

# TOWN OF FRASER

Land Development Code



ADOPTED MARCH 2018

## Town of Fraser Land Development Code

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## ARTICLE 1 – General Provisions

### Division 1 – Purpose and Applicability

#### Sec. 19-1-110. – Title.

This Chapter shall be known and may be cited and referred to as “Fraser Land Development Code,” or “this Chapter,” or “these regulations.”

#### Sec. 19-1-120. – Authority.

- (a) This Chapter is authorized by CRS §§ 31-15-101, et seq., 31-16-101, et seq., 31-23-101, et seq., and 29-20-101, et seq.
- (b) Pursuant to the authority contained in Sections 29-20-101, et seq., 31-23-101, et seq., and 24-67-101, et seq., C.R.S., the Planning Commission and Board of Trustees are vested with the power and authority to adopt and amend subdivision regulations.
- (c) Pursuant to Section 31-23-227, C.R.S., the Board of Trustees assumes and reserves to itself the final authority over all acts, powers and duties assigned to a municipal planning commission under Part 2 of Article 23, Title 31, C.R.S.
  - (1) Without limiting the generality of the forgoing, and notwithstanding anything to the contrary contained in this Chapter, the Board of Trustees reserves the final authority:
    - a. To adopt and amend subdivision regulations;
    - b. To authorize and accept public streets, parks and other public ways, grounds or open space, public buildings and structures and public or privately owned public utilities; and
    - c. To approve or disapprove subdivision plats.
  - (2) As provided in these regulations, the Planning Commission is delegated with the authority to review and make recommendations to the Board of Trustees regarding such matters, but such recommendation shall not be binding on the Board of Trustees.

#### Sec. 19-1-130. – Applicability.

This Chapter shall apply to all land and all land uses, changes of land use, and development within the municipal boundaries of the Town of Fraser, Colorado (the “Town”). These regulations shall not be construed as abating any action now pending under or, by virtue of prior existing regulations, as discontinuing, abating, modifying or altering any penalty accruing or about to accrue, as affecting the liability of any person, firm or corporation, as waiving any right of the Town under any Section or provision existing at the time of adoption of these regulations.

#### Sec. 19-1-140. – Purpose.

This Chapter is adopted to implement the recommendations of the Comprehensive Plan and other long range policy planning documents of the Town, and shall be for the purpose of:

- (1) Promoting the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of the Town, by lessening congestion in the streets and roads;
- (2) Guiding future growth and development of the Town in accordance with the Comprehensive Plan;
- (3) Protecting the character, social and economic stability of all parts of the Town and encouraging orderly and strategic development through appropriate growth management techniques;
- (4) Preventing air, water and light pollution and encouraging the wise use and management of natural resources throughout the Town;
- (5) Preserving natural beauty and protecting environmentally critical areas throughout the Town and ensuring appropriate development with regard to these natural features;
- (6) Increasing safety from fire and other danger;
- (7) Providing adequate light and air;
- (8) Classifying land uses and development;
- (9) Protecting the tax base;
- (10) Securing economy in governmental expenditures;
- (11) Fostering and encouraging business and industry; and
- (12) Protecting urban and nonurban development.

Sec. 19-1-150. – Interpretation.

This Chapter is divided into separate Articles to address different aspects of these regulations. The headings of Sections are for convenience only and are not intended to be used to interpret or give effect to any of the provisions of these regulations.

- (1) In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of public health, safety and welfare.
- (2) Conflict with public and private provisions.
  - a. Public provisions. These regulations are not intended to interfere with, abrogate or annul any other ordinance, rule, regulation, statute or other provision of law except as provided in these regulations. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule, regulation, statute or other provision of law, the provision which is more restrictive or imposes higher standards shall govern.
  - b. Private provisions. These regulations are not intended to abrogate any private easement, covenant, agreement or restriction. It is not the intent of these regulations, and it may not be implied or inferred, that the Town will enforce any private easement, covenant, agreement or restriction, such provisions being a function of the right of individual property owners to further or separately restrict the use of their property as one (1) of the rights attendant upon property ownership. These regulations shall not be interpreted to either

enhance or diminish such private restrictions, and the existence of such private restrictions shall not affect the application or enforceability of these regulations.

- (3) Severability. If any part, provision or application of these regulations to any person or circumstances is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which the judgment shall be rendered and shall not affect or impair the validity of the remainder of these regulations or the application of them to other persons or circumstances. The Town declares that it would have enacted the remainder of these regulations even without any such part, provision or application which is judged invalid.

Sec. 19-1-160. – Word usage.

Words and phrases used herein shall be defined or interpreted as follows:

- (1) Words used in the present tense include the future;
- (2) Singular words include the plural;
- (3) Reference to the male or female gender includes both genders.
- (4) The particular controls the general;
- (5) The word *person* includes a corporation, association, partnership, firm or joint venture, as well as an individual.
- (6) The word *lot* includes *plot* or *parcel*;
- (7) The word *shall* is mandatory;
- (8) The word *may* is permissive; and
- (9) The term *occupied* or *used* shall be construed to also include *intended, arranged or designed to be used or occupied*.

Sec. 19-1-170. – Application to developments in progress.

- (a) This Chapter is adopted by Ordinance No. \_\_\_\_\_, and is effective on \_\_\_\_\_, 20\_\_.
- (b) All land use, changes in land use, and development applications initiated on and after \_\_\_\_\_, 20\_\_, shall be reviewed pursuant to the review process and standards set forth in this Chapter, as adopted by Ordinance No. \_\_\_\_\_, and effective on that date. All land use applications submitted for review prior to \_\_\_\_\_, 20\_\_ shall be reviewed pursuant to the process and under the criteria set forth in applicable portions of Chapters 15, 16 and 17 which were in force prior to that date. Such prior regulations are continued in force and effect for that limited purpose only. Upon approval or denial of all such remaining applications, the prior regulations shall be deemed repealed. In no event shall any resubmission of an application after its rejection or any development application filed after the effective date of these regulations be reviewed under any such prior regulations.

Sec. 19-1-180. – Enforcement.

- (a) After any land use approval and prior to construction, the applicant shall be responsible for obtaining all necessary permits and any other approvals. In addition, it shall be unlawful for anyone to occupy a new development prior to the issuance of a certificate of occupancy, which will not be issued until

the conditions of any land use approval have been met or adequately guaranteed to the satisfaction of the Town.

- (b) The erection, construction, enlargement, conversion, moving or maintenance of any building or structure and the use of any land or building which is continued, operated or maintained contrary to the provisions of this Chapter is hereby declared to be unlawful and a violation of this Chapter, and the Town Attorney may, acting in behalf of the Board of Trustees, institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove such violation.
- (c) Appropriate actions and proceedings may be taken in law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct or abate a violation and to prevent illegal occupancy of a building structure or premises.
- (d) In addition to civil and criminal enforcement, the Town may revoke any permit, cease the processing of any application, and refuse to accept for processing any application, any of which pertain to the property or development which is in violation of this Chapter.
- (e) The remedy provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.
- (f) Every person convicted of a violation of any provision of this Chapter shall be punished as set forth in Section 1-4-10 of this Code.

Sec. 19-1-190. –Amendment.

- (a) Text amendments. The Planning Commission or Board of Trustees may initiate text amendments to this Chapter. Private persons may not initiate text amendments, other than through the right of initiative under the Colorado Constitution. Public notice of hearings on text amendments shall be given as required by state statutes.
- (b) Map Amendments. Amendments to the zone districts map shall be pursuant to Section 19-2-170.



## Division 2 – Review Procedures

### Sec. 19-1-205. – Compliance.

- (a) All land use activities, changes in land use, and development as defined by this Chapter located within the Town shall be subject to the provisions of these regulations and any other applicable regulations of the Town. Any landowner desiring to establish a land use requiring approval of the Town must obtain such approval prior to the establishment of the land use activity.
- (b) Conformity to use regulations. Except as hereinafter provided, no building, structure or property shall hereafter be used, and 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, designed to be used or intended to be used for any purpose or in any manner other than as provided for among the uses hereinafter listed in the district regulations for the district in which such land, building or structure is located. All buildings or structures must comply in all respects with the provisions of the building code adopted by the Town.
- (c) Conformity to setback, bulk, site area and height provisions. Except as hereinafter provided, 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 building site area, building bulk, building location and height provisions hereinafter provided in the district regulations for the district in which such buildings, structures or open space is located.
- (d) Lot area, yard, frontage, open space, and parking restrictions. Except as hereinafter provided, no lot area, yard, frontage, other open space or parking provided about any building for the purpose of complying with provisions of this Chapter shall be considered as providing lot area, yard, frontage, other open space or parking for any other building.

### Sec. 19-1-210. – Review process.

- (a) Except as otherwise specified, any property owner may apply for approval of a land use, change in land use or development pursuant to this Chapter.
- (b) For those applications for which the Town Staff has discretion to review and render a decision, as shown on the Review Procedures Chart (Table 1.1), the Town Staff shall approve, approve with conditions, or deny the application within thirty (30) days of determination that the application is complete.
- (c) All Town Staff decisions listed on Table 1.1 are final unless an appeal of the same is provided in Table 1.1. In that case, the applicant may appeal such decision to the Planning Commission, which shall conduct a hearing within forty five (45) days after receipt of written notice of the appeal. The decision by the Planning Commission shall be final.
- (d) Except as otherwise set forth above for administrative review by Town Staff, land use applications are reviewed by the Planning Commission and/or the Board of Trustees, as shown on Table 1.1. Applications shall be submitted a minimum of forty five (45) days prior to a Planning Commission or Board of Trustees meeting or hearing, as applicable. The Planning Commission reviews an application and makes a recommendation to the Board of Trustees, unless the Commission is the final review body, all as shown on Table 1.1. In some cases, as indicated on Table 1.1, the final review body may send to next highest body for decision. This is indicated by "PU: Push-Up Permitted

- (e) Not more than forty five (45) days after a complete application has been submitted, the first reviewing body, as indicated on Table 1.1, shall consider the application.
- (f) The Planning Commission shall complete its review and make its recommendation to the Board of Trustees no later than forty five (45) days from the date of the initial Commission meeting or hearing. The Planning Commission may continue the matter to allow a more comprehensive review of the project for a period not to exceed thirty (30) days, unless a longer period is requested by the applicant to make revisions or provide additional information before the Planning Commission takes final action. The Planning Commission may recommend approval, conditional approval or denial, indicating any particular conditions for approval, and its reasons for a recommendation of denial.
- (g) The Board of Trustees shall meet or hold a hearing, as required by Table 1.1, within forty five (45) days of the date of the Planning Commission action. The Board of Trustees may continue the matter to allow a more comprehensive review of the project for a period not to exceed thirty (30) days, unless a longer period is requested by the applicant to make revisions or provide additional information before the Board of Trustees takes final action. The Board of Trustees may approve, approve with conditions, or deny an application. Conditions may be imposed on length of permit approval or other aspects of the activity designed to ensure compatibility with the standards of this Chapter and any policies or other adopted standards of the Town.
- (h) If the original application is denied by the Planning Commission or the Board of Trustees, as applicable, the Town shall allow the applicant to modify the plan and return for an additional hearing. If, after a second hearing, the application still does not comply with these regulations or the applicant does not agree to comply with the conditions specified by the Planning Commission and/or the Board of Trustees, then the application shall again be denied. No project previously denied shall be resubmitted within six (6) months of denial unless it has been modified to meet the requirements of these regulations.
- (i) Once a project is approved, any changes must be reviewed by Town Staff and may require Planning Commission and/or Board of Trustees approval, as applicable.
- (j) The Town Staff, Planning Commission and the Board of Trustees may conduct, or require the applicant to conduct, such investigations, examinations, tests and site evaluations as they deem necessary to verify any information contained in the application. An applicant shall grant the Town permission to enter upon the land for these purposes. The applicant shall pay the Town for the cost of any such investigations, examinations or evaluations.
- (k) For applications for approval of telecommunication facilities, the Town will follow the federally-mandated deadlines for action in Section 19-2-480.
- (l) The following chart describes the review process for all land use approvals:

**TABLE 1.1**  
**Review Procedures Chart**

Approval Requested	Pre-Application	CR	Required Referral	Approval				Notes/Code Section
				AD	PC	BOT	BOA	
Floodplain Development Permit	X	X		X			A	Sec. 19-5-240
Sign Permit	X	X		X*				Sec. 19-6-220; Sec. 19-6-240 *Off-premise signs require BOT approval.
Master Sign Plan	X	X			H	X		Sec. 19-6-230
Conditional Use Permit	X	X			X	H		Sec. 19-2-120
Site Plan (Major)	X	X			H	PU		Sec. 19-2-110
Site Plan (Minor)	X	X		X	PU			Sec. 19-2-110
PD District Plan Amendment (Major)	X	X			X	H		Sec. 19-2-160 (a). Ordinance required.
PD District Plan Amendment (Minor)	X	X		X	X			Sec. 19-2-160 (a)
Final PD Plan	X	X			H	X		Sec. 19-2-150
Final PD Plan Amendment (Major)	X	X			H	X		Sec. 19-2-160 (b)
Final PD Plan Amendment (Minor)	X	X		X	PU			Sec. 19-2-160 (b)
Rezoning	X	X			X	H		Sec. 19-2-160. Ordinance required.
Variance or appeal	X	X					H	Sec. 19-1-330
Variance; administrative	X	X		X			A	Sec. 19-1-350
Legend: CR: Completeness Review BOA: Board of Adjustment BOT: Board of Trustees H: Public Hearing Required				PC: Planning Commission AD: Administrative Approval X: Meeting or Action Required A: Appeal Permitted PU: Push-Up Permitted				

Approval Requested	Pre-Application	CR	Required Referral	AD	PC	BOT	BOA	Notes/Code Section
Major Subdivision - Sketch Plan	X	X		X	PU			Sec. 19-3-220
Major Subdivision - Preliminary Plat	X	X	X		H	PU		Sec. 19-3-225
Preliminary Plat - Major Amendment	X	X	X		H	PU		Sec. 19-3-225
Preliminary Plat - Minor Amendment	X	X		X				Sec. 19-3-225
Major Subdivision - Final Plat	X	X	X		H	X		Sec. 19-3-230
Major Subdivision - Final Plat Phasing	X	X	X		H	X		Sec. 19-3-230
Minor Subdivision - Final Plat	X	X		X	PU			Sec. 19-3-230
Final Plat - Major Amendment	X	X	X		H	X		Sec. 19-3-240
Final Plat – Minor Amendment	X	X		X				Sec. 19-3-240
Final Acceptance of Improvements	X	X		X		X		Sec. 19-3-455
As-Built Plat	X	X		X	PU			Sec. 19-3-235
Plat Vacation	X	X				H		Sec. 19-3-245
R.O.W/Easement Vacation	X	X				H		Sec. 19-3-245 Ordinance required.
Vested Right	X	X				H		Sec. 19-1-250
Legend: CR: Completeness Review BOA: Board of Adjustment BOT: Board of Trustees H: Public Hearing Required				PC: Planning Commission AD: Administrative Approval X: Meeting or Action Required A: Appeal Permitted PU: Push-Up Permitted				

Sec. 19-1-215. – Public notice requirements.

For all actions of the Town described in this Chapter requiring public hearings, public notice of the hearing shall be given conforming to the following requirements. The cost of all notices shall be borne by the applicant.

- (a) Notice shall be sent to all property owners within two hundred (200) feet of the boundaries of the subject property at least fourteen (14) days in advance of the hearing. The applicant shall provide this notice, along with evidence it has been satisfied as part of the hearing record.
  - (1) Such notice shall be sent via certified mail, return receipt requested, and shall include the following information: A copy of the application with a plat or drawing depicting the proposal; the name, address and phone number of the authorized contact for the applicant; and the time, date and place of the public hearing.
  - (2) The applicant shall provide the Town with a written affidavit prior to the time of the public hearing reflecting the date of mailings and the names, addresses and legal descriptions of all parties to whom the notifications were transmitted.
  - (3) Failure to properly mail the documents, notify the necessary parties and/or provide the required affidavit shall be grounds for denial of the application or a continuance of the public hearing until such notice is provided.
- (b) Notice of the hearing shall be published by the Town in a newspaper of general circulation within the Town at least fourteen (14) days in advance of the hearing, except for hearings on rezoning applications, for which such notice shall be published at least fifteen (15) days in advance of the hearing in accordance with CRS §§ 31-23-304, et seq. Proof of publication shall be supplied at the public hearing. All publication expenses shall be paid by the applicant. Failure to properly notice the hearing shall be grounds for a continuance of the public hearing until such notice is provided.
- (c) Pursuant to § 24-65.5-103, C.R.S., not less than thirty (30) days before the date scheduled for the first public hearing for a subdivision, rezoning, or conditional use application, the applicant shall provide notice of the pending application to the owners of the mineral estate. In the case of minor subdivisions, the notice shall be provided not less than thirty (30) days prior to final action by the Town Staff on the application. Such notice shall be by certified mail, return receipt requested. The applicant shall provide this notice, along with evidence it has been satisfied as part of the hearing record.
- (d) All notices shall include:
  - (1) A statement of the nature of the matter being considered;
  - (2) The time, date and place of the public hearing;
  - (3) The agency or office and phone number where further information may be obtained; and
  - (4) The street address and a legal description of the subject property.

Sec. 19-1-220. – Preapplication conference.

- (a) The preapplication conference is an opportunity for an applicant to meet with the Town Staff to learn more about application requirements, review standards, and review procedures. The preapplication conference is required, unless waived by the Town Staff. The preapplication conference is informal and does not substitute for any review process required by this Chapter.
- (b) The preapplication conference also serves to allow the mutual exchange of information and development concepts. The applicant is encouraged to bring plans and drawings to the preapplication conference. Topics of discussion may include but not limited to:
  - (1) Characteristics of the site and surrounding area, including its location; significant natural and man-made features with particular attention to natural hazard, resource or other special areas; the size and accessibility of the site; surrounding development and land use; and existing zoning.
  - (2) The nature of the development proposed, including land uses and their densities; the placement of proposed buildings and other improvements on the site; the location, type and method of maintenance of common open space or treatment of public use areas and internal circulation system, including trails and bicycle paths; the total ground coverage of paved areas and structures; and proposed water and wastewater infrastructure.
  - (3) Community policy considerations, including degree of conformity of the proposed development with current Town policies, and the nature of the information, technical analysis, reports and certifications which are likely to be required of the applicant.
  - (4) Any of the required submission requirements contained herein that may be considered inappropriate or not applicable to the proposal in question.
  - (5) The stages of review and submittal requirements for the proposal.

Sec. 19-1-225. – Application for land use approval.

- (a) A separate application is required for each phase of a subdivision or planned unit development review process. The application shall include all of the items identified in Appendix 1 (Land Use Application and Checklists) for the type of approval sought. Incomplete applications will not be scheduled for review until a determination of completeness is issued.
- (b) The number of copies of the required application information is shown in Appendix 1. All maps and reports shall bear suitable evidence of the professional qualifications of the person responsible for the preparation of the map or report. Engineering information must be certified by a professional engineer licensed in the state of Colorado. All required documents containing land survey descriptions and topographic maps must be certified by a professional land surveyor licensed in the state of Colorado.

Sec. 19-1-230. – Determination of completeness.

Complete applications must be submitted, at the point of initiation of the land use review process. Town Staff shall determine whether the application submitted is complete. If the application is not complete, the applicant shall be advised of the deficiencies. No application may be scheduled for further review until the Town Staff has determined it to be complete. The Town Staff determination of completeness is a final decision of the Town, subject to review only in the district court.

Sec. 19-1-235. – Application referral.

- (a) Upon a determination that the application is complete, the Town Staff shall refer the application to the following departments and agencies for their comments, unless the Town Planner finds that the application is not related to the issues addressed by a particular entity listed:
- (1) The water provider.
  - (2) The wastewater provider.
  - (3) The fire protection provider.
  - (4) The Police Department.
  - (5) The gas provider.
  - (6) The telephone provider.
  - (7) The cable television provider.
  - (8) The electric provider.
  - (9) The school district.
  - (10) The Colorado Division of Parks and Wildlife if the proposed development is located within a wildlife habitat area or migration route as determined by the Colorado Division of Parks and Wildlife.
  - (11) The County Planning Department if the proposed development is located within an urban growth boundary.
  - (12) The U.S. Army Corps of Engineers if wetlands may be an issue.
  - (13) The Colorado Department of Transportation if U.S. 40 access is contemplated.
  - (14) The Colorado Water Conservation Board if the proposed development contains at least fifty (50) lots or five (5) acres (whichever is less) and base flood elevation data is required.
  - (15) The United States Forest Service if development abuts national forest land.
  - (16) The state geologist and the Board of County Commissioners pursuant to CRS 31-23-225, if the proposed subdivision or commercial or industrial development is proposed to cover five or more acres of land.
  - (17) The Headwaters Trails Alliance.
  - (18) Any other department and/or agency as deemed necessary by the Town.
- (b) Table 1.1 lists which types of applications are required for referral. The Town Staff has authority to require referral of an application to one or more agencies listed above where such referral may not be required by Table 1.1.

- (c) The external review agencies shall have sixteen (16) days from the date of their receipt of the application to return their comments and recommendations, unless a shorter period is permitted.

Sec. 19-1-240. –Review and record of decision.

- (a) The Board of Trustees, Planning Commission, Board of Adjustment, and Town Staff, as applicable, shall consider all the evidence presented by the applicant and other interested parties, comments of review agencies, recommendations of the Town Staff, and comments from the public, in reviewing the application and rendering a decision.
- (b) The Board of Trustees, Planning Commission, Board of Adjustment, and Town Staff shall maintain a record of their proceedings in the form of minutes, resolutions, ordinances, and memoranda of decision, as appropriate. The record shall include comments of the reviewing agencies as well as the recommendation of the Planning Commission for applications finally decided by the Board of Trustees, all as maintained in the office of the Town Clerk..
- (c) Upon final approval of any subdivision plat under Article 3 of these regulations, the plat or resolution shall be recorded by Town Staff in the office of the County Clerk and Recorder. All recording expenses shall be paid by the applicant. Recording shall take place within one (1) year of final approval with the exception of phased plats, all of which must be recorded within five (5) years of final approval of the initial plat.

Sec. 19-1-245. – Duration of approval.

- (a) Land use approvals shall be valid for the following periods from the date of approval, unless otherwise stated in the record of decision:
  - (1) Preliminary plat subdivision: 1 year (may be extended by Planning Commission)
  - (2) Final plat subdivision or amendment: 1 year, unless phased. 5 years if phased
  - (3) PD District Plan amendment (major and minor): 5 years
  - (4) Final PD plan: no expiration
  - (5) Major site plan: 1 year
  - (6) Minor site plan: 1 year
  - (7) Conditional use permit: 1 year
  - (8) Rezoning: No expiration
  - (9) Floodplain development permit: 1 year
  - (10) Sign permit: 1 year
  - (11) Variance: as provided in BOA resolution of approval
  - (12) Vested right: 3 years



- (b) Where large developments are concerned, it is recognized that such developments may require multi-year construction phasing. Therefore, work on any portion of a final plat or Final PD Plan shall be regarded as work on the preliminary plat or PD District plan, as applicable, and the expiration periods set forth above shall apply accordingly for any subsequent phases of the development.
- (c) If, within the listed time period, no required subsequent application has been filed, plat recorded, or authorized use established or building permit issued or other development action taken, the approval shall expire. For good cause, the granting authority may grant a single extension of the approval for a time period not to exceed the amount of the initial approval's duration.

Sec. 19-1-250. – Vested property rights.

- (a) A *site specific development plan* for purposes of the creation of a vested property right pursuant to Article 68 of Title 24, C.R.S., shall be as defined at Section 19-1-410. No site specific development plan shall be approved and no vested property right shall be created except pursuant to and upon compliance with the requirements of this Section.
- (b) In the event that an applicant for site development approval wishes said approval to have the effect of creating vested property rights pursuant to Article 68 of Title 24, C.R.S., the applicant must so request, in writing, at least thirty (30) days prior to the date said approval is to be considered. Failure to so request renders the approval not a site specific development plan, and no vested rights shall be deemed to have been created thereby.
  - (1) A site specific development plan may be approved with terms and conditions as may reasonably be necessary to protect the public health, safety and welfare, and as provided in the Town's other ordinances and regulations applicable to the proposed development. Failure to comply with such terms and conditions shall result in forfeiture of the vested property rights.
  - (2) Each map, plat or site plan constituting a site specific development plan shall contain the following language: "Approval of this plan creates a vested property right pursuant to Section 24-68-103, C.R.S., as amended."
- (c) No site specific development plan shall be approved until it has been considered at a public hearing preceded by public notice of such hearing. If the regulations applicable to the review of the development plan which is proposed to create a vested property right do not otherwise provide for such a public hearing or public notice, then the applicant shall request that such a public hearing be scheduled before the Board of Trustees and shall be responsible for giving public notice of such hearing in the same manner as that required for amendments to the Official Zoning Map, as provided by Section 31-23-304, C.R.S., and Section 19-1-215 of this Article.
- (d) No site specific development plan shall become effective, and no vested property rights shall be created, until publication of a notice of the site specific development plan approval and creation of a vested property right pursuant to Article 68 of Title 24, C.R.S. Such notice shall be published once, not more than fourteen (14) days after approval of the site specific development plan, in a newspaper of general circulation within the Town.
- (e) In addition to any and all other fees and charges imposed by the ordinances and resolutions of the Town, the applicant for approval of a site specific development plan shall pay all costs resulting from the Town's processing of the site specific development plan application, including publication of notices, public hearing and review costs.
- (f) In the event amendments to a site specific development plan are proposed and approved, the effective date of such amendments, for purposes of duration of a vested property right, shall be the

date of the approval of the original site specific development plan, unless the Board of Trustees specifically finds to the contrary and incorporates such finding in its approval of the amendment.

- (g) Nothing in this Section is intended to create any vested property right, but only to implement the provisions of Article 68 of Title 24, C.R.S. In the event of the repeal of said Article or a judicial determination that said Article is invalid or unconstitutional, this Section shall be deemed to be repealed, and the provisions hereof no longer effective.

Sec. 19-1-255. – Fees.

- (a) Each application shall be submitted with the fees described at Appendix 2 (Application Fees) for that application. The Board of Trustees, acting by resolution, may amend the fees in Appendix 2 from time to time. The fees shall be considered the minimum for each type of application. To the extent the application fees do not provide sufficient funds to pay for outside professional services for the review of the application, the applicant will be charged the actual review costs. All fees shall be due and payable upon submission, and all additional fees will be due and payable at such time as a statement is presented to the applicant.
- (b) If the Town Staff determines that the review and processing of such petition or application may cause the Town to incur costs in excess of said fee, it may require the petitioner or applicant to immediately deposit a sum of money with the Town Clerk to cover such estimated costs.
- (c) Recording and filing fees imposed by the Grand County Clerk and Recorder, and others, as a result of the application, shall be paid by the applicant.
- (d) No part of any fee shall be refunded, notwithstanding withdrawal by the petitioner or applicant of the petition or application, by the denial of the petition or application by the Board of Trustees or by unsuccessful election, in the case of a petition for annexation election. For any deposit of funds for estimated additional costs, at the conclusion of the proceedings or earlier withdrawal of such petition or application, the Town shall refund any such fees for which the Town has not incurred costs.

### Division 3 – Board of Adjustment

#### Sec. 19-1-310. - Jurisdiction.

- (a) The Board of Adjustment is constituted as provided in Chapter 2, Article 7 of this Code, and its jurisdiction includes authority for hearing appeals and granting of variances under the provisions of the zoning regulations contained in this Chapter. Pursuant to Section 19-1-350 below, the Town Staff has limited authority to grant administrative variances.
- (b) As provided in Chapter 2, Article 7, the Board of Adjustment has no authority to grant use variances or use modifications from the regulations contained in this Chapter.

#### Sec. 19-1-320. - Appeals.

- (a) The Board of Adjustment shall hear and decide appeals from and review any order, requirement, decision or determination made by any administrative official charged with the enforcement of any provision of this Chapter.
- (b) Notice of such appeal shall be in writing, specifying the grounds thereof, which shall be filed with the administrative officer or official from whom the appeal is taken within the time prescribed by the rules adopted by the Board of Adjustment. Failure to file a notice of appeal within the prescribed time shall constitute a waiver of the right to appeal.
- (c) Upon receipt of the notice of appeal, the officer or official from whom the appeal is taken shall transmit to the Town Clerk all documents constituting the record upon which the action appealed from was taken, and the Town Clerk shall provide the same to the Board of Adjustment.
- (d) The Board of Adjustment or its designee shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties. Upon hearing, any party may appear in person or by agent or attorney. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end has all the powers of the officer or official from whom the appeal is taken, subject, however, to the vote requirements specified in Section 19-1-340 below.
- (e) Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the regulations contained in this Chapter, the Board of Adjustment has the power, in passing upon an appeal, to vary or modify the application of such regulations relating to the construction or alteration of buildings or structures, so that the spirit of the ordinance is observed, public safety and welfare secured and substantial justice done.
- (f) An appeal stays all proceedings in furtherance of the action appealed from unless the officer or official from whom the appeal is taken certifies to the Board of Adjustment, after the notice of appeal is filed with him or her, that, by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by the district court on application, on notice to the enforcement officer or official from whom the appeal is taken and on due cause shown.
- (g) The Board of Adjustment shall render its decision on the appeal by resolution.

Sec. 19-1-330. - Variances.

- (a) The Board of Adjustment shall have the power to grant variances from the provisions of this Chapter, subject to the voting requirements specified in Section 19-1-340 below. Further, the Board of Adjustment may grant a variance only to the extent it finds that the following conditions, where relevant to the subject property and adjacent neighborhood or district, are present:
  - (1) There are unique physical circumstances or other conditions peculiar to the affected property, such as exceptional topography or irregularity, narrowness or shallowness of a lot.
  - (2) The unique physical circumstances or other conditions do not exist throughout the neighborhood or district in which the property is located.
  - (3) The unique physical circumstances, other conditions or any other hardship complained of have not been created by the applicant.
  - (4) Because of the unique physical circumstances or other conditions, the property cannot be reasonably developed in conformity with the provisions of this Chapter.
  - (5) The variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, or substantially or permanently impair the appropriate use of adjacent conforming property.
  - (6) The variance, if granted, is the minimum variance that will afford relief and is not detrimental to the public good or to the purpose, intent and spirit of this Chapter or the Town Comprehensive Plan.
  - (7) The variance is needed to provide a reasonable accommodation to a person or persons with a disability.
- (b) In granting any variance, the Board of Adjustment has the authority to attach such reasonable conditions as it deems necessary to protect the general welfare and implement the purposes of this Chapter.
- (c) The following procedures shall apply to the Board of Adjustment's consideration of variance requests:
  - (1) All variance requests shall be submitted to the Board of Adjustment in writing.
  - (2) Every variance application shall indicate what provisions of this Chapter are involved and what relief is sought by the applicant.
  - (3) The applicant shall set forth the grounds upon which the variance is being sought.
  - (4) The Board of Adjustment or its designee shall fix a reasonable time for a public hearing on the variance application.
  - (5) Preparation of and payment of all notices shall be the responsibility of the applicant.
- (d) No grant of a variance shall be complete or effective unless and until the Board of Adjustment has adopted a written resolution approving the variance, which resolution shall identify the property for which the variance is granted, and state specifically the exceptional conditions, practical difficulties or unnecessary hardships involved, or other grounds for granting the variance. The resolution shall also specify any terms and conditions applicable to the variance, including, without limitation:
  - (1) Limitations on its duration;

- (2) Whether the variance runs with the land or is personal to the applicant;
  - (3) Required materials or construction methods;
  - (4) Rights of adjacent property owners, and
  - (5) Circumstances (in addition to violation of the terms of the variance) which would give rise to a revocation of the variance.
- (e) A copy of such resolution, certified by the Chairperson or other Town Staff, shall be recorded in the office of the County Clerk and Recorder to provide notice to persons subsequently acquiring any interest in the property.

Sec. 19-1-340. – Board of Adjustment procedure.

- (a) The concurring vote of four (4) members of the Board of Adjustment shall be required to overturn or modify decisions made by the Building Official or Town Staff upon appeal to the Board of Adjustment, or to grant an application for a variance or adjustment to the requirements of the zoning regulations contained in this Chapter. All other actions of the Board may be taken by a majority vote of a quorum present.
- (b) The decision of the Board of Adjustment is the final decision of the Town on the matter, reviewable only by the district court.

Sec. 19-1-350. – Administrative variances.

The Town Staff shall have authority to act upon variance requests (but not appeals from administrative decisions) under the following circumstances:

- (1) The variance does not exceed ten (10%) percent of the minimum or maximum standard; and
- (2) The Town Staff applies the same review criteria as does the Board of Adjustment under Section 19-1-330;
- (3) No additional dwelling units would result from approval of such administrative variance; and
- (4) A decision by the Town Staff to deny, or condition, an administrative variance, may be appealed to the Board of Adjustment in the same manner as for appeals under Section 19-1-320.

## Division 4 – Definitions

### Sec. 19-1-410. – Words and terms.

The following words and phrases shall have the following meanings when used in this Chapter, unless the context otherwise requires:

*Addition* means an extension or increase in floor area or height of a building or structure.

*Alteration* means any addition or elimination of parts of a building, including walls, columns, beams, girders, foundations, doors and windows.

*Applicant*, used interchangeably with the terms *developer* and *subdivider*, means the owner of land proposed to be subdivided or his or her representative who is responsible for any undertaking that requires review and approval under these regulations.

*Approval* means the approval by formal action of the Town Staff, Planning Commission, Board of Trustees or Board of Adjustment as assigned by Table 1.1, for a land use, land use change, or development, and subject to such conditions and limitations as are imposed as a part of that approval.

*Building* means any structure built for the support, shelter or enclosure of persons, animals or moveable property of any kind.

*Certificate of occupancy* means a document stating that the building or structure has been inspected by the Building Official, that all provisions of the adopted Building Code and all other applicable rules and regulations have been complied with, and that the building or structure has been approved for occupancy.

*Comprehensive plan* means the Comprehensive Plan as adopted by the Town, and which includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

*Conditional use* means uses allowed only by permit of the Town, which permit may be granted or denied. If granted, certain conditions and performance standards may be imposed and must be complied with by the permittee.

Unless otherwise specified as a calendar day, *Day* shall mean and be counted as each day that the Town transacts Town business, which shall not include weekend days (Saturday and Sunday), national and State holidays as officially recognized and those other special days for closure of Town offices as declared by the Town Board of Trustees. Also termed a business day

*Development* means any change in the use of land or improvements thereon, including, but not limited to:

- a. The construction, enlargement, reconstruction or renovation of any improvements which require a building permit.
- b. A change in use or intensity of use on the land, or within a structure.
- c. The placement of temporary structures on the land.
- d. Site clearance, removal or addition of vegetation, grading, dredging, mining, drilling, cut and fill activities, dumping soil or other materials, removal of soil or contouring of a site.

Notwithstanding the foregoing, the following shall not be deemed to constitute development:

- a. Normal maintenance and repair of improvements which do not involve a change in use or intensity of use.
- b. Nonstructural interior improvements when they have no effect on the square footage of the existing improvements and are not associated with a change of use.

*Land use or use of land* means the purpose for which any land, structure or building is designed, maintained or occupied.

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

*Owner* means a person recorded as such on official records.

*Planning Commission* means the Town of Fraser Planning Commission.

*Public hearing* means a meeting called by a public body for which public notice has been given and which is held in a place in which the general public may attend to hear issues and express their opinions.

*Public notice* means notice to the public of a public hearing by the Board of Trustees, Board of Adjustment or Planning Commission.

*Rezoning* means an amendment to the official zoning map consisting of a change in the classification of land from one (1) zone district to another.

*Site plan* means a detailed development plan for a property, which generally permits an evaluation of the intended use, and such design elements as circulation, parking and access; open space and landscaping; building location and configuration; grading and drainage; setbacks and screening; public improvements; and other elements, which determine if the proposal has been planned consistently with the intent of this Chapter.

*Site specific development plan* means a plan that has been submitted to the Town by a landowner or such landowner's representative describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property, which plan shall create a vested property right. The following shall be considered site specific development plans:

- a. Conditional use permit pursuant to Section 19-2-120.
- b. Final subdivision plat pursuant to Section 19-3-230, including major subdivisions, minor subdivisions, re-subdivisions, and division of property into condominium or townhouse units.
- c. The final approval step, irrespective of the name or designation of such approval, which occurs prior to building permit application. The following are specifically excluded from, and shall not constitute, a site specific development plan: variances issued by the Board of Adjustment, sketch plans, preliminary plans, business licenses, floodway or floodplain permits, franchises, temporary use permits, any comprehensive plan element, creation of improvement districts, zoning or rezoning, final architectural plans, or final construction drawings and related documents specifying materials and methods for construction of improvements.

*Structure* means an edifice or building of any kind, or any piece of work artificially built up or constructed of parts joined together in some definite manner.

*Temporary and/or seasonal proposals and uses (including mobile vending units and transient merchants)* mean any development which is permitted subject to the requirements in Section 19-2-330 of this Chapter.

*Timeshare or interval ownership unit* means single-family or multifamily dwelling, condominium or townhouse units that have been further subdivided into a stated number of additional interests in the unit, defined by the period of time during which the owner of the share may occupy it. Shares may be of two (2) types: first, *fee timeshares or interval estates*, wherein diverse owners each own a present estate for years terminating on a date certain coupled with a future remainder interest in the unit as a tenant in common with the other diverse owners; second, *time span estates* operating on a tenancy in common principle coupled with an exclusive right to use and occupy the unit during a fixed annual recurring period of time.

*Title commitment* means a commitment for title insurance issued by a licensed title insurance company with offices in Grand County, with an effective date not earlier than thirty (30) days prior to the date that the commitment is filed with or submitted to the Town pursuant to these regulations. Unless otherwise specified, the commitment shall apply to and describe the real property included in the proposed subdivision, shall identify all owners of record of such property and shall list all liens, encumbrances, easements and restrictions affecting such property, with the book and page or reception number where such matters appear in the records in the office of the County Clerk and Recorder.

*Town* means the Town of Fraser, Colorado.

*Town Staff* means the Town Manager or designee.

*Vested property right* means the right to undertake and complete development and use of property under the terms and conditions of a site specific development plan.



## ARTICLE 2 - ZONING

### **Division 1**

19-2-110	Site plan; major and minor
19-2-120	Conditional Use Permits
19-2-130	Existing Development Permits
19-2-140	Existing Planned Developments (PD's)
19-2-150	Final PD plans
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### **Administration**

### **Division 2**

19-2-205	Official Zoning Map; district boundaries
19-2-210	Establishment of districts
19-2-215	Open Space District
19-2-220	Rural Density District
19-2-225	Low Density Single-Family Residential District
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19-2-235	Medium Density Single-Family Residential District
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19-2-245	High Density Multi-Family Residential District
19-2-250	Business District
19-2-255	Riverwalk Mixed Use Overlay District
19-2-260	Trade Industry District
19-2-265	Victoria Village Overlay District
19-2-270	Measurements and exceptions

### **Zoning Districts**

### **Division 3**

19-2-310	Permitted and conditional uses
19-2-320	Accessory uses and structures
19-2-330	Temporary and seasonal uses
19-2-340	Schedule of uses
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### **District Uses**

### **Division 4**

19-2-410	General requirements for all uses
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### **Supplemental Uses**

**Division 5**

19-2-510

19-2-520

19-2-530

19-2-540

19-2-550

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**Nonconforming uses and structures**

Intent

Nonconforming uses

Nonconforming structures

Repairs and maintenance

Nonconforming lots of record

Legal nonconforming signs

**Division 6**

19-2-610

**Definitions**

Words and terms

## ARTICLE 2 –Zoning

### Division 1 Administration

#### Sec. 19-2-110. - Site plan; major and minor.

- (a) Purpose. A site plan shall be required prior to any development within a zoning district.
  - (1) Major site plan. The following types of development are subject to major site plan review:
    - a. Residential uses which include three (3) units or more.
    - b. Any non-residential use.
    - c. Any conditional use.
  - (2) Minor site plan. The following types of development are subject to minor site plan review:
    - a. Modifications to a major site plan.
    - b. Single-family and duplex residential structures.
    - c. Additions to single-family and duplex residential structures.
    - d. Additions to commercial, office or industrial structures.
    - e. Site work, landscaping, grading and utility installations.
    - f. Temporary and seasonal use as specified in Section 19-2-330.
    - g. Any permitted use that does not require a major site plan.
    - h. Changes of use.
- (b) Submittal Requirements. The applicant shall submit all required materials specified in Appendix 1 for either a major or a minor site plan review, as applicable.
- (c) Procedure. An application for site plan approval shall be processed in accordance with the Review Procedures Chart at Section 19-1-210 and Table 1.1.
- (d) Criteria for Review. The Town Staff or Planning Commission, as appropriate, shall consider the following criteria in reviewing a site plan application:
  - (1) The proposed site development meets all of the applicable requirements of this Chapter.
  - (2) The proposed site development is in conformance with the Comprehensive Plan.
  - (3) The lot size, lot dimensions and setbacks are consistent with what is shown on the approved final plat and the zone district requirements, as appropriate.
  - (4) No buildings or structures infringe on any easements.
  - (5) The proposed site grading is consistent with the requirements of any applicable adopted storm drainage criteria or master drainage plans.
- (e) Action on Application. Site plans shall be reviewed by the reviewing authority indicated in Table 1.1, who may approve, conditionally approve, or deny the proposal. Within fifteen (15) days of approval, the applicant shall submit one (1) original electronic drawing of the approved site plan to the Town Staff.

- (f) Conditions of Approval. The reviewing authority may place conditions upon issuance of a site plan approval which it deems necessary and proper to ensure that the development proposal will be implemented in the manner indicated in the application. Said conditions shall be listed on the approved site plan. Conditions may include, but not be limited to, the following:
- (1) Use. The condition may restrict the future use of the proposed development to that indicated in the application.
  - (2) Homeowners' association. The conditions may require that, if a homeowners' association or merchants' association is necessary or desirable to hold and maintain common property, it be created prior to the issuance of an approved site plan.
  - (3) Dedications. The conditions may require conveyances of title or easements to the Town, or public utilities for purposes related to the community's public health, safety and welfare, which may include land and/or easements for utilities, roads, snow storage or other similar public uses. Conditions may require construction to public standards and dedication of those public facilities necessary to serve the development and the public.
  - (4) Construction guarantees. The conditions may require the deposit of certified funds with the Town, the establishment of an escrow fund, the deposit of an irrevocable letter of credit, the posting of a bond or other surety or collateral (which may provide for partial releases), to ensure that all construction features included in the application or required by the terms of the site plan approval are provided as represented and approved. The Town may also require a monetary guarantee ensuring that the site will be revegetated to its original condition if the project is abandoned after construction has commenced. Such construction guarantees shall be secured by a Construction Guarantee Agreement, a form for which is provided in Appendix 4.
  - (6) Public improvements. The conditions may require the installation of public improvements or participation in a special assessment district for the installation of public improvements within, adjacent to or contributing to the project. Such public improvements shall be secured in the same form required for subdivision improvements at Section 19-3-425.
  - (7) Additional and/or revised plans. The conditions may require that additional plans or engineered revisions to utility, drainage or site plans be submitted to the Town and approved prior to issuance of a building permit.
- (g) Modification of Plan during Construction. All site improvements shall conform to the approved site plan, including engineering drawings approved by the Town Staff. If the applicant makes any changes during construction in the development in relation to the approved site plan, such changes shall be made at the applicant's risk without any assurances that the Town Staff will approve the changes. The applicant will be required to correct the unapproved changes so as to conform to the approved site plan.
- (h) Enforcement. A building permit shall not be issued for any use requiring site plan approval until a site plan has been approved. In addition, a Certificate of Occupancy shall not be issued until all site improvements shown on the site plan have been completed as verified by Town Staff.

#### Sec. 19-2-120. - Conditional Use Permits.

- (a) Process. In all zone districts, where there are uses listed on the Schedule of Uses in Section 19-2-340 as a conditional use ("C"), such uses may not be initiated, maintained or otherwise conducted without approval by the Board of Trustees of a conditional use permit, following the procedure set forth in the Review Process Chart at Section 19-1-210.
- (b) Purpose. Because of their special or unusual characteristics, conditional uses require review and evaluation so that they may be located properly with respect to their effects on surrounding

properties. The review process prescribed herein is intended to assure compatibility and harmonious development between conditional uses and surrounding properties and the Town at large.

- (c) Submission Requirements. The applicant shall submit all required materials specified in Appendix 1.
- (d) Criteria for Review. The Board of Trustees shall base its decision in granting, conditionally granting, or denying a conditional use permit application in consideration of the extent to which the applicant demonstrates the following criteria have been met:
  - (1) That the proposed conditional use is compatible with adjacent uses and adjacent zone districts, as applicable, including the potential traffic generation, noise, lighting impacts, parking requirements and general effects on such adjacent uses and properties;
  - (2) That the conditional use meets all existing criteria for minimum lot area, setbacks, maximum building height, permitted signs and parking;
  - (3) That the conditional use will not change the predominant character of the neighborhood, including the scale and bulk of the proposed use in relation to surrounding uses and neighborhoods;
  - (4) That conditional use will not overburden the capacities of the existing streets or utilities, parks, schools and other public facilities and services;
  - (5) That there will not be an unacceptable effect of the use on light and air, distribution of population, transportation facilities, utilities, schools, parks and recreation facilities and other public facilities and public facility's needs;
  - (6) That there will not be an unacceptable effect upon traffic, with particular reference to congestion, automotive and pedestrian safety and convenience, traffic flow and control, access, maneuverability and removal of snow from the streets and parking areas;
  - (7) That the proposed conditional use does not contribute to undervalued use of property;
  - (8) That the proposed conditional use conforms with the Comprehensive Plan; and
  - (9) That there is a history of compliance by the applicant and/or property owner with requirements of this Chapter, this Code, and any prior conditions, regarding the subject property.
- (e) Board of Trustees Action. After the close of the required public hearing, the Board of Trustees may approve, approve with conditions, or deny the proposed conditional use. In the event the Board chooses to grant the conditional use with conditions, such conditions may include, but are not limited to the following:
  - 1) That the conditional use runs with the land in perpetuity.
  - 2) That the conditional use is personal to the applicant and may or may not be inherited. In the absence of any specific findings or orders of Board of Trustees, the permit shall be deemed to be non-transferable and personal to the applicant.
  - 3) That the use may be granted only for a defined period, after which time it shall expire unless renewed subject to all of the requirements of this Section.

- 4) Limits to quantities of material allowed on the site, pollution control measures, additions to screening plans, etc.
  - 5) Requiring the applicant to enter into a written contract or other assurance which the Board of Trustees may, in its discretion, deem advisable as a condition for the granting of the conditional use permit. These contracts may include guarantees for any improvements made to mitigate impacts.
  - 6) Any other condition which in the opinion of the Board of Trustees is necessary to render the conditional use compliant with the requirements of this Chapter and the Comprehensive Plan, compatible with adjacent uses and zone districts, and to protect the health, safety and welfare of Town residents.
- (f) Revocation. A conditional use permit may be revoked for failure to comply with any of the terms and conditions attached to such permit. A public hearing on revocation shall be held after public notice in the same manner as that required for the initial grant of the permit, and including notice to the permit holder.

Sec. 19-2-130. - Existing Development Permits.

Upon the effective date of this Chapter: \_\_\_\_\_, 2018, there were in existence certain "Development Permits," previously issued pursuant to Sections 16-4-10 through 16-4-190 of Chapter 16 in effect prior to that date, and which Chapter has been repealed in connection with the adoption of this Chapter 19. All such existing development permits remain valid and enforceable pursuant to their terms and under their conditions of issuance. Such development permits will be deemed to expire within the same time periods as set forth at Section 19-1-245 as either a major or minor site plan permit, dependent upon the size of the subject property development, unless a different expiration date is set forth in the approved development permit itself. Upon expiration of such development permits, additional site development upon such properties must be approved as a major or minor site plan under Section 19-2-110.

Sec. 19-2-140. - Existing Planned Developments (PD's).

Planned development district plans (PD District plans) and any final planned development plans (Final PD plans) approved and recorded prior to the effective date of this Chapter \_\_\_\_\_, 2018, may continue to be completed under their terms. PD District plans and Final PD plans may continue to be completed under the following Sections. No new PD districts shall be approved and no existing PD districts may be enlarged.

Sec. 19-2-150. -Final PD plans.

- (a) Existing approved Final PD plans may be completed pursuant to their approved terms.
- (b) New Final PD plans may be approved for property within an existing PD district pursuant to the following.

- (1) Submittal Requirements. The applicant shall submit all required materials specified in Appendix 1.
- (2) Procedure. The Final PD plan application shall be reviewed by the Town in accordance with the Review Procedures at Section 19-1-210 and Table 1.1 of this Chapter.

Sec. 19-2-160. - PD amendments.

- (a) PD District plans may be amended in the manner shown on Table 1.1 in Section 19-1-210.
  - (1) Minor amendment. Changes to an approved PD District plan that are not subject to a major amendment, as described in subsection 2 below.
  - (2) Major amendment. Changes to an approved PD District plan involving greater than a thirty percent (30%) increase in the original negotiated site development standards; or greater than a ten percent (10%) increase in density; or any change in permitted land uses
- (b) Final PD plans for any existing PD district may be modified only by one of the processes described in this Section.
  - (1) A Final PD plan may be amended as permitted by its approved terms.
  - (2) Minor amendment. If not prohibited by the existing Final PD plan or PD District Plan, and based upon a showing of necessity, minor changes in the location, siting and height of buildings and structures may be approved by the Town Staff pursuant to the procedures in Section 19-1-210, Table 1.1 if such changes do not exceed ten percent (10%) of any measurable standard in the current Final PD plan and will not cause any of the following circumstances to occur:
    - a. A change in the use or character of the development;
    - b. An increase in the overall land coverage of structures;
    - c. An increase in the intensity and density of use;
    - d. A reduction in approved open space;
    - e. A reduction in off-street parking and loading space; or
    - f. A reduction in required pavement widths.
  - (3) Major amendment. Any changes to a Final PD Plan other than as permitted under Subsections (1) and (2) above, inclusive of rearrangement of lots, blocks and building tracts; or any changes in the provision of common open spaces; or any transfer of density, shall be reviewed and considered by the Planning Commission at a public hearing and presented to the Board of Trustees pursuant to the procedures in Section 19-1-210, Table 1.1.
    - a. Such amendments may be made only if they are shown to be required 1) by changes in conditions that have occurred since the Final PD plan was approved or, 2) by changes in community policy.

- b. Density transfers are only allowed through the density transfer mechanism as provided in Subsection (4) below.
- (4) Density transfer. Density may be transferred from one (1) area within a PD District to another area within the same PD District, upon application and approval of a Final PD plan subject to the following conditions:
  - a. The overall density of the governing PD District plan is not increased.
  - b. An accounting of unused and/or un-transferred densities shall be provided at the time of application.
  - c. The area receiving a density transfer must have sufficient roadway, water and sewer infrastructure to serve the development.
  - d. A proposed density transfer that would increase density above thirty (30%) beyond the density originally approved in a PD District plan first requires a PD District plan amendment, as provided in Section 19-2-110 of this Article.
  - e. Density may not be transferred from one (1) PD District plan area to another PD District plan that already has an approved Final PD plan without a Final PD plan amendment as provided in Subsection (b) above.

Sec. 19-2-170. - Rezoning.

- (a) The Board of Trustees may amend the boundaries of any zone district as shown on the Official Zoning Map pursuant to the procedures in Section 19-1-210, Table 1.1.
  - (1) Rezoning of individual property may be initiated by the Town, by citizen petition or by application filed by the landowner.
  - (2) Requests for rezoning initiated by the Board of Trustees, Planning Commission or Town Staff will be prepared as a draft ordinance by the Town Attorney and Town Staff and shall be reviewed and considered by the Planning Commission and presented to the Board of Trustees at a public hearing pursuant to the procedures in Section 19-1-210, Table 1.1. In this instance, the Town shall be considered to be the applicant.
- (b) To initiate a rezoning of private property, the petitioner must be the owner of the affected property or a citizen of the Town who has submitted the application with a petition signed by owners of all of the land affected by the request. In addition, any applicant may contemporaneously with or subsequent to the filing of a petition for annexation, file a petition requesting a certain zoning designation for the parcel of land for which the annexation is sought. The applicant shall submit all required materials specified in Appendix 1. In this instance, the person submitting the application shall be considered to be the applicant. The applicant shall carry the burden of demonstrating that the land in question should be rezoned. All applicants are advised there is no right to a change of zoning.
- (c) The Planning Commission and Board of Trustees may consider the following evaluation criteria for the analysis of rezoning applications:



- (1) The compatibility of the rezoning proposal with the surrounding zone districts and land uses in the vicinity of the site of the rezoning including the characteristics of the existing neighborhood, the applicable area and bulk requirements, and the suitability of the site for development in terms of on-site characteristics;
  - (2) That the land proposed for rezoning, or adjacent land, has changed or is changing to a degree such that it is in the public interest and consistent with the intent, purpose and provisions of this Chapter to encourage different densities or uses within the land in question;
  - (3) That the proposed rezoning is needed to provide land for a demonstrated community need or service and such rezoning will be consistent with the goals, objectives and policies contained within the Comprehensive Plan;
  - (4) That the existing zoning classification currently recorded on the Official Zoning Map is in error;
  - (5) That the proposed rezoning is in conformance, or will bring the property into conformance, with the Comprehensive Plan goals, objectives and policies, and other related policies or plans for the area;
  - (6) That adequate infrastructure/facilities are available to serve the type of uses allowed by the change of zoning, or that the applicant will upgrade and provide such where non-existent or under capacity; and
  - (7) The impacts of the rezoning upon expected traffic generation and road safety, availability of on-site and off-site parking and the availability of adequate utility services and street access to the site.
- (d) In case of a protest against a proposed change, filed prior to the close of the public hearing before the Board of Trustees and signed by the owners of twenty percent (20%) or more, either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending one hundred (100) feet therefrom, or of those directly opposite thereto, extending one hundred (100) feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fourths ( $\frac{3}{4}$ ) of the members of the Board of Trustees.
- (e) The Board of Trustees may, upon the request of the Planning Commission, Town Staff or on its own motion, initiate a procedure for rezoning a significant area of the Town, consisting of not less than six (6) more individual ownership parcels and not less than five (5) total acres. This rezoning is a legislative, not a quasi-judicial act, and may be accomplished by ordinance without notice to individual landowners. The procedure for legislative rezoning shall be as follows:
- (1) Requests for legislative rezoning initiated by the Board of Trustees, Planning Commission or Town Staff will be prepared as a draft ordinance by the Town Attorney and Town Staff and shall be reviewed and considered by the Planning Commission and presented to the Board of Trustees in a public hearing. In this instance, the Town shall be considered to be the applicant.
  - (2) After conducting its review on the request, the Planning Commission shall transmit its recommendations to the Board of Trustees.
  - (3) Notice of the public hearing before the Board of Trustees shall be given by publication of the request and descriptive material identifying the area proposed to be rezoned, the present zoning, and the proposed zoning. The notice shall be published in a newspaper of general circulation in the Town and by posting at the Town offices. Separate notice to individual

property owners is not required, but may be given in the sole discretion of the Town. The Town's choosing not to give such individual notice shall not be a basis for challenge of the legislative rezoning.

- (4) The Board of Trustees shall consider the public testimony, the recommendations of the Comprehensive Plan, and the interests of the Town in general when considering a legislative rezoning.
- (f) All actions of the Board of Trustees in approving rezoning shall be recorded on the Official Zoning Map.

## Division 2 Zoning Districts

### Sec. 19-2-205. - Official Zoning Map; district boundaries.

- (a) The location and boundaries of the zoning districts established herein are shown on the map entitled "Official Zoning District Map of the Town of Fraser, Colorado", which map is hereby made a part of this Article by reference. A copy of the Official Zoning District Map shall be kept on file in the office of the Town Clerk.
- (b) Except where otherwise indicated, zone district boundaries shall follow municipal corporation limits, section lines, 1/4 section lines, 1/2 section lines, platted lot lines, and center lines of streets, alleys, roads, highways, channelized waterways, or extensions thereof.
  - (1) For non-subdivided property or where a zone district boundary divides a lot or parcel, the location of such boundary, unless indicated by dimension, shall be determined by the scale of the Official Zoning Map.
  - (2) Where a zone district boundary coincides with a right-of-way line and the right-of-way is abandoned, the zone district boundary shall then follow the centerline of the former right-of-way.
  - (3) Land which is not indicated as being in any zone district shall be considered to be included in the most restricted adjacent zone district even when such district is separated from the land in question by a public road, railroad, or utility right-of-way.
  - (4) The Town Staff shall have the authority to review, interpret, and determine any boundary disputes pursuant to this Section.

### Sec. 19-2-210. - Establishment of districts.

In order to carry out the provisions of this Article, there are hereby created the following zoning districts into which the Town is now and in the future may be divided:

- (1) Open Space (OS) District.
- (2) Rural Density (RD) District.
- (3) Low Density Single-Family Residential (LDSF) District.
- (4) Low Density Multi-Family Residential (LDMF) District.
- (5) Medium Density Single-Family Residential (MDSF) District.
- (6) Medium Density Multi-Family Residential (MDMF) District.
- (7) High Density Multi-Family Residential (HDMF) District.
- (8) Business (B) District.
- (9) Riverwalk Mixed Use (RMU) Overlay District.

(10) Trade Industry (TI) District.

(11) Victoria Village (VV) Overlay District.

Sec. 19-2-215. - Open Space District.

- (a) Intent. The purpose of the Open Space District is to preserve designated open space for park or recreational purposes, scenic areas and vistas, and areas of scientific, historic, aesthetic or other public interest. To qualify as designated open space, the land parcel must be either:
- (1) Environmentally sensitive lands, including but not limited to wetlands, riparian areas or critical habitat identified by the U.S. Army Corps of Engineers, the Colorado Division of Parks and Wildlife, or the Natural Heritage Program;
  - (2) High natural hazard areas, including but not limited to the 100-year floodplain, red avalanche hazard area, high rock fall hazard area and high debris flow hazard area; or
  - (3) Town park land that provides aesthetic values or outdoor recreation opportunities.
- (b) Land use. Land uses are permitted as shown in the Schedule of Uses in Section 19-2-340. Accessory uses and structures shall be in conformance with Section 19-2-320. Temporary land uses are as shown in Table 2.12 and shall be in conformance with Section 19-2-330.
- (c) District standards. Lot and building requirements for principal structures shall be as shown in Table 2.1.

**Table 2.1**  
**Open Space District Standards**

Minimum Lot Size	One half (0.5) acre
Minimum Stream Setback	Thirty feet (30) feet; a greater setback of up to a one hundred fifty (150) feet may be required during site plan review. (See Section 19-4-155)
Maximum Height	Twenty (20) feet

- (d) Development of designated open space. The Board of Trustees may adopt rules and regulations consistent with the provisions of this Section to regulate the use of designated open space by the public, to protect and preserve such lands and to promote the public health, safety and general welfare of those persons utilizing designated open space.
- (1) Town Staff shall have the authority to issue written permits reserving park lands or structures included in designated open space for temporary use by individuals or groups. When no permit has been issued, the use of such areas that are open to the public shall follow generally the rules of first-come, first-served, except as otherwise provided in any rules and regulations adopted pursuant to this Section.
  - (2) Any section, part or the whole of any land or structures included in designated open space may be declared closed to the public by the Town Staff at an time and for any interval of time, whether temporarily or at regular and stated intervals, daily or otherwise, and whether entirely or merely to certain uses, as the Town Staff shall find reasonable and necessary.
  - (3) It shall be unlawful for any person to perform any of the following acts within or upon designated open space:

- a. To cut, mark, remove, break or climb upon or in any way injure, damage or deface the trees, shrubs, plants, turf or any of the building, fences, bridges or other structures;
  - b. To pick or take away any vegetation;
  - c. To build or place any tent, building, booth, stand or other structure without first having obtained a permit to do so from the Town Staff;
  - d. To build, light, make or use any fires, except in fireplaces and grills constructed for such purpose and under such rules and regulations as may be prescribed in this Section, or to leave any area without first having completely extinguished fires;
  - e. To bring in or deposit any fill or other materials on designated open space, except upon the express written consent of the Town Staff;
  - f. To deposit, throw or leave any litter, except in a receptacle or container provided for such purpose. If no receptacles are available, litter shall be carried away from the area to be properly disposed of elsewhere.
  - g. To fail to observe or respect written permits issued by the Town Staff;
  - h. To violate any rule or regulation promulgated pursuant to this Section.
- (e) Additional provisions for dedicated open space.
- (1) No designated open space may be sold, leased, traded or otherwise conveyed, nor may the designation as open space be revoked, until such disposal has been approved as provided in this Section.
  - (2) Any proposed sale, lease, trade, alienation, partition or revocation of open space designation of any one (1) or more parcels of designated open space shall be submitted to a vote of the registered electors for their acceptance or rejection at a regular or special Town election, in accordance with the provisions of Section 31-15-713(1)(a), C.R.S., or any successor statute governing the disposal of municipal real property held for a governmental purpose.
    - a. The Board of Trustees may refer such a proposal to the electors by adopting an ordinance setting forth the question to be referred, which shall include a description of the designated open space affected, the proposed disposition and the terms and consideration therefor.
    - b. Every such ordinance shall require the affirmative vote of three-fourths ( $\frac{3}{4}$ ) of the entire Board of Trustees for passage.
    - c. Copies of the proposed ordinance to dispose of designated open space shall be made available to the public within a reasonable time before the election and also at the polls at the time of the election.
- f) Signs shall be permitted in the Open Space District in accordance with Article 6 of this Chapter.

Sec. 19-2-220. - Rural Density District.

- (a) Intent. The purpose of the Rural Density District is to provide a very low density residential environment that retains a rural atmosphere and accommodates single-family dwellings, park facilities, farming and ranching structures, reservoirs, dams, and water diversions.
- (b) Land use. Land uses are permitted as shown in the Schedule of Uses in Section 19-2-340. Accessory uses shall be in conformance with Section 19-2-320 (a). Temporary land uses are as shown in Table 2.12 and shall be in conformance with Section 19-2-330.
- (c) District standards. Lot and building requirements for principal structures shall be as shown in Table 2.2.

**Table 2.2**  
**Rural Density District Standards**

Minimum Lot Area	Two (2) acres.
Minimum Lot Width	Two hundred (200) feet.
Minimum Front Yard	Thirty (30) feet.
Minimum Side Yard	Ten (10) feet.
Minimum Rear Yard	Twenty (20) feet.
Minimum Stream Setback	Thirty feet (30) feet; a greater setback of up to a one hundred fifty (150) feet may be required during site plan review.
Minimum Floor Area	Principal Structure: Five hundred (500) square feet. Accessory Dwelling Unit: Two hundred (200) square feet.
Maximum Height	Thirty-five (35) feet.

- (d) Accessory structures. Building requirements for accessory structures shall be as shown for principal structures in Table 2.2. All accessory structures shall be in conformance with the provisions of Section 19-2-320 (b), except accessory dwelling units, which shall be in conformance with Section 19-2-470.
- (e) All site development in the Rural Density District, including parking, landscaping, lighting, fencing, and building design, shall be in accordance with Article 4 of this Chapter.
- (f) Signs shall be permitted in the Rural Density District in accordance with Article 6 of this Chapter.

**Sec. 19-2-225. - Low Density Single-Family Residential District.**

- (a) Intent. The purpose of the Low Density Single-Family Residential District is to provide for low density residential neighborhoods that accommodate single family dwellings, parks and low-impact community facilities.
- (b) Land use. Land uses are permitted as shown in the Schedule of Uses in Section 19-2-340. Accessory uses shall be in conformance with Section 19-2-320 (a). Temporary land uses are as shown in Table 2.12 and shall be in conformance with Section 19-2-330.
- (c) District standards. Lot and building requirements for principal structures shall be as shown in Table 2.3.

**Table 2.3**  
**Low Density Single-Family Residential District Standards**

Minimum Lot Area	Six thousand (6,000) square feet.
Minimum Lot Width	Fifty (50) feet.
Minimum Front Yard	Twenty (20) feet.
Minimum Side Yard	Seven (7) feet.
Minimum Rear Yard	Ten (10) feet.
Minimum Stream Setback	Thirty feet (30) feet; a greater setback of up to a one hundred fifty (150) feet may be required during site plan review.
Minimum Floor Area	Principal Structure: Five hundred (500) square feet. Accessory Dwelling Unit: Two hundred (200) square feet.
Maximum Height	Thirty-five (35) feet.

- (d) Accessory structures. Building requirements for accessory structures shall be as shown for principal structures in Table 2.3, unless otherwise specified. All accessory structures shall be in conformance with the provisions of Section 19-2-320 (b), except accessory dwelling units, which shall be in conformance with Section 19-2-470.
- (e) All site development in the Low Density Single-Family Residential District, including parking, landscaping, lighting, fencing, and building design, shall be in accordance with Article 4 of this Chapter.
- (f) Signs shall be permitted in the Low Density Single-Family Residential District in accordance with Article 6 of this Chapter.

**Sec. 19-2-230. - Low Density Multi-Family Residential District.**

- (a) Intent. The purpose of the Low Density Multi-Family Residential District is to provide for low density residential neighborhoods that accommodate single family and certain multi-family dwellings, parks and low-impact community facilities, where not more than four (4) dwelling units are desired within a building or on a single parcel of land.
- (b) Land use. Land uses are permitted as shown in the Schedule of Uses in Section 19-2-340. Accessory uses shall be in conformance with Section 19-2-320 (a). Temporary land uses are as shown in Table 2.12 and shall be in conformance with Section 19-2-330.

- (c) District standards. Lot and building requirements for principal structures shall be as shown in Table 2.4.

**Table 2.4**  
**Low Density Multi-Family Residential District Standards**

Minimum Lot Area	Single-family detached dwelling: Six thousand (6000) square feet.  Single-family attached or multi-family dwelling: Three thousand (3,000) square feet per dwelling unit.  All other uses: Six thousand (6000) square feet.
Minimum Lot Width	Fifty (50) feet.
Minimum Front Yard	Twenty (20) feet.
Minimum Side Yard	Seven (7) feet.
Minimum Rear Yard	Ten (10) feet.
Minimum Stream Setback	Thirty feet (30) feet; a greater setback of up to a one hundred fifty (150) feet may be required during site plan review.
Minimum Floor Area	Principal Structure: Five hundred (500) square feet.  Accessory Dwelling Unit: Two hundred (200) square feet.
Maximum Height	Thirty-five (35) feet.
Minimum Required Open Space	Thirty-five percent (35%); see (g) below.

- (d) Accessory structures. Building requirements for accessory structures shall be as shown for principal structures in Table 2.4, unless otherwise specified. All accessory structures shall be in conformance with the provisions of Section 19-2-320 (b), except accessory dwelling units, which shall be in conformance with Section 19-2-470.
- (e) All site development in the Low Density Multi-Family Residential District, including parking, landscaping, lighting, fencing, and building design, shall be in accordance with Article 4 of this Chapter.
- (f) Signs shall be permitted in the Low Density Multi-Family Residential District in accordance with Article 6 of this Chapter.
- (g) Required open space. For residential multifamily development consisting of condominiums, townhomes or apartments, the minimum required open space shall be thirty-five percent (35%) of



the gross land area. Of the thirty-five percent (35%) required open space, fifteen percent (15%) shall consist of landscaping consistent with the standards in Section 19-4-160 of this Chapter.

Sec. 19-2-235. - Medium Density Single-Family Residential District.

- (a) Intent. The purpose of the Medium Density Single-Family Residential District is to provide for medium density residential neighborhoods that accommodate a wide variety of single family dwelling types, parks and low –impact community facilities, where not more than two (2) single-family units are to be attached in one (1) structure on individually deeded and platted lots.
- (b) Land use. Land uses are permitted as shown in the Schedule of Uses in Section 19-2-340. Accessory uses shall be in conformance with Section 19-2-320 (a). Temporary land uses are as shown in Table 2.12 and shall be in conformance with Section 19-2-330.
- (c) District standards. Lot and building requirements for principal structures shall be as shown in Table 2.5

**Table 2.5**  
**Medium Density Single-Family Residential District Standards**

Minimum Lot Area	<p>Single-family detached dwelling unit: Five thousand (5000) square feet.</p> <p>Single-family attached or mobile home dwelling unit: Twenty five hundred (2500) square feet.</p> <p>Zero Lot Line: Four thousand (4000) square feet.</p> <p>All Other Uses: Five thousand (5000) square feet.</p>
Minimum Lot Width	<p>Mobile home: Twenty five (25) feet.</p> <p>All Other Uses: Thirty (30) feet; except corner lots, which shall be fifty (50) feet.</p>
Minimum Front Yard	Twenty (20) feet.
Minimum Side Yard	<p>Zero Lot Line: one (1) side setback must be zero (0) and the other a minimum of ten (10) feet.</p> <p>All Other Uses: Five (5) feet.</p>
Minimum Rear Yard	Ten (10) feet.
Minimum Stream Setback	Thirty feet (30) feet; a greater setback of up to a one hundred fifty (150) feet may be required during site plan review.
Minimum Floor Area	<p>Principal Structure: Five hundred (500) square feet.</p> <p>Accessory Dwelling Unit: Two hundred (200) square</p>

	feet.
Maximum Height	Thirty-five (35) feet.

- (d) Accessory structures. Building requirements for accessory structures shall be as shown for principal structures in Table 2.5, unless otherwise specified. All accessory structures shall be in conformance with the provisions of Section 19-2-320 (b), except accessory dwelling units, which shall be in conformance with Section 19-2-470.
- (e) All site development in the Medium Density Single-Family Residential District, including parking, landscaping, lighting, fencing, and building design, shall be in accordance with Article 4 of this Chapter.
- (f) Signs shall be permitted in the Medium Density Single-Family Residential District in accordance with Article 6 of this Chapter.
- (g) Additional provisions:
  - (1) Whenever the principal use is a school, church, or day care center, all requirements of Section 19-2-225 (c) of this Article will supersede Subsection (c) above.
  - (2) Each dwelling unit on a zero lot line shall have its own deeded and platted lot.
  - (3) Single-family attached dwellings straddling a common lot line must have separate walls for each unit next to the line. A party wall maintenance agreement must accompany all applications for single-family dwellings that are to be connected by a party wall. No opening of any kind may be made in any party wall.

Sec. 19-2-240. - Medium Density Multi-Family Residential District.

- (a) Intent. The purpose of the Medium Density Multi-Family Residential District is to provide for mid-density residential neighborhoods that accommodate single family and certain multi-family dwellings, parks and low-impact community facilities, where:
  - (1) Not more than four (4) dwelling units are desired within a building or on a single parcel of land, except;
  - (2) Where contiguous lots of property are combined by vacating common lot lines with the intent to create one (1) single parcel, the number of units allowed within a principal building on the consolidated parcel will be limited to the number of units that were allowed to the original individual lots, not to exceed twelve (12) dwelling units.
- (b) Land use. Land uses are permitted as shown in the Schedule of Uses in Section 19-2-340. Accessory uses shall be in conformance with Section 19-2-320 (a). Temporary land uses are as shown in Table 2.12 and shall be in conformance with Section 19-2-330.
- (c) District standards. Lot and building requirements for principal structures shall be as shown in Table 2.6.

**Table 2.6**  
**Medium Density Multi-Family Residential Standards**

Minimum Lot Area	Single-family detached dwelling: Five thousand (5000) square feet.  Single-family attached or multiple-family dwelling: Twenty five hundred (2500) square feet per dwelling unit.  All other uses: Five thousand (5000) square feet.
Minimum Lot Width	Fifty (50) feet.
Minimum Front Yard	Twenty (20) feet.
Minimum Side Yard	Five (5) feet.
Minimum Rear Yard	Ten (10) feet.
Minimum Stream Setback	Thirty feet (30) feet; a greater setback of up to a one hundred fifty (150) feet may be required during site plan review.
Minimum Floor Area	Principal Structure: Five hundred (500) square feet.  Accessory Dwelling Unit: Two hundred (200) square feet.
Maximum Height	Thirty-five (35) feet.
Minimum Required Open Space	Thirty-five percent (35%); see (g) below.

- (d) Accessory structures. Building requirements for accessory structures shall be as shown for principal structures in Table 2.6, unless otherwise specified. All accessory structures shall be in conformance with the provisions of Section 19-2-320 (b), except accessory dwelling units, which shall be in conformance with Section 19-2-470.
- (e) All site development in the Medium Density Multi-Family Residential District, including parking, landscaping, lighting, fencing, and building design, shall be in accordance with Article 4 of this Chapter.
- (f) Signs shall be permitted in the Medium Density Multi-Family Residential District in accordance with Article 6 of this Chapter.
- (g) Required open space. For residential multifamily development consisting of condominiums, townhomes or apartments, the minimum required open space shall be thirty-five percent (35%) of the gross land area. Of the thirty-five percent (35%) required open space, fifteen percent (15%) shall consist of landscaping consistent with the standards in Section 19-4-160 of this Chapter.

Sec. 19-2-245. - High Density Multi-Family Residential District.

- (a) The purpose of the High Density Multi-Family Residential District is to provide a zoning district for the highest density of dwelling units, where up to a maximum of twenty (20) dwelling units per acre may be permitted on a single parcel of land.
- (b) Land use. Land uses are permitted as shown in the Schedule of Uses in Section 19-2-340. Accessory uses shall be in conformance with Section 19-2-320 (a). Temporary land uses are as shown in Table 2.12 and shall be in conformance with Section 19-2-330.
- (c) District standards. Lot and building requirements for principal structures shall be as shown in Table 2.7.

**Table 2.7**  
**High Density Multi-Family Residential District Standards**

Minimum Lot Area	Single-family attached dwelling: Twenty five hundred (2500) square feet.  Multi-family dwelling: Two thousand one hundred seventy-eight (2,178) square feet per dwelling unit.  All other uses: Five thousand (5000) square feet.
Minimum Lot Width	Fifty (50) feet.
Minimum Front Yard	Twenty (20) feet.
Minimum Side Yard	Seven (7) feet.
Minimum Rear Yard	Ten (10) feet.
Minimum Stream Setback	Thirty feet (30) feet; a greater setback of up to a one hundred fifty (150) feet may be required during site plan review.
Minimum Floor Area	Principal Structure: Five hundred (500) square feet.  Accessory Dwelling Unit: Two hundred (200) square feet.
Maximum Height	Forty (40) feet.
Minimum Required Open Space	Thirty-five percent (35%); see (g) below.

- (d) Accessory structures. Building requirements for accessory structures shall be as shown for principal structures in Table 2.7. All accessory structures shall be in conformance with the provisions of

Section 19-2-320 (b), except accessory dwelling units, which shall be in conformance with Section 19-2-470.

- (e) All site development in the High Density Multi-Family Residential District, including parking, landscaping, lighting, fencing, and building design, shall be in accordance with Article 4 of this Chapter.
- (f) Signs shall be permitted in the High Density Multi-Family Residential District in accordance with Article 6 of this Chapter.
- (g) Required open space. For residential multifamily development consisting of condominiums, townhomes or apartments, the minimum required open space shall be thirty-five percent (35%) of the gross land area. Of the thirty-five percent (35%) required open space, fifteen percent (15%) shall consist of landscaping consistent with the standards in Section 19-4-160 of this Chapter.

Sec. 19-2-250. - Business District.

- (a) Intent. The purpose of the Business District is to provide for a wide variety of highway commercial, community retail, personal service, general office and other business uses.
- (b) Land use. Land uses are permitted as shown in the Schedule of Uses in Section 19-2-340. Accessory uses shall be in conformance with Section 19-2-320 (a). Temporary land uses are as shown in Table 2.12 and shall be in conformance with Section 19-2-330.
- (c) District standards. Lot and building requirements for principal structures shall be as shown in Table 2.8.

**Table 2.8**  
**Business District Standards**

Minimum Lot Area	Single-family detached dwelling unit: Five thousand (5000) square feet.  Single-family attached dwelling unit: Twenty five hundred (2500) square feet.  Multi-family dwelling unit: "Twenty one hundred and seventy eight (2178) square feet.  Commercial/Mixed Use: No minimum requirement.
Minimum Lot Width	Residential: Fifty (50) feet.  Commercial/Mixed Use: No minimum requirement.
Minimum Front Yard	Residential: Twenty (20) feet.  Commercial/Mixed Use: No minimum requirement. A build-to-line may be required during site plan review.

Minimum Side Yard	Residential: Five (5) feet.  Commercial/Mixed Use: No minimum requirement. If zero lot line, subject to all other regulations.
Minimum Rear Yard	Residential: Ten (10) feet.  Commercial/Mixed Use: No minimum requirement, unless if adjacent to an alley or service lane: eighteen (18) feet.
Minimum Stream Setback	Thirty feet (30) feet; a greater setback of up to a one hundred fifty (150) feet may be required during site plan review.
Minimum Floor Area	Principal Structure: Five hundred (500) square feet.  Accessory Dwelling Unit: Two hundred (200) square feet.
Maximum Height	Forty-five (45) feet.
Minimum Required Open Space	Thirty-five percent (35%); see (g) below.

- (d) Accessory structures. Building requirements for accessory structures shall be as shown for principal structures in Table 2.8, unless otherwise specified. All accessory structures shall be in conformance with the provisions of Section 19-2-320 (b), except accessory dwelling units, which shall be in conformance with Section 19-2-470.
- (e) All site development in the Business District, including parking, landscaping, lighting, fencing, and building design, shall be in accordance with Article 4 of this Chapter.
- (f) Signs shall be permitted in the Business District in accordance with Article 6 of this Chapter.
- (g) Required open space. For residential multifamily development consisting of condominiums, townhomes or apartments, the minimum required open space shall be thirty-five percent (35%) of the gross land area. Of the thirty-five percent (35%) required open space, fifteen percent (15%) shall consist of landscaping consistent with the standards in Section 19-4-160 of this Chapter.
- (h) Additional provisions:
  - (1) There shall be a maximum residential density of one (1) dwelling unit per two thousand one hundred seventy-eight (2,178) square feet of gross land area. This equates to twenty (20) dwelling units per acre.

Sec. 19-2-255. - Riverwalk Mixed Use Overlay District.

- (a) Intent. The purpose of the Riverwalk Mixed Use Overlay District is to provide for development that fosters the creation of a high density, walkable, mixed-use neighborhood which will integrate

Fraser's historic downtown with the Fraser River and generate opportunities for downtown redevelopment, affordable housing and economic revitalization.

- (b) Land use. Land uses are permitted as shown in the Schedule of Uses in Section 19-2-340. Accessory uses shall be in conformance with Section 19-2-320 (a). Temporary land uses are as shown in Table 2.12 and shall be in conformance with Section 19-2-330.
- (c) District standards. Lot and building requirements for principal structures shall be as shown in Table 2.09.

**Table 2. 9**  
**Riverwalk Mixed Use Overlay District Standards**

Minimum Lot Area	Commercial/Mixed Use: No minimum requirement.  Multi-family dwelling unit: Twenty one hundred and seventy eight (2178) square feet.
Minimum Front Yard	See additional provision (h)(1) below. A build-to-line may be required during site plan review.
Minimum Side Yard	See additional provision (h)(1) below. A zero lot line may be required during site plan review.
Minimum Rear Yard	See additional provision (h)(1) below.
Minimum Stream Setback	Thirty feet (30) feet; a greater setback of up to a one hundred fifty (150) feet may be required during site plan review.
Minimum Floor Area	Principal Structure: No minimum requirement.  Accessory Dwelling Unit: Two hundred (200) square feet.
Maximum Height	Forty-five (45) feet.
Minimum Required Open Space	See additional provision (g) below.

- (d) Accessory structures. Building requirements for accessory structures shall be as shown for principal structures in Table 2.9, unless otherwise specified. All accessory structures shall be in conformance with the provisions of Section 19-2-320 (b).
- (e) All site development in the Riverwalk Mixed Use Overlay District, including parking, landscaping, lighting, fencing, and building design, shall be in accordance with Article 4 of this Chapter.
- (f) Signs shall be permitted in the Riverwalk Mixed Use Overlay District in accordance with Article 6 of this Chapter.

(g) Minimum Required Open Space.

- (1) For a mixed-use residential and commercial development consisting of commercial uses occupying one hundred percent (100%) of the ground floor of all structures, mixed with residential condominiums, townhomes or apartments occupying some or all of the other floors in such structures, the minimum required open space shall be fifteen percent (15%) of the gross land area.
- (2) For other residential development consisting of condominiums, townhomes or apartments, the minimum required open space shall be thirty-five percent (35%) of the gross land area. Of the thirty-five percent (35%) required open space, fifteen percent (15%) shall consist of a landscaping plan consistent with the standards in Section 19-4-160 of this Chapter.

(h) Additional provisions:

- (1) Minimum setbacks are to be determined on a parcel-by-parcel basis utilizing emergency service access and clearance requirements and standards set forth in the Uniform Building and Fire Codes. All setback areas required or resulting from setbacks hereunder shall be credited toward the open space requirement established for this Section.
- (2) Residential uses shall not exceed seventy-five percent (75%) of the gross land area in a mixed use development.
- (3) The maximum residential density of twenty (20) dwelling units per acre in the underlying Business zoning district may be exceeded in the Riverwalk Mixed Use Overlay District subject to the provision of deed-restricted affordable housing dwelling units.
  - a. For the purposes of this Section, affordable housing is defined as housing for a family that has an income below eighty percent (80%) of the Area Median Income, as determined for Grand County by the Colorado Housing and Finance Authority.
  - b. A minimum of twenty percent (20%) of a residential development shall include a deed-restriction guaranteeing the provision of the affordable housing dwelling units in perpetuity to qualify for a density bonus.
  - c. The density bonus may be used to provide additional dwelling units in a development beyond the underlying twenty (20) dwelling units per acre allowed, up to a maximum density of sixty (60) units per acre, subject to adherence of all other development standards for the Riverwalk Mixed Use Overlay District.
- (4) The maximum residential density of seventeen (17) dwelling units per acre in the underlying Medium Density Single-Family Residential zoning district, or twenty (20) dwelling units per acre in the underlying Business zoning district, may be exceeded in the Riverwalk Mixed Use Overlay District subject to the provision of non-residential retail and /or office development occupying one hundred percent (100%) of the first floor of a multi-story mixed use development.
  - (a) The density bonus may be used to provide additional dwelling units in a mixed use development beyond the underlying zoning district, up to a maximum density of forty (40) dwelling units per acre, subject to adherence of all other development standards for the Riverwalk Mixed Use Overlay District.”



Sec. 19-2-260. - Trade Industry District.

- (a) Intent. The purpose of the Trade Industry District is to provide for low-intensity industrial, wholesale and light manufacturing operations in locations that are compatible with Fraser's developed residential and commercial areas.
- (b) Land use. Land uses are permitted as shown in the Schedule of Uses in Section 19-2-340. Accessory uses shall be in conformance with Section 19-2-320 (a). Temporary land uses are as shown in Table 2.12 and shall be in conformance with Section 19-2-330.
- (c) District standards. Lot and building requirements for principal structures shall be as shown in Table 2.10.

**Table 2.10**  
**Trade Industry District Standards**

Minimum Lot Area	One-quarter (.25) acre.
Minimum Lot Width	One hundred (100) feet.
Minimum Front Yard	Twenty (20) feet. The first fifteen (15) feet of the front yard shall be used exclusively for landscaping and ingress and egress.
Minimum Side Yard	None, if building constructed of masonry or fireproof materials.  Five (5) feet if not constructed of masonry or fireproof materials.
Minimum Rear Yard	Ten (10) feet.
Minimum Stream Setback	Thirty feet (30) feet; a greater setback of up to a one hundred fifty (150) feet may be required during site plan review.
Maximum Height	Forty-five (45) feet.

- (d) Accessory structures. Building requirements for accessory structures shall be as shown for principal structures in Table 2.10. All accessory structures shall be in conformance with the provisions of Section 19-2-320 (b).
- (e) All site development in the Trade Industry District, including parking, landscaping, lighting, fencing, and building design, shall be in accordance with Article 4 of this Chapter.
- (f) Signs shall be permitted in the Trade Industry District in accordance with Article 6 of this Chapter.

Sec. 19-2-265. Victoria Village Overlay District.

- (a) Intent. The purpose of the Victoria Village Overlay District is to provide for creating a unique, walkable neighborhood that brings additional housing options within proximity to downtown Fraser.
- (b) Land use. Land uses are permitted as shown in the Schedule of Uses in Section 19-2-340. Accessory uses shall be in conformance with Section 19-2-320 (a). Temporary land uses are as shown in Table 2.12 and shall be in conformance with Section 19-2-330.
- (c) District standards. Lot and building requirements for principal structures shall be as shown in Table 2.11.

**Table 2.11**  
**Victoria Village Overlay District Standards**

Minimum Lot Area	<p>Row House: Fifteen hundred (1500) feet; except corner lots: Twenty-five hundred (2,500) square feet.</p> <p>Other Residential: Twenty-five hundred (2,500) square feet per dwelling unit.</p> <p>Commercial: No minimum requirement.</p>
Minimum Lot Width	<p>Single-family dwelling: Twenty-five (25) feet.</p> <p>Duplex: Fifty (50) feet.</p> <p>Row house: Fifteen (15) feet; except corner lots: Twenty-five (25) feet.</p> <p>Commercial: No minimum requirement.</p>
Minimum Front Yard	<p>Residential: Ten (10) feet.</p> <p>Commercial: No minimum requirement. A build-to-line may be required during site plan review.</p>
Minimum Side Yard	<p>Row houses: Zero (0) feet subject to (h) below.</p> <p>Zero Lot Line: one (1) side setback must be zero (0) and the other a minimum of ten (10) feet, subject to (i) below.</p> <p>Other Residential: Five (5) feet.</p> <p>Commercial: No minimum requirement.</p>
Minimum Rear Yard	<p>Residential: Ten (10) feet. See (j) below for garages adjacent to alleys.</p> <p>Commercial: No minimum requirement, unless if adjacent to an alley or service lane: eighteen (18) feet.</p>
Minimum Stream Setback	<p>Thirty feet (30) feet; a greater setback of up to a one hundred fifty (150) feet may be required during site</p>

	plan review.
Minimum Floor Area	Two hundred (200) square feet.
Maximum Height	Forty-five (45) feet.
Minimum Required Open Space	Thirty-five percent (35%); see (g) below.

- (d) Accessory structures. Building requirements for accessory structures shall be as shown for principal structures in Table 2.11, unless otherwise specified. All accessory structures shall be in conformance with the provisions of Section 19-2-320 (b).
- (e) All site development in the Victoria Village Overlay District, including parking, landscaping, lighting, fencing, and building design, shall be in accordance with Article 4 of this Chapter.
- (f) Signs shall be permitted in the Victoria Village Overlay District in accordance with Article 6 of this Chapter.
- (g) Minimum Required Open Space. For residential development consisting of condominiums, townhomes or apartments, the minimum required open space shall be thirty-five percent (35%) of the gross land area. Of the thirty-five percent (35%) required open space, fifteen percent (15%) shall consist of a landscaping plan consistent with the standards in Section 19-4-160 of this Chapter.
- (h) Row houses or other single-family dwellings straddling a common lot line must have separate walls for each unit next to the line. A party wall maintenance agreement must accompany all applications for dwellings that are to be connected by a party wall. No opening of any kind may be made in any party wall.
- (i) Each dwelling unit on a zero lot line shall have its own deeded and platted lot.
- (j) The rear setback for garages abutting a publicly dedicated alley with a width of no less than fifteen (15) feet may be set back as follows:
  - (1) With an alley and doors opening directly onto the alley: Five (5) feet.
  - (2) With an alley but with no doors opening directly onto the alley: Zero (0) feet.
- (k) Additional provisions:
  - (1) The maximum residential density of twenty (20) dwelling units per acre in the underlying Business zoning district may be exceeded in the Victoria Village Overlay District subject to the provision of deed-restricted affordable housing dwelling units.
    - a. For the purposes of this Section, affordable housing is defined as housing for a family that has an income below eighty percent (80%) of the Area Median Income, as determined for Grand County by the Colorado Housing and Finance Authority.
    - b. A minimum of twenty percent (20%) of a residential development shall include a deed-restriction guaranteeing the provision of the affordable housing dwelling units in perpetuity to qualify for a density bonus.

- c. The density bonus may be used to provide additional dwelling units in a development beyond the underlying twenty (20) dwelling units per acre allowed, up to a maximum density of forty (40) units per acre, subject to adherence of all other development standards for the Victoria Village Overlay District.

Sec. 19-2-270. - Measurements and exceptions.

(a) General.

- (1) A building, structure, or lot shall not be developed, used, or occupied unless it meets the maximum height and minimum lot, yard, setback, and open space requirements set forth for the zoning district in which it is located, except as otherwise established in this Article or unless a variance has been granted.
- (2) All heights shall be measured in accordance with the definition of *height* in Section 19-2-610 of this Chapter.
- (3) A setback, lot area, lot width or open space required by this Article shall not be included as part of a setback, lot area, lot width or open space for another building or structure or lot, except as otherwise provided in this Article.
- (4) Setbacks shall be unoccupied and unobstructed by any structure or portion of a structure from thirty six (36) inches above grade upward; provided, however, that fences, walls, trellises, poles, posts, ornaments, furniture and other customary yard accessories may be permitted in any setback subject to height limitations and requirements limiting obstruction of visibility.
- (5) No structure shall project into any required stream setback, easement or public right-of-way.
- (6) A side yard setback does not apply if the side wall of a structure is a party wall.

(b) Projections into Required Yard Setbacks. The following structures may project into required front, side or rear yard setbacks as follows:

- (1) Paved patios or terraces may project into any required yard setback, provided that no structures placed on them shall violate other requirements of this Article.
- (2) Unroofed landings, decks and stairs may project into required setbacks, provided that the floor shall not extend higher than thirty (30) inches above the finished grade level and the projection is at least five (5) feet from the lot line.
- (3) Fire escapes may project into a required rear yard not more than six (6) feet, provided the projection is at least five (5) feet from the lot line.
- (4) Unroofed exterior balconies may project into a required side or rear yard setback provided these projections are at least five (5) feet from the side lot line and ten (10) feet from the rear lot line.
- (5) Cornices, canopies, eaves, tongues and hitches for mobile homes, window wells, chimneys, bay windows, ornamental features, and other similar architectural features may project not

more than three (3) feet into any required yard setback provided these projections are at least five (5) feet from the lot line.

- (6) Roofs over porches, stairways, landings, terraces, or other exterior approaches to pedestrian doorways may project up to six (6) feet into a front yard setback, provided that the roof projections shall comprise no more than fifty (50) percent of the total length of the building's facade. The covered porch or entrance area projecting into the front yard setback shall remain exterior to the building and enclosed by no more than a railing. The projection shall be at least five (5) feet from the property line.
- (7) Solar collection devices and equipment may project not more than eighteen (18) inches into a yard setback.
- (8) The Town Staff may allow the installation of handicap access ramps in required front, side, and rear yard setbacks. The design and placement of the ramps shall be reviewed to ensure that:
  - a. The ramp has minimal visual impact on abutting properties;
  - b. The width of the ramp does not exceed forty eight (48) inches.
- (9) A private garage or carport may project into a required yard setback abutting an alley, provided the projection is at least five (5) feet from the property line. The private garage or carport shall be subject to the other requirements of this Article.
- (c) Height Exceptions for Appurtenances. Except as specifically provided elsewhere in this Article, the height limitations contained in this Article do not apply to spires, belfries, cupolas, chimneys, heating and ventilation equipment, elevator housings, stairwell towers or similar appurtenances; provided, however, the following:
  - (1) The appurtenance does not interfere with FAA Regulations;
  - (2) The appurtenance does not extend more than ten (10) feet above the maximum permitted building height, except for church belfries that must be of greater height in order to function; and
  - (3) The appurtenance is not constructed for the purpose of providing additional floor area in the building.
- (d) Reduced lot size, width, setbacks and/or floor area. Reduced lot size, width, setback and/or floor area for a residential dwelling may be approved as a conditional use in accordance with Section 19-2-340 of this Article, subject to the following provisions:
  - (1) The minimum lot area may be reduced to twenty one hundred and seventy eight (2178), with a minimum lot width of twenty (20) feet and a minimum side yard of five (5) feet.
  - (2) The minimum floor area of the principal structure may be reduced to two hundred (200) square feet.

### Division 3 District Uses

#### Sec. 19-2-310. - Permitted and conditional uses.

- (a) Those uses designated as permitted uses on the Schedule of Uses in Section 19-2-340 are allowed as a matter of right subject to approval of a site plan per Section 19-2-110.
- (b) Those uses designated as conditional uses on the Schedule of Uses in Section 19-2-340 are subject to approval of a conditional use permit in accordance with Section 19-2-120.

#### Sec. 19-2-320. - Accessory uses and structures.

- (a) Accessory uses shall comply with all requirements for the principal use, except where specifically modified by this Section, and shall also comply with the following limitations:
  - (1) An accessory use shall be clearly incidental, customary to and commonly associated with the operation of the permitted use.
  - (2) An accessory use shall be operated and maintained under the same ownership as the permitted use.
  - (3) An accessory use shall be located on the same lot as a principal use.
  - (4) Home occupations may be permitted as an accessory use where allowed by zoning district, subject to the provisions of Section 19-2-430.
  - (5) Short-term rentals (less than thirty [30] days) may be permitted as an accessory use to a residential dwelling in accordance with Chapter 6 of this Code. The long-term renting of rooms (greater than thirty [30] days) is permitted as an accessory use in all zoning districts.
  - (6) The storage and sale of crops, vegetables, plants and flowers are permitted as an accessory use if they are produced on the premises.
- (b) Accessory structures shall comply with the following limitations:
  - (1) No accessory structure shall be built upon a lot until the construction of the principal structure has been commenced.
  - (2) Accessory structures shall not be located in the front yard of a principal structure, except for minor and commonplace accessory structures such as public utility installations, mail boxes, lamp posts, bird baths and structures of a like nature.
  - (3) Accessory structures may be built in a required rear yard but such accessory building shall not occupy more than thirty percent (30%) of the area of a required rear yard and shall not be nearer than two (2) feet to any side or rear lot line; except that when a garage is entered from an alley at right angles, it shall not be located closer than five (5) feet to the alley line.
  - (4) Accessory structures on corner lots shall be set back from each street a distance not less than that required for the principal structure.
  - (5) Accessory structures used for dwelling purposes are subject to the Accessory Dwelling Unit (ADU) standards in Section 19-2-470.

- (6) Cargo containers may be used as an accessory structure for storage purposes in the Trade Industry Zoning District only. Cargo containers are prohibited in all other zoning districts.

Sec. 19-2-330. - Temporary and seasonal uses.

- (a) Type and location. Temporary uses of land are permitted in any zoning district (unless restricted to particular zoning districts herein), subject to the specific regulations and time periods listed in Table 2.12, and to the other applicable regulations of the zoning district in which the use is permitted.

**Table 2.12**  
**Temporary and Seasonal Uses**

Use	Districts Permitted	Period
Contractor's office/temporary construction uses.	All	Time to be specified; must be terminated within thirty (30) days of issuance of last project Certificate of Occupancy for all types of construction.
Temporary real estate sales office.	All except OS	Not to exceed eighteen (18) months.
Seasonal or off-site retail sales, which include, but are not limited to: sale of seasonal fruits and vegetables; sale of fireworks; and sale of Christmas trees.	All except OS and residential districts	Not to exceed three (3) months, and provided that any permits required by law are obtained.
Flea markets, farmers and artisans markets, and farm-life activities and entertainments.	All except residential districts	Not to exceed one (1) event per week during a single continuous six (6) month time period in any calendar year and provided that any permits required by law are obtained.
Mobile vending units and transient merchants	All except residential districts	Not to exceed one (1) year, and provided that any permits required by law are obtained.

- (b) Procedure. All temporary uses are subject to minor site plan approval in accordance with Section 19-2-110 of the Article.
- (c) Criteria. Temporary and/or seasonal uses are permitted, subject to the following requirements:
- (1) Proof of ownership of property or written consent from the property owner is required. If the temporary and/or seasonal use is located partially or entirely on Town property or public rights-of-way, Board of Trustees approval is required.
  - (2) The owner or operator shall have applied for and obtained a Town special event vendor license and all applicable state and local taxes shall be collected.
  - (3) Certificate of liability insurance from the applicant, naming the Town as additional insured in the event public lands or rights-of-way will be used is required. Such insurance shall be provided in an amount and form approved by the Town.
  - (4) All temporary and/or seasonal uses involving the handling of foods are subject to compliance with the regulations of the Colorado Department of Public Health and Environment.

<b>Legend: Zoning District</b>	<b>Legend: Use Type</b>
OS: Open Space District	P: Permitted Use
RD: Rural Density District	C: Conditional Use
LDSF: Low Density Single-Family Residential District	L: Licensed Use
LDMF: Low Density Multi-Family Residential District	
MDSF: Medium Density Single-Family Residential District	
MDMF: Medium Density Multi-Family Residential District	
HDMF: High Density Multi-Family Residential District	
B: Business District	
RMU: Riverwalk Mixed Use Overlay District	
VV: Victoria Village Overlay District	
TI: Trade Industry District	

- (5) Adequate temporary parking facilities, circulation, ingress and egress shall be provided. Town Staff may require parking areas to be surfaced with a minimum of two (2) inches of crushed rock, or other surfaces.
  - (6) Provision for trash/recycling disposal.
  - (7) Provision for signage in accordance with Article 6 of this Chapter.
  - (8) Compliance with all local, state and federal regulations.
  - (9) Compliance with all requirements of the Public Works Director and Police Chief.
  - (10) Town Staff may regulate operating hours and days.
  - (11) Town Staff may regulate screening from adjoining public rights-of-way by temporary walls, fences and/or landscaping.
  - (12) Town Staff may apply conditions to regulate nuisance factors, including prevention of glare or direct illumination on adjoining parcels, dirt, dust, gases, heat, noise, odors, smoke, waste and vibration.
  - (13) The subject site shall be restored to its original condition within fourteen (14) days from the date of termination of the permit. A letter of credit or other approved surety may be required to ensure that any temporary facilities or structures used will be removed from the site within a reasonable time following the event, the property will be cleaned of debris and litter, and the site restored to its original condition.
- (d) Exceptions. The following temporary and/or seasonal uses and events are not subject to these requirements:
- (1) Garage and/or yard sales.

Sec. 19-2-340. - Schedule of uses.



Land Use	OS	RD	LDSF	LDMF	MDSF	MDMF	HDMF	B	RMU	VV	TI
<b>AGRICULTURAL USES</b>											
Ranching and farming facilities		P									
Reservoirs, dams and water diversion structures		P									
Stables		P									
<b>COMMERCIAL USES</b>											
Art studio								P	P	P	P
Business office								P	P	P	P
Business support services								P	P	P	P
Commercial retail or personal service < 5000 sq. ft.								P	P	P	P
Commercial retail or personal service use between 5000 sq. ft. and 15000 sq. ft.								P	C	C	C
Commercial retail or personal service use > 15000 sq. ft.								C	C		
Drive-through business								P	C	C	
Eating and drinking establishments								P	P	P	C
Financial services institution								P	P	C	C
Funeral home								P	C		
Hotels								P	P		
Laundry facilities and laundromats							P	P	P	P	C
Kennels								P			C
Marijuana business								L			
Medical and dental clinics								P	P	C	
Microbrewery or distillery								P	P	C	P
Motels								P	C		
Motor vehicle service and repair facilities								P			C
Pawnshops								C			
<b>INDUSTRIAL USES</b>											
Contractor shops and yards								C			P
Laboratory and research facilities								C			P
Manufacturing, fabrication and assembly operations								C			C
Paint and body shops								C			P
Outdoor storage								C			P

Land Use	OS	RD	LDSF	LDMF	MDSF	MDMF	HDMF	B	RMU	VV	TI
Storage of vehicles or parts thereof from towing operations, used car lots, rental car operations								C			C
Warehousing and distribution								C			P
Wholesale trade								C			P
Workshop and custom small industry								C	C		P
<b>INSTITUTIONAL USES</b>											
Child care center			P	P	P	P	P	P	P	P	
Church or place of worship and assembly		P	P	P	P	P	P	P	P	P	C
Conference and convention facilities								P	P		C
Hospital								P	C		
Performing arts facilities								P	P		C
Private clubs, private dining areas and civic, cultural and fraternal organizations		C						P	P	C	C
Public gathering places, including government facilities, public meeting halls, auditoriums, arenas and outdoor concert venues.			C	C	C	C	C	P	P	C	C
Public transportation terminals								P	P	P	C
School, private				P	P	P	P	P	C	C	P
School, public			P	P	P	P	P	P			C
<b>RECREATIONAL USES</b>											
Campgrounds (see Sec. 19-2-420)		C									
Golf courses		P									
Open space, designated	P										
Open space and trails, other public or private	P	P	P	P	P	P	P	P	P	P	P
Parks and playgrounds	P	P	P	P	P	P	P	P	P	P	P
Recreational vehicle (RV) parks, including the dumping of waste holding tanks from recreational vehicles and buses		C						C			
<b>RESIDENTIAL USES</b>											
Accessory Dwelling Unit (ADU) (see Sec. Sec. 19-2-470)		P	C	P	P	P	P	P	P	P	
Assisted living facility				C		C	P	P	C	C	
Bed and Breakfast (see Sec. 19-2-440)		P	P	P	P	P	P	P	C	P	
Boarding and rooming houses				C		C	C	P	C	P	

Land Use	OS	RD	LDSF	LDMF	MDSF	MDMF	HDMF	B	RMU	VV	TI
Group homes for handicapped or disabled persons (see Sec. 19-2- 450)		P	P	P	P	P	P			P	
Group homes, other		C	C	C	C	C	C			C	
Live/Work unit								P	P	P	C
Mobile homes					C						
Mobile home parks (see Sec. 19-2-460)					C						
Multi-family dwelling, except as provided below				P		P	P	P	P	P	
Multi-family dwelling up to 4 dwelling units within a building or on a single parcel of land				P							
Multi-family dwelling up to 4 dwelling units within a building or on a single parcel of land; except where contiguous lots are combined to create a single parcel: up to 12 units						P					
Multi-family dwelling units within a building or on a single parcel of land; up to 16 shares/ intervals							P				
Reduced lot size, width, setback and/or floor area for a residential dwelling (See Section 19-2-265 (d))			C	C	C	C	C	C	C	C	
Single-family dwelling		P	P	P	P	P		C		P	
Single-family dwelling, attached (connected with one (1) party wall)				P	P	P	P	C		P	
Single-family dwelling on a zipper lot			C	P	P	P		C		P	
Timeshare or interval ownership residential facilities							P				
<b>UTILITIES AND TELECOMMUNICATION FACILITIES</b>											
CMRS facility; building-mounted (see Sec. 19-2-480)				P		P	P	P	P	P	P
CMRS facility; freestanding (see Sec. 19-2-480)											C
CMRS facility; roof-mounted (see Sec. 19-2-480)								P	P	P	P
CMRS facility; small cell facilities and networks (see Sec. 19-2-480)	C	P	P	P	P	P	P	P	P	P	P

Land Use	OS	RD	LDSF	LDMF	MDSF	MDMF	HDMF	B	RMU	VV	TI
Public utilities and public service facilities, excluding business offices and excluding repair and storage facilities	C	P	P	P	P	P	P	P	P	P	P
Transit facility								P	P	P	
<b>OTHER USES</b>											
Adult-oriented use											C
Home occupations (see Sec. 19-2-430)		P	P	P	P	P	P	P	P	P	
Mixed-use: two (2) or more uses such as multi-family residential, commercial retail, hotel or office uses in the same development area, building or group of buildings								P	P	P	
Uses pursuant to easements and licenses	C										

Sec. 19-2-350. - Unlisted uses.

- (a) Uses not listed in a zone district are prohibited except that such uses may be approved by the Town Staff provided such uses are found to be similar to a permitted use. The following uses are expressly prohibited in any zoning district or Planned Development:
- (1) Mineral extraction and processing operations.
  - (2) Salvage yards of any variety.
  - (3) Rendering plants and operations.
  - (4) Livestock operations, excluding small horse or cattle boarding lots, or pastures currently located within the Town.
  - (5) Chemical manufacturing or storage.
  - (6) Hazardous waste operations.
  - (7) Mechanical, domestic or industrial wastewater treatment facilities.
- (b) Any person aggrieved by a decision of the Town Staff pursuant to this Section may appeal that decision to the Planning Commission.

## Division 4 Supplemental Uses

### Sec. 19-2-410 - General requirements for all uses.

- (a) All applicable environmental standards of the state of Colorado or the United States government shall be complied with at all times.
- (b) Property owners shall maintain all structures, including buildings, paved areas, accessory buildings and signs, in the manner required to protect the health and safety of users, occupants, and the general public. The property shall be deemed substandard when it displays evidence of a substantial number of dilapidated conditions.
- (c) All service, fabrication and repair operations shall be conducted within a building.
- (d) The storage of combustible materials shall be not less than twenty (20) feet from any interior lot line, and a roadway shall be provided, graded, surfaced, and maintained from the street to the rear of the property to permit free access of fire trucks at any time.
- (e) No materials or wastes shall be deposited upon a subject lot in such form or manner that they may be transferred off the lot by natural causes or forces. All waste materials shall be stored in an enclosed area and shall be accessible to service vehicles.
- (f) Wastes which might cause fumes or dust or which constitute a fire hazard or which may be edible by or otherwise be attractive to rodents or insects shall be stored only in closed containers in required enclosures.
- (g) Manufacturing operations or industrial uses, when permitted in a zone district, are subject to the following limitations:
  - (1) No manufacturing operation or industrial use shall create any danger to safety in any area of the Town.
  - (2) No manufacturing operation or industrial use shall pollute the environment.
  - (3) No manufacturing operation or industrial use shall create substantial amounts of offensive noise, vibration, smoke, dust, odors, heat, glare or other objectionable influences.
  - (4) Uses which are customarily incidental and accessory to the principal uses shall be permitted; however, residential uses, except caretakers' quarters, are expressly prohibited.

### Sec. 19-2-420. - Campgrounds.

Overnight or short-term camping areas (campgrounds) are subject to the following conditions:

- (1) Such areas may be occupied by persons using tents or self-contained camp trailers, pickup campers or recreational vehicles for overnight or short duration camping not to exceed four (4) weeks.
- (2) Each camping space shall be at least five hundred (500) square feet, excluding roads and parking area, with a minimum width of twenty (20) feet.
- (3) Each camping area shall be provided with a central water supply and shall have one (1) sewage disposal system.
- (4) Provisions shall be made for adequate all-weather walkways to each camping space.

- (5) Camping and parking spaces shall not be constructed in areas subject to flooding, unless adequate precautions are made to prevent loss (i.e., dikes to confine flood flow, fill to above flow line or straighten and widen drainage system).
- (6) Such other terms and conditions as may be reasonably required by the Planning Commission or Board of Trustees due to special circumstances necessitated by the location of the proposed camping areas.

Sec. 19-2-430. - Home occupations.

- (a) A home occupation may be allowed in any dwelling as a permitted accessory use, provided that all the following conditions are met:
  - (1) The home occupation shall be carried on by the inhabitants living on the premises and not others.
  - (2) The home occupation shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes and shall not change the character thereof.
  - (3) Any exterior signage shall comply with Article 6 of this Chapter.
  - (4) There shall be no offensive noise, vibration, smoke, dust, odor, heat, glare other objectionable conditions noticeable or detectable to the normal senses at or beyond the property line.
- (b) A home occupation may include a family child care home, as defined in Section 19-2-610.

Sec. 19-2-440. - Bed and Breakfast establishments.

A Bed and Breakfast establishment may be allowed as a permitted accessory use in all zoning districts that permit residential uses, provided that all the following conditions are met:

- (1) Such use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes and shall not change the character thereof.
- (2) Exterior advertising for the business shall comply with Article 6 of this Chapter.
- (3) The structure shall contain no more than seven (7) bedrooms of which only five (5) bedrooms can be for rent in any bed and breakfast.
- (4) An owner or manager responsible for the day-to-day operation of the establishment must reside within the Bed and Breakfast establishment or in a structure adjacent to and on the same property as the Bed and Breakfast structure.
- (5) All parking for guests and employees must be off-street type parking in a maintained parking area, in accordance with Table 4.1 and the associated parking standards in Article 4, Division 2 of this Chapter.
- (6) Operators of said establishment shall avoid any illegal, unreasonably dangerous or harmful practices or conditions which are detrimental to the safety of those staying in said establishment.
- (7) Said establishment shall comply with all regulations and ordinances of the Town, including but not limited to Chapter 6, Article 1 of this Code and all laws and regulations of the State. If complaints are lodged against the establishment for noise or other impacts to the neighborhood, the Board of Trustees reserves the right to review such complaints and to take whatever action is deemed necessary, including but not limited to the revocation of the

business license of the Bed and Breakfast, in order to eliminate the impact to the neighborhood.

- (8) Said establishment shall provide for adequate trash removal and shall screen trash removal receptacles from public view.

Sec. 19-2-450. - Group homes for handicapped or disabled persons.

- (a) Number of persons permitted. A group home with no more than eight (8) handicapped or disabled residents, as defined in Section 19-2-610, is an allowed use in the zone districts as indicated in Section 19-2-340. Additional necessary persons required for the care and supervision of the permitted number of handicapped or disabled persons are allowed. Group homes with more than eight (8) handicapped or disabled residents will require a conditional use permit, which shall be reviewed and processed as an application for a reasonable accommodation under the requirements and standards of the Fair Housing Amendments Act (FHAA), specifically, 42 U.S.C. 3604(f)(3)(B). A group home shall not include any person required to register as a sex offender pursuant to C.R.S. § 18-3-412.5, as amended, unless related by blood, marriage or adoption or in foster care.
- (b) Compliance with state and local requirements.
  - (1) The group home shall maintain compliance with applicable building codes, fire codes, and health codes based upon the occupancy classification and number of residents and necessary persons for care of the residents.
  - (2) The group home shall comply with the parking standards of this Chapter. All commercial components, such as parking lots and playgrounds, shall be screened and buffered from neighboring residences and uses.
  - (3) Copies of any applicable current state or local certifications, licenses or permits for the group home shall be maintained on the premises.
- (c) Compliance with federal requirements. A group home for handicapped or disabled persons shall quarterly, and otherwise upon request by the Town Staff, provide evidence and/or demonstrate that the residents in the group home are handicapped or disabled individuals and entitled to protection under the FHAA, Americans with Disabilities act (ADA), or the federal Rehabilitation Act.
- (d) Meetings and gatherings. Meetings or gatherings on-site at a group home for handicapped or disabled persons that are consistent with a normal residential family setting are allowed and shall only be for residents, family of residents, and necessary persons required for the support, care and supervision of the handicapped or disabled persons. This does not permit conducting ministerial activities of any private or public organization or agency or permit types of treatment activities or the rendering of services in a manner substantially inconsistent with the activities otherwise permitted in the particular zoning district. See, C.R.S. § 31-23-303(2) (c).

Sec. 19-2-460. - Mobile home parks.

A mobile home park, where permitted, is subject to the following provisions:

- (1) A complete engineering design of a proposed mobile home park shall be submitted to and approved by the Board of Trustees.
- (2) Structures shall be separated from each other by at least ten (10) feet, except individual storage buildings.
- (3) All structures shall be located at least fifteen (15) feet from any park area boundary line.
- (4) In a mobile home park accommodating or designed to accommodate twenty-five (25) or more mobile homes, there shall be one (1) or more recreation areas per twenty-five (25) mobile homes or fraction thereof, which shall be easily accessible to the residents of the twenty-five (25) mobile homes or fraction thereof for whom it is intended.
- (5) A mobile home park shall be furnished with adequate lighting.
- (6) All streets shall be surfaced with a hard and dense material which shall be at least twenty-four (24) feet in width.
- (7) A mobile home park shall be provided with safe, convenient, all-season pedestrian access of adequate width for intended uses.
- (8) A public supply of water of satisfactory quantity, quality and pressure shall be provided for each mobile home.
- (9) An adequate and safe public sewage system shall be provided in a mobile home park for conveying and disposing of all sewage.
- (10) A mobile home park shall contain an electric wiring system consisting of wires, fixtures, equipment and appurtenances which shall be installed and maintained in accordance with applicable codes and regulations governing such systems.
- (11) For every ten (10) dependent mobile homes, two (2) toilets for each sex and a service sink shall be provided in a service building.
- (12) All refuse shall be stored in approved containers, which shall be located not more than one hundred fifty (150) feet from each mobile home space. Containers shall be provided in sufficient number and capacity to properly store all refuse.
- (13) Grounds, buildings and structures shall be maintained free of insect and rodent harborage and infestation.
- (14) A piping system shall be installed and maintained in accordance with applicable code and regulations governing such systems if natural gas and/or liquefied petroleum gas is provided.

Sec. 19-2-470. - Accessory Dwelling Units.

An accessory dwelling unit (ADU) may be approved as listed on the Schedule of Uses in Section 19-2-340, provided that an ADU complies with the following criteria:

- (1) The size of the ADU shall be subject to the following limitations:
  - a. The ADU shall contain at least two hundred (200) square feet of floor area;
  - b. The ADU shall be no larger than fifty percent (50%) of the square footage of the principal dwelling unit or twelve hundred (1,200) square feet of floor area, whichever is less; however, an accessory dwelling unit may have up to one hundred twenty (120) additional square feet of attached, unheated, uninhabitable outside storage.



- c. An ADU may be attached to a principal dwelling unit, located in a detached unit or located in an attached or detached garage.
  - d. No ADU shall be separated by ownership from the principal dwelling unit.
- (2) The ADU shall contain, at a minimum, the following:
  - a. A kitchen.
  - b. A bathroom.
  - c. A separate and independent entry.
- (3) The ADU shall have direct access to utilities, utility shutoffs and controls for the ADU as required by local and state building and electrical codes.
- (4) The ADU shall have provisions for parking in accordance with the minimum parking requirements as established by this Chapter.
- (5) The ADU shall include firewall provisions if required by the local building codes.
- (6) No ADU shall be allowed on the same lot as a principal residential dwelling that has received approval for reduced lot size, width, setbacks and/or floor area in accordance with Section 19-2-270 of this Chapter.

Sec. 19-2-480. – Telecommunication (CMRS) facilities.

- (a) For the purposes of this Article, telecommunication facilities shall be known as Commercial Mobile Radio Service (CMRS) facilities
- (b) Types of CMRS facilities. CMRS facilities, as defined in Section 19-2-610 are comprised of the following four types, with each type restricted to placement in a zoning district as listed on the Schedule of Uses in Section 19-2-340:
  - (1) Freestanding CMRS facilities;
  - (2) Building or structure-mounted CMRS facilities;
  - (3) Roof-mounted CMRS facilities; and
  - (4) Small cell facilities and networks.
- (c) Freestanding CMRS facilities.
  - (1) Height. All freestanding CMRS facilities shall be no taller than the height limit in the relevant zone district, or thirty five (35) feet, whichever is less.
  - (2) Front setback. The front yard setback from property lines for freestanding CMRS facilities adjacent to public or private streets shall be a distance equal to the height of the freestanding facility or twenty percent (20%) of the height of the antenna support structure and associated equipment, whichever is greater.
  - (3) Side and rear setback. Freestanding CMRS facilities shall comply with the side and rear yard setback requirements for principal structures of the zone districts in which they are located, or

the setback shall be twenty percent (20%) of the height of the antenna support structure and associated equipment, whichever is greater.

- (4) Spacing. All freestanding CMRS facilities shall be located at least 1,000 feet from any other CMRS facility, measured in a straight line between the base of the tower structures.
  - (5) Lighting. Signals, artificial lights, or illumination shall not be permitted on any antenna or tower unless required by the FCC. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance or visual impacts to the adjacent properties, while maintaining compliance with federal standards.
  - (6) Security fencing. Towers shall be enclosed by security fencing which measures not less than six feet in height, and shall be equipped with an appropriate anti-climbing device or devices.
  - (7) Landscaping and screening. No aspect of a freestanding CMRS facility shall be immediately visible as such to the public or from adjacent properties. The Town encourages, but does not require, ground-mounted accessory equipment or structures required in support of a freestanding CMRS facility to be fully incorporated into the freestanding antenna facility itself, but only that all such accessory equipment be adequately screened. All landscaping associated with the facility shall be properly maintained at the operator's expense to ensure good health and viability.
- (d) Building-mounted CMRS facilities.
- (1) Location. All building-mounted CMRS facilities are limited to placement on multifamily residential and non-residential buildings only.
  - (2) Height. All building-mounted CMRS facilities may protrude no higher than the parapet wall or the top of the building if no parapet wall is present. A wall antenna may not protrude more than two feet from the building wall.
  - (3) Screening. All building-mounted CMRS facilities must match the color and texture of the building to which they are attached.
- (e) Roof-mounted CMRS facilities.
- (1) Location. Roof-mounted CMRS facilities are limited to placement atop multifamily residential and non-residential buildings only.
  - (2) Height. All roof-mounted CMRS facilities are limited in height to ten (10) feet (including antennae). In no case shall the total height of the antenna and the building exceed the maximum building height in the relevant zone district.
  - (3) Screening. All roof-mounted CMRS facilities shall be screened, designed, and/or colored to be architecturally compatible with the building upon which they are mounted. Such color, design and screening is encouraged to mimic the techniques used to screen, color and design other rooftop equipment.
- (f) Small cell facilities and networks.
- (1) Applicable requirements. Small cell facilities and small cell networks, as defined at Section 19-2-610, shall comply in all respects with the requirements of this Section applicable to

freestanding CMRS facilities, with the following exceptions when located in a public right-of-way or easement:

- a. setback requirements;
- b. location requirements; and
- c. Ground –mounted accessory equipment in rights-of-way shall be located below ground level.

(2) Location. Small cell facilities are permitted in Town rights-of-way, upon Town facilities in these rights-of-way and CDOT rights-of-way under the following priority:

- a. First, on a Town-owned utility pole, which shall be removed and replaced with a pole designed to contain all antennae and equipment within the pole to conceal any ground-based support equipment and ownership of which pole is conveyed to the Town.
- b. Second, on a Town-owned utility pole with attachment of the small cell facilities in a configuration approved by the Town.
- c. Third, on a third-party owned utility pole, (with the consent of the owner thereof), with attachment of the small cell facilities in a configuration approved by the Town.
- d. Fourth, on a traffic signal pole or mast arm in a configuration approved by the Town, or in the case of a CDOT facility, by CDOT.
- e. Fifth, on a freestanding or ground-mounted facility in a location and configuration approved by the Town.

(3) Height. All small cell facilities shall not exceed five (5) feet above the light pole, traffic signal or other facility or structure to which they are attached, or the maximum height in the relevant zone district, whichever is less.

(4) Safety and Design. Small cell facilities in the right-of-way shall be designed and located, in the reasonable judgment of the reviewing official or body, so as to not interfere with the safe movement of pedestrians and motor vehicles, or otherwise create a safety risk to the public. Small cell facilities shall be designed to blend with and be camouflaged in relation to the structure upon which they are located (e.g.: painted to match the structure).

(5) Spacing. Small cell facilities shall not be located within one thousand (1000) feet of any other small cell facility. This restriction does not apply to spacing from CMRS facilities in existence on the effective date of this Chapter.

(6) Permitting. Small cell facilities and networks shall make application for construction and location through a right-of- way permit approved by the Town. The Town may accept applications for a small cell network, provided each small cell facility shall be separately reviewed.

(7) Indemnification. The operator of a small cell facility which is permitted to locate on a Town right-of-way or easement or on a Town-owned utility pole, traffic signal or other structure owned by the Town shall, as a condition of permit approval, indemnify the Town from and against all liability and claims arising as a result of that location or attachment, including repair and replacement of damaged poles and equipment, in a form approved by the Town Staff.

- (8) Bonding. All permits for location of small facilities on real property or facilities not owned by the small cell permittee shall include as a condition of approval a bond, in form approved by the Town Staff, to guarantee payment for any damages to the real property or facilities and removal of the small cell facility upon abandonment.
- (9) Relocation and Removal. All small cell facilities in Town rights-of-way or easements shall be removed and/or relocated at the applicant's expense in the event the Town's use of the right-of-way or easement precludes the continued presence of such facilities.
- (g) Collocation. The shared use of existing freestanding or roof-mounted CMRS facilities shall be preferred to the construction of new facilities in order to minimize adverse impacts associated with the proliferation of towers. The following collocation requirements apply:
- (1) No CMRS application shall be approved to construct a new freestanding or roof-mounted CMRS facility unless the applicant demonstrates to the reasonable satisfaction of the Town that no existing CMRS facility within a reasonable distance, regardless of municipal boundaries, can accommodate the applicant's needs. Evidence submitted shall consist of one or more of the following:
    - a. No existing CMRS facilities are located within the geographic area required to meet the applicant's coverage demands.
    - b. Existing CMRS facilities or structures are not of sufficient height to meet the applicant's coverage demands and cannot be extended to such height.
    - c. Existing CMRS facilities or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
    - d. Existing CMRS facilities or structures do not have adequate space on which proposed equipment can be placed so it can function effectively and reasonably.
    - e. The applicant's proposed antenna would cause electromagnetic interference with the antennas on the existing CMRS facility, or the antennas on the existing facility would cause interference with the applicant's proposed antenna.
    - f. The applicant demonstrates that there are other compelling limiting factors, including but not limited to economic factors, that render existing CMRS facilities or structures unsuitable.
  - (2) No CMRS facility owner or operator shall unreasonably exclude a telecommunication competitor from using the same facility or location. Upon request by the Town, the owner or operator shall provide evidence and a written statement to explain why collocation is not possible at a particular facility or site.
  - (3) If a telecommunication competitor attempts to collocate 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 applicant's expense to determine the feasibility of collocation.
  - (4) Applications for new freestanding CMRS facilities shall provide evidence that the (new) facility can accommodate collocation of additional carriers.

- (h) Standards for Ground-Mounted Accessory Equipment. Ground-mounted accessory equipment and structures that are associated with a freestanding, roof-mounted or building-mounted CMRS facility are subject to the following requirements and shall be evaluated with the associated CMRS facility application.
  - (1) Ground-mounted accessory equipment shall be subject to the accessory structure setback requirements, if any, in the underlying zone district.
  - (2) Ground-mounted accessory equipment or buildings containing accessory equipment shall not exceed 12 feet in height.
  - (3) Ground-mounted accessory equipment not fully enclosed in a building shall be screened from all adjacent residential properties and public rights-of-way by landscaping, fences or architectural features, or by undergrounding.
  - (4) Buildings containing ground-mounted accessory equipment shall be architecturally compatible with the existing structures on the property and the character of the neighborhood.
- (i) Safety standards. All CMRS facilities shall conform to the requirements of the International Building Code, or National Electrical Code, as applicable.
- (j) Review procedures.
  - (1) All building and roof-mounted CMRS facilities and small cell facilities and networks, and eligible telecommunication facility requests as defined at Section 19-2-610, shall make application as a minor site plan, under Section 19-2-110.
    - a. Applications for modifications to an existing facility which are not a “substantial change” and are “eligible facilities requests,” shall provide all information reasonably required by the Town to determine whether the request meets the requirements for being an eligible facility request that is not a “substantial change” in the physical dimensions of the support structure, as those terms are defined at Section 19-2-610. The applicant shall not be required to demonstrate a need or business case for the proposed modification or collocation.
    - b. For all other applications for all other building or roof-mounted facilities, or to place additional antennas on existing freestanding facilities, the applicant shall submit all materials specified in Appendix 1.
  - (2) Applications for freestanding CMRS facilities shall be reviewed by the Planning Commission and Board of Trustees as conditional uses pursuant to the procedure and review criteria in Section 19-2-120, as well as the review criteria of this Section. The applicant shall submit all materials specified in Appendix 1.
- (k) Eligible telecommunication facility request. The review of an eligible telecommunication facility request, as defined in Section 19-2-610, shall be subject to the following additional specific procedures:
  - (1) The Town Staff shall approve an eligible telecommunications facility request that does not substantially change the physical dimensions of an eligible tower or base station.

- (2) The Town Staff may approve an eligible telecommunications facility request that substantially changes the physical dimensions of a tower or base station if it complies with the requirements for freestanding CMRS facilities.
  - (3) The Town Staff may condition the approval of an eligible telecommunications facility request on compliance with generally applicable building, structural, electrical and safety codes or with other laws codifying objective standards reasonably related to public health and safety.
  - (4) Denial of an eligible telecommunications facility request shall be in writing and shall include the reasons for denial.
- (l) Review deadlines. In compliance with federal law and regulations, the Town shall review and act upon all CMRS applications within the following time periods:
- (1) Within thirty (30) days the Town will give written notice of incompleteness, specifying the Code section that requires the information. This halts the remaining deadlines until a complete application is filed.
  - (2) An eligible telecommunications facilities request shall be approved or denied by the Town within sixty (60) calendar days of the date of the Town's receipt of the completed application. This time period may be tolled only by mutual agreement or when an application is incomplete.
  - (3) If the Town fails to approve or deny an eligible telecommunications facility request within sixty (60) calendar days of the date of the Town's receipt of the completed application (accounting for any tolling), the request shall be deemed granted; provided that this automatic approval shall become effective only upon the Town's receipt of written notification from the applicant after the review period has expired (accounting for any tolling) indicating that the application has been deemed granted.
  - (4) Within ninety (90) days the Town will act on collocation applications that are not a substantial change in the size of a tower, or location or collocation applications for a small cell facility or small cell network, or replacement or modification of the same.
  - (5) Within one hundred and fifty (150) days the Town will act on applications for new CMRS facilities, collocation applications that are a substantial increase in the size of the tower or substantial increase an existing CMRS facility that are not a small cell facility or small cell network.
- (l) Discontinuance and abandonment. All CMRS providers shall notify the Town when they place the FCC on notice, via the filing of FCC form 489, that a specific CMRS facility is being discontinued. Antennas and support structures, which are not in use for six (6) months for CMRS purposes, shall be removed by the CMRS facility owner. This removal shall occur within sixty (60) days of the end of the six (6) month period. Upon removal, the site shall be restored to blend with the surrounding environment. If an abandoned facility is not removed within the required time frame the Town shall remove the facility and bill the property owner upon which the facility is located for the cost incurred for the removal. In the event the property owner fails, within thirty (30) days after billing, to pay for the cost and expenses of removal the Town may assess a lien against the property for such costs which may be certified to the Grand County Treasurer for collection in the same manner as real

property taxes under CRS 31-20-105 and 106. The lien created hereby shall be superior and prior to all other liens excepting liens for general and special taxes.

## Division 5 - Nonconforming uses and structures

### Sec. 19-2-510. - Intent.

Within the zone districts established in this Chapter, there exist lots, structures, and uses of land and structures which were lawfully established before this Chapter was adopted or amended, but which would be prohibited, regulated or restricted under the terms of this Chapter. It is the intent of these regulations to permit such nonconformities to continue until they are destroyed or removed, but not to allow them to be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same zone district.

### Sec. 19-2-520. – Nonconforming uses.

Where at the time of the adoption of this Chapter or amendments thereto, lawful uses of buildings or structures, or lawful uses of land, or lawful uses of structures and land exist which would not be permitted by the regulations imposed by this Chapter, the use may be continued so long as it remains otherwise lawful, provided:

- (1) No such nonconforming use shall be enlarged or increased, nor extend in intensity of use, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Chapter.
- (2) No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption of this Chapter.
- (3) If any such nonconforming use of land ceases for any reason for a period of nine (9) months, any subsequent use of such land shall conform to the regulations specified by this Chapter for the zone district in which such land is located. Intent to resume active operation shall not affect the foregoing.
- (4) No additional structure not conforming to the requirements of this Chapter shall be erected in connection with such nonconforming use of land.

### Sec. 19-2-530. – Nonconforming structures.

Where a lawful structure at the effective date of the adoption or amendment of this Chapter that could not be built under the terms of this Chapter by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such nonconforming structure may be enlarged or altered in any way which increases its nonconformity, including an increase in floor area, but any structure or portion thereof may be altered to decrease its nonconformity.
- (2) Should such nonconforming structures or nonconforming portion of a structure be destroyed or partially destroyed by fire or other natural cause, it may be restored to its original condition, provided that actual reconstruction is begun within six (6) months of such calamity and completed within one (1) year of the time reconstruction is commenced it shall not be reconstructed except in conformance with the provisions of this Chapter.



- (3) No building or structure which does not conform to all of the regulations of the district in which it is located shall be moved in wholly or in part to another location unless every portion of such building or structure is moved and the use thereof is made to conform to all regulations of the district into which it is moved.

Sec. 19-2-540. – Repairs and maintenance.

- (a) Ordinary repairs and maintenance of a nonconforming building shall be permitted.
- (b) A nonconforming building may be structurally altered and repaired in any way permitted by these regulations, provided that no alterations or repairs shall be made in a nonconforming building which would increase the degree of nonconformity with the location and bulk regulations of this Chapter.
- (c) If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, and the same is not repaired as permitted by Subsection (2) above, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the zone district in which it is located.

Sec. 19-2-550. – Nonconforming lots of record.

- (a) Where, at the effective date of the adoption of this Chapter, a lot of record was in separate ownership and cannot meet the minimum requirements for area or width, a single-family dwelling and customary accessory structures may be erected on any single lot of record provided such lot is in separate ownership and not of continuous frontage with other lots in the same ownership. Without limiting the generality of the foregoing, any previously platted lot of 2178 square feet or greater, which lot is in existence as of the adoption of this Section on \_\_\_\_\_, 2018, may be developed for a single-family detached, single-family attached, or multi-family dwelling for each 2178 square feet of area within such lot as permitted uses in those zone districts which permit such dwellings, without any requirement for a conditional use permit.

Sec. 19-2-560. – Legal nonconforming signs.

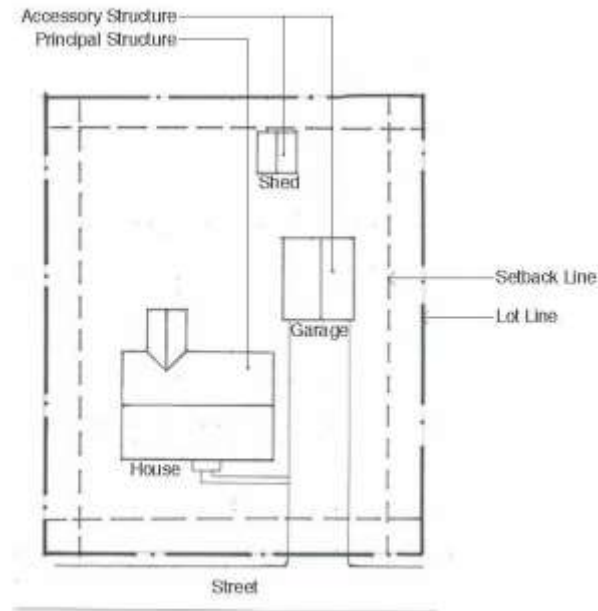
Any sign located within the boundaries of the Town that does not conform with the provisions of Article 6 of this Chapter but which was in compliance with applicable law on the date of adoption of the initial ordinance codified herein or the date of annexation, whichever is applicable, or which became nonconforming as a result of subsequent amendments incorporated into Article 6 of this Chapter, shall qualify as a legal nonconforming sign. Legal nonconforming signs may be continued to be maintained, provided that such signs are kept in good repair and so long as such signs are not relocated, replaced or structurally altered. Changing light bulbs or ballasts, replacing or repainting sign faces or repainting the sign frame that represents no change in the use of the facility or overall size of the sign shall not be considered replaced or structurally altered, but shall be considered maintenance as required to be performed by Section 19-2-540.

## Division 6 Definitions

### Sec. 19-2-610. - Words and terms.

The following words and phrases shall have the following meanings when used in this Chapter, unless the context otherwise requires:

*Accessory building or structure* means a building or structure on the same lot with the building or structure housing the principal use, but housing a use customarily incidental and subordinate to the principal use. See figure below.



*Adult-oriented use* means a use of property where the principal use, or a significant or substantial adjunct to another use, of the property is the sale, rental, display or other offering of live entertainment, dancing or material which is distinguished or characterized by its emphasis on depicting, exhibiting, describing or relating to specified sexual activities or specified anatomical areas as the primary attraction to the premises, including but not limited to:

- a. *Adult arcade* means any place to which the public is permitted or invited wherein coin-operated, slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.
- b. *Adult bookstore or adult video store* means a place where books, magazines, motion pictures, prints, photographs, periodicals, video or audio recordings, novelties and devices or any of these things, which have as their primary or dominant theme matter depicting, illustrating, describing or relating to specified sexual activities or specified anatomical areas, are sold or offered for sale to adults and includes a place with only a portion or section of its area set aside for the display or sale of such material to adults, except that any place, otherwise included within this definition, that derives not more than ten percent

(10%) of its gross income from the sale of such material shall be exempt from the provisions of this Section so long as such material is kept in a location where it is not visible and shall not be a self-service item for the customers of such place.

- c. *Adult cabaret* means a nightclub, bar, restaurant or similar business which regularly features:
  - 1. Persons who appear in a state of nudity;
  - 2. Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
  - 3. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- d. *Adult motel* means a hotel, motel or similar business which offers private rooms to the public and provides patrons with live performances or closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- e. *Adult motion picture theater* means a business where films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- f. *Adult theater* means a theater, concert hall, auditorium or similar business which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.
- g. *Adult photo studio* means any establishment which, upon payment of a fee, provides photographic equipment and/or models for the purpose of photographing specified anatomical areas.
- h. *Peep booth* means a viewing room, other than a private room, of less than one hundred fifty (150) square feet of floor space upon the premises of a sexually oriented business where there are exhibited photographs, films, motion pictures, video reproductions, slides or other visual representations which depict or describe specified sexual activities or specified anatomical areas.
- i. *Private room* means a room in an adult motel that is not a peep booth, has a bed in the room, has a bath in the room or adjacent to the room, and is used primarily for lodging.
- j. *Sexual encounter establishment* means a business or commercial establishment which, as one (1) of its primary business purposes, offers for any form of consideration a place where two (2) or more persons may congregate, associate or consort for the purpose of specified sexual activities or the exposure of specified anatomical areas, when one (1) or more of the persons exposes any specified anatomical area.

- k. *Sexually oriented business* means an adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, sexual encounter establishment or other similar business and includes:
1. The opening or commencement of any sexually oriented business as a new business;
  2. The conversion of an existing business, whether or not a sexually oriented business, to a sexually oriented business;
  3. The addition of any sexually oriented business to any other existing sexually oriented business;
  4. The relocation of any sexually oriented business; or
  5. The continuation of a sexually oriented business in existence on the effective date of the initial ordinance codified herein.
- l. *Specified anatomical areas* means:
1. Less than completely and opaquely covered: human genitals, pubic region, buttocks and female breast below a point above the top of the areola.
  2. Human male genitals in a discernibly turgid state even if completely and opaquely covered.
- m. *Specified sexual activities* means acts, simulated acts, exhibitions, representation, depictions or descriptions of:
1. Human genitals in a state of sexual stimulation or arousal.
  2. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.
  3. Intrusion, however slight, of any object, any part of an animal's body, or any part of a person's body into the genital or anal openings of any person's body or into the body of an animal.
  4. Cunnilingus, fellatio, analingus, masturbation, bestiality, lewd exhibition of genitals or excretory function.
  5. Flagellation, mutilation or torture for the purposes of sexual arousal, gratification or abuse.
- n. *Stage* means a raised floor or platform at least three (3) feet above the surrounding floor measured perpendicularly from the edge of the stage to the surrounding floor and at least thirty- six (36) square feet in area.

*Assisted living facility* means a residential facility that provides meals and assistance with daily activities, such as dressing, grooming, and bathing, for the elderly or adults who are unable to manage these activities themselves.

*Base station* means a station at a fixed location, other than a freestanding CMRS facility, that enables wireless communication between user equipment and a communications network, including any associated equipment such as, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. It includes a structure that currently supports or houses an antenna, transceiver, or other associated equipment that constitutes part of a base station. It may encompass such equipment in any technological configuration, including distributed antenna systems and small cells.

*Bed and Breakfast* means a business providing rooms and use of bath facilities to tourists on a nightly basis, for compensation, which business is incidental to the use of the premises for residential purposes.

*Boarding and rooming house* means a building or portion thereof which is principally used to accommodate, for compensation, five (5) or more boarders or roomers, not including members of the occupant's immediate family who might be occupying such building. The compensation shall include compensation in money, services or other things of value.

*Business office* means a place of business where clerical or professional duties are performed.

*Business support services* means establishments engaged in the sale, rental or repair of equipment, services and supplies used by office, professional and service establishments to businesses rather than individuals; excluding however, automotive, construction and farm equipment. Typical uses include staffing, office space, printing and copying, among other uses.

*Cargo container* means a container designed and constructed to contain or carry freight, including semi-trailers without running gear, railroad car units and shipping containers. Cargo containers do not include mobile homes, manufactured homes, factory-built homes, travel trailers, commercial coaches or other metal storage boxes not built to International Standards Organization container specifications. For the purposes of this Article, a cargo container is considered an accessory structure.

*CDOT* means the Colorado Department of Transportation.

*Child care center* means a facility that is not a residence, is licensed by the State, and is maintained for the whole or part of a day for the care of children under the age of sixteen (16) years 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 pursuant to Section 26-6-102(1)(6), C.R.S.; including without limitation facilities commonly known as day care centers, day nurseries, nursery schools, kindergartens, preschools, play groups, day camps, summer camps and centers for developmentally disabled children, except that the term shall not apply to any kindergarten maintained in connection with a public, private or parochial elementary school system.

*Church or place of worship and assembly* means a building containing a hall, auditorium or other suitable room or rooms used for the purpose of conducting religious or other services or meetings of the occupants of such structure. Church or place of worship and assembly shall include churches, synagogues or the like, but shall not include buildings used for commercial endeavors, including but not limited to commercial motion picture houses or stage productions.

*Commercial mobile radio service (CMRS) accessory equipment* means equipment, including unmanned cabinets, used to protect and enable operation of radio switching equipment, back-up power and other devices, but not including antenna, that is necessary for the operation of a CMRS facility.

- a. *Ground-mounted CMRS accessory equipment* means equipment, including unmanned cabinets, located on or beneath the ground, used to protect and enable operation of radio switching equipment, back-up power and other devices, but not including antenna, that is necessary for the operation of a CMRS facility including base stations.

*Commercial mobile radio service (CMRS) facility* means an unmanned building or structure consisting of equipment for the reception, switching and transmission of wireless telecommunications, including, but not limited to, personal communications service (PCS), enhanced specialized mobile radio (ESMR), paging, cellular telephone and similar technologies.

- a. *Building or structure-mounted CMRS facility* means a CMRS facility in which antenna are mounted to an existing structure (e.g., water tower, light pole, steeple, etc.) or building face, but excluding roof-mounted facilities.
- b. *Freestanding CMRS facility* means a CMRS facility that consists of a stand-alone support facility or tower (monopole and/or lattice structure), antennae, and associated equipment.
- c. *Roof-mounted CMRS facility* means a CMRS facility in which antenna are mounted on an existing building roof.
- d. *Small cell facility* means a wireless service facility that meets both of the following qualifications:
  1. Each antenna is located inside an enclosure of no more than three cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three cubic feet; and
  2. Primary equipment enclosures are not larger than seventeen cubic feet in volume. The following associated equipment may be located outside of the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: Electric meter, concealment, telecommunications demarcation box, ground-based enclosures, back-up power systems, grounding equipment, power transfer switch, and cut-off switch.
- e. *Small cell network* means a collection of interrelated small cell facilities designed to deliver wireless service.

*Density* means the ratio of the number of dwelling units per gross acre of the entire development parcel.

*Dependent mobile home* means any mobile home that does not have a flush toilet and a bath or shower.

*Drive-through business* means any establishment, building or structure where service is provided to the customer from an automobile service window with access provided by a drive-through lane incorporated into the site design.

*Dwelling* means any building or portion thereof which is used as the private residence or sleeping place of one (1) or more human beings, but excluding hotels, motels, tourist courts, boarding houses, lodging houses, resort cabins, hospitals or similar uses.

*Dwelling, multi-family* means a building on one lot containing three (3) or more dwelling units arranged either side by side or one above the other.

*Dwelling, single-family* means a detached building designed exclusively for occupancy by one (1) family.

*Dwelling, single-family attached* means a residential building containing two (2) dwelling units arranged either side by side or one above the other.

*Dwelling unit* means one (1) or more rooms in a dwelling designed for occupancy by one (1) family for living purposes and having not more than one (1) kitchen.

*Dwelling unit, accessory* means one (1) or more rooms in a dwelling designed for occupancy by one (1) family for living purposes, incidental and subordinate in size and character to the primary residence and having not more than one (1) kitchen.

*Eligible telecommunications facility request* means any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station and that involves the collocation of new transmission equipment, the removal of transmission equipment or the replacement of transmission equipment.

*Family* means one (1) or more persons occupying a single dwelling unit and maintaining a common household, but not including boarding or rooming houses, lodges, hotels, motels, tourist courts or similar uses.

*Family child care home* means a facility licensed by the State for child care in a place of residence of a family or person for the purpose of providing less than twenty-four-hour care for children under the age of eighteen (18) years who are not related to the head of such home; provided that:

- a. Care may be provided for up to six (6) children from birth to thirteen (13) years of age with no more than two (2) children under two (2) years of age. This does not prohibit the care of children with special needs ages thirteen (13) to eighteen (18);
- b. Care may also be provided for no more than two (2) additional children of school age attending full-day school. School-age children are children enrolled in a kindergarten program a year before they enter the first grade and children six (6) years of age and older; and
- c. Residents of the home under twelve (12) years of age who are on the premises and all children on the premises for supervision are counted against the approved capacity.

*Farmer's market* means a space and/or structure used primarily for the sale of foodstuffs by the grower.

*FCC* means the Federal Communications Commission.

*Financial services institution* means a facility engaged in deposit banking or extending credit in the form of loans.

*Floor area* means the area on each floor of a building included within the surrounding exterior walls.

*Funeral home* means a building used for the preparation of the deceased for burial or cremation, for the display of the deceased and/or for ceremonies or services related thereto, including cremation and the storage of caskets, funeral urns, funeral vehicle and other funeral supplies.

*Garage* means a building or portion of a principal building on the same lot that is used for the storage only of private, passenger motor vehicles.

*Group home for the handicapped or disabled* means a state-licensed home for eight (8) or fewer persons with mental or physical impairments which substantially limit one or more major life activities and including such additional necessary persons required for the care and supervision of the permitted number of handicapped or disabled persons. "Handicap" and "disability" have the same legal meaning. A person with a disability is any person who has a physical or mental impairment that substantially limits one of more major life activities; has a record of such impairment; or is regarded as having such an impairment. A physical or mental impairment includes, but is not limited to, hearing, visual, and mobility impairments, alcoholism, drug addiction, mental illness, mental retardation, learning disability, head injury, chronic fatigue, HIV infection, AIDS, and AIDS Related Complex. The term "major life activity" may include seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, speaking, or working. Group homes for handicapped or disabled persons, particularly as they relate to recovering (not currently using) alcoholics and persons with drug addictions, may also be known as sober living arrangements.

*Height* means the vertical distance above a reference datum measured to the highest point of a flat roof or deck line of a mansard roof or the midpoint of the highest gable of a pitched or hipped

roof. The height of a stepped or terraced building is the maximum height of any segment of the building. The reference datum shall be selected by either of the following, whichever yields a greater height of building:

- a. The point of the lowest preconstruction elevation on any building face. The owner shall have the burden of proving pre-construction elevation.
- b. The point of the lowest elevation of any building face.
- c. The elevation of the lowest point of an exposed foundation or a wall.

*Home occupation* means any business use which is conducted within a dwelling by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character of the dwelling, excluding therefrom such uses as a medical clinic, hospital, barber shop, beauty parlor, tea room, animal hospital, retail sales, repair services or any similar use generating more than occasional and minimal vehicular and pedestrian traffic.

*Hospital* means an institution providing health services primarily for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient departments, training and central services facilities and staff offices.

*Hotel, motel, boarding or lodging house* means a building designed for occupancy as the more or less temporary abiding place of individuals who are lodged with or without meals, and in which there are six (6) or more guest rooms.

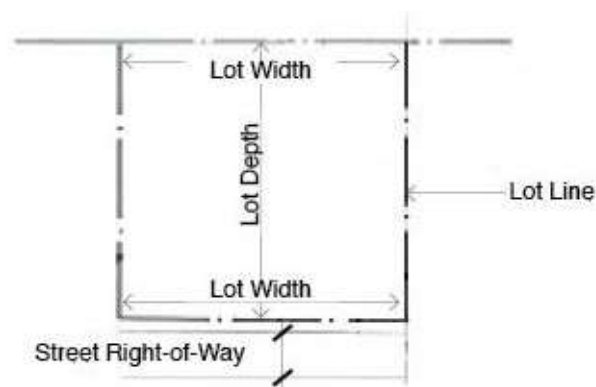
*Kennel* means a facility licensed to house dogs, cats or other household pets overnight and/or where breeding, training and/or selling of animals is conducted as the primary business.

*Kitchen* means a room or portion of a room or structure used for the primary preparation and cooking of meals and which contains, at a minimum, a kitchen sink, refrigeration facility and cooking appliance.

*Litter* means all rubbish, waste material, refuse, garbage, trash, debris or other foreign substance, solid or liquid, of every form, size, kind and description.

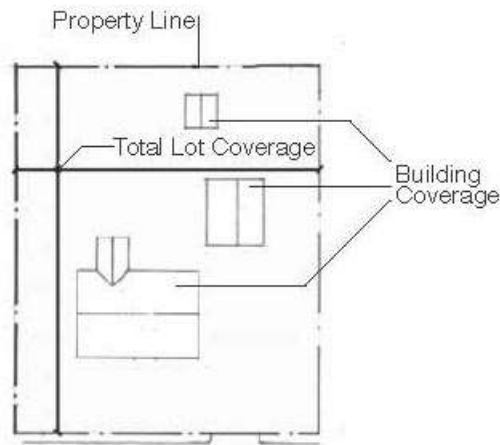
*Lot*, used interchangeably with the term *parcel*, means a tract, plot or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or possession or for building development. A piece of property which exists by virtue of a separate legal description or a separate deed, either of which has been recorded in the office of the County Clerk and Recorder.

*Lot area* means the number of square feet included within a lot, measured by multiplying the lot width by the lot depth. See figure below.





*Lot coverage* means the area of a lot covered by buildings, structures, drives, parking and other impervious surface areas. See figure below.



*Lot line, front* means the property line dividing a lot from a street. On a corner lot, only one (1) street line shall be considered a front line, and the shorter street frontage shall be considered the front line.

*Lot line, rear* means the line opposite the front lot line.

*Lot line, side* means any lot lines other than front lot lines or rear lot lines.

*Lot width* means the distance between side lot lines measured at the front lot line.

*Manufactured home* means a single-family dwelling which is partially or entirely manufactured in a factory; is not less than twenty-four feet in width and thirty-six feet in length; is installed on an engineered permanent perimeter foundation; has brick, wood, or cosmetically equivalent exterior siding and a pitched roof; conforms to the Building Code; and is certified pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 *et seq.*, as amended. Pre-sectionalized, modular or prefabricated housing which does not meet this definition is considered a mobile home.

*Manufacturing, fabrication and assembly operations* means a manufacturing establishment primarily engaged in the fabrication or assembly of products from pre-structured materials or components. Because of the nature of its operations and products, little or no noise, odor, vibration, glare and/or air and water pollution is produced and, therefore, there is minimal impact on surrounding properties.

*Medical and dental clinics* means an establishment operated by one (1) or more duly licensed members of the human health care professions, including but not limited to physicians, dentists, chiropractors, psychiatrists and osteopaths, where patients are not lodged overnight but are admitted for examination and/or treatment.

*Microbrewery* means an establishment that makes its own beer and sells at least fifty percent (50%) on the premises.

*Mixed-use building* means a building designed, planned and constructed as a unit, used partially for residential use and partly for commercial uses, including but not limited to office, retail, public uses, personal services or entertainment uses.

*Mobile home* means any dwelling unit containing a kitchen, bath and sleeping quarters designed to be moved upon wheels, and designed to be affixed to an axle, which is a part thereof, whether such axle is in place or has been removed. Any such unit which is permanently or semi-

permanently attached to a foundation and connected to water and sewer mains does not lose its identity as a mobile home by reason thereof. This classification includes trailers, house trailers, trailer coaches and mobile homes. A mobile home meeting the Building Code and placed on a permanent foundation is regulated under this Chapter in the same manner as a conventional home.

*Mobile Home Park* means any parcel of land or lot used or designed to accommodate two (2) or more mobile homes, dependent mobile homes, travel trailers or truck campers.

*Motel or hotel* means a building designed for occupancy as the temporary abiding place (thirty [30] days or less) of individuals who are lodged with or without meals, and with such building having six (6) or more guest rooms.

*Motor vehicle service and repair facility* means any building, land area, premises or portion thereof, where gasoline or other petroleum products or fuels are sold and/or automotive maintenance activities may be conducted.

*Nonconforming* means failing to meet all of the requirements of this Chapter.

*Office* means a building or tenant space for the conduct of general business activities and transactions, where storage, sale or display of manufactured goods on the premises is not allowed.

*Open space, designated* means any interest in real property owned by the Town which, whether acquired by purchase, donation, condemnation or any other means, has been dedicated by ordinance as designated open space.

*Open space, required* means land which is free of any structures (except those permitted below) and conveyed to a homeowners association in accordance with Article 3 of this Chapter. The following areas qualify for meeting the open space requirement in a development:

- a. Landscaping areas, strips, planters, gardens, etc., with a minimum dimension in any direction of five (5) feet, and a minimum overall size of fifty (50) square feet.
- b. Natural areas, such as stream channels or steep slopes.
- c. Outdoor recreational facilities, including on-grade plazas, swimming pools, hot tubs, tennis courts, playfields, golf courses, trails, sidewalks, disabled ramps, picnic areas, access corridors to public lands, and all other similar outdoor areas.
- d. Uncovered decks and patios.
- e. One-story detached accessory buildings not requiring a building permit

The following areas do not qualify for meeting the open space requirement in a development:

- a. Driveways, parking, and loading areas.
- b. Any areas covered with a structure.
- c. Stairways.
- d. Any areas that do not meet the minimum dimensions listed above.

*Outdoor storage* means the keeping, in an unroofed area, of any equipment, goods, junk, material, merchandise or vehicles in the same place for more than twenty-four (24) hours.

*Party wall* means a wall separating and common to two dwelling units or building units.

*Recreation area* means an area of usable land at least six thousand (6,000) square feet in area which is planted in suitable vegetative growth and/or so designed and maintained so as to provide recreation facilities for children and adults.

*Row house* means three (3) or more dwelling units, each with its own outside entrance, which are joined by a common party wall and are on adjoining individual lots. Also termed a townhome.

*School, private* means a preschool, elementary, secondary, post-secondary, vocational or technical school that is established, conducted and primarily supported by a nongovernmental agency.

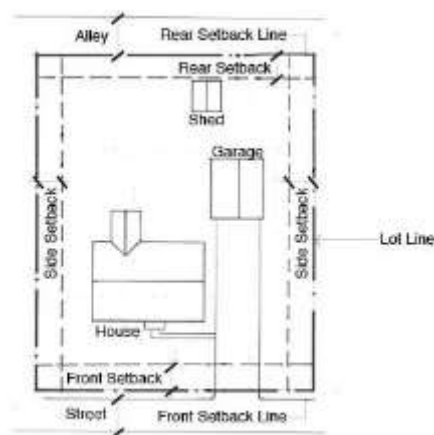
*School, public* means a tax-supported school that is controlled and operated by a School District and/or taxing district (i.e. Jr. College District, Board of Regents, etc.).

*Setback* means the required minimum distance between the lot line and the closest projection of a building or structure, measured at a right angle to the lot line. Where angled buildings, lots or curved streets exist, the setback may be taken as an average distance. Setbacks shall be unobstructed from the ground to the sky except as otherwise specifically allowed in this Article. See figure below.

*Setback, front yard* means a setback that extends across the full width of a lot or site, the depth of which is the distance between the front lot or property line and the closest projection of a building or structure along a line at right angles to the front lot line, excluding allowable projections set forth in this Article.

*Setback, rear yard* means a setback that extends across the full width of a lot or site, the depth of which is the distance between the rear lot line and the closest projection of a building or structure along a line at right angles to the rear lot line, excluding allowable projections set forth in this Article.

*Setback, side yard* means a setback that extends from the rear line of the required front setback, or the front property line of the site where no front setback is required, to the front line of the required rear setback, or the rear property line of the site where no rear setback is required, the width of which is the distance between the side lot or property line and a line parallel thereto on the site.



*Stable* means any building, structure or shed, whether or not entirely or partially enclosed by a roof and/or walls, in which animals are kept. Stables must meet State of Colorado regulations regarding animal husbandry.

*Substantial change* means a modification which substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria, including a single change or a series of changes over time whether made by a single owner or operator or different owners/operators over time, when viewed against the initial approval for the support structure:

- a. For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other eligible

support structures, it increases the height of the structure by more than 10% or more than ten feet, whichever is greater. Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the federal Spectrum Act, effective February 22, 2012;

- b. For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;
- c. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;
- d. It entails any excavation or deployment outside the current site;
- e. It would defeat the concealment elements of the eligible support structure; or
- f. It does not comply with conditions associated with the original siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in paragraphs 1 through 6 of this definition.

*Timeshare or interval ownership unit* means single-family or multifamily dwelling, condominium or townhouse units that have been further subdivided into a stated number of additional interests in the unit, defined by the period of time during which the owner of the share may occupy it. Shares may be of two (2) types: first, *fee timeshares or interval estates*, wherein diverse owners each own a present estate for years terminating on a date certain coupled with a future remainder interest in the unit as a tenant in common with the other diverse owners; second, *time span estates* operating on a tenancy in common principle coupled with an exclusive right to use and occupy the unit during a fixed annual recurring period of time. For purposes of this Chapter, a *Timeshare or interval ownership unit* is not considered a short-term rental as defined in Chapter 6-8-20 of this Code.

*Tower* means any freestanding structure designed and constructed primarily for the purpose of supporting one (1) or more FCC-licensed or authorized antennae, including self-supporting lattice towers, guy towers and monopole towers, radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers and other similar structures. The term also includes any antenna or antenna array attached to the tower structure.

*Tower Height (average)* means, when referring to a tower, the distance measured from the average ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

*Transit facility* means a meeting point of several routes or lines or of different modes of transportation. It is located on or off the street and is designed to handle the movement of transit units (vehicles or trains) and the boarding, alighting and transferring of passengers between routes, lines or different modes.

*Travel trailer* means any vehicle or similar portable structure designed without a foundation other than wheels, jacks or skirts, and so designed or constructed as to permit occupancy for living

or sleeping purposes, provided that any such structure over thirty-three (33) feet in total length, including hitch and bumper, shall be considered a mobile home for purposes of this Article.

*Truck camper* means a portable structure designed primarily to be transported on a truck or other similar vehicle, and so designed or constructed as to permit occupancy for living or sleeping purposes.

*Use* means the purpose for which any land, structure or building is designed, maintained or occupied.

- a. *Principal use* means the main use of land or of a structure as distinguished from a temporary or accessory use.
- b. *Temporary and/or seasonal use* means a use which is permitted only for a limited duration.
- c. *Accessory use* means a use customarily associated with, but subordinate to, the principal use on the same lot.

*Wholesale trade* means an establishment primarily engaged in selling durable and nondurable goods to retailers, to industrial, commercial, institutional, farm, building trade contractors or professional business uses or to other wholesalers. Activities may include physically assembling, sorting and grading goods into large lots and breaking bulk for redistribution in smaller lots in such a way as to have a minimal impact on surrounding properties.

*Workshop and custom small industry* means a facility wherein goods are produced or repaired by hand, using hand tools or small-scale equipment, including small engine repair, furniture making and restoring, upholstering, restoration of antiques and other art objects or other similar uses.

*Yard* means the space surrounding a building or structure that is unoccupied and open to the sky.

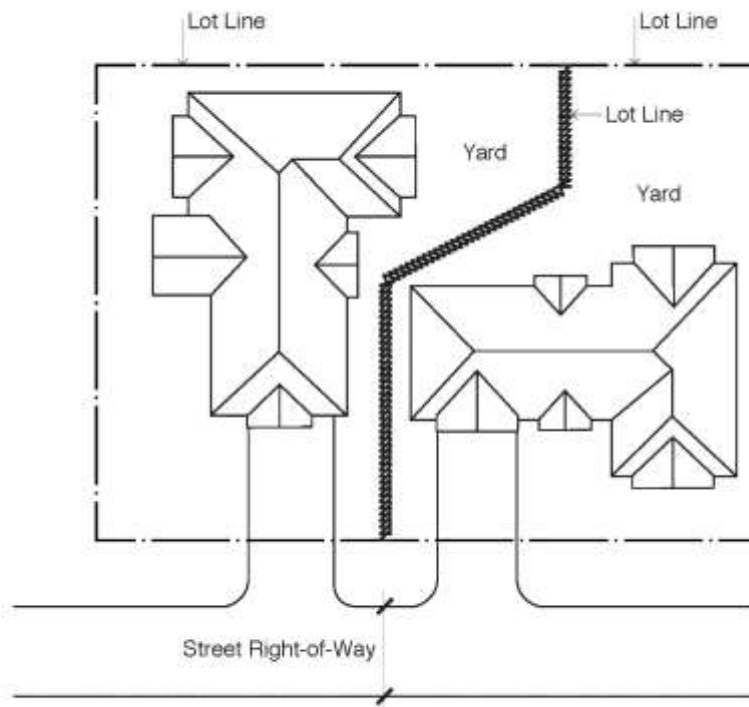
*Yard, front* means a yard extending across the full width of the lot between the front lot line and the nearest line or point of a building or structure, except in those cases involving curved or angular lots, in which case the average shall be used as provided for herein.

*Yard, rear* means a yard extending across the full width of the lot between the rear lot line and the nearest line or point of a building or structure.

*Yard, side* means a yard extending from the front yard to the rear yard between the side lot lines and the nearest point or points of a building or structure.

*Zero lot line* means a development that has no side yard setback on one side of a lot.

*Zipper lot* means a lot where the rear lot line jogs back to vary the depth of the rear yard to provide for a larger side yard. See figure below.



## ARTICLE 3 - SUBDIVISION

### **Division 1**

#### **Purpose and Applicability**

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19-3-120	Applicability
19-3-130	Policy
19-3-140	Enforcement and violations

### **Division 2**

#### **Administration**

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19-3-210	Major subdivisions
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### **Division 3**

#### **Land Dedication**

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19-3-320	Dedications and conveyances; general
19-3-330	Land dedication standards
19-3-340	Fees-in-lieu of dedication
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<b>Division 4</b>	<b>Completion and Maintenance of Improvements</b>
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19-3-445	Preliminary acceptance
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19-3-455	Final acceptance
19-3-460	Acceptance for maintenance
19-3-465	Waiver of requirements

<b>Division 5</b>	<b>Definitions</b>
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19-3-510	Words and terms
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## ARTICLE 3 – Subdivision

### Division 1 Purpose and Applicability

#### Sec. 19-3-110. - Purpose.

The intent of these regulations is to prepare land for development and to recognize that the arrangement of parcels, streets, and infrastructure has a direct impact on the character and environment of the Town. The general purposes of this Article are:

- (1) To guide public policy to ensure that public facilities and services are available with sufficient capacity to serve the proposed development and that new development does not burden the Town's fiscal resources;
- (2) To encourage well-planned subdivisions by establishing adequate standards for design and improvements;
- (3) To promote efficient circulation, logical lot layout, and necessary roadway and pedestrian connections;
- (4) To provide for open spaces through the most efficient design and layout of the land;
- (5) To secure equitable handling of all subdivision plans by providing uniform procedures and standards;
- (6) To improve land survey monuments and records by establishing standards for surveys and plats;
- (7) To safeguard the interests of the public, the homeowner and the subdivider; and
- (8) To regulate such other matters as the Board of Trustees may deem necessary in order to protect the best interest of the public.

#### Sec. 19-3-120. Applicability.

(a) These regulations are applicable to:

- (1) All subdivision of land located within the corporate boundaries of the Town;
- (2) All unincorporated land located within three (3) miles of the corporate limits of the Town and not located in any other municipality for the purpose of control for major street plan purposes when a major street plan has been approved in accordance with the requirements of C.R.S. § 31-23-212.

(b) This Article shall not apply to the following divisions of land:

- (1) The division of land by order of any court in the State or by operation of law, such as the settlement of an estate.
- (2) The creation or modification of a cemetery lot, tract or parcel.
- (3) The division of land by a lien, mortgage, deed of trust or any other security interest.
- (4) The division of land by a security or unit of interest in any investment trust regulated under the laws of the State or any other interest in an investment entity.
- (5) The division of land which creates an interest or interests in oil, gas or minerals which are now or hereafter severed from the surface ownership of real property.
- (6) The division of land by the acquisition of an interest in land in the name of a husband and wife or other persons in joint tenancy or as tenants in common, and any such interest shall be

deemed for purposes of this Subsection as only one (1) interest.

- (7) The division of land by conveyance of real property to or from the Town in satisfaction of land dedication, subdivision, condemnation, annexation or other Town requirements.

Sec. 19-3-130. - Policy.

- (a) It is the policy of the Town to consider the subdivision of land and the subsequent development of the subdivided land as subject to the control of the Town pursuant to this Chapter, the Comprehensive Plan, these subdivision regulations and all other applicable regulations, ordinances, codes and rules of the Town for the orderly, planned, efficient and economical development of the Town. All proposed subdivisions for which Town approval is required under these regulations shall be consistent with the Comprehensive Plan. No application for subdivision shall be approved if not in conformance with the Comprehensive Plan, and such failure shall be a reasonable ground for denial of the application.
- (b) Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace. Land shall not be subdivided until adequate public facilities and improvements exist and proper provisions have been made for water, sewer, stormwater drainage, schools, parks, open space, trails, recreation, transportation facilities and other improvements necessary to serve the proposed subdivision.

Sec. 19-3-140. - Enforcement and violations.

- (a) No owner, or agent of the owner, of any lot located in a proposed subdivision shall sell, agree to sell or negotiate to sell any lot, or portion thereof, before a final plat or as-built plat (if applicable) has been approved in accordance with the provisions of these regulations and recorded in the office of the Grand County Clerk and Recorder. Pursuant to CRS 31-23-216, any person taking such action prior to recordation of the plat shall pay the penalty set forth in that Section and shall additionally be guilty of a misdemeanor and upon conviction be subject to a fine of \$100 and/or imprisonment for one year.
- (b) No permits shall be issued for the construction of any building or other improvements requiring a permit, nor shall any certificate of occupancy be granted, for any land for which a subdivision plat is required by these regulations, unless and until all requirements of these regulations have been complied with. See Sections 19-3-415 and 19-3-445 of this Article.

## Division 2 Administration

### Sec. 19-3-205. - Types of subdivisions.

The division of land into separate parcels, lots, sites, tracts or interests is a subdivision and is regulated by the provisions of this Article. The process of subdivision does not establish types of land use, which are determined by the zoning regulations of this Chapter. The following types of subdivision are regulated by this Article:

- (1) Major subdivisions. The major subdivision process shall consist of two separate phases, preliminary and final plat, as provided in Sections 19-3-210, 19-3-225 and 19-3-230 below.
- (2) Minor subdivisions. The minor subdivision process shall consist of one phase, final plat, as provided in Sections 19-3-215 and 19-3-230 below.

### Sec. 19-3-210. - Major subdivisions.

- (a) Purpose. The purpose of a major subdivision is to divide one (1) or more parcels of land into five (5) or more lots, or to divide one (1) or more parcels of land into one (1) or more lots requiring public improvements.
  - (1) Condominium, townhome and apartment developments shall be classified as a major subdivision if they involve five (5) or more dwelling units or are intended to create five (5) or more individual interests in property capable of being separately transferred.
  - (2) A subdivision shall be classified as a major subdivision when the creation or extension of any public improvement is required. For purposes of this Subsection, "public improvement" includes streets, water and sewer mains and service lines, drainage facilities, electrical facilities, lines and facilities – whether above or below ground – for telephone, television, internet, or any other type or form of data transfer, curb and gutter, sidewalks, common access areas - such as shared driveways - or any other type of facility deemed by the Town Staff to be reasonably necessary to support the residents, users or owners of the subject lot(s).
- (b) Compliance. All major subdivisions shall comply with all applicable subdivision design and improvement standards of these regulations and Chapter 14 of this Code, Design Criteria and Construction Standards.

### Sec.19-3-215. - Minor subdivisions.

- (a) Purpose. The purpose of a minor subdivision is to complete a subdivision of land when all of the following conditions exist:
  - (1) The resulting subdivision will create a total of not more than four (4) lots or four (4) dwelling units. Condominium, townhome and apartment developments shall be reviewed as a minor subdivision only if they involve four (4) or fewer dwelling units and are intended to create not more than four (4) individual interests in property capable of being separately transferred;
  - (2) The resulting subdivision does not land-lock or prevent development of the remainder of the parcel or abutting property;
  - (3) The resulting subdivision does not create any new or residual parcels that do not comply with the requirements of this Article, the zoning regulations of this Chapter, or other applicable state or local regulations;

- (4) The resulting subdivision does not require dedication of additional rights-of-way;
  - (5) No public improvement needs to be constructed or extended to serve the subdivision. For purposes of this Subsection, "public improvement" includes streets, water and sewer mains and service lines, drainage facilities, electrical facilities, lines and facilities – whether above or below ground – for telephone, television, internet, or any other type or form of data transfer, curb and gutter, sidewalks, common access areas - such as shared driveways - or any other type of facility deemed by the Town Staff to be reasonably necessary to support the residents, users or owners of the subject lot(s);
  - (6) The parcel to be subdivided was lawfully created at the time the existing property description was recorded; and
  - (7) The parcel to be subdivided is not located, wholly or substantially, in a Special Flood Hazard Area as defined in Article 5 of this Chapter.
- (b) A minor subdivision may also be processed for any of the following divisions of property:
- (1) The division does not result in the creation of an additional lot.
  - (2) A division for the purpose of revising lot lines, only if it creates no more than the prior recorded number of lots. All revised lots must conform to the lot dimensional requirements as established in Article 2 of this Chapter. If the lots of the original recorded plat were nonconforming, any revised lot shall not increase the nonconformity.
  - (3) A division for the purpose of correcting an engineering or survey error in a recorded plat, provided that the correction continues to meet the standards of these regulations and has no effect on conditions applied to the approval of the recorded plat.
  - (4) A division which creates parcels for community facilities (including utility land acquisition).
  - (5) A division which involves the acquisition of access from one (1) parcel of property to another.
- (c) Compliance. Any subdivision not qualifying as a minor subdivision is a major subdivision.
- (1) The minor subdivision review process shall not be used to circumvent the requirements of the major subdivision review process.
  - (2) Any proposed minor subdivision which is clearly intended to evade the major subdivision regulations or would result in a de facto major subdivision through the combination of previous contiguous and/or consecutive minor subdivisions is not eligible for minor subdivision.
  - (3) A minor subdivision shall only be processed one (1) time on a previously unsubdivided parcel of land.

Sec.19-3-220. – Sketch plan.

- (a) General. At the option of the applicant, a sketch plan may be submitted prior to a preliminary plat submission for a major subdivision. A sketch plan may also be required by Town Staff in lieu of a preliminary plat submittal.
- (b) Purpose. The purpose of the sketch plan is two-fold. First, it provides the Town the opportunity to describe the Town's vision to the applicant. Second, it gives the applicant an opportunity to discuss plans for site development, explain how the plans will further the Town's vision, and obtain input and direction from Town Staff early in the process. The objective is to ensure that all new development is consistent with the community's goals and that issues are identified early in the development process. Topics to be discussed may include:
  - (1) The applicant's goals for the property;

- (2) The Town's visions and expectations;
  - (3) The character and quality of development the Town is seeking;
  - (4) Town regulations and standards;
  - (5) The application and review process;
  - (6) Submittal requirements; and
  - (7) Schedule.
- (b) Submittal Requirements. The applicant shall submit all required materials specified in Appendix 1.
  - (c) Procedure. The sketch plan application shall be reviewed by the Town in accordance with the Review Procedures at Section 19-1-210 and Table 1.1 of this Chapter.
    - (1) Within thirty (30) days of the submittal of a sketch plan, the Town Staff shall provide preliminary comments to the applicant regarding the proposed development.
    - (2) The applicant or Town Staff may opt to present the sketch plan to the Planning Commission for preliminary feedback, as permitted by Section 19-1-210 and Table 1.1 of this Chapter.

Sec. 19-3-225. - Preliminary plat.

- (a) General. An approved preliminary plat shall be required for all major subdivisions within the Town prior to approval of a final plat. The purpose of the preliminary plat is to provide the Town with an overall master plan for the proposed subdivision.
  - (1) The Town Staff may waive the requirement to submit a preliminary plat if the proposed subdivision is not part of an overall master plan, is not a phased development, and/or if traffic studies, drainage reports, utility plans or other significant levels of engineering analysis are not required.
  - (2) A sketch plan may be required by Town Staff in lieu of a preliminary plat submittal.
- (b) Submittal Requirements. The applicant shall submit all required materials specified in Appendix 1.
- (c) Procedure. The preliminary plat application shall be reviewed by the Town in accordance with Section 19-1-210 and Table 1.1 of this Chapter.
  - (1) The Planning Commission shall consider the preliminary plat application at a public hearing and either recommend approval or approval with conditions or denial of the application. Failure by the Planning Commission to act on the plat will operate as providing no recommendation, and the application shall be forwarded to the Board of Trustees; provided, however the applicant or authorized representative may consent to an extension of the period for the Planning Commission's determination if necessary to allow the applicant to make revisions or provide additional information before the Planning Commission takes final action. Any conditions of approval or reasons for denial shall be stated in the minutes.
  - (2) The Planning Commission may, at its discretion, require that the preliminary plat be reviewed by the Board of Trustees; provided, however, that any plat which is approved due to the Planning Commission's failure to take action shall automatically be reviewed by the Board of Trustees. The Board of Trustees shall review the preliminary plat within thirty (30) days from the Planning Commission's action.
  - (3) A preliminary plat shall be effective for a period of one (1) year from the date of Planning Commission action. At the end of the one-year period, the applicant must have submitted a

final plat for approval. The applicant may request an extension by submitting a written request to the Planning Commission. The Planning Commission shall be authorized to extend the approval for a period of up to one hundred eighty (180) days.

- (4) Preliminary plat approval shall constitute authorization to proceed with an application for final plat approval in accordance with the representations made by the applicant and conditions imposed on the proposed subdivision. Approval of a preliminary plat shall not constitute final approval of the subdivision or permission for development to occur.
- (5) At any time after preliminary plat approval and before submission of a final plat, the applicant may request an amendment to the preliminary plat. Such amendment shall be processed as either a major amendment or a minor amendment as required by Section 19-1-210 and Table 1.1 of this Chapter,
  - a. Preliminary plat - minor amendment. Certain minor amendments to an approved preliminary plat may be considered upon petition by the owner of the property and approval by the Town Staff. If the amendment is determined by Town Staff to be substantially consistent with the approved preliminary plat, the applicant may proceed to final plat application.
  - b. Preliminary plat – major amendment. Any amendment to an approved preliminary plat that is determined by Town Staff to be substantially inconsistent with the approved preliminary plat shall be considered a major preliminary plat amendment. A major preliminary plat amendment shall be processed as a new preliminary plat application in accordance with Subparagraphs (1)-(2) above.

Sec. 19-3-230. - Final plat.

- (a) General. An approved final plat shall be required for all major and minor subdivisions. The purpose of the final plat is to complete the subdivision of land in conformance with the requirements and standards of the Town and all recommendations made at earlier stages of subdivision review. No subdivision shall be approved until such data, surveys, analyses, studies, plans and designs as may be required by these regulations and by the Town Staff, Planning Commission and/or the Board of Trustees have been submitted, reviewed and found to meet all sound planning and engineering requirements of the Town.
  - (1) For a major subdivision that has received preliminary plat approval, the final plat must be submitted within one (1) year from the date of Planning Commission or Board of Trustees action, as applicable, unless the preliminary plat expiration date had been extended by the approval body.
  - (2) Approval and recording of the final plat allows sale of lots within the subdivision to proceed; except when the conditions of approval or the subdivision improvements agreement provide otherwise, or in the case of a subdivision of condominiums and/or townhomes, where approval of an as-built plat is the instrument which allows the sales of a subdivision to proceed.
- (b) Submittal Requirements. The applicant shall submit all required materials specified in Appendix 1.
- (c) Procedure. The final plat application shall be reviewed by the Town in accordance with Section 19-1-210 and Table 1.1 of this Chapter.
- (d) Phased final plat. The applicant may request approval of final plats for portions of an approved preliminary subdivision plat under the following circumstances:

- (1) Submission, with the first phase final plat, of a phasing plan for the entire preliminary plat land area. The phasing plan shall include the date by which the applicant wishes to record final plats for the entire tract, the dates by which infrastructure will be extended to the boundaries of the entire tract, and the approximate number of the proposed final plats and the general location of each phase. Applicants for phased developments shall list the public improvements necessary to fully support each phase in the event subsequent phases are delayed or do not occur.
- (2) A Subdivision Improvements Agreement (SIA) shall be required prior to the recordation of each final plat. The SIA required improvements and collateral associated with those improvements shall be subject to Town approval in the same manner as required by Section 19-3-410, and the schedule for completion of said improvements shall be within one (1) year of execution of each SIA.
- (3) The Town may condition a phasing plan on the submission of an agreement to dedicate easements or rights-of-way.
- (4) Prior to acting on the first final plat, the Planning Commission and Board of Trustees must find that the final plat phasing plan will not impede the orderly growth of public services and infrastructure necessary to efficiently serve each individual phased plat and the entire land area included within the preliminary plat approval.
- (e) Plat note. The final plat shall include a plat note, in form approved by the Town Attorney, which advises purchasers and owners of any lot, parcel or tract shown thereon that, while building permits may be issued prior to final completion of subdivision improvements, no certificate of occupancy may be issued for a structure on any lot, parcel or tract until all such improvements, as required by the SIA, have been completed and preliminarily accepted by the Town pursuant to Section 19-3-445.

Sec. 19-3-235. - As-built plat.

- (a) General. After the final plat has been approved and prior to the transfer of property, the applicant of a condominium, townhome or other form of development that involves the creation of common "party" wall and/or airspace layouts must obtain approval of an as-built plat pursuant to this Section.
- (b) Submittal Requirements. The applicant shall submit all required materials specified in Appendix 1.
  - (1) For condominiums, an as-built plat shall depict horizontal and vertical layouts of the airspaces at a level of detail sufficient to obtain an unrestricted title commitment for purposes of conveyance.
  - (2) For townhomes, an as-built plat shall include the legal description of each townhome unit at a level of detail sufficient to obtain an unrestricted title commitment for purposes of conveyance.
- (c) Procedure. The as-built plat application shall be reviewed by the Town in accordance with Section 19-1-210 and Table 1.1 of this Chapter.

Sec. 19-3-240. - Plat amendment.

- (a) Minor plat amendments Certain minor amendments to approved and recorded plats may be considered upon petition by the owner of the property and approval by the Town Staff, in cases where a majority of the following conditions are met:
  1. The approval of the minor plat amendment will not be detrimental to the public safety, health or welfare or injurious to other adjacent properties.

2. The minor plat amendment is in conformity with other policies and criteria of these regulations.
  3. The minor plat amendment would not alter the overall nature, character, density or intent of the approved plat.
  4. The minor plat amendment request is the result of site conditions encountered after initiation of development, mitigation of plat notes or conditions via alternative means approved by the Town Staff, or errors in engineering or surveying.
  5. The minor plat amendment is consistent with the original intent of the subdivision and/or conditions or plat notes.
- (b) Major plat amendment. Any amendment to an approved and recorded final plat that does not meet the conditions of a minor plat amendment as listed in Paragraph (a) above shall be considered a major plat amendment. A major plat amendment shall be processed as a new final plat application in accordance with Section 19-3-230 above.
- (c) Submittal requirements. The applicant shall submit all required materials specified in Appendix 1. All required submittal materials shall be filed with the Town Staff at least fourteen (14) days prior to the Town Staff's consideration for approval.
- (d) Procedure. All plat amendment applications shall be reviewed by the Town in accordance with Section 19-1-210 and Table 1.1 of this Chapter.

Sec. 19-3-245. – Plat, right-of-way, and easement vacations.

- (a) General. Any plat (or portion thereof), public right-of-way, or easement may be vacated upon petition by the owner of the property and approval by the Board of Trustees.
- (1) A plat vacation may occur at any time before the sale of any lots. Once lots have been sold, all lot owners must consent to the proposed vacation.
  - (2) Public right-of-way and easement vacation proceedings shall be in compliance with Sections 43-2-302 and 43-2-303, C.R.S.
  - (3) The Board of Trustees may approve a vacation petition on such terms and conditions as are reasonable to protect public health, safety and welfare.
- (b) Submittal requirements. The applicant shall submit all required materials specified in Appendix 1.
- (c) Procedure. A plat or right-of-way vacation application shall be reviewed by the Town in accordance with Section 19-1-210 and Table 1.1 of this Chapter.
- (1) Vacation by plat: In the event the vacation petition is accompanied by a plat application, the vacation may take place as a part of the plat approval.
  - (2) Vacation by ordinance. In the event the vacation petition is for a right-of-way or easement and is not accompanied by a plat application, the Board of Trustees shall act to approve the vacation by ordinance.



### Division 3 – Land Dedication

#### Sec. 19-3-310. - Purpose.

The purpose of the public dedication requirement is to provide public facilities and/or services made necessary as a consequence of a subdivision, in an amount roughly proportional to the impact of the subdivision upon such facilities and/or services or the increased need for them brought about by a subdivision. New residential subdivisions require services provided through municipal facilities which are constructed, in part, through dedication of land necessary to construct the facilities. Absent land dedication by new subdivisions, sufficient land may not be made available at the time of subdivision to provide necessary services to new residents. In order to provide public services, the Town requires certain dedications of land or, in the appropriate circumstances, payment of fees-in-lieu of such dedication. It is the intent of this Section that new development pay its proportionate or pro rata share of the costs attributable to the new growth, thereby relieving the public generally from subsidizing the cost of improvements and facilities attributable to new development. As a condition of approval, applicants for each residential subdivision of land within the Town shall dedicate land or, where appropriate, pay a fee in lieu of dedication for schools and parks in accordance with this Section. The location of dedication required shall be mutually agreed upon by the Town and the applicant. The Town may consider recommendations from other agencies which would be directly involved in the development and services of these areas.

#### Sec. 19-3-320. - Dedications and conveyances; general.

- (a) The amount, location and nature of land interests to be dedicated shall be established prior to final approval. Land dedications and/or conveyances shall be made as a condition of final plat approval and shall be implemented in one (1) of the following ways:
  - (1) A fee simple dedication to the Town granted via plat note on the final plat.
  - (2) A fee simple conveyance to the Town granted via general warranty deed.
  - (3) A fee simple conveyance to a homeowners' association granted via warranty deed may be acceptable for open space, if approved by the Town.
  - (4) Payment of fees-in-lieu of land dedications where permitted and approved by the Town.
- (b) Whenever a subdivision application involves land that is to be dedicated and/or conveyed to the Town, the applicant shall submit, with the final plat application, a warranty deed to transfer such property to the Town, together with a title insurance commitment indicating that the land is owned by the applicant free and clear from all liens, encumbrances and restrictions. Title insurance shall be provided by the applicant in an amount equal to the approximate value of the property to be dedicated and/or conveyed, as approved by the Town. The executed deed, if applicable, and the payment of the premium for the title insurance policy shall be delivered to the Town prior to the recording of the final plat.

#### Sec. 19-3-330. - Land dedication standards.

- (a) This Section establishes the characteristics of land which is eligible for dedication for the listed public purposes. In no case may land dedicated for public use include steep slopes, hazardous geologic formations, adverse topography or other features that may be harmful to the health, safety or welfare of the public.
- (b) Land dedicated for public park use:

- (1) May include open space, historical or natural features and proposed public areas;
  - (2) Shall lend itself to utilization for active or passive recreational use such as a public park, picnic area, trails, ball fields or recreational structures and shall include a minimum of ninety percent (90%) of land with a slope of ten percent (10%) or less, unless approved by the Town;
  - (3) Shall not include steep slopes, hazardous geologic formations, adverse topography or other features that may be harmful to the health, safety or welfare of the public, unless approved by the Town;
  - (4) Shall include the dedication of adequate water rights to irrigate the land for the intended purpose;
  - (5) Shall be designed to link open lands, trails, and other major components of the Town's public recreational system;
  - (6) Shall not include land developed for stormwater control unless the design of any recreational amenities therein renders the public safe from any hazard; and
  - (7) Shall not be less than three thousand (3,000) square feet in size unless approved by the Town.
- (c) Land dedicated for trail use:
- (1) Shall meet the requirements of Subsection (b), subparagraphs (1) through (6) above.
  - (2) Shall be made in the form of a public easement or right-of-way, as determined by the Town;
  - (3) Shall be located in such a manner as to protect the safety of trail users, shall be at least ten (10) feet in width but in all cases adequate to safely facilitate the projected users and uses of the trail;
  - (4) Shall be located to provide direct and convenient access, where possible, to the public trail system for residents within the subdivision and adjacent property; and may overlap with other easements or rights-of-way provided that any such overlap does not compromise the functional use of either the trail or the right-of-way or easement being overlapped.
- (d) Land dedicated for schools; if required by the Board of Trustees:
- (1) Shall be submitted for review and recommendation by the East Grand School District as to size and location; provided, however, the Board of Trustees shall have final authority to determine the eligibility of such land for school dedication.

Sec. 19-3-340. - Fees-in-lieu of dedication.

- (a) In lieu of any dedication of land required by this Division, the Town may request and, if requested, the applicant shall make a payment to the Town if:
  - (1) The Town determines that the amount or quality of land to be dedicated by the applicant would not be of adequate size or quality to achieve the purpose of the dedication; or
  - (2) The Town determines that the dedication of land would not serve the health, safety or welfare of the public.
- (b) The amount of the payment in lieu of any land dedication shall be determined as follows: multiply the fair market per acre value of the entire property proposed for subdivision, as of the date immediately prior to approval of the final plat, by the total acreage of land that is required for dedication.
- (c) The fair market acre value of land, for purposes of determining the amount of a payment in lieu of land dedication, shall be determined by mutual agreement between the Town and the applicant. In the event of inability of the above parties to agree on the fair market acre value of the subject land,

an independent real estate appraisal shall be obtained by the Town at the applicant's cost. The value determined by the appraisal shall be binding upon the Town and the applicant.

- (d) Payments made under the requirements of this Section shall be made payable to the Town. All moneys collected by the Town shall be deposited in an interest-bearing account which clearly identifies the category, amount or fund of capital expenditure for which the moneys were collected. Each such category, account or fund shall be accounted for separately. Any interest or other income earned on such moneys shall be credited to the account. The Town shall receive such funds either upon annexation of the land area to the Town or at the time of final plat approval.
- (e) Funds may be withdrawn from the interest-bearing account only for the acquisition of reasonably necessary sites and land areas or for capital outlay purposes for parks, trails, recreational facilities or development of sites for those purposes, or, as appropriate, for transfer to the East Grand School District for growth-related planning functions by the School District for educational purposes.

#### Sec. 19-3-350. - Transfer to school district.

Land conveyed to the Town for public school sites shall be transferred and conveyed to the East Grand School District upon written request by the School District. Funds paid to the Town in lieu of dedication of land areas for public school sites shall be made available to the School District upon written request by the District.

#### Sec. 19-3-360. - Substitute land dedication.

As an alternative means of satisfying the required dedication of land within a subdivision as provided by this Division, an applicant may offer to the Town a substitute dedication of land of equivalent size owned by the applicant that is located outside of the proposed subdivision; provided, however, that such land dedication meets the criteria of Section 19-3-310 (Purpose) and 19-3-330 (Land dedication standards). Nothing herein shall obligate the Town to accept such substitute dedication. The Town shall not accept any substitute dedication located more than three (3) miles from the Town boundary existing at the time of subdivision.

#### Sec. 19-3-370. - Site specific dedication study.

In the event that the applicant disagrees with the Town's determination concerning dedication of land and/or payment in lieu of dedication of land as required by this Division, the applicant may request a continuation of any subdivision processing and review by the Town, and the applicant may prepare a study evaluating the demand for public facilities made necessary or generated by the proposed development. Such study shall be undertaken at the applicant's cost by a licensed professional engineer or other professional approved in advance by the Town. To the greatest extent possible, the study shall include an evaluation of the Town's present supply or capacity and present demand for all public facilities and/or services required by the proposed development. The study shall identify and quantify the additional demand placed upon such public facilities and/or services by the proposed development. The study shall identify the necessary public land and improvements required to be dedicated or constructed by the applicant in order to serve the demand generated by the proposed development. Such study shall be considered by the Town in determining the dedication of land required by this Division for the proposed development.

Sec. 19-3-380. - Waiver of requirements.

The Town may waive the required dedication of land or the payment in lieu of dedication required by this Division in the following cases:

- (1) When the project has already been fully developed and the subdivision of land is necessary to bring the land into conformance with the as-built or as-constructed development; or
- (2) When the development does not result in any increase in demand for schools and parks or open space.

## Division 4- Completion and Maintenance of Improvements

### Sec. 19-3-405. – Purpose.

The purpose of this Division is to establish and govern the manner in which public improvements required to serve the subdivision shall be built, inspected, and guaranteed. The requirements in this Division are separate and apart from the requirements for land dedication in Division 3 of this Article. The applicant shall be required to complete all public and private required improvements as specified in these regulations and as provided on the final plat and all supplemental plans and documents, including construction drawings and specifications, approved by the Town (the "Final Plat Documents"). As a condition of approval of any final plat or major site plan, the applicant and the Town shall agree on the type, location and extent of all required improvements, depending on the characteristics of the proposed development and its relationship to the surrounding area. Failure to reach agreement on all such matters shall be grounds for denying approval of the final plat or major site plan. All required improvements shall be constructed at the applicant's expense, in accordance with Chapter 14 of this Code, *Design Criteria and Construction Standards*.

### Sec. 19-3-410. - Subdivision improvements agreement required.

The subdivision improvements agreement (SIA) is a written contract between the Town and the applicant providing for construction of the required improvements, with collateral security to guarantee completion of such improvements as provided in these regulations. No subdivision plat shall be signed by the Town or recorded in the office of the Grand County Clerk and Recorder, and no building permit shall be issued for any subdivision or development with required improvements, until a SIA between the Town and the applicant has been executed. Such agreement shall include a description of required on-site and off-site improvements, an estimate of the cost of such improvements, the form of guarantee for the improvements and any other provisions or conditions deemed necessary by the Board of Trustees to ensure that all improvements will be completed in a timely, quality and cost-effective manner. A model SIA is provided in Appendix 3. The agreement shall be recorded in the office of the County Clerk and Recorder and shall run with the land and bind all successors, heirs and assignees of the applicant. Other agreements or contracts setting forth the plan, method and parties responsible for the construction of any required improvements may also be required.

### Sec. 19-3-415. - Types of improvements.

The SIA shall address the following types of improvements unless waived by the Town:

- (1) Public streets and roadway systems and associated lighting, signage, striping and other devices, bridges and structures, curbs, gutters, valley pans and street drainage.
- (2) Public utilities and services. Water, fire hydrants, sewer.
- (3) Public and private drainage. Stormwater detention and water quality facilities, drainage ditches, flood prevention and flood mitigation improvements.
- (4) Public pedestrian facilities. Sidewalks, trails and associated lighting.
- (5) Public and private revegetation, erosion control devices and landscaping.
- (6) Public recreation facilities.
- (7) Additional on or off site private improvements may be included in an improvement agreement at the discretion of the Town if said improvements are necessary for efficient and orderly development and where the community may be negatively impacted if the improvement is not completed in a timely manner.

Sec. 19-3-420. - Costs of improvements.

All required improvements shall be constructed by the applicant, at its expense, without reimbursement by the Town; provided that the Board of Trustees may, upon application and at its direction, approve the creation of a special district or improvement district under state law to construct and/or finance the construction of required improvements. If the applicant does form or cause to be formed a special district or improvement district for the purposes identified in this Division, the Town shall not release the applicant from its obligations under any SIA.

Sec. 19-3-425. -Guarantee required.

- (a) Suitable collateral to ensure the completion of required improvements, as stipulated in the SIA, shall accompany the final plat submission. The collateral shall be no less than one hundred twenty-five percent (125%) of the estimated costs of all subdivision improvements. The collateral shall be in the form of a letter of credit, cash deposit or other such legal assurance as may be approved by the Board of Trustees. After preliminary acceptance, and with approval of the Board of Trustees, the performance guarantee may be reduced to an amount not less than twenty percent (20%) of the initial performance guarantee to guarantee performance during the warranty period. A corporate surety warranty bond in that amount may be substituted as the performance guarantee for the warranty period, provided that the applicant also provides a cash deposit in the amount of five thousand dollars (\$5,000.00) or ten percent (10%) of the amount of the warranty bond, whichever is greater, as additional security to the Town.
- (b) No collateral drawn upon a company, bank or financial institutional having any relationship to the applicant or any principal, director, officer or shareholder of the applicant (other than the relationship of depositor or checking account holder) shall be acceptable. The Town may reject any security for any reason.
- (c) If collateral is provided in the form of a letter of credit or deposit arrangement that includes an expiration date, the applicant shall provide evidence of extension of such expiration or replacement of equivalent collateral in a form acceptable to the Town. Failure to provide proof of such extension or replacement collateral no later than thirty (30) days prior to the date of expiration shall be cause for the Town Staff to draw on the collateral funds without the necessity of any notice of default or other notice to the applicant. Funds withdrawn in this manner may be expended as necessary to correct, repair and/or construct the required improvements or may be released upon provision of replacement collateral in a format acceptable to the Town.
- (d) The estimated cost of subdivision improvements shall be certified by a licensed Colorado Professional Engineer. Construction of all subdivision improvements shall be guaranteed pursuant to a SIA, in the form attached as Appendix 3.

Sec. 19-3-430. -Time for completion.

The time allowed for the completion of required improvements shall be as provided in the SIA; or, if no time for completion is specified in the SIA for some or all required improvements, such improvements shall be completed within two (2) years from the recording date of the final plat or issuance of the development permit, whichever is applicable. The Board of Trustees may extend such time for completion upon request from the applicant, for good cause shown.

Sec. 19-3-435. - Construction standards; progress inspections.

- (a) The required improvements shall be constructed in a good and workmanlike manner, strictly in accordance with the final plat documents and, to the extent not otherwise provided in such final plat documents, in accordance with all applicable laws, ordinances, codes, regulations and minimum design criteria and construction standards applicable in the Town. There shall be no changes made

in the approved final plat documents, including construction drawings and specifications, without the prior written approval of the Town. Periodic inspections may be made by the Town Staff or designated consultants during the progress of the work to confirm that the required improvements are being constructed in compliance with such requirements. The applicant shall pay for these periodic inspections. Such inspections may be conducted in a manner, in such areas and at such times, whether scheduled or unannounced, as deemed appropriate by the Town Staff or consultants. Such inspections shall not relieve the applicant of the responsibility for ensuring that the required improvements are constructed in accordance with the standards set forth herein, nor shall it relieve the applicant of the applicant's warranty obligations as provided in these regulations.

- (b) The applicant shall maintain, in a reasonable, suitable and proper condition for travel, ingress and egress, all streets located within the subdivision until such time as the streets are accepted for maintenance by the Town, or until any such private streets are accepted for maintenance by the homeowners' association or other responsible person or entity approved by the Town.

#### Sec. 19-3-440. -Construction phasing.

Inspection and preliminary acceptance of a portion of the required improvements in one (1) or more phases of construction shall occur only if specifically provided for in the SIA, or as determined appropriate by Town Staff, at its discretion. Otherwise, all required improvements shall be completed before preliminary acceptance will be granted. Any proposed phasing must be logically related to the project as a whole and allow for the efficient integration of the phased required improvements into the Town's infrastructure. The Town Staff may require adjustments in previously approved phasing schedules when deemed necessary to accommodate changed conditions or unforeseen circumstances.

#### Sec. 19-3-445. -Preliminary acceptance.

- (a) Upon completion of all required improvements or an approved phase of required improvements, the applicant shall notify the Town in writing and request an inspection of the completed improvements. Those items not required for preliminary acceptance may, in the discretion of the Town Staff, include lighting, striping of streets, public and private revegetation, landscaping, trails and associated lighting, and public recreational facilities. Prior to the inspection, the applicant shall provide to the Town the following documentation:
  - (1) Adequate assurance by a licensed Colorado Professional Engineer that the required improvements have been constructed and completed in accordance with the approved plans and specifications;
  - (2) "As-built" drawings for the required improvements, in accordance with Chapter 14 of this Code, *Design Criteria and Construction Standards*;
  - (3) All test reports and logs required by the plans and construction drawings and applicable regulations and construction standards; and
  - (4) An original affidavit or affidavits identifying all contractors, subcontractors and materialmen who supplied labor or materials for the improvements and verifying that all have been paid, together with a lien waiver from each such contractor, subcontractor and material supplier acknowledging payment and waiver of any lien rights for all work completed prior to the date inspection and preliminary acceptance is requested, subject to any retainage withheld from the contractor or supplier during the warranty period pending final acceptance.
- (b) Inspection and preliminary acceptance. Upon satisfaction of these requirements and subject to satisfaction of any additional requirements provided in these regulations or the SIA, the Town Staff or designated consultants shall inspect the completed improvements within ten (10) business days of the applicant requesting said inspection. If the Town's Staff or designated consultant finds that the specified improvements have been completed substantially in accordance with the plans and other requirements of the SIA and these regulations, the Town Staff shall issue a letter evidencing

preliminary acceptance within ten (10) business days after the inspection date. The Town shall not be required to make inspections during any period when climatic conditions interfere with making a thorough inspection, as determined by the Town representative making the inspection. If, upon inspection of the completed improvements, the Town Staff or designated consultant finds that any of the improvements have not been completed substantially in accordance with the plans and other requirements of the SIA and these regulations, the Town Staff or designated consultant shall issue a written notice of deficiencies within ten (10) business days after the inspection specifying which improvements have not been completed substantially in accordance with the plans and other requirements of the SIA and these regulations. All deficiencies must be corrected within ten (10) business days of the receipt of the notice of deficiencies. Such ten-business-day time limit may be extended by the Town if the Town determines that such deficiencies cannot reasonably be remedied within such ten-business-day period. The subdivider shall then notify the Town in writing and request a follow-up inspection of the improvements, and the foregoing provisions of this Paragraph (b) shall be applicable.

- (c) Preliminary acceptance of all or any portion of the required improvements does not constitute a waiver by the Town of the right to draw on the collateral security to remedy any defect in or failure of the required improvements that is detected or which occurs after acceptance of the required improvements, nor shall such acceptance operate to release the applicant from the applicant's warranty as herein provided.
- (d) Upon preliminary acceptance, the Town will assume responsibility for the operation of all public water, sanitary sewer and storm water improvements, if applicable, and for snow removal on accepted public streets. At the Town's discretion, it may elect not to plow any accepted public streets until there is development on individual lots that warrant access.
- (e) Final acceptance shall take place within one (1) year after preliminary acceptance, which period may be extended by Town Staff for up to one (1) additional year. While building permits may be issued for construction within the subdivision prior to preliminary acceptance, no certificates of occupancy may be issued unless and until all subdivision improvements have been preliminarily accepted.

Sec. 19-3-450. -Warranty.

- (a) Warranty. The applicant shall warrant that all required improvements shall remain free from construction defects for a period of one (1) year from the date that the Town preliminarily accepts the improvements as provided in these regulations and the SIA. For landscaping improvements or other vegetation that will be dedicated to the Town, the warranty period shall be two (2) years, and not in any event to be less than two (2) full growing seasons. During such warranty period, any construction defect determined to exist with respect to such required improvements shall be repaired or the improvements replaced, at the Town's option, at the sole cost of the applicant.
- (b) Notice of default; cure period. Except as provided in Paragraph (c) below with respect to emergency repairs, the Town shall provide written notice to the applicant if an inspection reveals that any improvement is defective. The applicant shall have ten (10) business days from the giving of such notice to remedy the defect. Such ten-business-day time limit may be extended by the Town if the Town determines that such defect cannot reasonably be remedied within such ten-business-day period. In the event the applicant fails to remedy the defect within the ten-business-day period or any extension thereof granted by the Town, the Town may utilize the collateral security to correct the defect or exercise any other remedy provided in the SIA. No notice shall be required with respect to emergency repairs except as provided in Paragraph (c) below.
- (c) Emergency repairs. If at any time it appears that the improvements may be significantly damaged or destroyed as a result of a bona fide emergency, an act of God or due to construction failure, the Town shall have the right, but not the duty, to enter upon the property and perform such repairs and take such other action as may be reasonably required in the Town's judgment to protect and preserve the improvements. The Town shall have no duty to inspect the property to identify



emergency situations which may arise. Prior to or concurrent with, or immediately following, taking any action pursuant to emergency repairs, the Town shall make a reasonable effort to locate the applicant and advise him or her of the existence and nature of the emergency. Upon written demand, the applicant shall reimburse the Town for the costs of such emergency repairs. Failure of the applicant to reimburse the Town for the costs of such emergency repairs within fifteen (15) days after demand shall constitute a default under the SIA.

- (d) Final inspection. Approximately sixty (60) days prior to the expiration of the warranty period, the Town shall notify the applicant in writing and schedule a final inspection/walkthrough.

Sec. 19-3-455. -Final acceptance.

Final acceptance of the required improvements by the Town requires formal action by the Board of Trustees, after all required improvements have been completed, inspected and certified for final acceptance by Town Staff. Final release of the performance guarantee requires additional formal action by the Board of Trustees. The Town shall not be required to finally accept any of the required improvements until the Board of Trustees determines that:

- (1) All required improvements have been satisfactorily completed in accordance with the approved plans and specifications and have been preliminarily accepted by the Town;
- (2) All warranty periods provided for in these regulations and the SIA have ended and any defects found during inspection of the required improvements have been satisfactorily remedied by the applicant;
- (3) The applicant has provided and the Town has review and approved any and all conveyance documents required pursuant to these regulations and the SIA;
- (4) The applicant has provided an original affidavit or affidavits identifying all contractors, subcontractors and materialmen who supplied labor or materials for the improvements and verifying that all have been fully paid, together with an original unconditional lien waiver from each such contractor, subcontractor and material supplier acknowledging full payment and waiver of any and all lien rights. The final twenty percent (20%) of the initial performance guarantee shall not be released until the Town receives said affidavits and unconditional lien waivers; and
- (5) All other applicable requirements contained in these regulations, the Town's design and construction standards and the SIA have been satisfied.

Sec. 19-3-460. - Acceptance for maintenance.

At the end of the warranty periods and upon final acceptance of the improvements as provided in this Division, the Town will assume all future repair and maintenance responsibilities with respect to the accepted public improvements, if any. The Town will not assume any responsibility for maintenance and repair of required private improvements, and such responsibility shall remain with the applicant unless it is transferred to a homeowners' association or other responsible person or entity in accordance with the approved subdivision documentation.

- (1) Release of collateral; security/performance guarantee; request for partial release. The applicant may make periodic requests for the partial release of the collateral in accordance with the provisions of this Subsection. All such requests shall be in writing to the Board of Trustees, shall be for a reduction of at least twenty percent (20%) of the total original performance guarantee, and shall correspond with a portion of the required improvements that have been substantially constructed or installed in accordance with these regulations and the SIA. No more than one (1) request for a partial release of the performance guarantee may be submitted each month. No reduction of the performance guarantee shall be allowed which would reduce

the amount of collateral to less than one hundred twenty-five percent (125%) of the estimated cost of any remaining or incomplete improvements; and the final twenty percent (20%) of the initial performance guarantee (which may be in the form of a warranty bond and cash deposit, as provided in Section 19-3-245 above) may not be released until all of the required improvements have been preliminarily accepted, the one-year warranty period has run, the applicant has complied with all requirements specified in these regulations and the SIA and the improvements are finally accepted by the Town. There shall be no reduction in the amount of the performance guarantee if the applicant is in default under the SIA.

- (2) Town use of performance guarantee. Except as otherwise provided in the SIA, the Town may draw upon and utilize the collateral security to pay for the construction, completion or correction of the required improvements or to restore and revegetate the site in the event the applicant fails to timely perform the obligations provided in this Section or is otherwise in default under the terms of the SIA. Application of the collateral may include covering such costs, including reasonable engineering and attorney's fees, as are necessary for the Town to administer the construction and correct, repair or complete the required improvements and to enforce the SIA and any bond or other undertaking given as the performance guarantee.
- (3) Conveyance of improvement other than by dedication on plat. As to any of the improvements which have not previously been dedicated on the final plat of the subdivision, such improvements, if designated and intended as public improvements, shall be conveyed to the Town or other appropriate public entity, or if designed or intended as private improvements, shall be conveyed to a homeowners' association or other responsible entity approved by the Town. Such conveyance shall be made prior to final acceptance of the improvements. Upon the determination of the Town's Staff that such improvements have been satisfactorily completed and that acceptance of such improvements by the Town is proper and in accordance with the provisions herein, conveyance shall be made by general warranty deed (if real estate) or bill of sale with full warranty of title (if personal property), free and clear of all liens, encumbrances and restrictions (except for permitted exceptions as provided in the SIA), and the specific instrument of conveyance shall be acceptable as to form and substance by the Town Staff. Conveyances of fee title, easements or other real property interests shall be accompanied by a policy of title insurance as required by the Town's regulations, if applicable.

Sec. 19-3-465. - Waiver of requirements.

- (a) At the time of final plat approval, the Board of Trustees may defer or waive, subject to appropriate conditions, the provision of any or all subdivision improvements as, in its judgment, are not requisite in the interests of public health, safety and welfare, or which are inappropriate because of inadequacy or lack of connecting facilities. Any determination to defer or waive the provisions of any subdivision improvements must be specifically stated on public record, including the reasons for the deferral or waiver.
- (b) Whenever it is deemed necessary by the Board of Trustees to defer the construction of any subdivision improvements required because of incompatible grades, future planning, inadequate or nonexistent connecting facilities, or for other reasons, the applicant shall pay its share of the costs of the future improvements to the Town prior to the Planning Commission and Board of Trustees signing the final plat, or the applicant may execute a SIA secured by collateral guaranteeing completion of the deferred subdivision improvements upon demand of the Town.

## Division 5 – Definitions

### Sec. 19-3-510. – Words and terms.

The following words and phrases shall have the following meanings when used in this Chapter, unless the context otherwise requires:

*Acceptance* means formal action by the Board of Trustees whereby subdivision improvements which constitute public property are accepted for maintenance. This action can only be taken after the improvements are completed and inspected by authorized personnel and certified for acceptance.

*Adequate public facilities* means facilities determined to be capable of supporting and servicing the physical area and designated intensity of the proposed subdivision as determined by the Town based upon specified levels of service. See *subdivision improvements*.

*Apartment* means a structure located on a single lot or parcel of land, containing five (5) or more individual dwelling units which are not platted as condominium or townhome units and all of which units are under single ownership.

*As-built plat* means the amended final plat that shows exact locations of all public and private improvements on a development site. For condominiums, *as-built plats* shall also include horizontal and vertical layouts of the airspaces.

*Block* means a tract of land bounded by streets, or a combination of streets and public parks, cemeteries, railroad rights-of-way or boundary lines of municipalities.

*Condominium* means a type of ownership which consists of a separate fee simple estate in an individual airspace unit of a multi-unit property, together with an undivided fee simple interest in common elements.

- a. *Individual air space* means any enclosed room or rooms occupying all or part of a floor in a building of one (1) or more floors to be used for residential, professional, commercial or industrial purposes and capable of and intended to be conveyed as separate interests in real property.
- b. *Common elements*, unless otherwise provided in the declaration or by written consent of all the condominium owners, means the land or the interest therein on which a building or buildings are located; the foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, entrances and exits of such building or buildings; the basements, yards, gardens, parking area and storage spaces; the premises for lodging of custodians or persons in charge of the property; installations of central services such as power, light, gas, water, heating, refrigeration, central air conditioning and incinerating; the elevators, tanks, pumps, motors, fans, compressors, ducts and in general all apparatus and installations existing for common use; such community and commercial facilities as may be provided for in the declaration; and all other parts of the property necessary or convenient to its existence, maintenance or safety in common use.
- c. *Condominium unit* means an individual air space unit, together with the interest in the common elements appurtenant to such unit.
- d. *Declaration* means an instrument which defines the character, duration, rights, obligations and limitations of condominium ownership.

*Dedication* means an appropriation of land to some public use, made by the owner and by which the owner reserves to himself or herself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.

*Developer*, used interchangeably with the terms *subdivider* and *applicant*, means the owner of land proposed to be subdivided or his or her representative, who is responsible for any undertaking that requires review and approval under these regulations.

*Easement* means authorization by a property owner for another to use the owner's property for a specified purpose. Authorization is generally established in a real estate deed or on a recorded plat.

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

*Lot*, used interchangeably with the term *parcel*, means a tract, plot or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or possession or for building development. A piece of property which exists by virtue of a separate legal description or a separate deed, either of which has been recorded in the office of the County Clerk and Recorder.

*Major subdivision* means all subdivisions not classified as minor subdivisions, including but not limited to subdivisions of five (5) or more lots, or any size subdivision requiring any new street or extension of the local Town facilities or the creation of any public improvements.

*Minor subdivision* means any subdivision containing not more than four (4) lots or dwelling units fronting on an existing street, not involving the construction of a new street or road or the extension of Town facilities, and otherwise meeting the requirements of this Chapter.

*Parcel*, used interchangeably with the term *lot*, means a piece of property which exists by virtue of a separate legal description or a separate deed, either of which has been recorded at the office of the County Clerk and Recorder.

*Plat amendment* means modifications to an approved and recorded plat that may involve corrections to lot lines and other specifications.

*Preliminary plat* means a map of the proposed subdivision drawn and submitted along with other supporting documents in accordance with these regulations.

*Reception number* means the number assigned to all documents recorded in the office of the County Clerk and Recorder. Amended and as-built plats must show the reception numbers of all previously recorded plats.

*Right-of-way* means a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sewer main, stormwater drain or trees or for another special use. The usage of the term *right-of-way* for platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sewer mains, stormwater drains, trees or any other use involving maintenance by a public agency shall be dedicated to public use by the subdivider.

*Sketch plan* means a map of the proposed subdivision, drawn and submitted in accordance with the objectives of these regulations to evaluate development feasibility and design characteristics at an early planning stage.

*Street, private* means a suitable improved private road as determined by the Town, which provides ingress and egress to and from a subdivision by residents and members of the public, and emergency vehicle access to abutting properties without undue hazard to public property or residents.

*Street, public* means a right-of-way reserved or dedicated for public use which provides for vehicular traffic, further classified and defined in Chapter 14 of this Code, *Design Criteria and Construction Standards*.

*Subdivider* means any person who: (a) having an interest in land, causes it, directly or indirectly, to be divided into a subdivision; or (b) directly or indirectly sells, leases or develops, offers to sell, lease or develop or advertises to sell, lease or develop any interest, lot, parcel site, unit or plat in a subdivision; or (c) engages directly or through an agent in the business of selling, leasing, developing or offering for sale, lease or development a subdivision or any interest, lot, parcel site, unit or plat in a subdivision; and (d) is directly or indirectly controlled by or under direct or indirect common control with any of the foregoing.

*Subdivision* means any parcel of land which is to be used for condominiums, townhomes, apartments containing two (2) or more dwelling units or any other multiple-dwelling units, unless such land was previously subdivided and the filing accompanying such subdivision complied with requirements of these regulations with respect to the type and density of such proposed use; or any parcel of land which is to be divided into two (2) or more lots, tracts, parcels, plats, sites, separate interests (including leasehold interests), interests in common or other division for the purpose, whether immediate or future, of transfer of ownership or for building or other development. Unless the method of disposition is adopted for the purpose of evading the requirements of these regulations, the term *subdivision* shall not apply to any of the following divisions of land or interests in land:

- a. A division of land by order of any court in the State or by operation of law;
- b. A division which is created by a security or unit of interest in any investment trust regulated under the laws of the State or any other interest in an investment entity;
- c. A division which creates cemetery lots;
- d. A division which creates an interest in oil, gas, minerals or water which is severed from the surface ownership of real property;
- e. A division which is created by the acquisition of an interest in land in the name of a husband and wife or other persons in joint tenancy or as tenants in common, and any such interest shall be deemed as only one (1) interest; and/or
- f. A division which is created by the conveyance of real property to the Town in satisfaction of land dedication, subdivision, annexation or other Town requirements.

*Subdivision Improvement Agreement (SIA)* means a written contract entered into by the Town and the applicant providing for and describing conditions of approval for subdivision improvements to be constructed as part of a subdivision development. It shall, at a minimum, set forth construction specifications for required subdivision improvements, provide dates for completion of the improvements and identify the terms and conditions for the acceptance of the improvements to the Town. It shall also provide for such financial assurances as necessary to ensure the proper and timely installation of improvements.

*Subdivision improvements* means the physical improvements to property made by a subdivider to provide needed public facilities or services, and/or to protect public health, safety and welfare. These are public and private improvements that are necessary to provide the basic infrastructure for the subdivision, and include improvements for which the Town may ultimately assume responsibility for maintenance and operation. Therefore, all such improvements shall be properly bonded for or secured by a letter of credit or other acceptable legal instrument. These improvements include, but are not limited to, the following:

- a. Roads, streets, bridges, structures, curbs, gutters, sidewalks and trails;
- b. Potable water production, treatment and distribution systems;
- c. Sanitary sewer collection system;

- d. Storm sewers or storm drainage system, as required;
- e. Traffic signs, striping, signals, lights and lighting;
- f. Street name signs at all intersections and along roadways;
- g. Permanent reference monuments and monument boxes;
- h. Underground telephone, electric and gas lines;
- i. Landscaping;
- j. Erosion control devices;
- k. Revegetation;
- l. Open space, parks and recreation areas;
- m. Systems and/or facilities for the transportation of people;
- n. Temporary and permanent school buildings, fire stations, police stations, public works maintenance facilities, open space, parks and recreation areas;
- o. Property, easements and rights-of-way which may be required to carry out the purposes of the project;
- p. Underdrains;
- q. Necessary floodway improvements;
- r. Necessary irrigation ditch waterway improvements; and
- s. Any other improvements deemed necessary by the Board of Trustees.

*Townhome* means a type of ownership which consists of a fee simple interest in an individually deeded lot and residential dwelling unit, and including an interest in limited and/or general common areas, subject to all rights and duties as provided in the recorded declaration of covenants, conditions and restrictions for the development, which may include membership in a homeowners' association.

- a. The dwelling unit may consist of a single-family dwelling constructed on an individually deeded lot, or as part of a series of two (2) or more dwellings, each of which is either attached to the adjacent dwelling by party walls or is attached with no visible separation between walls or roof.
- b. The term *common areas* will be defined in each declaration and will include such items as the following: open space, open land, greenbelts, yards, parking areas or storage spaces located on the property owned and controlled by the owners through the homeowners' association, but which are not part of individual townhome lots, and all community and commercial facilities or other parts of the property necessary or convenient to the existence, maintenance or safety of all townhomes.
- c. The term *declaration* refers to an instrument which defines the character, duration, rights, obligations and limitations of townhome ownership.

## ARTICLE 4 - DEVELOPMENT STANDARDS

<b>Division 1</b>	<b>Site Design Standards</b>
19-4-105	Lots
19-4-110	Blocks
19-4-115	Monuments
19-4-120	Public rights-of-way and easements
19-4-125	Natural features
19-4-130	Wildlife habitat
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**Division 2****Parking Standards**

19-4-210	Purpose
19-4-220	General parking requirements
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19-4-270	Parking lot design requirements
19-4-280	Parking lot landscape requirements



## ARTICLE 4 - Development Standards

### Division 1 - Site Design Standards

#### Sec. 19-4-105. – Lots.

- (a) Lot dimension. Lot dimensions shall comply with the minimum standards of Article 2 of this Code.
- (b) Lot arrangement. Lots with unusual configurations will be discouraged, unless topography or other physical limitations of the property suggest otherwise.
- (c) Access to lots and double-frontage lots.
  - (1) Each lot shall have a twenty (20) foot minimum access to a public or approved private street.
  - (2) Access from arterial and/or collector streets. Lots shall not derive access exclusively from an arterial or collector street.
  - (3) Double-frontage lots. Double-frontage and reversed-frontage lots shall be avoided except where necessary to provide separation from incompatible land uses or to overcome specific disadvantages of topography and/or orientation.
- (d) On a corner lot, the shorter street frontage shall be considered the front lot line.

#### Sec. 19-4-110. – Blocks.

- (a) Blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depths. Exceptions to this block width shall be permitted in blocks adjacent to major streets, railroads or waterways, or in the case of unusual or difficult topography.
- (b) The lengths, widths and shapes of blocks shall be such as are appropriate for the Town, limitations of topography and the type of development contemplated.
  - (1) Block lengths in residential areas shall not exceed two thousand two hundred (2,200) feet or twelve (12) times the minimum lot width required in the zoning district, nor be less than four hundred (400) feet in length.
  - (2) Wherever practicable, blocks along arterial and collector streets shall be not less than one thousand (1,000) feet in length.
- (c) In long blocks, the reservation of an easement through the block to accommodate trails, utilities, stormwater drainage facilities and/or snow storage may be required.

#### Sec. 19-4-115. – Monuments.

All monuments and surveys in a subdivision, including all interior lot corners, shall be set in accordance with Articles 50 and 51 of Title 38, C.R.S., prior to the recordation of the final plat.

Sec. 19-4-120. - Public Right-of-way and easements.

(a) General.

- (1) All streets, water distribution, sanitary sewer collection and stormwater facilities shall be located within a dedicated public right-of-way or easement unless otherwise approved by the Town.
  - (2) Easements shall be provided for all gas, electric, telephone and cable television utility lines, in accordance with the requirements of the utility provider.,.
- (b) Specifications. Refer to Chapter 14 of this Code, Design Criteria and Construction Standards. For easements other than a Town-owned utility, refer to the individual gas, electric, telephone and/or cable television utility provider.

Sec. 19-4-125. - Natural features.

- (a) The design and development of a site or subdivision shall preserve, insofar as it is possible, the natural terrain, natural drainage, existing topsoil, unusual rock formations, lakes, rivers, streams and trees. The visual destruction of natural land forms caused by cutting, filling, grading or vegetation removal shall be minimized.
- (b) Significant vegetation, including dominant or mature trees and shrubs, shall be retained where possible. When regenerating sites, replacement trees or shrubs shall be selected from indigenous species native to the region. Provisions shall be made to provide adequate hydration and appropriate soil for the replacement trees to ensure successful growth.
- (c) Dredging and/or filling of wetlands and construction in or directly adjacent to any watercourse, such as culvert or bridge installations, shall require measures to protect water quality and channel stability. In all cases, construction shall conform to applicable U.S. Army Corps of Engineers permitting requirements.
- (d) Archeological, historic sites and similar irreplaceable assets shall also be preserved.

Sec. 19-4-130. - Wildlife habitat.

- (a) Site design shall avoid development in or near significant wildlife habitat, as determined by the Colorado Division of Parks and Wildlife.
- (b) Buffer zones, as recommended by the Colorado Division of Parks and Wildlife, shall be provided and maintained between wildlife habitat areas and developed areas.
- (c) Removal of vegetation shall be prohibited within identified wildlife habitat areas and buffer zones.
- (d) Historic access for managing wildlife shall be maintained.

Sec. 19-4-135. - Geological hazards.

- (a) Based on a finding by a licensed Colorado Professional Engineer, I, no land which is determined to be unsuitable for development by reason of one-hundred-year flooding frequency, high water table, mudflow, rockslide or other potential natural hazard, feature or condition likely to be harmful to the

health, safety or welfare of the Town, its residents or future residents shall be subdivided or developed unless the natural hazards are mitigated in a manner acceptable to the Town.

- (b) In general, development shall not occur on slopes greater than thirty percent (30%) or on land with inadequate drainage unless a part of each lot or tract, sufficient to accommodate a building permit, is deemed buildable by a licensed Colorado Professional Engineer and all mitigation measures necessary to prevent lateral movement and/or slippage of improvements have been approved by the Town Engineer.
- (c) Cut-and-fill slopes shall be kept to a minimum. Graded or filled slopes shall be kept to a three-to-one (3:1) slope or less and designed for long-term stability, unless otherwise approved by the Town.
- (d) Soil types shall be described and/or illustrated in sufficient detail to indicate any potential development problems resulting from groundwater, instability in road excavations and fills, expansive soils and structural bearing strength for building foundations.
- (e) Any subdivision or development located within a Special Flood Hazard Area shall be in conformance with Article 5 of this Chapter, Flood Damage Prevention.
  - (1) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than fifty (50) lots or five (5) acres, whichever is less, if not otherwise provided pursuant to Article 5 of this Chapter.
  - (2) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
  - (3) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

Sec. 19-4-140. – Drainage.

- (a) General. The applicant shall provide data prepared by a licensed Colorado Professional Engineer sufficient to indicate that the drainage from a proposed development will not adversely affect any downstream properties or the community as a whole.
- (b) Lot and adjacent land drainage.
  - (1) Lots shall be laid out so as to provide positive drainage away from all buildings, and individual lot drainage shall be coordinated with the general drainage pattern for the area and to maintain the individual lot drainage on the specific lot as much as possible.
  - (2) The drainage system shall be designed to accommodate not only runoff from the subdivision, but also historic runoff for those areas adjacent to and upstream from the proposed subdivision, as well as its effect on lands downstream.
- (c) Specifications. Refer to Chapter 14 of this Code, Design Criteria and Construction Standards.

Sec. 19-4-145. – Grading.

- (a) Specifications. Refer to Chapter 14 of this Code, Design Criteria and Construction Standards.

Sec. 19-4-150. - Erosion control.

- (a) Erosion and sediment control devices and revegetation shall be incorporated into all new developments.
  - (1) Erosion control plans are required for all developments.
  - (2) All drainage from the site during construction must go through an erosion control device.
- (b) Exposed ground surfaces in any zoning district, as set forth in this Article, shall be paved or covered with a stone screening or other solid materials, or protected with a vegetated growth which is capable of preventing soil erosion and eliminating objectionable dust.
- (c) Specifications. Refer to Chapter 14 of this Code, Design Criteria and Construction Standards

Sec. 19-4-155. - Water quality.

- (a) The applicant shall show evidence and plans to ensure that the proposed development will not result in the degradation of streams, rivers, creeks or other watercourses. This standard shall apply to construction activities, the ultimate use of the land and any off-site snow storage.
  - (1) Runoff from developed impervious surfaces shall drain over grass buffer strips or infiltration devices before flowing into a watercourse.
  - (2) Direct discharges into streams, rivers, creeks or other watercourses are prohibited.
  - (3) All development and construction activities shall be consistent with the requirements of the Clean Water Act and the State of Colorado Stormwater Management Plan (SWMP) requirements, and shall include appropriate best management practices.
- (b) A minimum thirty (30) foot setback from the mean identifiable high water mark on each side of Fraser River, Elk Creek, Leland Creek and Saint Louis Creek shall be protected for water quality.
  - (1) Earth and vegetation disturbance within this setback shall be minimized to protect the integrity of the watercourse.
  - (2) Water diversion facilities, flood control structures, bridges and other reasonable and necessary structures requiring some disturbance within this setback may be permitted.
  - (3) Trails, open space and landscaping may be permitted within this setback at the discretion of the Town.
  - (4) A greater setback, up to one hundred fifty (150) feet, may be required depending on environmental factors such as, but not limited to, soil permeability, the potential for erosion and sedimentation, existing vegetation cover slope, intensity of adjacent land use and wildlife habitat.

Sec. 19-4-160. - Landscaping and screening.

- (a) General. Because landscaping enhances aesthetic appeal and protects the area's unique natural beauty and environment, it is hereby declared to be a benefit to the general public. As such, landscaping shall be subject to regulation and ensured by a performance guarantee.

- (b) Trash and storage area screening. All trash and storage areas are to be completely screened from public view by either landscaping or a fenced-in dumpster enclosure. These areas are to be accessible for easy pickup and delivery. Enclosure materials shall be consistent with building materials and colors.
- (c) Buffers between land uses.
  - (1) Where a residential subdivision borders a railroad and/or highway right-of-way, the Town may require a minimum twenty-five (25) foot buffer strip, in addition to the normal depth of the lot required in the zoning district, between the right-of-way and the subdivision to serve as protection against hazards and undesirable effects of the railroad and/or highway.
    - a. The buffer strip shall contain plantings, landscaped earthen berms, screening, and retention of existing vegetation, fencing or other reasonable measures to substantially reduce adverse impacts.
    - b. No improvements shall be constructed in a manner that would create adverse impacts to the buffered area.
    - c. A plat note may be required to denote that this buffer strip shall permanently remain free of any structures.
  - (2) Where a business, commercial or industrial use abuts residential uses, a landscaped wall or fence with a minimum height of five (5) feet must be placed along such abutting property line.
- (d) Specifications. Refer to Chapter 14 of this Code, Design Criteria and Construction Standards.

Sec. 19-4-165. - Open space.

- (a) General. The amount of open space in a Planned Development (PD) is a negotiable item and is expressed in terms of acres and percentages on the PD District Plan and any of its subparts or development parcels. For all other zoning districts, open space requirements shall be as provided in Article 2 of this Chapter, Zoning.
- (b) Open space in a PD shall be land areas not occupied by buildings or structures and attachments thereto, parking areas, driveways, streets or alleys. Said open space shall be devoted to landscaping, planting, patios, walkways, recreational areas and facilities and preservation of natural features.
- (c) Open space negotiations for a PD are to be carried out in relation to the following criteria:
  - (1) Avoidance of concentrating open space into large areas with the subsequent "packing" of residential areas.
  - (2) Open space and/or landscaping accompanies all types of developments.
  - (3) Larger open space areas are logically connected to each other and to external open spaces via linear path systems.
  - (4) Enhancement of the natural features of a development site.
  - (5) Degree of maintenance of the "pastoral" character of the large open spaces in the region.

- (6) Degree of maintenance and/or development of waterways and bodies in the development as a recreation amenity.
  - (7) Degree of public access to open spaces and recreational amenities.
  - (8) Maintenance of a "balance" between planned open spaces and fees-in-lieu buyouts for public parks as outlined in Article 3 of this Chapter, Subdivision.
- (d) Recreation improvements. Recreation facilities or structures and their accessory uses located in common recreation areas within a PD shall be considered open space as long as total impervious surfaces, including courts and roofs, constitute no more than ten percent (10%) of the total open space negotiated for the development.
- (e) Natural physical characteristics in a PD.
- (1) Streams, lakes, other bodies of water, slopes in excess of twenty percent (20%) and floodplains may be included as open space. Land areas containing identified geologic hazards may not be included in the negotiated open space amounts.
  - (2) Where natural streams or creeks traverse the planned development, the maintenance at a non-disturbance zone of a minimum of thirty (30) feet measured landward from the mean identifiable high water mark on the stream banks shall be dedicated as open space. The Planning Commission may require an increase in this setback distance based on the following criteria:
    - a. Degree of slope adjacent to the stream equals or exceeds thirty percent (30%).
    - b. Highly erodable soils are present.
    - c. The proposed use of the property presents a special hazard to water quality (i.e., the storage or handling of hazardous or toxic materials).
  - (3) Any amount of common or public open space may be left in its natural state except where landscaping plans are required, as long as the recreational needs of the residents of the PD District and the general public are being met in the opinion of the Planning Commission.
- (f) Administration and maintenance. The following provisions shall govern the administration of the common improvements and open space in all PD's amended or approved:
- (1) The final PD Plan shall be approved subject to the submission of legal instruments setting forth a plan or manner of permanent care and maintenance of all common improvements, open space and other facilities provided by the final PD plan. No such instrument shall be accepted until approved by the Town Attorney as to legal form and effect, and the Planning Commission as to suitability for the proposed use of the common facilities, open space and subject recreational facilities. Such documentation shall conform to Section 24-67-105(6), C.R.S.
  - (2) The common open space and other facilities provided may be conveyed to a public agency or private association. If the common improvements, open space or recreational facilities are conveyed to a private association, the developer shall file as a part of the aforementioned instruments, a declaration of covenants and restrictions that will govern the association. Applicants unfamiliar with these legal instruments should consult Article 3 of this Chapter or an attorney familiar with them.

Sec. 19-4-170. – Trails.

- (a) General. It is the policy of the Town to require trails to be dedicated to the Town to provide a means for alternative transportation and recreational opportunities.
  - (1) Subdivision proposals shall include, as a component of the required subdivision improvements, a trail system designed to integrate with established and planned trails in the Town and within three (3) miles of the Town limits.
  - (2) Trails shall be constructed by the applicant and dedicated via easements to the Town or, if outside the Town limits, to the County.
- (b) Location requirements. The applicant shall dedicate and construct trails which are reasonably necessary and convenient to the subdivision, including the following:
  - (1) Trails identified in the Grand County Headwaters Trails Master Plan;
  - (2) Trails that provide access to schools, residential areas, businesses, parks, existing trails, open space, neighborhoods, public lands and other public places;
  - (3) Trails that are encouraged to take advantage of the visual qualities of the area and should be designed to be an alternative to vehicular traffic; and
  - (4) Trails parallel to watercourses.
- (c) Specifications. Refer to Chapter 14 of this Code, Design Criteria and Construction Standards.

Sec. 19-4-175. - Streets and circulation.

- (a) General. The arrangement, extent, width, type and location of all streets shall be designed in relation to existing or planned streets, to topographic conditions, to public convenience and safety and to the proposed use of land to be served.
  - (1) When a change of use is proposed contiguous to an existing street, street improvements may be required at the discretion of the Town Staff or Planning Commission.
  - (2) All public and private streets are to be paved.
    - a. All streets are to be completed and paved before a certificate of occupancy is issued on a structure.
    - b. The paving requirements may be temporarily waived should weather conditions necessitate it or where a separate paving schedule has been agreed to by the Town.
  - (3) All private streets shall be conveyed to a private home or property owners' association.
    - a. If the private association or person owning the private streets should in the future request that any private streets be changed to public streets, the private association or owner will bear the full costs of reconstruction or any other action necessary to make the streets conform to the applicable standards for public streets.

- b. The private association or owner shall also agree that these streets shall be made to conform and be dedicated to public use without any form of public compensation to the private association or owner.
- (b) Access. There shall be a minimum of two (2) vehicular ingress/egress access points to any development over two (2) acres in size. These access points shall be designed to provide smooth traffic flow with controlled turning movements and minimum hazards to vehicular, pedestrian and bicycle traffic. A divided median roadway constitutes a single ingress/egress access point.
  - (1) The provision of two (2) vehicular access points for a development less than two (2) acres in size may be required at the discretion of the Town Staff or Planning Commission, as applicable.
  - (2) Access onto U.S. 40 is controlled and permitted by the Colorado Department of Transportation (CDOT).
- (c) Pedestrian and bicycle circulation. A development site should be laid out in a manner that reinforces the pedestrian orientation of the neighborhood, with benches and other pedestrian amenities encouraged. Where appropriate, the internal circulation system of a development shall provide sidewalks, pedestrian and/or bicycle paths that are physically separated from vehicular traffic.
  - (1) Sidewalks, pedestrian and/or bicycle paths shall be provided as necessary to tie into adjacent existing and proposed sidewalk, pedestrian and/or bicycle paths.
  - (2) The Planning Commission may require, when necessary, pedestrian and/or bicycle overpasses, underpasses or traffic signalization in the vicinity of parks, shopping areas or other uses that may generate considerable pedestrian and/or bicycle traffic and vehicular traffic conflicts.
- (d) Public transit. Where appropriate, covered loading and unloading access points for public transit may be required by the Planning Commission.
- (e) Bridges. If any bridges are to be constructed on public or private ways (roads, streets, paths, etc.), these are to be built at the developer's expense to Town standards and in full compliance with the dredge and fill laws of local, state and federal jurisdictions.
- (f) Street names. All street names shall be shown on the final plat.
  - (1) No street names shall be used which duplicate or may be confused with the names of existing streets in the Town and/or the County.
  - (2) The Planning Commission may accept recommended names for streets from the applicant or choose other names it finds more appropriate. Existing street names shall be used for all extensions or continued alignments of existing streets.
- (g) Specifications. Refer to Chapter 14 of this Code, Design Criteria and Construction Standards.



Sec. 19-4-180. – Utilities.

(a) Water supply.

- (1) Connection required. Each new development within the Town shall be required to connect to the municipal water system.
- (2) Design. The internal water distribution system of each subdivision shall be designed and sized hydraulically to meet the initial and future demands of the proposed subdivision and shall be approved by the Town prior to construction.
- (3) Specifications. Refer to Chapter 14 of this Code, Design Criteria and Construction Standards.

(b) Sanitary sewer disposal.

- (1) Connection required. Each new development within the Town shall be required to connect to the municipal sanitary sewer system.
- (2) Design. Collection systems shall be designed to meet the initial and future demands of the proposed subdivision and shall be approved by the Town prior to construction.
- (3) Specifications. Refer to Chapter 14 of this Code, Design Criteria and Construction Standards.

(c) Other utilities. Proper coordination shall be established between the applicant and the applicable utility companies for the establishment of utility easements, all of which shall be indicated and dedicated on the final plat or via separate instrument.

Sec. 19-4-185. - Snow storage.

(a) General. Snow management is critical in the Town's mountain climate, and adequate space must be provided for the storage of snow.

- (1) A snow storage and/or removal plan shall be required for all multi-family, commercial and mixed-use development.
- (2) Roofs should be designed to either hold snow or shed snow onto appropriate areas. Use of snow guards and protected entries in high risk areas may be required.
- (3) Buildings must be set back from the property line to accommodate snow shedding, or a snow storage easement from the adjacent property owner must be provided.
- (4) An increase in minimum right-of-way or easement widths may be required by the Town to accommodate required snow storage.

(b) On-site snow storage.

- (1) One (1) square foot of snow storage space is required for each three (3) square feet of parking, driveway, walkway and/or loading area to be cleared.
- (2) Snow storage areas shall be graded so that drainage from snow storage areas flows away from adjacent properties and building sites, in accordance with Chapter 14 of this Code, Design Criteria and Construction Standards.

- (3) Snow storage areas shall be designed so that snow is not stored in a manner where, when melting, it directly discharges into any watercourses, streets, pedestrian pathways and/or bicycle pathways. Silt catch and/or detention basins may be required at the discretion of the Town Staff.
  - (4) Snow storage shall not interfere with intersection sight distances, traffic, signage, fire hydrants or water, wastewater, stormwater facilities and parking spaces.
  - (5) Snow storage is prohibited on areas devoted to vehicular and/or pedestrian use (including parking, trails and sidewalks), and in designated drainage courses/ swales.
  - (6) Snow storage shall not be located on or within twenty-five (25) feet of wetlands, or within thirty (30) feet of the high water mark on each side of a watercourse.
- (c) Off-site snow storage. If the development necessitates off-site snow storage, an easement from the adjacent property owner shall be required. The applicant shall show evidence and plans to ensure that the off-site snow storage will not result in the degradation of streams, rivers, creeks or other watercourses, in accordance with Section 19-4-155.

Sec. 19-4-190. - Building design; commercial and mixed use development.

- (a) General. It is the policy of the Town to encourage building designs and materials to be architecturally compatible with the historic, natural and mountain environment of the Town. To accomplish this goal, new development should meet a majority of the following design guidelines:
- (1) Building orientation. Buildings should be oriented parallel to the primary street front. A skewed building orientation should be avoided.
  - (2) Building elements and materials.
    - a. Building facades should incorporate a variety of materials.
    - b. Porches with wooden posts, columns or functional awnings should be incorporated into the building design. All porches and awnings should have an eight-foot minimum clearance.
    - c. Building materials shall be compatible and in harmony with the natural setting of the Town. The use of natural stone masonry, exposed wood structural beams, logs, heavy timbers, stucco and masonry are all acceptable materials. The use of stone or masonry as a foundation up to a height of at least thirty-six (36) inches is encouraged.
    - d. The back of a building shall have the same overall design as the front of a building.
  - (3) Mass. The mass of the building should be compatible to adjacent buildings. Long, uninterrupted exterior walls and/or roof lines should be avoided to break up the mass of the building.
  - (4) Roof elements and design. Where pitched roofs are used, they shall be designed in a manner that provides variation in roof lines to break up large expanses of roof and to add architectural interest to the roof.
  - (5) Colors. Color schemes for both the building and roof should be compatible and found in the natural landscape, such as earth-toned solids (browns, greens, greys, etc.), bedrock and woodland vegetative growth. High-contrast or bright colors, where desired, should be reserved for trim and accent.
  - (6) Windows. Display windows on the first floor should face the primary street frontage and provide visual interest.

- (7) Energy conservation. Buildings should take advantage of a south-facing orientation for passive or active solar heat gain to the greatest extent possible. The implementation and operation of systems or devices which provide an effective means of renewable energy are encouraged.
- (b) Building height in Planned Developments. Proposed height limits may be renegotiated at the PD District Plan amendment stage. Final height of buildings may be negotiated by the Planning Commission at the final PD plan stage and subject to further negotiation and/or the approval of the Board of Trustees. Height negotiations are to be carried out in relation to the following characteristics of the proposed buildings or other improvements:
- (1) Its geographical location;
  - (2) The probable effect on slopes, soils and other hazardous terrain;
  - (3) Adverse visual effect to the adjacent public and private property, rights-of-way or other areas in the immediate vicinity;
  - (4) Potential problems for adjacent public and private sites caused by shadows, loss of air circulation or closing of view;
  - (5) Influence on the general vicinity, with regard to contrasts, vistas and open space;
  - (6) The extent to which potential adverse effects are eliminated or reduced by such factors as spacing between buildings and limitation of the ground areas occupied by such buildings;
  - (7) The extent to which building height will contribute to the environmental amenities and increased efficiency of the development by allowing for more open space, the more efficient provision of utilities and other services, and other desirable effects;
  - (8) Its potential for improving the level of privacy in adjacent residential areas;
  - (9) Its potential for being compatible with the scale of the surrounding natural environmental and built areas; and
  - (10) Public safety considerations.
- (c) Building spacing in Planned Developments.
- (1) Each planned development shall provide reasonable visual and acoustical privacy for buildings. Fences, insulation, walls, barriers, landscaping and sound-reducing construction techniques shall be used as appropriate for the aesthetic enhancement of property and the privacy of its occupants, the screening of objectionable views or uses and the reduction of noise.
- (d) Riverwalk Mixed Use Overlay District. In addition to the provisions of Subsection (a) above, the development of any new building or structure in the Riverwalk Mixed Use Overlay District should be of such a design so as to contribute to the architectural identity of the emerging Riverwalk District.
- (1) Buildings should front on streets, or along the river as may be appropriate, in order to create a sense of enclosure.
  - (2) Parking should be located either behind buildings to screen vehicles from sight or so as to reduce impacts to the pedestrian environment along streets or the river.
  - (3) Building elements and materials should ensure that design within the Riverwalk District reflects the funky/eclectic character of Fraser.

Sec. 19-4-195. - Exterior lighting.

- (a) General. The purpose of exterior lighting is to allow for outdoor illumination levels which are appropriate for the visual task and public safety and security, while minimizing undesirable effects of excessive illumination such as glare, sky glow and light pollution.
  - (1) Exterior lighting shall be minimized and shall be directed to illuminate functional areas only, including all pedestrian access routes and parking areas.
  - (2) Exterior lighting shall be designed, located, placed and shielded to:
    - a. Be architecturally and aesthetically in keeping with buildings and surroundings;
    - b. Create minimum light pollution; and
    - c. Not directly illuminate adjoining property.
  - (3) If the Town Staff deems necessary, a lighting or illumination engineer shall review the proposed type of lighting. All costs associated with the review shall be paid by the applicant.
- (b) Specifications. Refer to Chapter 14 of this Code, Design Criteria and Construction Standards.

## Division 2 - Parking Standards

### Sec. 19-4-210. – Purpose.

The purpose of these regulations is to:

- (1) Allow flexibility in addressing vehicle parking, loading, transportation and access demands of various land uses in different areas of Town;
- (2) Provide enough on-site parking to accommodate the majority of traffic generated by the range of uses which might locate at a site over time;
- (3) Present a menu of strategies to solve parking challenges rather than strict parking space requirements;
- (4) Maintain and enhance a safe and efficient transportation system that is consistent with environmental goals and clean air;
- (5) Ensure that off-street parking, loading, and access demands associated with new development will be met without adversely affecting other nearby land uses and surrounding neighborhoods.

### Sec. 19-4-220. - General parking requirements.

At the time of the erection of a new building or at the time of enlargement or change in use of an existing building within the Town, off-street parking spaces shall be provided as specified in this Division.

- (1) No building permit or other permit shall be issued until a site plan is approved in accordance with Section 19-2-110 of this Chapter that shows the location of parking spaces as well as property that is and will remain available for exclusive use as off-street parking and loading space.
- (2) The subsequent use of property for which the building permit is issued shall be conditioned upon the unqualified continuance and availability of the amount of parking and loading space required by this Division.
  - a. Parking and loading areas are not to be used for the sale, repair or dismantling of any vehicle or equipment.
  - b. Parking and loading areas are not to be used for the sale of any materials, supplies, food or other goods except as may be allowed as a temporary or seasonal use in accordance with Section 19-2-330 of this Chapter.

### Sec. 19-4-230. - Parking space requirements.

- (a) All uses in the Town shall be required to provide for minimum off-street parking as set forth in this Article.
- (b) The total number of required off-street parking spaces shall be calculated based on Table 4.1 below. Where square feet are specified, the area measured shall be the floor area measured as defined by Section 19-2-610 of this Chapter.

**Table 4.1**  
**Required Off-Street Parking Spaces**

Type of Land Use	Minimum Number of Parking Spaces Required
<b>COMMERCIAL USES</b>	
Commercial business, office, retail and personal service uses not otherwise listed	One (1) space for every four hundred (400) square feet of floor area.
Restaurants and eating and drinking establishments	One (1) space for every four hundred (400) square feet of floor area.
Funeral home	One (1) space per four (4) seats.
Hotels and motels	One (1) space per room.
Medical and dental clinics	Four (4) spaces per patient room or one (1) space per two hundred (250) square feet of floor area whichever is greater.
Motor vehicle service and repair facility	Four (4) spaces per service bay plus appropriate stacking area.
<b>INDUSTRIAL USES</b>	
Industrial and manufacturing facilities	One (1) space for every one thousand (1,000) square feet of floor area or one and one-tenth (1.1) spaces per employee whichever results in more parking spaces.
Laboratory and research facilities	One (1) space for every four hundred fifty (450) square feet of floor area.
Wholesale uses and warehouses	One (1) space for every one thousand (1,000) square feet of floor area or one and one-half (1.5) spaces per employee, whichever results in more parking spaces.
<b>INSTITUTIONAL USES</b>	
Assisted living facility	One (1) space per four (4) beds plus one (1) space per each employee.
Child care center	One and one-half (1.5) spaces per teacher plus one (1) space per administrative employee.

Type of Land Use	Minimum Number of Parking Spaces Required
Church or place of worship and assembly	One (1) space for every eight (8) fixed seats, or one (1) space per one hundred (100) square feet without fixed seats, in the principal place of assembly. (Bench capacity is calculated as one (1) seat per twenty inches (24")).
Clubs or fraternal lodges	One (1) space per two hundred (200) square feet of floor area.
Community center	One (1) space for every eight (8) fixed seats, or one (1) space per one hundred (100) square feet without fixed seats, in auditoriums or other places of assembly. (Bench capacity is calculated as one (1) seat per twenty inches (24")).
Elementary and middle schools	One (1) space per classroom, plus one (1) space per three hundred (300) square feet of office, plus one (1) space per eight (8) fixed seats, or one (1) space per one hundred (100) square feet without fixed seats, in the main auditorium.
High schools, vocational or colleges and universities	One (1) space for each employee, plus one (1) space for every five (5) students.
Hospitals	One (1) space per two (2) beds plus one (1) space per employee (maximum shift).
Library or museum	One (1) space per four hundred (400) square feet of floor space, plus one (1) space per two (2) employees.
Theaters, auditoriums or stadiums; meeting rooms	One (1) space for every eight (8) fixed seats, or one (1) space per one hundred (100) square feet without fixed seats, in the principal place of assembly. (Bench capacity is calculated as one (1) seat per twenty inches (24")).
<b>RESIDENTIAL USES</b>	
Accessory dwelling unit (ADU)	One (1) space.
Bed and breakfast	One (1) space per guest room plus two (2) spaces for owner's portion.
Boarding and rooming houses	One (1) space per rooming unit.
Single-family dwelling.	Two (2) spaces.
Multifamily (1 bedroom or studio) dwelling unit.	One (1) space.

Type of Land Use	Minimum Number of Parking Spaces Required
Multifamily (2 bedroom) dwelling unit.	One and one-half (1.5) spaces.
Multifamily (3 or more bedroom) dwelling unit.	Two (2) spaces.
Group home or other group living facility not otherwise listed.	One (1) space per four (4) beds.

- (c) When one (1) building or land use is planned to include a combination of different uses, including accessory uses, the minimum parking requirement will be determined by applying the requirements and standards in Table 4.1 above to each use and structure, resulting in a total parking requirement for the property.
- (1) The minimum number of parking spaces required shall be the sum of the requirements for each separate use.
  - (2) Any partial spaces shall be rounded up to the next whole number.
- (d) The Planning Commission may determine that storage areas for boats, trailers, campers and other recreational vehicles shall be required where the necessity for such facilities has been demonstrated and where such facilities will preserve the required off-street parking for the use of automobiles.
- (e) For uses not listed or not fitting within one (1) of the above categories, the Town Staff shall determine the required number of off-street parking spaces.
- (1) The Town Staff is authorized to apply a minimum off-street parking space requirement for the unlisted use based on the type of activity, intensity, number of employees and similarity to a listed use.
  - (2) The Town Staff is authorized to establish the minimum off-street parking requirement by one or more of the following methods:
    - a. Reference to standard parking resources published by American Planning Association;
    - b. A review of local or national best practices; and/or
    - c. A parking demand study prepared by a traffic engineer.
- (f) Parking in a Planned Development is a negotiable item in terms of space size and amounts but in general shall be provided as per the off-street parking requirements found in Table 4.1.
- (g) A portion of the required off-street parking spaces shall be specifically designated, located and reserved for use by persons with physical disabilities in accordance with the requirements specified in the Americans with Disabilities Act (ADA).



- (1) The required handicap parking space requirements are listed in Table 4.2.

**Table 4.2**  
**Required Handicap Parking Spaces**

Total Spaces In Parking Lot	Handicap Accessible Spaces
1 – 25	1
26 – 50	2
51 – 75	3
76 – 100	4
101 – 150	5
151 – 200	6
201 – 300	7
301 – 400	8
401 – 500	9
501 – 1000	2 percent of total spaces
Above 1,000	20, plus 1 space for each 100 over 1,000 spaces or fraction thereof.

- (2) Additional information on ADA parking requirements, or any updates, can be obtained at 1-800-514-0301 or at [www.accessboard.gov](http://www.accessboard.gov).

Sec. 19-4-240. - Modification of parking space requirements.

- (a) Parking management is often the best solution to parking challenges. Listed below are several policies and programs that may result in a reduction in the number of parking spaces required and a more efficient use of parking resources. The Town Staff may consider such proposals on a case-by-case basis.
- (b) In any non-residential or mixed-use area, the utilization of joint parking facilities to minimize the proliferation of parking areas is encouraged. The Town Staff may reduce the number of required spaces by up to twenty percent (20%) when parking is provided in common for more than one (1) business.
- (c) The Town Staff may allow on-street parking to satisfy the minimum off-street parking requirements in the older sections of the Business District (herein defined as the entire Business District adjacent to the US 40 Corridor from County Road 8 to County Road 804, including Park Avenue, Eastom Avenue, N. Doc Susie Avenue, Fraser Avenue, Eisenhower Drive, Byers Avenue, Railroad Avenue and Mill Avenue) in an effort to encourage infill and redevelopment opportunities.
- (d) The Town Staff may allow on-street parking to satisfy the minimum off-street parking requirements in a Planned Development District or the Riverside Mixed Use Overlay District in an effort to allow greater flexibility and innovations in development and site design.

- (e) Additional right-of-way width may be required by the Town Staff to accommodate for any on-street parking allowed in Subsections (c) or (d) above.
- (f) The Town Staff may allow off-site parking within five hundred (500) feet of the front entry to the building to satisfy the minimum off-street parking requirements. A written agreement governing each affected property and providing for such off-site parking shall be approved by the Town Staff and recorded with the Grand County Clerk and Recorder.
- (g) The Town Staff may require the applicant to develop a contingency-based overflow parking plan to manage and accommodate guests and occasional peak parking demands. Overflow parking areas are not required to be hard surfaced. Alternate surfacing materials may be considered.
- (h) The Town Staff may allow a reduction in commercial off-street parking requirements based on proximity to public transportation. The maximum reduction in the number of parking spaces shall be no more than ten percent (10%) of the total required spaces. Proximity to public transportation is defined as being within two hundred fifty (250) feet of a transportation corridor (herein defined as the US 40 Corridor).

Sec. 19-4-250. - Loading requirements.

- (a) Off-street loading areas shall be required so that vehicles using such loading areas can maneuver safely and conveniently to and from a public right-of-way and complete loading and unloading operations without obstructing or interfering with any public or private right-of-way, parking space or driveway.
- (b) These regulations shall apply to those non-residential land uses which require that goods, merchandise or equipment be routinely delivered to or shipped from that land use.
  - (1) Buildings or structures to be built or substantially altered which receive and distribute material or merchandise by truck shall provide and maintain off-street loading berths in sufficient number and size to adequately handle the needs of the particular use.
  - (2) Required off-street loading spaces shall be provided on the same lot as the use served and shall be surfaced and maintained in a manner consistent with the off-street parking areas for the same use.
  - (3) Off-street loading spaces shall be a minimum of ten (10) feet wide and thirty-five (35) feet in length and shall be designated solely for loading purposes.

Sec. 19-4-260. - Stacking requirements.

The purpose of stacking space requirements is to promote public safety by alleviating on-site and off-site traffic congestion that might otherwise result from the operation of a drive-up or drive-through facility. For all applicable drive-up or drive-through uses, the following off-street stacking requirements shall apply:

- (1) Stacking spaces may be located anywhere on the building site, provided that traffic impacts on and off site are minimized and the location does not create negative impacts on adjacent properties due to noise, light or other factors.
  - a. A stacking space at a drive-in or drive-through window, menu board, order station, designated drop-off zone, or service bay is considered to be a stacking space.
  - b. An area reserved for stacking spaces may not double as a circulation driveway, maneuvering area, or off-street parking space.
- (2) A stacking space shall calculated to be a minimum of eight and one-half (8.5) feet wide and eighteen (18) feet long.
- (3) A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children shall be located on the site of any school having a capacity greater than twenty-five (25) students.
- (4) Drive-in or drive-through facility shall comply with the minimum stacking space standards specified in Table 4.3.

**Table 4.3**  
**Required Vehicle Stacking Spaces**

Type of Use	Number of Stacking Spaces	Measured From
Bank, teller lane	4	Teller window
Bank, ATM	3	Teller machine
Restaurant, with drive through	8	Order box
Pharmacy, with drive through	4	Pick-up window
Car Wash, automatic	6	Bay entrance
Car Wash, self-service	3	Bay entrance
Car Wash, full service	4	Bay entrance
Auto Service Station, gas pump island	30 feet from each end of island	

Sec. 19-4-270. - Parking lot design requirements.

- (a) All parking lots shall be provided with proper ingress and egress.

- (b) All parking areas shall be paved, except as may be provided for contingency-based overflow parking in accordance with Section 19-4-240 (g).
  - (1) All parking and loading areas are to be completed and paved before a certificate of occupancy is issued on a structure.
  - (2) The paving requirements may be temporarily waived should weather conditions necessitate it or where a separate paving schedule has been agreed to by the Town.
- (c) All parking spaces and driveways are to be defined with cribbing, curbing or similar material and parking stalls clearly defined.
- (d) Convenient, accessible and functional snow storage areas shall be provided for parking areas in accordance with Section 19-4-185.
- (e) For parking lots with less than ten (10) parking spaces, all spaces shall measure at least ten (10) feet by twenty (20) feet, except for required handicapped spaces.
- (f) For parking lots with ten (10) or more parking spaces, eighty percent (80%) of the required spaces shall be at least ten (10) feet by twenty (20) feet, while the remainder of the spaces may be reduced in size to nine (9) feet by eighteen (18) feet, except for required handicapped spaces.
- (g) Parking for residential units is to be located no farther than two hundred (200) feet from those units.
- (h) All improvements made to the parking lot, driveways and access roads, including signage, lighting, striping and all other improvements, shall be maintained in a safe manner. Maintenance shall include repairing of potholes and resurfacing and restriping the parking lot, and the removal of snow in compliance with Town standards.
- (i) Specifications. Refer to Chapter 14 of this Code, Design Criteria and Construction Standards.

Sec. 19-4-280. - Parking lot landscape requirements.

- (a) All parking lots and commercial storage and service areas shall be screened from adjacent residential property by the use of landscaping, berms, fences or a combination of landscaping and other structural features approved by Town Staff.
- (b) Specifications. Refer to Chapter 14 of this Code, Design Criteria and Construction Standards.

## ARTICLE 5 - FLOOD DAMAGE PREVENTION

### **Division 1**

#### **Purpose and Applicability**

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### **Division 2**

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19-5-220	Duties and responsibilities of the Floodplain Administrator
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### **Division 3**

#### **Standards**

19-5-310	Basis for establishing the Special Flood Hazard Area (SFHA)
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19-5-340	Standards for areas of shallow flooding (AO/AH Zones)
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### **Division 4**

#### **Definitions**

19-5-410	Words and terms
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## ARTICLE 5 – Flood Damage Prevention

### Division 1 Purpose and Applicability

#### Sec. 19-5-110. Title.

This Article shall be known as the *Flood Damage Prevention Regulations of the Town of Fraser*, and may be so cited.

#### Sec. 19-5-120. Authority.

The Colorado Legislature has, in Title 29, Article 20 of the Colorado Revised Statutes, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Town adopts this Article based on the following findings of fact:

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

#### Sec. 19-5-130. Purpose.

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

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

Sec. 19-5-140. Methods of reducing flood losses.

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

- (1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- (4) Control filling, grading, dredging and other development which may increase flood damage; and
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

Sec. 19-5-150. Application.

This Article shall apply to all Special Flood Hazard Areas (SFHA's) and areas removed from the floodplain by the issuance of a Federal Emergency Management Agency (FEMA) Letter of Map Revision (LOMR-F) within the jurisdiction of the Town.

Sec. 19-5-160. Compliance.

No structure or land shall hereafter be located, altered, or have its use changed within the SFHA without compliance with this Article and other applicable regulations. Nothing herein shall prevent the Town from taking such lawful action as is necessary to prevent or remedy any violation. These regulations meet the minimum requirements as set forth by the Colorado Water Conservation Board and the National Flood Insurance Program (NFIP).

Sec. 19-5-170. Abrogation and greater restrictions.

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

Sec. 19-5-180. Interpretation.

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

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the Town; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

Sec. 19-5-190. Warning and disclaimer of liability.

The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This Article does not imply that land outside the SFHA or uses permitted within such areas will be free from flooding or flood damages. This Article shall not create liability on the part of the Town or any official or employee thereof for any flood damage that results from reliance on this Article or any administrative decision made thereunder.



## Division 2 Administration and Procedures

### Sec. 19-5-210. Designation of the Floodplain Administrator.

The Town Manager is hereby appointed as the Floodplain Administrator to administer, implement and enforce the provisions of this Article and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

### Sec. 19-5-220. Duties and responsibilities of the Floodplain Administrator.

The Floodplain Administrator shall:

- (1) Maintain all records pertaining to this Article, including the actual elevation (in relation to mean sea level) of the lowest floor of all new or substantially improved structures and any floodproofing certificate required by Section 19-5-240.
- (2) Review Floodplain Development Permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
- (3) Review, approve, or deny all applications for Floodplain Development Permits.
- (4) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including § 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334) from which prior approval is required.
- (5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the Floodplain Administrator shall make the necessary interpretation.
- (6) Notify, in riverine situations, adjacent communities and the Colorado Water Conservation Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.
- (7) Ensure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (8) When Base Flood Elevation (BFE) data has not been provided in accordance with Section 19-5-310, the Floodplain Administrator shall obtain, review and reasonably utilize any BFE data and floodway data available from a federal, state, or other source, in order to administer this Article.
- (9) For waterways with BFEs for which a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the Flood Insurance Rate Map (FIRM), unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half (½) foot at any point within the Town.
- (10) Under the provisions of 44 C.F.R. Chapter 1, § 65.12 of the National Flood Insurance Program regulations, approve certain development in Zones A1-30, AE, or AH, on the FIRM which increases the water surface elevation of the base flood by more than one-half (½) foot,

provided that the Town first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision).

- (11) Inspect all development at appropriate times during the period of construction to ensure compliance with this Article.

Sec. 19-5-230. Establishment of the Floodplain Development Permit.

A Floodplain Development Permit shall be required to ensure conformance with the provisions of this Article.

Sec. 19-5-240. Floodplain Development Permit procedures.

- (a) The applicant shall submit all required application materials specified for a Floodplain Development Permit in Appendix 1 to the Floodplain Administrator. The Floodplain Development Permit shall be reviewed by the Town in accordance with Section 19-1-210 and Table 1.1 of this Chapter.
- (b) Consideration of a Floodplain Development Permit shall be based on this Article and the following criteria:
  - (1) The danger to life and property due to flooding or erosion damage;
  - (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (3) The danger that materials may be swept onto other lands to the injury of others;
  - (4) The compatibility of the proposed use with existing and anticipated development;
  - (5) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (6) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
  - (7) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
  - (8) The necessity to the facility of a waterfront location, where applicable;
  - (9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - (10) The relationship of the proposed use to the Comprehensive Plan for that area.

Sec. 19-5-250. Variance procedures.

- (a) The Board of Adjustment as established by the Town shall hear and render judgment on requests for variances from the requirements of this Article.

- (b) The Board of Adjustment shall hear and render judgment on an appeal only when it is alleged that there is an error in any requirement, decision or determination made by the Floodplain Administrator in the enforcement or administration of this Article.
- (c) Any person aggrieved by the decision of the Board of Adjustment may appeal such decision in the courts of competent jurisdiction pursuant to Section 19-1-320.
- (d) The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the FEMA upon request.
- (e) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state Inventory of Historic Properties, upon a determination that the proposed reconstruction, rehabilitation or restoration will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (f) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half ( $\frac{1}{2}$ ) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the BFE, providing the relevant factors in Section 19-5-240 (b) above have been considered. As the lot size increases beyond the one-half ( $\frac{1}{2}$ ) acre, the technical justification required for issuing the variance increases.
- (g) Upon consideration of the factors noted in (e) and (f) above and the intent of this Article, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Article as stated in Section 19-5-130.
- (h) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (i) A variance shall only be granted upon a showing of the following:
  - (1) That the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - (2) That there exists good and sufficient cause;
  - (3) That failure to grant the variance would result in exceptional hardship to the applicant; and
  - (4) That the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing Town ordinances.
- (j) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the BFE, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (k) Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
  - (1) The criteria outlined in this Section are met; and
  - (2) The structure or other development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

## **Division 3 Standards**

Sec. 19-5-310. Basis for establishing the Special Flood Hazard Area (SFHA).

The SFHAs identified by FEMA in a scientific and engineering report entitled, "The Flood Insurance Study for Grand County, Colorado and Incorporated Areas," dated January 2, 2008, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM and FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this Article. These SFHAs identified by the Flood Insurance Study (FIS) and attendant mapping are the minimum area of applicability of this Article and may be supplemented by studies designated and approved by the Town.

Sec. 19-5-320. General standards.

The following standards shall apply for all new construction and substantial improvements in an SFHA:

- (1) Structures shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- (2) Structures shall be constructed by methods and practices that minimize flood damage.
- (3) Structures shall be constructed with materials resistant to flood damage.
- (4) Structures shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (5) Manufactured homes shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include without limitation use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
- (6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters.
- (8) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

Sec. 19-5-330. Specific standards.

In all SFHAs where BFE data has been provided as set forth in Section 19-5-220 or Section 19-5-310, the following standards shall apply:

- (1) Residential construction. New construction and substantial improvements shall have the lowest floor, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one (1) foot above the BFE. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a licensed Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.
- (2) Non-residential construction. With the exception of critical facilities outlined in Section 19-5-380, new construction and substantial improvements shall either have the lowest floor, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one (1) foot above the BFE or, together with attendant utility and sanitary facilities, be designed so that at one (1) foot above the BFE the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A licensed Colorado Professional Engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this Subsection. Such certification shall be submitted to the Floodplain Administrator.
- (3) Enclosures. New construction and substantial improvements with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs shall either be certified by a licensed Colorado Professional Engineer or architect or meet or exceed the following minimum criteria:
  - a. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
  - b. The bottom of all openings shall be no higher than one (1) foot above grade.
  - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (4) Manufactured homes. Manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are elevated to one (1) foot above the BFE and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. Manufactured homes placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE on the FIRM that are not subject to (i), (ii), (iii) or (iv) above shall be elevated so that either:
  - a. The lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are one (1) foot above the BFE; or
  - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above

grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

- (5) Recreational vehicles. All recreational vehicles placed on sites within Zones A1-30, AH, and AE on the FIRM shall either:
  - a. Be on the site for fewer than one hundred eighty (180) consecutive days,
  - b. Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions), or
  - c. Meet the permit requirements of Section 19-5-240, and the elevation and anchoring requirements for manufactured homes in Subsection (4) hereof.
- (6) Below-grade residential crawlspace construction. New construction and substantial improvement of any below-grade crawlspace shall:
  - a. Have the interior grade elevation that is below base flood elevation no lower than two (2) feet below the lowest adjacent grade;
  - b. Have the height of the below-grade crawlspace measured from the interior grade of the crawlspace to the top of the foundation wall not exceed four (4) feet at any point;
  - c. Have an adequate drainage system that allows floodwaters to drain from the interior area of the crawlspace following a flood;
  - d. Be anchored to prevent flotation, collapse or lateral movement of the structure and be capable of resisting the hydrostatic and hydrodynamic loads;
  - e. Be constructed with materials and utility equipment resistant to flood damage;
  - f. Be constructed using methods and practices that minimize flood damage;
  - g. Be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
  - h. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed Colorado Professional Engineer or architect or must meet or exceed the following minimum criteria:
    1. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided;
    2. The bottom of all openings shall be no higher than one (1) foot above grade; and
    3. Openings may be equipped with screens, louvers or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

Sec. 19-5-340. Standards for areas of shallow flooding (AO/AH Zones).

Located within the SFHA are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one (1) foot to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow, and therefore, the following standards shall apply:

- (1) Residential construction. New construction and substantial improvements shall have the lowest floor(including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one (1) foot above the depth number specified in feet on the FIRM (at least three [3] feet if no depth number is specified).
- (2) Non-residential construction. With the exception of critical facilities outlined in Section 19-5-380, new construction and substantial improvements shall have the lowest floor(including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the FIRM (at least three [3] feet if no depth number is specified), or together with attendant utility and sanitary facilities, be designed so that the structure is watertight to at least one (1) foot above the BFE with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy. In Zones AH or AO, adequate drainage paths around structures on slopes are required to guide flood waters around and away from proposed structures.
- (3) A licensed Colorado Professional Engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section are satisfied.

#### Sec. 19-5-350. Floodways.

Located within SFHAs are areas designated as floodways. The Colorado statewide standard for the designated height to be used for all newly studied reaches shall be one-half ( $\frac{1}{2}$ ) foot (six [6] inches). Letters of Map Revision to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following standards shall apply:

- (1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed by a licensed Colorado Professional Engineer and in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the Town during the occurrence of the base flood discharge.
- (2) If Subsection (1) above is satisfied, new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Article.
- (3) Under the provisions of 44 CFR Chapter 1, § 65.12 of the National Flood Insurance Regulations, the Town may permit encroachments within the floodway that would result in an increase in BFE, provided that the Town first applies for a Conditional Letter Of Map Revision (CLOMR) and floodway revision through FEMA.

#### Sec. 19-5-360. Alteration of a watercourse.

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

- (1) Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition, and channel migration and properly mitigate potential problems

through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.

- (2) Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.
- (3) Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain.
- (4) Any stream alteration activity shall be designed and sealed by a licensed Colorado Professional Engineer or Certified Professional Hydrologist.
- (5) All activities within the floodplain shall meet all applicable federal and state floodplain requirements and regulations and this Article.
- (6) Within the floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a floodway analysis and report, sealed by a licensed Colorado Professional Engineer, that there is not more than a 0.00-foot rise in the proposed conditions compared to existing conditions floodway resulting from the project, otherwise known as a no-rise certification, unless the Town first applies for a CLOMR and floodway revision in accordance with Section 19-5-350.
- (7) Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

#### Sec. 19-5-370. Properties removed from the floodplain by fill.

A Floodplain Development Permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA LOMR-F unless such new structure or addition complies with the following:

- (1) Residential construction. The lowest floor, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), shall be elevated to one (1) foot above the BFE that existed prior to the placement of fill.
- (2) Non-residential construction. The lowest floor, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), shall be elevated to one (1) foot above the BFE that existed prior to the placement of fill, or together with attendant utility and sanitary facilities be designed so that the structure or addition is watertight to at least one (1) foot above the BFE that existed prior to the placement of fill with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

#### Sec. 19-5-380. Standards for critical facilities.

- (a) Critical facilities are classified under the following categories: essential services; hazardous materials; at-risk populations; and vital to restoring normal services. It is the responsibility of the Floodplain Administrator to identify and confirm that specific structures in the Town meet the following criteria:



- (1) Essential services facilities, unless exempted per paragraphs g and h below, include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines, as follows:
  - a. Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and, emergency operation centers);
  - b. Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory surgical structures but excluding clinics, doctors' offices, and non-urgent care medical structures that do not provide these functions);
  - c. Designated emergency shelters;
  - d. Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits);
  - e. Public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines); and
  - f. Air transportation lifelines (airports [municipal and larger], helicopter pads and structures serving emergency functions, and associated infrastructure [aviation control towers, air traffic control centers, and emergency equipment aircraft hangars]).
  - g. Specific exemptions to this category include wastewater treatment plants, non-potable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances.
  - h. Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the Floodplain Administrator that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-year floodplain or are compliant with this Article, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Floodplain Administrator on an as-needed basis upon request.
- (2) Hazardous materials facilities, unless exempted per paragraphs f and g below, include facilities that produce or store highly volatile, flammable, explosive, toxic or water-reactive materials. Facilities shall be determined to be critical facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a Material Safety Data Sheet (MSDS) on file for any chemicals stored or used in the work place, and the chemical(s) is stored in quantities equal to or greater than the Threshold Planning Quantity (TPQ) for that chemical, then that facility shall be considered to be a Critical Facility. The TPQ for these chemicals is either: 500 pounds or the TPQ listed (whichever is lower) for the 356 chemicals listed under 40 C.F.R. § 302 (2010), also known as Extremely Hazardous Substances (EHS); or 10,000 pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Public Health and Environment. OSHA requirements for MSDS can be found in 29 C.F.R. § 1910 (2010). The Environmental Protection Agency (EPA) regulation "Designation, Reportable Quantities, and Notification," 40 C.F.R. § 302 (2010), and OSHA regulation "Occupational Safety and Health Standards," 29 C.F.R. § 1910 (2010), are

incorporated herein by reference and include the regulations in existence at the time of the promulgation of this Article, but exclude later amendments to or editions of the regulations. These facilities may include:

- a. Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);
  - b. Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;
  - c. Refineries;
  - d. Hazardous waste storage and disposal sites; and
  - e. Above ground gasoline or propane storage or sales centers.
  - f. Specific exemptions to this category include finished consumer products within retail centers and households containing hazardous materials intended for household use; pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products; and agricultural products intended for agricultural use.
  - g. Specific exemptions to this category also include structures containing hazardous materials for which it can be demonstrated to the satisfaction of the local authority having jurisdiction by hazard assessment and certification by a qualified professional (as determined by the local jurisdiction having land use authority) that a release of the subject hazardous material does not pose a major threat to the public.
  - h. The exemptions in (f) and (g) above shall not apply to structures that also function as critical facilities under another category outlined in this Article.
- (3) At-risk population facilities include medical care, congregate care, and schools. These facilities consist of:
- a. Elder care (nursing homes);
  - b. Congregate care serving twelve (12) or more individuals (day care and assisted living);
  - c. Public and private schools (pre-schools, K-12 schools), before-school and after-school care serving twelve (12) or more children.
- (4) Facilities vital to restoring normal services including government operations, unless exempted per paragraph c below. These facilities consist of:
- a. Essential government operations (public records, courts, jails, building permitting and inspection services, Town administration and management, maintenance and equipment centers); and
  - b. Essential structures for public colleges and universities (dormitories, offices, and classrooms only).
  - c. These facilities may be exempted if it is demonstrated to the Floodplain Administrator that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are compliant with this Article, and an operations plan is in effect that states how

redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Floodplain Administrator on an as-needed basis upon request.

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

## Division 4 Definitions

### Sec. 19-5-410. – Words and terms.

The following words and phrases shall have the following meanings when used in this Article, unless the context otherwise requires:

*Addition* means any activity that expands the enclosed footprint or increases the square footage of an existing structure.

*Alluvial fan flooding* means a fan-shaped sediment deposit formed by a stream that flows from a steep mountain valley or gorge onto a plain or the junction of a tributary stream with the main stream. Alluvial fans contain active stream channels and boulder bars, and recently abandoned channels. Alluvial fans are predominantly formed by alluvial deposits and are modified by infrequent sheet flood, channel avulsions and other stream processes.

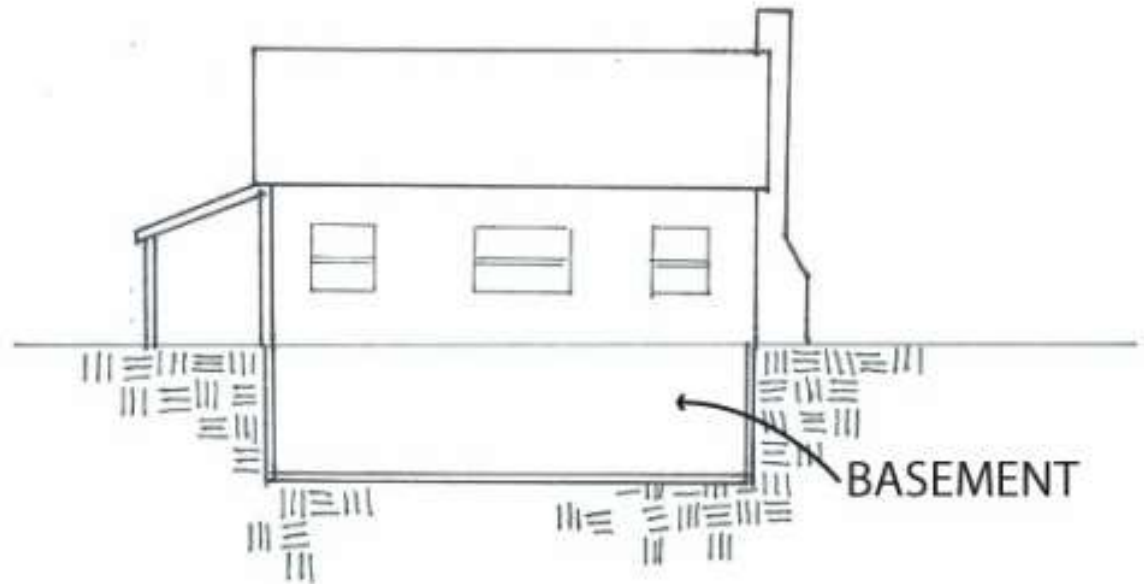
*Appeal* means a request for a review of the Floodplain Administrator's interpretation of any provisions of this Article or a request for a variance.

*Area of shallow flooding* means a designated AO, AH or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one-percent chance or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

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

*Base Flood Elevation (BFE)* means the elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-30, AR, AR/A, AR/AE, AR/A1-30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one-percent chance of equaling or exceeding that level in any given year.

*Basement* means any area of a building having its floor sub-grade (below ground level) on all sides. See figure below.



*Channel* means the physical confine of a stream or waterway consisting of a bed and stream banks, existing in a variety of geometries. See figure below.

*Channelization* means the artificial creation, enlargement or realignment of a stream channel.

*Code of Federal Regulations (CFR)* means the codification of the general and permanent Rules published in the Federal Register by the executive departments and agencies of the federal government. It is divided into 50 titles that represent broad areas subject to federal regulation.

*Conditional Letter of Map Revision (CLOMR)* means FEMA's comment on a proposed project which does not revise an effective floodplain map that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

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

*Development* means any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

*Digital Flood Insurance Rate Map (DFIRM)* means a FEMA digital floodplain map. These digital maps serve as "regulatory floodplain maps" for insurance and floodplain management purposes.

*DFIRM database* means data and analyses that accompany DFIRMs. The FEMA Mapping Specifications and Guidelines outline requirements for the development and maintenance of DFIRM databases.

*Elevated building* means a non-basement building:

- a. Built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and;
- b. Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters (See FEMA Lowest Floor Guide).

*Existing construction* means, for the purposes of determining rates, structures for which the start of construction commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. *Existing construction* may also be referred to as *existing structures*.

*Existing manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed before the effective date of this Article.

*Expansion to an existing manufactured home park or subdivision* means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).

*Federal Register* means the official daily publication for Rules, proposed Rules, and notices of federal agencies and organizations, as well as executive orders and other presidential documents.

*FEMA* means Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program.

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

- a. The overflow of water from channels and reservoir spillways;
- b. The unusual and rapid accumulation or runoff of surface waters from any source; or
- c. Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current).

*Flood, 100-year* means a flood having a recurrence interval that has a one-percent chance of being equaled or exceeded during any given year (1-percent-chance-annual flood). The terms "one-hundred-year flood" and "one-percent chance flood" are synonymous with the term "100-year flood." The term does not imply that the flood will necessarily happen once every one hundred years.

*Flood, 500-year* means a flood having a recurrence interval that has a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-chance-annual flood). The term does not imply that the flood will necessarily happen once every five hundred years.

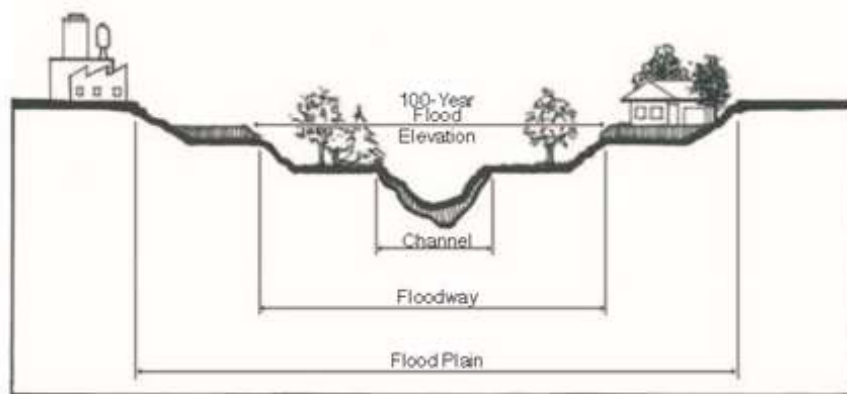
*Flood control works* means a physical structure designed and built expressly or partially for the purpose of reducing, redirecting, or guiding flood flows along a particular waterway. These specialized flood-modifying works are those constructed in conformance with sound engineering standards.

*Flood Insurance Rate Map (FIRM)* means an official map on which the Federal Emergency Management Agency has delineated both the Special Flood Hazard Areas and the risk premium zones applicable to the Town.

*Flood Insurance Study (FIS)* means the official report provided by the Federal Emergency Management Agency. The report contains the Flood Insurance Rate Map as well as flood profiles for studied flooding sources that can be used to determine Base Flood Elevations for some areas.

*Flood protection system* means those physical structural works for which funds have been authorized, appropriated and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within the Town subject to a special flood hazard and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood-modifying works are those constructed in conformance with sound engineering standards.

*Floodplain or flood-prone area* means any land area susceptible to being inundated as the result of a flood, including the area of land over which floodwater would flow from the spillway of a reservoir. See figure below.



*Floodplain, 100-year* means the area of land susceptible to being inundated as a result of the occurrence of a one-hundred-year flood.

*Floodplain, 500-year* means the area of land susceptible to being inundated as a result of the occurrence of a five-hundred-year flood.

*Floodplain Administrator* means the Town official designated by title to administer and enforce the floodplain management regulations. The Town Manager is the Flood Administrator for the Town.

*Floodplain development permit* means a permit required before construction or development begins within any Special Flood Hazard Area (SFHA). If FEMA has not defined the SFHA within the Town, the Town shall require permits for all proposed construction or other development in the Town including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within flood-prone areas. Permits are required to ensure that proposed development projects meet the requirements of the NFIP and this Article.

*Floodplain management* means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

*Floodplain management regulations* means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations (including this Article), in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

*Floodproofing* means any combination of structural and/or non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

*Floodway (regulatory floodway)* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

*Freeboard* means the vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.

*Functionally dependent use* means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

*Highest adjacent grade* means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

*Historic structure* means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

1. By an approved state program as determined by the Secretary of the Interior; or
2. Directly by the Secretary of the Interior in states without approved programs.

*Letter of Map Revision (LOMR)* means FEMA's official revision of an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA).

*Letter of Map Revision Based on Fill (LOMR-F)* means FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.

*Levee* means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding. For a levee structure to be reflected on the FEMA DFIRMs as providing flood protection, the levee structure must meet the requirements set forth in 44 CFR 65.10.

*Levee system* means a flood protection system which consists of a levee or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

*Lowest floor* means the lowest floor of the lowest enclosed area (including basement). Any floor used for living purposes which includes working, storage, sleeping, cooking and eating, or recreation or any combination thereof. This includes any floor that could be converted to such a use such as a basement or crawl space. The lowest floor is a determinate for the flood insurance premium for a building, home or business. An unfinished or flood-resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

*Manufactured home* means a structure transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term manufactured home does not include a recreational vehicle.

*Manufactured home park or subdivision* means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

*Material Safety Data Sheet (MSDS)* means a form with data regarding the properties of a particular substance. An important component of product stewardship and workplace safety, it is intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner, and includes information such as physical data (melting point, boiling point, flash point, etc.), toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment, and spill-handling procedures.

*Mean sea level* means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a Flood Insurance Rate Map are referenced.

*National Flood Insurance Program (NFIP)* means FEMA's program of flood insurance coverage and floodplain management administered in conjunction with the Robert T. Stafford Relief and Emergency Assistance Act. The NFIP has applicable federal regulations promulgated in Title 44 of the Code of Federal Regulations. The U.S. Congress established the NFIP in 1968 with the passage of the National Flood Insurance Act of 1968.

*New construction* means, for the purpose of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial FIRM or after



December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of this Article and includes any subsequent improvements to such structures.

*New manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this Article.

*No-rise certification* means a record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A No-Rise Certification must be supported by technical data and signed by a licensed Colorado Professional Engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM).

*Physical Map Revision (PMR)* means FEMA's action whereby one or more map panels are physically revised and republished. A PMR is used to change flood risk zones, floodplain and/or floodway delineations, flood elevations, and/or plan features.

*Recreational vehicle* means a vehicle which is:

- a. Built on a single chassis;
- b. Four hundred (400) square feet or less when measured at the largest horizontal projections;
- c. Designed to be self-propelled or permanently towable by a light duty truck; and
- d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

*Special Flood Hazard Area (SFHA)* means the land in the floodplain within the Town subject to a one-percent or greater chance of flooding in any given year, i.e., the 100-year floodplain. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, A1-99, VO, V1-30, VE or V.

*Start of construction* (for other than new construction or substantial improvements under the Coastal Barrier Resources Act [Pub. L. 97-348]), includes substantial improvement and means the date the building permit was issued, provided that the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

*Structure* means a walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home.

*Substantial damage* means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

*Substantial improvement* means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local Code Enforcement Official and which are the minimum necessary conditions; or
- b. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

*Threshold Planning Quantity (TPQ)* means a quantity designated for each chemical on the list of extremely hazardous substances that triggers notification by facilities to the state that such facilities are subject to emergency planning requirements.

*Variance* means a grant of relief to a person from one (1) or more requirements of this Article when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this Article. (For full requirements, see Section 60.6 of the National Flood Insurance Program regulations).

*Violation* means the failure of a structure or other development to be fully compliant with this Article. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4) or (e)(5) of the National Flood Insurance Program regulations is presumed to be in violation until such time as that documentation is provided.

*Water surface elevation* means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

## ARTICLE 6 - SIGNS

### **Division 1**

#### **Purpose and Applicability**

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19-6-120	Intent
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## ARTICLE 6 - Signs

### Division 1 – Purpose and Applicability

#### Sec. 19-6-110. – Purpose.

These sign regulations are established to safeguard the health, safety, convenience, order and welfare of all residents of the Town. The purpose of this Article is to provide a balanced and fair legal framework for the design, construction, and placement of signs that:

- (1) Promote the safety of persons and property by ensuring that signs do not create a hazard by:
  - a. Confusing or distracting motorists; or
  - b. Impairing drivers' ability to see pedestrians, obstacles or other vehicles, or to read traffic signs.
- (2) Promote the efficient communication of messages, and ensure that persons exposed to signs are not overwhelmed by the number of messages presented;
- (3) Protect the public welfare and enhance the appearance and economic value of the landscape by reducing and preventing sign clutter;
- (4) Ensure that signs are compatible with their surroundings, and prevent the construction of signs that are a nuisance to occupants of adjacent and contiguous property due to brightness, reflectivity, bulk, or height;
- (5) Enhance property values and business opportunities;
- (6) Assist in wayfinding; and
- (7) Provide fair and consistent permitting and enforcement.

#### Sec. 19-6-120. – Intent.

It is the intent of these regulations to provide for the proper control of signs in a manner consistent with the First Amendment guarantee of free speech. It is not the intent of these regulations to regulate signs based on the content of their messages. Rather, this Article advances important, substantial, and compelling governmental interests.

- (1) The incidental restriction on the freedom of speech that may result from the regulation of signs hereunder is no greater than is essential to the furtherance of the important, substantial, and compelling interests that are advanced by this Article.
- (2) The Town has an important and substantial interest in preventing sign clutter (which is the proliferation of signs of increasing size and dimensions as a result of competition among property owners for the attention of passing motorists and pedestrians), because sign clutter:

- a. Creates visual distraction and obstructs views, potentially creating a public safety hazard for motorists, bicyclists, and pedestrians;
  - b. May involve physical obstructions of streets or sidewalks, creating public safety hazards;
  - c. Degrades the aesthetic and essential historic character of the Town, making the Town a less attractive place for tourism, commerce, and private investment; and
  - d. Dilutes or obscures messages displayed along the Town's streets through the proliferation of distracting structures and competing messages.
- (3) The Town has a substantial and/or compelling interest in preventing traffic accidents.
  - (4) The Town has a substantial and/or compelling interest in preventing negative impacts associated with temporary signs. Temporary signs may be degraded, damaged, moved, or destroyed by wind, rain, snow, ice, and sun, and after such degradation, damage, movement, or destruction, such signs harm the safety and aesthetics of the Town's streets if they are not removed.

Sec. 19-6-130. - Application.

The provisions of these regulations shall apply to the display, construction, erection, alteration, use, maintenance, and location of all signs within the Town.

- (1) If any provision of this Article conflicts with any other adopted Town code that regulates signs, the more restrictive standards shall apply.
- (2) The Town recognizes other regulations pertaining to signage (i.e., State of Colorado, Department of Highways, "Rules and Regulations Pertaining to Outdoor Advertising," effective January 1, 1984, and as may be amended). Where any provision of this Article addresses the same subject matter as other regulations, the more restrictive regulation shall apply.
- (3) Nothing in this Article shall be construed as a defense to a violation of applicable state or federal law.
- (4) Signs shall be permitted in the various zoning districts as accessory structures in accordance with these regulations.
- (5) All signs displayed, constructed, erected or altered after the date of the adoption of these regulations shall be in conformance with the provisions of these regulations. All signs that are existing at the time of the adoption of these regulations shall not be altered or enlarged without being brought into conformance with these regulations.
- (6) Existing signs which do not conform to the specific provisions of these regulations are designated as nonconforming signs. Notwithstanding Article 2, Division 5 of this Chapter, all nonconforming signs shall be removed or brought in conformance with these regulations on or before the earlier to occur of the following events:

- a. The sign is relocated or replaced.
- b. The structure or size of the sign is altered in any way except towards compliance with these regulations. This does not refer to change of copy or normal maintenance.
- c. The sign suffers more than fifty percent (50%) damage or deterioration to its appraised value.

## **Division 2 – Administration**

### **Sec. 19-6-210 - Sign permit required.**

A sign permit shall be required in order to erect, move, alter, reconstruct or repair any permanent or temporary sign, except signs that are exempt from permits in compliance with Section 19-6-250 of this Article.

- (1) Changing or replacing the copy on an existing lawful sign shall not require a permit, provided that the copy change does not change the type of the sign or render the sign in violation of this Article.
- (2) A separate sign permit shall be required for each sign.
- (3) In addition to the required sign permit, a building permit may be required by Town Staff for signs incorporating structural elements or attached to buildings. Electrical permits may be required for signs that are illuminated or other signs with electrical components.

### **Sec. 19-6-220 – Sign permit review.**

- (a) A complete application for a sign permit shall be submitted on a form provided in Appendix 1. A sign permit fee shall be paid to the Town in accordance with the fee schedule in Appendix 2.
- (b) The sign permit application shall be reviewed by the Town in accordance with Section 19-1-210 and Table 1.1 of this Chapter.
- (c) The following review criteria will be used by Town Staff to evaluate all sign permit applications:
  - (1) That the sign meets the requirements of this Article and other applicable codes;
  - (2) That the sign conforms to the size, height and location requirements of this Article for the zoning district in which it is located; and
  - (3) That the sign will not interfere with pedestrian or vehicular safety.

### **Sec. 19-6-230. - Master Sign Plan (MSP).**

- (a) For any shopping center, industrial park, PD District or other unified form of site development, an applicant may submit a master sign plan that consists of coordinated, shared signage for the entire development. The applicant shall submit all required materials specified in Appendix 1
- (b) The purpose of a MSP is to establish design compatibility for a coordinated program of common signage, to provide for flexible signage opportunities that are greater than the signage otherwise allowed under this Article and to communicate to the public the planned land uses and their locations. Signs in a master sign plan shall have mutually unifying elements, which may include uniformity in materials, color, size, height, letter style, sign type, shape, lighting, location on buildings, and design motif.
- (c) The MSP application shall be reviewed by the Town in accordance with Section 19-1-210 and Table 1.1 of this Chapter.
- (d) In reviewing an applicant's submittal of a MSP that conforms with the provisions of this Section, the Board of Trustees may approve site specific standards for area, height and number of individual signs. The Planning Commission shall review the MSP at a public hearing and make a recommendation to the Board of Trustees.

- (e) Upon approval of the MSP, subsequent application for specific signs shall be approved administratively when the proposed sign is in compliance with the approved MSP. Each sign shall require a sign permit and applicable fee.

Sec. 19-6-240 – Variances and appeals.

- (a) Administrative variances. Town Staff shall be authorized to grant minor modifications of any sign standard, including but not limited to sign area and/or height modifications of ten percent (10%) or less, upon a finding that:
  - (1) Such action is taken in order to encourage the implementation of alternative or innovative practices that provide equivalent benefits to the public, or
  - (2) The minor modification is of a technical nature and is required to compensate for some practical difficulty or unusual aspect of the site or the proposed sign.
- (b) Board of Adjustment variances. Any other request for an increase in the maximum allowable area for a sign or a variance from any of the requirements of this Article must be approved through a variance granted by the Board of Adjustment in accordance with the provisions of this Chapter.
- (c) Appeals. Any sign type not specified herein shall be reviewed by Town Staff on a case-by-case basis. All decisions of the Town Staff under this Section are the final action of the Town.

Sec. 19-6-250. - Exempt signs.

The following signs are exempt from the sign permit regulations of Section 19-6-210 above; however remain subject to the remaining provisions of this Article. Exempt signs shall otherwise be in conformance with all applicable requirements of this Chapter, and the construction and safety standards of the Town. All signs not listed in this Section (and that are not prohibited under Section 19-6-260 below) require a sign permit pursuant to Section 19-6-210 above. The following exempt signs shall be unlit unless specified below:

- (1) Signs erected by the Town or by any federal, state or county government agency.
- (2) Any public purpose/safety sign and any other notice or warning required by a valid and applicable federal, state or local law, regulation or resolution, provided that the sign does not exceed four (4) square feet in area. These signs shall comply with the lighting requirements of this Article.
- (3) Signs displayed on motor vehicles which are being operated or stored in the normal course of a business, provided that the primary purpose of such vehicles is not for the display of signs and provided that they are parked or stored in areas appropriate to their use as vehicles.
- (4) Scoreboards for athletic fields, provided that such scoreboards comply with the lighting requirements of this Article.
- (5) Temporary decorations or displays, if they are clearly incidental to, customarily, or commonly associated with any national, state, or local holiday or religious celebration; such decorations or displays may be of any type, number, area, height, location, illumination or animation, provided that such decorations or displays are maintained and do not constitute a fire hazard.
- (6) Signs being carried by a person.
- (7) Flags.
  - a. Flags that are affixed to permanent flagpoles or flagpoles that are mounted to buildings (either temporary or permanent).



- b. Decorative flags, banners or pennants or a combination of the same, constituting an architectural feature which is integral to the design of a project.
- (8) Banners, as defined in Section 19-6-510, and subject to the standards in Section 19-6-250.
- (9) Yard signs, as defined in Section 19-6-510. One (1) yard sign per lot not to exceed six (6) square feet in area.
- (10) Directional signs, as defined in Section 19-6-510, not exceeding two (2) square feet in size.
- (11) Window signs, as defined in Section 19-6-510. In addition, any sign displayed on a window of or inside a residential building, and any sign inside a non-residential building that is not visible through a window. Window signs shall cover not more than fifty percent (50%) of a window on any non-residential building and must comply with the lighting requirements of this Article.
- (12) Sandwich board signs, as defined in Section 19-6-510, and subject to the standards in Section 19-6-250
- (13) Site signs, as defined in Section 19-6-510, and subject to the standards in Section 19-6-250.
- (14) Incidental signs, as defined in Section 19-6-510, which do not exceed two (2) square feet in sign area.
- (15) Works of art and murals, as defined in Section 19-6-510.
- (16) Tethered balloons.

Sec. 19-6-260. - Prohibited signs.

The following types of signs are prohibited except as noted:

- (1) All signs not expressly permitted under this Article or exempt from a sign permit in accordance with Section 19-6-250.
- (2) Signs on vehicles, when the vehicle is placed in a location for the primary purpose of displaying signage.
- (3) Portable signs, as defined in Section 19-6-510.
- (4) Signs attached to trees or other plant or landscape materials.
- (5) Signs located on utility poles, public benches or any other form of public property or within any public right-of-way unless explicitly permitted by this Article.
- (6) Signs which produce audible noise or sounds.
- (7) Signs which emit visible smoke, vapor, particles or odors.
- (8) Signs that rotate, blink, move (such as "revolving beacons") or are otherwise animated; signs that are flashing; or signs that create the illusion of movement and are designed to compel attention; except for electronic message centers for which a permit has been issued in accordance with the requirements of this Article.
- (9) Any sign painted, erected and/or constructed upon, above or over the roof of any building.
- (10) Inflatable signs and searchlights.
- (11) Any sign other than traffic control signs, that is erected, constructed or maintained within, over or upon a public right-of-way, except sandwich board signs in conformance with Section 19-6-340, or other temporary signs otherwise granted permission for such location by the Town or the Colorado Department of Transportation.

- (12) Any sign that impedes pedestrian or vehicular movement, or is erected in such a location as to cause visual obstruction or interference with motor vehicle traffic or traffic-control devices, including any sign that obstructs clear vision in any direction from any street intersection or driveway.
- (13) Any sign that obstructs access to or impedes operation of any fire escape, downspout, window, door, stairway, ladder or opening intended to provide light, air, ingress or egress for any building or structure as may be required by law.
- (14) Any sign or sign structure which is structurally unsafe, constitutes a hazard to safety or health by reason of inadequate maintenance, abandonment, dilapidation or obsolescence and/or is not kept in good repair.
- (15) Off-premise advertising signs not pertinent and clearly incidental to the permitted use on the property where located, except for signs permitted in Section 19-6-320 of this Article. An off-premise sign in existence at the time of the adoption of the initial ordinance codified herein may be maintained in use only so long as it is used in conjunction with the same business or activity with which it was associated and which was in existence on the date of adoption of said ordinance. Any off-premise sign which has been damaged or has not been maintained shall be removed.

### Division 3 – Standards

Sec. 19-6-310. – Sign standards by zoning district.

Signs in all zoning districts shall be subject to the standards set forth in this Section. The number, types and sizes of signs set forth in Tables 6.1 and 6.2 shall also comply with the standards by sign type listed in Sections 16-6-320 and 16-6-330.

- (1) Standards for residential zoning districts. Signs in all residential zoning districts shall be subject to the limitations and standards in Table 6.1.

**TABLE 6.1**  
**Standards for Residential Zoning Districts**

Sign Type	Maximum Number	Maximum Area	Maximum/Minimum Height
Monument Sign	1 per non-residential use; 1 per entrance to a subdivision, multi-family housing complex or mobile home park	32 square feet	No higher than 8 feet
Projecting Sign	1 per principal building	6 square feet	No higher than wall (single story building)/bottom of second story window (multi-story building); 8 feet minimum height
Site Sign	1 per street frontage	6 square feet	No higher than 6 feet
Swing Sign	1 per street frontage	6 square feet, inclusive of riders	No higher than 6 feet
Wall Sign	1 per principal single-family or two-family building	6 square feet	No higher than eave or parapet line
	1 per principal non-residential building or principal multifamily building, per street frontage	32 square feet	No higher than eave or parapet line
Yard Sign	1 per street frontage	6 square feet per sign	No higher than 4 feet

- (2) Standards for non-residential zoning districts and uses. Signs in all non-residential and mixed use zoning districts shall be subject to the limitations and standards in Table 6.2.

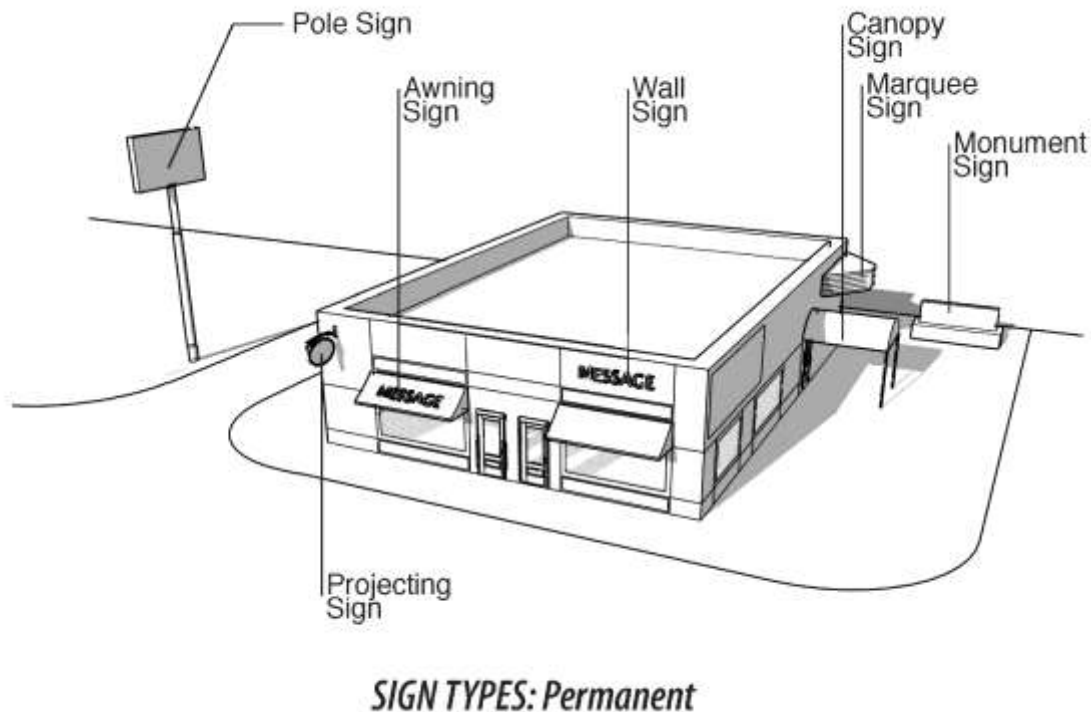
**TABLE 6.2**  
**Standards for Non-residential Zoning Districts**

<b>Sign Type</b>	<b>Maximum Number</b>	<b>Maximum Area</b>	<b>Maximum/Minimum Height</b>
Awning Sign	Multiple, within maximum area requirements	0.5 square feet of signage for each linear foot of awning, up to a maximum of 32 square feet	No higher than roof or parapet line; 8 feet minimum height pedestrian clearance
Banners	2 per street frontage	50 square feet per street frontage	No higher than roof or parapet line for a banner attached to a wall. No higher than 12 feet for a feather banner.
Canopy Sign	Multiple, within maximum area requirements	0.5 square feet of signage for each linear foot of canopy, up to a maximum of 32 square feet	No higher than roof or parapet line; 8 feet minimum height pedestrian clearance; 14 feet minimum height vehicular clearance
Marquee Sign	1 per building frontage	40 square feet per sign face, up to a maximum of 3 faces	No higher than roof or parapet line; 8 feet minimum height
Monument Sign	1 per street frontage of principal building/access point	32 square feet. An electronic message center may be integrated up to 50% of allowed sign area.	No higher than 12 feet
Pole Sign	1 per street frontage of principal building/access point	32 square feet	No higher than 20 feet
Projecting Sign	1 per building frontage	6 square feet	No higher than wall (single story building)/bottom of second story window (multi-story building); 8 feet minimum height
Sandwich Board Sign	1 per building frontage	16 square feet	No higher than 4 feet

Site Sign	1 per street frontage	32 square feet	No higher than 8 feet
Swing Sign	1 per street frontage	6 square feet, inclusive of riders	No higher than 6 feet
Wall Sign	Multiple, within maximum area requirements	1 square foot of area per lineal foot of exterior wall frontage, up to a maximum of 100 square feet	No higher than eave or parapet line
Yard Sign	1 per street frontage	6 square feet	No higher than 4 feet

- (3) Standards for signs in a Planned Development (PD) District. Signs in a PD District shall be in accordance with the provisions in this Article governing the type of residential or non-residential land use most similar to that within the PD District, unless otherwise specifically addressed in the relevant final PD plan.
- a. A Master Sign Plan (MSP) may be submitted that permits consideration of unique conditions, flexibility and creativity.
  - b. Upon approval of a MSP in accordance with Section 19-6-230, all signage within the limits of the PD District shall comply with the established design standards.

**FIGURE 6.1**  
**Permanent Sign Types**



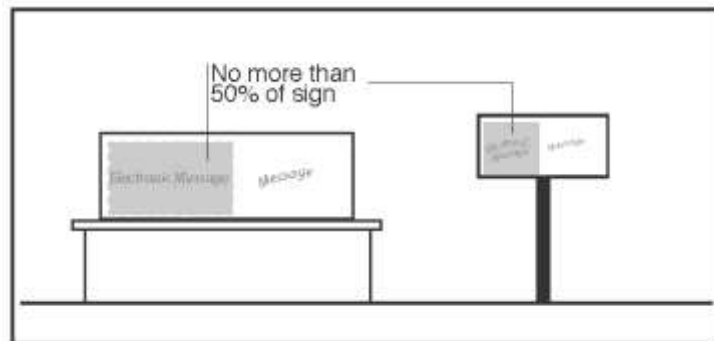
(a) General. The following standards are applicable to all permanent signs:

- (1) Owner consent. No sign permit shall be issued for any permanent sign on private property without written consent of the property owner or the owner's authorized agent.
- (2) Lighting. Signs may be illuminated by external or internal means, unless as otherwise specifically provided in this Section, subject to the following standards:
  - a. The brightness and intensity shall not be greater than necessary to meet reasonable needs of the business or use served;
  - b. Light sources shall be shielded, shaded or hooded to direct the light inward and downward onto the sign and away from all adjacent buildings and streets;
  - c. The lighting shall not create excessive glare to pedestrians and/or motorists, and will not obstruct traffic control or any other public informational signs;
  - d. Electrical supply to illuminated freestanding pole or monument signs shall be underground; and
  - e. An electrical permit may be required per the electrical code for signs that are illuminated.

- (3) Off-premise signs. Off-premise signs require Board of Trustees approval under Section 19-1-210 and Table 1.1. An off-premise sign may be permitted on private property if the street frontage of the property to which it pertains is not on US 40. A sign permit for an off-premise sign shall be approved if it is in compliance with the following criteria:
- a. The off-premise sign would not harm the public and would not impair the purpose and intent of this Article;
  - b. The property to which the sign pertains is in an obscure location and not directly visible from US 40, such that the off-premise sign is necessary to direct the public to the subject property;
  - c. The property to which the sign pertains is located in the Town;
  - d. The off-premise sign is counted against the sign allowance of the parcel on which it is displayed and is counted against the sign allowance of the property to which it pertains;
  - e. The written consent of the off-premise property owner is obtained;
  - f. The off-premise sign is limited to one (1) sign not to exceed twenty (20) square feet; and
  - g. The off-premise sign would be subject to all other sign requirements of this Article.
- (4) Sign allowance in residential zoning districts. Only one sign per building frontage is permitted in a residential zoning district.
- (5) Sign allowance in non-residential zoning districts. The aggregate area of all permanent signs displayed on a site in a non-residential zoning district shall not exceed the total allowed sign area established by this Section.
- a. The total square footage of allowable sign area for any building shall be limited to one (1) square foot of sign area for each lineal foot of building frontage, provided that no more than seventy-five percent (75%) of the total allowable signage per building front may be used by any one (1) sign.
  - b. In those instances where a building has two (2) building frontages, the applicant shall choose one (1) building frontage to calculate the allowable square footage.
  - c. Property with a building frontage of less than fifty (50) square feet shall be allowed a maximum sign area of fifty (50) square feet.
  - d. Vacant property without a building frontage may be permitted to display two (2) signs, with the aggregate area of both signs not to exceed sixty-four (64) square feet.

- (b) Electronic message centers.

**FIGURE 6.2**  
**Electronic Message Center Detail**

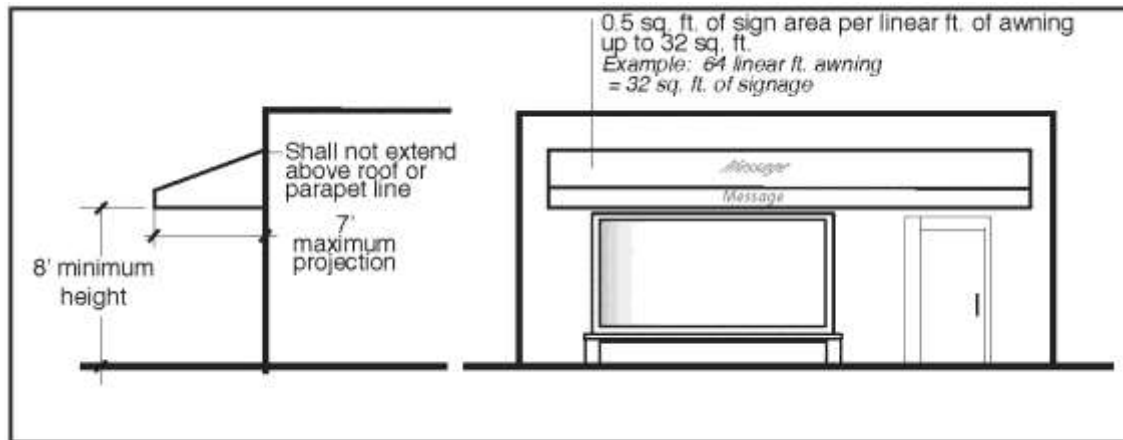


- (1) Location. Up to fifty percent (50%) of the allowed sign area of a monument sign in a non-residential zoning district may be occupied by an electronic message center. Existing signage proposed for conversion to the use of an electronic message center shall conform to the sign standards in this Article prior to issuance of a sign permit. Nonconforming signs shall not be eligible for conversion to an electronic message center. An electronic message center may also be used as a window sign, subject to window coverage limitations in Section 19-6-250.
- (2) Lighting. Lighting from the electronic message center shall not exceed 0.3 foot candles between dusk to dawn as measured from the sign's face. The electronic message center shall have automatic dimmer software or solar sensors to control brightness for nighttime viewing. The intensity of the light source shall not produce glare, the effect of which constitutes a traffic hazard. Documentation shall be provided from the sign manufacturer which verifies compliance with auto dimming and brightness requirements.
- (3) Transition method. The electronic message center shall be limited to static messages, changed only through either dissolve or fade transitions, which may otherwise not have movement, or the appearance or optical illusion of movement, of any part of the sign structure, design, or pictorial segment of the sign, including the movement of any illumination or the flashing, scintillating or varying of light intensity.
- (4) Transition duration. The transition duration between messages shall not exceed one (1) second.
- (5) Message hold time. The message hold time shall be a minimum of twenty (20) seconds.



(c) Awning signs.

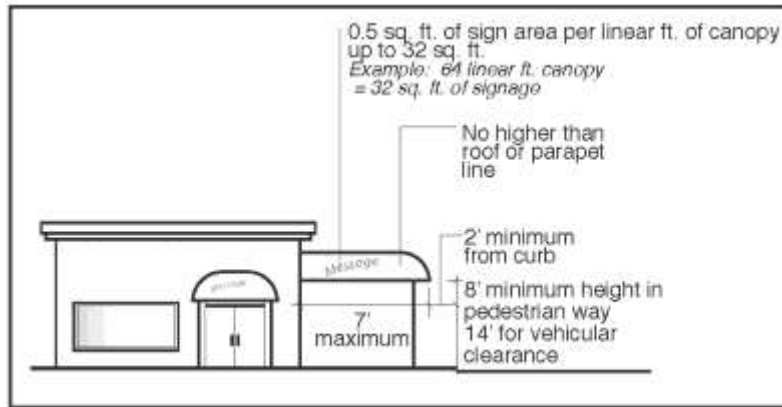
**FIGURE 6.3**  
**Awning Sign Detail**



- (1) Location. Signs may be placed only on awnings that are located on first and second-story building frontages, including those fronting a street, parking lot or pedestrian way. An awning may include a printed or mounted sign. No sign mounted to an awning shall project beyond, above or below the face of an awning.
- (2) Quantity, area and height. Sign quantity and area shall comply with the requirements established in Section 19-6-310. No structural element of an awning shall be located less than eight (8) feet above finished grade. Awnings on which signs are printed or mounted shall not extend over a public right-of-way more than seven (7) feet from the face of a supporting building. No awning, with or without signage, shall extend above the roof or parapet line of any building.
- (3) Lighting. Awnings may be internally illuminated only.

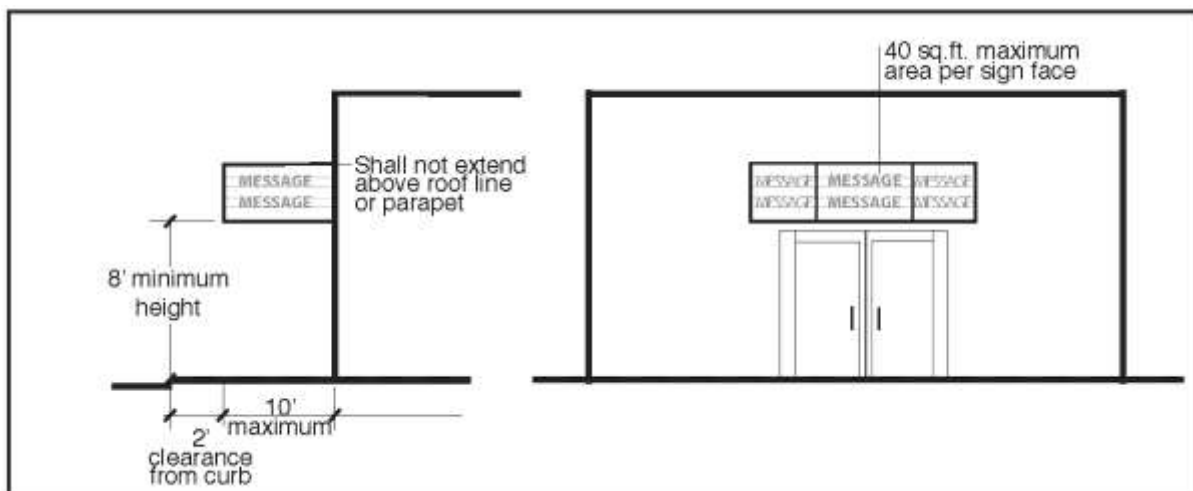
(d) Canopy signs.

**FIGURE 6.4**  
**Canopy Sign Detail**



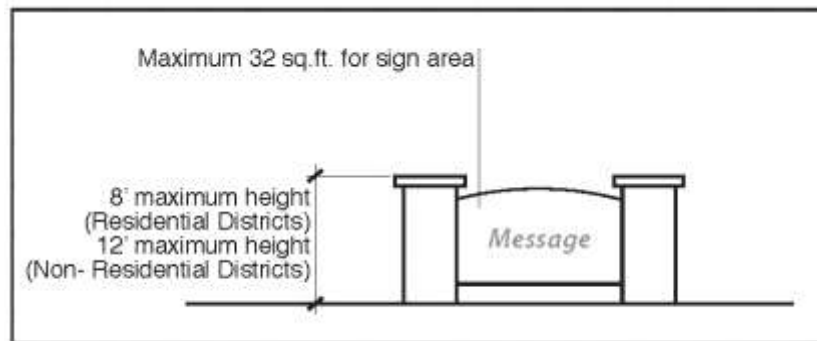
- (1) Location. Signs may be placed on canopies that front a street, parking lot or pedestrian way, or that are located in a driveway. A canopy may include a printed or mounted sign. No sign mounted to a canopy shall project beyond, above or below the face of a canopy.
  - (2) Quantity, area and height. Sign quantity and area shall comply with the requirements established in Section 19-6-310. No structural element of a canopy sign shall be located less than eight (8) feet above finished grade in a pedestrian way, or less than fourteen (14) feet above finished grade in a vehicular way. Canopies on which signs are printed or mounted shall not extend over a public right-of-way more than seven (7) feet from the face of a supporting building, and be no closer than two (2) feet to a curb line. No canopy, with or without signage, shall extend above the roof or parapet line of any building. No canopy sign shall project above the top of the canopy upon which it is mounted. However, a sign may project horizontally from the face of a canopy the distance necessary to accommodate the letter thickness and required electrical equipment, but not more than twelve (12) inches.
  - (3) Lighting. Canopies may be internally illuminated only.
- (e) Marquee signs.

**FIGURE 6.5**  
**Marquee Sign Detail**



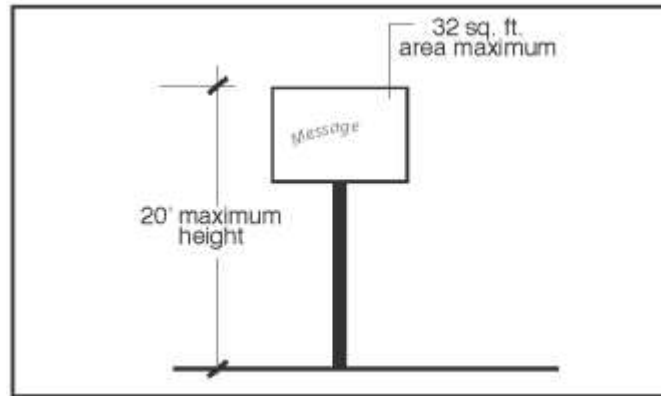
- (1) Location. A marquee sign may be placed on a ground floor façade of a building.
  - (2) Quantity, area and height. A marquee sign shall comply with the quantity, area and height requirements established in Section 19-6-310. No structural element of a marquee sign shall be located less than eight (8) feet above finished grade. Marquee signs shall not extend over a public right-of-way more than ten (10) feet from the face of a supporting building, and be no closer than two (2) feet to a curb line. No marquee sign shall extend above the roof or parapet line of any building.
  - (3) Lighting. Marquee signs may be internally or externally illuminated.
- (f) Monument signs.

**FIGURE 6.6**  
**Monument Sign Detail**



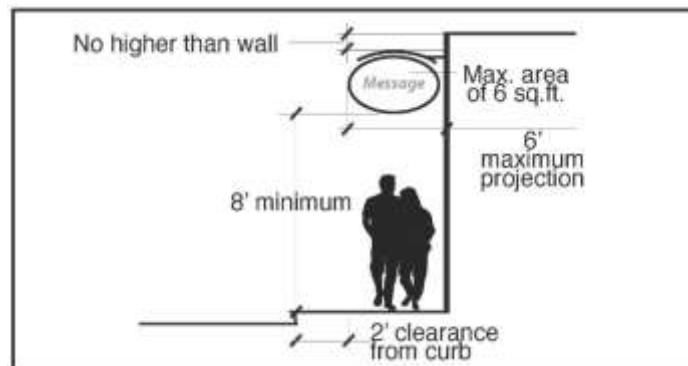
- (1) Location. Monument signs shall be located on a street frontage. The location of a monument sign shall not obstruct traffic safety sight distance areas.
  - (2) Quantity, area and height. A monument sign shall comply with the quantity, area and height requirements established in Section 19-6-310.
  - (3) Lighting. Monument signs may be internally or externally illuminated.
- (g) Pole signs.

**FIGURE 6.7**  
**Pole Sign Detail**



- (1) Location. No portion of any pole sign shall encroach or project into the public right-of-way.
  - (2) Quantity, area and height. A pole sign shall comply with the quantity, area and height requirements established in Section 19-6-310.
  - (3) Lighting. Pole signs may be internally illuminated only.
- (h) Projecting signs.

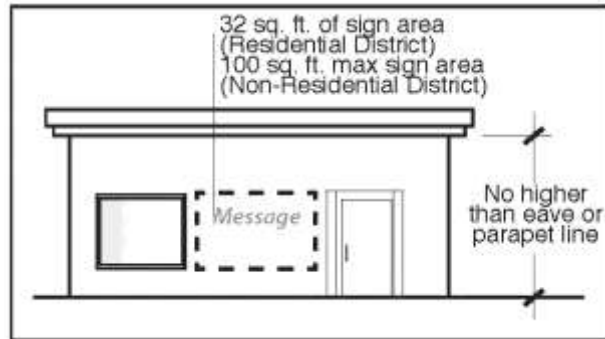
**FIGURE 6.8**  
**Projecting Sign Detail**



- (1) Location. Projecting signs shall be placed on a ground floor facade, except for businesses located above the ground level with direct exterior pedestrian access.
- (2) Quantity, area and height. A projecting sign shall comply with the quantity, area and height requirements established in Section 19-6-310. No structural element of a projecting sign shall be located less than eight (8) feet above finished grade. Projecting signs shall not be higher than the wall from which the sign projects if attached to a single story building, or the height of the bottom of any second story window if attached to a multi-story building. Projecting signs shall not extend more than six (6) feet from the face of a supporting building, and be no closer than two (2) feet to a curb line. Minimum spacing between projecting signs on multi-tenant buildings shall be twenty (20) feet.
- (3) Lighting. Projecting signs shall not be illuminated.

(i) Wall signs.

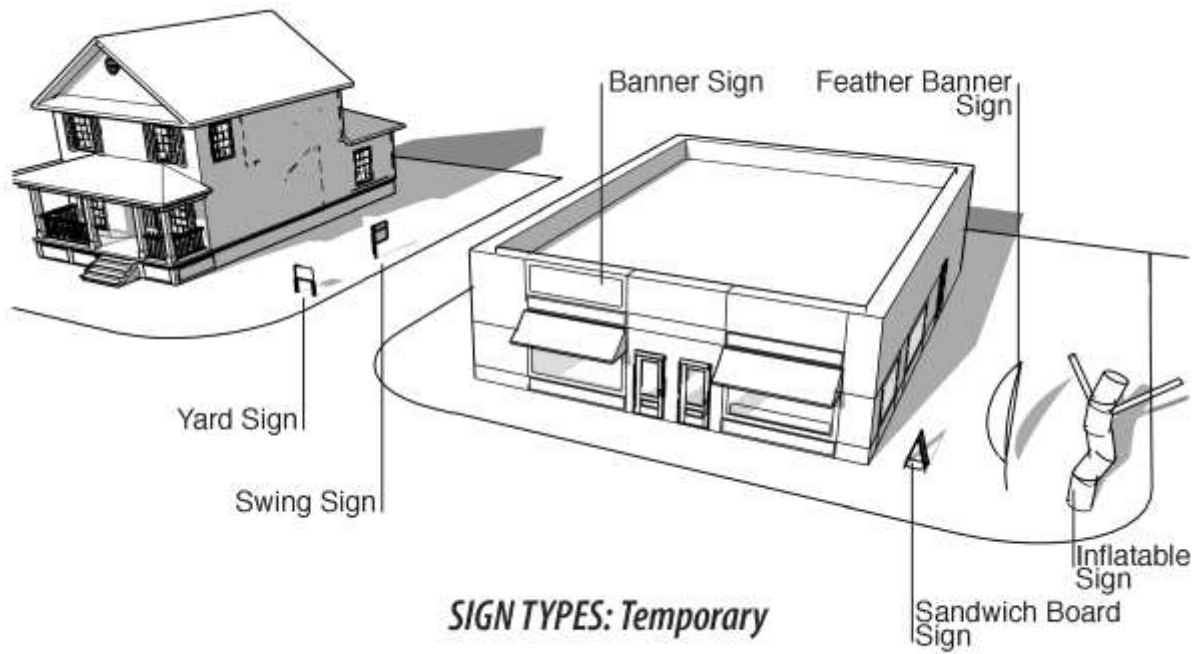
**FIGURE 6.9**  
**Wall Sign Detail**



- (1) Location. A wall sign shall not:
  - a. Obstruct any portion of a window, doorway or other architectural detail;
  - b. Extend above the top of the building wall upon which it is mounted; or
  - c. Project from the building wall more than required for construction purposes and in no case more than twelve (12) inches.
- (2) Quantity, area and height. A wall sign shall comply with the quantity, area and height requirements established in Section 19-6-310. Multiple wall signs are permitted as long as the total sign area does not exceed the allowance established in (a) (5) above. The wall sign or signs shall not be greater than eighty percent (80%) of the length of the tenant space or the length of the building frontage for single-tenant buildings. This is to assure that the sign of one (1) tenant is not so close to the sign of an adjacent tenant that the two (2) signs would run into each other. No wall sign shall extend above the eave or parapet line of any building.
- (3) Lighting. Wall signs may be internally or externally illuminated.

Sec. 19-6-330. – Temporary signs.

**FIGURE 6.10**  
**Temporary Sign Types**

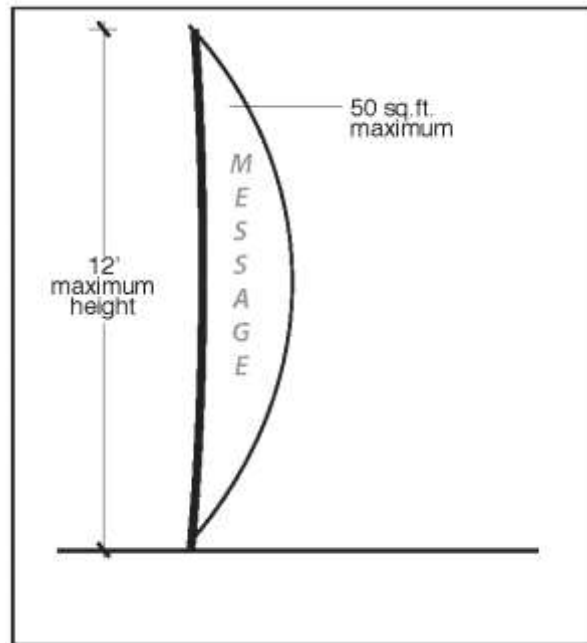
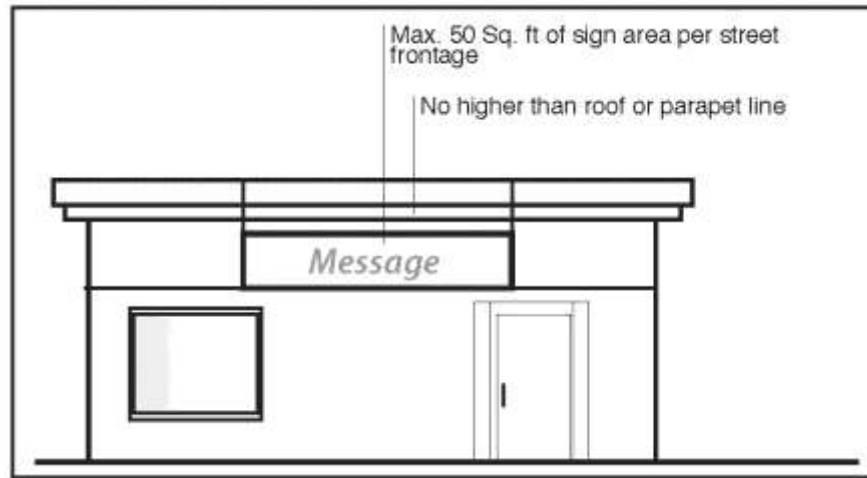


(a) General. The following standards are applicable to all temporary signs:

- (1) Owner consent. All temporary signs must be located on private property and only with the consent of the property owner.
- (2) Lighting. No temporary sign shall be illuminated.
- (3) Duration. The purpose of temporary signs is to display messages for a temporary duration. Temporary signs shall not be used as a subterfuge to circumvent the regulations that apply to permanent signs or to add permanent signage in addition to that which is permitted by Section 19-6-310. Temporary signs shall be removed on or before ninety (90) days after first being placed, unless otherwise specified herein.

(b) Banners.

**FIGURE 6.11**  
**Banner Sign Detail**

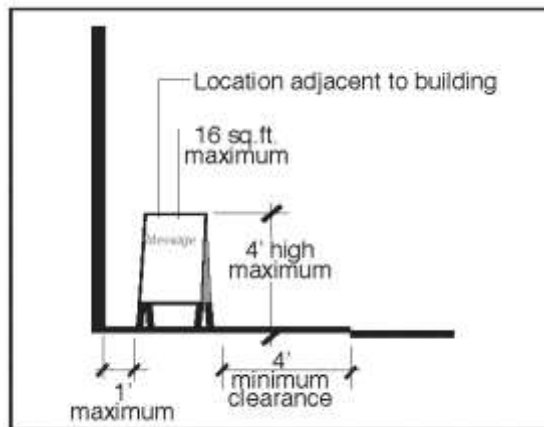


- (1) Location.
  - a. Banners shall not be placed to obstruct any portion of a window, doorway or other architectural detail. Feather banners shall not obstruct any vehicle or pedestrian movement.
  - b. Banners may be installed on a utility pole with the consent of the utility provider, provided that the banner is attached at the top and bottom by brackets that project no more than thirty (30) inches from the utility pole.
- (2) Quantity, area and height. Banners shall comply with the quantity, area and height requirements established in Section 19-6-310.

- a. A maximum of two (2) banners with a combined total area of not more than fifty (50) square feet may be displayed. A building on a corner lot with two (2) street frontages may be permitted to display up to fifty (50) square feet of banners per street frontage.
- b. Banners installed on utility poles in accordance with Subsection (1) b. above shall not exceed twenty-four (24) inches in width and forty-eight (48) inches in height.

(c) Sandwich Board Signs.

**FIGURE 6.12**  
**Sandwich Board Sign Detail**

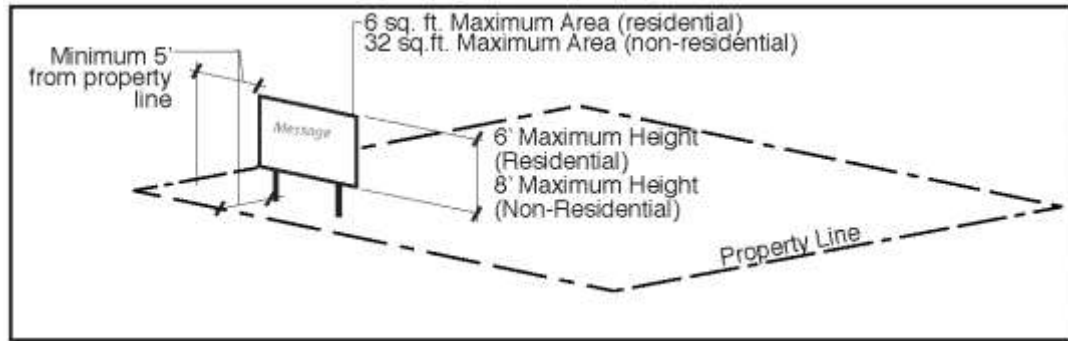


- (1) Location. Placement of a sandwich board sign must be within one (1) foot of a building wall. A minimum of four (4) feet of sidewalk width clearance shall be available for pedestrian use. The location of the sandwich board sign shall not interfere with snow removal. Sandwich board signs shall be removed each day at close of business.
- (2) Quantity, area and height. A sandwich board sign shall comply with the quantity, area and height requirements established in Section 19-6-310.

(d) Site Signs.

**FIGURE 6.13**  
**Site Sign Detail**

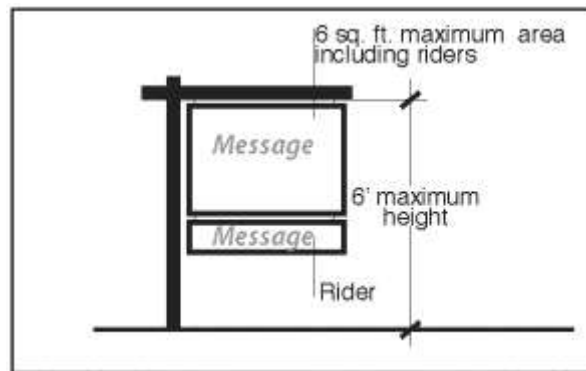




- (1) Location. Site signs are intended for vacant land parcels or lots under construction, and are not permitted on parcels with existing residential or non-residential uses. Site signs shall be setback a minimum of five (5) feet from any property line.
- (2) Quantity, area and height. A site sign shall comply with the quantity, area and height requirements established in Section 19-6-310.

(e) Swing Signs.

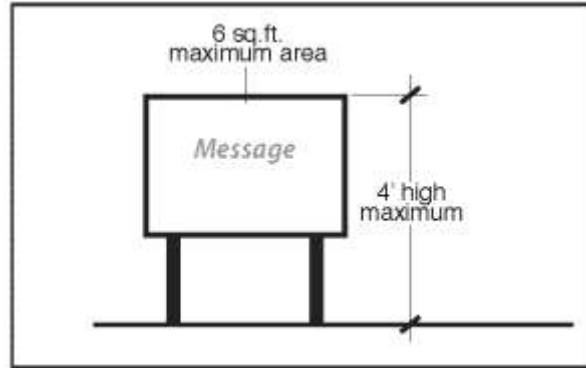
**FIGURE 6.14**  
**Swing Sign Detail**



- (1) Quantity, area and height. A swing sign shall comply with the quantity, area and height requirements established in Section 19-6-310.

(f) Yard Signs.

**FIGURE 6.15**  
**Yard Sign Detail**

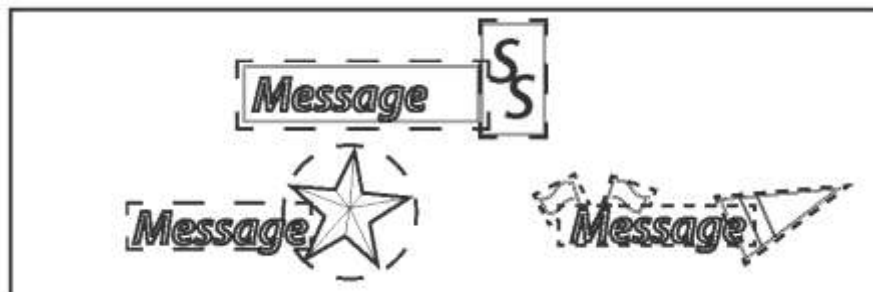


- (1) Quantity, area and height. A yard sign shall comply with the quantity, area and height requirements established in Section 19-6-310.

Sec. 16-6-340 - Sign measurement.

- (a) When two (2) identical sign faces are placed back to back so that both faces cannot be viewed from any point at the same time, and are part of the same sign structure, the sign area shall be computed as the measurement of one (1) of the two (2) faces.
- (b) For a sign which is framed, outlined, painted or otherwise prepared and intended to provide a background for a sign display, the area and dimensions shall include the entire portion within such background or frame.
- (c) For a sign comprised of individual letters, figures or elements on a wall of a building or surface of a structure, the area and dimensions of the sign shall encompass a regular geometric shape (rectangle, circle, trapezoid, triangle, etc.) or a combination of regular geometric shapes, which form or approximate the perimeter of all elements in the display, the frame and any applied background that is not part of the architecture of the building or structure. When separate elements are organized to form a single sign but are separated by open space, the sign area and dimensions shall be calculated by determining the geometric form, or combination of forms, which comprises all of the display areas, including the space between different elements.

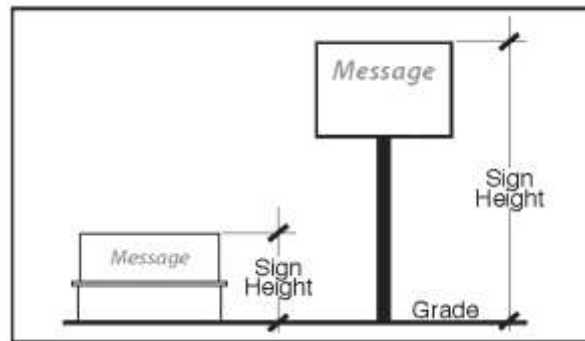
**FIGURE 6.16**  
**Sign Measurement Detail**



- (d) For a freestanding pole or monument sign, the sign area shall include the frame, if any, but shall not include:

- (1) The pole(s) or other structural support unless such pole or structural support is internally illuminated or otherwise so designed to constitute a display device, or part of a display device.
  - (2) Architectural features that are either part of the building or part of a freestanding structure, and not an integral part of the sign, and which may consist of landscaping, building or structural forms complementing the site in general.
- (e) The area of a freestanding pole or monument sign shall be measured as follows if the sign is composed of more than one (1) individual cabinet or includes a rider:
  - (1) The area around and enclosing the perimeter of each cabinet or rider shall be summed and then totaled to determine total area.
  - (2) If the sign is composed of more than two (2) sign cabinets or riders, the area enclosing the entire perimeter of all cabinets and/or riders within a single, continuous geometric figure shall be the area of the sign.
- (f) Sign height shall be measured from the base of the sign or supportive structure at its point of attachment to the ground, to the highest point of the sign. The exception being that where a freestanding pole or monument sign or sign structure is mounted along a roadway that has a higher grade level as compared to the grade level directly below the freestanding pole or monument sign or sign structure, then the freestanding pole or monument sign or structure's height will be measured from the roadway grade level to the highest point of the freestanding pole or monument sign or sign structure.

**FIGURE 6.17**  
**Sign Height Detail**



- (g) Clearance for awning, canopy, marquee, pole and projecting signs shall be measured as the smallest vertical distance between finished grade and the lowest point of the sign, including any framework.

#### **Division 4 – Design, Installation and Maintenance**

##### **Sec. 19-6-410. – Sign design.**

- (a) In general, signs shall have mutually unifying elements which may include uniformity in materials, color, size, height, letter style, sign type, shape, lighting, location on buildings, and design motif.
- (b) Materials and textures of signs shall be compatible with the architectural character of the site and building. Supporting sign structures of freestanding signs shall match the primary finish and colors of the associated building(s).
- (c) Where possible, freestanding pole and monument signs shall integrate tenant signs into a single sign structure.
- (d) Wayfinding and directional signage systems shall be of a unified graphical system. Such signage shall be placed in consistent locations near site entries, key points on the internal automobile and pedestrian circulation system, building entries, seating areas, and sidewalk intersections.

##### **Sec. 19-6-420. – Sign installation.**

- (a) Except for flags, window signs and temporary signs conforming to the requirements of this Article, all signs shall be constructed of high quality durable materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure. No plywood signs shall be permitted.
- (b) All permanent signs and all components thereof, including sign structures and sign faces, shall be installed in compliance with the adopted building and electrical codes of the Town.
  - (1) No sign or sign structure shall be installed that impedes pedestrian or vehicular movement, or be erected in such a location as to cause visual obstruction or interference with motor vehicle traffic or traffic-control devices, or obstruct clear vision in any direction from any street intersection or driveway.
  - (2) No sign or sign structure shall be installed that obstructs access to or impedes operation of any fire escape, downspout, window, door, stairway, ladder or opening intended to provide light, air, ingress or egress for any building or structure as may be required by law.
    - a. If possible, signs should not be placed in locations that obscure architectural features such as pilasters, arches, windows, cornices, etc.
  - (3) No sign or sign structure shall be installed which is structurally unsafe.
    - a. All permanent freestanding pole signs shall have self-supporting structures erected on, or permanently attached to, concrete foundations.
  - (4) Signs shall be located in such a way as to maintain horizontal and vertical clearance of all overhead electrical conductors in accordance with adopted electrical code specifications, depending on voltages concerned. However, in no case shall a sign be installed closer than forty-eight inches (48") horizontally or vertically from any conductor or public utility guy wire, or as recommended by the local public utility company.
    - a. Every electric sign shall have affixed thereon an approved Underwriters' Laboratories label, or all wiring of such sign as approved by the state electrical inspector, and all wiring connected to such sign shall comply with all provisions of the applicable regulations of the Town relating to electrical installations.

Sec. 19-6-430. – Sign alteration.

- (a) Any alteration to an existing sign, other than for a change of copy or for maintenance, shall require a new sign permit pursuant to Section 19-6-210.
  - (1) Alterations shall include, without limitation:
    - a. Changing the size of the sign;
    - b. Changing the shape of the sign;
    - c. Changing the material of which the sign is constructed;
    - d. Changing or adding lighting to the sign;
    - e. Changing the location of the sign; or
    - f. Changing the height of the sign.
- (b) Existing nonconforming signs may be altered in any way that does not change the size, height, background, shape or location of the sign without bringing the entire sign into conformance, provided that the cost of the alteration is less than fifty percent (50%) of the sign's replacement cost.

Sec. 19-6-440. – Sign maintenance.

- (a) All signs, both currently existing and constructed in the future, and all parts and components thereof, shall be maintained in a safe condition in compliance with all building and electrical codes, and in conformance with this Article.
  - (1) All signs, including sign structures and sign faces, shall be maintained in good repair at all times and shall not constitute a hazard to safety, health or public welfare by reason of inadequate maintenance or deterioration. For the purposes of this Section, good repair shall mean that there are no loose, broken, torn or severely weathered portions of the sign structure or sign face.
  - (2) The owner of any sign regulated by this Article shall be required to keep signs and supporting hardware structurally safe, clean, free of visible defects, including graffiti, and functioning properly at all times. Exposed surfaces shall be clean and painted if paint is required. Defective parts shall be replaced. Repairs to signs shall be equal to or better in quality of materials and design than the original sign.
  - (3) All electronic message centers shall be equipped with a malfunction display and the ability to automatically shut off if a malfunction occurs. An electronic message center under repair shall be shut off.

Sec. 19-6-450. – Sign removal.

- (a) Anyone who violates any of the sign regulations provided in this Article shall be subject to the same penalties as provided in Article 1 of this Chapter.
- (b) The Town may inspect any sign governed by this Article and shall have the authority to order the painting, repair, alteration or removal of a sign which constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation or obsolescence. All associated costs shall be the responsibility of the property owner or permit holder.

- (c) The Town may cause the removal of any sign within the public right-of-way, on property that is otherwise abandoned, or that has been erected or placed without first complying with the requirements of this Article.
- (d) Signs removed in compliance with this Article shall be stored by the Town for thirty (30) days, during which time they may be recovered by the permit holder and/or owner upon payment to the Town for costs of removal and storage. If not recovered within the thirty-day period, the sign and supporting structure shall be declared abandoned and title shall vest with the Town. The costs of removal and storage, up to thirty (30) days, may be billed to the owner.

## Division 5 – Definitions

### Sec. 19-6-510. – Words and terms.

The following words and phrases shall have the following meanings:

*Alteration* means change in the size or shape of an existing sign. Copy or color change of an existing sign is not an alteration. Changing or replacing a sign face or panel is not an alteration.

*Animated* means the use of movement or change of lighting to depict action or to create a special effect or scene.

*Awning sign* means a sign permanently affixed to a sheet of canvas or other material stretched on a frame and used to keep the sun or rain off a storefront, window, doorway, or deck.

*Banner sign* means a professionally produced temporary sign having characters, letters, illustrations or ornamentations applied to flexible material (e.g. vinyl, plastic, canvas, cloth, fabric or other lightweight non-rigid material) with only such material for a backing, which projects from, hangs from or is affixed to a building or structure. Banners include pennants, cable-hung banners and freestanding feather banners.

*Building frontage* means the horizontal, linear dimension of that side of a building which abuts a street, parking area or other circulation area open to the general public. Where more than one (1) use occupies a building, each such use having a public entrance shall be considered to have its own building frontage, which shall be the front width of the portion of the building occupied by that use. In the case of a corner lot, the building frontage may be EITHER of the street frontages, but not both, at the option of the property owner or lessee.

*Canopy sign* means a sign permanently affixed to a roofed shelter covering a sidewalk, driveway or other similar area which shelter may be wholly supported by a building or may be wholly or partially supported by columns, poles or braces extended from the ground.

*Copy* means the wording, symbols, figures or images on a sign.

*Directional sign* means any sign that is designed and erected for the purpose of providing direction and/or orientation for pedestrian or vehicular traffic with or without reference to, or inclusion of, the name of a product sold or service performed on the lot or in a building, structure or business enterprise occupying the same.

*Electronic message center sign* means a sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means.

*Flashing* means a pattern of changing light illumination where the sign illumination alternates suddenly between fully illuminated and fully non-illuminated for the purpose of drawing attention to the sign.

*Freestanding sign* means any sign supported by structures or supports that are placed on or anchored in the ground and are not attached to any building or structure.

*Illuminated* means an artificial source of light is used in order to make readable a sign's message, and is inclusive of signs that are lighted internally or externally, or are reflectorized, glowing or radiating.

*Incidental sign* means a small sign affixed to a building or structure, machine, equipment, fence, gate, wall, gasoline pump, public telephone, or utility cabinet.

*Inflatable sign* means a balloon, blimp or other inflated object used for attracting attention.

*Logo* means an emblem, letter, character, picture, trademark or symbol used to represent any firm, organization, entity or product.



*Maintenance* means, for the purposes of this Article, the cleaning, painting, repair or replacement of defective parts of a sign in a manner that does not alter the basic copy, design or structure of the sign.

*Marquee sign* means any sign made a part of a marquee and designed to have changeable copy.

*Master Sign Plan (MSP)* means a coordinated program of signs in all zoning districts, including exempt and temporary signs for a Planned Development District (PDD) larger than one hundred (100) acres. The sign program shall include, but not be limited to, indications of the locations, dimensions, colors, letter styles and sign types of all signs to be installed on the PDD.

*Message hold time* means the time interval a static message must remain on the display before transitioning to another message.

*Monument sign* means a permanent freestanding sign supported by, or integrated into, a base or pedestal at least seventy five percent (75%) of the sign width.

*Mural* means a picture or graphic illustration applied directly to a wall of a building or structure that does not advertise or promote a particular business, service or product.

*Nonconforming sign* means a sign which was validly installed under laws or ordinances in effect at the time of its installation, but which is in conflict with the current provisions of this Article.

*Off-premise sign* means any sign used for promoting an interest other than that of a business, individual, product or service available on the premises where the sign is located.

*Permanent sign* means any sign constructed of durable materials and affixed, lettered, attached to or placed upon a fixed, non-movable, non-portable supporting structure.

*Pole sign* means a permanent freestanding sign supported by one or more poles or pylons.

*Portable sign* means a sign mounted on a moveable trailer or wheeled carrier.

*Projecting sign* means a sign which is attached perpendicular to the wall of a building or structure.

*Roof sign* means any sign erected upon a roof, parapet or roof-mounted equipment structure or extending above a roof, parapet or roof-mounted equipment structure of a building or structure.

*Sandwich board sign* means a sign with two (2) faces attached at the top and open at the bottom so that the structure forms a wedge and is self-supporting.

*Sign* means any written copy, display, illustration, insignia or illumination used to communicate a message or idea which is displayed or placed in view of the general public, and shall include every detached sign and every sign attached to or forming a component part of any marquee, canopy, awning, pole, vehicle or other object, whether stationary or movable.

*Sign face* means an exterior display surface of a sign including nonstructural trim, yet exclusive of the supporting sign structure.

*Sign structure* means any structure designed for the support of a sign.

*Site sign* means a temporary freestanding sign constructed of vinyl, plastic, wood or metal and designed or intended to be displayed for a limited period of time on a vacant lot or a lot under construction.

*Swing sign* means a temporary freestanding sign that is suspended from a horizontal support (a swing post) that is attached to a vertical support mounted in the ground. A swing sign may also include an additional message attachment, also known as a rider.

*Temporary sign* means any sign based upon its materials, location and/or means of construction, e.g., light fabric, cardboard, wallboard, plywood, paper or other light materials, with or without a frame, intended or designed to be displayed for a limited period of time.

*Traffic control sign* means a sign erected in a public right-of way by an authorized governmental agency for the purposes of traffic regulation and safety.

*Transition duration* means the time interval it takes the display to change from one complete static message to another complete static message.

*Transition method* means a visual effect applied to a message to transition from one message to the next. Transition methods include:

- a. Dissolve – a frame effect accomplished by varying the light intensity or pattern, where the first frame gradually appears to dissipate and lose legibility simultaneously with the gradual appearance and legibility of the second frame.
- b. Fade – a frame effect accomplished by varying the light intensity, where the first frame gradually reduces intensity to the point of not being legible (i.e. fading to black) and the subsequent frame gradually increases intensity to the point of legibility.

*Wall sign* means any sign painted on or affixed to the wall of a building or structure, or any sign consisting of cut-out letters or devices affixed to a wall with no background defined on the wall in such a manner that the wall forms the background surface of the sign.

*Window sign* means any sign which is applied or attached to either the interior or exterior of a window and intended to be viewed from outside the building or structure.

*Works of art* means a sculpture, painting, graphic or other type of art that does not advertise or promote a particular business, service or product.

*Yard sign* means a temporary freestanding sign constructed of paper, vinyl, plastic, wood, metal or other comparable material, and designed or intended to be displayed for a limited period of time on a lot with one (1) or more existing permanent structures.

**CHAPTER 19**  
**Town of Fraser Land Development Code**



**APPENDICES**

The following Appendices may be amended by the Town Staff and replacement versions inserted as necessary, without any required action by the Planning Commission or Board of Trustees.

1. Land Use Application and Submittal Checklists
2. Application Fees
3. Subdivision Improvements Agreement
4. Construction Guarantee Agreement

**CHAPTER 19**  
**Town of Fraser Land Development Code**



**APPENDIX 1**

**LAND USE APPLICATION AND SUBMITTAL CHECKLISTS**

Land Use Application

Annexation Checklist

Site Plan Checklist

Conditional Use Permit Checklist

CMRS Facility Checklist

PD District Plan Amendment Checklist

Final PD Plan Checklist

Final PD Plan Specifications Checklist

Variance Checklist

Rezoning Checklist

Sketch Plan Checklist

Preliminary Plat Checklist

Minor Subdivision Final Plat Checklist

Major Subdivision Final Plat Checklist

As-Built Plat Checklist

Vacation of Plat, Right-of-Way or Easement Checklist

Final Plat Specifications Checklist

Floodplain Development Permit Checklist

Sign Permit Checklist



## LAND USE APPLICATION FORM

**PROJECT NAME**

**DATE RECEIVED:**

**APPLICATION FEE:**

**TYPE OF APPLICATION** (Attach Submittal Checklist)

**HEARING DATE:**

- |                                                               |                                                         |                                                         |
|---------------------------------------------------------------|---------------------------------------------------------|---------------------------------------------------------|
| <input type="checkbox"/> Annexation                           | <input type="checkbox"/> Rezoning                       | <input type="checkbox"/> CMRS Facility                  |
| <input type="checkbox"/> Conditional Use Permit               | <input type="checkbox"/> Final Plat (Minor Subdivision) | <input type="checkbox"/> Final Plat (Major Subdivision) |
| <input type="checkbox"/> As Built Plat                        | <input type="checkbox"/> PD District Plan Amendment     | <input type="checkbox"/> Preliminary Plat               |
| <input type="checkbox"/> Site Plan (Minor and Major)          | <input type="checkbox"/> Final Planned Development Plan | <input type="checkbox"/> Sketch Plan                    |
| <input type="checkbox"/> Vacation of Plat, R.O.W. or Easement | <input type="checkbox"/> Variance                       | <input type="checkbox"/> Floodplain Development Permit  |
| <input type="checkbox"/> Sign Permit                          | <input type="checkbox"/> Other                          |                                                         |

### PROJECT INFORMATION

Applicant's Name:

Project Location:

Address:

Existing Zoning:

Phone/Fax:

Relation to Property Owner:

Proposed Zoning:

**Legal Description of Property** (lots, blocks, tracts, subdivision name, or metes & bounds - attach additional sheet, if necessary):

Total Acreage of Property under Consideration:

Number of Existing Residential Lots:

Number of Proposed Residential Lots:

Type of Housing Proposed:

Number of Existing Commercial Lots:

Number of Proposed Commercial Lots:

### ADDITIONAL CONTACTS

Property Owner:

Consultant:

Address:

Address:

City/State/Zip:

City/State/Zip:

Phone/Fax:

Phone/Fax:

### BRIEF DESCRIPTION OF DEVELOPMENT:

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The Town of Fraser requires that the applicant pay all fees and costs relating to this application, as provided in the Town's general application policies set forth in Section 1-3-70 of the Fraser Municipal Code, which is reproduced below. The undersigned acknowledges that he or she has read and understands such policies and agrees to the terms thereof, including those provisions concerning collection of unpaid charges owed to the Town. The amount payable for up-front application fees and any cash deposit for additional processing charges will be specified by Town staff at the time of filing this application. Additional payments or deposits may be required during the processing of the application.

#### **CERTIFICATION**

I hereby affirm that I have full legal capacity to authorize the filing of this application and that all information and exhibits herewith submitted are true and correct to the best of my knowledge. The Authorized Signer gives consent for Town of Fraser representatives to make all reasonable inspections and investigations of the subject property during the period of processing this application. I understand that all materials and fees required by the Town of Fraser must be submitted prior to having this application processed.

Authorized Signature\*:

Date:

\*If other than owner, attach letter authorizing agent on behalf of owner.

#### **Sec. 1-3-70. General application policies.**

The following general policies shall apply to all applications for permits or other approvals required under the provisions of this Code, unless different requirements, which are inconsistent with the following, are specified under the provisions of this Code for a particular type of application:

- (1) No application will be considered complete until all prescribed fees and deposits have been paid.
- (2) Application fees. Application fees are established and modified from time to time by the Board of Trustees and are set forth in the current fee schedule approved by the Board of Trustees. Such application fees are intended to defray the administrative expenses of processing applications attributable to the use of Town employee time and Town facilities. No part of an application fee shall be refunded on account of any denial, partial processing or withdrawal of part or all of the application.
- (3) Processing fees. In addition to application fees, the applicant shall pay all costs relating to the processing of the application, including the costs of publication for each publication required. If republication is necessary due only to Town error, the Town will pay the costs of republication. The applicant shall also pay the costs for mailing notification of the application to adjacent or surrounding property owners, if required. The applicant shall pay any and all recording fees relating to the application or approval thereof and all inspection fees relating to the application or administration of the permit or other approval.
- (4) Additional costs. The applicant shall pay for any additional costs incurred by the Town for the services of outside professionals, consultants or other review agencies, other than Town staff, including, without limitation, attorneys, engineers and outside planning consultants, during the review and consideration of an application. The Town will send invoices to the applicant for expenses incurred as the Town is billed, which shall be paid by the applicant within the time prescribed in the invoice. Any amounts not paid when due shall accrue interest at the rate of one and one half percent (1.5%) per month, not to exceed eighteen percent (18%) per annum.
- (5) Deposit. The Town may require the applicant to provide a cash deposit, in an amount specified in the fee schedule established by the Board of Trustees, to secure payment of the anticipated processing fees and additional costs related to the application not covered by the application fee. The Town may draw upon this deposit to pay such fees and costs and may also suspend further proceedings or reviews related to the application for any delinquent account until the applicant pays the amount necessary to reinstate the full amount of the cash deposit. Any delinquent account related to an application shall be sufficient grounds for denial of the application. Any unused portion of such deposit remaining after completion or termination of the application and payment of any outstanding invoices shall be refunded to the applicant. No interest will accrue on the deposit.
- (6) All outstanding fees, taxes and invoices shall be paid in full prior to final approval of the application or issuance of the applicable permit, certificate or other approval document. Deposits shall be held for ninety (90) days after approval to cover any outstanding invoices related to the application.
- (7) In the event of nonpayment of fees, costs or other charges owed, the Town shall have the right to file a legal action to collect any balance due to the Town, plus its costs of collection, including reasonable attorney's fees, against the applicant and/or the owner of the property that is the subject of the application. The amount of such unpaid fees, costs and other charges owed to the Town shall constitute a lien upon any property that is the subject of the application, and the Town may certify to the County Treasurer any amount due for collection in the same manner as other property taxes are collected.
- (8) The Town shall reserve the right to revoke or suspend any permit, certificate or other approval issued hereunder if the work or activity undertaken pursuant thereto is not done in accordance with the approved terms.

## BRIEF DESCRIPTION OF DEVELOPMENT:

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### PUBLIC NOTICE

At least fourteen (14) days in advance of the public hearing, the applicant shall provide written notice to all owners of property within two hundred feet (200') of the boundaries of the property that is the subject of the application. Such notice shall be sent via certified mail, return receipt requested and shall include the following information: A copy of the complete application with all accompanying materials, the name, address and phone number of the authorized contact for the applicant, and the time, date and place of the public hearing. The applicant shall provide the Town with a written affidavit prior to the time of the public hearing reflecting the date of mailings and the names, addresses and legal descriptions of all parties to whom the notifications were transmitted, together with a complete copy of the materials included in the mailing. Failure to properly mail the documents, notify the necessary parties, and/or provide the required affidavit shall be grounds for denial of the application or a continuance of the public hearing until such notice is provided. See sample letter below.

**The notification letter cannot be sent until a public hearing date has been scheduled by the Town.**

### ADJACENT PROPERTY OWNER NOTIFICATION LETTER

This notice to be sent by applicant to all owners of property within two hundred feet (200') of the boundaries of the property that is subject to the application and to all surface owners, mineral owners, and lessees of mineral owners to whom notice is to be sent pursuant to C.R.S. 31-23-215. Such notice shall be sent via certified mail, return receipt requested. The applicant shall provide the Town with a written affidavit or other proof of notice prior to the time of public hearing reflecting the date of mailings, addresses and legal descriptions of all parties to whom the notifications were transmitted. Failure to properly mail the documents, notify the necessary parties and/or provide the required affidavit shall be grounds for denial of the application or a continuance of the public hearing until such notice is provided.

Dear Sir/Madam:

This letter is to advise you that \_\_\_\_\_ (applicant) has requested \_\_\_\_\_ (land use request) for a property located at \_\_\_\_\_ (property address or location) and that the Town of Fraser has scheduled a public hearing to consider this request. The public hearing is scheduled for \_\_\_\_\_ (date assigned by Town) at \_\_\_\_\_ (time assigned by Town) at the Town of Fraser Town Hall located at 153 Fraser Avenue in the Board Room.

Enclosed for your review is a copy of the proposal as presented to the Town of Fraser. Additional application materials are on file at the Town Hall offices. The Town of Fraser may be contacted at 970-726-5491 for further information.

Please note that you may comment at the public hearing or by forwarding written comments to the Town of Fraser Planning Department (P.O. Box 370, Fraser, CO 80442). Written comments must be received by the Town prior to the public hearing.

Sincerely,

\_\_\_\_\_(applicant)

## AFFIDAVIT OF NOTICE

*To be completed after completion of notice distribution and forwarded to Town staff prior to the date of hearing*

I, \_\_\_\_\_ applicant requesting, \_\_\_\_\_ hereby affirm that notice was distributed in accordance with Town of Fraser codes.

Date \_\_\_\_\_

\_\_\_\_\_  
Owner/Applicant

STATE OF COLORADO

County of \_\_\_\_\_,

Subscribed and sworn to before me this \_ day of \_\_\_\_\_ 20\_\_\_\_,

by \_\_\_\_\_.

Witness my hand and official seal.

(SEAL)

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

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

\*\*\*\*\*

### NOTES:

1. In addition to minimum design criteria and standards, the Town of Fraser Subdivision and Zoning Regulations outline specific minimum submittal requirements. Please review these carefully in order to ensure prompt action on your land use application.
2. The Town of Fraser Subdivision and Zoning Regulations outline the review procedures applicable to each land use application. In cases with multiple requests for an individual property, it is preferable to synchronize the review procedures for a prompt and efficient review process.
3. The applicant is responsible for initiating formal reviews with the Colorado Department of Transportation, the U.S. Army Corps of Engineers, the Colorado Division of Parks and Wildlife, the Fraser Sanitation District, the Colorado Water Conservation Board, and other applicable agencies. The Town refers applications to these agencies for comment, however, the Town cannot initiate a permit request or consultation.
4. A Subdivision Improvement Agreement may be necessary. This document must be executed and recorded prior to or concurrent with plat recordation.
5. Contact the Planning Department at 970-726-5491 if you have any questions or need assistance.

<p><b>The applicant is responsible for payment of recording fees, improvement inspection fees, and other additional costs incurred by the Town for the services of professionals, consultants, or other review agencies applicable to the request. All invoices shall be paid in full prior to final Town Board approval of the application or issuance of the applicable permit, certificate or other approval document.</b></p>
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## NOTIFICATION OF SEVERED MINERAL ESTATES

The Town of Fraser, pursuant to C.R.S. 24-65.5-103, requires notification to mineral estate owners, mineral estate lessees and surface owners in connection with the following land use applications: Major Subdivision Preliminary or Final Plat, Final Planned Development Plan, Conditional Use Permit, Major Site Plan, or any other development application that requires a public hearing.

Thirty (30) days in advance of the initial public hearing, the applicant shall provide notice to all surface owners, mineral owners and lessee of mineral owners in accordance with C.R.S. 31-23-215 and 24-65.5-1-3, as amended.

The applicant must certify the same to the local government as a condition of approval of the application. Please use CERTIFICATE OF NOTICE TO MINERAL ESTATE OWNER form.

I /We have searched the records of the Grand County Tax Assessor and the Grand County Clerk and Recorder for the above identified parcel and have found that no mineral estate owner is identified therein pursuant to Section 24-65.5-103(1) of the Colorado Revised Statutes.

\_\_\_\_\_  
Applicant or Authorized Representative

\_\_\_\_\_  
Date

**TOWN OF FRASER, STATE OF COLORADO**  
**CERTIFICATE OF NOTICE TO MINERAL ESTATE OWNER**

The undersigned is the Applicant and/or the Surface Owner, as defined in section 24-65.5-102(7), C.R.S. of the Surface Estate, as defined section 24-65.5-102(6), C.R.S., for which an application for development has been submitted to the Town of Fraser, State of Colorado, for one or more of the following land use actions: Major Subdivision Preliminary or Final Plat, Final Planned Development Plan, Conditional Use Permit, Major Site Plan, or any other development application that requires a public hearing. The name of the application for development is as follows:

\_\_\_\_\_

C.R.S. §24-65.5-101 *et seq.* and C.R.S. §31-23-215 impose certain requirements concerning notification to owners of severed mineral estates and other interested parties with respect to proposed surface development. The undersigned has read and fully understands those requirements.

The undersigned hereby certifies that notice of such application has been provided to all mineral estate owners, lessees of mineral estate owners and any (other) surface owners in accordance with the requirements of C.R.S. §24-65.5-103 and/or 31-23-215, as applicable.

Date \_\_\_\_\_

\_\_\_\_\_  
Surface Owner  
(Owner)

OR Applicant (if different than Surface

STATE OF COLORADO

County of \_\_\_\_\_,

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

by \_\_\_\_\_  
\_\_\_\_\_.

Witness my hand and official seal.

(SEAL)

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

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



## ANNEXATION CHECKLIST

**An application for annexation shall be accompanied by the following information, unless one or more items are specifically waived in writing by the Town Staff:**

- ☐ The land use application form.
- ☐ The applicable fee as established by the Board of Trustees in Appendix 2 Application Fees.
- ☐ A vicinity map indicating the location of the property.
- ☐ A legal description of the property.
- ☐ Proof of legal ownership in the form of a current title policy, and the names and addresses of the owners of the property and any lienholder(s).
- ☐ A cover letter including a statement of the purpose of the application, a brief description of the proposed annexation, and confirmation that the property is eligible for annexation in accordance with C.R.S. §§ 31-12-101, et seq.. If zoning is proposed concurrent with annexation, indicate the proposed zoning district.
- ☐ A letter of representation, signed and notarized by the property owner(s), for any applicant that is not a property owner.
- ☐ An annexation petition prepared in accordance with C.R.S. §§ 31-12-101, et seq.
- ☐ An Affidavit of Circulator prepared in accordance with C.R.S. §§ 31-12-101, et seq.
- ☐ An annexation map prepared in accordance with C.R.S. §§ 31-12-101, et seq., including:
  - ☐ Boundaries of each ownership parcel within the area to be annexed.
  - ☐ Name of annexation.
  - ☐ Date, scale and North sign.
  - ☐ Location of proposed annexation site to Town's existing boundaries.
  - ☐ Boundaries of any special districts having jurisdiction over the area to be annexed.
  - ☐ The location and width of streets and utility easements either within or adjacent to the area to be annexed.
  - ☐ The location and site of nearest existing utility lines.
  - ☐ Any existing development in the area to be annexed.
  - ☐ The current source of water, sanitary sewer, and storm drainage service for the area to be annexed.
  - ☐ Proposed zoning of the area to be annexed and exact zoning boundaries.
- ☐ A professional engineer or land surveyor's statement of preparation with stamp and signature.
- ☐ An annexation impact report prepared in accordance with C.R.S. §§ 31-12-101, et seq. Note: An annexation impact report is not required for any property less than ten (10) acres in size.
- ☐ Any pre-annexation agreement(s) negotiated with the Town of Fraser.
- ☐ Legal descriptions of any water rights existing on the property proposed for annexation.
- ☐ Any other reports and information deemed necessary by the Town.
- ☐ Copies of the submittal materials in a format and quantity as specified by Town Staff.



## SITE PLAN CHECKLIST

**An application for a major or minor site plan shall be accompanied by the following information, unless one or more items are specifically waived in writing by the Town Staff:**

An application for a minor site plan shall be accompanied by the following information:

- ☐ The land use application form.
- ☐ The applicable fee as established by the Board of Trustees in Appendix 2 Application Fees.
- ☐ Proof of ownership.
- ☐ Site plan, preferred scale of 1" = 20', indicating the general site design of the proposal, including all existing and proposed improvements and building footprints. The site plan shall provide adequate details to evaluate the traffic circulation, parking, snow storage, building footprints, fences, loading points, refuse container locations, public rights-of-way and all existing and proposed easements, as applicable.
- ☐ Building elevations, preferred scale of 1/4" = 1', of the proposed structures, showing: existing ground surfaces, top of foundation, floor elevations, roof line and any rooftop mechanical units proposed.
- ☐ Building floor plan, preferred scale of 1/4" = 1'.
- ☐ Any supplemental materials that the applicant feels will accurately depict the proposed project.

In addition to the above information, an application for a major site plan shall be accompanied by the following information:

- ☐ Drainage plan (preferred scale of 1" = 20', optional scale of 1" = 50') shall include the following: existing and proposed improvements, existing and proposed contours, existing and proposed easements, snow storage areas, utility lines, spot elevations and flow direction arrows, as needed to clearly portray the proposed drainage layout and detail, and any drainage facilities needed to mitigate the anticipated impacts. If swales are proposed, include a cross-section detail of the proposed swale with dimensions. Silt fences, sediment traps, catch basins and/or detention ponds may be required at the discretion of the Town. The drainage plan shall also indicate temporary and permanent methods to be used to stabilize and prevent the erosion of soils.
- ☐ Grading plan with existing and proposed topography.
- ☐ Utility plan, preferred scale of 1/4" = 1', including off-site connections.
- ☐ Landscaping plan, preferred scale of 1" = 20', including: property lines, existing and proposed structures, existing natural features, location, species, quantity and size of landscape materials to be planted and method of irrigation.
- ☐ An exterior materials package including roof material and color, wall material and color, etc.
- ☐ The names and addresses of any property owners within two (200) hundred feet of any portion of the property.
- ☐ Any other special reports and/or information deemed necessary by the Town.
- ☐ Copies of the submittal materials in a format and quantity as specified by Town Staff.



## CONDITIONAL USE PERMIT CHECKLIST

**An application for a Conditional Use Permit shall be accompanied by the following information, unless one or more items are specifically waived in writing by the Town Staff:**

- ☐ The land use application form.
- ☐ The applicable fee as established by the Board of Trustees in Appendix 2 Application Fees.
- ☐ Name and address of the owner and/or applicant and a statement that the applicant, if not the owner, has the permission of the owner to make application and act as agent for the owner.
- ☐ A description of the precise nature of the proposed use and its operating characteristics, and other measures proposed to make the use compatible with other properties in the vicinity.
- ☐ A site plan showing proposed development of the site, including topography, building sizes, dimensions and locations, parking, traffic circulation, open space, landscaped area and utilities and drainage features.
- ☐ Landscape and impact buffering plans.
- ☐ Descriptions of impact mitigation methods
- ☐ Complete engineering plan of all utilities and accesses. Refer to Chapter 14 of this Code.
- ☐ A development schedule.
- ☐ The names and addresses of any owners and lessees of mineral rights for the property. All mineral rights owners and lessees must be notified thirty (30) days in advance of application review.
- ☐ The names and addresses of any property owners within two (200) hundred feet of any portion of the property.
- ☐ Any other special reports and/or information deemed necessary by the Town.
- ☐ Copies of the submittal materials in a format and quantity as specified by Town Staff.



## CMRS FACILITY CHECKLIST

**An application for a CMRS facility shall be accompanied by the following information, unless one or more items are specifically waived in writing by the Town Staff:**

- ☐ The land use application form.
- ☐ The applicable fee as established by the Board of Trustees in Appendix 2 Application Fees.
- ☐ A project statement identifying the proposed CMRS facility and the telecommunication service to be provided by the proposed facility.
- ☐ An indication as to whether the facility is designed to accommodate the equipment of additional carriers. Each application for a CMRS facility shall be accompanied by a statement from the building/property owner indicating that they consent to the placement of the CMRS facility on the site and information which indicates that the lease does not preclude collocation.

An application for a modification to an existing facility which is not a "substantial change" and is considered an "eligible facilities request," as defined in Section 19-2-610 of this Chapter, shall provide all information reasonably required by the Town to determine whether the request meets the requirements for being an "eligible facility request" that is not a "substantial change" in the physical dimensions of the support structure.

An application for any other building or roof mounted facility, or to place additional antennas on existing freestanding facilities, shall make application as a minor site plan. Refer to the Site Plan Checklist.

An application for a freestanding CMRS facility shall be accompanied by the following information:

- ☐ An application for a Conditional Use Permit. Refer to the Conditional Use Permit Checklist.
- ☐ Evidence that the carrier has reasonably explored the use of wall or roof or stealth facilities within the search area and determined that said facilities are not feasible or appropriate and justification of the need for the proposed tower and height requested.
- ☐ A site development plan illustrating all existing buildings, parking, easements, and landscaping existing on the site as well as any proposed CMRS facility locations, landscaping, screening or security fencing.
- ☐ A photo simulation, which illustrates "before" and "after" what the site will look like once the freestanding CMRS facility and any ground-mounted equipment have been constructed. The photos should be taken from the adjoining public street and from any adjacent residential zoning from which the freestanding facility will be visible.
- ☐ Elevation drawings shall include the freestanding CMRS facility, as well as any ground-mounted equipment. The drawings should indicate the appearance, height, color and material proposed for the freestanding CMRS facility, antennas and associated equipment.
- ☐ Any other special reports and/or information deemed necessary by the Town.
- ☐ Copies of the submittal materials in a format and quantity as specified by Town Staff.

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## PD DISTRICT PLAN AMENDMENT CHECKLIST

**An application for amending an approved PD District Plan shall be accompanied by the following information, unless one or more items are specifically waived in writing by the Town Staff:**

An application for a minor amendment to an approved PD District Plan shall be accompanied by the following information:

- ☐ The land use application form.
- ☐ The applicable fee as established by the Board of Trustees in Appendix 2 Application Fees.
- ☐ A vicinity map indicating the location and street address (if applicable) of the property.
- ☐ A legal description of the property.
- ☐ Proof of legal ownership in the form of a current title policy, and the names and addresses of the owners of the property and any lienholder(s).
- ☐ A petition for a PD District Plan amendment signed by all owners of the area of land or area of lots subject to a PD District Plan amendment application.
- ☐ A letter of representation, signed and notarized by the property owner(s), for any applicant that is not a property owner.
- ☐ A cover letter including justification for the PD District Plan amendment based upon the evaluation criteria in Section 19-2-170 (c) of the Land Development Code, to the degree applicable to the purpose of the minor amendment.

In addition to the above information, an application for a major amendment to an approved PD District Plan shall be accompanied by the following information:

- ☐ A cover letter including justification for the PD District Plan amendment based upon the evaluation criteria in Section 19-2-170 (c) of the Land Development Code. Include the existing land use and the proposed land use.
- ☐ The names and addresses of any owners and lessees of mineral rights for the property. All mineral rights owners and lessees must be notified thirty (30) days in advance of application review.
- ☐ The names and addresses of any property owners within two (200) hundred feet of any portion of the property.
- ☐ Any other special reports and/or information deemed necessary by the Town.
- ☐ Copies of the submittal materials in a format and quantity as specified by Town Staff.





## FINAL PD PLAN CHECKLIST

**An application for a Final PD Plan shall be accompanied by the following information, unless one or more items are specifically waived in writing by the Town Staff:**

- ☐ The land use application form.
- ☐ The applicable fee as established by the Board of Trustees in Appendix 2 Application Fees.
- ☐ A written description addressing how the proposed Final PD Plan conforms to the PD District Plan, including Information on land areas adjacent to the proposed planned development to indicate integration of circulation systems, public facilities and utility systems and open space.
- ☐ Any plan maps that have been revised since the PD District approval.
- ☐ Quantitative data for the following: final number of dwelling units, number of bedrooms in each unit, final figures for previously agreed upon design standard negotiable items and footprint sizes of all proposed buildings.
- ☐ A statement that integrates pertinent elements of any pre-annexation and development agreements, contracts, etc., previously negotiated with the Town.
- ☐ Summaries of any market studies containing information that can be shared with the general public.
- ☐ A plan which estimates the number of employees needed to serve all or portions of the development.
- ☐ A description of the amounts and location of dedicated open space. Refer to Section 19-4-165 of this Chapter.
- ☐ Any required dedication documentation and/or improvement agreements and bonds.
- ☐ Two (2) copies of the proposed restrictive covenants, condominium or townhome declaration, articles of incorporation and bylaws of any homeowners' association and deed of conveyance to an HOA, as applicable.
- ☐ Final environmental studies (wetland delineation, floodplain mapping, geotechnical report, etc.).
- ☐ Engineering drawings. Refer to Chapter 14 of this Code for the drawing requirements and design and technical criteria for the construction of roads, walkways, utilities, and associated infrastructure within the Town.
- ☐ A Traffic Impact Analysis (TIA) and/or Traffic Impact Study (TIS). Refer to Chapter 14 of this Code.
- ☐ The planned pedestrian, bicycle and vehicular circulation system, including their interrelationships with the vehicular parking and unloading system, indicating proposed detailed treatments of points of conflict.
- ☐ A plan showing how the development's residents will be afforded access to public transit and how the transit system will be integrated into the development.
- ☐ A final grading plan. Refer to Chapter 14 of this Code.
- ☐ A final erosion and sediment control and revegetation plan. Refer to Chapter 14 of this Code.
- ☐ A fugitive dust control plan to be implemented during construction.
- ☐ A landscaping plan, including the proposed treatment of the perimeter of the planned development, including materials and techniques used, such as screens, fences, and walls. Refer to Chapter 14 of this Code.
- ☐ A detailed parking plan.
- ☐ A snow removal and/or storage plan.
- ☐ An exterior lighting plan. Refer to Chapter 14 of this Code.
- ☐ Any preliminary or final subdivision plats required and prepared as per the requirements of Article 3 of this Chapter if the development is planned to begin within one (1) year.
- ☐ Estimated time schedule for development, including a site map that depicts the development, phases thereof, sites and building footprint sizes and locations outlined in the development schedule.
- ☐ The names and addresses of property owners within two (200) hundred feet of any portion of the property.
- ☐ Any other special reports and/or information deemed necessary by the Town.
- ☐ Copies of the submittal materials in a format and quantity as specified by Town Staff.

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## FINAL PD PLAN SPECIFICATIONS CHECKLIST

### All Final PD Plans shall be prepared in accordance with the following specifications:

Various maps will need to be recorded with the County Clerk and Recorder as part of the approval of the final PD plan. These maps shall be drawn up using the following format unless determined otherwise by the Town staff or Planning Commission in coordination with the applicant.

- ☐ Said maps shall be in the form of a black India-inked Mylar or linen cloth that is capable of reproducing clear and sharp reproductions of all details, signature and seals. No plans using sepia ink or pencil or containing stick-on will be accepted.
- ☐ The plan sheet shall have outer dimensions of twenty-four (24) inches by thirty-six (36) inches. The plan drawing will be contained within a space defined by a one-and-one-half-inch margin from the left sheet and a one-half-inch margin from the other three (3) sheet edges.
- ☐ Sheets are to be designated as sheet x of y sheets. Applicants are encouraged to use more than one (1) sheet in order to avoid crowding of information on the sheet.
- ☐ The scale of the plan drawing shall be, at a minimum, fifty (50) feet equals one (1) inch. Other scales may be used with the permission of the Planning Commission.
- ☐ A two-and-one-half-inch by three-inch vertical box in the lower right-hand corner shall be provided for the use of the County Clerk and Recorder.
- ☐ Formats for plan drafter's, Owner's, Planning Commission Chairperson's and Board of Trustees Chairperson's signature blocks and dedication blocks.
- ☐ All signatures on the plan are to be in black permanent ink.



## VARIANCE CHECKLIST

**An application for a variance shall be accompanied by the following information, unless one or more items are specifically waived in writing by the Town Staff:**

- ☐ The land use application form.
- ☐ The applicable fee as established by the Board of Trustees in Appendix 2 Application Fees.
- ☐ A vicinity map indicating the location and street address (if applicable) of the property.
- ☐ A legal description of the property.
- ☐ Proof of legal ownership in the form of a current title policy, and the names and addresses of the owners of the property and any lienholder(s).
- ☐ A cover letter justifying how the application meets the variance criteria in Section 19-1-330.
- ☐ A letter of representation, signed and notarized by the property owner(s), for any applicant that is not a property owner.
- ☐ The names and addresses of any property owners within two hundred (200) feet of any portion of the property.
- ☐ Any other special reports and/or information deemed necessary by the Town.
- ☐ Copies of the submittal materials in a format and quantity as specified by Town Staff.



## REZONING CHECKLIST

**An application for a rezoning shall be accompanied by the following information, unless one or more items are specifically waived in writing by the Town Staff:**

- ☐ The land use application form.
- ☐ The applicable fee as established by the Board of Trustees in Appendix 2 Application Fees.
- ☐ A vicinity map indicating the location and street address (if applicable) of the property.
- ☐ A legal description of the property.
- ☐ Proof of legal ownership in the form of a current title policy, and the names and addresses of the owners of the property and any lienholder(s).
- ☐ A petition for rezoning signed by the owners of at least fifty percent (50%) of the area of land or area of lots subject to the rezoning application.
- ☐ A cover letter including justification for a rezoning based upon the review criteria in Section 19-2-170 of the Land Development Code. Include the existing zoning and the proposed zoning.
- ☐ A letter of representation, signed and notarized by the property owner(s), for any applicant that is not a property owner.
- ☐ The names and addresses of any owners and lessees of mineral rights for the property. All mineral rights owners and lessees must be notified thirty (30) days in advance of application review.
- ☐ The names and addresses of any property owners within two (200) hundred feet of any portion of the property.
- ☐ Any other special reports and/or information deemed necessary by the Town.
- ☐ Copies of the submittal materials in a format and quantity as specified by Town Staff.



## SKETCH PLAN CHECKLIST

**An application for a sketch plan shall be accompanied by the following information, unless one or more items are specifically waived in writing by the Town Staff:**

- ☐ The land use application form.
- ☐ The applicable fee as established by the Board of Trustees in Appendix 2 Application Fees.
- ☐ General development information.
- ☐ Images (such as photographs, sketches and/or plans) which illustrate the project intention.
- ☐ Context/vicinity map, which shows the proposed development in relation to the surrounding area.
- ☐ Base map, which shows the site features (such as topography, watercourses, wetland delineation, floodplain mapping, soils and/or geological conditions).
- ☐ North arrow, scale and date of preparation.
- ☐ Boundary of the proposed project.
- ☐ Existing and proposed zoning on and around the property.
- ☐ Approximate location, dimension and area of all proposed lots.
- ☐ Existing and proposed streets.
- ☐ Topography, including all slopes over thirty percent (30%) and grading.
- ☐ Base flood elevations and floodways.
- ☐ Approximate building shape and location.
- ☐ Existing and proposed land and building uses for the properties.
- ☐ Parking, loading, service areas and snow storage areas.
- ☐ Existing water and sewer lines and stormwater drainage systems and proposed connections.
- ☐ Conceptual landscape plan.
- ☐ Approximate location, dimensions and area of all parcels of land proposed to be set aside for open space/trail networks, parks and schools.
- ☐ Acreage of property.
- ☐ Proposed number of residential dwelling units and commercial square footage.
- ☐ Land use table. The table shall include: land uses, approximate acreage of each land use and percentage of each land use, total acreage and square footage of property, total numbers of lots and maximum number of each type of dwelling unit proposed.
- ☐ Relevant site characteristics and environmental analyses applicable to the proposed subdivision concerning watercourses, wetland delineation, floodplain mapping and soils and/or geological conditions presenting hazards or requiring special permits.
- ☐ Any other reports and information deemed necessary by the Town.
- ☐ Copies of the sketch plan and associated submittal materials in a format and quantity as specified by Town Staff.



## PRELIMINARY PLAT CHECKLIST

**An application for a preliminary plat shall be accompanied by the following information, unless one or more items are specifically waived in writing by the Town Staff:**

- ☐ The land use application form.
- ☐ The applicable fee as established by the Board of Trustees in Appendix 2 Application Fees.
- ☐ A title commitment (two [2] copies) - must be current and dated no more than thirty (30) days from the date of application submittal.
- ☐ Proposed water and sewer service facilities and the stormwater drainage and management systems, and proposed connection with existing systems.
- ☐ Proposed access if the property does not have direct contiguous access to a public street.
- ☐ If any liens will exist upon the subdivided property at the time of plat approval, the lien holders shall join in the execution of the declaration and final plat.
- ☐ Preliminary environmental studies (wetland delineation, floodplain mapping, construction feasibility, etc.).
- ☐ A preliminary geotechnical report. Refer to Chapter 14 of this Code.
- ☐ A preliminary drainage report. Refer to Chapter 14 of this Code.
- ☐ A preliminary grading plan. Refer to Chapter 14 of this Code.
- ☐ An erosion and sediment control and revegetation plan. Refer to Chapter 14 of this Code.
- ☐ A Traffic Impact Analysis (TIA) and/or Traffic Impact Study (TIS). Refer to Chapter 14 of this Code.
- ☐ General development information. Provide a written description addressing how the proposed development conforms to this Code (including development and design standards, zoning regulations and the subdivision regulations) and Comprehensive Plan:
  - The applicant's goals and vision for the project.
  - How the proposed subdivision will be connected to and integrated with the surrounding natural and developed areas.
  - How the project will impact neighboring properties (i.e., water drainage, traffic circulation, trails, environmental impacts and view corridors).
  - How the design is cost-effective and environmentally responsive to site features and constraints and how potential impacts to natural systems will be mitigated.
  - How the proposal promotes the efficient use of land and public streets, utilities and governmental services.
- ☐ Images (such as photographs, sketches and/or plans) which illustrate the project intention, for example
  - Important architectural elements and styles.
  - Ideas for landscaping features, such as Xeriscape.
  - Streetscape components which contribute to the project's character.
  - Examples of signs that promote the development's identity.
  - Photographs of the site.
  - Anything else that illustrates what the applicant is trying to create.
- ☐ The names and addresses of any owners and lessees of mineral rights for the property. All mineral rights owners and lessees must be notified thirty (30) days in advance of application review.
- ☐ The names and addresses of property owners within two (200) hundred feet of any portion of the property.
- ☐ Any other reports and information deemed necessary by the Town.
- ☐ Copies of the preliminary plat and associated submittal materials in a format and quantity as specified by Town Staff.

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## MINOR SUBDIVISION FINAL PLAT CHECKLIST

**An application for a minor subdivision final plat shall be accompanied by the following information, unless one or more items are specifically waived in writing by the Town Staff:**

- ☐ The land use application form.
- ☐ The applicable fee as established by the Board of Trustees in Appendix 2 Application Fees.
- ☐ A cover letter including a statement of the purpose of the application and a brief description of how the proposal meets the requirements of Section 19-3-215 of the Land Development Code.
- ☐ Two (2) copies of a title commitment dated no more than thirty (30) days from the date of application.
- ☐ Drainage plan. Refer to Chapter 14 of this Code.
- ☐ The names and addresses of any owners and lessees of mineral rights for the property. All mineral rights owners and lessees must be notified thirty (30) days in advance of application review.

The minor amendment of final plat, including a lot line adjustment, lot consolidation, or plat correction, shall be accompanied by the following additional information:

- ☐ Copies of a petition requesting the minor plat amendment, describing the impact and the need for the amendment in a format and quantity as specified by Town staff.
- ☐ Three (3) copies of the recorded plat to be amended.
- ☐ Signed statements from all lien holders and all other security interest holders of record indicating that the interest holders do not object to the proposed plat amendment. If there are no other holders of interest in the property, the property owner(s) shall so indicate by a signed statement.
- ☐ At the discretion of the Town, in cases where the effects of a minor plat amendment are determined to be negligible to all property owners within the subdivision, the minor plat amendment may be processed on behalf of all owners by a majority of owners, affected owners, and the developer of the subdivision or the owners' association. In such cases, the applicant shall provide evidence of notice of the request and hearing to all owners within the subdivision.
- ☐ Any other reports and information deemed necessary by the Town.
- ☐ Copies of the final plat and associated submittal materials in a format and quantity as specified by Town Staff.

Prior to execution of the final plat, the applicant shall provide the Town with the following:

- ☐ Executed originals of all legal documents.
- ☐ Final plat Mylar.
- ☐ A fourteen (14) inch by eighteen (18) inch black line Mylar for the purpose of incorporating the data into a 911 emergency system, containing the name of the subdivision, the section, township and range in which the subdivision is located, all street names, lot numbers, street addressing numbers, unit numbers (if applicable) and a range of street addressing numbers for each street.
- ☐ A digital file of the approved final plat and 911 emergency system drawings, in a form acceptable the Town's Geographic Information System (GIS).

Note: For a minor subdivision final plat of a condominium, townhome and/or apartment development, refer to the as-built plat submittal checklist.





## MAJOR SUBDIVISION FINAL PLAT CHECKLIST

**An application for a major subdivision final plat shall be accompanied by the following information, unless one or more items are specifically waived in writing by the Town Staff:**

- ☐ The land use application form.
- ☐ The applicable fee as established by the Board of Trustees in Appendix 2 Application Fees.
- ☐ Two (2) copies of a title commitment dated no more than thirty (30) days from the date of application.
- ☐ Written proof of water and sewer service and the location of any proposed connection with existing systems.
- ☐ Letters of support and commitment to serve signed by a representative of each utility provider.
- ☐ A phasing plan for the entire preliminary plat land area, if requesting approval of final plats for a portion of an approved preliminary plat. The phasing plan shall include the location and number of the proposed final plats, their approximate dates to be recorded, and when infrastructure will be extended to each phase.
- ☐ Engineering drawings. Refer to Chapter 14 of this Code for the drawing requirements and design and technical criteria for the construction of roads, walkways, utilities, and associated infrastructure within the Town.
- ☐ Written proof of legal access if the property does not have direct contiguous access to a street.
- ☐ Draft SIA, in a form as provided in Appendix 3 Subdivision Improvements Agreement.
- ☐ Two (2) copies of the proposed restrictive covenants, condominium or townhome declaration, articles of incorporation and bylaws of any homeowners' association and deed of conveyance to an HOA, if applicable.
- ☐ Final environmental studies (wetland delineation, floodplain mapping, geotechnical report, etc.).
- ☐ A drainage report. A preliminary drainage report for the entire subdivision shall be submitted as part of the first phase of a phased development. A final drainage report shall be submitted for each phase of development at the appropriate time it is submitted in final detail for approval to the Town. Refer to Chapter 14 of this Code.
- ☐ A final grading plan. Refer to Chapter 14 of this Code.
- ☐ A final erosion and sediment control and revegetation plan. Refer to Chapter 14 of this Code.
- ☐ A landscaping plan. Refer to Chapter 14 of this Code.
- ☐ A Traffic Impact Analysis (TIA) and/or Traffic Impact Study (TIS). Refer to Chapter 14 of this Code.
- ☐ A written description addressing how the proposed development conforms to the Comprehensive Plan.
- ☐ Exterior lighting plan. Refer to Chapter 14 of this Code.
- ☐ Estimated time schedule for development.
- ☐ Any other special reports and/or information deemed necessary by the Town.
- ☐ Copies of the final plat and associated submittal materials in a format and quantity as specified by Town Staff.
- ☐ The names and addresses of any owners and lessees of mineral rights for the property. All mineral rights owners and lessees must be notified thirty (30) days in advance of application review.
- ☐ The names and addresses of property owners within two (200) hundred feet of any portion of the property.

Prior to execution of the final plat, the applicant shall provide the Town with the following:

- ☐ Proof of filing the applicable articles of incorporation with the Secretary of State and the executed originals of all legal documents, including a final executed SIA and any required collateral.
- ☐ Final plat Mylar.
- ☐ A fourteen (14) inch by eighteen (18) inch black line Mylar for the purpose of incorporating the data into a 911 emergency system, containing the name of the subdivision, the section, township and range in which the subdivision is located, all street names, lot numbers, street addressing numbers, unit numbers (if applicable) and a range of street addressing numbers for each street.
- ☐ A digital file of the approved final plat and 911 emergency system drawings, in a form acceptable the Town's Geographic Information System (GIS).

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## AS-BUILT PLAT CHECKLIST

**An application for an as-built plat shall be accompanied by the following information, unless one or more items are specifically waived in writing by the Town Staff:**

- ☐ The land use application form.
- ☐ The applicable fee as established by the Board of Trustees in Appendix 2 Application Fees.

The final plat of a condominium, townhome and/or apartment development (also known as an as-built plat) shall contain the following:

- ☐ A note as follows: "Approval and recordation of the as-built plat allows the sales of the subdivision to proceed." (Not applicable for apartments.)
- ☐ Identify each building and each of the units by letter or number.
- ☐ Designate the maximum number of bedrooms in each unit.
- ☐ Designate density per acre.
- ☐ Identify common open space, if applicable.
- ☐ Square footage of land occupied by buildings and percentage to entire acreage.
- ☐ Square footage of open space and percentage to entire acreage.
- ☐ The words and blanks: "Condominium/ Townhome Declarations recorded at Reception No. \_\_\_\_\_, Grand County Records" (not applicable for apartments).
- ☐ The same title information as the approved final plat with the following changes:
  - As-Built Plat: Minor Subdivision - Final Plat Amendment
  - Updated Legal Description
  - Prior Reception Numbers

For condominiums, as-built plats shall also include horizontal and vertical layouts of the airspaces. The second and remaining sheets shall contain:

- ☐ Sufficient plan and section drawings to completely define the positions of those various volumetric spaces within the inside walls and roofs which are referred to in the condominium declarations.
- ☐ The numerical designation of the individual parcels (volumetric or plane) which will be specifically referred to in deeds to the owners of the spaces or areas.
- ☐ Any other reports and information deemed necessary by the Town.
- ☐ Copies of the as-built plat and associated submittal materials in a format and quantity as specified by Town Staff.

Prior to execution of the as-built plat, the applicant shall provide the Town with the following:

- ☐ As-built final plat Mylar.
- ☐ A fourteen (14) inch by eighteen (18) inch black line Mylar for the purpose of incorporating the data into a 911 emergency system, containing the name of the subdivision, the section, township and range in which the subdivision is located, all street names, lot numbers, street addressing numbers, unit numbers (if applicable) and a range of street addressing numbers for each street.
- ☐ A digital file of the approved final plat and 911 emergency system drawings, in a form acceptable the Town's Geographic Information System (GIS).





## VACATION OF PLAT, RIGHT-OF WAY OR EASEMENT CHECKLIST

**An application for the vacation of a plat, right-of-way or easement shall be accompanied by the following information, unless one or more items are specifically waived in writing by the Town Staff:**

An application for a plat vacation shall be accompanied by the following information:

- ☐ The land use application form.
- ☐ The applicable fee as established by the Board of Trustees in Appendix 2 Application Fees.
- ☐ Three (3) copies of the recorded plat to be vacated.
- ☐ Two (2) copies of a title commitment dated no more than thirty (30) days from the date of application.
- ☐ Copies of the vacation plat and associated submittal materials in a format and quantity as specified by Town Staff.
- ☐ Any other special reports and/or information deemed necessary by the Town.
- ☐ Copies of the submittal materials in a format and quantity as specified by Town Staff.

An application for a right-of-way and/or easement vacation shall be accompanied by the following information:

- ☐ The land use application form.
- ☐ The applicable fee as established by the Board of Trustees in Appendix 2 Application Fees.
- ☐ Copies of a petition requesting vacation of the right-of-way and/or easement and all accompanying documents in a format and quantity as specified by Town Staff.
- ☐ Copies of the documentation showing that the right-of-way and/or easement sought to be vacated has been legally dedicated to and accepted by the public or authorized agent of the public in a format and quantity as specified by Town Staff.
- ☐ The names and addresses of property owners within two (200) hundred feet of any portion of the property.
- ☐ Any other special reports and/or information deemed necessary by the Town.
- ☐ Copies of the submittal materials in a format and quantity as specified by Town Staff.

Town of Fraser

PO Box 370, Fraser, CO 80442 office 970-726-5491 fax 970-726-5518  
www.frasercolorado.com



## FINAL PLAT SPECIFICATIONS CHECKLIST

**All final plats shall be prepared in accordance with the following specifications:**

- ☐ Plat size: twenty-four (24) inches by thirty-six (36) inches, with a one-half-inch margin on the top, bottom and right-hand side and a one-and-one-half-inch margin on the left-hand side.
- ☐ Sheets shall be numbered in sequence if more than one (1) sheet is used.
- ☐ Title: The title shall include the type of subdivision (Preliminary Plat, Final Plat, As-Built Plat, or Plat Amendment) and the following addition information:
  - Subdivision Name
  - Prior Reception Numbers (Plat Amendments only)
  - Legal Description
  - Town of Fraser, Grand County, Colorado
- ☐ A blank 2¼" x 3" vertical box in the lower right-hand corner of the plat inside the margin for use by the County Clerk and Recorder.
- ☐ Each sheet shall show the written and graphic scale, north arrow and date of survey preparation.
- ☐ A general vicinity map.
- ☐ Names and addresses of the applicant and surveyor.
- ☐ A statement by the surveyor of the basis of bearing for laying out the boundaries.
- ☐ A description of all monuments, both found and set, which mark the boundaries of the property, and a description of all control monuments used in conducting the survey.
- ☐ Signature and seal of the land surveyor. See Appendix D to this Code for signature block text and format.
- ☐ Signature blocks for owners, lien holders (if applicable) and Board of Trustees. See Appendix D to this Code for signature block text and format.
- ☐ Dedication and depiction of access rights-of-way to adjacent lands, if applicable.
- ☐ All recorded and apparent easements and right-of-ways on and/or adjacent to the property.
- ☐ A land and improvements survey and metes-and-bounds legal description of the property in question by a registered surveyor.
- ☐ All dimensions necessary to establish the boundaries in the field.
- ☐ All signatures in black, permanent ink.



## FLOODPLAIN DEVELOPMENT PERMIT CHECKLIST

**An application for a Floodplain Development Permit shall be accompanied by the following information, unless one or more items are specifically waived in writing by the Town Staff:**

- ☐ The land use application form.
- ☐ The applicable fee as established by the Board of Trustees in Appendix 2 Application Fees.
- ☐ A vicinity map indicating the location and street address (if applicable) of the property.
- ☐ A legal description of the property.
- ☐ Proof of legal ownership in the form of a current title policy, and the names and addresses of the owners of the property and any lienholder(s).
- ☐ A cover letter including a statement of the purpose of the application, a brief description of the proposal, and response to the factors for consideration of approval listed in Section 19-5-240 of this Chapter.
- ☐ A letter of representation, signed and notarized by the property owner(s), for any applicant that is not a property owner.
- ☐ Plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to special flood hazard area. Additionally, the following information is required:
  - Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures.
  - Elevation in relation to mean sea level to which any nonresidential structure shall be flood proofed.
- ☐ A certificate from a registered Colorado professional engineer or architect that the nonresidential flood proofed structure shall meet the flood proofing criteria of Section 19-5-330 of the Lochbuie Municipal Code.
- ☐ A description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
- ☐ Any other special reports and/or information deemed necessary by the Town.
- ☐ Copies of the submittal materials in a format and quantity as specified by Town Staff.



## SIGN PERMIT CHECKLIST

**An application for a sign permit and/or Master Sign Plan (MSP) shall be accompanied by the following information, unless one or more items are specifically waived in writing by the Town Staff:**

- ☐ The land use application form.
- ☐ The applicable fee as established by the Board of Trustees in Appendix 2 Application Fees.
- ☐ A vicinity map indicating the location and street address (if applicable) of the property.
- ☐ A legal description of the property.
- ☐ Proof of legal ownership in the form of a current title policy, and the names and addresses of the owners of the property and any lienholder(s).
- ☐ A cover letter including a statement of the purpose of the application and a brief description of the proposal.
- ☐ A letter of representation, signed and notarized by the property owner(s), for any applicant that is not a property owner.
- ☐ A drawing showing the following:
  - The proposed location of the sign along with the locations, types and square footage areas of all existing signs on the same premises.
  - Specifications and scale drawings showing the type, materials, design, dimensions, structural supports, and electrical components of all proposed signs.
- ☐ Any other special reports and/or information deemed necessary by the Town.
- ☐ Copies of the submittal materials in a format and quantity as specified by Town Staff.

In addition to the above information, an application for approval of a MSP in accordance with Section 19-6-230 of this Chapter shall include, at a minimum, the following:

- ☐ A complete set of design standards that establishes a unified theme for all signs, including architecture, materials, colors, letter and logo sizes, letter styles, lighting, mapping and other graphics.
- ☐ Identification of locations and sign sizes that relate to major decision points and destinations.
- ☐ A statement of the intended use of the sign (i.e., permanent or temporary).
- ☐ A maintenance plan.

Subsequent application for specific signs in compliance with an approved MSP require a sign permit and applicable fee.

**CHAPTER 19**  
**Town of Fraser Land Development Code**



**APPENDIX 2**  
**APPLICATION FEES**

## APPENDIX TWO – APPLICATION FEES

<b>Code Section</b>	<b>Application Type</b>	<b>Fees, Costs and Deposits</b>
	Annexation	\$10,000 cash deposit; \$1500 minimum
19-1-330	Variance or Appeal (BOA)	\$750
19-1-350	Variance: Administrative	\$150 per decision/ruling
19-2-160(a)	PD District Plan Amendment (Major and Minor)	\$1,500 plus \$75 for first 10 acres plus \$60 per acre over 10-50 acres plus \$50 per acre over 50 acres; \$2,500.00 minimum
19-2-150(b)	Final PD Plan	\$1,500 plus \$75 for first 50 acres plus \$40 per acre over 50 acres; \$2,000.00 minimum
19-2-160(b)	Final Plan PD Amendment (Major)	\$1,500 plus \$75 for first 50 acres plus \$40 per acre over 50 acres; \$2,000.00 minimum
19-2-160(b)	PD Final Plan Amendment (Minor)	\$250
19-2-110	Site Plan (Major)	\$700
19-2-110	Site Plan (Minor)	\$50
19-2-120	Conditional Use Permit	\$550
19-2-160	Rezoning	\$650
19-2-330	Temporary or seasonal use	\$25
19-3-210	Major Subdivision	\$5,000 cash deposit
19-3-220(a)	Sketch Plan	\$350
19-3-225(b)	Preliminary Plat	\$100 per lot/unit created; \$900 min.
19-3-225	Preliminary Plat Amendment (Major)	\$100 per lot/unit created; \$900 minimum
19-3-225	Preliminary Plat Amendment (Minor)	\$250
19-3-230	Minor Subdivision	\$3000 cash deposit
19-3-230(c)	Final Plat	\$200 per lot/unit created \$1,200 min. 5-10 lots/units \$100 per lot/unit created - \$1,500 min. (11-20 lots/units) \$90 per lot/unit created - \$2,000 min. (21-50 lots/units) \$80 per lot/unit created - \$3,600 min. (51+ lots/units)
19-3-235	As-built Plat	\$250
19-3-240	Final Plat Amendment (Major)	\$650
19-3-240	Final Plat Amendment (Minor)	\$650
19-3-250	Plat Vacation	\$650
19-3-250	ROW / Easement Vacation	\$650
19-3-455	Acceptance of Final Improvements	\$250
19-5-240	Floodplain Development Permit	\$250
19-6-220; 19-6-240	Sign Permit	\$40
19-6-230	Master Sign Plan (MSP)	\$350 for up to 250 acres \$400 for 251-500 acres \$450 for 501-1,000 acres \$550 for 1,001-2,000 acres
19-6-230	MSP Minor Amendment	\$50
19-6-230	MSP Major Amendment.	50% of the MSP Major Amendment Fee

**CHAPTER 19**  
**Town of Fraser Land Development Code**



**APPENDIX 3**  
**SUBDIVISION IMPROVEMENTS AGREEMENT**



## **SUBDIVISION IMPROVEMENTS AGREEMENT**

**BETWEEN**

**THE TOWN OF FRASER**

**AND**

*(NAME OF SUBDIVIDER)*

**PERTAINING TO:**

*(NAME OF SUBDIVISION)*

**TOWN OF FRASER**

**GRAND COUNTY, COLORADO**

### **SUBDIVISION IMPROVEMENTS AGREEMENT**

This Subdivision Improvements Agreement ("SIA") is made and entered into by and between the TOWN OF FRASER, a Colorado municipal corporation ("Town") and \_\_\_\_\_ ("Subdivider"). This SIA shall be effective following execution by the subdivider and immediately upon approval by the Fraser Board of Trustees as evidenced by the signature of the Town's Mayor or Mayor Pro Tem on the date indicated below.

1. Recitals. The parties agree that each of the following statements is true and is a material part of this SIA:
  - A. Subdivider represents that it is the sole owner of the real property described in the attached **Exhibit A** ("Property"), and has obtained approval from the Town to subdivide said property for a new subdivision to be known as \_\_\_\_\_ Subdivision, ("Subdivision").
  - B. Pursuant to the Town's subdivision regulations, the final plat of the Subdivision cannot be recorded until Subdivider has entered into an agreement with the Town concerning the construction of the required public and private improvements for the Subdivision, including on-site and off-site improvements. The final plat and the accompanying documents and plans, including construction drawings and specifications, as approved by the Town (the "Final Plat Documents"), are incorporated into this agreement for all purposes including illustration and interpretation of the terms and conditions of this agreement.
  - C. The Town seeks to protect the health, safety and general welfare of the community by requiring the completion of various on-site and off-site



improvements for the Subdivision and thereby limiting the harmful effects of substandard subdivisions.

- D. The purpose of this SIA is to protect the Town from the cost of completing or repairing subdivision improvements itself.
  - E. As consideration for the approval by the Town of the final plat for the Subdivision, Subdivider agrees to construct certain hereinafter described improvements for the Subdivision in accordance with, and subject to, the terms, conditions and requirements of this SIA. The parties hereby acknowledge the sufficiency and adequacy of said consideration.
- 2. Construction of Required Improvements. Subdivider agrees to construct, at its sole cost, those required improvements (including required utility services) for the Subdivision as described on the attached **Exhibit B** and as identified on the Final Plat Documents ("Improvements"). All Improvements shall be constructed in accordance with the Town of Fraser design and construction standards in effect as of the date of this SIA (Refer to Chapter 14 of the Fraser Municipal Code).
  - 3. Timetable for Construction of Required Improvements.
    - 3.1 Construction Schedule. Subdivider shall construct the Improvements in strict accordance with the schedule described on the attached **Exhibit C**. Any failure by Subdivider to commence or complete the construction of the Improvements in strict compliance with the schedule established in **Exhibit C** shall constitute a default by Subdivider and shall entitle the Town to proceed in accordance with the provisions of Section 15 of this SIA. Subdivider shall not cease construction activities for any period of more than thirty (30) consecutive days, without the Town's prior written approval, subject to the provisions of Section 3.3 regarding force majeure and seasonal constraints.
    - 3.2 Subdivider's Obligation Not Contingent. Subdivider's obligation to complete the Improvements shall arise upon the recording of the final plat of the Subdivision, shall be independent of any obligations of the Town contained herein, and shall not be conditioned on the commencement of construction or sale of any lots or improvements within the Subdivision.
    - 3.3 Force Majeure and Seasonal Constraints. If Subdivider is rendered unable to perform, in whole or part, because of acts of God, strikes, acts of public enemies, wars, insurrections, civil disturbances, riots, landslides, earthquakes, fires, storms, floods, or other such events beyond Subdivider's control, Subdivider's obligations under this SIA shall be suspended during the continuance of any inability so caused, but for no longer. No cessation of activity for seasonal construction constraints shall cause a violation of this Section 3.
  - 4. Construction Standards and Inspections.
    - 4.1 Standards and Progress Inspections. The Improvements shall be constructed in a good and workmanlike manner, strictly in accordance with the Final Plat Documents, and, to the extent not otherwise provided in such Final Plat Documents, in accordance with all applicable laws,

ordinances, codes, regulations and minimum design criteria and construction standards applicable in the Town. There shall be no changes made in the approved Final Plat Documents, including construction drawings and specifications, without the prior written approval of the Town. Periodic inspections may be made by the Town's staff or designated consultants during the progress of the work to confirm that the Improvements are being constructed in compliance with such requirements. Subdivider shall be required to pay for these periodic inspections if said inspections are conducted by consultants other than Town employees. Such inspections may be conducted in a manner and in such areas and at such times, whether scheduled or unannounced, as deemed appropriate by the Town's staff or consultants. Subdivider hereby grants permission for such persons to enter upon the Property for purposes of making such inspections. Nothing herein shall relieve Subdivider of the responsibility for insuring that the Improvements are constructed in accordance with the standards set forth herein, nor shall it relieve Subdivider of its warranty obligations as provided in Section 6.

- 4.2 Construction Phasing. Inspection and preliminary acceptance of a portion of the Improvements in one or more phases of construction shall occur only if specifically provided for in **Exhibit D** or as determined by Town staff, in their discretion. Otherwise, all Improvements shall be completed before preliminary acceptance will be granted. Any proposed phasing must be logically related to the project as a whole and allow for the efficient integration of the phased Improvements into the Town's infrastructure. The Town staff may require adjustments in previously approved phasing schedules when deemed necessary to accommodate changed conditions or unforeseen circumstances.

5. Preliminary Acceptance of Improvements.

- 5.2 Notice and Documentation. Upon completion of all Improvements or an approved phase of Improvements, the Subdivider shall notify Fraser in writing and request an inspection of the completed Improvements. Prior to the inspection, the Subdivider shall provide to the Town the following documentation:

(a) Adequate assurance by a registered engineer, licensed in this State, that the Improvements have been constructed and completed in accordance with the approved plans and specifications;

(b) As-built engineering drawings for the required Improvements, in accordance with applicable Town construction standards;

(c) All test reports and logs required by the plans and construction drawings and applicable regulations and construction standards; and

(d) An original affidavit or affidavits identifying all contractors, subcontractors and materialmen who supplied labor or materials for the Improvements and verifying that all have been paid, together with a lien waiver from each such contractor, subcontractor and material supplier acknowledging payment and waiver of any lien rights for all work completed prior to the date inspection and preliminary acceptance is

requested, subject to any retainage withheld from the contractor or supplier during the warranty period and pending final acceptance.

- 5.3 Inspection and Preliminary Acceptance. Upon satisfaction of these requirements, and subject to satisfaction of any additional requirements provided in this SIA or the Town's subdivision regulations, the Town's staff or designated consultant(s) shall inspect the completed Improvements within ten (10) business days after receipt of the request for inspection. If the Town's staff or designated consultant(s) finds that the specified improvements have been completed substantially in accordance with the Plans and other requirements of this SIA and the Subdivision Regulations, the Town staff shall issue a letter evidencing Preliminary Acceptance within ten (10) business days after the inspection date. The Town shall not be required to make inspections during any period when climatic conditions interfere with making a thorough inspection, as determined by the Town representative making the inspection.

If, upon inspection of the completed Improvements, the Town staff or designated consultant(s) finds that any of the improvements have not been completed substantially in accordance with the Plans and other requirements of this SIA and the Subdivision Regulations, the Town staff or designated consultant(s) shall issue a written *Notice of Deficiencies* within ten (10) business days after the inspection specifying which Improvements have not been completed substantially in accordance with the Plans and other requirements of this SIA and the Subdivision Regulations. All deficiencies must be corrected within ten (10) business days of the receipt of the notice of deficiencies. Such ten-business-day time limit may be extended by the Town if the Town determines that such deficiencies cannot reasonably be remedied within such ten-business-day period. The Subdivider shall then notify Fraser in writing and request a follow-up inspection of the Improvements, and the foregoing provisions of this Section 5.3 shall be applicable.

- 5.4 Effect of Preliminary Acceptance. Preliminary acceptance of all or any portion of the Improvements does not constitute a waiver by the Town of the right to draw on the Performance Guarantee to remedy any defect in or failure of the Improvements that is detected or which occurs after acceptance of the Improvements, nor shall such acceptance operate to release Subdivider from its warranty as herein provided.

Upon preliminary acceptance, the Town will assume responsibility for the operation of all public water, sanitary sewer and storm water improvements, if applicable, and for snow removal on accepted public streets. At the Town's discretion, it may elect not to plow any accepted public streets until there is development on individual lots that warrant access.

## 6. Warranty.

- 6.1 Warranty. Subdivider shall warrant that all Improvements shall remain free from construction defects for a period of one (1) year from the date that the Town preliminarily accepts the Improvements as provided in

Section 5 of this SIA. For landscaping improvements or other vegetation that will be dedicated to the town, the warranty period shall be two (2) years, and not in any event to be less than two (2) full growing seasons. During such one (1) year period, any construction defect determined to exist with respect to such Improvements shall be repaired or the Improvement replaced, at the Town's option, at the sole cost of Subdivider.

Subdivider shall maintain, in a reasonable, suitable and proper condition for travel, ingress, and egress, all streets located within the Subdivision until such time as the streets are accepted for maintenance by the Town, and until any such private streets are accepted for maintenance by the homeowners association or other responsible entity approved by the Town.

- 6.2 Notice of Default; Cure Period. Except as provided in Subsection 6.3 with respect to emergency repairs, the Town shall provide written notice to Subdivider if inspection reveals that any Improvement is defective. Subdivider shall have ten (10) business days from the giving of such notice to remedy the defect. Such ten-business-day time limit may be extended by the Town if the Town determines that such defect cannot reasonably be remedied within such ten-business-day period. In the event Subdivider fails to remedy the defect within the ten-business-day period, or any extension thereof granted by the Town, the Town may the utilize the collateral security to correct the defect or exercise any other remedy provided in this SIA without further notice. No notice shall be required with respect to emergency repairs except as provided in Subsection 6.3.
- 6.3 Emergency Repairs. If at any time it appears that the Improvements may be significantly damaged or destroyed as a result of a bona fide emergency, an act of god, or due to construction failure, the Town shall have the right, but not the duty, to enter upon the Property and perform such repairs and take such other action as may be reasonably required in the Town's judgment to protect and preserve the Improvements. The Town shall have no duty to inspect the Property to identify emergency situations which may arise. Prior to or concurrent with, or immediately following taking any action pursuant to emergency repairs, the Town shall make a reasonable effort to locate Subdivider and advise it of the existence and nature of the emergency. Upon written demand, Subdivider shall reimburse the Town for the costs of such emergency repairs. Failure of Subdivider to pay to the Town the costs of such emergency repairs within fifteen (15) days after demand shall constitute a default as provided in Subsection 13.H of this SIA.
- 6.4 Final Inspection. Approximately sixty (60) days prior to the expiration of the warranty period, Fraser shall notify Subdivider in writing and schedule a final inspection/walk through.

## 7. Final Acceptance.

- 7.1 Town Approval. Final acceptance of the Improvements by the Town requires formal action by the Fraser Board of Trustees, after all

Improvements have been completed, inspected and certified for final acceptance by Town staff. Final release of the Performance Guarantee requires additional formal action by the Fraser Board of Trustees. The Town shall not be required to finally accept any of the Improvements until the Board of Trustees determines that:

- A. All Improvements have been satisfactorily completed in accordance with the approved plans and specifications and have been preliminarily accepted by the Town;
- B. All warranty periods provided in Section 6 have ended and any defects found upon inspection of the Improvements have been satisfactorily remedied by Subdivider;
- C. The Subdivider has submitted final “as-built” engineering drawings for the required Improvements, in accordance with applicable Town construction standards;
- D. The Subdivider has provided and the Town has reviewed and approved any and all conveyance documents required pursuant to the provisions of Section 9.1;
- E. The Subdivider has provided a final cost summary of Improvements;
- F. The Subdivider has provided any additional test reports and logs from warranty work;
- G. The Subdivider has provided an original affidavit or affidavits identifying all contractors, subcontractors and materialmen who supplied labor or materials for the Improvements and verifying that all have been fully paid, together with an original *unconditional* lien waiver from each such contractor, subcontractor and material supplier acknowledging full payment and waiver of any and all lien rights. **The final twenty percent (20%) of the initial Performance Guarantee shall not be released until the Town receives said affidavit and unconditional lien waivers;** and
- H. All other applicable requirements contained in this SIA, the Town’s Subdivision Regulations and all applicable design and construction standards have been satisfied.

- 7.2 Acceptance for Maintenance. At the end of the warranty period(s), and upon final acceptance of the Improvements as provided in Subsection 7.1, the Town will assume all future repair and maintenance responsibilities with respect to the accepted public improvements, if any. The Town will not assume any responsibility for maintenance and repair of required private improvements, and such responsibility shall remain with the Subdivider unless it is transferred to a homeowners association or other responsible entity in accordance with the approved Subdivision documentation.

8. Compliance with Law.

- 8.1 Compliance with Law. Subdivider shall comply with all relevant laws, ordinances, and regulations in effect at the time of final plat approval when fulfilling its obligations under this SIA. Subdivider shall also be subject to laws, ordinances and regulations that become effective after final plat approval to the extent permitted by applicable Colorado law.

9. Transfer of Title to Improvements.

- 9.1 Dedication on Plat. Subdivider shall dedicate such of the Improvements as are designed or intended as public Improvements, by appropriate language on the face of the final plat of the Subdivision. Such dedication shall be made free and clear of all liens, encumbrances and restrictions, except for the permitted exceptions shown on the attached **Exhibit E** which are the same or fewer than those identified in the title insurance commitment or other title evidence provided.

10. Performance Guarantee.

- 10.1 Amount and Form of Guarantee. The estimated cost of constructing the Improvements, as determined by a licensed engineer selected by Subdivider, with the Town's approval, is \$\_\_\_\_\_ (See the attached **Exhibit B**). Pursuant to the Town's subdivision regulations, Subdivider is required to furnish collateral to ensure completion of the Improvements, in an amount not less than one hundred and twenty-five percent (125%) of the estimated costs of all Improvements. Accordingly, Subdivider has posted the following with the Town's approval as a guarantee of the performance of its obligations hereunder, including its obligation with respect to the one-year warranty period provided for in Section 6.1 ("Performance Guarantee").

- ( ) An irrevocable Letter of Credit issued by a qualified Colorado lending institution acceptable to the Town in the amount of \$\_\_\_\_\_, a copy of which is provided on the attached **Exhibit F**.
- ( ) A cash deposit in the amount of \$\_\_\_\_\_.
- ( ) Other such legal assurance as may be deemed appropriate by the Town and approved by the Board of Trustees.

- 10.2 Use of Performance Guarantee. Subject to the terms of this SIA, the Town may draw upon and utilize the Performance Guarantee to pay for the construction, completion or correction of the required improvements or to restore and revegetate the site in the event Subdivider fails to timely perform the obligations provided in this SIA and the Town's subdivision regulations or is otherwise in default under the terms of this SIA. Application of the Performance Guarantee may include covering such costs, including reasonable engineering and attorney's fees, as are necessary for the Town to administer the construction and correct, repair or complete the required improvements and to enforce this SIA and any bond or other undertaking given as the performance guarantee.

10.3 Renewal. Such Performance Guarantee shall remain in effect and shall be renewed by Subdivider as necessary until released by the Town in accordance with the provisions of Section 11 of this SIA. If such Performance Guarantee is provided in a form of a letter of credit or deposit arrangement that includes an expiration date, Subdivider shall provide evidence of extension of such expiration or replacement of equivalent collateral in a form acceptable to the Town. Failure to provide proof of such extension or replacement collateral no later than thirty (30) days prior to the date of expiration shall be cause for the Town Manager or his or her designee to draw on the Performance Guarantee without the necessity of any notice of default or other notice to Subdivider. Funds withdrawn in this manner may be expended as necessary to correct, repair and/or construct the Improvements or may be released upon provision of replacement collateral in a format acceptable to the Town.

11. Release of Performance Guarantee.

11.1 Requests for Partial Release of Performance Guarantee. Subdivider may make periodic requests for the partial release of the Performance Guarantee in accordance with the provisions of this Subsection 11.1. All such requests shall be in writing to the Town Board, shall be for a reduction of at least twenty percent (20 %) of the total original Performance Guarantee, and shall correspond with a portion of the Improvements that have been substantially constructed or installed in accordance with this SIA. No more than one request for a partial release of the Performance Guarantee may be submitted each month. No reduction of the Performance Guarantee shall be allowed which would reduce the amount of collateral to less than one-hundred twenty-five percent (125%) of the estimated cost of any remaining or incomplete Improvements; and the final twenty percent (20%) of the initial Performance Guarantee may not be released until all of the Improvements have been preliminarily accepted, the one-year warranty period has run, the Subdivider has complied with all requirements specified in Section 7 hereof and the Improvements are finally accepted by the Town. There shall be no reduction in the amount of the Performance Guarantee if Subdivider is in default under this SIA.

11.2 Warranty Bond. After preliminary acceptance, and with approval of the Board of Trustees, the performance guarantee may be reduced to an amount not less than twenty percent (20%) of the initial performance guarantee to guarantee performance during the warranty period. A corporate surety warranty bond in that amount may be substituted as the performance guarantee for the warranty period, provided that the applicant also provides a cash deposit in the amount of five thousand dollars (\$5,000.00) or ten percent (10%) of the amount of the warranty bond, whichever is greater, as additional security to the Town.

12. Payment In Lieu of Dedications. Subdivider agrees to make any and all payments in lieu of dedications prior to the Town's execution of its approval on the final plat. The amount of such payment shall be as calculated on the attached **Exhibit G**.

13. Default. The following conditions, occurrences or actions shall constitute a default by Subdivider under this SIA:
- A. Subdivider's failure to commence construction of the Improvements within the time specified in **Exhibit C**;
  - B. Subdivider's failure to complete construction of the Improvements within the time specified in **Exhibit C**;
  - C. Subdivider's failure to construct the Improvements in accordance with the approved plans and specifications for the Improvements and this SIA;
  - D. Subdivider's failure to cure defective construction of any Improvement within the applicable cure period as provided in Subsection 6.2;
  - E. Subdivider's failure to perform work within the Subdivision for a period of more than thirty (30) consecutive days without the prior written approval of the Town, subject to the provisions of Subsection 3.3 regarding force majeure and seasonal constraints;
  - F. Subdivider's insolvency, the appointment of a receiver for Subdivider or the filing of a voluntary or involuntary petition in bankruptcy respecting Subdivider;
  - G. Foreclosure of any lien against the Property or a portion of the Property or assignment or conveyance of all or part of the Property in lieu of foreclosure prior to final acceptance of the Improvements by the Town as provided in Section 7;
  - H. Subdivider's failure to pay to Town upon demand the cost of emergency repairs performed in accordance with Subsection 6.3 of this SIA; or
  - I. Subdivider's violation of any provision of this SIA, the Town's subdivision, zoning or land use regulations, or any other ordinances of the Town;

The Town may not declare a default until fifteen (15) days' advance written notice has been given to Subdivider and Subdivider has failed to cure the default within that period; provided, however, that such notice shall not be required with respect to any defective construction for which a thirty (30) days' notice of right to cure has been given in accordance with Subsection 6.2 hereof.

14. Recovery of Damages and Costs. The Town shall be entitled to recover all damages and costs incurred as a consequence of any breach of this SIA by Subdivider and enforcement hereof, whether or not suit is brought, including without limitation, all reasonable costs of obtaining the appropriate Performance Guarantee funds and completing the Improvements, and including all design, engineering, inspection and legal costs, including reasonable attorney fees. For Improvements upon which construction has not begun, the estimated cost of the Improvements as supplied by Subdivider pursuant to Section 10 and shown on **Exhibit B** shall be prima facie evidence of the cost of completion; however, neither that amount nor the amount of the Performance Guarantee establishes the maximum amount of Subdivider's liability. The Town shall be entitled to, but not obligated to, complete all unfinished Improvements after the time of default



regardless of the extent to which development has taken place in the Subdivision or whether development ever commenced.

15. Town's Rights upon Default. In the event of default the Town shall have the following rights:
  - A. The Town Manager may stop work on the Improvements until a schedule and agreement on compliance for construction has been reached.
  - B. The Town may, but shall not be required to, have the Improvements constructed by such means and in such manner as the Town shall determine, without the necessity of public bidding.
  - C. If the Town elects to have the Improvements constructed, it shall have the right to use Subdivider's Performance Guarantee to pay for the construction of such Improvements. If the amount of the Performance Guarantee exceeds the costs of obtaining the Performance Guarantee funds and constructing the Improvements as set forth in Section 14 hereof, the Town shall deliver any excess funds to Subdivider. If the Performance Guarantee is insufficient to fully pay such costs, Subdivider shall, upon demand, pay such deficiency to the Town, together with interest thereon as provided in Section 16.
  - D. The Town may exercise such rights it may have under Colorado law, including, without limitation, the right to bring suit against Subdivider for injunctive relief, for specific performance of this SIA, or to recover damages for the breach by Subdivider of this SIA.
  - E. Subdivider hereby grants to the Town, its successors, assigns, agents, contractors and employees, a non-exclusive right and easement to enter the Property for the purposes of constructing, maintaining and repairing any Improvements pursuant to the provisions of this Section 15.
  - F. In addition to any remedies provided for herein, or by law or equity, while Subdivider is in default under this SIA the Town may refuse to issue building permits for the Subdivision and Subdivider shall have no right to sell, transfer or otherwise convey lots or units within the Subdivision without the express written approval of the Town. If the Town elects not to proceed with completion of the Improvements, the Town Board may, by resolution, vacate any portion of the Subdivision plat for which Improvements have not been completed. In addition, the Town may proceed with restoring and revegetating the site, which may include removal of any uncompleted Improvements, using the Performance Guarantee to pay for the costs thereof.
  - G. The remedies provided for in this Section and elsewhere in this SIA are cumulative in nature.
16. Interest. Any sum which is required to be paid by Subdivider to the Town under this SIA and which is not timely paid shall accrue interest at eighteen percent (18%) per annum commencing as of the date such sum was due.

17. Public Utilities. Subdivider shall pay all installation charges for lighting, electricity, natural gas, telephone and cable television required for the Subdivision. All utility lines shall be placed underground in accordance with applicable Town requirements.
18. Relocation of Utility Lines and Easements, and Oversizing. Subdivider shall bear all costs associated with relocating any water, sewer, telephone, electrical, gas or cable television lines and providing for respective easements for construction of same within and outside of the Subdivision. If oversizing is required, the cost of such oversizing shall be paid as set forth in the agreement attached as **Exhibit H**.
19. Debris. Subdivider shall take all steps necessary to limit and prevent the accumulation of, and to remove accumulated, mud, sediment, dirt, trash and other debris that is carried onto public property or off-site onto private property during construction of said improvements. Such obligation shall continue until all Improvements within the subdivision are completed. If Subdivider fails to remedy any conditions caused or generated by the development of the Subdivision as contemplated by this Section within 24 hours of oral or written notice by the Town, Subdivider agrees to pay to the Town upon demand any costs reasonably incurred by the Town in remedying such conditions. Nothing herein shall obligate the Town to remedy any such conditions, or limit the Town in its selection of the method or manner of remedy.
20. Payment of Fees and Charges. Subdivider agrees to comply with all the ordinances, rules and regulations of the Town and shall pay all fees and other charges in a timely manner as required by the Town, including but not limited to building permit fees, inspection fees, and tap fees imposed by Town ordinance, resolution or motion, or by the terms and conditions of this SIA.
21. Landscaping Improvements. Subdivider shall install at its own expense and at no cost to the Town, all landscaping as depicted on the approved landscaping plan. All landscaping that dies within two (2) growing seasons shall be replaced by Subdivider at its sole cost, and shall be required to live for at least one (1) year from the time it is replanted. Subdivider's obligations under this Section shall be guaranteed as part of the Improvements.
22. Erosion Control. Subdivider shall comply with all applicable erosion control measures required by Local, State and Federal Laws.
23. Contracting Licensing. Before proceeding with any of the work contemplated herein, Subdivider shall ensure that all contractors and/or subcontractors employed by Subdivider shall have paid for and obtained an appropriate business license and other taxes or fees to the Town before commencing work on any of the Improvements.
24. No Third Party Beneficiaries. It is expressly understood and agreed that enforcement of the terms and conditions of this SIA, and all rights of action relating to such enforcement, shall be strictly reserved to the Town and Subdivider, and nothing contained in this SIA shall give or allow any such claim or right of action by any other third person on this SIA. It is the express intention of the Town and Subdivider that any person other than the Town or Subdivider

receiving services or benefits under this SIA shall be deemed to be an incidental beneficiary only.

25. Indemnification. Subdivider agrees to indemnify and hold the Town, its officers, employees, agents and insurers harmless from and against all liability, claims, and demands, on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with the construction of the Improvements or other work performed upon the Subdivision, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by the act, omission, error, professional error, mistake, negligence, intentional act, or other fault of Subdivider, any subcontractor of Subdivider, or any officer, employee, representative, or agent of Subdivider or of any subcontractor of Subdivider, or which arise out of any worker's compensation claim of any employee of Subdivider, or of any employee of any subcontractor of Subdivider. Subdivider agrees to investigate, handle, respond to, and to provide defense for and defend against any such liability, claims, or demands at the sole expense of Subdivider. Subdivider also agrees to bear all other costs and expenses related thereto, including court costs and attorneys' fees, whether or not any such liability, claims or demands alleged are determined to be groundless, false, or fraudulent.
26. No Waiver. No waiver of any provision of this SIA shall be deemed to constitute a waiver of any other provision, nor shall it be deemed to constitute a continuing waiver unless expressly provided for by a written amendment to this SIA signed by both the Town and Subdivider; nor shall the waiver of any default under this SIA be deemed a waiver of any subsequent default or defaults of the same type. The Town's failure to exercise any right under this SIA shall not constitute the approval of any wrongful act by Subdivider or the acceptance of any Improvements.
27. Vested Property Rights. This SIA shall not alter, enlarge, extend or modify any vested right obtained by Subdivider in connection with the Subdivision. Subdivider hereby waives its rights to any claims against the Town under Colorado vested property rights statutory or common laws if the Town suspends work or withdraws its approval because of false or inaccurate information provided by Subdivider.
28. Recordation. This SIA and the final plat shall be recorded by the Town in the Office of the Grand County Clerk and Recorder and Subdivider shall pay the Town the costs thereof upon demand. It is Subdivider's obligation to prepare and submit to the Town the final plat in a form and upon material acceptable for recordation by the Clerk and Recorder.
29. Immunity. Nothing contained in this SIA shall constitute a waiver of the Town's sovereign immunity under any applicable state or federal law.
30. Personal Jurisdiction and Venue. Personal jurisdiction and venue for any civil action commenced by either party to this SIA, whether arising out of or relating to the SIA or the Performance Guarantee, shall be deemed to be proper only if such action is commenced in the District Court of Grand County, Colorado. Subdivider

expressly waives its right to bring such action in or to remove such action to any other court, whether state or federal.

31. Code Changes. References in this SIA to any provision of the Town's Municipal Code or to any Town or other governmental standard are intended to refer to any subsequent amendments and/or revisions to such Code or standard. Such amendments or revisions shall be binding upon Subdivider.
32. Nonassignability. This SIA may not be assigned by Subdivider without the prior written consent of the Town.
33. Notices. Any notice required or permitted hereunder shall be in writing and shall be sufficient if personally delivered, mailed by certified mail, return receipt requested, or sent by electronic mail or facsimile, addressed as follows:

*If to the Town:*

Town of Fraser  
Attn: Town Manager  
P. O. Box 370  
Fraser, CO 80442  
(970)-726-5491  
Fax No. (970)-726-5518  
email: \_\_\_\_\_

*If to Subdivider:*

Notices mailed in accordance with the above provisions shall be deemed to have been given on the third business day after mailing. Notices personally delivered shall be deemed to have been given upon delivery. Notices sent by electronic mail or facsimile shall be deemed to have been given at the time the transmission is received. Nothing herein shall prohibit the giving of notice in the manner provided for in the Colorado Rules of Civil Procedure for service of civil process.

34. Entire Agreement. This SIA constitutes the entire agreement and understanding between the parties relating to the subject matter of this SIA and supersedes any prior agreement or understanding relating to such subject matter.
35. Severability. It is understood and agreed by the parties hereto that if any part, term, or provision of this SIA is held by a court of competent jurisdiction to be illegal or in conflict with any law, state or federal, the validity of the remaining portions or provisions hereof shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the SIA did not contain the particular part, term, or provision held to be invalid.
36. Modification. This SIA may be modified or amended only by a duly authorized written instrument executed by the parties hereto.

37. Counterparts. This SIA may be executed simultaneously in two or more copies, each of which shall be considered an original for all purposes and all of which together shall constitute but one and the same instrument.
38. Binding Effect. This SIA shall run with the Property, and shall be binding upon, and shall inure to the benefit of, the parties and their respective heirs, successors, assigns, and legal representatives.
39. Governing Law. This SIA shall be interpreted in accordance with the laws of the State of Colorado.
40. Illegal Aliens. By its signature on this Agreement, Subdivider certifies that, as of the time of its signature, it does not knowingly employ or contract with any illegal alien who will perform work under this Agreement and that, in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement, Subdivider will participate in the e-verify program or department program, as defined in C.R.S. 8-17.5-101. Subdivider agrees that it shall not knowingly employ or contract with any illegal alien to perform work under this Agreement; and that it shall not enter into a contract with a subcontractor that fails to certify to Subdivider that the subcontractor shall not knowingly employ or contract with any illegal alien to perform work under this Agreement. Subdivider has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement through participation in either the e-verify program or department program, as defined in C.R.S. 8-17.5-101. Subdivider shall not use the e-verify program or department program procedures to undertake preemployment screening of job applicants while work under this Agreement is being performed. If Subdivider obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, Subdivider shall: (1) notify the subcontractor and the Town within three days that Subdivider has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and (2) terminate the subcontract with the subcontractor if, within three days of receiving the notice required herein, the subcontractor does not stop employing or contracting with the illegal alien; except that Subdivider shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien. Subdivider shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation that the Department is undertaking pursuant to the authority established in C.R.S. 8 17.5 101 (5). If Subdivider violates a provision of this paragraph, the Town may terminate this Agreement for breach of contract. If the contract is so terminated, Subdivider shall be liable for actual and consequential damages to the Town. Subdivider understands that, in the event of such a termination, the Town is required to notify the office of the Colorado Secretary of State.

Incorporation of Exhibits. The following attached Exhibits are incorporated herein by reference:

Exhibit A	Property description
Exhibit B	Required improvements description and cost estimates
Exhibit C	Required improvements completion schedule
Exhibit D	Phasing of Improvements (if applicable)
Exhibit E	Permitted title exceptions

Exhibit F      Letter of credit form  
Exhibit G      Payment in lieu of dedication  
Exhibit H      Agreement for payment of oversized utility fees

Dated to be effective the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

ATTEST:

TOWN OF FRASER  
a Colorado statutory municipal corporation

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

By: \_\_\_\_\_  
Mayor

STATE OF COLORADO    )  
                                      )ss.  
COUNTY OF GRAND    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_, by \_\_\_\_\_, Mayor, and \_\_\_\_\_, Town Clerk of the Town of  
Fraser, a Colorado statutory municipal corporation.

WITNESS my hand and official seal.

My commission expires:

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

SUBDIVIDER  
(NAME OF SUBDIVIDER)

By: \_\_\_\_\_

STATE OF COLORADO    )  
                                      )ss.  
COUNTY OF GRAND    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_, by \_\_\_\_\_.

WITNESS my hand and official seal.

My commission expires:

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

**CHAPTER 19**  
**Town of Fraser Land Development Code**



**APPENDIX 4**  
**CONSTRUCTION GUARANTEE AGREEMENT**



## CONSTRUCTION GUARANTEE AGREEMENT

THIS AGREEMENT is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_, whose address is \_\_\_\_\_, hereinafter referred to as "Developer", and the Town of Fraser, a municipal corporation of the State of Colorado, whose address is 153 Fraser Avenue, P.O. Box 370, Fraser, Colorado 80442, hereinafter referred to as "Fraser" or "Town", together referred to as "the Parties".

WHEREAS, Developer is the owner of certain real property located within Fraser, legally described as \_\_\_\_\_, on which Developer intends to construct certain improvements (hereinafter, the "Project"); and

WHEREAS, Developer has applied for the issuance of a land use approval for the Project pursuant to Chapter 19 of the Fraser Municipal Code; and

WHEREAS, Fraser's regulations at Section 19-3-425(a) require that as a condition of approval appropriate construction guarantees to ensure that necessary construction features and public improvements are constructed in accordance with the approved Development Plans and to ensure restoration and revegetation of the site if the Project is abandoned; and

WHEREAS, Fraser and Developer have entered into this Agreement to satisfy such requirement with respect to the land approval for the Project.

NOW, THEREFORE, the Parties agree as follows:

- (1) Development Plans. The "Development Plans" shall mean the site plan, landscape plan, grading, drainage, and erosion control plan, utility plan and any other related plans and specifications and construction documents for the Development Project, as submitted to and approved by Fraser as part of the land use approval for the Project.
- (2) Secured Improvements. The "Secured Improvements" shall mean the utility installations, lighting, landscaping, parking, snow storage areas, and other improvements for which security is to be provided in accordance with this Agreement. The Secured Improvements are listed, together with the estimated costs thereof, on **Exhibit A** attached hereto. Such costs must be certified by a licensed Colorado Professional Engineer prior to approval of this Agreement by Fraser.



- (3) Construction, Inspections, Acceptance, and other Matters. The Developer shall cause all public and private improvements depicted on the Development Plans, including but not limited to the Secured Improvements, to be constructed and completed, at its expense, in accordance with the land use approval, the Development Plans, the Town of Fraser design and construction standards (Refer to Chapter 14 of the Fraser Municipal Code), and any other applicable regulations of Fraser.
- (a) All such public and private improvements shall be completed before all or any portion of any lot or unit in the Project may be sold or leased and before any approval for occupancy is issued for any building or structure within the Project. Further, all such improvements shall be substantially completed not later than **two (2) years** after the date of this Agreement, unless an extension of time is granted by Fraser in writing for good cause, as determined by Fraser. Requests for extension must be submitted by Developer, in writing, to Fraser at the address set forth above.
- (b) The provisions of the Fraser subdivision regulations, as contained in Chapter 19, Article 3 of the Fraser Municipal Code, and particularly Division 4 of that Article, as such regulations may be amended from time to time by Fraser, shall govern with respect to the inspection and acceptance of the Secured Improvements, the deposit, use and release of collateral securing completion of the Secured Improvements, and all other matters relating to Developer's obligation with respect to the Secured Improvements that are not specifically addressed in this Agreement. The Fraser building regulations, as contained in Chapter 18 of the Fraser Municipal Code, as such regulations may be amended from time to time by Fraser, shall govern with respect to the inspection and acceptance of those improvements depicted on the Development Plans other than the Secured Improvements.
- (4) Financial Security for Performance and Payment. Prior to the issuance of the development permit for the Project, Developer shall furnish to Fraser adequate security in the form acceptable to Fraser, in an amount equal to one-hundred-twenty-five percent (125%) of the total estimated costs of all the Secured Improvements to be installed plus the estimated costs of restoring and revegetating the site if Developer abandons or fails to complete the Project within the time provided in this Agreement. If security is provided in the form of a cash deposit, the security shall be held by the Town in trust. If any interest is earned on such deposit, it shall be retained by the Town to defray the cost of administering the deposit. Developer shall maintain such security in full force and effect during the entire period of construction of the improvements provided in the Development Plans and the duration of the warranty period provided in Paragraph 5 hereof.

- (5) Warranties of Developer. Developer warrants that the Secured Improvements will be installed in a good and workmanlike manner and in substantial compliance with the Development Plans and requirements of this Agreement and shall be substantially free of defects in materials and workmanship. These warranties of Developer, and the security provided for the Secured Improvements shall remain in force and effect as to any completed Secured Improvements until the lapse of one (1) year after preliminary acceptance of the Secured Improvements, and until final acceptance of such Improvements as provided in the Fraser subdivision regulations. To the extent the Secured Improvements include required landscaping, the Developer shall maintain such landscaping during the one-year warranty period, and the provisions of this Section 5 and the subdivision regulations shall apply with respect to maintaining security for such landscaping improvements during the warranty period.
- (6) Default and Remedies. Time is of the essence hereof with respect to the performance of Developer's obligations provided in this Agreement. If Developer defaults in the performance of any such obligations in the time and manner provided herein, and if such default is not cured within thirty (30) days after written notice of the default is given by Fraser to Developer, then Fraser shall have the following remedies:
- (a) If the default relates to construction of Secured Improvements, the Fraser Town Manager may stop work on any improvements until a schedule and agreement on compliance for construction has been reached; Fraser may, but shall not be required to, have the Secured Improvements constructed, completed or corrected by such means and in such manner as Fraser shall determine, with or without public bidding; and Fraser shall have the right to use the financial security provided pursuant to this Agreement to pay for the construction, completion or correction of such Secured Improvements.
  - (b) If the default consists of Developer's failure to complete all public and private improvements within the time provided in this Agreement and any extensions granted by Fraser, then Fraser may revoke the land use approval for the Project; and Fraser may proceed with restoring and revegetating the site, which may include removal of any uncompleted improvements, using the financial security provided pursuant to this Agreement to pay for the costs thereof.
  - (c) All costs and expenses incurred by Fraser as a result of such default and the exercise of the remedies provided herein, including reasonable attorney fees, shall be chargeable to Developer and shall be paid from the financial security provided pursuant to this Agreement. If the amount of such security is less than the costs and expenses incurred, the parties agree Fraser shall have the right, without obligation from the Developer, upon Developer's failure to timely reimburse Fraser for such additional costs and expenses to certify the same to the County Treasurer as a lien on the property for collection in the same manner as ad

valorem taxes. If the amount of such security exceeds the costs and expenses incurred, Fraser shall release any excess upon final accounting for such costs. If the security is insufficient to fully pay such costs, the Developer shall, upon demand, pay such deficiency to Fraser.

The remedies provided above are cumulative in nature and nonexclusive. Fraser may pursue any other remedies it may have under Colorado law, including, without limitation, the right to bring suit against the Developer for injunctive relief, for specific performance of this Agreement, or to recover damages for the breach of this Agreement.

(7) Additional Provisions.

- (a) Applicable Law. This Agreement, and the terms, conditions and covenants herein contained, shall be deemed to complement and shall be in addition to the conditions and requirements of the Fraser Municipal Code and other applicable laws, rules and regulations.
- (b) Severability. If any part, term, or provision of this Agreement is held by any court of competent jurisdiction to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular part, term or provision held to be invalid.
- (c) Complete Agreement. This instrument embodies the whole agreement of the Parties. There are no promises, terms, conditions, or obligations other than those contained herein except that Developer shall be bound by, and comply with, all conditions and obligations, provided in applicable Fraser ordinances and regulations, as amended from time to time by Fraser. This Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the Parties. There shall be no modification of the Agreement except in writing, executed with the same formalities as this instrument.
- (d) No Waiver. No waiver of any of the provisions of this Agreement shall be valid or binding unless in writing, signed by the party whose rights are waived, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided, nor shall the waiver of any default hereunder be deemed a waiver of any subsequent default hereunder.
- (e) Consent to Jurisdiction and Venue. Jurisdiction and venue for any civil action commenced by either party to this Agreement with respect to this Agreement or any security provided pursuant to this Agreement shall be proper only if such

(f) No Third Party Beneficiaries. Except as herein provided, no person or entity, other than a party to this Agreement, shall have any right of action under this Agreement including, but not limited to, lenders, lot or home buyers and materialmen, laborers or others providing work, services, or materials for the improvements.

(g) Recording. This Agreement shall be recorded in the Grand County Clerk and Recorder's Office and shall be deemed to run with the land (being the described Project), and the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

DEVELOPER

TOWN OF FRASER, a municipal corporation of the State of Colorado

BY: \_\_\_\_\_  
Mayor

BY: \_\_\_\_\_

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

ATTEST:

Town Clerk

(SEAL)

STATE OF COLORADO )  
 ) SS  
COUNTY OF GRAND )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, as Mayor, and \_\_\_\_\_, as Town Clerk, of the Town of Fraser, Colorado, a municipal corporation of the State of Colorado.

Witness my hand and official seal.

My Commission expires:

( S E A L )

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

STATE OF \_\_\_\_\_ )  
 ) SS  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2018, by \_\_\_\_\_, as \_\_\_\_\_, of \_\_\_\_\_, Developer.

Witness my hand and official seal.

My commission expires:

( S E A L )

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

## Exhibit A

### Secured Improvements

Improvement	Estimated Cost
1. _____	\$ _____
2. _____	\$ _____
3. _____	\$ _____
4. _____	\$ _____