitted, with certain conditions as stated, if any;
  - (2) Denial of the official development plan as submitted or certain portions thereof, with all reasons clearly stated. Denial means that application for an official development plan shall not be accepted; or
  - (3) Referral of the official development plan back to the Planning Commission with specific instructions for additional study and recommendations, for a period not to exceed thirty (30) days.
- (j) Filing and Recording of Approved Official Development Plan.
- (1) Following the decision of the Board of Trustees, the Town Planner will inform the applicant in writing of the Board's decision and, if the official development plan was approved, instructions on the preparation of the signature Mylar, including any special notes or revisions required as a condition of approval and the amount of outstanding fees, if any, that are due. The fees shall include the amount necessary to record the official development plan and other materials. The letter shall also state the submittal requirements and required fees for the final development plan.

## CHAPTER 16 Zoning

- (2) The applicant shall have one hundred eighty (180) days to submit a final Mylar of the official development plan, the required written narrative and an electronic file to the Town Planner for the Mayor's signature. In its discretion and for good cause shown by the applicant, the Planning Commission may extend the time a maximum of sixty (60) days. Upon lapse of the two-hundred-forty-day period and any time extension, the approval of the official development plan shall be void.
- (3) The official development plan is valid for a period not to exceed three (3) years unless the applicant proceeds to a final development plan for any portion or phase of the subject property.
- (4) Signature Mylar. The applicant will submit three (3) check prints of the signature Mylar to the Town Planner, who will send a copy to the Town Attorney and Town Engineer, if necessary. After review by the Town Planner, the applicant will be notified to prepare two (2) sets of the signature Mylars, with any corrections as directed by Town staff. The applicant shall sign and submit the Mylar set to the Town Clerk.
- (5) The Mayor will sign the signature Mylar sets and return them to the Town Clerk to have one (1) set recorded in the office of the County Clerk and Recorder.
- (6) The second signed reproducible Mylar sets will be maintained in the files of the Town Clerk. Paper copies of the signed Mylar set will be maintained in the files of the Town Planner and Town Engineer.
- (7) Amend the Official Zoning Map. Following the recording of the official development plan map, the Town Planner will amend the Official Zoning Map.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

### **Sec. 16-2-90. Amendments to official development plan.**

- (a) Intent. From initial concept and approval to final construction, unforeseen changes and ordinary refinements occur which may require changes to the approved official development plan. In order to streamline the review process and to eliminate unnecessary delays, the intent of this Section is to establish a procedure for approving minor official development plan revisions. It is also the intent of this Section to establish a procedure to review and approve significant changes to the approved official development plan.
- (b) Minor Amendments. Minor amendments to an approved official development plan may be approved administratively by the Town Planner after written authorization from the Board of Trustees stating that the amendments are minor in nature.
  - (1) Minor amendments shall not represent more than a ten-percent change in the location, height, yard, lot and other development standards and can only be granted if required by engineering or other circumstances not foreseen at the time the official development plan was approved, so long as no modification violates any standard or regulation set forth in this Chapter.
  - (2) The applicant shall make a written request to the Town Planner justifying the proposed minor amendment and clearly showing on the official development plan and accompanying written narrative that portion which is proposed for amendment. A record of such approved minor amendment shall be filed and recorded in the same manner as the original.
- (c) Major Amendments.
  - (1) Major amendments to an approved official development plan shall be processed in the same manner as the original official development plan. Approval of a major amendment to an approved official development plan shall be by ordinance. Major plan amendments include, but are not limited to the following:
    - a. A change in land use or development concept.

## CHAPTER 16 Zoning

- b. An increase in building coverage of nonresidential uses or an increase in residential density levels.
  - c. An increase in the height of any proposed structure.
  - d. A realignment of major circulation patterns or a change in functional classification of the street network.
  - e. A reduction in approved open space or common amenities.
  - f. Other significant changes that involve policy questions or issues of overriding importance to the community.
- (2) Submittal requirements. A request for a major amendment shall be accompanied by the same type and quality of information as was necessary for the original final approval and passage of the official development plan, in addition to the following:
- a. A map of the entire official development plan area, which clearly defines that portion which is proposed for amendment.
  - b. A justification of the proposed amendment, including a discussion of any changes in impact, which would result from the amendment.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

### **Sec. 16-2-100. Obsolete official development plan.**

Findings Necessary to Declare Official Development Plan Obsolete. An official development plan may be considered obsolete if the Planning Commission or Board of Trustees finds that any of the following conditions exist for an official development plan that is not a site specific development plan within the meaning of Section 16-1-180 of this Chapter:

- (1) The original development concept has not been followed and is deemed a zoning violation.
- (2) The official development plan has been inactive and no final development plans have been approved and filed for the past three (3) years.
- (3) A final development plan has been approved but no building permits have been issued for the past five (5) years.
- (4) In the event an official development plan is found to be obsolete, a new official development plan shall be required subject to the submission and approval process of this Section.
- (5) The Town may withdraw or rescind approval of any official development plan deemed obsolete.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

### **Sec. 16-2-110. Submittal and processing requirements for final development plan.**

#### (a) Application Process.

- (1) Approval of a final development plan is the last stage of the Planned Development process. Whereas the official development plan establishes permitted land uses and general development stipulations, the final development plan provides more detailed specifications, including but not limited to:
  - a. Building envelopes.
  - b. Building design (scaled architectural elevations).
  - c. Detailed landscape plan (design and materials).

## CHAPTER 16 Zoning

- d. Parking lot layout.
  - e. Lighting plan and fixtures.
  - f. Signs.
  - g. Access and on-site circulation.
- (2) The final development plan may include all or a portion of the site covered by the approved official development plan. The final development plan application is intended to specify design components of the Planned Development District or portions thereof and provide for the review of additional items not required by the official development plan. A final development plan application may be made for all or a portion of the entire District as previously approved at the official development plan stage. All final development plans must have accompanying them appropriate subdivision plats, which either have been approved or are undergoing the approval process if they are integral to the proposed development. Final development plans must include structure locations and building foot print dimensions. In any Planned Development District, an approved final development plan for all or portions of the district must be in effect before any building permits may be issued for the construction of structures in the approved portions of the district. The completed application shall be known as the final development plan.
- (b) Application Form. An applicant for final development plan approval shall submit an original signed application form to the Town. A deposit check for review expenses and a signed charge back agreement (if one is not already on file in the Town Clerk's office) shall be submitted with the original application. Copies will be transmitted to Town consultants and outside referral agencies for comment.
- (c) Submittal Requirements. The final development plan shall include all of the information required in the official development plan in its finalized, detailed form plus any additional items included below. Omissions are cause to continue or deny the application.
- (1) Final development plan - written documentation (fifteen [15] copies or as directed by Town staff.).
- a. Proof of ownership. (Title Commitment with Schedule B) dated within thirty (30) days of the application.
  - b. Letter of Intent describing the proposed development.
  - c. List of properties within seven hundred fifty (750) feet, plus a set of mailing labels for the properties.
  - d. A final development schedule indicating the approximate dates when construction of the phases of said development can be expected to begin and to be completed.
  - e. A description of the proposed open space to be provided at each stage of development; an explanation of how said open space shall be coordinated with surrounding developments; total amount of open space (including a separate figure for usable amount of open space); and a statement explaining anticipated legal treatment of ownership and maintenance of common open space areas and the amounts and location of dedicated public open space.
  - f. Copies of proposed final covenants, declarations, architectural design standards, grants of easements or other restrictions to be imposed upon the use of the land, including common open spaces, buildings and other structures within the development.
  - g. Physiographic and environmental studies of the proposed site prepared and attested to by qualified professional authorities in the following fields: soil quality, slope and topography, geology, water rights and availability, ground water conditions and impact on wildlife.
  - h. Any required dedication documentation and/or improvement agreements and bonds plus an updated title insurance commitment.
  - i. Any new items or studies not submitted with the official development plan.

## CHAPTER 16 Zoning

- j. The applicant shall submit required fees.
  - k. Quantitative data for the following: final number of dwelling units, number of bedrooms in multi-family residential units, final figures for previously agreed-upon design or development standards or any other negotiated items and footprint sizes of all proposed nonresidential buildings.
  - l. A detailed study of the traffic impact of the development on the regional street system.
  - m. Any written documents associated with providing utility service and demonstrating water and wastewater availability.
  - n. Approved access permit from the Colorado Department of Transportation, if applicable.
- (2) Final development plan - graphic documentation. Fifteen (15) paper sets of the final development plan map set or as directed by Town staff, which shall be a blackline print or photocopy of original drawings (24" x 36" size) containing the following information:
- a. Project name, type of proposal (final development plan), legal description of the plan's land area, date of the drawing, scale, north arrow and existing zoning of the site.
  - b. Vicinity map with north arrow (scale of 1" = 2,000' preferred), with an emphasis on the major roadway network within one (1) mile of the proposal.
  - c. Nonresidential: The graphic locations (building envelopes), dimensions, maximum heights and gross floor area of all existing and proposed structures and the location of entrances, loading areas, location of outdoor trash receptacle systems and emergency vehicle access, if any. Location of parking spaces with typical dimensions.
  - d. Residential: Graphic representation showing lots, street names and dimensions, sidewalks or pedestrian walkways.
  - e. Any plan maps that have been revised since the official planned development plan approval.
  - f. A landscape plan indicating the treatment and materials used for parking lots, public and common open spaces and a revegetation plan showing treatment of disturbed areas.
  - g. Information on land areas adjacent to the proposed development to indicate integration of circulation systems, public facilities and utility systems and open space.
  - h. The planned pedestrian, trail, bicycle and vehicular circulation system, including their interrelationships with the vehicular parking and unloading system, indicating proposed detailed treatments of points of conflict. Show all proposed curb cuts and driveway locations and dimensions, off-street parking in terms of location, dimensions and total numbers by type (full-size, compact, handicap, etc.) and types of surfacing.
  - i. A soil erosion and prevention plan.
  - j. The proposed treatment of the perimeter of the development, including materials and techniques used such as screens, fences, walls and landscape plan.
  - k. A detailed engineered drainage plan indicating general on-site and required off-site facilities and proposed treatment and abatement of run-off drainage to adjoining properties.
  - l. Preliminary or final subdivision plats required and prepared as per the requirements of the Town's Subdivision Regulations.
  - m. Preliminary or final engineering plans for public roads within the development, points of access and designs for intersections with and modifications of existing public rights-of-way and designs for any off-site road improvements to connect the Planned Development to the existing street system. Final plans for private roads are to be included for any portions of the site undergoing final review.

## CHAPTER 16 Zoning

- n. A site map that depicts the development phases thereof, sites and building footprint sizes and locations outlined in the development schedule.
  - o. Engineering schematic plans that depict general line sizes and proposed points of connection to existing or planned utility systems, both on and off site; final engineered plans and specifications. Include dimensions of all existing and proposed easements.
  - p. Existing and proposed finished grade topography at two-foot contours or less, tied to U.S.G.S. datum.
  - q. Documentation showing conformance to the Town's adopted floodplain regulations and adopted engineering standards.
  - r. A snow removal and/or storage plan.
  - s. A detailed lighting plan depicting on-site street light location, height and fixture type, with supplemental specifications, including a photometric plan for the site.
  - t. A detailed sign plan showing the location, size, height and materials for all signs on the property.
  - u. Chart comparing all regulations and requirements of the proposed final development plan with those of the approved official development plan regarding the proposed uses, building heights, gross floor area, residential density, gross floor area ratios, setbacks, open space, parking ratios and any other applicable standards.
  - v. Standard and special notes approved by the Board of Trustees that regulate the development, certifications and dedications as approved by the Town Attorney.
  - w. Required signature blocks as shown in Appendix 16-B to this Chapter.
  - x. Development Stipulations Chart as shown in Appendix 16-A to this Chapter.
  - y. Other information as requested by Town staff or Board of Trustees or required as a condition of the official development plan.
- (d) Review Procedure.
- (1) The applicant shall file a minimum of fifteen (15) copies of the final development documents or an alternative number of copies as directed by Town staff, with the Town Clerk and pay the required fees.
  - (2) Filing of documents is to be made thirty (30) days in advance of the regular meeting date of the Planning Commission at which the final development plan will be discussed. Responsible Town staff shall make any written comments in advance of this meeting. Upon receipt of the documents for Planning Commission approval, and after review and approval by the Town Planner, the Town Clerk shall schedule the project on the next Planning Commission agenda, but no sooner than thirty (30) days, as a public meeting and give due notice of general description to the public of said meeting in a newspaper of local circulation.
  - (3) The final development plan must be in conformance with the official development plan as approved or amended. Should any unapproved modifications to the official development plan be presented for review at this final development plan stage, then these changes must be approved before the final development plan can be approved as a whole. Should this be the case, these modifications may not involve one (1) or more of the following unless formal public hearings are conducted on each change:
    - a. Violation of any provision of this Chapter.
    - b. Varying the original lot area requirement by more than ten percent (10%).
    - c. A reduction of the original areas reserved for the open space.
    - d. Increasing the original floor areas proposed for nonresidential use by more than ten percent (10%).

## CHAPTER 16 Zoning

- e. Increasing the original total ground area covered by buildings.
  - f. Increasing the original density.
  - g. Any other items where changes amount to greater than ten percent (10%) of originally negotiated amounts.
- (e) Approval Procedure.
- (1) The Planning Commission shall determine the application's compliance with the provisions of this Chapter and the official development plan based on a review conducted by the Town Planner. After consideration of the application, the Planning Commission shall, by resolution, approve said application as presented, approve said application subject to specified conditions or disapprove it.
  - (2) The Planning Commission shall forward said resolution, together with the reasons for the recommendation, to the Board of Trustees. The application and accompanying resolution shall be submitted for review a regularly scheduled Board of Trustees meeting no sooner than twenty (20) days after the Planning Commission's decision.
  - (3) Upon receipt of the final development plan, the Board of Trustees may approve, approve with conditions or deny the final development plan. The Board of Trustees shall not approve any new major change or addition in the final development plan recommended by the applicant until the proposed major change or addition has been referred to the Planning Commission for recommendations and a copy of said recommendations has been filed with the Board of Trustees.
  - (4) If the final development plan is approved subject to conditions, the formal acceptance and recording of such approval shall not be made until the applicant has obtained the signature of the Mayor of the Town on the plan face. All conditions must be satisfied before any official Town signatures are fixed thereto.
  - (5) The Board of Trustees shall direct the Town Clerk to record the pertinent written and graphic documents of the final development plan with the County Clerk and Recorder. All recording and duplicating costs are to be paid in advance by the applicant. Copies of all records are to be kept in the Town Hall. Preparation of signature Mylars shall be as set forth in Subsection 16-2-80(j) of this Article.
- (f) Amendments to Final Development Plan.
- (1) This Section shall serve as the mechanism for reviewing and approving changes to the final development plan. Minor changes in the location, siting and height of buildings and structures may be authorized by the Town Planner without additional public hearings if required by engineering or other circumstances not foreseen at the time the final development plan was approved. No change authorized by this Subsection may cause any of the following:
    - a. A change in the use or character of the development.
    - b. An increase in the official land coverage of structures.
    - c. An increase in the intensity and density of use.
    - d. A reduction in approved open space.
    - e. A reduction of off-street parking and loading space.
    - f. A reduction in required pavement widths.
    - g. An increase in height that is more than five (5) feet.
  - (2) All other changes in use or rearrangement of lots, blocks and building tracts or any changes in the provision of common open spaces may be made by the Board of Trustees after a report is prepared by the responsible Town staff and recommendation by the Planning Commission.

- (3) Such amendments may be made only if they are shown to be required by changes in conditions that have occurred since the final development plan was approved or by changes in the official development plan. Any changes which are approved for the final development plan must be recorded as amendments in accordance with the procedure established for the recording of the initial final development plan documents with the exception that prior to making it recommendation to the Board of Trustees, the Planning Commission shall hold at least one (1) public hearing, with the applicant being responsible for publishing notice of a general description of said hearing, in the official publication of the Town at least fifteen (15) days in advance of the hearing.
- (g) Failure to Begin Development or to Show Substantial Progress.
  - (1) Each approved final development plan must contain a detailed development schedule of public and private improvements. The Town staff shall monitor this schedule and failure of the developer to substantially adhere to it shall be cause for a final development plan special review by the Planning Commission. The Planning Commission special review shall be commenced if one (1) or more of the following situations arise:
    - a. Failure to begin subdivision platting and/or draw building permits for construction as detailed in the approved development schedule within eighteen (18) months of the scheduled starting date or extensions thereto.
    - b. Inactivity or documented lack of progress as determined by either the Town staff or Planning Commission on any stage of the project for more than two (2) years from the last completed benchmark in the approved development schedule.
    - c. Request for extensions to the starting dates by the developer.
    - d. Failure to complete improvements in a timely manner.
  - (2) The Planning Commission may extend for not more than two (2) periods of twelve (12) months each the time for beginning the project.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

### **ARTICLE 3 General Regulations and Development Standards**

[Sec. 16-3-10. Application of general regulations and development standards.](#)

[Sec. 16-3-20. Visibility at intersections; application of sight triangle.](#)

[Sec. 16-3-30. Off-street parking standards.](#)

[Sec. 16-3-40. Stacking space standards for drive-throughs, parking attendants or paid parking collection devices.](#)

[Sec. 16-3-50. Parking lot design standards.](#)

[Sec. 16-3-60. Fences, berms and sound walls in residential areas.](#)

[Sec. 16-3-70. Screening, fences and walls in nonresidential areas.](#)

[Sec. 16-3-80. Lighting standards.](#)

[Sec. 16-3-90. Landscape standards for nonresidential uses and planned developments.](#)

[Sec. 16-3-100. Sign standards.](#)

[Sec. 16-3-110. Reserved.](#)

[Sec. 16-3-120. Temporary and seasonal uses.](#)

[Sec. 16-3-130. Site development standards for nonresidential uses and planned developments.](#)

**Sec. 16-3-10. Application of general regulations and development standards.**

- (a) Purpose. In addition to the requirements contained elsewhere in this Chapter, all uses of land and structures shall be governed by the general regulations and development standards contained in this Article to promote the general health, safety and welfare of Foxfield residents.
- (b) Intent. The intent of this Article is to encourage the creation of safe, adequate and attractive facilities and to minimize views of unattractive uses or activities through use of sound site design principles and the establishment of minimum requirements. The standards set forth herein are recognized as enhancing the compatibility of dissimilar uses and promoting stable property values.
- (c) Application.
  - (1) The general regulations and development standards of this Article shall not be retroactive on existing uses. However, these standards shall apply to all uses in all zoning districts under the following circumstances:
    - a. New buildings and uses of land that require a permit, license, plot plan or site development plan.
    - b. Additions involving expansion of the gross floor area or developed site area by twenty percent (20%) or more above that in existence prior to the effective date of this Chapter.
    - c. A change in the use of the building or land which requires a change in the zoning district or a special review use permit.
    - d. A change in the occupancy of a building or the land, which requires a new sign or other site improvements addressed in this Article.
  - (2) Prior to issuance of any permit, license or special review use permit or granting of a change in use in any zoning district for any property, the applicant shall demonstrate that the property complies with the all applicable regulations.
  - (3) All buildings, parking areas, landscaping, signs and other improvements noted in the general regulations and development standards in this Article shall be constructed and installed in accordance with the approved plans prior to issuance of a certificate of occupancy for the building or use.
    - a. The Town Planner may allow certain improvements to be constructed or installed within an agreed-upon time allowing for seasonal changes. Such arrangements may involve performance bonds or other methods as deemed appropriate by the Town Planner to assure eventual compliance with this Chapter.
    - b. The Town Planner may permit in a particular district a permitted use and a temporary use not listed in this Chapter, provided that such use is of the same general type as the uses permitted by this Chapter.
- (d) Land Dedications. Land designated as floodplain or open space through dedication or reservation for any reason shall be indicated as such on any land development application. Such land and facilities shall be built and maintained by a unit of government, by a nonprofit corporation or by private interests as part of a subdivision or development of land for use either by the inhabitants or general public thereof. Ownership of the land may be deeded or reserved to a property owner's association or be dedicated to the public or as required by any condition for granting of a subdivision plat, zone district or Planned Development District, including designation of a park, trail or other open recreation use.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

**Sec. 16-3-20. Visibility at intersections; application of sight triangle.**

- (a) At all street intersections, there shall be maintained a clear field of vision between a point which is thirty-six (36) inches above the average street grade and ninety-six (96) inches above that point. Such field of vision shall be of such a distance as to enable the operator of any motor vehicle, bicycle or other transportation device or horseback rider to clearly see onto the intersecting street from a distance which is thirty (30) feet along the property line from the point where such street rights-of-way intersect, providing for clear visibility from each of said streets. Said field of vision is described as a sight triangle and is determined by measuring from the Town rights-of-way point of intersection a distance of thirty (30) feet along each Town right-of-way line as depicted in Figure 16-1 below.

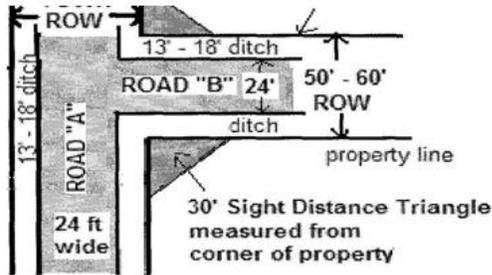


Figure 16-1  
Sight Distance Triangle

- (b) The following structures shall be permitted within the sight triangle:
- (1) Fences that are seventy percent (70%) or more open as viewed from outside the fence; for example, a rail or wire fence. Solid fences such as stockade or board-on-board fences are prohibited.
  - (2) Utility poles, light standards and traffic control devices.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

**Sec. 16-3-30. Off-street parking standards.**

- (a) Provisions, Applicability and Maintenance - Responsibility of Owner. This Section imposes minimum standards for the development of parking areas in conjunction with the various uses permitted in this Chapter. The purpose of this Section is to require that the owner of a land use provide and maintain sufficient quantities of parking for each land use. The intent of these standards is to require attractive, convenient, efficiently developed parking areas that provide sufficient quantities of parking spaces with ample area for fire lanes, maneuvering, snow storage, retention of drainage and landscaping and that ensure public safety. The required parking standards contained herein are minimum standards. Provide and maintain also means that the off-street parking area shall remain free from pavement deterioration, chuckholes, pavement failure and cave-in.
- (b) Administration.
- (1) Off-street parking shall be provided as set forth in this Chapter in association with any use generating demand for parking. Nothing in this Chapter shall deprive the owners or operators of property, generating a need for parking, the right to maintain control over such property devoted to off-street parking or to charge whatever fees they deem appropriate for such parking.
    - a. The proposed method of complying with this Section shall be indicated on all plans required to be submitted to the Town as a part of an application for a final development plan and on any site development plan submitted for a building permit.

CHAPTER 16 Zoning

- b. When any addition to or enlargement of an existing building or use or a change in use increases the building or the developed area of the use or the parking requirements of the building or structure, the parking requirements of this Section must be met. Moreover, if the addition, enlargement or change in use increases the building or the developed area of the use or the required parking by twenty percent (20%) or more, then the parking for the entire building shall be brought into conformance with all requirements of this Section, including required number of spaces, access, landscaping, lighting, screening and other applicable standards.
- (2) Any change in the use of a building or lot which increases the off-street parking as required under this Section shall be unlawful and a violation of this Section until such time as the off-street parking complies with the provisions of this Section.
- (c) Number of Off-Street Parking Spaces Required.
  - (1) Minimum requirements: All uses shall provide the number of off-street parking spaces listed below. Buildings with more than one (1) use shall provide parking required for each use. There are certain uses that are only allowed within the Village Commercial (VC) Zone District or Planned Development (PD) District as indicated in the chart. In addition, certain uses are required to comply with the rural residential property standards.
  - (2) The Town Planner shall determine parking requirements for uses not specifically listed based on an analysis of parking requirements for similar uses or on anticipated parking demands.

Use	Number of Spaces Required
Residential dwelling units	
Studio or 1-bedroom PD only	1.5 per dwelling unit
2 or more bedrooms; in addition, multi-family dwellings PD only	2 per dwelling unit 1 per guest space per 5 dwelling units
Group living	
Assisted living/facilities for care of the elderly or infirmed, including nursing homes	1 per 4 beds plus 1 per 2 employees
Group homes (up to 8 residents)	2 per group home, plus 2 per 3 employees
Commercial accommodations, including bed and breakfasts, lodgings and hotel/motel units, regardless of how owned and managed.	1 per individual exit of accommodations unit plus 1 per employee on the largest shift plus 1 per 400 sq. ft. gross floor area of public meeting area and restaurant
Automobile service, repair and sales	
Gas stations	2 per service bay plus required stacking spaces

CHAPTER 16 Zoning

Service station or auto lube center	2 per service bay plus required stacking spaces
Auto repair or body shop	2 per bay; spaces for each bay may park tandem
Car wash, self-service	3 stacking spaces in front of each bay
Car wash, full-service	5 per bay plus required stacking spaces
Retail, entertainment, office and professional services	
Banks (including branch and drive-through)	1 per 300 sq. ft. of gross floor area plus required stacking spaces for drive-through
Bowling alley	5 per bowling lane
Convenience store	1 per 200 sq. ft. of gross floor area plus stacking spaces for drive-up window
Convenience stores with gas sales	1 per pump island, plus 1 per 150 sq. ft. gross floor area, plus 2 per 3 employees
Dining and drinking establishments including private clubs and restaurants	1 per 75 sq. ft. of dining and waiting area
Dining and drinking establishments, if dancing and/or entertainment is provided	1 per 50 sq. ft. of building plus required stacking spaces
Serving or preparing food and beverages for consumption outside of a building	1 per 50 sq. ft. of building plus required stacking spaces
Funeral homes, mortuaries and crematoriums	1 per 300 sq. ft. of gross floor area
General commercial and retail sales	1 per 300 sq. ft. of gross floor area, including storage areas
Health and athletic clubs, aerobics, recreational amusement and entertainment facilities	1 per 125 sq. ft. of gross floor area excluding storage areas
Medical and dental offices, clinics	1 per 250 sq. ft. of gross floor area

CHAPTER 16 Zoning

Public, Quasi-public and Institutional	
Community service facilities (e.g., post office, courts, community health building)*	1 per 250 sq. ft. of gross floor area
Day care or nursery	1 per employee, plus 1 per 5 children
Library, museum or gallery	1 per 300 sq. ft.
Places of worship	1 per 3 seats in primary meeting room
Public assembly and civic association halls (includes all facilities used for receptions and conventions)	1 per 40 sq. ft. of gross floor area in the primary meeting room or assembly area
Schools	
Through junior high	2 per classroom
High schools and colleges	10 per classroom
School auditoriums	1 per 3 seats in auditorium
Utilities	1 per 300 sq. ft. of office area plus 1 stall for each company vehicle

\* All other community service facilities shall be determined by the Town Planner based on an analysis for similar uses or on anticipated parking demands.

- (d) Calculation of Parking Space Requirements. Number of spaces: Separate off-street parking spaces shall be provided for each use.
  - (1) Where parking facilities are combined and shared by two (2) or more uses, the off-street parking space required for two (2) or more uses having the same or different standards for determining the amount of required off-street parking spaces shall be the sum of the standards of all the various uses.
  - (2) When any parking calculation results in a required fractional space, such fraction shall be rounded off to the next whole number.
- (e) Measurement of Floor Area. Floor areas used in calculating the required number of parking spaces shall be gross floor areas of the building calculated from the exterior outside wall without regard to a specific inside use. In mixed-use facilities, the following applies.

## CHAPTER 16 Zoning

- (1) Calculations shall be based on gross square footage of each identifiable use within the building and the total square footage of each identifiable use shall be the same as the gross floor area calculated from outside wall to outside wall.
  - (2) Uses which serve more than one (1) of the uses, such as bathrooms, mechanical rooms, stairwells, circulation, airshafts, storage areas and elevators, shall be prorated based on the area of each identifiable use.
- (f) Joint Use of Parking Facilities or Shared Parking. When two (2) or more businesses, structures and/or uses are served by the same parking area, the applicant may apply for special parking approval. The off-street parking area or shared parking facilities shall not exceed twenty percent (20%) of the required parking. Applicants wishing to utilize joint or shared parking facilities or areas shall provide satisfactory legal evidence to the Town Planner in the form of deeds, leases or contracts to establish joint use or shared parking. Upon submission of documentation by the applicant of how the project meets the following criteria, the Town Planner may approve reductions of up to and including twenty percent (20%) of the parking requirements of this Section if the Planning Commission finds that:
- (1) The parking needs of the use will be adequately served.
  - (2) If joint use of common parking areas is proposed, varying time periods of use will accommodate proposed parking needs.
  - (3) The applicant provides an acceptable proposal for a transportation demand management program, including a description of existing and proposed facilities and assurances that the use of alternate modes of transportation will continue to reduce the need for on-site parking on an ongoing basis.
- (g) Compact Parking. Up to twenty percent (20%) of all required off-street parking spaces may be designated as "compact car spaces." Such spaces shall be appropriately marked to indicate the location of the spaces. Off-street parking spaces provided in excess of the required number of spaces for a building or use may be in the form of compact parking spaces.
- (h) Determination of requirements for uses not listed. Requirements for types of buildings and uses not specifically listed in this Article shall be determined by the Town Planner after study and recommendation, which should include all relevant factors, including but not limited to:
- (1) Vehicle occupancy studies.
  - (2) Comparable requirements from other relevant municipalities.
  - (3) Requirements of comparable uses listed in this Article.
  - (4) Suitable and adequate means will exist for provision of public, community, group or common facilities.
  - (5) Provision of adequate loading facilities and for a system for distribution and pickup of goods.
  - (6) The use will not be detrimental to adjacent properties or improvements in the vicinity to the area.
  - (7) The proposed use will not confer any special privilege or benefit on the properties or improvements in the area, which privilege or benefit is not conferred upon similarly situated properties elsewhere in the Town.
- (i) Handicap Parking Requirements.
- (1) The required number of parking spaces for the disabled for all land uses shall be provided in accordance with federal and state law. Each parking space for the disabled shall be in conformance with applicable requirements of the Americans with Disabilities Act (ADA).
  - (2) The required spaces shall be located to provide the least-traveled distance to accessible facilities served. They shall be located, where feasible, to allow those parking in the spaces to access the associated building without crossing vehicle traffic area. The distance between the

## CHAPTER 16 Zoning

most remote principal entrance of a building and any one (1) space shall not exceed two hundred (200) feet.

- (3) Size. Required spaces shall be not less than eight (8) feet wide and shall have an adjacent access aisle not less than five (5) feet wide. Two (2) adjacent spaces may share a common access aisle. Such aisles shall provide an accessible route of travel to the building or facility entrance. Boundaries of the required parking spaces and aisles shall be marked to identify the use of such spaces.
- (4) Identification sign. Every parking space required by this Section shall be identified by a sign centered from three (3) feet to five (5) feet above the ground at the head of the required space. The sign shall be marked with the international symbol of access and shall bear the words, "Reserved - Tow Away Zone." Such signage shall not be less than twelve (12) inches in height. The lettering shall be not less than one (1) inch or more than two (2) inches in height and shall be on a background of contrasting value.



- (5) Surface. Parking spaces and access aisles shall slope not more than one (1) inch in forty-eight (48) inches and shall be firm, stable, smooth and slip-resistant.
- (j) Parking Restrictions.
- (1) Weight restrictions. Parking or storing of any vehicle, excluding recreational vehicles, with a Gross Combination Weight Rating (GCWR) greater than thirty-six thousand (36,000) pounds is prohibited. GCWR is defined in Section 42-2-402(6), C.R.S.
  - (2) Number of vehicles allowed on a lot. Parking or storing of any vehicle, recreational vehicle, trailer, boat or other articles of personal property, not owned by the owners and or occupants of the property upon which it is parked, stored or used, for longer than a period of ten (10) days.
  - (3) Parking or storing of vehicles in residential areas. The outside parking or storing of more than five (5) vehicles on the property, including but not limited to cars, recreational vehicles, campers, boats, trailers, implements of husbandry, mobile machinery and self-propelled construction equipment, is prohibited.
  - (4) Parking or storing of commercial or industrial vehicles. All commercial or industrial vehicles must be parked in a fully enclosed facility after business hours. Parking or storing of commercial vehicles in residential zone districts is prohibited, except that one (1) vehicle used in the operation of a business by an owner and/or occupant of the property is permitted in accordance with Article 4 of this Chapter regarding home occupations.
  - (5) Parking or storing of vehicles, with signs mounted, attached or painted on, when used as additional advertising on or near the premises and not used in conducting a business or service on the premises.
  - (6) Sale or repair uses. No nonresidential off-street parking space shall be used for the sale, repair, dismantling or servicing of any vehicle, equipment, material or supplies.
  - (7) Engine idling. It shall be unlawful for any person to idle or permit the idling of the motor of any stationary diesel fuel-burning bus or motor vehicle or idle or permit the idling of the motor of any stationary motor vehicle of any kind whatsoever for a period in excess of fifteen (15) consecutive minutes in any hour, within the Town limits at any time of the day or night. It is the intent of this Section that an owner or operator may not circumvent the provisions of this Section by the repeated turning on and off of a diesel engine at any time that the outside temperature is

CHAPTER 16 Zoning

twenty-two (22) degrees Fahrenheit or above; provided, however, that unattended vehicles operated by diesel powered engines shall not be allowed to idle at any time.

- (8) This Section shall not apply when an engine must be operated in the idle mode for safety reasons, including but not limited to cranes and forklifts used in the construction industry, ambulances or other public safety vehicles.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

**Sec. 16-3-40. Stacking space standards for drive-throughs, parking attendants or paid parking collection devices.**

(a) Submittal of Plans. The applicant's plan shall show the location, size and dimensions of all such facilities. The plan shall follow the stacking space schedule and shall demonstrate that such facilities will not result in the stacking of vehicles on public rights-of-way and that an adequate area is reserved for the safe transfer of the motor vehicle between any parking attendant or valet and the driver of the vehicle. In no event shall drive-throughs, parking attendants, paid parking collection devices or areas associated with such uses be located in a public street or right-of-way or interfere with vehicular or pedestrian traffic on a public street, sidewalk or other right-of-way.

(b) Stacking Space Schedule.

Use	Minimum Stacking Space	Measured From
Bank teller lane	4	Teller or window
Automated teller	3	Teller
Restaurant drive-through	8	Order box
Car wash stall, automatic	6	Entrance
Car wash stall, self-service	3	Entrance

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

**Sec. 16-3-50. Parking lot design standards.**

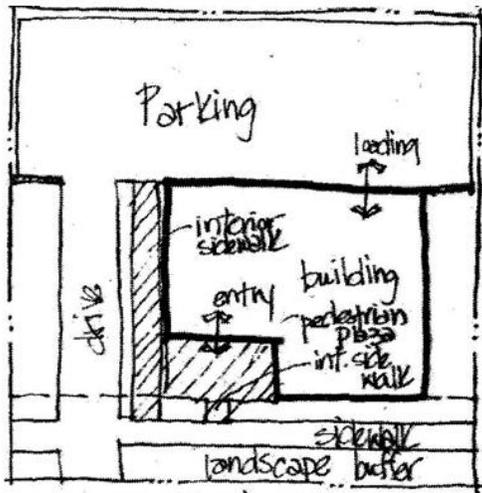
(a) Parking Space and Access Drive Requirements. Except as may be provided for compact cars elsewhere in this Section, minimum size of off-street parking space and parking lot drives shall be in accordance with the following:

- (1) Minimum stall size: nine (9) feet by eighteen (18) feet.
- (2) Minimum access drive width: twelve (12) feet per lane.
- (3) Minimum backing area width: twelve (12) feet; twenty-four (24) feet (two [2] drive lanes).
- (4) Angled parking spaces: per Town Engineer.

CHAPTER 16 Zoning

(b) Location and Design of Parking Lots.

- (1) All parking lots shall be set back a minimum of five (5) feet from any public rights-of-way.
- (2) Parking lots shall be so designed as to appear as an accessory use to the principal use. If a parking lot faces an arterial or collector street, parking lots shall be screened from the street by low walls, landscaping and/or railings that effectively conceal parked cars.
- (3) In all nonresidential areas and any residential development requiring a parking lot, all off-street parking lots must be accessed by a defined access lane off the main public right-of-way. This access lane must be separated from the traveled portion of the roadway by at least a seven-foot setback. Backing of parked cars into public road drive lanes from off-street parking areas is not allowed.
- (4) Required parking spaces must be provided on the same property as the principal building or use. Parking areas shall be owned by the owner of the principal use for which parking spaces are provided.
- (5) All parking lots and drive lane areas shall be surfaced with asphalt or concrete.

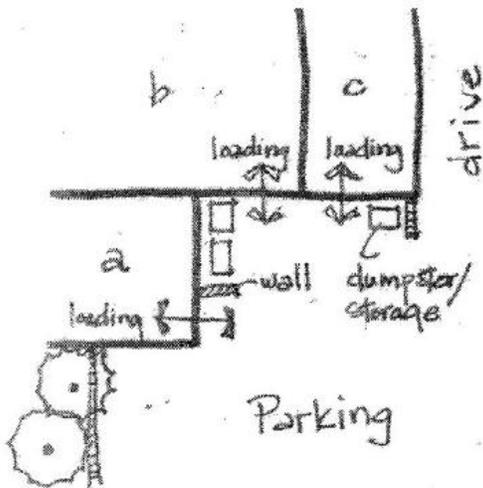


Lot to have 75% max. impervious coverage - int. sidewalks & plaza not included in 75% (PZA)

- (6) All parking lots shall be provided with adequate drainage to accommodate increased runoff from the site and shall be designed with catchment basins or other similar structures to prevent non-point source pollution.
- (7) Access drives shall be perpendicular to the traveled right-of-way and shall not exceed a five-percent grade within fifty (50) feet of their entrance to a public or private road right-of-way.
- (8) A twenty-percent allowance for compact cars may be applied to nonresidential uses in any district. These spaces shall be properly marked and grouped within the overall parking plan. Space size shall be a minimum of eight (8) feet by sixteen (16) feet.
- (9) In nonresidential zone districts, no parking area will be allowed in the side yard setback; driveways may be all or partially in side yard setbacks.
- (10) All parking areas shall be properly maintained.

## CHAPTER 16 Zoning

- (11) Parking lot setbacks, islands and other open spaces shall be landscaped to the greatest extent possible. Landscaped areas may also be used for snow storage as long as they are maintained properly and vegetation replaced when necessary.
- (12) Parking areas may not be used for the dismantling of vehicles or storage of commodities. Sales of commodities from parking lots are not allowed except with a valid peddler's license issued by the Town Clerk or for special events which are approved by the Town.
- (13) Curb cuts should be limited to the fewest number necessary to provide workable access. In general, curb cuts should be placed at intervals greater than one hundred (100) feet, unless this would preclude access to an independent property.
- (14) Parking lots should provide well-defined circulation for both vehicles and pedestrians.
- (15) Vehicles shall not overhang any public property or pedestrian access including sidewalks or landscaped area. A concrete or otherwise permanent curb, bumper or wheel stop shall be installed to protect public right-of-way, sidewalks and/or landscaped areas and islands.
- (16) Standard traffic control signs and devices shall be used to direct traffic where necessary within a parking lot.
- (17) Access drives to the parking lot shall be readily observable to the first time visitor.
- (18) Parking lot entrances, the ends of parking aisles and the location and pattern of primary internal access drives should be well marked by signs or landscaped islands with raised curbs.
- (19) Parking spaces shall be marked and maintained on the pavement and any other directional markings or signs shall be installed as permitted or required by the Town to ensure the approved utilization of space, direction of traffic flow and general safety.
- (20) All off-street parking spaces shall be unobstructed and free of other uses.
- (21) The layout should specifically address the interrelation of pedestrian and vehicular circulation and provide specific treatment at points of conflict, such as signs, painted crosswalks and raised pedestrian walks or landings.

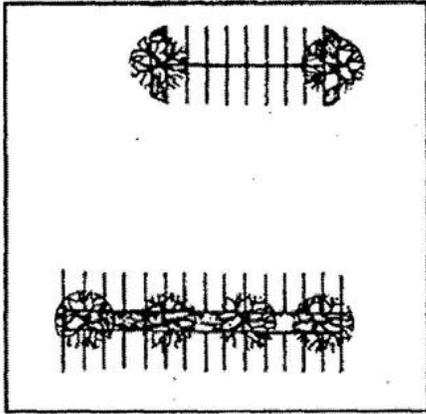


- (22) Loading and unloading facilities shall be located in the rear or side of buildings and shall be screened from public view.
- (23) Storage and refuse containers must be screened with impervious fencing or plantings and shall not front on to any street. Refuse storage and pickup areas shall be combined with other service and loading areas.
- (24) Vehicular ingress and egress to public major or minor arterials and collector streets from off-street parking shall be so combined, limited, located, designed and controlled with flared and/or

## CHAPTER 16 Zoning

channeled intersections as to direct traffic to and from such public right-of-way conveniently, safely and in a manner which minimizes traffic friction and promotes free traffic flow on the streets without excessive interruption. Access shall be unobstructed and direct.

- (c) Lighting Requirements for Parking Lots. All off-street parking lots shall provide adequate lighting. Lighting shall conform to the following standards.
  - (1) Light sources shall be concealed and fully shielded and shall feature sharp cut-off capability so as to minimize up-light, spill-light, glare and unnecessary diffusion on adjacent property. All lighting fixtures shall meet the IES requirement for a full cut-off fixture.
  - (2) Neither the direct nor the reflected light from any light source may create a traffic hazard to operators of motor vehicles on public roads. No colored lights may be used in such a way as to be confused or construed as traffic control devices. Background spaces, such as parking lots and circulation drives, shall be illuminated to be as unobtrusively as possible to meet the functional needs of safe circulation and of protecting people and property.
  - (3) The style of light standards and fixtures shall be consistent with the style and character of architecture proposed on the site. Poles shall be anodized or coated to minimize glare from the light source.
  - (4) Maximum on-site lighting levels shall not exceed ten (10) foot-candles, except for loading and unloading platforms where the maximum lighting level shall be twenty (20) foot-candles.
  - (5) Light levels measured twenty (20) feet beyond the property line of the development site (adjacent to residential uses or public rights-of-way) shall not exceed one-tenth (0.1) foot-candle as a direct result of the on-site lighting.
  - (6) All lights used to illuminate parking spaces, driveways or maneuvering areas shall be so designed, arranged and screened so to minimize light spillage on adjoining lots or streets.
  - (7) All lighting fixtures, including security lighting facilities, shall be directed away from adjacent residential uses and public streets and shall not be of an intensity which unreasonably disturbs adjacent residential users or users of public streets and shall not be installed above a maximum height of twenty-five (25) feet.
- (d) Sidewalks. Sidewalks in parking areas can be no less than four (4) feet in width.
- (e) Parking Lot Landscaping.
  - (1) Minimum landscaped area for any parking lot accommodating ten (10) or more spaces: fifteen percent (15%), of which at least ten (10) feet in depth must be placed along the front edge of the public right-of-way. On corner lots, landscaping of at least ten (10) feet in depth must be placed on both public rights-of-way.
  - (2) All parking lots shall be landscaped with indigenous vegetation and include both trees and shrubs. The pedestrian crossings shall be clearly differentiated from the rest of the parking surface. A minimum of five percent (5%) of the interior area of a parking lot accommodating ten (10) or more spaces must be planted. The interior of a parking lot is considered to be the traffic islands and areas around the actual parking spaces; it does not include the required perimeter treatment.
  - (3) Parking lots shall be screened from adjacent uses and from the street. Screening from residential uses including the street between a nonresidential use and residential use shall consist of a fence or wall six (6) feet in height in combination with plant material and of sufficient opacity to block at least seventy-five percent (75%) of light from vehicle headlights.
  - (4) Landscaped areas within parking lot interiors shall be located in such a manner as to divide and break up the expanse of paving. There shall be no more than fifteen (15) parking spaces in a continuous row on one (1) side without being broken by a landscape island. Landscaping aisles, which have parking on both sides, may be permitted as an alternative to individual landscape islands as long as no more than fifty percent (50%) of the required islands and the equivalent area of said islands are incorporated into landscaping aisles.



- (5) Landscaping shall be designed to meet the minimum sight triangle visibility requirements.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

**Sec. 16-3-60. Fences, berms and sound walls in residential areas.**

(a) Purpose and Intent.

- (1) To provide clear visibility, unobstructed by fences or berms on or near the public right-of-way, for citizens traveling along the roadways within the Town.
- (2) To encourage the use of open style fences in order to preserve views and maintain the rural residential identity of the Town.
- (3) To fulfill the Town's goal of maintaining a rural residential environment.
- (4) To provide standards for the design and location of fences, berms and sound walls to provide a visual barrier and to block road noise from major arterial roadways on the perimeter of Town, such as Arapahoe Road and Parker Road and adjacent commercial development.

(b) Measurement of Height.

- (1) Height shall be measured from existing grade, measured five (5) feet from each support to the top of the fence, berm or sound wall.
- (2) Construction on embankments. Where a fence, berm or sound wall is constructed on an embankment or where the ground under the structure has been graded to a higher level than the surrounding ground, the permissible height of the fence, berm or sound wall as set forth in this Section shall be reduced by the height of the embankment or grading.

(c) Construction in Easements and Drainageways.

- (1) Easements. Installation of a fence, berm or sound wall shall be allowed in an easement only to the extent the structure is allowed by the terms of the instrument or law creating the easement and only if the structure does not interfere with any lawful use of such easement. All structures proposed in an easement must be reviewed and approved by the Town Engineer and, if approved, must be constructed according to the specifications of the Town Engineer. Any structure installed in an easement will be removed at the owner's expense if necessary or advisable for any lawful use of the easement.
- (2) Drainageways. Installation of fences, berms and sound walls will be allowed in and/or perpendicular to natural drainageways throughout the Town only if such structures do not impede the flow of drainage in the drainageway and are constructed to minimize the collection

## CHAPTER 16 Zoning

of debris that could block the drainage flows. All fences, berms and sound walls located in a natural drainageway must be approved by the Town Engineer.

### (d) Standards for Residential Fences.

- (1) No fence shall exceed six (6) feet in height; except as permitted for sports courts and sound walls.
- (2) In order to preserve the Town's open views, only open fences (seventy percent [70%] or more open) shall be used within fifty (50) feet of a Town right-of-way.
- (3) In order to preserve the Town's rural residential character and to establish a Town identity, the use of rail fence is preferred near street frontages and property lines.
- (4) Open fences used to enclose the immediate area of a sports court may exceed six (6) feet in height. Swimming pool fences are limited to six (6) feet in height. In no event shall the height of any such fence exceed the height necessary for proper functioning of the sport court.
- (5) The use of chain-link fences shall not be permitted within fifty (50) feet of a Town right-of-way.
- (6) All fences must be located entirely within the property lines.
- (7) Fences located in a drainage easement, utility easement or natural drainageway must be approved by the Town Engineer.
- (8) Fences shall be constructed of new materials or used materials in good condition, intended to be used for such purpose.
- (9) All fence segments on a given property that run along the Town right-of-way, whether the fence is located on the property line or set back from the property line, shall be constructed of the same style and material.
- (10) Whenever a fence is installed, any posts and any rough or unfinished side of such fence shall face toward the interior of the lot.
- (11) The lighting of fences must comply with all applicable dark sky ordinances now or hereafter enacted.
- (12) Fences shall not be placed in the Town right-of-way: In general, the Town right-of-way is the strip of land, including surface, overhead and underground space, which is owned by the Town and is used for construction and maintenance of Town roadways, public utilities and other purposes. Most Town rights-of-way in the residential zone are platted sixty (60) feet wide, although some are fifty (50) feet wide. The paved road surface within the right-of-way is twenty-four (24) feet wide. In other words, the Town right-of-way is much wider than the paved road surface and residential property lines do not extend to the edge of the road pavement. On streets where the paved road surface is centered within the Town right-of-way (as in Figure 16-2), the right-of-way extends an additional thirteen (13) or eighteen (18) feet on either side of the paved road surface, depending on whether the right-of-way is platted as fifty (50) or sixty (60) feet wide, respectively. It is important to note that not all paved roadways are centered within the Town right-of-way. Therefore, the amount of land on each side of the paved road surface that comprises the Town right-of-way may vary dramatically and may be more than eighteen (18) feet or less than thirteen (13), feet depending on the degree to which the location of the paved road surface is skewed within the Town right-of-way. No fence, berm or sound wall may be constructed within a Town right-of-way without an approved permit and/or license agreement. (See Section 16-3-20 of this Chapter.) It is the resident's obligation to check the survey of the property and boundary markers to determine correct Town right-of-way and residential property boundary lines.

CHAPTER 16 Zoning

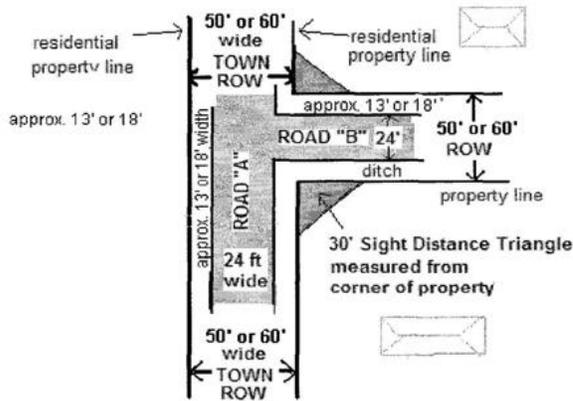


Figure 16-2  
Town Right-of-Way

- (e) Standards for Berms Within a Residential Zone District. The following standards apply to berms that are not adjacent to a highway and are not adjacent to a nonresidential zone district.
- (1) Berms shall be no higher than four (4) feet in height as measured from existing grade, the average grade along the primary road side or along the perimeter of the site (depending on proposed location).
  - (2) Berms shall have a maximum side slope of 3:1.
  - (3) Tops of berms shall have a minimum width of three (3) feet at the crown.
  - (4) Berms shall undulate or otherwise be designed with naturalistic contouring.
  - (5) Berms shall be landscaped with native grasses and/or native landscaping.
  - (6) Berms must be mowed or maintained according to the Towns regulations.
  - (7) Berms must be located entirely within property lines.
  - (8) Berms located within a utility easement, drainage easement or natural drainageway must be approved by the Town Engineer.
- (f) Standards for Fences, Berms and Sound Walls Adjacent to a Highway or Nonresidential Zone District. The Town allows the use of fences, berms and sound walls on residential lots located adjacent to property zoned nonresidential and adjacent to Arapahoe Road, Parker Road and the Ring Road to screen views and to block road noise, subject to the following conditions:
- (1) Fences, berms and sound walls for sight or sound mitigation may be located adjacent to property lines along major roadways, provided that the structure is located entirely within property lines.
  - (2) Fences, berms and sound walls located in a utility easement, drainage easement or natural drainageway must be approved by the Town Engineer.
  - (3) Fences and sound walls greater than six (6) feet in height must be approved by the Town.
  - (4) Berms greater than four (4) feet in height must be approved by the Town. Berms that increase the original grade of a lot by more than four (4) feet will require approval of a use by special review.
  - (5) In no event shall the height of any fence, berm or sound wall exceed the height necessary for sight or sound mitigation.

## CHAPTER 16 Zoning

- (6) Berms for sight and sound mitigation shall also comply with the standards for berms in Subsection (e) above.
  - (7) For purposes of this Chapter, Town staff shall consider the following criteria in determining whether to approve a fence, berm or sound wall for the purposes of sight or sound mitigation:
    - a. Whether the fence, berm or sound wall is consistent and compatible with the character of the neighborhood;
    - b. Whether the fence, berm or sound wall is located in such a manner so as to have an adverse effect on the adjacent property owners;
    - c. Whether the fence, berm or sound wall uses the same design, contour, landscaping and materials as other Town-approved structures on properties that are adjacent to the same roadway or commercial zone;
    - d. Whether the fence, berm or sound wall is located in a utility easement, drainage easement or drainageway;
    - e. Whether the fence, berm or sound wall can be maintained in accordance with the Towns regulations; and
    - f. Whether the fence, berm or sound wall has any adverse impacts on the public health, safety or welfare.
  - (8) The approval process for fences, berms and sound walls for the purpose of sight or sound mitigation will be as follows:
    - a. Prior to applying for a permit, pursuant to Subsection (h) below, the applicant shall submit an application to the Town Clerk, which application shall include a sworn affidavit indicating that the applicant has notified all adjacent property owners of the proposed fence, berm or sound wall, with a list of the property owners so notified.
    - b. Upon receipt of a completed application, the Town shall schedule a hearing on the proposed fence, berm or sound wall as an agenda item at a regular or special meeting and shall approve the application, deny the application or refer the application to a public hearing.
- (g) Permits.
- (1) A permit is required prior to construction of all new fences, berms and sound walls, except for the exempt fences.
  - (2) A permit shall be required for the repair or replacement of any portion of a fence, berm or sound wall if the repair or replacement changes the appearance, location or style of the fence, berm or sound wall.
  - (3) All fences, berms and sound walls must be located entirely within the property boundaries. Property owners must provide proof that the fence, berm or sound wall is within the owner's property lines as required by Subsection (e) above. A permit must be submitted and approved prior to the installation of any fence, berm or sound wall. It is the responsibility of the homeowner to verify the property lines, rights-of-ways and easements on the subject property. This may require an improvement location certificate.
  - (4) Whenever an exception to any term of this Article is sought for a fence, berm or sound wall that will be located on private property, the applicant shall seek administrative approval from the Town prior to applying for a permit or starting construction.
- (h) Fences Exempt From Permits.
- (1) Moveable or temporary riding rings.
  - (2) Temporary fences constructed of netting, chicken wire and similar light-weight material, for the purpose of protecting vegetation and gardens from rabbits, deer and other wildlife.

## CHAPTER 16 Zoning

- (i) Nonconforming Fences, Berms or Sound Walls in Residential Zone Districts.
  - (1) Any fence, berm or sound wall legally in existence at the time of the creation of this Section that does not fully comply with the requirements of this Section shall be considered legally nonconforming and may remain in place until such time as the fence, berm or sound wall is enlarged, expanded or modified or requires repair of more than fifty percent (50%) of the linear feet of the nonconforming fence. All nonconforming fences, berms or sound walls are subject to the requirements for nonconforming structures.
  - (2) Any fence, berm or sound wall constructed, repaired or replaced after the effective date of this Chapter shall comply with the provisions set forth herein.
- (j) Exceptions for Fences, Berms and Sound Walls in Residential Zone Districts.
  - (1) Exceptions to the terms of this Section may be granted with prior Town approval in cases where, because of the orientation and location of the primary residence, compliance with this Section would cause a hardship.
  - (2) In the event an applicant seeks an exception to the terms of this Section for a fence, berm or sound wall located on private property, the applicant must obtain approval of the exception from the Town prior to applying for a building permit or starting construction. In order to expedite the request, the requirement for a variance may be waived.
  - (3) The approval process for exceptions requires a special exception application, which shall be filed with the Town Clerk prior to applying for a building permit. The application form and the following materials shall be submitted:
    - a. Illustrations showing the dimension, design, style, materials, color and landscaping associated with the fence, berm or sound wall for which an exception is sought;
    - b. A site plan showing the location of the fence, berm or sound wall and the location of all utility and drainage easements and natural drainageways; and
    - c. A sworn affidavit indicating that the applicant has notified all adjacent property owners of the proposed fence, berm or sound wall for which an exception is sought, with a list of the property owners so notified.
  - (4) Upon receipt of a completed application, the Town shall schedule a hearing on the proposed fence, berm or sound wall as an agenda item at a regular or special meeting and shall approve the application, deny the application or refer the application to a public hearing if the Board of Trustees determines that a public hearing is necessary based on the approval sought.
  - (5) For purposes of this Section, Town staff shall consider the following criteria in determining whether to approve an exception to the terms of this Section for any fence, berm or sound wall.
    - a. Whether the fence, berm or sound wall is consistent and compatible with the character of the neighborhood.
    - b. Whether the fence, berm or sound wall is located in such a manner so as to have an adverse effect on the adjacent property owners.
    - c. Whether the fence, berm or sound wall can be maintained in accordance with the Towns regulations.
    - d. Whether the fence, berm or sound wall has any adverse impacts on the public health, safety or welfare.
  - (6) The Board of Trustees may schedule a public hearing if the Board of Trustees determines that the nature and scope of the exception being sought requires a public hearing to determine the appropriate application of the criteria to the fence, berm or sound wall for which approval is sought.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

**Sec. 16-3-70. Screening, fences and walls in nonresidential areas.**

- (a) Comprehensive Site Plan. A comprehensive site plan for screening, fencing and walls shall be required for all nonresidential developments. This plan shall illustrate how screening, fencing and walls achieve the standards set forth below and shall identify privately provided maintenance responsibilities. Plans submitted for review shall include a graphic depiction of the screening, fence and/or wall as seen from the street or public open space. This plan shall be approved by the Town Planner as part of the site development plan review process.
- (b) Nonresidential Screening, Fence and Wall Standards.
  - (1) Fences or walls shall be constructed of materials similar to or compatible with and complementary to, the primary building material and architecture. Fences shall receive the same architectural treatment on both sides.
  - (2) Chain-link fences are prohibited in any nonresidential area.
  - (3) Fences or walls along public streets and public open spaces shall provide visual breaks or architectural treatments every thirty (30) feet. These treatments include columns, planting areas, open fencing sections or others that meet the intent of this Section.
  - (4) Ancillary structures and service areas, such as trash enclosures and utility enclosures, shall be enclosed on three (3) sides with a solid gate on the access side.
  - (5) Loading docks shall be screened from view from neighboring properties and the public right-of-way.
  - (6) Screening standards can be met in a number of ways, including but not limited to garden walls, retaining walls, wooden fences, earthen berms, constructed planters, dense hedges or a combination of these identified strategies.
  - (7) Plant material used for screening shall achieve required screening in its winter seasonal condition within three (3) years of completion of the construction of the area to be screened.
  - (8) Fences adjacent to designated public open spaces, gulches and detention facilities shall be a minimum of seventy percent (70%) open. No solid walls are permitted. All fences adjacent to public open spaces and detention facilities shall be of similar style and materials the entire length of the open space or detention facility.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

**Sec. 16-3-80. Lighting standards.**

- (a) Purpose of Lighting Standards. All new development shall utilize lighting techniques that minimize the impact of lighting on the night sky. Exterior lighting shall be used for purposes of identification, security and safety and illumination in areas of pedestrian circulation and vehicular traffic. These standards apply to all development within the Town. The purposes of the lighting standards are as follows.
  - (1) Promote safety and security.
  - (2) Reduce the escalation of nighttime light pollution.
  - (3) Reduce glaring and offensive light sources.
  - (4) Provide clear guidance to builders and developers.
  - (5) Encourage the use of improved technologies for lighting.
  - (6) Conserve energy.
  - (7) Prevent inappropriate and poorly designed or installed exterior lighting.

## CHAPTER 16 Zoning

- (8) Minimize interference with use or enjoyment of property through unnecessary nighttime illumination and the loss of scenic night sky views due to increased urban sky-glow.
- (b) General Standards.
  - (1) Neither the direct nor reflected light from any light source may create a traffic hazard to operators of motor vehicles on public roads, nor may colored lights be used in such a way as to be confused or construed as traffic control devices. Background spaces, such as parking lots and circulation drives, shall be illuminated to be as unobtrusive as reasonably possible while meeting the functional needs of safe circulation and of protecting people and property.
  - (2) Light sources must minimize contrast with the light produced by surrounding uses and must produce an unobtrusive degree of brightness in both illumination levels and color rendition. The light source must be a white or pale yellow color. Colored lights are not allowed, except for seasonal ornamental lighting.
  - (3) Light sources shall be downcast, concealed and shielded and shall feature sharp cut-off capability to minimize up-lighting, spill-lighting, glare and unnecessary diffusion onto adjacent property.
  - (4) Except as otherwise allowed herein, all lighting (including but not limited to street, parking lot, security, walkway and building) shall conform with the Illuminating Engineers Society (IES) criteria for true cut-off fixtures (ninety percent [90%] of fixture light out-put within the 0—60° range from vertical). If the bulb position within a fixture is vertical, all lights must be retrofitted with shielding in a manner such that the light conforms to IES criteria for true cut-off fixtures as defined herein. Any or all of the following may be required:
    - a. A high socket mount.
    - b. A translucent fixture lens.
    - c. An opaque coating or shield on a portion of the perimeter of the lens.
    - d. Other industry-accepted measures to ensure that the fixture IES.
    - e. Classification as a true cut-off is not compromised.
    - f. No casting of light outside the property boundary.
  - (5) Maximum on-site lighting levels shall not exceed ten (10) foot-candles, except for loading and unloading platforms. For reasons of security, a maximum of one and one-half (1.5) foot-candles at entrances, stairways and loading docks is permitted unless required by any federal, state or local jurisdiction.
  - (6) All lights, except for those required for security as provided herein, must be extinguished within one (1) hour after the end of business hours and remain extinguished until one (1) hour prior to the commencement of business hours. Lights installed for the purpose of outdoor activities must be extinguished between the hours of 10:00 p.m. and 7:00 a.m. the following day.
  - (7) Light levels measured at twenty (20) feet beyond the property line of the development site onto adjacent residential uses or public rights-of-way shall not exceed one-tenth (0.1) foot-candle as a direct result of on-site lighting.
  - (8) Blinking, flashing or changing intensity lights shall be prohibited, except for temporary holiday displays or lighting required by the FAA for air traffic control and warning purposes.
  - (9) Linear lighting (including but not limited to neon and fluorescent lighting) primarily intended as an architectural highlight to attract attention or used as a means of identification is prohibited.
  - (10) Up-lighting is prohibited except for the up-lighting of flags within nonresidential projects and with a limit of two (2) fixtures per flagpole with a maximum of one hundred fifty (150) watts each. The fixtures must be shielded as required by Paragraph 16-3-100(j)(7) of this Article.
  - (11) Lighting of any sign shall be permitted subject to the following criteria:

## CHAPTER 16 Zoning

- a. Light sources shall be concealed and unobtrusive.
- b. Lighting shall be limited to the identification marker (sign) and not used to illuminate landscaping.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012; Ord. 04 §5, 2014)

### **Sec. 16-3-90. Landscape standards for nonresidential uses and planned developments.**

- (a) Calculation of Landscaped Area. Nonresidential developments and Planned Developments shall dedicate the required open space as specified in Article 2 of this Chapter. The required gross land area for open space, parks and trails may include one (1) or more of the following:
  - (1) Parks;
  - (2) Open spaces;
  - (3) Pathways, including sidewalks and bicycle paths, that are separate and distinct from any parking area or lot;
  - (4) Landscaped areas, including buffers and berms, to separate dissimilar uses;
  - (5) Public or private outdoor seating areas;
  - (6) Plazas;
  - (7) Courtyards; and
  - (8) Play areas.
- (b) Required Buffers.
  - (1) A buffer consisting of landscape materials, fences, walls, berms or a combination of these techniques is required for all nonresidential uses abutting a residential lot or residential street.
  - (2) The required buffer between a residential lot or residential street and all nonresidential structures shall be at least twenty (20) feet. Additional standards may also apply as outlined in Section 16-3-130 below.
  - (3) Buffers between a residential lot or residential street and all nonresidential structures shall be landscaped by providing trees of at least two-and-one-half-inch caliber, spaced no further apart than thirty-five (35) feet on center, at a ratio of one (1) tree and five (5) shrubs for every seven hundred fifty (750) square feet of buffer area or one (1) tree and five (5) shrubs for each thirty (30) linear feet of buffer, whichever is greater.
  - (4) All service areas or mechanical equipment areas shall be fenced or screened from view.
  - (5) Buffers may be interrupted for necessary pedestrian and vehicle access.
- (c) General Landscape Standards.
  - (1) Required landscape areas shall be covered with live, irrigated, lower water-consuming groundcover over at least seventy-five percent (75%) of the landscaped area. Pedestrian walks and other hardscape landscape features (excluding parking spaces and drives) may comprise up to twenty-five percent (25%) of the landscaped area. No large open mulch or bare soil areas are allowed.
  - (2) Plantings shall be located to preserve and enhance the use of the site and complement the open space. Landscape plantings shall be located in front of walls or fences to maximize the intent of the screening and buffering.
  - (3) Landscaping of the adjacent local street right-of-way may be included in meeting the landscape area requirement for individual lots if the property owner improves and maintains it.

CHAPTER 16 Zoning

- (4) Landscaping in buffers may count toward the total landscaping/open space requirement.
- (5) Minimum requirements for plant materials:
  - a. Overall, landscaped areas shall contain a minimum of two (2) trees and four (4) shrubs per seven hundred fifty (750) square feet of landscaped area, plus one (1) additional tree for every fifty (50) feet of parking lot frontage along a public or private street; and these additional trees must be placed along the street frontage. Each island must contain a minimum of one (1) tree and four (4) shrubs. One (1) additional tree may be substituted for each four (4) shrubs required herein.
  - b. At least fifty percent (50%) of the trees shall be overstory/shade deciduous species and twenty-five percent (25%) of the trees shall be coniferous species, except in the required buffer area, which may be any combination of species.
  - c. Minimum size of trees and shrubs shall be as required in Table 1:

TABLE 1

Size and Type of Plant	Minimum Allowable Plant Size for New Landscaping
Ornamental trees	2-inch caliper
Deciduous trees	1.5-inch caliper
Evergreen trees	6 feet tall
Shrubs	5-gallon container

- (6) Grading of landscape areas shall not exceed slopes greater than 4:1 where mowing is required; 6:1 for common open space and pocket park areas; and 3:1 where shrub beds or native grasses are provided.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012; Ord. 01, § 2, 2015)

**Sec. 16-3-100. Sign standards.**

- (a) Purpose and Intent. The purpose of this Section is to establish regulations for the systematic control of signs and advertising displays within the Town. The intent is to protect and promote the general health, safety and welfare of the public. It is also the intent to aid and assist in the safe and aesthetic development and promotion of business. This can be accomplished by providing standards, which allow signs and advertising displays that are compatible with their surroundings.
- (b) Scope.
  - (1) To establish a permit system to allow a variety of types of signs in commercial and residential zones.

## CHAPTER 16 Zoning

- (2) To allow certain signs that are small, unobtrusive and incidental to the principal use of the respective lots on which they are located, subject to the substantive requirements of this Chapter, but without a requirement for permits.
  - (3) To provide for temporary signs without commercial messages in limited circumstances.
  - (4) To encourage signs which are compatible with adjacent land uses.
  - (5) To provide for the enforcement of the provisions of this Chapter.
- (c) General Provisions.
- (1) The provisions of this Section shall apply to the display, construction, erection, alteration, use, location and maintenance of all signs within the Town.
  - (2) All signs located within the limits of the Town shall be required to comply with all applicable requirements for zoning districts in which the sign is located, unless otherwise provided for in this Section.
  - (3) Signs and sign structures shall be maintained at all times in a state of good repair and free from deterioration, insect infestation, rot, rust or loosening.
  - (4) Signs shall be constructed so that they are able to withstand the maximum wind pressure for the area in which they are located.
  - (5) The Town shall have the authority to order the repair, alteration or removal of a sign that constitutes a hazard to life or property or that does not comply with the requirements of this Section.
- (d) Exempt Signs. The following signs are exempt from the requirements of this Section and do not require a sign permit.
- (1) All signs erected by the Town.
  - (2) Bus shelters, but not including the benches within said shelters, erected by or on behalf of the Town.
  - (3) Official governmental notices and notices posted by governmental officers in the performance of their duties.
  - (4) Temporary or permanent signs erected by public utility companies, transit authorities or construction companies to warn of danger or hazardous conditions, including signs indicating the presence of underground cables, gas lines and similar devices.
  - (5) Signs required or specifically authorized for a public purpose by any law, statute or ordinance. No such sign shall be placed in the public right-of-way unless specifically authorized or required by law, statute or ordinance.
  - (6) Public signs: Signs required or specifically authorized for public purpose by any law, statute or ordinance, which may be of any type, number, area, height above grade, location, illumination or animation, authorized by the law, statute or ordinance under which the signs are erected. Signs of danger or of a cautionary nature are limited to wall and ground signs; no more than two (2) per street front; no more than four (4) square feet per sign in area; and no more than ten (10) feet in height above grade. These signs may be illuminated but only from a concealed light source which does not flash, blink, chase or fluctuate; and signs which are not animated.
  - (7) Private traffic control signs, including directional signs and signs relating to a hazardous area or construction zone that conform to the standards of the Colorado Manual of Uniform Traffic Control Devices. These signs must be placed within the established road right-of-way.
  - (8) Small signs not exceeding six (6) square feet that do not contain any advertising which are displayed for the direction, information or convenience of the public, including signs that identify hours of operation, rest rooms, location of public telephones and parking entrances.

## CHAPTER 16 Zoning

- (9) Memorial signs and plaques: Memorial signs, plaques, tablets, names of buildings and date of erection when cut into any masonry surface or inlaid so as to be part of the building when constructed of bronze or other noncombustible material.
  - (10) Signs in the display window: Signs in the display window of a business use which are incorporated with a display of merchandise or a display relating to services offered which do not exceed four (4) square feet in area.
  - (11) Professional: Nameplate signs not more than two (2) square feet in area which are fastened directly to the nonresidential building and do not project more than six (6) inches beyond the property line.
  - (12) Signs within buildings: Any sign placed inside a building may be erected without requiring a permit if not visible from a public street or sidewalk.
  - (13) Environmental signs, including but not limited to wildlife, wildfire, environmental, wetlands, conservation area and riparian area identification signs.
  - (14) Flags of any nation or government, whether in a residential, nonresidential or Planned Development District as further regulated in Paragraph (j)(7) of this Section.
  - (15) Any event signs for events lasting less than twenty-four (24) hours, including but not limited to garage sales, weddings, gatherings, etc. Temporary signs announcing a campaign, drive or event of a civic, philanthropic, educational or religious organization, provided that these event signs are not displayed for more than fourteen (14) days and do not exceed sixteen (16) square feet in total sign area.
  - (16) Holiday displays installed no earlier than two (2) weeks prior to the holiday and removed within two (2) weeks following the holiday, except that lighting erected in connection with the observation of Christmas, Hanukkah or Kwanza may be installed no earlier than Thanksgiving of the same year.
  - (17) Construction signs. One (1) temporary construction sign advertising a new development, construction or other new improvement of a property denoting architectural, engineering or construction firms engaged in work, shall be permitted. Such sign shall be limited to ground or wall signs; shall not exceed thirty-two (32) square feet per face or ten (10) feet in height. The temporary sign shall be removed upon issuance of a certificate of occupancy.
  - (18) Real estate signs subject to the provisions in each zone district.
  - (19) Political signs subject to the provisions in each zone district.
- (e) Sign Permits.
- (1) All requests for sign permits shall be submitted to the Town with a completed application form.
  - (2) A sign permit deposit shall be collected by the Town at the time the permit request is submitted.
  - (3) All requests for signage shall be accompanied by a drawing, fully dimensioned, showing the sign construction specifications, color, method and intensity of illumination, message and site plan showing the location, setback, height and sign area of all proposed and existing signage. If the sign is to be placed on an existing building in a nonresidential zone district or within a Planned Development District, a photo simulation of the sign on the wall on which it is to be placed shall be included. If the sign is a freestanding or monument sign in a nonresidential zone district or within a Planned Development District, a stamped structural drawing of the proposed sign shall be included.
  - (4) Prior to approval by the Town, the Town Planner shall review all permanent (non-temporary) sign permit requests.
  - (5) The Town Planner shall have the authority to approve, deny or make recommendations or conditions on any sign permit application. Any decision or recommendation made by the Town Planner may be appealed upon request of the applicant to the Board of Trustees.

## CHAPTER 16 Zoning

- (6) Following approval by the Town, the sign owner or sign contractor shall apply to the Town for a building permit, which permit must be issued prior to placement of the signs on the property.
  - (7) The expiration date for such permits shall be specified in each permit and, with respect to installation of signs, shall not exceed one hundred eighty (180) days and shall be issued in conjunction with building permits.
- (f) Sign Measurement.
- (1) Sign area. The area of a sign shall be measured as follows:
    - a. The measured area of a sign shall be the entire area within a single continuous perimeter of not more than eight (8) straight lines enclosing the extreme limits of a writing, representation, emblem or any figure of similar character, together with any material or color forming an integral part of the display or used to differentiate a sign designed with more than one (1) exterior surface.
    - b. The supports, structure or bracing of a sign shall be omitted from measurement unless such supports, structure or bracing are part of the message or face of the sign or form an integral background of the display.
    - c. The area of all faces shall be included in determining the total area of a sign.
    - d. Corporate logos, color schemes, trademark identities and themes shall be included in calculations of sign area.
    - e. The building footprint on the approved site plan shall be used to calculate wall sign area allowances on each building. Only one (1) floor level shall be used.
  - (2) Setbacks. For the purpose of determining setback distances, measurements shall be taken from the edge or surface of the sign or sign structure, which is closest to the street, right-of-way, district line or property line from which the sign is to be setback.
    - a. Freestanding signs in nonresidential zoning districts up to and including signs six (6) feet in height above ground level shall be set back ten (10) feet from any property line adjacent to a street.
    - b. Signs exceeding six (6) feet in height above ground level shall be set back a minimum of twenty (20) feet from any property line adjacent to a street.
    - c. Signs in a nonresidential zoning district or Planned Development District shall be located not less than twenty (20) feet from any adjacent residential zoning district line.
    - d. Signs on corner lots or at the intersection of any driveway, parking lot, entrance or exit with any street shall be regulated such that no sign exceeding a height of three (3) feet above ground level shall be erected within the sight triangle established for said property.
  - (3) Height.
    - a. Wall signs. For the purpose of determining the height of any wall sign, height shall be measured from the average finished grade elevation along the building frontage to the highest point of the sign. No portion of a sign may exceed the height of the wall to which it is attached nor extend over windows.
    - b. Freestanding signs. For the purpose of determining the height of any freestanding sign, measurement of the vertical distance from the elevation of the nearest public sidewalk or paved street within twenty-five (25) feet or, if there is not a public sidewalk or paved street within twenty-five (25) feet, from the lowest point of the finished grade on the lot upon which the sign is located and within twenty-five (25) feet of the sign, to the uppermost point on the sign or sign structure. No freestanding sign shall exceed fifteen (15) feet in height.
- (g) Prohibited Signs. To protect the health, safety and welfare of the people of the Town, to minimize traffic hazard and distraction and to promote the community appearance, the following signs shall be prohibited in the Town unless the specific use is provided for in this Chapter.

## CHAPTER 16 Zoning

- (1) Any sign which in any way obstructs the view of, may be confused with or purports to be an official traffic sign, signal or device or any other official sign.
  - (2) Any sign which creates in any way an unsafe distraction for motor vehicle operators.
  - (3) Any sign which obstructs the view of motor vehicle operators entering a public roadway from any parking area, service drive, private driveway, alley or other thoroughfare.
  - (4) Any sign which is located in a street intersection sight triangle and exceeds three (3) feet in height.
  - (5) Any sign which obstructs free ingress to or egress from a required door, window, fire escape or other required exit way.
  - (6) Any sign which is structurally unsafe; constitutes a hazard to safety or health; is not kept in good repair; is capable of causing electrical shocks to persons likely to come in contact with it; or does not conform to the design, structural and material standards for signs as adopted by the Town.
  - (7) Any sign located within utility easements, on public property or public rights-of-way, unless the use is specifically provided for in Section 16-3-20 of this Chapter.
  - (8) Signs painted or affixed to benches.
  - (9) Signs mounted, attached or painted on motor vehicles, trailers or boats when used as additional advertising on or near the premises and not used in conducting a business or service on the premises.
  - (10) Portable signs, except those required for traffic control and sandwich boards and A-frame signs unless located on a sidewalk of sufficient width so as not to block pedestrian circulation.
  - (11) Roof signs.
  - (12) Electronic message center signs unless approved as part of a planned sign program.
  - (13) Animated signs.
  - (14) Flashing signs.
  - (15) Revolving beacons and searchlights.
  - (16) Strings of light bulbs used in connection with commercial premises for commercial purposes, other than traditional holiday decorations used in compliance with these regulations.
  - (17) Exposed neon tubing or signs unless approved as part of a planned sign program.
  - (18) Signs, other than flags, designed or allowed to wave, flap or rotate with the wind.
  - (19) Any sign emitting sound.
  - (20) Signs with more than two (2) faces.
  - (21) Off-premises signs.
  - (22) Commercial billboards.
  - (23) Signs announcing a proposed use or land development prior to approval of the proposed use on that property by the Town.
- (h) Signs in Residential Districts. In general, small, unobtrusive signs, bearing no commercial or off-premises content and which are relevant to the lives of the residents are permitted in the RR (Large Lot Rural Residential) Zoning District. Permanent signs in any Planned Development Zoning District shall require an approved planned sign program. Signs on residential lots shall adhere to the following design standards:
- (1) Signs and sign structures that incorporate a foundation, footer or illumination require a permit.

## CHAPTER 16 Zoning

- (2) Illuminated signs and sign structures and flagpoles shall be regulated according to the requirements of Section 16-3-80 of this Chapter.
- (3) The following specific sign types shall be regulated as follows in residential zoning districts:
  - a. Individual residential lot sales. One (1) unlighted real estate sign per street frontage advertising the sale, rental or lease of the premises on which it is maintained; not to exceed four (4) square feet per sign face and not over three (3) feet high. Such sign shall be removed within seven (7) days after the sale, lease or rental.
  - b. Multiple residential lot sales. One (1) unlighted real estate sign per major street frontage advertising the sale, rental or lease of the premises on which it is maintained; not to exceed sixteen (16) square feet per sign face and not over five (5) feet high. Such sign shall be set back ten (10) feet from the property line and removed within seven (7) days after the sale, lease or rental.
  - c. "For Sale," "Garage Sale" and "Yard Sale" signs shall only be used to advertise commodities or objects that are owned by a resident of the Town. "Estate Sale" signs shall only be used to advertise commodities or objects that were owned by the occupant of the residence at which the sale is held, at the time of the person's death. All such signs shall be displayed according to the requirements of all applicable Town ordinances.
  - d. Political signs erected on private property with the permission of the property owner, in connection with proposition elections or political campaigns or elections, shall not exceed four (4) square feet in surface area per face or three (3) feet in height. Signs may be displayed for a period of one hundred twenty (120) days, beginning no sooner than ninety (90) days prior to the date of the election or the commencement of early voting. The person or organization responsible for the erection or distribution of any election signs or the owners of the property on which such signs are located shall remove such signs within three (3) days following the election or conclusion of the campaign.
- (i) Signs in the Right-of-Way. Signs in the right-of-way of residential zones shall be regulated as follows. No signs are allowed within the right-of-way in any nonresidential zone district or PD District. Temporary signs are permitted in the right-of-way in residential zones at the discretion of the Town, provided that they comply with all of the following standards:
  - (1) Such sign does not exceed two (2) square feet in area per face and the top of the sign is no more than three (3) feet above the ground.
  - (2) No person shall construct or cause to be constructed a sign or sign structure in the right-of-way, which would not easily break away if hit by a vehicle or otherwise creates a potentially hazardous roadside obstacle.
  - (3) All temporary signs shall be located at least ten (10) feet from a paved street or trail.
  - (4) No sign except for political signs and "House for Sale" signs shall remain in the right-of-way for more than one (1) week.
  - (5) No sign shall advertise or direct attention to a business, commodity, service or activity regardless of whether it is conducted, sold or offered in the Town, except that it may advertise a specific house for sale, open house, garage, yard or estate sale located in the Town. Both the sign and related activity shall comply with all applicable sections of this Section.
  - (6) Signs which do not violate any other provision of this Section may be used to direct traffic to a property within the Town; however, the number of signs shall not exceed the minimum number needed to direct traffic to the property and shall be limited to one (1) sign per entry and one (1) sign per intersection.
  - (7) The person or organization responsible for the erection or distribution of any sign in the right-of-way shall be responsible for removing such sign. The removal of garage, estate and yard sale signs shall be regulated by this Section. Political signs shall be removed within three (3) days

## CHAPTER 16 Zoning

following the election or termination of the campaign. All other signs shall be removed immediately following the conclusion of the event or activity to which they are related.

- (j) Signs in All Nonresidential Zone Districts and Planned Development Districts. All signs in a nonresidential zone district or Planned Development District require a sign permit and shall be regulated as follows:
- (1) Freestanding signs. All freestanding signs shall be ground or monument signs. The sign panel or backing shall be a maximum of six (6) feet high by ten (10) feet long; shall not exceed eight (8) feet in height above finished grade; and must be located within the complex or area or an adjacent road right-of-way. All text must fit within a twenty-four-square-foot rectangle. All ground or monument signs are also required to meet the following requirements:
    - a. Commercial centers with a floor area of at least fifteen thousand (15,000) square feet of gross leasable floor area shall be permitted one (1) identification monument sign that identifies the center. The maximum size of the sign is the same as for any freestanding sign. A portion of the sign area may be used as a directory to identify individual businesses within the center, provided that a minimum of twenty-five percent (25%) of the area of said sign serves as identification of the center. The sign area of said sign shall not be counted as a portion of the total aggregate sign area allowed for single uses in a center. When a directory sign is incorporated into the identification sign, consideration should be given to allow space for uses with limited street frontage or visibility over those with high visibility.
    - b. Commercial centers with less than fifteen thousand (15,000) square feet of gross leasable floor area shall be permitted one (1) identification monument sign identifying the individual uses within the center, provided that a minimum of twenty-five percent (25%) of the area of said sign serves as identification of the center, the sign does not exceed six (6) feet in height above ground level, the total sign area does not exceed one hundred (100) square feet and no sign face exceeds fifty (50) square feet. The sign area of such sign shall not be counted as a portion of the total aggregate sign area allowed for the uses in a center.
    - c. A single use or business, not part of a center, shall be permitted one (1) identification monument sign, provided that the sign shall not extend more than six (6) feet in height above ground level, the total sign area does not exceed sixty (60) square feet and no sign face exceeds thirty (30) square feet.
    - d. All ground or monument signs shall be located in a landscaped area which is of a shape, design and size (equal to at least twice the total sign area of all faces) that will provide a compatible setting for the sign. The landscaped area shall be maintained on a reasonable and regular basis.
    - e. All ground or monument signs shall match the architectural style, character, materials, color and detail of the building or center they advertise. Ground or monument signs shall indicate the address or address range for the use or center with eight-inch minimum, twenty-four-inch maximum letters and numbers. The address shall not count against the allowable sign area.
  - (2) Wall signs. Wall signs shall be parallel to the wall and project no more than eighteen (18) inches horizontally, in whole or in part, from the wall to which they are attached. Wall signs shall not exceed the height of the wall to which they are attached.
    - a. Single uses with frontage on one (1) street or parking lot. Each use within a commercial center shall be allowed a total aggregate wall sign area of thirty (30) square feet.
    - b. The wall sign area may be increased at a rate of one (1) square foot of sign area for each one (1) linear feet of building frontage in excess of thirty (30) linear feet up to seventy-five (75) linear feet, then at a rate of one (1) square foot of sign area for every two and one-half (2½) linear feet of building frontage in excess of seventy-five (75) square feet or such sign area may be increased at a rate of one (1) square foot of sign area for each two hundred (200) square feet of gross leasable floor area (G.L.A.) in excess of nine hundred (900) square feet, whichever is greater.

## CHAPTER 16 Zoning

- c. No single wall sign may exceed one hundred fifty (150) square feet in area except to the extent allowed under the planned sign program.
  - d. Wall signs must be architecturally integrated into the structure to which they are attached.
- (3) Buildings and uses with multiple frontages. Buildings and uses with frontage on more than one (1) street or parking lot shall be permitted to place signs on all building sides with frontage on a street or parking lot, up to four (4), in their calculation of permitted sign area. Determination of frontages, as they relate to the signage, shall be made by the Town Planner. Each side of a business or use with frontage on a street or parking lot shall be allowed a total aggregate wall sign area of thirty (30) square feet. The calculation and location of wall signs for buildings and uses with multiple frontages shall meet the following criteria:
- a. Sign area may be increased at a rate of one (1) square foot of sign area for each one (1) linear feet of building frontage (on the side where the sign is located) in excess of thirty (30) linear feet up to seventy-five (75) linear feet, then at a rate of one (1) square foot of sign area for every two and one-half (2½) linear feet of building frontage in excess of seventy-five (75) square feet.
  - b. One (1) of the sides containing a sign must contain the main entrance to the property.
  - c. To qualify as a frontage for purposes of determining sign area, sides must be fully exposed to public view and cannot be obstructed by other buildings, properties or uses.
  - d. No single wall may exceed the maximum sign area permitted calculated using the linear frontage for that same side of the building or one hundred fifty (150) square feet in area, whichever is more restrictive. Sign areas for wall signs may not be reassigned to other building sides, except to the extent allowed under an approved planned sign program.
  - e. The total maximum wall sign area shall be four hundred fifty (450) square feet.
  - f. Signage must be architecturally integrated into the structure to which they are attached.
- (4) Window signs. Each use shall be permitted to have up to twenty-five percent (25%) of the total window area for signs, which may be temporary or permanent in nature. Window signs greater than four (4) square feet in area shall require a sign permit.
- (5) Directional signs. Private traffic directional signs for the purpose of guiding or directing vehicular or pedestrian traffic onto or off of a parking lot or commercial center or within a parking lot or commercial center, are permitted, provided that each sign complies with the standards of the adopted Model Traffic Code or such other traffic code adopted by the Town, does not exceed three (3) square feet per sign face in area and four (4) feet in height and shall not contain any advertising or trade name identification.
- (6) Illuminated signs. For the protection of community appearance and to minimize light pollution and traffic hazards caused by glare, illuminated signs shall be subject to the following conditions:
- a. Illuminated signs shall be designed to minimize negative visual impacts on nearby residential neighborhoods.
  - b. Illuminated signs shall conform to the requirements of Section 16-3-90 of this Chapter.
  - c. Illuminated signs must be approved as part of a planned sign program.
- (7) Flags and flagpoles. One (1) flagpole per lot is permitted without a permit and shall be subject to the following requirements. Any flag or flagpole that does not meet the following requirements may be allowed as part of a planned sign program and sign permit:
- a. Flagpoles shall not exceed twenty-five (25) feet in height;
  - b. Flags shall not exceed four (4) feet by six (6) feet in dimension;
  - c. No more than two (2) flags of any size shall be permitted upon any single pole;

## CHAPTER 16 Zoning

- d. No flag shall be mounted higher than fifteen (15) feet above the maximum height of the building or structure on the property on which the flag will be flown;
  - e. No flag shall, when fully unfurled, extend over the property boundary onto any adjoining property or public right-of-way;
  - f. No flag shall be erected or maintained so as to allow a flag at rest to reach a height less than ten (10) feet above the ground;
  - g. Multiple flagpoles may be permitted when part of an approved planned sign program and shall require a permit;
  - h. The United States flag must be lowered at dusk or illuminated throughout the night;
  - i. Illumination of the United States flag on a flagpole shall be regulated by Section 16-3-80 of this Chapter. (Permitted, provided that a narrow spread thirty-nine-watt par-metal halide or fifty-watt par-halogen lamp or an equivalent lamp with a similar narrow spread, is used and aimed to only illuminate the top of the flagpole.) The source of illumination (lamp) must be shielded in a manner so as not to be visible from adjacent property. Illumination shall be re-aimed whenever the flag is flown at half-mast and turned off whenever the flag is taken down;
  - j. The United States flag must be flown in accordance with protocol established by the Congress of the United States for the Stars and Stripes;
- (8) Banners (architectural). Architectural banners mounted on a pole or streetlight, intended primarily for seasonal use, to identify events or uses within the commercial district are permitted, provided that the banner size shall be appropriate to the pole or streetlight on which it is mounted.
- (9) Banners (advertising). Banners shall not exceed forty (40) square feet in total area, shall be nonilluminated, shall be securely attached to a permanent structure and shall not be freestanding. Said signs shall not be placed above the first story of any multi-story building. Banners shall be displayed for no more than fourteen (14) consecutive days per event and fifty-six (56) days per calendar year. Banners for grand openings of a new business shall be permitted for one (1) thirty-day period within the first one hundred eighty (180) days of the opening of the business.
- (10) Inflated balloons. Inflated balloons are allowed on a temporary basis, shall not to exceed forty (40) feet in height and shall not to be displayed more than three (3) consecutive days per month.
- (11) Temporary signs for new businesses. In the event that a business has opened whose permanent sign is not yet available, in order that such business may alert the public of its presence, a temporary sign may be utilized by such business under the following conditions:
- a. Such temporary sign must conform to all height and sign area requirements which would be applicable to the permanent sign.
  - b. A permanent sign must be on order or being constructed prior to the erection of any temporary sign for a business.
  - c. No temporary sign for a business shall be displayed more than six (6) months after the date of issuance of the sign permit for the permanent sign.
  - d. Upon erection of any permanent sign for said business, all temporary signs for such business shall be removed.
- (12) Real estate signs:
- a. One (1) temporary "for sale/rent/lease" wall or freestanding sign per commercial center or use not part of a center, per street frontage, to a maximum of two (2). Said sign shall not exceed thirty-two (32) square feet per sign face and ten (10) feet in height. Such signs

## CHAPTER 16 Zoning

shall not count as part of the total sign area allowed per individual use or commercial center.

- b. One (1) unlighted real estate sign per individual use in a center, containing the message that the individual store, business or building on which the sign is located is for sale, lease or rent, together with information identifying the owner or agent, shall be allowed without a permit if the following criteria are met: Such signs may not exceed six (6) square feet in area per face and freestanding signs shall not exceed six (6) feet in height. Said sign shall be removed within thirty (30) days after sale, lease or rental. Such signs shall not count as part of the total sign area allowed for the individual use. No permit is required.
- (13) Political signs. Political signs erected in connection with proposition elections or political campaigns or elections may be displayed without a permit. When displayed on private property, said sign may not exceed twenty (20) square feet in surface area or six (6) feet in height or be placed in a public right-of-way. Political signs in any right-of-way shall not exceed four (4) square feet in surface area per face nor exceed three (3) feet in height. The person or organization responsible for the erection or distribution of any election signs or the owner of the property on which such signs are located, shall remove such sign within three (3) days following the election or conclusion of the campaign.
- (k) Planned Sign Program. Signs may be allowed in any zoning district as part of a comprehensive planned sign program. The intent of this program is to permit some flexibility in the location, design and materials permitted for signage for business, commercial, institutional and Planned Development uses. A planned sign program shall be in substantial compliance with the general residential and nonresidential sign regulations contained in this Section. It is not the intent of these provisions to alter the permitted sign area for any of these uses.
- (1) Approval required. Buildings, commercial centers, institutions and Planned Developments may obtain approval of a planned sign program from the Town Planner prior to any signs being erected in or upon any structure or property. All signs erected or maintained within the structure or property shall conform at all times to the sign program. Any deviations from an approved planned sign program shall be unlawful unless and until a revised planned sign program is approved by the Town Planner. The Town Planner shall have the discretion to require Board of Trustees review of any sign program which may result in a significant visual impact or is located in an area which has a significant impact upon the image of the Town.
  - (2) Planned sign program application. An application for a planned sign program shall be filed with the Town Clerk. The application shall include a deposit for review of the planned sign program application by the Town Planner as denoted in the Town's Fee Schedule and three (3) copies or a number of copies as directed by Town staff, of at least the following information:
    - a. A copy of the approved site plan showing all existing or approved buildings with the dimensions of building frontage and square footage for each building on site.
    - b. Building elevation drawing or sketches indicating the exterior surface design details of all buildings on the site.
    - c. Drawings or photo simulation, to scale, indicating the size, materials, method and intensity of illumination, height, color, sign area and general location of all signs proposed to be included within the planned sign program.
    - d. For buildings whose tenants have not been determined, the location, materials, method and intensity of illumination and maximum area for each sign that an individual business will be allowed to display.
  - (3) Failure to comply with an approved planned sign program. A permit for a new planned sign program shall be obtained within ninety (90) days of receipt of notice from the Town Planner that an existing sign program for any structure does not satisfy the terms of the approved planned sign program or if signs displayed in or upon any structure do not comply with the provisions of this Section.

## CHAPTER 16 Zoning

- (4) The following signs shall only be allowed when approved as part of a planned sign program, a site review or a site plan amendment by the Town Planner.
  - a. Signs or building accents which use exposed neon.
  - b. Illuminated window signs.
  - c. Awnings, canopies and marquees.
  - d. Projecting signs.
  - e. Signs with interchangeable copy or electronic message.
  - f. Gasoline station price. Price signs shall be integrated into a monument sign that identifies the gasoline station.
  - g. Corporate trademarked identities, logos or colors when integrated into signs, building colors or building themes.
- (5) The Town Planner shall have the authority to approve, approve with conditions or deny these applications based upon one (1) or more of the following:
  - a. The quality of the proposed signs.
  - b. The visual impact of the proposed signs.
  - c. Compatibility with the surrounding uses and buildings.
- (l) Enforcement. Any sign not expressly allowed by this Section is prohibited. The Town shall be vested with the duty of enforcing this Section and, in performance of such duty, shall be empowered and directed to:
  - (1) Issue permits. To issue permits to construct, alter or repair signs which conform to the provisions of this Chapter. The expiration date for such permits shall be specified in each permit and, with respect to installation of signs, shall not exceed one hundred eighty (180) days and shall be issued in conjunction with building permits.
  - (2) Determine conformance. To ascertain that all signs, constructions and all reconstructions or modifications of existing signs are built or constructed in conformance with all Town regulations.
  - (3) Legal action. In addition to those penalties set forth in Section 16-1-100 of this Chapter, the Town is hereby authorized to take appropriate action in a court of competent jurisdiction, including the Municipal Court, to: (a) abate or remove unsafe or dangerous signs pursuant to the provisions of applicable Town nuisance regulations or any other applicable regulations; and (b) seek removal of illegal signs as a remedy in the Municipal Court. The Town is specifically authorized to impose fines not to exceed four hundred ninety-nine dollars (\$499.00) per day per violation and, in addition, to seek restitution for any costs associated with the abatement of illegal signs and the enforcement of these sign regulations. The Town is further authorized to immediately remove any signs placed on Town property not in compliance with these regulations.
  - (4) Right to appeal. Any person who has been ordered to alter or remove any sign, or any person whose application for a sign permit has been denied because of conflict with regulations stated herein, may appeal to the Board of Adjustment by serving a written notice to the Town within ten (10) working days of the order or denial. An applicant may also appeal to the Board of Adjustment an alleged error by the Town or staff.
- (m) Nonconforming Signs.
  - (1) Definition of nonconforming signs. A nonconforming sign shall be any sign which:
    - a. Was lawfully maintained on the effective date of the ordinance from which the provisions of this Chapter concerning nonconformity derive and had been lawfully erected in accordance with the provisions of any prior zoning ordinance but which sign does not conform to the limitations established by this Chapter in the district in which the sign is located; or

## CHAPTER 16 Zoning

- b. Was lawfully maintained and erected on or after the effective date of the ordinance from which the provisions of this Chapter concerning nonconformity derive in accordance with the provisions of this Chapter but which sign, by reason of amendment to this Chapter, after the effective date of said ordinance, does not conform to the limitations established by the amendment in the district in which the sign is located.
- (2) Continuance of nonconforming signs. Subject to termination as provided below, any nonconforming sign located on private property may be continued in operation and maintained after the effective date of the ordinance which caused the sign to become nonconforming, provided that the sign shall not be changed in any manner that increases noncompliance of such sign with any Town regulations.
- (3) Termination of nonconforming signs.
- a. Upon expiration of a lease agreement for said sign, unless extended by the Town.
  - b. By abandonment. Abandonment of a nonconforming sign shall terminate immediately the right to maintain such sign.
  - c. By application to change any zoning or use of the property on which the nonconforming sign is located.
  - d. By destruction, damage or obsolescence. The right to maintain any nonconforming sign shall terminate and shall cease to exist whenever the sign is damaged or destroyed from any cause whatsoever or becomes obsolete or substandard under any applicable ordinance of the Town to the extent that the sign becomes a hazard or a danger.
  - e. Alteration. The right to maintain a nonconforming sign shall terminate immediately whenever the business name, size, configuration, height, setback or other attribute is altered in any manner or the sign is abandoned.
  - f. For the purposes of public need or public safety.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012; Ord. 04 §6, 2014)

### **Sec. 16-3-110. Reserved.**

### **Sec. 16-3-120. Temporary and seasonal uses.**

- (a) Upon application to the Town Clerk and review by the Town Planner, a temporary use permit may be issued for the uses specified below in any zone district. Such permits shall be valid only for the period of time specified in the permit, as determined by the maximum time periods set forth in the chart below. Failure to terminate such temporary use by the specified time shall be considered a violation of this Code. All temporary uses involved in the sale of goods require a sales tax license. Other licenses may also apply. No application shall be approved until the applicable permit fee is received by the Town.
- (b) Stipulations and Conditions. Permits are subject to reasonable stipulations and conditions established at the time of application and review, including but not limited to requirements for: safe and adequate access; sufficient parking without interfering with public rights-of-ways, streets and sidewalks; adequate sanitation facilities; provision for collection, recycling and disposal of all waste; and compliance with all zoning, building, construction and fire codes.
- (c) Exceptions. Nothing in this Section shall be construed so as to prohibit persons from conducting garage or yard sales or children's beverage and snack stands in the residential zone districts of the Town, subject to all applicable rules and regulations.
- (d) Uses and Permitted Time Periods. The following chart sets forth temporary uses that may be permitted and the maximum time periods for which the uses may be allowed prior to renewal.

CHAPTER 16 Zoning

Temporary Use	Time Period Permitted	Residential	Nonresidential
Construction and sales office which also can be used as security quarters incidental to construction on the premises	2 years after a site plan is approved as outlined in Section 16-5-40		X
Bazaar, fair, music and art festivals, open air market, farmer's market - which may include retail sales of specialty items	Weekends		X
Temporary facilities related to special events, including, without limitation, grand openings, weddings, parties, luncheons, reunions, award ceremonies, auctions and Town theme events	2 weeks	X	X
Parking for another temporary use	Same as temporary use for which it is permitted	X	X
Christmas tree sales	45 consecutive days		X
Temporary offices, classrooms and bank facilities in modular units designed for that occupancy classification	Not to exceed 2 years after a site development plan is approved		X
Real estate offices and model homes used to promote the sale of property within new housing subdivisions or projects	Not to exceed 2 years after a site development plan is approved		X
Temporary residential or commercial storage containers	40 consecutive days per occurrence, or for the duration of an approved building permit	X	X
Sidewalk sales, which shall be conducted only by the establishment located in a nonresidential zone on the property and shall only include merchandise that is regularly offered for sale or storage inside that establishment	4 separate occasions per calendar year, not to exceed 3 consecutive days per occasion		X
Outdoor sales by charitable organizations; written documentation of charitable status is	Not to exceed 2 weeks		X

CHAPTER 16 Zoning

required			
Dumpster (other than in conjunction with a building permit - but must comply with Section 18-11-40(2)(b), C.R.S.))	60 days	X	X
Portable toilets (other than in conjunction with a building permit - but must comply with Section 18-11-40(2)(a), C.R.S.))	Duration of temporary use or special event	X	X

(Ord. 5 §1, 2009; Ord. 1 §1, 2012; Ord. 04 §8, 2014)

**Sec. 16-3-130. Site development standards for nonresidential uses and planned developments.**

(a) Transition Required between Residential Uses and Streets and Nonresidential Development.

- (1) When a nonresidential use which is over fifteen (15) feet in height shares a common lot line with a residential use or the nonresidential use is adjacent to a public street that abuts residential uses, the required buffer for the nonresidential use shall be twenty-five (25) feet and shall provide adequate screening to a combination of walls, fences, berms and landscaped plant material to include trees, shrubs, grasses and low water plant material.
- (2) Views: To protect views from single-family dwelling units within the RR District, applicants must provide a view shed analysis with each proposal that indicates how the predominant views from existing single-family dwelling units will be preserved.

(b) Features Allowed Within Setbacks. The following structures and features may be located within required setbacks:

- (1) Landscaping, including trees, shrubs, berms and other vegetation.
- (2) Fences or walls, subject to permit approval, that do not exceed the standards established in this Article.
- (3) Drive aisles, sidewalks and loading spaces or bays.
- (4) Signs, if permitted by the sign regulations of this Article.
- (5) Bay windows, architectural design embellishments and cantilevered floor areas that do not project more than two (2) feet into the required setback, provided that they do not encroach on public easements.
- (6) Eaves that do not project more than two and one-half (2½) feet into the required setback.
- (7) Open outside stairways, entrance hoods, terraces, canopies and balconies that do not project more than five (5) feet into a required front or rear setback and/or not more than two (2) feet into a required side setback, provided that they do not encroach on public easements.
- (8) Chimneys, flues and ventilating ducts that do not project more than two (2) feet into a required setback and when placed so as not to obstruct light and ventilation, provided that they do not encroach on public easements.

## CHAPTER 16 Zoning

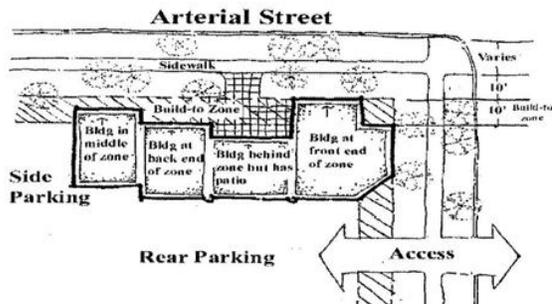
- (9) Utility lines, wires and associated structures, such as power poles and fire hydrants.
- (c) Site Function Standards. These standards specify the location of buildings on a lot and where parking, refuse areas, storage and other amenities should be located.
  - (1) Storage and utilities: Adequate provision shall be made for the following storage and utility functions: snow storage, trash containers, general storage and utility cabinets. All trash containers, general storage and utility cabinets shall be screened from view from any public right-of-way or sidewalk.
  - (2) Parking: To decrease the visual impact of parking areas, parking areas should be located in one (1) of the following ways:
    - a. Located to the sides and/or rear of buildings;
    - b. Comprised of several, linked parking areas rather than one (1) large parking area; or
    - c. Provided in another manner that meets the goal of this standard.
    - d. Parking areas shall be located to encourage shared-use.
    - e. Parking areas shall be designed to fit with topography and minimize impacts to the terrain.
  - (3) Pedestrian and vehicular safety: Care should be taken to provide pedestrian circulation that is separate from and does not conflict with vehicle circulation.
    - a. Use durable pavers, bricks, scored concrete, raised walkways or other materials that provide a similar texture and character to distinguish pedestrian walkways across public streets and across internal drive aisles from driving surfaces.
    - b. Consolidate access points with abutting properties through joint access easements or other negotiated means.
    - c. Improve pedestrian connections within the site and from the site to adjacent uses.
    - d. Ensure that sidewalks are contiguous with abutting properties.
    - e. Entrance drives shall be readily recognizable to the first time visitor.
    - f. Reduce potential points of conflict between service vehicles, private automobiles and pedestrians through changes in paving patterns, landscape design and allowable signage.
  - (4) Connectivity and multiple transportation modes.
    - a. All streets and pedestrian paths shall connect with existing or planned streets, trails, public parks and amenities within the Town.
    - b. Continuous walkways shall provide connections to and between:
      - 1. The primary entrance or entrances to each building, including pad site buildings.
      - 2. All parking lots or parking structures that serve such buildings.
      - 3. Any sidewalks or walkways on adjacent properties that extend to the boundaries shared with the development.
      - 4. Any public sidewalk system along the perimeter streets adjacent to the development.
    - c. Bike racks and/or bike lockers shall be installed in all nonresidential developments and Planned Developments at a minimum ratio of five (5) bike parking spaces per one hundred (100) parking spaces. Bike parking spaces are considered to be one (1) bike locker or one (1) space on a bike rack.
  - (5) Street appeal: All nonresidential development and Planned Developments shall provide at least three (3) or more of the following design features as a condition of development approval:
    - a. Public or private outdoor seating areas.

## CHAPTER 16 Zoning

- b. Useable public spaces located in sunny places.
  - c. Pathways to public facilities and amenities.
  - d. Primary structure built to the sidewalk.
  - e. Public art and/or public plazas, which contribute to the overall benefit of the community.
  - f. Inviting street level storefront that is oriented toward pedestrians and provides visually interesting forms or displays for the pedestrian.
  - g. Parking placed totally behind the primary structure, below grade, in a parking structure or limit parking to one (1) side of the building.
- (d) Topographic Standards.
- (1) Locational considerations in the siting of new development.
    - a. Integrated structures and roadways into the surrounding natural landscape and topography.
    - b. Avoid visible construction cuts and permanent scarring.
    - c. Orient lots toward views and vistas.
    - d. Locate lots at right angles to contour lines.
    - e. Place development in less sensitive areas of the site.
    - f. Minimize disturbance of natural features, such as slopes, drainage areas, flood prone areas and open spaces.
    - g. Engineer grade cuts and fills to imitate natural slope changes with rounded tops of cuts and gradual transitions at the toes of fills.
    - h. Fit structures into the existing topography of the site. Buildings shall step with the site as opposed to sitting on the site. The building should appear to grow out of the land. This will not only minimize site disturbance, it will also create architectural interest by breaking up the mass of the building.
  - (2) Grading and site specifications. Prior to submission of a grading plan, the applicant shall meet with Town staff to develop a grading plan which adequately addresses these standards, engineering standards and other applicable ordinances and regulations.
    - a. All slopes shall be landform graded. Landform grading is defined as a grading method that creates artificial slopes with curves and varying slope ratios. Landform grading is designed to simulate the appearance of surrounding natural terrain.
    - b. At the intersections of manufactured and natural slopes, abrupt angular intersections shall be avoided. Contours shall be curved to blend with the natural slope.
    - c. Grading for pads shall follow the contours of the existing underlying landform.
    - d. Standard prepared building pads resulting in grading outside of the building footprint and driveway area is discouraged.
    - e. To minimize grading and protect natural contours, roads shall follow the natural contours.
    - f. All newly graded slopes shall be planted with appropriate erosion control plant materials.
    - g. Retaining walls located in public rights-of-way or visible from public spaces shall be faced with river rock or natural stone or constructed of interlocking blocks in earth tones and designed as an architectural extension of the primary structure.
    - h. Areas that will not be graded shall be delineated in the field with fences during construction to ensure that these areas remain undisturbed.

## CHAPTER 16 Zoning

- (3) Retaining walls. Retaining walls shall be terraced. Terracing through the use of successive retaining walls shall provide benches to allow for landscaping and maintenance of the landscape materials. Retaining walls and their structural components located in public rights-of-way, when allowed or visible from public spaces should be faced with natural stone or constructed of interlocking blocks in earth tones matching the proposed development. Retaining walls constructed of wood and/or smooth faced concrete are not allowed.
- (e) Building Location and Form. Building location and form provides standards regarding building location relative to the street and parking lot, overall building size and shape. The focus is on building function rather than architectural style.
- (1) Build-to-zone. Along arterials, major collectors and minor collectors, the facades of buildings shall be placed within the build-to zone. This zone is defined as an area that is a minimum of ten (10) feet from the back of the sidewalk to a maximum of twenty (20) feet from the back of the sidewalk. The area between the building and the back of the curb shall be landscaped. Approved exceptions to the build-to zone shall be permitted in order to create an outdoor space, such as a plaza, courtyard, patio or garden between a building and the sidewalk. Such space shall have landscaping, low walls not to exceed forty-two (42) inches, fencing or railing not to exceed forty-two (42) inches, a tree canopy and/or other similar site improvements along the sidewalk.



- (2) Building and roof form.
- Building forms shall be asymmetric to create a complex building form using overhangs, recesses, dormers, gabled ends, balconies and/or porches.
  - Flat roofs shall be screened with parapets on all sides of the building. The parapet shall be of height sufficient to screen all rooftop mechanical equipment (e.g., HVAC units). If no rooftop mechanical equipment exists, the parapet shall be a minimum of eighteen (18) inches in height. The average height of such parapets shall not exceed fifteen percent (15%) of the height of the supporting wall and such parapets shall not exceed one-third (?) of the height of the supporting wall. Such parapets shall feature three-dimensional cornice treatment.
  - Ground floor facades that face public streets or provide a primary entry to the building shall have display windows or similar transparent area comprising forty percent (40%) to eighty percent (80%) of the first floor facade area.
  - Side and rear walls of all stories that face a public right-of-way or pedestrian way shall be constructed of the same building materials and contain the same architectural treatment as the front of the building.
- (f) Building Orientation, Use and Function.
- (1) Entrances to buildings shall be designed to ensure smooth and safe pedestrian circulation and ease of snow removal.

## CHAPTER 16 Zoning

- (2) Buildings shall be designed to minimize snow shedding and runoff onto pedestrian areas and public ways.
- (3) The ground floor of building frontages shall be primarily occupied by active commercial or institutional uses.
- (4) Buildings shall orient facades and main entries toward the street, toward a plaza or pedestrian way that leads directly to a street.
- (5) Two (2) or more of the following design elements shall be incorporated for each fifty (50) horizontal feet of a building facade or wall:
  - a. Changes in color, texture or materials.
  - b. Projections, recesses and reveals, expressing structural bays, entrances or other aspects of the architecture with a minimum change of plane of twelve (12) inches.
  - c. Grouping of windows or doors.
  - d. Trellis, arcades or pergolas providing pedestrian interest.
- (6) Building facades facing a primary access street shall have clearly defined, highly visible customer entrances that feature no less than two (2) of the following:
  - a. Canopies or porticos;
  - b. Overhangs, recesses/projections;
  - c. Distinctive roof forms;
  - d. Arches;
  - e. Outdoor patios;
  - f. Display windows; or
  - g. Planters or wing walls that incorporate landscaped areas and/or places for sitting.
- (g) Surfacing. All streets, driveways and curb cuts shall be surfaced immediately upon completion. Surface material shall be asphalt or concrete. Surfacing within the right-of-way shall extend from the traveled portion of the street to the right-of-way line.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

### **ARTICLE 4 Special Requirements**

[Sec. 16-4-10. Home occupations.](#)

[Sec. 16-4-20. Keeping and raising of animals.](#)

[Sec. 16-4-30. Commercial mobile radio service facilities.](#)

[Sec. 16-4-40. Cemeteries prohibited.](#)

[Sec. 16-4-50. Grading, erosion and sediment control requirements.](#)

[Sec. 16-4-60. Growing of medical marijuana in residential structures.](#)

[Sec. 16-4-70. Growing of marijuana in residential structures for personal use.](#)

**Sec. 16-4-10. Home occupations.**

- (a) Permitted Accessory Use in the RR (Large Lot Rural Residential) Zone District. Home occupations are a permitted accessory use in the RR District. A home occupation must comply with the following criteria:
- (1) The home occupation shall be accessory to the use of the structure as a residence.
  - (2) The home occupation must be conducted entirely within the principal dwelling structure. The storage of materials and goods associated with the home occupation may be stored in an accessory building.
  - (3) Only the persons residing in the home shall conduct the home occupation business.
  - (4) There shall be no visible advertising of the home occupation on the premises.
  - (5) There shall be no outdoor storage of good or materials associated with the home occupation.
  - (6) There shall be no excessive or offensive noise, vibration, smoke, dust, odor, heat, glare or light or dumping of materials produced by the home occupation.
  - (7) The receipt or delivery of merchandise, goods or supplies for use in a home occupation shall be limited to the United States Mail, commercial parcel delivery companies or private passenger vehicle, but shall exclude large truck and/or trailer-delivered goods or merchandise.
  - (8) The home occupation shall not change the appearance or character of the dwelling or neighborhood. No exterior structural alterations to accommodate the home occupation are permitted.
  - (9) Sales conducted in conjunction with the home occupation shall be primarily by telephone, direct mail or other telecommuting means. Incidental pick-up of goods is permitted. However, a home occupation shall not generate an amount of traffic that perceptively alters the residential character of the neighborhood.
- (b) Home Occupations in Other Zone Districts. Home occupations which occupy less than thirty-five percent (35%) of the gross floor area of the principal use and which have no exterior indication of nonresidential activity, except for parking or signage as outlined in Article 3 of this Chapter, are allowed in all other zone districts.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

**Sec. 16-4-20. Keeping and raising of animals.**

- (a) General Provisions. The housing, keeping or sheltering of any domestic farm animal, excluding pet animals, shall be allowed in the RR Zone District only. Animals shall be limited to pet animals, domestic livestock, farm animals, bees and fowl as listed below.
- (b) Specific Animal Standards.
- (1) Application of standards. The following requirements apply to the keeping or raising of specific types of animals, in addition to all other applicable standards of this Chapter. More than one (1) type of animal may be kept on a single lot, subject also to the provisions of this Section.
  - (2) Number of animals. Domestic farm animals limited to horses, pot belly pigs, goats, sheep, donkeys and mules, llamas and alpacas, rabbits, fowl and bees are allowed at the following maximum density:
    - a. One (1) horse, pot belly pig, goat, sheep, donkey, mule, llama or alpaca per acre or portion thereof.
    - b. Twelve (12) fowl, of which only one (1) may be a rooster, per lot.

## CHAPTER 16 Zoning

- c. Five (5) rabbits per lot.
  - d. Eight (8) colonies of bees per lot.
  - e. No more than any four (4) pet animals, including but not limited to dogs, cats or small animals older than one hundred eighty (180) days, per lot.
- (3) Minimum area standards.
- a. Domestic farm animals, as defined in this Section, fowl and bees shall be permitted on lots of at least eighty-five thousand (85,000) square feet, except that offspring of animals on property with two and one-half (2½) acres may be kept until weaned.
  - b. No domestic farm animals, fowl or bees are allowed within the VC Zone District or any Planned Development District.
- (c) Standards.
- (1) All horses, mules, llamas, alpacas, sheep, pot belly pigs and goats shall be kept in a fenced area.
  - (2) No poultry house, coop or hutch shall exceed a total of one hundred twenty (120) square feet of gross floor area.
  - (3) Poultry houses, pigeon coops, hutches and bee hives shall not be located within twenty-five (25) feet of any property line and shall not be located within fifty (50) feet of any dwelling unit.
  - (4) Premises upon which animals are kept shall be maintained in such a condition as not to be foul, hazardous or detrimental to the health, safety or welfare of humans or animals. Manure shall not be allowed to accumulate so as to cause a hazard to the health, welfare or safety of humans or animals.
  - (5) Violations of this Section shall be subject to nuisance abatement procedures.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012; Ord. 04 §9, 2014)

### **Sec. 16-4-30. Commercial mobile radio service facilities.**

- (a) Purpose. The purposes of this Section are: to allow the location of commercial mobile radio service facilities ("CMRS facilities") in the Town subject to certain standards; to act on applications for the location of CMRS facilities within a reasonable period of time; to encourage co-location of CMRS facilities; and to prevent unreasonable discrimination among providers of functionally equivalent services.
- (b) Standards for all CMRS Facilities.
- (1) Applicability. The standards contained in this Section apply to all applications for location of a CMRS facility. The applicant shall demonstrate in writing that its proposed CMRS facility meets all applicable standards and provisions of this Section.
  - (2) Co-location. The Town encourages co-location of CMRS facilities when feasible to minimize the number of CMRS facility sites. To further the goal of co-location:
    - a. No CMRS facility 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 explaining why co-location is not possible at a particular facility or site; and
    - b. If a telecommunications competitor attempts to co-locate a CMRS facility on an existing or approved CMRS facility or location and the parties cannot reach an agreement, the Town may require a third-party technical study to be completed at the expense of either or both parties to determine the feasibility of co-location.

## CHAPTER 16 Zoning

- (c) Compliance with FCC standards. Upon a request by the Town at any time, CMRS facility owners and operators shall verify that:
  - (1) The CMRS facility complies with the current FCC regulations prohibiting localized interference with reception of television and radio broadcasts; and
  - (2) The CMRS facility complies with the current FCC standards for cumulative field measurements of radio frequency power densities and electromagnetic fields.

By adopting this Section, the Town is not attempting to regulate radio frequency power densities or electromagnetic fields, which regulation is controlled by the FCC.

- (d) Abandonment. If the CMRS facility ceases operation for any reason for one hundred eighty (180) consecutive days:
  - (1) The owner or operator shall remove the facility; and
  - (2) Any special review use site plan approval or permit shall expire.

- (e) Freestanding CMRS Facilities.

- (1) Application for special use approval is required prior to location of a freestanding CMRS facility in any zone district.
- (2) Letter of credit. Each applicant who obtains approval for location of a freestanding CMRS facility shall, prior to commencing construction, post a letter of credit, in sufficient amount to cover removal of the CMRS facility if abandoned.
- (3) Minimum setbacks. A freestanding CMRS facility shall be set back from each property line one (1) foot of distance for every foot of facility height.
- (4) Maximum height for freestanding CMRS facilities. A freestanding CMRS facility, including antennae, shall not exceed the maximum structure height limit in the underlying zone district unless the Town approves a height variance. In no case shall a freestanding CMRS facility exceed fifty (50) feet in height.
- (5) Design standards for freestanding CMRS facilities. A freestanding CMRS facility shall meet the following design standards to minimize impacts:
  - a. The facility shall be designed to be compatible with surrounding buildings and structures and existing or planned uses in the area.
  - b. Existing land forms, vegetation and structures shall be used to screen the facility from view and blend in the facility with the surrounding environment.
  - c. Existing vegetation shall be preserved or enhanced.
  - d. The total area of any equipment storage shelters shall not exceed four hundred (400) square feet for each CMRS facility.
  - e. Equipment storage shelters shall be grouped as closely together as technically possible.
  - f. No equipment storage shelter shall exceed fifteen (15) feet in height.
  - g. All CMRS facilities shall accommodate co-location of facilities unless co-location is technically unfeasible.
  - h. All applicable landscape regulations shall be observed.
  - i. Any equipment that could be dangerous to persons or wildlife shall be adequately covered or fenced.

- (f) Building-Mounted CMRS Facilities. CMRS facilities are allowed on any building either wall-mounted or roof-mounted, subject to the standards within this Subsection.

- (1) A building wall-mounted CMRS facility shall adhere to the following design standards to minimize impacts:

## CHAPTER 16 Zoning

- a. The facility shall be screened from view and/or colored to match the building or structure to which it is attached.
  - b. The mounting of antennae shall be as flush to the building wall as possible and in no case shall the antennae extend more than three (3) feet out from the building wall.
  - c. If the roof of the building is pitched, the facility shall not extend above the roof line of the building.
  - d. If the roof of the building is flat, the facility shall not extend above the highest point of the building, including already existing facilities on the roof.
- (2) A building roof-mounted CMRS facility shall adhere to the following design standards to minimize impacts:
- a. A building roof-mounted CMRS facility, including antennae, shall not extend more than twelve (12) feet above the height of the building on which the facility is mounted.
  - b. The facility shall be screened from view and/or colored to match the building or structure to which it is attached.
  - c. Antennae, support structures, accessory equipment and all other roof-mounted appurtenances shall not exceed an aggregate total of twenty-five percent (25%) of the total surface area of the building roof.
  - d. The diameter of a microwave dish antenna shall not exceed four (4) feet.
- (3) Accessory equipment for a building roof- or wall-mounted CMRS facility shall be placed inside the building if feasible. All equipment storage shelters shall be grouped as closely as technically possible and the total area of all accessory equipment, including storage shelters, shall not exceed four hundred (400) square feet per CMRS facility.
- (g) Pole-Mounted CMRS Facilities. A pole-mounted CMRS facility shall adhere to the following design standards to minimize impacts:
- (1) The facility shall be designed to be compatible with surrounding buildings and structures and existing or planned uses in the area.
  - (2) The facility shall be colored to match the pole to which it is attached.
  - (3) The total area of all accessory equipment, including equipment storage shelters, shall not exceed four hundred (400) square feet per facility.
  - (4) Equipment storage shelters shall be screened from view by vegetation, fencing or comparable screening.
- (h) Application Procedures.
- (1) CMRS facilities require a special review use permit, except stealth pole-mounted CMRS facilities within the Large Lot Rural Residential (RR) Zone District require only administrative approval.
  - (2) An application for approval of a proposed CMRS facility shall include a written, narrative statement describing in detail how the proposed CMRS facility will comply with each of the applicable design standards set forth in this Section.
  - (3) A site plan on 24" x 36" sheets, which includes the following:
    - a. The location of all proposed and existing improvements;
    - b. A north arrow;
    - c. Scale (written and graphic);
    - d. Scaled building elevations; and
    - e. The legal description of the property.

## CHAPTER 16 Zoning

- (4) A title commitment or other proof of ownership of the property or, if the property is leased, a copy of the fully executed lease with the property owner. The lease may be edited to black out or redact portions which the applicant does not want to become a public record, except: the term of the lease; any renewal provisions; provisions relating to termination of the lease; provisions relating to modification or removal of the facility; and the signature page.
  - (5) Photographic simulations showing the proposed facility and the structure on which it will be attached.
  - (6) Preliminary structural design drawings and antenna specifications, which drawings shall include the coverage of the facility and the relationship with other existing or proposed facilities.
  - (7) For freestanding CMRS facilities, drawings and a site plan including the foundation design, method of attachment, location of the facility, elevation drawings and landscape drawings.
  - (8) For building roof- or wall-mounted CMRS facilities, structural drawings depicting the method of attachment to the building, including wind load calculations.
  - (9) For pole-mounted CMRS facilities, a copy of the ownership or attachment agreement.
- (i) Procedure for Administrative Approval. The applicant shall submit a completed application to the Town, which shall approve or deny the request within fifteen (15) days of receipt.
- (j) Procedure for Special Review Use Approval of a CMRS Facility.
- (1) Criteria for approval or denial of application. In considering an application for approval for a CMRS facility, the Board of Trustees shall base its decision as to the approval or denial of the application on whether the proposed CMRS facility meets the applicable design standards as outlined in this Section.
  - (2) Application denial. A final decision by the Town to deny an application under this Section shall be in writing and supported by substantial evidence contained in a written record.
  - (3) Approval and conditions of approval. The Board of Trustees may require, as a condition of approval of any CMRS facility: any reasonable conditions necessary to improve or modify the site plan; any reasonable conditions necessary to ensure that any negative impacts of the proposed use are eliminated or mitigated; and any reasonable conditions necessary to ensure that the proposed development and use will be commenced and fully completed in a timely fashion.
  - (4) Change in ownership. In the event there is a change in either the owner or operator of a CMRS facility, new approval shall not be required. The new owner or operator shall notify the Town of the change within fifteen (15) days after the date the change becomes effective; shall register such change with the Town by providing the name and business address of the new owner or operator and by verifying in writing that the new owner or operator has fully reviewed this Section; and shall pay to the Town an inspection fee to be determined by resolution of Board of Trustees. Upon receipt of notification of a change in the owner or operator of a CMRS facility, the Town may inspect the property to make certain that the new owner or operator is complying with this Section.
- (k) Modifications to CMRS facilities.
- (1) Any modification to a CMRS facility that differs from the original design that was approved by the Town shall require new application and approval. Notwithstanding the foregoing, the Town may, in its sole discretion, waive or postpone the submittal of any application requirement detailed in this Section when considering a modification request.
  - (2) Any request for modification that does not substantially change the dimensions of an existing CMRS facility shall be approved by the Town.
  - (3) Any application for modification to a CMRS facility shall be reviewed by the Town within ninety (90) days of the Town's receipt of the completed modification application.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012; Ord. 04 §10, 2014)

**Sec. 16-4-40. Cemeteries prohibited.**

- (a) Legislative Authority. The Town has the specific legislative authority pursuant to Section 31-25-702, C.R.S., to regulate cemeteries and prohibit their establishment within one (1) mile of the Town.
- (b) Legislative Findings.
  - (1) The Board of Trustees hereby finds that there are an adequate number of cemeteries proximate to the boundaries of the Town and that such cemeteries are convenient for residents of the Town and contain sufficient cemetery spaces for the interment of the deceased; and
  - (2) The Board of Trustees further finds that the Town is a small community and the construction of any cemetery within the corporate boundaries of the Town would be incompatible with the current land uses within the Town and with the Town's Comprehensive Plan.
- (c) Cemeteries Prohibited. Establishment of any cemetery within the Town boundaries of any zoning district within the Town is hereby prohibited.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

**Sec. 16-4-50. Grading, erosion and sediment control requirements.**

- (a) Purpose. The purpose of this Section is to provide regulations to monitor and control the high rates of erosion and sedimentation due to land disturbance caused by grading (cut or fill). This Section is further intended to ensure the protection of existing drainageways as well as private and/or public property adjacent to any disturbed area regulated by this Article.
- (b) Grading Defined. For purposes of this Section, grading is any change to the native contours of the surface of the property. This includes grading associated with building permits, the placement of fill material, cutting or reshaping a slope, berms, landscaping, or revising the area (square footage) and/or the point of discharge of surface drainage to adjacent property.
- (c) Overlot Grading Permit Required. An overlot grading permit is required if any one (1) of the following conditions occurs:
  - (1) The area of grading is greater than ten thousand (10,000) square feet.
  - (2) More than one hundred (100) cubic yards of fill material is imported or placed from on site cut;
  - (3) The proposed grading increases or changes the historical flow of surface water to adjacent lots or the Town rights-of-way; or
  - (4) The disturbed area is within seventy-five (75) feet of an existing drainageway, floodplain or wetlands as determined by the Town Engineer.
- (d) Overlot Grading Permit Applications Required.
  - (1) Project of less than one (1) acre. For any proposed project which requires disturbing an area less than one (1) acre, the following information shall be provided in addition to the overlot grading permit application for approval by the Town Engineer:
    - a. A sketch of the entire property showing existing improvements (i.e., boundary lines, buildings, driveways, fences, etc.);
    - b. North arrow and scale of the drawing;
    - c. The limits of the work area shall be indicated on the sketch with the area square footage and the amount of cut/fill in cubic yards labeled;

## CHAPTER 16 Zoning

- d. All surface water hydrologic features within one hundred (100) feet of the proposed work area (i.e., drainageways, floodplains, wetlands);
  - e. Directional flow arrows indicating stormwater runoff;
  - f. Temporary and, if applicable, permanent erosion and sediment control BMPs in accordance with the Town's standards and specifications; and
  - g. If the existing driveway access to the area is not to be used for the construction access, then a temporary construction access from the Town's paved roadway to the applicant's property must be approved by the Town Engineer.
- (2) Project of one (1) acre or more. For any site disturbing an area of one (1) acre or more, a Grading, Erosion and Sediment Control (GESC) Report and Plan shall be prepared, stamped and sealed by a registered engineer in accordance with the County's GESC Manual, as adopted by the Town, along with the overlot grading permit application for approval by the Town Engineer.
- (e) Fee for Overlot Grading Permit Applications. An application fee in an amount determined by resolution of the Board of Trustees. In addition to the application fee, applications for grading permits must comply with the escrow deposit requirements of Subsection 16-5-100(b) of this Chapter.
- (f) Penalty. It shall be unlawful for any person to violate the provisions of this Section. Any person convicted of violating any provision of this Section shall, upon conviction, be punished by a fine of not more than four hundred ninety-nine dollars (\$499.00) per day for each separate offence. Each day a violation of this Section continues shall constitute a separate offense. The Town may also seek upon a finding of a violation of this Section an injunction, abatement, restitution or any other remedy to prevent, enjoin, abate or remove the violation. A person convicted of violating the provisions of this Section shall also be liable for the actual cost of rehabilitating the property.

(Ord. 6 §1, 2007; Ord. 1 §1, 2012; Ord. 04 §11, 2014)

### **Sec. 16-4-60. Growing of medical marijuana in residential structures.**

- (a) Purpose. This Section is intended to apply to the growing of medical marijuana in residential structures, whether such growing is done by patients for their own use or by primary caregivers.
- (b) Generally. A primary caregiver, for purposes of this Section, and consistent with Article XVIII, Section 14(1)(f) of the Colorado Constitution, is defined as a natural person other than the patient and the patient's physician who is eighteen (18) years of age or older and has significant responsibility for managing the well-being of a patient who has a debilitating medical condition. In addition to other activities conducted on behalf of the patient, a primary caregiver, a patient or a group of patients cultivating marijuana plants for their own use may cultivate, possess, produce, use or transport marijuana or paraphernalia to administer marijuana for medical purposes, subject to the following:
- (1) Such cultivation, production or possession of marijuana plants must be in full compliance with all applicable provisions of Article XVIII, Section 14 of the Colorado Constitution, the Colorado Medical Marijuana Code, Sections 12-43.3-101, et seq., C.R.S., and the Medical Marijuana Program, Section 25-1.5-106, C.R.S.
  - (2) Such marijuana plants are cultivated, produced or possessed within a licensed patient's or registered caregiver's primary residence, as defined by Paragraph (8) below.
  - (3) The cultivation, production or possession of such marijuana plants must not be perceptible from the exterior of the primary residence, including but not limited to:
    - a. Common visual observation, including any form of signage;
    - b. Unusual odors, smells, fragrances or other olfactory stimulus;
    - c. Light pollution, glare or brightness that disturbs the repose of another; and

## CHAPTER 16 Zoning

- d. Undue vehicular or foot traffic, including excess parking within the residential zone.
- (4) Such marijuana plants shall not be grown or processed in the common areas of a multifamily or attached residential development.
- (5) Such cultivation, production or possession of marijuana plants shall be limited to the following space limitations within a primary residence:
  - a. Within a single-family dwelling unit (Group R-3 as defined by the International Building Code): a secure, contiguous one-hundred-fifty-square-foot area within the primary residence of the licensed patient or registered caregiver.
  - b. Within a multifamily dwelling unit (Group R-2 as defined by the International Building Code): a secure, defined, contiguous one-hundred-square-foot area within the primary residence of the patient or registered caregiver.
  - c. Such cultivation, production or possession of marijuana plants shall not occur in any accessory structure.
- (6) Such cultivation, production or possession of marijuana plants shall meet the requirements of all adopted Town building and life/safety codes, as the same may be amended from time to time.
- (7) Such cultivation, production or possession of marijuana plants shall meet the requirements of all adopted water, sewer and fire district regulations promulgated and applicable to the Town.
- (8) For purposes of this Section, primary residence means the place that a person, by custom and practice, makes his principal domicile and address and to which the person intends to return following any temporary absence, such as vacation. Residence is evidenced by actual daily physical presence, use and occupancy of the primary residence and the use of the residential address for domestic purposes, such as, but not limited to, slumber, preparation of and partaking of meals, regular mail delivery, vehicle and voter registration, or credit, water and utility billing. A person shall have only one (1) primary residence. A primary residence shall not include accessory buildings.
- (9) For purposes of this Section, a secure area means an area within the primary residence accessible only to the patient or primary caregiver. Secure premises shall be locked or partitioned off to prevent access by children, visitors, casual passersby, vandals or anyone not licensed and authorized to possess medical marijuana.
- (10) The cultivation, production or possession of marijuana plants in a residential structure pursuant to this Section is and shall be deemed consent by the primary caregiver or patient upon reasonable notice for the Town to inspect the premises to assure compliance with the provisions of this Section.

(Ord. 1 §1, 2012)

### **Sec. 16-4-70. Growing of marijuana in residential structures for personal use.**

- (a) Purpose. This Section is intended to apply to the growing of marijuana in residential structures for personal use to the extent authorized by Article XVIII, Section 16(3)(b) of the Colorado Constitution.
- (b) Generally. Any person, for the purposes of this Section and consistent with Article XVIII, Section 16(3)(b) of the Colorado Constitution, who is twenty-one (21) years of age or older and who is cultivating marijuana plants for his own use may possess, grow, process or transport no more than six (6) marijuana plants, with three (3) or fewer being mature, subject to the requirements that follow.
  - (1) Such possessing, growing, processing or transporting of marijuana plants for personal use must be in full compliance with all applicable provisions of Article XVIII, Section 16 of the Colorado Constitution.

## CHAPTER 16 Zoning

- (2) Such marijuana plants are possessed, grown or processed within the primary residence of the person possessing, growing or processing the marijuana plants for personal use, as defined by Paragraph (8) below.
- (3) The possession, growing and processing of such marijuana plants must not be perceptible from the exterior of the primary residence, including but not limited to:
  - a. Common visual observation, including any form of signage;
  - b. Unusual odors, smells, fragrances or other olfactory stimulus;
  - c. Light pollution, glare or brightness that disturbs the repose of another; and
  - d. Undue vehicular or foot traffic, including excess parking within the residential zone.
- (4) Such marijuana plants shall not be grown or processed in the common areas of multi-family or attached residential development.
- (5) Such cultivation, production, growing and processing of marijuana plants shall be limited to the following space limitations within a primary residence:
  - a. Within a single-family dwelling unit (Group R-3 as defined by the International Building Code): A secure, defined, contiguous one-hundred-fifty-square-foot area within the primary residence of the person possessing, growing or processing the marijuana plants for personal use.
  - b. Within a multi-family dwelling unit (Group R-2 as defined by the International Building Code): A secure, defined, contiguous one-hundred-square-foot area within the primary residence of the person possessing, growing or processing the marijuana plants for personal use.
  - c. Such possession, growing and processing of marijuana plants shall not occur in any accessory structure.
- (6) Such possession, growing and processing of marijuana plants shall meet the requirements of all adopted Town building and life/safety codes, as the same may be amended from time to time.
- (7) Such possession, growing and processing of marijuana plants shall meet the requirements of all adopted water and sewer regulations promulgated by the Town.
- (8) For purposes of this Section, primary residence means the place that a person, by custom and practice, makes his principal domicile and address and to which the person intends to return following any temporary absence, such as vacation. Residence is evidenced by actual daily physical presence, use and occupancy of the primary residence and the use of the residential address for domestic purposes, such as, but not limited to, slumber, preparation of and partaking of meals, regular mail delivery, vehicle and voter registration or credit, water and utility billing. A person shall have only one (1) primary residence. A primary residence shall not include accessory buildings.
- (9) For purposes of this Section, a secure area means an area within the primary residence accessible only to the person possessing, growing or processing the marijuana plants for personal use. Secure premises shall be locked or partitioned off to prevent access by children, visitors, casual passersby, vandals or anyone not licensed and authorized to possess marijuana.
- (10) The possession, growing and processing of marijuana plants in a residential structure pursuant to this Section is and shall be deemed consent by the person possessing, growing or processing the marijuana plants for personal use, upon reasonable notice, for the Town to inspect the premises to assure compliance with the provisions of this Section.

(Ord. 05 §1, 2013)

## **ARTICLE 5 Administration and Procedures**

[Sec. 16-5-10. Administration.](#)

[Sec. 16-5-20. Certificates of occupancy.](#)

[Sec. 16-5-30. Plot plans.](#)

[Sec. 16-5-40. Site development plans.](#)

[Sec. 16-5-50. Special review use.](#)

[Sec. 16-5-60. Changes and amendments.](#)

[Sec. 16-5-70. Variances and appeals.](#)

[Sec. 16-5-80. Nonconforming uses, structures and lots.](#)

[Sec. 16-5-90. Public notice requirements.](#)

[Sec. 16-5-100. Fees.](#)

### **Sec. 16-5-10. Administration.**

- (a) Intent. It is the intent and purpose of this Article to provide for the efficient, reasonable and impartial enforcement of this Chapter. This Article establishes and prescribes the basic duties and operating procedures of the administrative individuals responsible for administering and enforcing this Chapter and establishes the requirements for development applications and building permit applications with regard to the following:
- (1) Administration.
  - (2) Certificates of occupancy.
  - (3) Plot plans.
  - (4) Site development plans.
  - (5) Special review use.
  - (6) Changes and amendments to the Chapter.
  - (7) Variances and appeals.
  - (8) Nonconforming uses, structures and lots and parking specifications.
  - (9) Notice of public hearings.
  - (10) Fees.
- (b) Town Planner.
- (1) There is hereby established the office of Town Planner. The Town Planner shall be appointed by the Board of Trustees and shall be charged with the responsibility for interpretation of and enforcement of this Chapter. Interpretation of this Chapter includes, but is not limited to, clarification of intention, classification and approval of land uses not specified in this Article, clarification of zoning district boundaries and delegation of procedure.
  - (2) No oversight or dereliction or error on the part of the Town Planner or on the part of any other official or employee of the Town shall legalize, authorize or excuse the violation of any provisions of this Chapter.

## CHAPTER 16 Zoning

- (3) Right of entry. The Town Planner shall have the right to enter any premises or structures at any reasonable time for making an inspection as may be necessary to carry out his duties in the enforcement of this Chapter.
- (c) Building Official. The Building Official shall have duties including the inspection of plans, structures and site improvements for compliance with the provisions of this Chapter and for issuance of permits for building construction and site improvements, certificates of occupancy and other duties as herein authorized. In meeting the responsibilities of the above duties, the Building Official may solicit the assistance of other Town officials, other agencies or consultants as deemed necessary.
- (d) Planning Commission.
  - (1) Affirmation: The Planning Commission of the Town is created pursuant to and under the authority of Section 31-23-201, et seq., C.R.S.
  - (2) Powers and duties: The Planning Commission shall have all powers, discretion and duties established by Section 31-23-201, C.R.S.
  - (3) The Town declares, pursuant to Section 31-23-203, C.R.S., that the personnel of the Planning Commission may all be members of the Board of Trustees.
- (e) Board of Adjustment.
  - (1) Appointment of the Board of Adjustment. In accordance with the powers and authority of the Board of Trustees, the Board of Adjustment may consist of the Board of Trustees acting as the Board of Adjustment.
  - (2) The Board of Adjustment shall hear appeals from and review any order, requirement, decision or determination made by any administrative official of the Town charged with the enforcement of this Chapter. The Board may reverse or affirm, wholly or partly or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as in its own opinion ought to be made in the premises and, to that end, has all the power of the official from whom the appeal is taken.
  - (3) The Board of Adjustment has the authority to vary or modify the application of this Chapter relating to the use, construction or alteration of buildings or structures or the use of land, so that the spirit of this Chapter is observed, public safety and welfare secured and substantial justice done, when the strict application of this Chapter will deprive a property of the privileges enjoyed by other property of the same zoning classification in the same zoning district because of special circumstances applicable to a property, including its size, shape, topography, location or surrounding.
  - (4) The Board of Adjustment does not have the power to change this Chapter or to change the Zoning District Map of the Town.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

### **Sec. 16-5-20. Certificates of occupancy.**

When Required. After the effective date of this Chapter, no change in the use or occupancy of land, nor any change of use or occupancy in an existing building or structure other than for a residential use, shall be made, nor shall any new building or structure be occupied until a certificate of occupancy has been issued by the Building Official. No certificate of occupancy shall be issued by the Building Official unless the proposed use of the building, structure or land and improvements thereto, conforms to the requirements of this Chapter.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

**Sec. 16-5-30. Plot plans.**

- (a) Plot Plan Requirements. Every building permit application for detached single-family dwelling units or accessory structures shall be accompanied by three (3) copies of a plot plan. Additional copies may be requested by Town staff. The plot plan shall be drawn to scale and show the following information in sufficient detail to enable the Town Planner to ascertain whether the proposed excavation, construction, conversion, moving or alteration is in conformance with this Chapter:
- (1) The actual shape and dimensions of the lot.
  - (2) The location, size, shape and intended use of all new and existing structures.
  - (3) The height, setbacks and building coverage of all structures.
  - (4) Location of easements, natural drainageways and rights-of-ways.
  - (5) Proposed grading or excavation.
  - (6) Any other information required by the Town's adopted building code or concerning the lot or adjoining lots as may be essential for determining whether the provisions of this Chapter are being observed.
- (b) Public Improvements.
- (1) The Town Planner shall review the plot plan to determine whether any public improvements or conveyances, such as streets, street paving, curb and gutter, driveway approaches, sidewalks, rights-of-way or easements, shall be required for detached single-family dwelling units. If it is determined that such public improvements or conveyances are necessitated by the proposed development of the property, the developer or property owner shall be required to construct or convey such public improvements or conveyances to the Town by separate agreement.
  - (2) The cost of any such public improvements or conveyances shall be borne by the developer or property owner and the construction or conveyance thereof shall be at the sole risk and expense of the developer or property owner. The Board of Trustees may defer any public improvements or conveyances until such time as the Board of Trustees may require the completion of said public improvements or conveyances. In making the determination to defer any public improvements or conveyances, the Board of Trustees shall consider the following criteria:
    - a. The deferral will not be detrimental to the public good or surrounding properties:
    - b. Deferral of the public improvements and conveyances would be more practical due to existing conditions in the neighborhood.
    - c. In granting any deferral, the Board of Trustees may attach such reasonable conditions and safeguards as it may deem necessary to implement the intent and purpose of this Chapter.
- (c) Issuance of Permits. All requirements of this Chapter shall be met prior to the issuance of any permit. Any permit issued in conflict with the provisions of this Chapter shall be null and void and may not be construed as waiving any provision of this Chapter.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

**Sec. 16-5-40. Site development plans.**

- (a) Site Development Plan Requirement.
- (1) Site development plans shall be required for any nonresidential development. All site development plans shall contain the following information.

CHAPTER 16 Zoning

- a. Name of the project located at the top center of the sheet. Below this should be the location of the development by streets adjacent to the zone lot, along with the section, range and township.
- b. Legal description of zone lot.
- c. North point - the top of the sheet will be north whenever possible.
- d. A survey showing property boundary lines and dimensions; existing and proposed public and private easements; and existing easements of record, roadways and rights-of-way adjacent to or crossing the property. Boundary lines of the zone lot shall be shown in heavy solid line. (Also, show the elevation and location of benchmark used, U.S.G.S. datum.)
- e. Sheet size shall be 24" x 36" with a preferred scale of 1" = 50'. The top, bottom and sides of the sheet should have a one-inch-wide margin.
- f. A general vicinity map drawn to an approximate scale of 1" = 1,000'.
- g. The existing and proposed finished grade contour lines of the project area, shown in intervals not to exceed two (2) feet.
- h. The present zoning classifications of all abutting properties.
- i. The required setbacks shown as dotted lines on the property.
- j. The location, size and arrangement of proposed buildings and existing buildings which will remain, if any; the maximum height of buildings in stories and feet; the floor area ratio, total floor area and total square feet of ground area coverage; the number of dwelling units.
- k. A minimum of front and side elevations of all buildings showing predominant architectural elements and extension treatments.
- l. Location, dimensions and number of all vehicular and pedestrian circulation elements, including streets and roadways, driveways, entrances, curbs, curb cuts, parking stalls, loading spaces and access aisles; sidewalks, walkways, trails and bikeways, including slope and gradient of vehicular elements; the private roads or streets within the project shall be designed to allow reasonable ingress and egress for emergency vehicles.
- m. Utility plans, indicating placement of water mains, sanitary sewers and storm sewers, including surface and subsurface drainage.
- n. Locations, design, height, size and orientation of all outdoor signs and illumination.
- o. Location and height of all walls, fences, screens, berms, buffers and planting areas.
- p. Location, height and type of all outdoor lighting.
- q. A tabulation of the following information with respect to the area included in the site development plan:

Area included in the Site Development Plan	
Total project area	_____ acres
Floor area ratio	_____ FAR
Maximum height of buildings	_____ feet
Number of parking spaces required	_____

CHAPTER 16 Zoning

	spaces
Number of loading spaces required	_____ spaces
Landscaped area	_____ sq. feet
Area of planting beds and landscaping adjacent to parking areas (for commercial developments)	_____ sq. feet
Total paved area within the project	_____ sq. feet

- r. Location of all outside facilities for solid waste disposal.
- s. Location of all existing and proposed fire hydrants, control facilities, standpipes, etc.
- t. Drainage way plans, detention areas and water pollution control devices with the volumes described in cubic feet.
- u. Types of surfacing to be used at various locations.
- v. All vehicular and pedestrian elements designed and constructed to Town specifications.
- w. Generally depict the landscape plan for the site. Include:
  - 1. Locations and general plant types planned therein; types of surface such as asphalt paving, turf, gravel etc.; proposed initial plant sizes;
  - 2. Designation of any snow storage areas and proposed landscaping thereon;
  - 3. Locations and types of any passive or active recreation areas; and
  - 4. Proposed means of plant irrigation.
- x. Proposed facilities and method for public transit boarding and unloading where appropriate.

(b) Administrative Review.

- (1) Except for special review uses (which require review and approval by the Planning Commission and Board of Trustees), site development plans shall be reviewed by the Town Planner within fourteen (14) working days of the submittal of a plan or building permit accompanied by a plan. At the Town Planner's discretion, the site development plan may be reviewed by the Planning Commission at a regular meeting for their comments. Decisions of the Town Planner and Planning Commission are final.
- (2) Five (5) copies of the site development plan shall be submitted to the Town Clerk, who will forward the site development plan to the Town Planner and, if necessary, the Town Engineer for review either prior to or at the time of application for a building permit. The Town Clerk or Town Planner can request additional copies as necessary.
- (3) Upon approval of a site development plan, the Town Planner shall so note by signing and dating the plan and proceeding to issue a building permit as per Town regulations. Failure of the

applicant to comply with constructing an approved site development plan arrangement shall have certificates of occupancy withheld until compliance is determined.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

**Sec. 16-5-50. Special review use.**

- (a) Intent. The purpose of a special review use is first, to recognize that some uses may or may not be appropriate in a particular district depending upon the circumstances of the individual case; and, second, to allow review of such cases so that the Town is assured that these uses are compatible with their locations and surrounding land uses and will further the purposes of this Chapter. Uses which require a special review use permit are those which may be allowed in the zoning district in which they are listed if it can be demonstrated that the use, in the proposed location, is compatible with the district characteristics, purposes, dimensional regulations and development standards for the zone district in which the use is proposed and the use is compatible with the zoning purposes of the district, the particular site and the surrounding area. Uses stipulated in this Chapter as requiring a special review use permit shall only be allowed with prior issuance of such permit by the Board of Trustees as described below.
- (b) Procedures and Processing for a Special Review Use Permit.
  - (1) Who may apply. Both the owner of the property on which the proposed use will be conducted and the operator of the use for which a special review use permit is required or their authorized representatives, shall be party to the application for a special review use permit.
  - (2) Process. The application shall be submitted on forms provided by the Town and shall contain the following minimum information:
    - a. Name, address and telephone number of the property owner and applicant.
    - b. Legal description of the property and street address.
    - c. Lot size, existing zoning and tax schedule number.
    - d. Description of the proposed special review use.
    - e. A plot plan of the property as described in Section 16-5-30 above if the property is a single-family dwelling unit or a site development plan as described in Section 16-5-40 above for all other uses.
    - f. The names and addresses of all adjoining property owners of record.
    - g. Justification as to why the requested special review use should be approved.
  - (3) Town staff comment. Prior to the Planning Commission public hearing, the Town Planner shall request Town staff comment on the application. Comments received shall be submitted to the Planning Commission.
  - (4) The Town Planner shall study the application and shall make a report of his findings to the Planning Commission.
  - (5) The application shall be processed in the same manner as a request for initial zoning and rezoning set forth in this Article, except that approval by the Board of Trustees shall be by resolution.
  - (6) Fees: The application shall be signed by the property owner or his duly authorized agent and shall be accompanied by a nonrefundable fee as determined by the Board of Trustees to cover costs related to the application.
  - (7) An application shall not be considered accepted until all required information is submitted.

## CHAPTER 16 Zoning

- (c) Transferable. Special review use permits allow a particular use for which it is granted to operate on the specific property listed in the permit in accordance with approved plans. A special review use permit may be transferred to any other person to operate the same use per the same terms of the permit, with approval by the Town Planner, but may not be transferred to any other property or building.
- (d) Duration. A special review use permit shall remain in full force and effect as long as the use for which the permit is granted continues or for the term specified on the permit.
- (e) Special Review Use Criteria, Conditions and Modifications.
  - (1) No approval of a special review use shall be granted unless the special review use conforms to the minimum development requirements and regulations of the applicable zone district. In reviewing the special review use, the Planning Commission and Board of Trustees shall consider the following review criteria, where applicable:
    - a. Is the use consistent with the intent and purpose of this Chapter?
    - b. Is the use consistent with the intent of the zone district in which the applicant intends to locate such use?
    - c. Is the use compatible with other uses in the area? Will the impacts generated by the use be abated through the utilization of mitigation measures, such as increased setbacks, screening or buffering?
    - d. Is the use consistent with the Town's Comprehensive Plan and other approved plans?
    - e. Will the use create any adverse environmental influences on the surrounding area? For example: will the use generate excessive dust, odors, fumes, noise, glare or vibration?
    - f. Will the use generate traffic hazards or congestion in the area? Will existing transportation systems be overburdened by the use? Are ingress and egress points appropriately and safely located?
    - g. Have adequate water, sewer, drainage and other utility facilities been provided?
    - h. Is the physical appearance of the site, including building orientation, scale, architectural treatment and landscaping, sensitive to other uses in the area?
    - i. Is the use reasonably related to the overall needs of the community?
  - (2) In approving an application for special review use, the Board of Trustees may impose conditions or modifications which it deems reasonably necessary to secure the intent and purpose of this Chapter.
- (f) Abandonment of Right. Approval of a special review use in accordance with this Section shall expire in one (1) year from date of approval unless a plot plan or site development plan has been approved or if the rights and privileges granted thereby have not been exercised or utilized or if construction work is involved, the work has actually not commenced on the premises. If, thereafter, any discontinuance of the exercise of any rights or privileges occurs for a continuous period of one (1) year, the special review use shall be considered abandoned.
- (g) Revocation of Special Review Use Approval.
  - (1) All conditions or modifications imposed by the Board of Trustees shall be maintained in perpetuity with the special review use. If at any time the conditions or modifications are not complied with by the applicant or are found to have been altered in scope, application or design, the use shall be in violation of special review use approval.
  - (2) If and when any use is determined to be in violation of special review use approval, the Town Planner shall notify the applicant in writing of said violation and of a thirty-day period in which to rectify the violation. The notice shall state a time and place after the thirty-day period at which a revocation hearing will be held if the violation is not timely rectified.

## CHAPTER 16 Zoning

- (3) Within thirty (30) days after notification of violation of special review use approval, the applicant shall rectify the violation. Upon completion of any required changes, the applicant shall notify the Town Planner in writing that said changes have been made.
- (4) Failure of the applicant to rectify said violations within thirty (30) days shall be cause for cancellation and revocation of the special review use approved by the Board of Trustees. A revocation hearing shall be conducted by the Board of Trustees prior to any revocation. The revocation of the special review use approval shall require the applicant to vacate the premises of or stop the use authorized by the special review use approval. After revocation, the applicant may reapply for approval of a special review use pursuant to the procedures outlined in this Section.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

### **Sec. 16-5-60. Changes and amendments.**

- (a) Authority. The Board of Trustees may, from time to time, on its own motion, on motion of the Planning Commission, on motion of the Town Planner or on petition by any property owner, after notice and public hearings as provided by law and in accordance with the procedures and requirements set forth in this Article, amend, supplement or change the Zoning Map or any provision of this Chapter.
- (b) Submittal Requirements for Property Owner Petitions.
  - (1) Petition. Any petition to establish or change zoning for a specific property shall be filed with the Town Clerk and shall be signed by the owners of one hundred percent (100%) of the property proposed for zoning, rezoning or a Planned Development District designation, exclusive of public streets and alleys. Such petition shall furnish or provide at a minimum the following information:
    - a. A legal description of the property proposed for zoning.
    - b. A list of the names and addresses of all owners of property within the area proposed for zoning, together with a legal description of the property within such area owned by each such owner.
    - c. A statement of the present zoning of the area proposed for zoning.
    - d. A statement of the type of zoning sought by the petition.
    - e. A narrative summary of the existing uses within the area proposed for zoning.
    - f. A narrative summary of the proposed uses within the area proposed for zoning.
  - (2) Required attachments. Such petition shall be accompanied by the attachments listed below. The number of copies of each shall be as determined from time to time by the Town Clerk or Town Planner.
    - a. A map prepared at a scale of one hundred (100) feet to one (1) inch or larger, showing the property proposed for zoning, its location and the length and direction of each boundary thereof, the location and use of all buildings on such property and the principal use of all properties within one hundred (100) feet of the boundaries of such lands, disregarding intervening public streets and alleys.
    - b. A list of the names and addresses of the owners of the surface estate of all properties within one hundred (100) feet of any part of the area proposed for zoning, disregarding intervening public streets and alleys.
    - c. A statement that the petitioner has performed the records searches and other investigations necessary to comply with Section 24-65.5-103, C.R.S., regarding notice to mineral estate owners and that the petitioner is then fully prepared to give notice of the

## CHAPTER 16 Zoning

public hearing on the petition immediately upon scheduling thereof. The petitioner shall attach a complete mailing list of the persons entitled to receive such notice to the statement required by this Paragraph.

- d. Application fee. Such petition shall also be accompanied by an application fee in an amount to be determined from time to time by resolution of the Board of Trustees and set forth in such fee resolution to defray the costs of processing and determining the petition.
- (c) Planning Commission Review. Upon receipt of a complete property owner submittal or on its own motion or request for the same by the Board of Trustees, the Planning Commission shall review, evaluate and investigate the proposed zoning. The Planning Commission may hold public hearings, solicit comments from interested persons and perform such other investigations as it deems appropriate and shall hold a public hearing if so directed by the Board of Trustees. Upon completion of its investigation, it shall prepare and transmit its report and recommendations concerning the same to the Board of Trustees.
  - (d) Board of Trustees Review.
    - (1) Public hearing and notice. Upon receipt of the report and recommendations of the Planning Commission, the Town Clerk shall schedule a public hearing on the proposed zoning, allowing sufficient time to permit notification to mineral estate owners as required by Section 24-65.5-103, C.R.S.
    - (2) Notice of hearing. The petitioner shall cause written notice of the date, time and place of the hearing, in the form prepared by the Town Clerk, to be given to all interested parties in the following manner:
      - a. Publication. Notice shall be published by the petitioner once in a newspaper of general circulation within the Town no later than fifteen (15) days prior to the date of the hearing.
      - b. Mailed notice to surface estate owners. Notice shall be mailed by the petitioner by first-class mail, postage prepaid, to each surface estate owner of property located within one hundred (100) feet of any part of the property proposed for zoning, disregarding intervening public streets and alleys, not less than fifteen (15) days before the scheduled date of the hearing.
      - c. Mailed notice to mineral estate owners. Notice shall be mailed by the petitioner to the mineral estate owners entitled to receive the same, as provided by Section 24-65.5-103, C.R.S.
      - d. Posting. Notice shall be posted on the property proposed for zoning no later than fifteen (15) days before the hearing. The sign shall be prepared by the Town and posted by the petitioner on a street frontage so that it is weather-protected and legible from a distance of thirty (30) feet.
      - e. Proof of notice. Not later than 12:00 p.m. on the Friday immediately preceding the date scheduled for the public hearing, the petitioner shall file with the Town Clerk the certificate of notice to mineral estate owners required by Section 24-65.5-103, C.R.S., and affidavits demonstrating timely publication, mailing to surface estate owners and posting of notice in accordance with the foregoing requirements.
    - (3) Approval criteria. In determining the zoning, the Board of Trustees shall consider the following factors:
      - a. Whether the zoning is consistent with the intent and policies of the Comprehensive Plan.
      - b. Whether there have been material changes in the character or conditions of the neighborhood or in the Town generally, such that the requested zoning would be in the public interest.
      - c. Whether the proposed zoning will tend to preserve and promote property values in the neighborhood.

## CHAPTER 16 Zoning

- d. Whether development of the property in accordance with the proposed zoning will be compatible with the surrounding zoning and land uses.
  - e. Whether the property can be reasonably used and developed as presently zoned.
  - f. Whether the proposed zoning will adversely affect traffic circulation.
  - g. Whether the proposed zoning will adversely affect adjoining properties due to proposed building height or bulk, lack of screening or intrusions on privacy.
  - h. Whether the intensity of the proposed zoning can be accommodated, given the characteristics of the soils, slopes and other potential hazards in a manner intended to protect the health, safety and welfare of potential users.
  - i. Whether the property was properly zoned when its current zoning was established.
  - j. Whether denial of the proposed zoning would preclude any reasonable economic use of the property.
  - k. Whether any other zoning classification would afford any reasonable use of the property.
- (4) Resubmittal after denial. If a property owner petition is denied, a period of one (1) year must elapse from the date of such denial before another property owner petition to establish the same or substantially similar zoning for the same property may be submitted.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

### **Sec. 16-5-70. Variances and appeals.**

#### (a) Variances.

- (1) The Board of Adjustment may authorize variances from the requirements of this Chapter subject to terms and conditions fixed by the Board of Adjustment. A variance from the terms of this Chapter shall be considered an extraordinary remedy and the conditions set forth below are intended as limitations on the Board of Adjustment's power to authorize variances.
- (2) The endorsement of the variance by adjacent landowners does not relieve the applicant of the burden of meeting all of the requirements set forth in this Section. No variance shall be authorized unless the Board of Adjustment finds all of the following:
  - a. The applicant would suffer hardship as a result of the application of this Chapter, which hardship is not generally applicable to other lands or structures in the same zone district because of the unusual configuration of the applicant's property boundaries, because of unique circumstances related to the location of existing structures thereon or because of the existence of exceptional topographic conditions thereon.
  - b. There are no design alternatives or alternative locations for structures that would obviate the need for the requested variance or would reduce the amount of the variance required.
  - c. The enforcement of the provisions of this Chapter deprives the applicant of rights enjoyed by a majority of the other properties in the same zone district under the terms of this Chapter.
  - d. The need for the variance does not result from the intentional, reckless or negligent actions of the applicant or his agent, a violation of any provision of this Code or a previously granted variance.
  - e. Reasonable protections are afforded adjacent properties.
  - f. The requested variance will not cause an undesirable change in the character of the neighborhood or have an adverse effect on the physical or environmental conditions of the surrounding property.

## CHAPTER 16 Zoning

- g. The variance is the minimum variance that will make possible the reasonable use of the land or structure.
  - h. The granting of the variance will:
    - 1. Observe the spirit of this Chapter;
    - 2. Secure the public safety and welfare;
    - 3. Ensure that substantial justice is done; and
    - 4. Observe common sense.
  - i. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Chapter and the Comprehensive Plan and particularly the standards set forth in this Section. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation and punishable under Section 16-1-100 of this Chapter.
  - j. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not authorized in the district involved or any use expressly or by implication prohibited by the terms of this Chapter in said district. In addition, neither a nonconforming use of neighboring lands or structures in the same district nor a permitted or nonconforming use of lands or structures in other districts shall be considered grounds for the issuance of a variance.
  - k. Every variance shall run with the land.
  - l. The granting of any variance shall not constitute or be construed as a precedent, ground or cause for any other variance.
  - m. A variance shall be effective for a period of one (1) year from the date it is granted by the Board of Adjustment. Failure to obtain a building permit for the structure for which the variance was granted prior to the expiration of said period will cause lapse of the variance. Requests for an extension of said period shall be presented to the Board of Trustees in writing at least thirty (30) days prior to the scheduled expiration date. The Board of Trustees may authorize up to one (1) additional year if cause exists for the extension and there would be no harm to the adjacent property owners or the community in general arising from the extension.
- (b) Appeals.
- (1) The Board of Adjustment shall hear and decide where it is alleged that there is an error in any order, requirement, decision or determination made by the Town Administrator in the administration of this Chapter and Chapter 18 of this Code. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made; where the Board of Adjustment finds that the Town Administrator acted:
    - a. Clearly in a manner inconsistent with this Code; or
    - b. Beyond the Town Administrator's authority.
  - (2) Except where specifically provided otherwise, all questions of administration and enforcement of this Chapter and Chapter 18 of this Code shall first be presented to the Town Administrator. Questions shall be presented to the Board of Adjustment only on appeal from the decision of the Town Administrator.
  - (3) Appeals made to the Board of Adjustment must be made in writing and filed with the Town Administrator within thirty (30) days following the action or decision from which the appeal is taken.

## CHAPTER 16 Zoning

- (4) An appeal from an order, requirement, decision or determination made by the Town Administrator shall stay all proceedings unless the Town Administrator certifies that such stay would cause imminent peril to life or property.
- (c) Application Requirements and Setting Hearings. No matter shall be set for a hearing before the Board of Adjustment until the applicant:
  - (1) Submits a letter of application to the Town Clerk.
  - (2) Pays the application fee in an amount determined from time to time by resolution of the Board of Trustees.
  - (3) Meets in at least one (1) preapplication conference with the Town Administrator, which conference may result in amendments or corrections to the application.
  - (4) Submits within thirty (30) days of the final preapplication conference twelve (12) copies of the application or such number of copies as directed by the Town Clerk or revised application as applicable, addressing the Town Administrator's comments made at the preapplication conference.
  - (5) The official application form must contain the following:
    - a. Applicant's name, address, telephone, number and facsimile number.
    - b. Address of the property.
    - c. Legal description of the property.
    - d. Citation to or copy of the Section of this Chapter from which the variance is being requested or a copy of the Town Administrator's order, requirement, decision or determination from which an appeal is taken.
    - e. Reasons for filing an appeal or request for variance. Requests for variances must describe the evidence supporting each of the conditions required in order for a variance to be granted, as set forth above.
    - f. A list of the names and addresses of the owners of all properties within one hundred (100) feet of any part of the affected property, disregarding intervening public streets and alleys.
    - g. Any other information pertinent to the application, which addresses issues raised during the review process or which is deemed necessary by the applicant.
    - h. Notice of the hearing shall be given as provided in Section 16-5-60 of this Article for hearings on zoning matters, except that notice shall not be published.
- (d) Hearing Procedures and Action.
  - (1) All hearings before the Board of Adjustment shall be open to the public.
  - (2) All evidence and testimony shall be presented publicly. The Board of Adjustment may take notice of and may consider any relevant acts within the personal knowledge of any member of the Board of Adjustment, which are publicly stated on the record.
  - (3) The Board of Adjustment shall cause a record of its proceedings to be prepared, which shall include all documents and physical evidence considered in each case, together with minutes of the proceedings. Minutes or a written findings and order shall state the grounds for each decision and shall indicate by name the maker and second of each motion and the vote on each motion. The record of proceedings shall be filed in the office of the Town Clerk.
  - (4) For requests for variances, the Board of Adjustment shall make specific findings on the factors set forth above.
  - (5) The concurring vote of four (4) members of the Board of Adjustment shall be necessary to reverse or modify any order, requirement, decision or determination of the Town or to approve an application on any matter upon which the Board of Adjustment has been granted jurisdiction.

## CHAPTER 16 Zoning

Any decision of the Board of Adjustment shall be subject to review by a court of competent jurisdiction as provided by the Colorado Rules of Civil Procedure.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012; Ord. 04 §12, 2014)

### **Sec. 16-5-80. Nonconforming uses, structures and lots.**

- (a) Purpose. There may exist uses, structures and lots of land which were lawful prior to the adoption or amendment of this Chapter, but which are or have become prohibited, restricted or unlawful as a result of current provisions of this Chapter. It is the intent of this Section to permit these nonconformities to continue until they are removed, abandoned or more than fifty percent (50%) destroyed. It is further intended that nonconforming uses and structures shall not be enlarged upon, expanded or extended or be used as grounds for adding other structures or uses prohibited elsewhere in the zone district.
- (b) Nonconforming Uses.
  - (1) Any use of a building, sign or land lawfully existing at the time of the enactment of this Chapter which does not conform to the regulations of the zoning district in which it is located or with the applicable development standards of this Chapter is a nonconforming use.
  - (2) The continuance, modification, expansion, improvement or abandonment of all nonconforming uses shall strictly comply with the regulations set forth below in this Section, in addition to all other applicable regulations of this Chapter and the Town's adopted building code.
  - (3) The continuation of existing legal nonconforming uses may be continued in accordance with the provisions of this Section.
  - (4) The expansion of a use not permitted in the zoning district in which it is located shall be subject to the following conditions. Any expansion of a nonconforming use in a conforming structure requires a special review use permit from the Town Planner and shall meet the following criteria:
    - a. All expansion of the nonconforming use in a conforming structure shall be confined to and conducted wholly within the structure or portion thereof which is in existence as of the effective date of this Chapter.
    - b. The total cumulative area of all expansions of the nonconforming use occurring after the effective date of this Chapter shall not increase the gross floor area of the nonconforming use above that in existence prior to the effective date of this Chapter, except for existing residential structures expanded within conforming setbacks not resulting in more units than permitted by the zoning district in which such residential use is located.
    - c. All new site improvements necessitated by an expansion shall comply with the development standards of the zoning district in which the use is located or governing the use whichever is more restrictive.
  - (5) Expansion of a nonconforming use in a nonconforming structure shall not be permitted.
  - (6) Change of a use from nonconforming to any use permitted in the applicable zoning district is allowed in accordance with the following conditions:
    - a. The change in use shall not create any additional nonconforming situations nor increase the extent of nonconformance.
    - b. Any new improvements, other than maintenance of existing facilities, necessitated by the change in use shall conform to all applicable regulations of the zoning district in which it is located. Existing site improvements which do not conform to the applicable regulations of the zoning district are not required to be brought into compliance except as required below or in other applicable parts of this Chapter.

## CHAPTER 16 Zoning

- c. Any expansion involved with the change in use shall comply with the applicable regulations of this Chapter.
  - (7) New uses which require a special review use permit shall be allowed only if all proposed and existing improvements, other than existing nonconforming structures, comply with all applicable regulations and development standards of the zoning district in which the use is located as specified in this Chapter.
  - (8) Any use which is not allowed in the zoning district in which it is located and which is discontinued for a period of six (6) months or more shall be deemed abandoned and such nonconforming use shall not be renewed.
- (c) Nonconforming Structures.
- (1) All nonconforming structures shall comply with the provisions of the Town's adopted building code.
  - (2) The continued use of any nonconforming structure shall be subject to the following conditions:
    - a. Continued use of a nonconforming structure is allowed if the structure is legally nonconforming as of the effective date of this Chapter.
    - b. If use of a nonconforming structure is ancillary to the primary use on the site, changing the use in the nonconforming structure to any primary use allowed in the zoning district will be considered an increase in intensity of the nonconformance and will not be permitted unless a variance is granted for the nonconforming structure.
- (d) Alteration, Repairs or Replacement.
- (1) All interior remodeling or any alteration wholly within a nonconforming structure is allowed if the external configuration of the structure is not changed, provided that such alteration does not create any nonconforming use or situations nor increase the intensity of the nonconformance as described above and all other applicable regulations of this Chapter.
  - (2) Ordinary repairs and maintenance of a nonconforming structure shall be allowed and are encouraged.
  - (3) Any nonconforming structure extensively damaged by sudden destruction beyond the control of the user or by fire may be reconstructed or replaced if such destruction does not exceed fifty percent (50%) of the total structure (as determined by the Building Official). Such reconstruction shall occur on the same lot and with the same external configuration, only if all other provisions of this Chapter are met and appropriate variances are granted regarding the external configuration of the structure. Prior to the granting of said variance, it shall be demonstrated that reconstructing the structure in accordance with the provisions of this Chapter would deprive the owner use of the property in a manner which is equitable to other uses in the same zoning district.
  - (4) Alterations or remodeling of a nonconforming structure which changes the use of the nonconforming structure from an ancillary use to a use similar to the primary use shall not be permitted unless a variance is obtained for the structure.
- (e) Nonconforming Site or Lot.
- (1) Any use in existence at the time of the effective date of this Chapter on a lot which does not conform with the development standards of the zoning district in which it is located shall be allowed to be continued, provided that the use is not discontinued for a period of six (6) months or more, in which case the use shall be deemed abandoned and such use shall not be renewed except in conformance with all applicable Town regulations.
  - (2) Nonconforming lots of record. Where an individual lot was held in separate ownership from adjoining properties or was platted prior to the effective date of this Chapter in a recorded subdivision approved by the Board of Trustees and has less area or width than required in other sections of this Chapter, such lot may be occupied according to the permitted uses and other

CHAPTER 16 Zoning

requirements set forth in the district in which the lot is located, provided that no lot area or lot width is reduced more than one-third (?) the zoning requirements otherwise specified by this Chapter.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

**Sec. 16-5-90. Public notice requirements.**

- (a) Purpose. All land use applications that require a public hearing before the Planning Commission, Board of Trustees or Board of Adjustment shall be subject to the requirements contained in this Section. It is intended to provide for adequate notification ensuring the opportunity for public participation of land use proposals within the Town.
- (b) Responsibility.
  - (1) It is the responsibility of the applicant to meet these requirements prior to the established hearing date. The Planning Commission, Board of Trustees or Board of Adjustment may continue the hearing to a date certain and may keep the hearing open to take additional information to the point a final decision is made. No further notice of a continued hearing need be pursued by the applicant unless a period of six (6) weeks or more elapses between the hearing dates before the same Board. In situations where this time period has passed, the applicant shall be required to publish the "Notice of Public Hearings" again.
  - (2) These public notice requirements apply to all land within the jurisdiction of the Town.
  - (3) No public hearing shall commence nor testimony taken until these procedures are met by the applicant.
- (c) Public Notice Procedures.
  - (1) At least fifteen (15) days prior to a public hearing, a notice shall be published at least one (1) time in the legal notice section of a general circulation newspaper within the Town. A publisher's affidavit shall be submitted to the Town Planner prior to the hearing date to verify the publication of the required notice. The notice shall read as follows:

TOWN OF FOXFIELD  
 NOTICE OF PUBLIC HEARING  
 PROPOSED AMENDMENT TO \_\_\_\_\_

Notice is hereby given that the Town of Foxfield (name of board: Planning Commission or Board of Trustees) shall hold a public hearing concerning (type of application request), located on property described in Exhibit A, and generally located at (distance and direction of nearest major intersection) pursuant to the Town of Foxfield Zoning Regulations.

The public hearing shall be held before the (name of board) on (date), at the hour of (time), or as soon as possible thereafter as the agenda of the (name of board) permits, at South Metro Fire Protection District #42, 7320 South Parker Road, Foxfield, Colorado 80016, or at a place otherwise specified by the Town Clerk. Further information is available by calling (303) 680-1544.

ALL INTERESTED PERSONS MAY ATTEND.

EXHIBIT A (legal description)

CHAPTER 16 Zoning

- (2) At least fifteen (15) days prior to a public hearing, a written notice shall be sent by certified mail by the applicant to all Town property owners within seven hundred fifty (750) feet of the site for which the land use application is made. Return receipts shall be submitted with a list of all area property owners to the Town Clerk's office prior to the hearing date. The written notice shall contain the following information:
  - a. The entire notice of public hearing outlined in Paragraph (1) above, including the legal description; and.
  - b. Brief narrative outlining the proposed land use application.
- (3) At least fifteen (15) days prior to a public hearing, a notice shall be posted by the applicant on the property for which the land use application is made. The notice shall consist of at least one (1) sign facing an adjacent public right-of-way in a manner which provides the most visibility to the public of the sign. These notices shall be in the form of signs measuring not less than three (3) feet by four (4) feet; with lettering a minimum of three (3) inches high and on posts no less than four (4) feet above the ground. All lettering shall be clearly legible from the right-of-way the sign faces. These notices shall read:

NOTICE OF PUBLIC HEARING.

Notice is hereby given that the Town of Foxfield (name of board: Planning Commission or Board of Trustees) shall hold a public hearing concerning (type of application request), located on property described in Exhibit A, and generally located at (distance and direction of nearest major intersection) pursuant to the Town of Foxfield Zoning Regulations.

The public hearing shall be held before the (name of board) on (date), at the hour of (time), or as soon as possible thereafter as the agenda of the (name of board) permits, at South Metro Fire Protection District #42, 7320 South Parker Road, Foxfield, Colorado 80016, or at a place otherwise specified by the Town Clerk. Further information is available by calling (303) 680-1544.

ALL INTERESTED PERSONS MAY ATTEND.

EXHIBIT A (legal description)

- (4) For all other amendments to the Chapter, notice shall be by publication only.
- (5) For any amendment to the Chapter that requires hearings before the Planning Commission and the Board of Trustees, the Board of Trustees may determine, in its sole discretion, upon request of the applicant or upon its own motion, to combine the hearings of the Planning Commission and the Board of Trustees.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012)

**Sec. 16-5-100. Fees.**

- (a) Intent. The intent of establishing fees is to cover the cost of processing of applications under this Chapter. In certain instances, the Town will contract for the services listed below with a planning professional. Fees shall be established by resolution of the Board of Trustees and include by way of example, but are not limited to:

- (1) Preapplication meetings.
  - (2) Special review use permit variances and appeals.
  - (3) Rezoning requests.
  - (4) Zoning code amendments.
  - (5) Planned developments.
  - (6) Sign permits.
- (b) Payment.
- (1) All applications for which there is a fee shall be accompanied by the appropriate fee to the Town Clerk. Applications which are not accompanied by the appropriate fee shall be considered incomplete and shall not be processed nor shall any permit be issued unless the appropriate fee accompanies the application. The applicant shall pay the Town the actual cost to the Town for engineering, planning, surveying, legal services and administrative services rendered in connection with the review of the development. The applicant, upon submission of the development proposal, must sign a cost reimbursement agreement in the form attached as Appendix 16-C to this Chapter.
  - (2) The Town will send the applicant a statement for the actual costs incurred by the Town for the services described above on a monthly basis. The applicant shall pay the Town the amount due on the statement within fifteen (15) days of the date of issuance of such statement. In the event the applicant fails to pay the amount due on the statement within the time period described above, the Town shall immediately stop the review process for the development. The application will be deemed withdrawn if the statement is not paid in full within thirty (30) days of the date of issuance of the statement, when the application is deemed withdrawn. The Town will not consider another application from the applicant for development until all expenses owed to the Town are paid.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012; Ord. 04 §13, 2014)

## **ARTICLE 6 Interpretation and Definitions**

[Sec. 16-6-10. Interpretation and definitions.](#)

### **Sec. 16-6-10. Interpretation and definitions.**

All words in this Chapter, except as specifically defined in this Article, shall carry their customary meanings. Words used in the present tense include the future tense; the plural includes the singular; the word shall is mandatory; the word may is permissive; the words occupied or used shall be considered as though followed by the words or intended, arranged or designed to be used or occupied. For the purposes of this Article, the words and phrases set forth below shall have the meanings ascribed to them as follows:

**Abutting.** Having a common property line or district line with an adjacent property. Properties separated by a right-of-way or easement shall be deemed abutting if, in the absence of the right-of-way or easement, the properties would have a common boundary.

**Accessory equipment for a CMRS facility.** Equipment, including buildings and structures, used to protect and enable radio switching equipment, backup power and other devices incidental to a CMRS facility, but not including antennae.

## CHAPTER 16 Zoning

Accessory use or structure. A use or structure (exceeding one hundred twenty [120] square feet) subordinate to the principal structure or use which serves a purpose customarily incidental to the principal use and normally incidental to a use by right and complying with all the following conditions:

- a. Is clearly subordinate, incidental and customary to and commonly associated with the operation of the use by right.
- b. Is operated and maintained under the same ownership as the use by right on the same zone lot.
- c. Includes only those structures or structural features consistent with the use by right.
- d. Fences, gates, walls and utility poles are exempt from dimensional requirements and the number of allowed structures in each zone district.

Acre, gross. An area in any shape containing forty-three thousand five hundred sixty (43,560) square feet.

Agent. Includes any person acting on behalf of or in place of the owner.

Alley. A public or private vehicular passageway dedicated or permanently reserved as a means of secondary access to abutting property and designated an alley on a final plat.

Alter. To change any of the supporting members of a building, such as bearing walls, columns, beams or girders.

Animals, domestic. Domestic animals includes such animals as may be normally considered household pets, provided that they are not bred and raised for commercial purposes on the property.

Animals, farm or domestic livestock. Farm animals or domestic livestock includes such animals as are not normally considered household pets that are kept wholly or partially outside of a residential structure.

Animated sign. Any sign which changes or any part of which changes physical position by any movement or rotation.

Antenna. A metallic apparatus used for sending and/or receiving electromagnetic signals.

Authorized inspector. Any police officer, Building Inspector, Tri-County Health Officer, Code Enforcement Officer or any other officer of the Town duly authorized to examine any public or private property within the Town for the purpose of ascertaining the nature and existence of any nuisance.

Auto repair, major. Vehicle repair consisting of assembly or disassembly of engine parts, body parts, transmission, chassis, axles, etc., and/or the process of painting.

Auto repair, minor. Vehicle repair and/or servicing consisting of a minor nature, such as tune-up, oil change, chassis lubrication, tire change or repair, wheel alignment, muffler repair or installation.

Banner. A flexible material (e.g., cloth, paper, vinyl, etc.) on which a sign is painted or printed.

Banner (advertising). A temporary sign, typically of canvas or plastic material which is not attached to a permanent mounted backing but which is securely fastened to a building at all times, which is used for the purpose of announcing a "grand opening," "going out of business," "now hiring" or other commercial purpose.

Banner (architectural). A temporary sign, displayed from a pole, light post or building for a holiday, seasonal or special event, and which does not qualify as an advertising banner sign.

Bee. Any stage of the common domestic honey bee, *Apis mellifera* species.

Berm. A mound of earth used for screening, definition of space, noise attenuation and/or decoration in landscaping.

Billboard. A sign placed on a pole or similar standard designed so that advertising space can be leased for a business, product or service not available on the premises.

## CHAPTER 16 Zoning

Blade sign. See Projecting sign.

Board of Adjustment. A group of individuals appointed or designated by the Board of Trustees as having the responsibility for hearing requests for variances from these regulations or for hearing appeals as to the interpretation of the provisions of these regulations.

Buffer. A horizontal distance or margin of land designed to provide an attractive space or area, obstruct undesirable views, serve as an acoustic barrier or screen from objectionable noise, smoke or visual impact, provide for future public improvements or additional open space or generally reduce the impact of adjacent development.

Building. Any structure built for the shelter or enclosure of persons, animals, chattels, property or substances of any kind (not including fences), having one (1) or more floors and a roof and permanently affixed to the ground.

Building coverage. The amount of land taken up by the building itself on a zone lot. This "footprint" or building line viewed directly from above the structure includes all attached eaves, cornices, decks (covered and uncovered), covered patios (ground level and uncovered not included), balconies or other building attachments such as garages, porches, porch covers and the like; also includes the ground coverage of accessory uses. The footprint may not encroach into any setback or yard requirement unless otherwise defined in this Chapter (see also Projections). The amount of building coverage per zone lot specified in each zone district is the maximum amount of land that can be covered by all structures, whether they are principal or accessory uses, attached or detached.

Building envelope. An area within the property boundaries of a lot or property within which an allowed building or structure may be placed.

Building roof-mounted CMRS facility. A CMRS facility that is mounted and supported entirely on the roof of a legally existing building or structure.

Building wall-mounted CMRS facility. A CMRS facility that is mounted and supported entirely on the wall of a legally existing building or structure.

Canopy. An accessory roof-type structure which is permanently affixed to the ground and typically not enclosed. As accessory structures, these structures would be exempt from the minimum distance requirements between structures. These structures must meet all other minimum yard requirements within the zoning district.

Canopy sign. A projecting wall sign affixed above a doorway or window and attached to and supported by the wall of the building, by columns extending from the ground or by a combination of a building and columns.

Certificate of occupancy. Official certification by the Building Official that a premises conforms to provisions of the Building Code and may be used or occupied. Such a certificate is granted for new construction or for alterations or additions to existing structures.

Child care facility. A facility, by whatever name known, which is maintained for the whole or part of a day for the care of five (5) or more children under the age of sixteen (16) years and not related to the owner, operator or manager thereof, whether such facility is operated with or without compensation for such care and with or without stated educational purposes. The term includes facilities commonly known as day care, day care centers, day nurseries, nursery schools, kindergartens, preschools, play groups, day camps, summer camps, centers for mentally retarded children and those facilities which give twenty-four-hour care for dependent and neglected 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 college or a private or parochial school; except that the term shall not apply to any kindergarten maintained in connection with a public, private or parochial elementary school system of at least six (6) grades.

Clustered development. A type of land use design concentrating development in one (1) or more areas of the project and allowing for a reduction in lot size below minimum requirements when compensating amounts of open space are provided within the proposed development.

## CHAPTER 16 Zoning

Collector's item. A motor vehicle or implement of husbandry that is at least twenty-five (25) years old and is of historic or special interest. In order to be considered a collector's item, a motor vehicle must meet all criteria of "collector's item" as defined in Section 42-12-101, et seq., C.R.S., in addition to all other applicable statutes and ordinances.

Colony. A hive and its equipment and appurtenances, including bees, comb, honey, pollen and brood.

Commercial mobile radio service (CMRS) facility. An unstaffed facility consisting of antennae, equipment and equipment storage shelters used for reception, switching and/or transmission of wireless telecommunications.

Commercial mobile radio service (CMRS) facility. An unmanned facility consisting of antennae and accessory equipment and used for the reception, switching, transmission or receiving of wireless telecommunications operating at one thousand (1,000) watts or less effective radiated power and using frequencies authorized by the Federal Communications Commission ("FCC"), including but not limited to paging, enhanced specialized mobile radio, personal communication systems, cellular telephone, point-to-point microwave signals and similar technologies.

Commission. The Planning Commission of the Town of Foxfield, Colorado.

Comprehensive Plan. Comprehensive Plan (Master Plan): The Master Plan for the Town of Foxfield, as may be adopted and prepared or which is being prepared for the Town and which includes any part or unit of any such plan separately adopted and any amendment to such plan or parts thereof. It is a plan for the future growth, protection and development of the Town, which makes recommendations and policies to provide adequate facilities for housing, transportation, convenience, public health, safety and the general welfare of its population.

Construction. Any site preparation, assembly, erection, substantial repair, alteration, demolition or similar action.

Convenience store convenience service. A retail or service commercial use which serves the area immediately surrounding the use by providing groceries, sundries and miscellaneous services which do not typically offer comparison shopping opportunities.

Copy. The words, letters, symbols, illustrations or graphic characters used to convey the message of a sign.

Day care. See definition for Child care facility.

Density. A unit of measurement, specific to development, to be interpreted as the number of dwelling units per acre of land.

Density, gross. The average number of dwelling units or gross commercial building floor area per acre for the entire development area or site (property boundaries), including all roads and easements within the property boundaries.

Development. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Directory sign. A sign utilized on a parcel containing more than one (1) legal use that lists the names and/or other information of the individual businesses located on the parcel.

Directional sign. Any sign that directs the movement or placement of pedestrian or vehicular traffic on a lot with or without reference to or inclusion of, the name of a product sold or services performed on the lot or in a building, structure or business enterprise occupying the same.

Drive-through restaurant. A restaurant operation located either within a retail center or situated on its own freestanding pad, which primarily: a) serves food that is prepared and/or packaged within five (5) minutes and is generally intended for consumption away from the premises; b) contains a drive-in or drive-through facility; and/or c) is intended to primarily serve the passerby and/or motoring public.

## CHAPTER 16 Zoning

Dwelling. Any building or portion thereof, used exclusively for residential purposes. Single-family - A building containing one (1) kitchen designed and/or used to house not more than one (1) family, including necessary employees of each such family. Multi-family - A building designed and/or used to house two (2) or more families, living independently of each other, including necessary employees of each such family. This includes duplexes, condominiums, townhouses and apartments. Living unit - A building or portion thereof containing one (1) family, including necessary employees of such family.

Dwelling unit. A single structure with one (1) or more rooms designed to function as a single living unit and containing only one (1) kitchen plus living, sanitary and sleeping facilities.

Easement. A right granted by a property owner permitting a designated part or interest of the property to be used by others for a specific use or purpose. A right to use the land of another for a special purpose not inconsistent with the ownership of that land.

Electronic message center sign. A sign whose alphabetic, pictographic or symbolic informational content can be changed or altered on a fixed display surface composed of electronically illuminated or mechanically driven changeable segments. This includes signs that have to be preprogrammed to display only certain types of information (i.e., time, date, temperature) and signs whose informational content can be changed or altered by means of computer-driven electronic impulses.

Emergency. Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage, which demands immediate action.

Emergency work. Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

Equipment storage shelter. Buildings, storage shelters and cabinets used to house CMRS facility equipment.

Estate sale. The selling of property at a residence, upon the death of the owner or occupant of said residence, by the executor, administrator, conservator or guardian thereof.

Family. Includes the following:

- a. A single individual or a collective body of persons in a domestic relationship based upon blood, marriage, adoption or fostering, living as a separate, independent housekeeping unit, including domestic servants; or
- b. A group of not more than six (6) unrelated persons, all living together as a separate housekeeping unit in a single dwelling unit. Excludes boarding or rooming houses, lodges, clubs, hotels, motels or fraternities:

Notwithstanding the above, a family shall be deemed to include no more than (8) persons not related by blood, marriage, adoption or legal custody occupying a residential dwelling unit and living as a single housekeeping unit if the occupants are within the definition of "group home" as defined in Section 31-23-303, C.R.S.

Fence. A linear structure of wood, wire, metal, brick, stone, frame, stucco or other manufactured material or combination thereof, including gates and posts, which is intended to define an area, mark a property boundary, contain animals, provide screening or reduce roadway noise.

Flag. Flags of the United States, the State, the Town, foreign nations having diplomatic relations with the United States and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction, that is allowed to wave, flap or rotate with the wind. Flags may also be logos or solid color.

Flashing sign. Any directly or indirectly illuminated sign, either stationary or animated, which exhibits changing natural or artificial light or color effects by any means whatsoever.

Flood. A general and temporary condition of partial or complete inundation of normally dry land areas from:

## CHAPTER 16 Zoning

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

Floodplain. The area adjoining any river, stream, watercourse, lake or other body of standing water, which is subject to inundation by a one-hundred-year flood.

Floor area ratio (F.A.R.). The ratio of building gross square footage to the gross square footage of a parcel. The quotient of the gross floor area of all buildings on a lot divided by the area of said lot; for example:

Floor area 15,000 sq. ft. divided by land area = 43,560 sq. ft. = .34 (F.A.R.)

For sale sign. A sign advertising an object or commodity, other than real estate, that is offered for sale.

Freestanding CMRS facility. A CMRS facility that consists of a stand-alone support structure, such as a tower or monopole and antennae and accessory equipment.

Freestanding sign. A sign that is supported by one (1) or more columns, upright poles or braces extending from the ground or from an object on the ground or that is erected on the ground, where no part of the sign is attached to any part of a building, structure or other sign.

Frontage. The frontage of a parcel of land is considered that distance where a property line is common with a road right-of-way line, unless otherwise defined. Also, see Lot frontage and Linear frontage.

Fully enclosed structure. A fully enclosed structure shall conform to all Town zoning and building regulations regarding principal or accessory structures on a residential lot. Tarps, portable, movable or temporary storage, trash or recycling containers are not allowed as means of enclosing outdoor storage in any residential zoning district.

Garage. An accessory building or a part of a main building used for storage of private vehicles or boats of the family occupying the dwelling unit to which the garage is accessory.

Garage sale or yard sale. The selling of items or merchandise owned by the occupants of the residence at which the sale is held.

Garbage. Includes any vegetable or animal refuse, food or food product, matter from a kitchen, offal or carcass of a dead animal which, if deposited within the Town other than in a garbage receptacle, tends to create a danger to public health, safety and welfare or to impair the local environment. The use in this Subsection is not meant to prohibit properly maintained, odorless compost or manure piles.

Grade. The vertical location of the ground surface.

Grade, existing. The surface level of the ground prior to alteration of the land by grading.

Grade, finish. The surface level of the ground after completion of all grading.

Grade plane. A reference plane representing the average of finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line, or, where the lot line is more than six (6) feet from the building, between the building and a point (6) feet from the building.

Grading. Any excavating, filling or combination thereof.

Gross floor area (GFA). The total floor area of a building or structure enclosed by the outer walls including all stories (floor levels), exclusive of basement area, garage space and porches.

Group home. Any structure that provides noninstitutional housing for not more than eight (8) service-dependent or developmentally disabled individuals living as a single housekeeping unit with professional staff who function as surrogate parents and are not considered a family. Certain forms

## CHAPTER 16 Zoning

of group housing are specifically regulated by the federal or state government, as defined in Section 31-23-303, C.R.S., including:

- a. Group home for handicapped.
- b. Group home for developmentally disabled.
- c. Group home for mentally ill.
- d. Group home for the elderly.

**Hazard.** A hazard to public health, safety and welfare and includes any activity so recognized by the laws and regulations of the United States, the State of Colorado, Arapahoe County or the ordinances of the Town. Such hazards shall also include, but not be limited to, activities likely to cause foul or offensive odors, promote the growth or propagation of disease-carrying insects, pollute the air or ground waters of adjacent property, create loud or offensive sounds, cause drainage and runoff to occur in other than historical patterns or dead trees or vegetation that constitute such a hazard.

**Height, building.** The vertical distance from grade plane to the average height of the highest roof surface.

**Height, structure.** Structure height (not including buildings) is measured from the average finished grade five (5) feet from each support of the structure to the highest point of the structure. Structure height is used to measure structures such as signs and fences.

**Hive.** A structure intended for the housing of a bee colony.

**Home occupation.** Any occupation or activity which is clearly incidental to and conducted wholly within a dwelling unit and not in any accessory building or space on the premises by residents of the dwelling unit.

**Hospital.** A facility that makes available one (1) or more of the following: medical, surgical, psychiatric, chiropractic, maternity and/or nursing services.

**Hotel.** A building or group of attached or detached buildings designed for occupancy of specified rooms by short-term or part-time residents who are lodged with or without meals being provided in a restaurant and in which no facilities are provided for cooking in the individual rooms.

**House for sale.** A sign advertising a residential home located in the Town, which is currently being offered for sale.

**Illuminated sign.** A sign lighted by or exposed to artificial lighting either by lights on or within the sign or directed towards the sign.

**Impervious coverage.** Any material that substantially reduces or prevents the infiltration of stormwater or other water into previously undeveloped land.

**Implements of husbandry.** Every vehicle, farm tractor or machine that is designed, adapted or used for agricultural purposes.

**Improvement.** Upgrading a piece of land by constructing buildings, streets, utilities and the like upon it or under its surface. Improvements may be either public or private depending upon who is the ultimate owner after construction. Improvements may also be designated as either "on-site" or "off-site" in relation to a development parcel.

**Inflated balloon.** A membrane device that is inflated and used as a sign by virtue of its shape or letters or figures that are affixed to it and that rests on the ground or is tethered and floats in the air.

**Inoperable vehicle.** Any vehicle that: a) would be required to be licensed if operated on a public highway, but does not display current, valid license plates; b) does not work, move or run; c) is not functioning; d) is not operable for the function for which it was designed; or e) does not comply with the minimum safety requirements of the Colorado Motor Vehicle Law.

## CHAPTER 16 Zoning

**Junk.** Includes any old, used or secondhand materials of any kind, including, without limitation, cloth, rags, clothing, paper, rubbish, bottles, rubber, iron, tires, brass, copper or other metal, furniture, refrigerators, freezers, all other appliances, the parts of vehicles, apparatuses and contrivances and parts thereof which are no longer in use, any used building materials, boards or other lumber, cement blocks, bricks or other second-hand building materials or any discarded machinery, vehicles or any other article or thing commonly known and classified as junk.

**Kennel.** Any building, structure or open space or portion thereof, used for the breeding, raising, boarding or selling of animals that are more than six (6) months' old or for more than one (1) litter.

**Lineal frontage.** The left-to-right maximum front dimension of a building.

**Loading area.** A parking space other than a public street or alley for the parking of commercial vehicles for the purpose of loading or unloading materials or merchandise.

**Logo.** Corporate colors, theme or other trademarked content.

**Lot.** The unit into which land is divided on a subdivision plat or deed, with the intention of offering such unit for sale, lease or separate use, either as an undeveloped or developed site, regardless of how it is conveyed. A lot is the smallest unit into which land is divided on a subdivision plat.

**Lot, corner.** A lot abutting two (2) or more streets at their intersection or upon two (2) parts of the same street and where in either case the interior angle formed by the intersection of the street lines does not exceed one hundred thirty-five (135) degrees.

**Lot coverage.** That portion of the lot area covered by a building, including all overhanging roofs and impervious surfaces.

**Lot frontage.** That boundary of a lot which abuts a dedicated public street. In the case of a corner lot, it shall be the shortest dimension on a public street. If the dimensions of a corner lot are equal, the front line shall be designated by the owner based on the address of the property and filed with the Building Department.

**Lot line.** The external boundary of a lot.

**Lot width.** The distance parallel to the front lot line measured between side lot lines through that part of the building or structure where the lot is narrowest. Or, where no building exists, the average distance between two (2) side lot lines.

**Marquee.** A projecting wall sign affixed above a doorway or window and attached to and supported entirely by the wall of the building.

**Microwave dish antenna.** A disk-type antenna used to link communication sites together by wireless voice or data transmission via ultrahigh frequency electromagnetic waves.

**Monument.** A pillar structure or other entryway feature of stone, brick, stucco, wood or similar material.

**Monument sign.** A freestanding sign that is mounted on and supported by an architecturally compatible solid base. Generally, the length of the sign is greater than the sign height.

**Motel.** See Hotel.

**Motorcycle.** An unenclosed motor vehicle having a saddle for the use of the operator and two (2), three (3) or four (4) wheels in contact with the ground, including but not limited to motor scooters and mini-bikes.

**Muffler.** A device for abating the sound of escaping gases of an internal combustion engine and includes all similar sound dissipating devices in accordance with vehicle manufacturer specifications.

**Noise.** Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological effect on humans.

## CHAPTER 16 Zoning

Noise disturbance. Any sound, which: a) endangers or injures the sanity or health of humans or animals; b) is audible at a residential property boundary; c) otherwise violates the specific prohibitions of this Section; or d) endangers or injures personal or real property.

Nonconforming lot. Pertains to a defined lot where the area, width or other characteristic of which fails to meet requirements of the zoning district in which it is located.

Nonconforming structure. A structure legally existing and/or used at the time of adoption of this Chapter, or any amendment thereto, which does not conform to the regulations of the zoning district in which it is located.

Nonconforming use. A use legally existing and/or used at the time of adoption of this Chapter, or any amendment thereto, which does not conform to this Chapter.

Nuisance or public nuisance. This includes:

- a. The conducting or maintaining of any activity in violation of statute or ordinance:
- b. Any unlawful pollution or contamination of any air, water or other substance or material; any activity, operation or condition which, after being ordered abated, corrected or discontinued by a lawful order of an agency or officer of the Town, the Tri-County Health Department, County or State, continues to exist or be conducted in violation of statute, ordinance or regulation of the Town, the County or the State;
- c. Any activity, operation, condition, building, structure, place, premises or thing which is injurious to the public health, safety and welfare of the citizens of the Town, which contributes to blight or property degradation or which is indecent or offensive to the senses of an ordinary person, so as to interfere with the comfortable enjoyment of life or property. For the purposes of this Subsection, an accumulation of activities, operations, conditions or things that might individually not arise to the level of a nuisance may be deemed a nuisance if, taken together, they would be indecent or offensive to the senses of the ordinary person; and
- d. Any nuisance defined or declared as such by applicable statute or ordinance.

Nursing home, including assisted living. Facilities which make medical services and nursing care available for a continuous period of twenty-four (24) hours or more to three (3) or more persons not related to the operator.

Off-premises sign. Any sign, including, without limitation, a billboard or general outdoor advertising device, that advertises or directs attention to a land use, business, commodity, service or activity not located or available upon the premises whereon the sign is located.

Off-street parking. A site or portion of a site devoted to the off-street parking of motor vehicles, including parking spaces, aisles, access drives and landscaped areas.

Open fence. A fence that is seventy percent (70%) or more open. Examples of open fences include rail, ornamental iron and barbed wire.

Open space. A parcel of land, an area of water or a combination of land or water within the site designated for a Planned Development or subdivision, designed and intended primarily for the use or enjoyment of residents, occupants and owners of the P.D. and/or the general public for uses, including but not limited to recreation areas and facilities, gardens, parks, walkways, paths and trails and areas of native vegetation left substantially in their natural state or supplemented by additional plant material. The term shall not include space devoted to buildings, streets, roads and other ways, parking and loading areas. Open space credit for nonresidential developments shall be given for treatments such as berms, sodded areas, trees, water features, decorative rock treatments and, in some cases, landscaped plazas and atriums.

- a. Common open space means open space designed or intended primarily for the common use of the lawful owners, residents and occupants of a P.D. or subdivision, but not necessarily including the general public, which is owned and maintained by an organization established for such purpose or by other adequate arrangements.

## CHAPTER 16 Zoning

- b. Public open space means an open area developed, designed and dedicated to a public authority for use by the occupants of the development and by the general public. Portions of areas containing steep slopes (angle of incline greater than forty-five [45] degrees) and special sub-areas of floodplains (such as bogs) may not be dedicated as public open space.

Outdoor storage. The storage of materials, equipment or vehicles, which material is either wholly or partially visible from the any right-of-way or abutting lot.

Parking space. That part of a parking area, exclusive of drives, turning areas or loading spaces, devoted to parking of one (1) vehicle or automobile.

Permanent sign. A sign constructed of durable material and affixed, lettered, attached to or placed upon a fixed, nonmovable, nonportable supporting structure.

Person. An individual, proprietorship, partnership, corporation, limited liability company, association or other legal entity.

Pet animal. Any dog, cat or other animal owned or kept by a person for companionship or protection or for sale to others for such purposes.

Pets. Dogs, cats, small animals, reptiles and birds which are customarily kept in the home or on the premises, as those that may be purchased at local pet stores, for the sole pleasure and enjoyment of the occupants.

Place of worship. A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

Planned Development (PD). An area of land controlled by one (1) or more landowners to be developed under unified control or unified plan of development for a number of residential, commercial, educational, recreational or industrial uses or any combination of the foregoing, the plan for which may not correspond to lot size, bulk or type of use, lot coverage, open space and/or restrictions of the existing land use regulations.

Planned sign program. A program designed to provide flexibility in signage for business, commercial, institutional and Planned Development uses.

Plot plan. A surveyed overhead view plan that shows the location of the building on the lot and includes all easements, property lines, setback lines and a legal description of the lot.

Pole-mounted CMRS facility. A CMRS facility that is mounted and supported entirely on a legally existing traffic signal, utility pole, street light, flagpole, CMRS facility, electric transmission line or other similar structure.

Political sign. A sign indicating the name and/or picture of an individual seeking election or appointment to a public office, relating to a proposition or change of law in a public election or referendum or pertaining to the advocating by persons, groups or parties of political views or policies.

Portable sign. A freestanding temporary sign, which is not affixed to the ground, a sign structure, building, canopy or awning and which is capable of being carried or moved about.

Principal use. The primary use located on a given lot or parcel of land, as opposed to an accessory use; also, a use which is listed as a use by right in any given zone district in this Chapter.

Principal use or structure. The primary use or structure located on a given lot or parcel of land, as opposed to an accessory use or structure.

Projecting sign. A sign which projects, in whole or in part, more than eighteen (18) inches horizontally beyond the face of the building on which it is displayed. A blade sign is a projecting sign.

Projections. Parts of buildings, such as architectural features that are exempted, to a specified amount, from the setback requirements of this Chapter.

## CHAPTER 16 Zoning

Property boundary. An imaginary line along the ground surface and its vertical extension which separates the real property owned by one (1) person from that owned by another person, but not including intra-building real property divisions.

Public right-of-way. Any street, avenue, boulevard, highway, sidewalk or alley or similar place, which is owned or controlled by a governmental entity. This term includes Town right-of-way.

Public space. Any real property or structures thereon which are owned or controlled by a governmental entity.

Public utility. Every firm, partnership, association, cooperative, company, corporation and governmental agency and the directors, trustees or receivers thereof, whether elected or appointed, which is engaged in providing railroad, airline, bus, electric, rural electric, telephone, telegraph, communications, gas, gas pipeline carrier, water, sewerage, pipeline, street transportation, sleeping car, express or private car line facilities and services.

Rail fence. Typically, an open fence with vertical posts spaced approximately six (6) feet to eight (8) feet apart and two (2) or three (3) horizontal rails.

Real estate sign. A sign indicating the availability for sale, rent or lease of the specific lot, building or portion of a building upon which the sign is erected or displayed.

Recreational facilities. Uses, structures and/or land utilized for the provision of recreational activities and/or open space that may be developed, operated and/or maintained by a public entity.

Residential property. Property that is zoned primarily for residential use.

Rezoning. A revision to the Official Zoning Map.

Right-of-way. An area or strip of land over which a right of passage has been recorded for use by vehicles, pedestrians and/or facilities of a public utility.

Roof sign. A sign that is mounted on or projects above any part of the roof of a building or which is wholly dependent upon a building for support and which projects above the roof of a building with a flat roof, the eave line of a building with a gambrel, gable or hip roof or the deck line of a building with a mansard roof.

Screening. A structure erected or vegetation planted to conceal from viewers the area behind it.

Separation distance. The distance between structures measured from the foundation of one (1) structure to the foundation of an adjoining structure; provided, however, that exterior chimneys, soffits and bay windows may extend into this open area a distance of up to twenty-four (24) inches for each of the structures.

Setback. The distance required between the face of a building and the lot line opposite that building face, measured perpendicularly to the building. Where angled buildings or lots, curved streets, etc., exist, the setback shall be taken as an average distance. Setback also refers to the horizontal distance (plan view) between the delineated edge of wetlands, stream/river corridors, riparian areas or wildlife habitat and the closest projection of a building or structure.

Setback, front yard or front lot. A line which forms a vertical plane parallel with a front lot line of a lot, tangent to that part of a building or structure situated on such a lot which is closest to such lot line and intersecting two (2) other lot lines of such lot.

Setback line. A line or lines within a property defining the minimum horizontal distance required between a building or structure and property line.

Setback, rear yard or rear lot. A line which forms a vertical plane parallel with a rear lot line of a lot, tangent to that part of a building or structure situated on such a lot which is closest to such rear lot line and intersecting two (2) other lot lines of such lot.

Setback, side yard or side lot. A line which forms a vertical plane parallel with a side lot line of a lot, tangent to that part of a building or structure situated on such a lot which is closest to such side lot line and intersecting two (2) other lot lines of such lot.

## CHAPTER 16 Zoning

Site development plan. A plan view of land drawn to scale showing accurate dimensions and containing the information required in this Chapter, including uses and structures proposed for a parcel of land as required by the regulations involved. It includes lot lines, streets, parking, building sites, reserved open space, buildings, major landscape features, both natural and man-made, and the locations of proposed utilities and easements.

Sight triangle. An area of land located at intersections of streets, drives and other public and/or private ways situated to protect lines of sight for motorists, within which the height of materials and/or structures is limited.

Sign. Any object or device containing letters, figures and/or other means of communication or part thereof, situated outdoors or indoors, of which the effect produced is to advertise, announce, communicate, identify, declare, demonstrate, direct, display and/or instruct potential users of a use, product, service or event.

Small wind energy conversion system (SWECS). Any mechanism, including blades, rotors or other moving surfaces, designed for the purpose of converting wind energy into mechanical or electrical power. For the purpose of these Regulations, towers, tower bases, guy wires and any other structures necessary for the installation of a small wind energy conversion system are also included.

Solid fence. A fence that is less than seventy percent (70%) open. Examples of solid fences include board on board, stockade, brick, stone and masonry.

Sound. An oscillation in pressure, particle displacement, particle velocity or other physical parameter in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, volume and frequency.

Sound wall. A wall constructed for the purpose of reducing roadway noise.

Special review use. A use that must have approval of the Board of Trustees before being allowed in the specific zoning district.

Stable. A structure to house domestic livestock and farm animals, which shall be limited to the capacity of not more than one (1) domestic livestock and farm animals per acre or portion thereof.

Stealth CMRS facility. A CMRS facility with an alternative design which camouflages or conceals the presence of antennae or towers, such as, but not limited to, artificial trees, clock and bell towers and steeples.

Street. A public right-of-way which provides the principal means of access to abutting property.

Structure. Anything which is built or constructed or the use of which requires permanent location on the ground or attachment to something having permanent location on the ground. Among other things, structures include buildings, mobile homes, fences, gates, walls, swimming pools, and tennis courts.

Subdivision regulations. The Subdivision Regulations duly adopted by the Board of Trustees of the Town of Foxfield.

Substantial change. A type of CMRS facility modification that occurs if:

- a. The mounting of a proposed antenna on a CMRS facility that would increase the existing height of the CMRS facility by more than ten percent (10%), or by the height of one (1) additional array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth herein if necessary to avoid interference with existing antennas; or
- b. The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment storage cabinets for the technology involved, not to exceed four (4), or more than one (1) new equipment storage shelter; or

## CHAPTER 16 Zoning

- c. The mounting of the proposed antenna would involve adding an appurtenance to the body of the CMRS facility that would protrude from the edge of the facility more than twenty (20) feet, or more than the width of the CMRS facility structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this Paragraph if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable; or
- d. The mounting of the proposed antenna would involve excavation outside the CMRS facility site, defined as the current boundaries of the leased or owned property surrounding the CMRS facility and any access or utility easements currently related to the site.

**Temporary sign.** A nonpermanent sign, banner or similar device that is intended for a temporary period of use. Temporary signs include, but are not limited to, construction signs, real-estate signs, garage sale signs, banners, holiday displays, flags, windsocks, inflatable balloons, political, real estate and for sale signs. A temporary sign does not include a sign display area that is permanent but the message displayed is subject to periodic changes.

**Town.** The Town of Foxfield, Colorado.

**Town Engineer.** The employee or consultant designated by the Board of Trustees as the Engineer for the Town.

**Town Planner.** That individual appointed or designated by the Board of Trustees to enforce these Regulations.

**Town right-of-way.** Same as Public right-of-way and Right-of-way.

**Use.** The purpose for which land or premises or a building thereon is designed, arranged or intended or for which it is or may be occupied, and includes the activity or function that actually takes place or is intended to take place on a lot.

**Use, principal.** The primary use located on a parcel of land.

**Variance.** A decision of the Board of Adjustment which grants a property owner relief from certain provisions of this Chapter when, because of the particular physical surroundings, shape or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience.

**Vehicle.** A machine propelled by power other than human power, designed to travel along the ground, in the air or through water by use of wheels, treads, runners, slides, wings or hulls and to transport persons or property, to pull non-self-propelled vehicles or machinery and includes, but is not limited to: automobile, airplane, boat, bus, truck, trailer, motorcycle, motor home, recreational vehicle, camper and truck tractor. For the purpose of this Section, the term vehicle includes implements of husbandry, mobile machinery and self-propelled construction equipment.

**Vibration.** An oscillatory motion of solid bodies of deterministic or random nature described by displacement, velocity or acceleration with respect to a given reference point.

**Wall sign.** A sign attached to or painted on the wall of a building or structure whose display surface is parallel to the face of the building or structure and whose height does not exceed the height of the wall to which said sign is attached or painted upon. Awning, marquee and canopy signs are to be considered wall signs.

**Weekday.** Any day Monday through Friday which is not a legal holiday.

**Whip antenna.** An array of antennae that is cylindrical in shape.

**Window sign.** A sign that is painted on, attached to or located within three (3) feet of the interior of a window and that can be seen through a window from the exterior of the structure.

**Yard.** An open space on the same lot with a building or building group lying between the front, rear or side wall of a building and the nearest lot line, unoccupied except for projections and the specific minor uses or structures allowed in such open space under the provisions of this Chapter.

CHAPTER 16 Zoning

Yard, front. A yard extending the full width of the lot on which a building is located and situated between the front lot line and a line parallel thereto and passing through the nearest point of the building.

Yard, rear. A yard extending the full width of the lot on which a building is located and situated between the rear lot line and a line parallel thereto and passing through the nearest point of the building.

Yard, side. A yard on the same lot as a building situated between the side lot line and a line parallel thereto and passing through the nearest point of a building and extending from the front yard to the rear.

Zoning district. A portion of the Town within which the use of land and structures and the location, height and bulk of structures are governed; i.e., the RR classification is a district.

(Ord. 5 §1, 2009; Ord. 1 §1, 2012; Ord. 04 §14, 2014; Ord. 01, § 3, 2015)

Appendix 16-A  
Development Stipulations Chart

Development Stipulations	
Existing zoning	
Proposed zoning	
Existing land use	
Proposed land use	
Total site area	
Density (for residential, state total units and dwelling units per acre, for nonresidential, state gross floor area)	
Minimum lot size	
Setbacks (from property lines)	Front - Side - Rear - Between structures - Parking lot -
Maximum building height	

CHAPTER 16 Zoning

Maximum building coverage	
Area in parking and drives	
Minimum open space	
Other information as requested in letter from Town Planner	

(Ord. 1 §1, 2012)

Appendix 16-B  
 Certifications and Signature Blocks

- (a) Intent. The Official Development Plan and the Final Development Plan shall contain executed certificates, notices and statements in the following form. Such certificates, notices or statements may be modified with the permission of the Town Attorney when warranted by special conditions.
- (b) Signatures. All signatures must be signed in indelible black ink only as approved by the Clerk and Recorder. No pencils, red ink or ball points.
- (c) Board of Trustees Certification. This [Official Development or Final Development] Plan was approved by the Board of Trustees of the Town of Foxfield, Colorado, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ for filing.
- (d) Title Verification. I/We (name), a (choose one: qualified title insurance company, title attorney or attorney-at-law), do hereby certify that I/we have examined the title of all land identified hereon and that title to such land is in the owner(s) name free and clear of all liens, taxes and encumbrances, except as follows:

(When signed by an attorney):

(Signature) (Registration No.)

\_\_\_\_\_

Name of Attorney

\_\_\_\_\_

Date: \_\_\_\_\_

(When signed by an official of a title insurance company):

(notarized signature)

\_\_\_\_\_

Company Name

\_\_\_\_\_

Date: \_\_\_\_\_

- (e) Clerk and Recorder.  
 STATE OF COLORADO )

CHAPTER 16 Zoning

) ss.

COUNTY OF ARAPAHOE )

I hereby certify that this [Official Development or Final Development] Plan was filed in my office on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ A.D., at \_\_\_\_\_ a.m./p.m., and was recorded at Reception Number \_\_\_\_\_.

\_\_\_\_\_  
(signature)

County Clerk and Recorder

(f) Dedication Statement (if applicable). The undersigned, being all the owners, mortgagees, beneficiaries of deeds of trust and holders of other interests of the lands described herein, have laid out the property subject to this [Official Development or Final Development] Plan as shown hereon under the name and subdivision of \_\_\_\_\_. The utility easements as shown hereon are hereby dedicated for public utilities and cable communication systems and other purposes as shown hereon. The entities responsible for providing the services for which the easements are established are hereby granted the perpetual right of ingress and egress from and to adjacent properties for installation, maintenance and replacement of utility lines and related facilities. All streets and rights-of-way shown hereon are dedicated and conveyed to the Town of Foxfield, Colorado, in fee simple absolute, for public uses and purposes. Drainage and detention easements as shown hereon are hereby dedicated to the Town of Foxfield. The Town is hereby granted the perpetual right of ingress and egress from and to the adjacent properties for construction, repair, maintenance, operation and replacement of storm sewers and drainage facilities.

(Owners/Mortgagee) \_\_\_\_\_

By \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Secretary

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by\* (name printed).

WITNESS my hand and official seal.

Notary Public \_\_\_\_\_

My commission expires: \_\_\_\_\_.

\* Signatures of officers signing for a Corporation shall be acknowledged as follows: "(Print name as President/Vice-President and (print name) as Secretary/Treasurer of (name of corporation), a (state) corporation."

NOTE: Include signature lines and notary lines for all owners/mortgagees.

(Ord. 1 §1, 2012)

Appendix 16-C  
Cost Reimbursement Agreement

CHAPTER 16 Zoning

THIS COST REIMBURSEMENT AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_ 20\_\_, by and between the TOWN OF FOXFIELD, a Colorado municipal corporation (the "Town"), and \_\_\_\_\_ (the "Owner"), regarding \_\_\_\_\_ at \_\_\_\_\_, Foxfield, CO 80016.

WHEREAS, the Town of Foxfield Municipal Code requires that the Town be reimbursed for the cost of the time spent for engineering, planning, surveying, inspection, hydrological and legal services in reviewing development proposals, plus fifteen percent (15%) for administrative costs (hereafter "Consultants' Time");

WHEREAS, this obligation to reimburse the Town for Consultants' Time exists regardless of whether the project is completed, and/or regardless of whether the Owner chooses to complete the Town's land review process; and

WHEREAS, this Agreement memorializes the obligation by the Owner to the Town to reimburse the Town for all Consultants' Time as set forth in Town of Foxfield Municipal Code.

NOW, THEREFORE, in consideration of the recitals and mutual covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Town and the Owner agree as follows:

1. Reimbursement. Owner agrees to reimburse the Town, regardless of completion of the Owner's project, and/or regardless of whether the Town's land review process is completed, for all Consultants' Time, as set forth in the Town of Foxfield Municipal Code for all such costs incurred by the Town which are incurred as a result of, or which are otherwise related to, Owner's land use submission and its subsequent review.
2. Process for Reimbursement.
  - (a) Estimate of Costs. Prior to any work being commenced by the Town's Consultants in processing the application, the Town shall provide to the Owner an estimate of costs (the "Estimate"), indicating the estimated costs associated with processing the application.
  - (b) Deposit. Owner shall then provide a cash deposit in the amount of the Estimate, which funds shall be used to reimburse the Town as set forth herein for the Consultants' Time. The Town shall also provide the following:
    - i. Whenever necessary, the Town shall send the Owner an invoice titled "Itemized Billing" showing the costs charged to the account for that month and the balance. If there is an outstanding balance owed by the Owner, the Town will bill the Owner for that amount. Payment shall be within fifteen (15) days of the date of the invoice from the Town.
    - ii. After a final decision has been made on the application, or the application has been withdrawn, and reimbursement has been made for all of Consultants' Time, any funds remaining from the deposit shall be refunded to the Owner.
    - iii. When the cash deposit is eighty-five percent (85%) exhausted, and the application is still pending, an additional cash deposit will be required.
3. Remedies. In the event Owner fails to reimburse the Town for all Consultants' Time, the Town shall have the following remedies:
  - (a) The Town may impose the remedies as set forth by the Ordinance, including the following:
    - i. The termination of the review process if payment is not made in full within thirty (30) days of the issuance of the statement indicating the actual cost of Consultants' Time;
    - ii. The application being deemed withdrawn if the statement is not paid in full within thirty (30) days of the date of the issuance of the statement indicating the actual cost of Consultants' Time;
    - iii. The addition of a penalty equal to ten percent (10%) of the amount due and outstanding within thirty (30) days of the date of the issuance of the statement

CHAPTER 16 Zoning

indicating the actual cost of Consultants' Time, plus interest on the amount due and outstanding at the rate of one-half of one percent (.5%) per month from the date when due.

- (b) The Town may also impose any or all of the following remedies, at its sole discretion:
- i. The filing of a lien on the property which is or was the subject of the proposed development upon which the Town has not been reimbursed for Consultants' Time; and/or
  - ii. The refusal to issue a permit for any portion of the proposed development upon which the Town has not been reimbursed; and/or
  - iii. The refusal to issue a certificate of occupancy for any portion of the proposed development upon which the Town has not been reimbursed; and/or
  - iv. The refusal to accept any further land use applications from any Owner which has failed to reimburse the Town for Consultants' Time for any project.
  - v. The initiation of an enforcement action for nonpayment of Consultants' Time in either Arapahoe County Court or in the Town of Foxfield Municipal Court to collect unpaid fees.
4. Dispute Resolution. In the event the Owner disagrees with any of the charges in the Itemized Billing, the resolution of the dispute shall be as follows:
- (a) The Owner will submit to the Town Clerk a letter that specifies the particular charges being disputed. The letter will include payment in the amount of the Outstanding Balance less the amount being disputed.
  - (b) The Town Clerk will forward a copy of the letter to the Town Consultant(s) who, after reviewing the letter, will adjust the charge and submit a new billing to the Town Clerk or submit a letter to the Town Clerk with a copy to the Owner stating the reasons that no adjustment has been made.
  - (c) If the Owner disagrees with the Consultant's actions, the issue will be placed on the agenda for the next available Board of Trustees' meeting. The Board of Trustees shall consider the issue and make a final decision on the dispute.
  - (d) The Owner will pay any outstanding balance within fifteen (15) days of the decision by the Board of Trustees.
5. Severability. If any provision of this Agreement is invalid, illegal or unenforceable, such provision shall be severable from the rest of this Agreement, and the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.
6. Governing Law. This Agreement shall be governed by and construed in all respects according to the laws of the State of Colorado.
7. Headings. Headings of the sections of this Agreement are inserted for convenience only and shall not be deemed to constitute a part hereof.
8. Modifications. No amendments to or modifications of this Agreement shall be made or be deemed to have been made, unless such amendments or modifications are made in writing and executed by the party to be bound thereby.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written.

ATTEST:

\_\_\_\_\_  
Town Clerk

ATTEST:

CHAPTER 16 Zoning

Name: \_\_\_\_\_

Title: \_\_\_\_\_

TOWN OF FOXFIELD

By:  
Mayor

\_\_\_\_\_

OWNER

\_\_\_\_\_

(Ord. 04 §16, 2014)