

ARTICLE 1: GENERAL PROVISIONS

1.1 TITLE AND EFFECTIVE DATE

The provisions contained herein shall be officially known as the "Pagosa Springs Land Use and Development Code," and is referred to throughout this document as the "Land Use Code." This Land Use Code shall become effective on [DATE].

1.2 PURPOSE

A. The purpose of this Land Use Code is to:

1. Implement the Pagosa Springs Comprehensive Plan and other relevant adopted plans;
2. Provide standards and procedures for new development and redevelopment within the Town of Pagosa Springs
3. Accommodate a variety of housing options;
4. Protect neighborhood character;
5. Protect natural resources;
6. Encourage energy-efficient, sustainable development practices; and
7. Protect the public health, safety, and welfare of the community.

1.3 AUTHORITY

1.3.1. GENERAL AUTHORITY

The Town Council of the Town of Pagosa Springs has the authority to adopt this Land Use Code pursuant to Article XX of the Colorado Constitution; Title 31, Article 2 of the Colorado Revised Statutes, the Charter of The Town of Pagosa Springs, Colorado, and such other authorities and provisions as are established in the statutory and common law of the State of Colorado.

1.3.2. AUTHORITY OF THE TOWN COUNCIL

The Town Council, at their discretion, may waive specific provisions of this Land Use Code for the express purpose of encouraging flexibility and variety in land development that is not detrimental to the public good and does not impair the intent and purpose of this Land Use Code. This provision is intended to be implemented by the Town Council of their own accord, not at the request of the applicant for the purpose of addressing unusual hardships and does not establish precedents for the future. Planning Commission may recommend a waiver to Town Council during their review process. Applicant requests must follow the Minor Amendment or Variance process. The conditions of any waiver authorized shall be stated in writing by the Town Council with the justifications set forth. Town Council waivers are not meant to supersede a variance application process as defined in Section 2.4.12. of this Chapter.

1.4 APPLICABILITY AND JURISDICTION

1.4.1. GENERAL APPLICABILITY

The provisions of this Land Use Code shall apply to all land, buildings, structures, and uses located within the Town of Pagosa Springs, unless an exemption is provided by the terms of this Land Use Code. The provisions of this Land Use Code are the minimum requirements adopted for the promotion of the public health, safety, and welfare.

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1.4.2. COMPLIANCE REQUIRED

A.Any building or structure proposed to be erected, converted, enlarged, reconstructed, or altered for use, or any request to change land use, shall be in accordance with all of the applicable regulations established by this Land Use Code.

B.Any lot of record that did not exist on the effective date of this Land Use Code shall only be created, by subdivision or otherwise, in conformance with the applicable requirements of this Land Use Code.

C.All structures and uses of land to be authorized by permit or approval shall conform to this Land Use Code, regulations promulgated under this Land Use Code, and the terms and conditions of other applicable permits and approvals issued under this Land Use Code. A permit or approval issued in violation of this Land Use Code is void.

1.4.3. APPLICATION TO GOVERNMENTAL AGENCIES

To the extent allowed by law, the provisions of this Land Use Code shall apply to all land, buildings, structures, and uses owned by government agencies.

1.5 RELATIONSHIP TO OTHER REGULATIONS

1.5.1. RELATIONSHIP TO THE COMPREHENSIVE PLAN

The Pagosa Springs Comprehensive Plan is the official policy document of the Town of Pagosa Springs. This provides a consistent statement of the Town's plan and policies for future development to bring about the Town's vision for the future. This Land Use Code implements the policies established in the Comprehensive Plan.

1.5.2. RELATIONSHIP TO OTHER STATE, LOCAL OR FEDERAL REGULATIONS

This Land Use Code is intended to complement other local, state, and federal regulations that affect land use and is not intended to revoke or repeal any other public law, ordinance, regulation, or permit. If provisions of this Land Use Code are internally conflicting, the more stringent standard, limitation or requirement shall govern or prevail to the extent of the conflict.

1.5.3. RELATIONSHIP TO PRIVATE AGREEMENTS

This Land Use Code is not intended to modify, revoke or repeal any easement, covenant, deed restriction, or other private agreement. Where the regulations of this Land Use Code are more restrictive or impose higher standards or requirements than such easement, covenant, or other private agreement, then the requirements of this Land Use Code shall govern. In no case shall the Town be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

1.6 ENFORCEMENT

1.6.1. PURPOSE

This Section establishes procedures to ensure compliance with and correct violations of the provisions of this Land Use Code.

1.6.2. VIOLATIONS

A.Each of the following activities shall constitute a violation of this Land Use Code:

1. Activity inconsistent with the Land Use Code. Any erection, construction, reconstruction, remodeling, excavation, alteration, maintenance, expansion, movement, or use of any building, structure, or sign, or development or subdivision of any land, in contravention of any provision of this Land Use Code or any regulation promulgated under this Land Use Code.

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2. Activity inconsistent with permit or approval. Any development, use, construction, remodeling, or other activity in any way inconsistent with the terms or conditions of any permit or approval required to engage in such activity, whether issued under or required by this Land Use Code.

B. Each day that a violation occurs or remains uncorrected shall constitute a separate and distinct violation of this Land Use Code. Each day that any violation continues after a final written notice or order for compliance is issued shall be considered a separate offense for purposes of the penalties and remedies specified in this Section.

1.6.3. ENFORCEMENT ACTIONS

A. Responsibility for enforcement. This Land Use Code shall be administered and enforced by the Planning Director or their designee.

B. Investigation. Whenever the Director receives a written, signed complaint alleging a violation of this Land Use Code or a permit or approval issued under this Land Use Code, the Director shall investigate the complaint and inform the complainant in writing of his or her findings and any actions that have been, or will be taken.

C. Persons liable. The owner, tenant, or occupant of any building or land, or any part thereof, and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this Land Use Code or a permit or approval issued pursuant to this Land Use Code, may be held responsible for the violation and be subject to the penalties and remedies provided in this Section.

D. Procedures upon discovery of violations.

1. Whenever the Planning Director determines that a property is in violation of this Land Use Code, the Director shall send a written notice to the person responsible for such violation, indicating the nature of the violation and ordering the corrective action. Additional written notices may be sent at the Planning Director's discretion.
2. If the person responsible for the violation does not take action to correct the violation within thirty (30) days of the first notice, a final written notice shall be sent which states the action the Planning Director intends to take if the violation is not corrected and advise that the Planning Director's decision or order may be appealed pursuant to Section 2.4.17, Appeals.
3. If the person responsible for the violation fails to comply with the final written notice and does not appeal the Planning Director's decision to the Town Council, the Planning Director may immediately issue an order for compliance and seek enforcement through the municipal court as authorized in Section 1.6.4 below.

E. Continuation of prior enforcement actions. Nothing in this Land Use Code shall prohibit the continuation of previous enforcement actions undertaken by the Town pursuant to previous regulations.

1.6.4. PENALTIES AND REMEDIES

A. The Planning Director shall have the following remedies and powers to enforce this Land Use Code:

1. Fines. Violation of this Land Use Code shall be subject to a civil monetary penalty as set forth in Chapter 1, Article 3 of the Pagosa Springs Municipal Code (Municipal Code).
2. Deny/withhold entitlements. The Planning Director may deny or withhold all entitlements, including building permits, certificates of occupancy, business licenses, or other forms of authorization to use or develop any land, structure, or improvements, until a violation, associated civil penalty, and/or lien resulting from a previous final order related to such property, use, or development is corrected. This provision shall apply whether or not the current owner or applicant for the permit or other approval is responsible for the violation.

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3. Revoke entitlements. Any entitlement or other form of authorization required under this Land Use Code, which is not a revokable permit, may be revoked, after notice and a hearing by the Town Council within one month of a request by the Planning Director, when the Planning Director determines that:
 - a. There is a departure from the approved plans, specifications, limitations, or conditions as required under the entitlement;
 - b. The entitlement was procured by false representation;
 - c. The entitlement was issued in error; or
 - d. There is a violation of any provision of this Land Use Code.
4. No acceptance of public improvements. No acceptance or extension of public improvements shall be authorized until stated violations are in compliance and/or all fines for violations of this Land Use Code have been paid to the Town.
5. No work or construction shall proceed after service of the notice of revocation hearing, except to correct the violation. Upon determination of a violation and issuance of a revocation order by the Town Council, no work or construction shall proceed except to comply with the revocation order. Once conditions for resumption of work have been met, the Planning Director shall rescind the notice of revocation hearing or revocation order.
6. Stop-work orders.
 - a. Whenever any building, structure, site, or part thereof is being demolished, constructed, excavated, reconstructed, altered, or repaired in a hazardous manner, in substantial violation of any state or local building code, or in a manner that endangers life or property, the Planning Director has the authority to issue a stop-work order for the work that is in violation or presents the hazard.
 - b. With or without revoking permits, the Planning Director may issue an order to stop work on any property on which there is an uncorrected violation of either a provision of this Land Use Code, a provision of an entitlement, or other form of authorization issued under this Land Use Code that endangers life or property.
 - c. The stop-work order shall be in writing directed to the person doing the work and shall specify the provisions of this Land Use Code or other law allegedly in violation. After any such order has been served, no work shall proceed on any building, other structure, or tract of land covered by such order, except to correct such violation or comply with the order.
 - d. Once conditions for resumption of the work have been met, the Planning Director shall rescind the stop-work order.
7. Injunctive relief. The Planning Director may seek injunctive relief or other appropriate relief in any court of competent jurisdiction against any person who fails to comply with any provision of this Land Use Code or any requirement or condition imposed pursuant to this Land Use Code. In any court proceedings in which the Town seeks a preliminary injunction, it shall be presumed that a violation of this Land Use Code is a real, immediate, and irreparable injury to the public; that the public will be irreparably injured by the continuation of the violation unless the violation is enjoined; and that there is no plain and adequate remedy at law for the subject Code violation.
8. Abatement. The Town may abate a violation pursuant to this subsection.
 - a. Before action is taken to abate a violation, a final written notice or order of compliance shall be sent by certified mail with return receipt required to the owner of record of the subject property, or to the homeowner's association, as applicable.
 - b. Unless the final written notice or order of compliance is appealed pursuant to Section 2.4.17, Appeals, the Planning Director may proceed to abate the violation after ten

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(10) days of sending the final written notice or order of compliance, except that the Planning Director, at their sole discretion, may immediately abate a violation that poses a danger to the public health, safety, and welfare.

- c. The Planning Director shall keep an account of the cost, including incidental expenses, incurred by the Town in the abatement of any violation. The Planning Director shall forward a bill for collection to the violator or the homeowner's association and to the property owner of record specifying the nature and costs of the work performed. For purposes of this Section, the term "incidental expenses" shall include but not be limited to the actual expenses and costs to the Town in the preparation of the notices, specifications and contracts, work inspection, and interest from the date of completion at the rate prescribed by law for delinquent real property taxes.
- d. The responsibility for payment of the charges for abatement as set forth in this Section shall rest solely upon the owners of the property upon which the abatement occurred, or the homeowner's association, as applicable. Such charges become a lien upon the real property upon which the violation was located. The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property and shall be paramount to all other liens except for state or municipal property taxes, with which it shall be upon a parity. The lien shall continue until the charges and all interest due and payable thereon are paid.

1.7 TRANSITIONAL REGULATIONS

1.7.1. PURPOSE

The purpose of transitional regulations is to clarify the status of properties with pending applications and properties with outstanding violations, at the time of the adoption of this Land Use Code.

1.7.2. VIOLATIONS CONTINUE

Any violation of the previous Land Use and Development Code shall continue to be a violation under this Land Use Code and shall be subject to the penalties and enforcement in Section 1.6, Enforcement. Payment shall be required for any civil penalty assessed under the previous code, even if the original violation is no longer considered a violation under this Land Use Code.

1.7.3. USES, STRUCTURES, AND LOTS RENDERED NONCONFORMING

A. When a building, structure, or lot is used for a purpose that was a lawful use before the effective date of this Land Use Code, and this Land Use Code no longer classifies such use as an allowed use in the zoning district in which it is located, such use shall be considered nonconforming and shall be controlled by Section 1.8, Nonconformities.

B. Where any building, structure, or lot that legally existed on the effective date of this Land Use Code does not meet all standards set forth in this Land Use Code, such building, structure, or lot shall be considered nonconforming and shall be controlled by Section 1.8, Nonconformities.

1.7.4. APPLICATIONS COMMENCED OR APPROVED UNDER PREVIOUS ORDINANCES

A. Pending applications.

1. Any complete application that has been submitted for approval, but upon which no final action has been taken by the appropriate decision-making body prior to the effective date of this Land Use Code, shall be reviewed in accordance with the ordinance in effect on the date the application was deemed complete, unless the applicant chooses to apply the updated Land Use Code provisions to their application. Any re-application for an expired project approval shall meet the standards in effect at the time of re-application.

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2. An applicant with a complete application that has been submitted for approval, but upon which no final action has been taken prior to the effective date of this Land Use Code, may request review under this Land Use Code by a written letter to the Planning Director.

B. Preliminary approvals.

1. An application for which preliminary approval of a planned unit development (PUD) or preliminary subdivision plan was granted prior to the effective date of this Land Use Code may be processed for a final decision in accordance with the preliminary approval, and applicable terms of the ordinance in place at the time of preliminary approval, even if the application does not comply with one or more requirements set forth in this Land Use Code.

2. Preliminary approvals granted under the previous Land Use and Development Code may be extended no more than once, and for no longer than six (6) months.

C. Approved projects.

1. Approved development plans and permits that are valid on the effective date of this Land Use Code, shall remain valid until three years after the approval date. Projects with valid approvals or permits may be completed in conformance with the development standards in effect at the time of approval.

2. Any building or development for which a building permit was granted prior to the effective date of this Land Use Code may be permitted to proceed to construction. If the development for which the building permit is issued prior to the effective date of this Land Use Code fails to comply with the time frames for development established for the building permit, the building permit shall expire, and future development shall comply with the requirements of this Land Use Code.

1.8 NONCONFORMITIES

1.8.1. PURPOSE

The purpose of this Section is to limit the development and continued existence of legal uses, structures, lots, signs, land use characteristics and development standards, established prior to the effective date of this Land Use Code. All such situations are collectively referred to in this Land Use Code as "nonconformities." While nonconformities may continue, the provisions of this chapter are designed to curtail substantial investment in nonconformities to bring about their eventual elimination in order to preserve the integrity of this Land Use Code and the goals of the Town of Pagosa Springs.

1.8.2. DEFINITION

A nonconformity shall include any lawful use of property or any lawful structure, sign, or platted lot, or any site feature:

A. That exists or existed on the date of the adoption of an ordinance that rendered it nonconforming with the provisions of the new ordinance or this Land Use Code; or

B. That currently conforms to the regulations in this Land Use Code, but in the future will not conform to a future rezoning, or amendment to the text of this Land Use Code; or

C. That currently conforms to the regulations in this Land Use Code, but because of future governmental action, such as the acquisition of property for a public purpose, will not conform to the provisions of the code in effect at the time.

1.8.3. AUTHORITY TO CONTINUE

Nonconformities may continue to be used and occupied, subject to regulations as to the maintenance of premises and conditions of operations set forth in this Section, or unless such nonconformity is terminated as provided in this Section.

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1.8.4. DETERMINATION OF NONCONFORMITY STATUS

In all cases, the burden of proof for establishing the existence of a legal nonconformity shall be solely upon the owner of the nonconformity.

1.8.5. MINOR REPAIRS AND MAINTENANCE

A. Minor repairs or maintenance of nonconformities that are required to keep structures or sites in a safe condition are permitted, provided that the minor repair or maintenance does not increase the extent of nonconformity. For purposes of this Section, "maintenance or minor repair" shall mean:

1. Repairs that are necessary to maintain and to correct any damage or deterioration to the structural soundness or exterior or interior appearance of a building or structure without expanding or altering the building or structure;
2. Maintenance of land areas to protect against health and environmental hazards and promote the safety of surrounding land uses;
3. Repairs that are required to remedy unsafe conditions that cause a threat to public safety; and
4. Repairs and maintenance of nonconforming signs otherwise permitted by this Land Use Code.

B. In addition, any existing occupied residential dwelling, including but not limited to, a detached dwelling, attached dwelling, or multi-unit dwelling, that is deemed to be a nonconforming use shall be allowed to make improvements to the existing principal and accessory structures if the improvements do not increase the degree of nonconformity or increase the height or building footprint.

1.8.6. CHANGE OF TENANCY OR OWNERSHIP

Changes of ownership, tenancy, or management of property with an existing nonconformity are permitted but such nonconformities shall continue to be subject to the provisions of this Land Use Code.

1.8.7. DAMAGE OR DESTRUCTION

A. If any existing nonconforming structure, is damaged an extent greater than fifty percent (50%) of the gross square footage of the structure, the following development standards shall apply:

1. The damaged structure may be entirely rebuilt to the previous dimensions with no expansion but must conform to the use regulations of the current Land Use Code;
2. The damaged portion shall be rebuilt according to the current Land Use Code provisions; and
3. Existing parking shall be maintained with no elimination of existing spaces.

1.8.8. ABANDONMENT OF USE

If a nonconforming use is discontinued for a period exceeding six (6) months, such discontinuance shall create a rebuttable presumption of abandonment and, absent a showing by the owner of an intent not to abandon the use, shall be discontinued. Any future use of the property shall conform to the terms of this Land Use Code.

1.8.9. LIMITATIONS ON CONTINUATION OF NONCONFORMING USES

A. Nonconforming uses of land or structures are subject to the following additional limitations:

1. A conditional use permit shall be required to enlarge or increase or extend a nonconforming use of land to occupy a greater area of land than was occupied at the

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effective date of adoption or amendment of the regulations that make the use nonconforming. Any nonconforming use on a lot or portion of a lot may be altered to decrease its nonconformity.

2.A conditional use permit shall be required to move a nonconforming use of land in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of the regulations that make the use nonconforming.

3.A conditional use permit shall be required to enlarge, extend, reconstruct, move, or structurally alter an existing structure devoted to a use not permitted by this Land Use Code in the district in which it is located. A conditional use permit shall not be required to change the use of the structure to a use permitted in the district in which it is located.

4.Any nonconforming use may be extended throughout any parts of a building that were manifestly arranged or designed for such use at the time of adoption or amendment of the applicable regulations, but no such use shall be extended to occupy any land outside such buildings without a conditional use permit.

5.No additional structure not conforming to the requirements of this Land Use Code shall be erected in connection with the nonconforming use of land or structure.

1.8.10. CHANGE OF USE

A.A nonconforming use of a building may be changed to another nonconforming use, provided that:

- 1.The new use creates no greater impacts on surrounding properties and is no more intensive than the use it replaces as determined by the Planning Director
- 2.No structural alterations to the building are required to accommodate such change; and
- 3.The use is approved by way of a new business license application.

B.A nonconforming use that has been changed to a less nonconforming use pursuant to this subsection may not thereafter be changed back to a more nonconforming use.

C.A nonconforming use, if changed to a conforming use, may not thereafter be changed back to any nonconforming use.

1.8.11. ADDITIONAL REGULATIONS FOR NONCONFORMING STRUCTURES

A.Nonconforming uses of land or structures are subject to the following additional limitations:

- 1.A nonconforming structure may not be enlarged or altered in a way that increases its nonconformity, but any structure or portion of a structure may be altered to decrease its nonconformity. This subsection shall not be construed to allow the expansion of a nonconforming use of a conforming structure.
- 2.Should a nonconforming structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- 3.Any structure in which a nonconforming use is superseded by a permitted use shall thereafter conform to the use regulations for the district, and the nonconforming use may not thereafter be resumed.

1.8.12. ADDITIONAL REGULATIONS FOR NONCONFORMING LOTS/PARCELS/TRACTS

A.In any residential district, notwithstanding limitations imposed by other provisions of this Land Use Code, a single-family dwelling and customary accessory buildings may be erected on any lot that is of record at the effective date of the original adoption or amendment of applicable regulations. This provision shall apply even if the lot fails to meet the requirements for the area or width, or both, that are applicable in the district. Setback and lot coverage requirements

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applicable to nonconforming lots of record shall be those of the zone with the largest lot area requirement within which the lot would be conforming.

B. Where two (2) or more adjacent nonconforming lots are held in common ownership, the owner shall combine them legally through the subdivision process for purposes of development review and approval.

1.8.13. ADDITIONAL REGULATIONS FOR NONCONFORMING SIGNS

A. A nonconforming sign shall immediately lose its legal nonconforming status, and therefore shall be brought into conformance with this Land Use Code or removed, when any of the following occur:

1. The size or shape of the sign is changed; or
2. The sign structure is altered. Alteration does not include changes to copy, face changes, repairs and/or maintenance; or
3. The nonconforming sign is accessory to a nonconforming use that has lost its nonconforming status; or
4. The primary structure(s) on the property on which the sign is located is being reconstructed, remodeled, expanded, or otherwise brought into conformance with this Land Use Code.

B. Maintenance of nonconforming signs. Nonconforming signs shall continue to be maintained in safe condition pursuant to the building regulations of the Town.

C. Alteration, relocation or replacement of nonconforming signs. A nonconforming sign shall not be structurally altered, relocated, or replaced unless it is brought into compliance with the provisions of this Land Use Code.

D. Reconstruction of damaged sign. If a sign and/or its support are damaged to the extent where the repair costs exceed fifty (50) percent of the replacement cost of the sign, the sign shall be removed or brought into compliance.

1.8.14. ADDITIONAL REGULATIONS FOR OTHER NONCONFORMITIES

A. If an application is filed for a building permit or for the reconstruction, remodeling, expansion, or other improvements of a legal nonconforming attached dwelling, multi-unit dwelling, commercial, industrial, or mixed-use structure, the applicant shall be required to address the following nonconformities prior to, or as part of the improvements authorized by such building permit, unless the Planning Director determines in writing that such nonconformities have no significant adverse impact on surrounding properties:

1. Screening of mechanical equipment;
2. Screening walls or fences (for parking, waste, or storage areas); ,
3. Driveway surface materials;
4. Landscaping;
5. Stormwater detention/drainage;
6. Parking; and
7. Lighting.

1.8.15. ILLEGAL NONCONFORMITIES

A. An illegal nonconformity exists when:

1. A nonconforming structure is destroyed or substantially destroyed by an intentional act of the owner or an agent. If this occurs, the nonconforming structure shall lose its legal nonconforming status and thereafter shall be required to be in conformity with existing

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codes. If a nonconforming use was also in the structure, the nonconforming use and all site improvements shall lose their legal nonconforming status and be required thereafter to come into compliance with existing codes.

2.A use, structure, or site improvement occurs without being lawfully authorized in accordance with the provisions of this Land Use Code. Such use and/or structure shall therefore cease all operations until such time that the required plans and/or permits are approved

1.9 SEVERABILITY

- 1.9.1. If any court of competent jurisdiction invalidates any provision of this Land Use Code, then such judgment shall not affect the validity and continued enforcement of any other provision of this Land Use Code.
- 1.9.2. If any court of competent jurisdiction invalidates the application of any provision of this Land Use Code, then such judgment shall not affect the application of that provision to any other building, structure, or use not specifically included in that judgment.
- 1.9.3. If any court of competent jurisdiction invalidates any condition attached to the approval of an application for development approval, then such judgment shall not affect any other conditions or requirements attached to the same approval that are not specifically included in that judgment.

1.10 REVIEW AND DECISION-MAKING BODIES

1.10.1. TOWN COUNCIL

A.The Town Council shall be established pursuant to Article 2 of the Municipal Code and shall follow the Code of Ethics established in Chapter 2, Article 4 of the Municipal Code. The Town Council shall have the review and decision-making responsibilities listed in Table 2.2-1, and in addition shall have the following duties and responsibilities:

1. Appoint the members of the Planning Commission, Board of adjustment, Design Review Board, and Historic Preservation Board;
2. Appoint the Town Manager; and
3. Develop and Adopt a Comprehensive Plan for the Town after conducting a public hearing, and annually conducting a public meeting to consider changes to the Comprehensive Plan.

1.10.2. PLANNING COMMISSION

A.The Planning Commission is established pursuant to Article 2 of the Municipal Code and shall follow the Code of Ethics established in Chapter 2, Article 4 of the Municipal Code. The Planning Commission shall have all powers granted and shall perform all the duties imposed by the Municipal Code and statutes of the State of Colorado. The Planning Commission shall have the review and decision-making authorities listed in Table 2.2-1, and in addition shall have the following duties and responsibilities:

1. Develop and recommend to the Town Council new planning policies, ordinances, and administrative procedures as directed by Town Council;
2. Conduct planning-related studies as directed by the Town Council any other new plans, goals, and objectives relating to growth, development, and redevelopment of the Town;
3. Act in the capacity of the Design Review Board, unless the Board has been otherwise appointed;
4. Act in the capacity of the Board of Adjustment, unless the Board has been otherwise appointed;

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5. Act in the capacity of the Historic Preservation Board, unless the Board has been otherwise appointed;
6. Adopt rules and regulations governing the procedures and operations of the Planning Commission; and
7. Perform any other duties assigned by the Town Council.

1.10.3. BOARD OF ADJUSTMENT

A. The Board of Adjustment shall be appointed by the Town Council by resolution and have the review and decision-making authorities listed in Table 2.2-1. The Board also shall adopt rules and regulations governing the procedures and operations of the Board of Adjustment. The Board of Adjustment conducts proceedings in a quasi-judicial manner.

B. The Planning Commission shall act as the Board of Adjustment until such time as the Town Council determines that the Town population and development make it logical and feasible to form a Board of Adjustment.

1.10.4. DESIGN REVIEW BOARD

A. The Design Review Board (DRB) shall be appointed by the Town Council by resolution and have the review and decision-making authorities listed in Table 2.2-1.

1.10.5. HISTORIC PRESERVATION BOARD

A. The Historic Preservation Board (HPB) shall be appointed by the Town Council by resolution and shall have the review and decision-making authority established in Article 5 and table 2.2-1 of this Land Use Code per the following:

1. Establish structures of merit;
2. Consider applications for designation of a local Historic Landmark;
3. Consider applications for removal of a local Historic Landmark designation;
4. Consider applications for relocation, alteration or new construction of structures or other features designated as a Historic Landmark or property within a Historic District;
5. Assist owners of Historic Landmarks that have fallen into disrepair in determining the actions necessary to preserve the property; and
6. The HPB may recommend amendments to the design guidelines to the Town Council to support historic preservation.

B. Members and terms of office. Members of the Historic Preservation Board are appointed by the Town Council with the following qualifications:

1. At least one (1) member of the HPB shall be a qualified elector in Pagosa Springs and resident for one (1) year prior to appointment.
2. At least two (2) members shall be professionals in preservation related disciplines such as architecture, architectural history, archaeology, history, planning, or other historic preservation related disciplines such as urban planning, American studies, American civilization, cultural geography, or cultural anthropology. If such professionals are not available in the community, and if it can be demonstrated that a good-faith effort was made to locate and appoint such professionals, this requirement can be waived, provided that the HPB is capable of carrying out the responsibilities assigned to it. Information on the credentials of the board members must be kept on file and available to the public.
3. No more than three (3) members shall be lay members who have demonstrated interest, knowledge, or training in fields closely related to historic preservation, such as history, architecture, landscape architecture, architectural history, archaeology, planning, or other historic preservation-related disciplines such as building trades, cultural geography, cultural anthropology, real estate, or law.

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4. When the discipline of architecture, history, architectural history, or archaeology is not represented in the HPB membership, the HPB shall seek additional expertise in the appropriate areas when considering national register nominations and any other delegated actions that will affect that discipline.

1.10.6. TOWN MANAGER.

A. The Town Manager shall be appointed by the Town Council per Article 4, Chapter 2, of the Municipal Code. The Town Manager shall have the primary responsibility for administering and enforcing this Land Use Code and in so doing, shall be responsible for appointing the Planning Director, establishing the duties and responsibilities of the Planning Director, and overseeing the actions of the Planning Director.

1.10.7. PLANNING DIRECTOR

A. The Planning Director (Director) shall be appointed by the Town Manager per Article 3 of the Municipal Code. The Planning Director and/or their appointed designee shall act as the land use authority to uphold and enforce all administrative actions required by this Land Use Code, including receiving and processing applications, preparation of notice of public hearings, and preparation of staff reports, and have the review and decision-making authorities listed in Table 2.2-1.

B. The Planning Director shall act as the Floodplain Administrator and Code Enforcement Officer.

(Ord. No. 757, § 2, 1-4-2011; Ord. No. 766, § 2, 2-7-2012)

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ARTICLE 2: APPLICATION PROCEDURES

2.1 PURPOSE AND ORGANIZATION OF ARTICLE

2.1.1. PURPOSE

This Article describes the procedures for review of all applications for land use and development activity in Pagosa Springs.

2.1.2. ORGANIZATION

- A. Section 2.2., Summary Table of Procedures
- B. Section 2.3., Common Development Review Procedures
- C. Section 2.4., Specific Procedures and Approval Criteria
- D. Section 2.5., Review and Decision-Making Bodies

2.2 SUMMARY TABLE OF PROCEDURES

Table 2.2-1 summarizes the land use and development procedures in this Land Use Code and identifies the bodies that have review and decision-making responsibilities for each procedure. See Section 2.4. for details on each procedure, including exceptions to these general rules.

TABLE 2.2-1: Summary Table of Procedures

R = Review (Responsible for Review and/or Recommendation) H = Hearing (Public Hearing Required) D = Decision (Responsible for Final Decision) A = Appeal (Authority to Hear/Decide Appeals)						
Procedure	Town Council	Planning Commission	Board of Adjustment	Design Review Board	Historic Preservation Board	Planning Director
PLANNING AND ZONING						
Comprehensive Plan Amendments	D-H	R-H				R
Amendment to the Land Use Code	D-H	R-H				R
Amendments to the Official Zoning Map	D-H	R-H				
SUBDIVISION						
Minor Subdivision		A-H				D
Major Subdivision: Sketch Plan	A-H	D-H				R
Major Subdivision: Preliminary Plat	D-H	R-H				R
Major Subdivision: Final Plat		A-H				D
Vacation of Right-of-Way and Other Public Easements	D-H	R-H				R

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R = Review (Responsible for Review and/or Recommendation) H = Hearing (Public Hearing Required) D = Decision (Responsible for Final Decision) A = Appeal (Authority to Hear/Decide Appeals)						
Procedure	Town Council	Planning Commission	Board of Adjustment	Design Review Board	Historic Preservation Board	Planning Director
PERMITS AND APPROVALS						
Conditional Use Permit		A-H				D [1]
Design Review, Administrative, Sketch		A-H				D [2]
Design Review, Administrative, Final		A-H				D [2]
Design Review, Major, Sketch	A-H			D-H		R
Design Review, Major, Final	A-H			D-H		R
Redevelopment Permit	D-H	R-H				R
Floodplain Development Permit		A-H				D [3]
Sign Permit, Individual Sign				A-H		D
Sign Permit, Comprehensive Sign Program	A-H			D		R
Temporary Use Permit			A-H			D
Outdoor Commercial Establishment Permit			A-H			D
OTHER PROCEDURES						
Variances	A-H		D-H			R
Administrative Variance			A-H			D
Final Written Notice or Order of Compliance			A-H			D
Planned Unit Concept Plan Amendments	A-H	D-H				R
Classification of New/Unlisted Uses	A-H					D
Historic Designation					D	R
Certificate of Alteration (Landmark or Historic District)	A				D	R

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R = Review (Responsible for Review and/or Recommendation) H = Hearing (Public Hearing Required) D = Decision (Responsible for Final Decision) A = Appeal (Authority to Hear/Decide Appeals)						
Procedure	Town Council	Planning Commission	Board of Adjustment	Design Review Board	Historic Preservation Board	Planning Director
Demolition Permit (Landmark or Historic District)	D-H				R-H	R
NOTES:						
[1]: Conditional Use Permits - The Director may refer the application to the Planning Commission for hearing and decision, at the Director's discretion. In such cases, the Town Council hears appeals of the Commission's decision. Additionally, if Design Review is necessary for the proposed Conditional Use, then the development plan and the conditional use applications shall be processed concurrently following the Design Review process and decision-making authority.						
[2]: Design Review, Sketch and Final, Administrative - The Director has authority as the decision-maker. However, the Director may refer an application to the Design Review Board for decision. In such cases, the Town Council hears appeals of the DRB's decision.						
[3]: Floodplain Development Permits - The Floodplain Administrator shall review and decide on applications for Floodplain Development Permits.						

(Ord. No. 754, § 1, 5-20-2010; Ord. No. 916, § 1a, 6-20-2019; Ord. No. 941, § 1, 10-6-2020)

2.3 COMMON DEVELOPMENT REVIEW PROCEDURES

The common development review procedures in this Section provide a foundation for the specific review and approval procedures in Section 2.4. See Section 2.4 to determine which of these common procedures apply to an individual application for development review.

2.3.1. STEP 1: PRE-APPLICATION CONFERENCE

- A. Purpose. The purpose of a pre-application conference is to provide an opportunity for informal evaluation of the applicant's proposal and to familiarize the applicant and Town staff with the applicable provisions of this Land Use Code, the Comprehensive Plan, infrastructure requirements, and any other issues that may affect the applicant's proposal.
- B. Applicability.
 1. Required for new applications. A pre-application conference is required prior to the following types of applications. These types of applications shall not be accepted until after the pre-application conference is completed. The conference should take place prior to any substantial investment, such as land acquisition for a proposed development, site and engineering design, or the preparation of other data.
 - a. Comprehensive Plan Amendment
 - b. Amendments to the Official Zoning Map
 - c. Major Subdivision, Sketch Plan
 - d. Vacation of Right-of-Way and Other Public Easements
 - e. Conditional Use Permit
 - f. Design Review Administrative Sketch

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- g. Design Review Major Sketch
 - h. Redevelopment Permit
 - i. Variance
2. Optional for all other applications. A pre-application conference is optional, upon the request of either the applicant or the Director, prior to submission of any other application under this Land Use Code not listed above.
- C. Initiation of pre-application conference. The potential applicant shall request a pre-application conference with the Director. With the request, the applicant shall provide the Director with a description of the character, location, and magnitude of the proposed development and any other available supporting materials, such as maps, drawings, or models.
 - D. Pre-application conference format. The Director shall schedule a pre-application conference after the request is received. At the conference, the applicant, the Director or designee, and any other persons the Director deems appropriate to attend shall discuss the proposed development and the applicable requirements of this Land Use Code, based upon the information provided by the applicant.
 - E. Record of pre-application conference. Staff will record notes of topics discussed at the pre-application conference, will provide a copy to the applicant following the meeting, and keep a copy on record with the application file.
 - F. Informal evaluation not binding. The informal evaluation of the Director and staff provided at the conference are not binding upon the applicant or the Town but are intended to serve as a guide to the applicant in making the application and advising the applicant in advance of receipt of the formal application, regarding any issues that may be presented to the appropriate decision-making body.
 - G. Application required within six (6) months. After a pre-application conference has been completed, the associated application must be submitted within six (6) months, or sooner if required by the Director due to changing conditions. If an application is not filed within such timeframe, a new pre-application conference shall be required prior to filing an application.
- 2.3.2. STEP 2: NEIGHBORHOOD MEETING
- A. Purpose. The purpose of a neighborhood meeting is to provide the applicant with an informal opportunity to discuss the application with residents and landowners of the surrounding neighborhood(s) where the applicant can provide details of the proposed development and how they intend to meet the standards of this Land Use Code to encourage dialogue at an early stage in the review process. No decision regarding the application will be made at the neighborhood meeting.
 - B. Applicability. A neighborhood meeting is highly recommended for any development proposal that will be subject to Planning Commission review. The meeting should be held no earlier than six (6) months before the submittal of the application.
 - C. Notice of neighborhood meeting. An applicant holding a neighborhood meeting is encouraged to provide mailed and posted notice of the meeting in the same manner that would be required for public hearings on the application pursuant to Step 6 of the common development review procedures (Section 2.3.6.).
 - D. Attendance at neighborhood meeting. The applicant is responsible for scheduling the meeting, coordinating the meeting, and for retaining an independent facilitator if needed. Meetings are encouraged in an online format and a town representative must be present.
 - E. Summary of neighborhood meeting. If a neighborhood meeting is held, the applicant shall designate a moderator to provide a written summary of the meeting for the associated application. The written summary shall be included in the complete application submittal.
- 2.3.3. STEP 3: APPLICATION SUBMITTAL

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- A. Form of application. Applications required under this Land Use Code shall be submitted on the Town's approved Land Use Permit Application form or via the Citizen Online Portal as described in the User's Manual which contains requirements for application contents, fees, and anticipated submission review timeframes. Incomplete applications shall expire one hundred eighty (180) days after the date of submittal if a building permit has not been issued within the 180-day time period and is not thereafter cancelled.
- B. Concurrent development applications and review. Multiple development applications for the same development proposal may be consolidated for submittal and review concurrently, depending on the complexity of the proposal, as required by the Director. Such consolidated applications shall be reviewed, considered, and decided upon by the highest level decision-maker that would have decided the development proposal under this Land Use Code had they been submitted, processed, and considered as separate development applications.
- C. Authority to file applications.
 1. Unless otherwise specified in this Land Use Code, applications for review and approval may be initiated by:
 - a. The owner of the property that is the subject of the application;
 - b. The owner's authorized agent; or
 - c. Any review or decision-making entity.
 2. When an authorized agent files an application under this Land Use Code on behalf of a property owner, the agent shall provide the Town with written, notarized documentation that the owner has authorized the filing.
 3. When a review or decision-making body initiates action under this Land Use Code, it does so without prejudice toward the outcome.
- D. Development Application and Review Fees.
 1. Development review fee schedule. The amount of the Town's development review fees shall be established by the Town Council and shall be based on the actual expenses incurred by, or on behalf of, the Town. The schedule of fees shall be reviewed annually and shall be adjusted, if necessary, by the Town Council by adoption of a resolution.
 2. Recovery of costs. Development review fees are hereby established for the purpose of recovering the costs incurred by the Town in processing, reviewing, and recording development applications submitted pursuant to this Land Use Code. An applicant shall reimburse the Town for all costs incurred in review of an application, including review fees from consultants acting as staff and fees from review agencies and fees associated with recordation and filing of documents. The development review fees imposed pursuant to this Section shall be paid at the time of submittal of any development application and are non-refundable. All final approvals shall be contingent on the applicant reimbursing the Town any additional required fees within thirty (30) days of a decision. For large projects that anticipate third party expenses, the Director has the authority to require the submission of financial retainer to cover such expenses.
 3. Exemption from development review fees. The Town Council may, by resolution, grant an exemption from all or any part of the development review fees on those portions of a project that meet the federal HUD definitions for low-income housing, very low-income housing, moderate-income housing, or workforce housing. Exemptions may also be granted per Section 1.3.2 of this Land Use Code if the project directly contributes to other established goals of the Town Council, as described in the application. Exemption requests must be submitted prior to filing an application for a building permit.
 4. Exemption from development review fees for projects involving a public-private or intergovernmental partnership. So long as an application for exemption is filed prior to when development review fees would otherwise be due, the Town Council may, by

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resolution, grant an exemption from all or any part of the development review fees for projects involving either a public-private partnership with the town or an intergovernmental partnership that provide a benefit to residents and visitors to the Town. The Town Manager may grant an exemption from all or any part of the development review fees for projects located on real property owned or leased by the Town.

- E. Waiver of submittal requirements. The Director may waive certain submittal requirements to tailor the requirements to the information necessary to review a particular application. The Director may waive such requirements where he or she finds that the projected size, complexity, anticipated impacts, or other factors associated with the proposed development clearly, in his or her opinion, support such waiver.
- F. Additional information. Additional application-specific information, beyond that specified in the User's Manual, may be required by the Director, Planning Commission, and/or Town Council, as necessary and appropriate to evaluate fully whether an application complies with the requirements of this Land Use Code.
- G. Inactive files. If an applicant fails to submit required information or request a hearing date for a period of more than six (6) months, his or her file shall become void and the re-submittal of a new application and fees shall be required. The Director may grant no more than two (2) extensions of time to this provision, of no more than six (6) months each, upon a written request by the applicant.

2.3.4. STEP 4: APPLICATION COMPLETENESS REVIEW

- A. The Director shall only initiate the review and processing of complete applications. The Director shall make a determination of application completeness within five (5) business days of application filing. If the application is determined to be complete, the Director shall communicate with the applicant, in writing, the estimated timeframe for application review, the application shall then be processed according to the procedures set forth in this Land Use Code. If an application is determined to be incomplete, the Director shall provide notice to the applicant along with an explanation of the application's deficiencies. An incomplete application shall be considered inactive and no further processing shall occur until the deficient submittals are provided.
- B. An application will be considered complete if it is submitted in the required form, includes all mandatory information, including all supporting materials specified in the User's Manual, and is accompanied by the applicable fee. Information shown must clearly indicate compliance with applicable development standards, or in the case of a request for a variance or modification to certain standards, the degree to which the application will be non-compliant.
- C. Any supplemental technical reports and special studies that are submitted following the original application must be received at least thirty (30) days prior to the first hearing to be held on the application. The Town may postpone and reschedule a hearing or approval deadline if such reports and studies are submitted less than thirty (30) days prior to a hearing. Copies of such additional materials shall be delivered to all reviewers who received the original application packet.

2.3.5. STEP 5: APPLICATION REVIEW

- A. The Director or their designee shall review the application and determine if it meets the standards and requirements within this Land Use Code. If adjustments are needed to meet approval, these will be communicated to the applicant in writing. The applicant will have the opportunity to amend the application and resubmit for subsequent review.
- B. As part of the initial review, the Director shall refer the development application to the appropriate review agencies, and specify the timeframe for comments to be due back to the Director.
- C. Once the application has been amended to meet the approval of the Director, the initial hearing shall be scheduled, and a staff report prepared. The staff report shall be made available for

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inspection and copying by the applicant and the public prior to any scheduled public hearing(s) on the application. The staff report shall indicate whether, in the opinion of the Director, the development application complies with all applicable standards of this Land Use Code.

2.3.6. STEP 6: NOTICE OF PUBLIC HEARING(S)

- A. Content of notices. Notice of all public hearings required under this Land Use Code shall, unless otherwise specified in this Land Use Code:
1. Identify the date, time, and place of the public hearing,
 2. If applicable, describe the property involved in the application by street address or by legal description; by prior subdivision reference, or by section, township, and range of the property with reference to the full legal description contained in the application;
 3. Describe the nature, scope, and purpose of the proposed action;
 4. Indicate that interested parties may appear at the hearing and speak on the matter; and
 5. Indicate where additional information on the matter may be obtained.
- B. Summary of notice requirements. Table 2.3-1 lists the notice requirements for all procedures in this Article.

TABLE 2.3-1: Notice Requirements

Procedure	Type of Notice Required			
	Published	Written	Posted	Mineral Estate Owners/Lessees
ZONING				
Comprehensive Plan Amendment	✓	✓		
Amendment to the Land Use Code				
Amendments to the Official Zoning Map	✓	✓	✓	✓
SUBDIVISION				
Minor Subdivision				✓
Major Subdivision, Sketch Plan	✓	✓	✓	✓
Major Subdivision, Preliminary Plat	✓	✓	✓	✓
Major Subdivision, Final Plat				
Vacation of Right-of-Way and Other Public Easements	✓	✓	✓	✓
PERMITS AND APPROVALS				
Conditional Use Permit [1]	✓	✓	✓	✓
Design Review, Sketch, Administrative				
Design Review, Final, Administrative				✓
Design Review, Sketch, Major		✓	✓	
Design Review, Final, Major	✓	✓	✓	✓
Redevelopment Permit	✓	✓	✓	✓

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Floodplain Development Permit				✓
Sign Permit, New Individual Signs				
Sign Permit, Comprehensive Sign Program				
Temporary Use Permit				
Outdoor Commercial Establishment				
OTHER PROCEDURES				
Variance	✓	✓	✓	
Minor Modification				
NOTES:				
[1] Conditional Use Permits: Notice is required only if the Director refers the application to the Planning Commission for a public hearing and decision.				

- C. Published notice. When Table 2.3-1 requires that notice be published, the Town Clerk shall publish notice of a public hearing in a newspaper of general circulation in the area at least one (1) time at least twelve (12) days prior to the scheduled hearing date.
- D. Written notice. When Table 2.3-1 requires that written notice be provided, such notice shall be mailed by the Town no less than twelve (12) days before the public hearing, by first class United States mail, postage prepaid, to the applicant, appellant, or landowners subject to a land use application, the record owners of land immediately adjacent to the subject land, neighboring property owners whose properties are within five hundred (500) feet of the lot that is the subject of the application or appeal (based on information found in the Archuleta County tax records), and any other person who makes a written request for such notice.
- E. Posted notice. When Table 2.3-1 requires that posted notice be provided, the applicant shall post at least one (1) sign on the lot, parcel, or tract of land, and such sign shall remain on the property for a period of at least twelve (12) days prior to the public hearing. The sign shall be posted in a prominent place, clearly visible from the most heavily traveled adjacent street or public way. The Director may require that additional signs be posted depending on the access and configuration of the property.
- F. Notice to mineral estate owners and lessees. When Table 2.3-1 requires that notice be provided to mineral estate owners and lessees, the applicant shall provide notice of the application by certified mail, return receipt requested, to all mineral estate owners and lessees on the subject property in accordance with C.R.S. Section 24-65.5-103. Such notice shall be provided not less than thirty (30) days prior to the initial public hearing, or not less than thirty (30) days prior to the final decision if the application does not require a public hearing. It shall be the applicant's responsibility to conduct the necessary research to determine mineral estate owners and lessees on the subject property and to provide such findings and evidence of notifications with the applicant's application submittal.
- G. Constructive notice. Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in notice shall be limited to errors in a legal description or typographical or grammatical errors that do not impede communication of the notice to affected parties. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a hearing shall be correctly conveyed. Failure of a party to receive written notice shall not invalidate subsequent action. If questions arise at the hearing regarding the adequacy of notice, the decision-making body shall make a formal finding as to whether there was substantial compliance with the notice requirements of this Land Use Code.

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2.3.7. STEP 7: PUBLIC HEARING(S)

- A. One (1) or more public hearings shall be conducted per table 2.2-1.
 - a. Planning commission hearing, review, and recommendation. Following a public hearing, and after reviewing the report and recommendation of the Director, the Planning Commission shall make a recommendation to the Town Council to approve or deny the application based on the approval criteria.
 - b. Town Council hearing, review, and decision. Following a public hearing, and after reviewing the reports and recommendations of the Director and the Planning Commission, the Town Council shall vote to approve, approve with amendments, or deny the comprehensive plan amendment based on the approval criteria. The Town Council also may refer the proposed amendment back to the Planning Commission for further consideration.

2.3.8. STEP 8: DECISION AND FINDINGS

- A. Decision. After consideration of the development application, the staff report, comments received from other reviewers (if applicable), and the evidence from the public hearing (if applicable), the decision-maker shall approve, approve with conditions, or deny the application based on the applicable approval criteria. Written notification of the decision shall be provided by the Director to the applicant within seven (7) days after the decision.
- B. Approval criteria. To approve a development application, the decision-maker shall find that the development application has satisfied and followed the applicable requirements of this Land Use Code and all of the approval criteria required for the applicable development application.
- C. Conditions of approval. Unless otherwise specified in this Land Use Code, the decision-maker may impose such conditions on the approval of the application as may be necessary to reduce or minimize any potential adverse impact upon other property in the area, or to carry out the general purpose and intent of the Comprehensive Plan, other adopted Town plans, and this Land Use Code. In such cases, any conditions attached to approvals shall be directly related to the impacts of the proposed use or development and shall be roughly proportional in both nature and extent to the anticipated impacts of the proposed use or development. No conditions of approval shall be less restrictive than the requirements of this Land Use Code, except where the Land Use Code allows deviations from the express requirements of the Land Use Code.
- D. Findings. All decisions shall include at the least the following elements:
 - 1. A clear written statement of approval, approval with conditions, or denial, whichever is appropriate; and
 - 2. A clear statement of the basis upon which the decision was made, including specific written findings of fact with reference to the relevant standards of this Land Use Code.
- E. Effect of inaction on applications. When a review or decision-making body fails to take action on an application within the time required, such inaction shall be deemed a denial of the application, unless the decision-making body agrees to an extension of the time frame.
- F. Record of proceedings.
 - 1. Recording of public hearing. The decision-maker conducting the public hearing shall record the public hearing by any appropriate means. A copy of the public hearing record may be acquired by any person upon application to the Director, and payment of a fee to cover the cost of duplication of the record.
 - 2. The record. The record shall consist of the following, all of which shall be kept by the Town for a length of time prescribed in the Town's adopted records retention schedule:

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- a. All exhibits, including, without limitation, all writings, drawings, maps, charts, graphs, photographs, and other tangible items received or viewed by the decision maker at the proceedings;
 - b. All minutes of the proceedings; and
 - c. If available, a transcript and/or videotape recording of the proceedings before the decision maker.
- G. Recording of decisions. Once approved, and after the appeal period has expired, the decision shall be filed with the Town Clerk.

2.3.9. STEP 9: AMENDMENTS TO APPROVED APPLICATIONS

- A. Minor amendments. Unless otherwise specified in this Land Use Code, minor amendments to any permit or other form of approval issued by the Director, the Planning Commission, or the Design Review Board under this Article may be approved, approved with conditions, or denied administratively by the Director and may be authorized without additional public hearings. Such minor amendments may be authorized by the Director as long as the development approval, as so amended, continues to comply with the standards of this Land Use Code, at least to the extent of its original compliance (so as to preclude any greater deviation from the standards of this Land Use Code by reason of such amendments).
- B. Minor amendments shall consist of any of the following:
- 1. Any change to any permit or other form of approval that was originally subject only to administrative review and was approved by the Director, provided such change would not have disqualified the original application from administrative review had it been requested at that time; and provided that the minor amendment does not result in an increase of more than ten (10) percent in the amount of square footage of a land use or gross square footage of structure and does not result in a change in the types of uses in the project.
 - 2. Any change to any permit or other form of approval that was originally subject to final review by and was approved by the Planning Commission or Design Review Board, provided that:
 - a. The minor amendment does not result in an increase in the approved number of dwelling units;
 - b. The minor amendment does not result in an increase in the gross amount of square footage of a non-residential land use or structure;
 - c. The minor amendment does not result in a change in the housing mix or use mix ratio; and
 - d. The minor amendment does not result in a change in the character of the development.
 - 3. In either 1. or 2. above, the Director may refer the amendment to the Planning Commission or Design Review Board, whichever was responsible for the original approval.
- C. Major amendments. Amendments to any permit or other form of approval that are not determined by the Director to be minor amendments under Section 2.3.9.A shall be deemed major amendments. Major amendments shall be reviewed and processed in the same manner as required for the original application for which the amendment is sought.

2.3.10. STEP 10: LAPSE OF APPROVAL

- A. If applicable, the lapse of approval time frames established in Section 2.4. may be extended only when all of the following conditions exist:
- 1. The provisions of this Land Use Code must expressly allow the extension;
 - 2. An extension request must be filed prior to the applicable lapse-of-approval deadline;
 - 3. The extension request must be in writing and include justification; and

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4. Unless otherwise noted, authority to grant extensions of time shall rest with the decision-making body that granted the original approval being extended.

2.3.11. STEP 11: SUBSEQUENT APPLICATIONS

Following denial of an application, the decision-making authority shall not decide on the same or substantially the same application within one (1) year of the date of denial. The waiting period required by this Section may be waived in an individual case, for good cause shown, by the decision-making authority upon a written request by the applicant. When the decision-making authority is the Director or Town Manager, an administrative decision may be made on the request. When the decision-making authority is the Town Council, Planning Commission, Board of Adjustment, Design Review Board, or Historic Preservation Board, an affirmative vote of the majority of the members to waive the waiting period is required.

(Ord. No. 754, § 1, 5-20-2010; Ord. No. 878, § 3, 3-22-2018; Ord. No. 886, § 1, 6-5-2018; Ord. No. 911, §§ 3, 4, 6-4-2019; Ord. No. 916, § 1b, 6-20-2019)

2.4 SPECIFIC PROCEDURES AND APPROVAL CRITERIA

2.4.1. COMPREHENSIVE PLAN AMENDMENTS

- A. Purpose. The purpose of this Section is to provide standards and requirements for amending the text and or maps of the Pagosa Springs Comprehensive Plan. The amendment process is established in order to provide flexibility in response to changing circumstances, to reflect changes in public policy, and to advance the general welfare of the Town.
- B. Applicability. An application for a comprehensive plan amendment may be initiated by the Town Council, the Planning Commission or the Director. Members of the public may request a consideration for a comprehensive plan update from these governing bodies and will be subject to review before an application for an amendment is submitted.
- C. Procedure. All Comprehensive Plan Amendments shall follow the common development review procedures as described in Section 2.3. Specific additions and modifications to the common review procedures are identified below.
 1. Step 5: Application Review. The Director and the Town Council shall, as appropriate, consult with, advise, and provide an opportunity for official comment by the county; school districts; associations of governments; public land management agencies, other appropriate government jurisdictions; public utility companies; civic, educational, professional and other organizations; property owners; and citizens generally to secure maximum coordination of plans and to indicate properly located sites for all public purposes in the Comprehensive Plan.
 2. Step 6: Notice of public hearings. In addition to publishing notice pursuant to Section 2.3.6., at least sixty (60) days before the Comprehensive Plan or an element or major amendment of a Comprehensive Plan is noticed pursuant to this Section, the Director shall transmit the proposal to the Planning Commission and the Town Council and shall submit a copy for review and further comment to:
 - a. The Archuleta County planning agency; and
 - b. The Department of Local Affairs or any other state agency that is subsequently designated as the general planning agency for the State of Colorado.

2.4.2. AMENDMENTS TO THIS LAND USE CODE

- A. Purpose. The text of this Land Use Code may be amended pursuant this Section to respond to change in conditions or public policy, or to advance the general health, safety, and welfare of the Town.

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- B. **Applicability.** The Planning Commission or Town Council may initiate an amendment to the text of this Land Use Code. Any person may suggest to the Planning Commission that an amendment be given consideration.
- C. **Procedure.** All applications shall follow the common development review procedures as described in Section 2.3.
- D. **Approval Criteria.** Recommendations and approval decisions on applications shall adhere to the following approval criteria:
 - 1. The amendment is not likely to result in significant adverse impacts upon the natural environment (including air, water, noise, stormwater management, wildlife, and vegetation) or such impacts will be substantially mitigated;
 - 2. The amendment is necessary for the protection of health, safety, and welfare of the community;
 - 3. The amendment is consistent with the Comprehensive Plan and the intent stated in this Land Use Code; and
 - 4. The amendment is consistent with any other prior approvals, official plans or policies that apply.

2.4.3. AMENDMENTS TO THE OFFICIAL ZONING MAP

- A. **Purpose.** The boundaries of any zone district may be changed, or the zone classification of any parcel of land may be changed, pursuant to this Section. The purpose is not to relieve particular hardships, nor to confer special privileges or rights on any person, but only to make adjustments to the Official Zoning Map that are necessary in light of changed conditions or changes in public policy, or that are necessary to advance the general welfare of the Town.
- B. **Applicability.** Amendments to the Official Zoning Map may be initiated by an applicant, the Planning Commission, or Town Council. The Town Council Shall vote to approve, approve with conditions, or deny based on the review criteria.
- C. **General Amendments to the Official Zoning Map.**
 - 1. **Procedure.** All applications shall follow the common development review procedures as described in Section 2.3.
 - 2. **Approval Criteria.** Recommendations and approval decisions on applications shall adhere to the following approval criteria:
 - a. The zone amendment will promote the public health, safety, and general welfare;
 - b. The zone amendment is consistent with the Comprehensive Plan and the purposes of this Land Use Code;
 - c. The zone amendment is consistent with the stated purpose of the proposed zoning district(s);
 - d. Facilities and services (including roads and transportation, water, gas, electricity, police and fire protection, and sewage and waste disposal, as applicable) will be available to serve the subject property while maintaining adequate levels of service to existing development;
 - e. The zone amendment is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, stormwater management, wildlife, and vegetation, or such impacts will be substantially mitigated; and
 - f. The zone amendment is not likely to result in disparate adverse impacts upon other property in the vicinity of the subject tract.

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3. The criteria for zoning map amendments shall not apply to amendments that occur as part of a comprehensive revision to the Official Zoning Map accomplished by legislative action of the Town Council.
- D. Amendments to the Official Zoning Map to the Planned Development Overlay District (PD)
1. Procedure. All applications shall follow the common development review procedures as described in Section 2.3. Approval of a concept plan at the time of zone amendment is required prior to development in a PD overlay district.
 2. Approval Criteria. Recommendations and approval decisions on applications shall adhere to the following approval criteria:
 - a. The PD addresses a unique situation, confers a substantial benefit to the Town, or incorporates creative site design such that it achieves the purposes of this Land Use Code and represents an improvement in quality over what could have been accomplished through strict application of the otherwise applicable district or development standards. Such improvements in quality may include, but are not limited to:
 - i. improvements in open space provision;
 - ii. environmental protection;
 - iii. tree/vegetation preservation;
 - iv. efficient provision of streets, roads, and other utilities and services; or
 - v. increased choice of living and housing environments; and
 - vi. The PD rezoning and concept plan is consistent with the PD purpose statement in Section 3.5.1.
 3. Conditions of approval. The following shall be standard conditions of the approval of all PD applications:
 - a. The development standards set forth within the applicant's submitted concept plan shall be deemed to be incorporated within the action of the Town Council in its approval of the application for PD except as modified therein. All future development within the boundaries of the PD overlay district shall comply with the terms of the approved concept plan.
 - b. The requirements of the general zoning district(s) in which the property is located shall remain applicable within the PD overlay district except as modified within the approved concept plan and as may be further modified by the Town Council in its approval of the application for PD.
 4. Placement on official zoning map. All PDs approved in accordance with the provisions of this Section shall be referenced on the official zoning map, and a list of such PDs and the associated concept plans shall be maintained as part of this Land Use Code.
 5. Amendments to PDs.
 - a. A request to change any condition of approval, residential unit density, floor area ratio (FAR), or other land use and property development regulations set forth in a PD concept plan shall in all cases require the filing of new application for a PD.
 - b. If the Director determines that the requested changes are, at their discretion, minor and do not include substantial alterations to the PD concept plan or conditions of approval, and are consistent with the intent of the original PD approval, the Director may approve the changes or may refer the proposed changes to the Planning Commission. The Planning Commission may either approve or conditionally approve the requested changes or determine that the proposed changes shall be treated as a new application for a PD.

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6. Lapse of approval. Within one (1) year from the approval of the rezoning to the PD overlay district, the property owner shall have commenced development by filing a complete application for subdivision approval and/or site plan approval on the property. If such application has not been filed within one (1) year, the Director shall initiate a public hearing process for the purpose of considering whether to rezone the property back to its prior zoning classification, or in light of other conditions, to another zoning classification, and revocation of all permits issued and action taken.
7. Coordination with subdivision approval.
 - a. Subdivision review required in conformance with Section 2.4.3., if applicable, may be carried out concurrently with the review of PD concept plans under this Section. However, in such instances, the preliminary subdivision plat may only be approved following the approval of the PD rezoning and concept plan.
 - b. If any provisions of this Section or the PD standards in the concept plan conflict with the subdivision procedures or standards of this Land Use Code, the more restrictive requirements as determined by the Director shall be met, unless specifically altered through the variance or minor modification process.
8. Planned unit development districts adopted prior to this Land Use Code shall continue. The planned unit developments (PUDs) approved prior to the effective date of this Land Use Code shall be carried forth in full force and effect and are the conditions, restrictions, regulations, and requirements that apply to the respective planned unit development districts shown on the zoning map at the date of adoption. Amendments to an existing PUD adopted prior to the date of this Land Use Code shall be processed the same as a PD amendment process.
- E. Protests. Any owner of property affected by a proposed amendment to the official zoning map may protest the amendment pursuant to the statutory requirements of C.R.S. Section 31-23-305.
- F. Post-approval actions.
 1. Upon approval by the Town Council of a rezoning, the Town Clerk shall cause an appropriate revision of the Official Zoning Map to be prepared.
 2. Within fifteen (15) days of receipt of the zoning amendment map, the Director shall review the documents for compliance with the Town Council's approval, obtain the Town Officials' signatures, and submit the approved zoning amendment map and the ordinance amending the Official Zoning Map, to the Archuleta County Clerk and Recorder's Office for recording.

2.4.4. SUBDIVISION GENERAL

- A. General provisions.
 1. Purpose. The purpose of the subdivision review procedures is to ensure compliance with the standards and requirements in Article 7, Subdivision Design and Improvements, and encourage quality development consistent with the goals, policies, and objectives in the Comprehensive Plan.
 2. General applicability. The procedures of this Section, and the standards in Article 7, Subdivision Design and Improvements, shall apply to all subdivisions or re-subdivisions that result in the portioning, dividing, combining, or altering of any lot, parcel, or tract of land, including subdivisions or re-subdivisions created by an exercise of the power of eminent domain by an agency of the State or Town, unless specifically excluded by state law.
 3. Subdivision approval is prerequisite to other approvals.
 - a. No building permit or certificate of occupancy may be issued for any building, structure, or improvement located within a subdivision, and no plat for a subdivision may be recorded, until:

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- g. If a proposed minor subdivision would result in conditions that do not comply with Article 7, Subdivision Design and Improvement Standards, or any other provision of the Code, or other conditions of the final plat approval imposed by the Town Council, or results in changes affecting parties other than the applicant, the application shall require review and approval through the major subdivision process.
 - h. Any revision to a previously approved final plat that increases the number of lots or parcels or creates new lots or parcels, including reversion to acreage or vacation of plats, shall be processed as a new subdivision.
 - B. Procedure. All applications for Minor Subdivision or Plat Amendment shall follow the common development review procedures as described in Section 2.3.
 - C. Approval Criteria. Recommendations and approval decisions on Minor Subdivisions shall adhere to the following approval criteria:
 - 1. The minor subdivision is consistent with the Comprehensive Plan and other adopted Town plans;
 - 2. The minor subdivision is consistent with and implements the intent of the specific zoning district in which it is located;
 - 3. As applicable, the minor subdivision is consistent with the terms and conditions of any previously approved development plan;
 - 4. The minor subdivision complies with all applicable use, development, and design standards set forth in this Land Use Code; and
 - 5. Adequate and sufficient public safety, transportation, utility facilities and services, recreation facilities, parks, and schools are available to serve the subject property, while maintaining sufficient levels of service to existing development.
 - D. Approval Criteria. Recommendations and approval decisions on Boundary Line and Lot Line Adjustments shall adhere to the following approval criteria:
 - 1. The adjustment does not increase the number of lots or parcels or create new lots or parcels;
 - 2. The adjustment does not affect a recorded easement without the prior approval of the easement holder;
 - 3. Street locations will not be changed;
 - 4. The adjustment will not create any nonconformities or increase the degree of nonconformity of any existing structure or use;
 - 5. The adjustment shall comply with all other applicable requirements of this Land Use Code and all other applicable regulations and requirements.
 - E. Recording. Following the approval of a minor subdivision or plat amendment, the minor subdivision shall be signed by the town's authorized representative. The Town Clerk shall then record the minor subdivision in the office of the County Clerk and Recorder. Minor subdivisions shall be recorded within thirty (30) days of approval by the Director.
- 2.4.6. MAJOR SUBDIVISION.
- A. Applicability. The major subdivision procedure is required for a proposed division of land when any one (1) or more of the following conditions exist:
 - 1. Dedication of public right-of-way, other public tracts, or public improvements (unless the Director determines it shall be processed as a minor subdivision in accordance with Section 2.4.3.B.1);
 - 2. The resultant subdivision will produce four (4) or more lots; or

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3. The subdivision is not otherwise eligible for the minor subdivision process.
- B. Overview of procedure. The major subdivision process consists of three (3) steps:
1. Sketch plan, which requires approval by the Planning Commission (subsection 3. below).
 2. Preliminary plat, which requires a recommendation by the Planning Commission and approval by the Town Council (subsection 4. below).
 3. Final plat, which requires approval by the Director, unless substantial changes are proposed from the preliminary plat, in which case the final plat application requires a recommendation by the Planning Commission and approval by the Town Council (subsection 6. below).
- C. Sketch plan.
1. Purpose. A sketch plan represents a general land use plan and layout for the area proposed to be included within a subdivision. It allows for an evaluation of a proposed subdivision before detailed planning and engineering work has been undertaken and before substantial expenses have been incurred. Materials submitted for a sketch plan shall not constitute a complete application for a preliminary plat.
 2. Procedure. All Sketch Plan applications shall follow the common development review procedures as described in Section 2.3.
 3. Approval Criteria. Approval decisions on applications shall adhere to the following approval criteria:
 - a. The proposed subdivision complies with all applicable use, density, development, and design standards set forth in Articles 4, 5, 6, and 7 of this Land Use Code that have not otherwise been modified or waived pursuant to this Chapter and that would affect or influence the layout of lots, blocks, and streets. Applicants shall avoid creating lots or patterns of lots in the subdivision that will make compliance with such development and design standards difficult or infeasible.
 - b. The general layout of lots, roads, driveways, utilities, drainage facilities, and other services within the proposed subdivision is designed in a way that minimizes the amount of land disturbance, maximizes the amount of open space in the development, preserves existing trees/vegetation and riparian areas, protects critical wildlife habitat, and otherwise accomplishes the purposes and intent of this Land Use Code.
 - c. The applicant has provided evidence that provision has been made for a public water supply system or, if other methods of water supply are proposed, adequate evidence that the water supply is sufficient in terms of quantity, quality, and dependability for the type of subdivision proposed.
 - d. The applicant has provided evidence that provision has been made for a public sewage disposal system or, if other methods of sewage disposal are proposed, adequate evidence that such system shall comply with state and local laws and regulations.
 - e. The applicant has provided evidence to show that all areas of the proposed subdivision that may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified by the subdivider and that the proposed use of these areas are compatible with such conditions.
 - f. The application provides a clear assumption of responsibility for maintaining all roads, open spaces, and other public and common facilities in the subdivision.
 - g. As applicable, the proposed phasing for development of the subdivision is rational in terms of available infrastructure capacity and availability of financial security bonding.

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5. Final plats not in substantial compliance with approved preliminary plats. If the final plat is found not to be in substantial compliance with the approved preliminary plat, or is submitted more than one (1) year after approval of the preliminary plat, in the Director's sole discretion, the Director may deny the application or may refer the application to the Planning Commission. The applicant may appeal the denial of a final plat to the Town Council in accordance with Section 2.4.13
 6. Post-approval actions. Upon approval of the final plat, the applicant shall submit the following documentation to the Director:
 - a. Documentation that areas designated as open space shall be protected by a deed restriction or other appropriate method to ensure that they cannot be subdivided or developed in the future and will remain as open space in perpetuity; and
 - b. Other payments, certificates, affidavits, enforcements, or deductions, as required by the Planning Commission or Town Council.
 - c. Recording of plats. If approved, the Director shall request one (1) original Mylar of any final plat ready for signatures as required by the Town to sign and then record. Execution of the approved final plat in accordance with this Section shall constitute the Town's acceptance of any public dedication. The Mylar of the final plat shall be recorded by the Town Clerk in the Office of the Archuleta County Clerk and Recorder. A signed copy with the reception number shall be retained by the Town. The recording fee shall be paid by the applicant.
- F. Vacation of Right-of-Way and Other Public Easements.
1. Applicability. This Section shall apply to all requests to vacate all rights, interests, or title of the Town in and to any right-of-way (street, road, alley, or other public way), access easement, or other easement located within the Town. Title to vacated roadways shall vest in accordance with C.R.S. § 43-2-302, as may be amended from time to time.
 2. Procedure. All Vacation or Right-of-Way and Other Public Easement applications shall follow the common development review procedures as described in Section 2.3.
 3. Approval Criteria. Recommendations and approval decisions on Vacation applications shall adhere to the following approval criteria:
 - a. The vacation is consistent with the Comprehensive Plan and other adopted Town policies and plans, including any adopted transportation plan or streets/roadway plan;
 - b. The land to be vacated is no longer necessary for the public use and convenience;
 - c. The vacation of a roadway that exists by right of usage shall occur only if the land adjoining said roadways is left with an established public road or private access easement connecting said land with another established public road;
 - d. The vacation will not leave any land-locked parcels; and
 - e. The vacation will not adversely impact the health, safety and/or welfare of the general community, or reduce the quality of public facilities or services provided to any parcel of land, including but not limited to police/fire protection, access, and utility service.
 4. Conditions of approval. The approval of a right-of-way or public easement vacation shall be conditioned upon:
 - a. The holders of any and all easements granted by the original platting of the subdivision conveying to the petitioner all interest in those easements.
 - b. Such vacation shall not eliminate rights-of-way or easements serving or potentially serving adjoining properties, unless alternate means of access or another easement crossing the property can serve adjoining properties.

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- c. If the vacation is a roadway constituting the boundary line of the Town, the Archuleta County Board of Commissioners has taken action to vacate the roadway.
 5. Post Approval Action. If the Town Council approves the vacation, it shall be by ordinance. The ordinance shall be recorded in the Office of the Archuleta County Clerk and Recorder. If approved, the Director shall request one (1) original mylar of any final plat ready for signatures as required by the Town to sign and then record. The mylar of the final plat shall be recorded by the Town Clerk in the Office of the Archuleta County Clerk and Recorder. A signed copy with the reception number shall be retained by the Town. The recording fee shall be paid by the developer.
- G. Condominium Subdivision and Conversion.
 1. Purpose. The purpose of this Section is to ensure that condominium subdivisions and conversions will comply with the adopted building code and applicable provisions of this Land Use Code.
 2. Procedure.
 - a. The procedure and standards for review and approval of a condominium subdivision or conversion shall be the same as that specified for subdivisions within this Section 2.4.3. The applicable review procedures (minor or major subdivision) shall be determined by the number of condominium units created.
 - b. Conversion of an existing building located on a previously subdivided parcel to condominium ownership without a change in type of use, expansion of use, or increase in intensity of use shall be reviewed as a minor subdivision regardless of the number of units or size of the parcel proposed for conversion.
 - c. Subsequent changes in approved use(s) for an existing condominium subdivision require re-approval through the minor subdivision process in Section 2.4.3.B.
 - d. Notwithstanding anything in this Section to the contrary, no requirement for public improvements, dedication of land to public use, or other subdivision requirement shall be imposed as a condition of approval for a condominium subdivision or common interest community that would not be imposed upon a physically-identical development under a different form of ownership. This provision shall not be construed to prevent the Town from imposing the review requirements of this Section upon any change of use, expansion of use, increase in intensity of use, or other change in a condominium or common interest community unrelated to its form of ownership.
 3. Standards for condominium conversion.
 - a. Prior to recording a subdivision plat that would convert an existing development to condominium units, the owner of such property shall meet with the Town Building Official regarding the proposed conversion and shall demonstrate that the project complies with the adopted building code and the following provisions have been met:
 - i. The structure subject to the proposed condominium conversion shall meet current off-street parking requirements for the underlying zone district found in Table 6.9-1. Each residential condominium unit shall be considered a separate dwelling unit for purposes of determining parking compliance.
 - ii. A minimum one-hour fire wall may be required between units as a condition of Town approval of any condominium plat involving a condominium conversion pursuant to the adopted building codes.
 - b. Owners of properties proposed for condominium conversion shall notify all residential tenants in writing of the conversion at least ninety (90) days prior to termination of any residential tenancy in accordance with **§ 38-33-112, C.R.S.**, as

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amended. Copies of the notice shall be filed with the Town Clerk as proof of notification.

4. Criteria for review of condominium subdivisions and conversions.
 - a. Condominium subdivisions and conversions shall comply with the review standards applied to subdivisions as specified in Section 2.4.3.
 - b. In addition, condominium subdivisions and conversions shall comply with the following supplemental review standard: The traffic impacts of the proposed condominium subdivision shall be evaluated and any impacts to the neighborhood must be mitigated. A traffic mitigation plan must be submitted and approved by the Director prior to approval of the condominium subdivision.
5. Condominium plat processing. The Town is primarily concerned with land use, pertaining to the suitable design of the development evidenced by the preliminary condominium plat. Pursuant to the adopted building codes, additional drawings, declarations, and documentation not subject to Town review are necessary to comply with State condominium laws. At the developer's request, the final condominium plat may be held for recording until other associated documents are also ready for recording or until the applicant can record an "as-built" plat, but no longer than one (1) year.

2.4.7. CONDITIONAL USE PERMITS

- A. Purpose. This Section provides a discretionary approval process for conditional uses, which have unique or widely varying operating characteristics or unusual site development features. The procedure encourages public review and evaluation of a use's operating characteristics and site development features and is intended to ensure that proposed conditional uses will not have a significant adverse impact on surrounding uses or on the community-at-large. Specific conditional uses allowed in each zone district are listed in Table 4.1-1, Table of Allowed Uses.
- B. Relationship to design review requirements.
 1. Coordination with design review. If design review is necessary for the proposed conditional use, then the development plan and the conditional use applications shall be processed concurrently. In such cases, the Planning Commission shall be the final decision-making entity for both the development plan and the conditional use. The Planning Commission shall render separate decisions on the applications based on the applicable approval criteria in this Section 2.4.6. (for the conditional use) and Section 2.4.6. (for the development plan).
 2. Lapse of conditional use approval upon design review expiration. If design review is necessary for the proposed conditional use, the approval of the conditional use shall be conditioned on the design review approval. Accordingly, the approval of any conditional use shall lapse and become null and void upon the expiration of the approved development plan, unless otherwise restricted by the Town.
- C. Procedure. All Conditional Use Permit applications shall follow the common development review procedures as described in Section 2.3. Specific additions and modifications to the common review procedures are identified below.
 1. Approval Criteria. Recommendations and approval decisions on applications shall adhere to the following approval criteria:
 - a. The proposed use is consistent with the Comprehensive Plan and all applicable provisions of this Land Use Code and applicable state and federal regulations;
 - b. The proposed use is consistent with the purpose and intent of the zoning district in which it is located and any applicable use-specific standards in Article 4 of this Land Use Code;

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- c. The proposed use is compatible with adjacent uses in terms of scale, site design, and operating characteristics (such as, but not limited to, hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts);
 - d. Any disparate adverse impacts anticipated to result from the use will be mitigated or offset to the maximum extent practicable; and
 - e. Facilities and services (including sewage and waste disposal, water, gas, electricity, police and fire protection, and roads and transportation, as applicable) will be available to serve the subject property while maintaining adequate levels of service for existing development; and
 - f. Adequate assurances of continuing maintenance have been provided.
2. Denies and Appeals. If the conditional use is denied by the Director and the applicant wishes to file an appeal, the applicant may refer the application to the Planning Commission. If the denial is upheld by the Planning Commission, the applicant can then appeal to the Town Council to grant a conditional use.
 3. Subsequent ownership. Successors and/or assigns of the person(s) who originally obtained conditional use permits may make use of the land or structures covered under the issued permits and must abide by all the terms and conditions of the permits, unless otherwise stipulated in the approval process. Successors and/or assigns of an issued permit must change the names on the original permit and have a letter of acknowledgment signed, filed with the Director, and recorded by the subject property owner.
 4. Lapse of approval. A conditional use permit shall lapse and have no further effect one (1) year after its effective date or at such alternate time specified in the approval unless one (1) or more of the following criteria has been met:
 - a. A building permit has been issued and construction diligently pursued;
 - b. A certificate of occupancy has been issued;
 - c. The use has been established and in continuous operation; or
 - d. The conditional use permit is renewed.
 - e. A conditional use permit shall lapse upon termination of a project or expiration of a building permit.
 - f. A conditional use permit shall lapse if the rights granted by it are discontinued for one hundred eighty (180) consecutive days or other period of time as specified in the original approval.

2.4.8. RESERVED (Repealed by Ord. No. 743)

2.4.9. DESIGN REVIEW

- A. Purpose. The purpose of the design review process is to ensure compliance with the development and design standards of this Land Use Code prior to the issuance of a building permit or concurrent with other required permits, and to encourage quality development reflective of the intent of the Land Use Development Code and goals and objectives of the Comprehensive Plan.

A design review sketch application represents a conceptual development plan. It allows for an evaluation of the proposed development before detailed planning and engineering work is undertaken and before substantial expenses have been incurred by the applicant prior to submission of a design review final application. Materials submitted for a design review sketch plan shall not constitute a complete application for design review.

- B. Applicability. Design review is required for:
 1. All new commercial and mixed-use development;

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2. All new multi-family residential development including condominiums, townhomes, and apartments;
 3. Any change of use from one primary use classification to another that would result in a change in tax rate (for example, residential use to commercial use or commercial use to residential use);
 4. Any expansion or modification of existing development, not including primary single-family detached dwellings, duplex dwellings or accessory dwelling units; and
 5. All publicly owned and operated buildings.
- C. Types of design review.
1. **Administrative design review.** The following types of projects may be approved by the Director through the Administrative Design Review process:
 - a. Any expansion of existing development located within residential zone districts and live/work units not including detached dwelling units, duplex dwellings or accessory dwelling units, that results in a change to a building footprint of less than two thousand five thousand (2,500) square feet, or an increase of gross building square feet of less than fifty (50) percent, or modification of a building façade of less than fifty (50) percent.
 - b. Duplexes and.
 2. **Major design review.** Any development, located within residential zone districts or multi-family development, not including detached dwellings, duplex dwellings or accessory dwelling units, that exceeds the size threshold for administrative design review approval shall require approval by the Design Review Board through the major design review process.
- D. Procedure for Administrative Design Review Sketch application. Administrative Design Review applications require a Design Review Sketch application submission prior to submission of Administrative Design Review Final application. All Administrative Design Review Sketch applications shall follow the common development review procedures as described in Section 2.3.
1. **Approval Criteria.** Recommendations and approval decisions on applications shall adhere to the following approval criteria:
 - a. The design review sketch application conceptually complies with all applicable development and design standards set forth in this Land Use Code, including, but not limited to, the provisions in Article 3, Zoning Districts, Article 4, Use Regulations, Article 5, Dimensional Requirements, and Article 6, Development and Design Standards;
 - b. The design review sketch application is consistent with any previously approved subdivision plat, planned development, or any other precedent plan or land use approval as applicable; and
 - c. The design review sketch application is consistent with the Comprehensive Plan and other adopted Town policies and plans, including any adopted transportation plan or streets/roadway plan.
 2. **Lapse of Approval.** The design review sketch application approval shall be effective for a period of one year from the date of approval, unless stated otherwise in such approval. Final design review application shall be submitted within one year of approval of sketch.
- E. Procedure for Administrative Design Review Final application. All Administrative Design Review Final applications shall follow the common development review procedures as described in Section 2.3. Specific additions and modifications to the common review procedures are identified below.

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1. Approval Criteria. Recommendations and approval decisions on applications shall adhere to the following approval criteria:
 - a. The development plan conceptually complies with all applicable development and design standards set forth in this Land Use Code, including, but not limited to, the provisions in Article 3, Zoning Districts, Article 4, Use Regulations, Article 5, Dimensional Requirements, and Article 6, Development and Design Standards;
 - b. The development plan is consistent with any previously approved subdivision plat, planned development, or any other precedent plan or land use approval as applicable; and
 - c. (The development plan is consistent with the Comprehensive Plan and other adopted Town policies and plans, including any adopted transportation plan or streets/roadway plan.
 2. Lapse of Approval: The development plan shall be effective for a period of one year from the date of approval, unless stated otherwise in such approval. Building permits shall not be issued based on development plans that have an approval date more than one year old.
- F. Procedure for Major Design Review Sketch. Major design review applications require a separate major design review sketch application approval prior to the submission of a major design review final application. All Major Design Review Sketch applications shall follow the common development review procedures as described in Section 2.3.
1. Approval Criteria. Recommendations and approval decisions on applications shall adhere to the following approval criteria:
 - a. The development plan is consistent with the intent of the Comprehensive Plan and all other adopted Town plans;
 - b. The development plan conceptually complies with all applicable development and design standards set forth in this Land Use Code, including, but not limited to, the provisions in Article 3, Zoning Districts, Article 4, Use Regulations, Article 5, Dimensional Requirements, and Article 6, Development and Design Standards;
 - c. The development plan will not substantially alter the basic character of the surrounding area or jeopardize the development or redevelopment potential of the area; and
 - d. The development plan is consistent with any previously approved subdivision plat, planned development, or any other precedent plan or land use approval as applicable.
 2. Post Approval. After review and approval by the Design Review Board, the applicant shall submit a final design review application within one year incorporating any conditions of approval from the Design Review Board.
 3. Lapse of Approval: The design review sketch approval shall be effective for a period of one year from the date of approval, unless stated otherwise in such approval. Building permits shall not be issued based on sketch development plans. Major design review final application shall be submitted within one year of sketch approval date.
- A. Procedure for Major Design Review Final Applications. All Major Design Review Final applications shall follow the common development review procedures as described in Section 2.3.
1. Approval Criteria. Recommendations and approval decisions on applications shall adhere to the following approval criteria:
 - a. The development plan is consistent with the intent of the Comprehensive Plan and all other adopted Town plans;

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- b. The development plan conceptually complies with all applicable development and design standards set forth in this Land Use Code, including, but not limited to, the provisions in Article 3, Zoning Districts, Article 4, Use Regulations, Article 5, Dimensional Requirements, and Article 6, Development and Design Standards;
 - c. The development plan will not substantially alter the basic character of the surrounding area or jeopardize the development or redevelopment potential of the area; and
 - d. The development plan is consistent with any previously approved subdivision plat, planned development, or any other precedent plan or land use approval as applicable.
- a. Post Approval. After review and approval by the Design Review Board, the applicant shall submit a revised set of final development plans based on any conditions of approval from the Design Review Board.
2. Lapse of Approval. The design review approval shall be effective for a period of one year from the date of approval, unless stated otherwise in such approval. Building permits shall not be issued based on development plans that have an approval date more than one year old.

2.4.10. REDEVELOPMENT PERMIT

- A. Purpose. The purpose of this Section is to provide a system for the redevelopment of property involving the relocation, demolition, or partial demolition of buildings. The primary intent is to avoid the decline in property values and threat to the health, safety, and welfare of the residents of the Town caused by relocation, demolition, or partial demolition and clean-up; vacant, un-maintained, unimproved, or unvegetated properties; and changes to the character of neighborhoods associated with the incomplete redevelopment of property.
- B. Applicability and prohibition. The application of this Section is limited to buildings located within the C, MU-R, MU-C, and MU-TC districts. The relocation, demolition, or partial demolition of any building within these districts is prohibited except in compliance with the terms and conditions of a redevelopment permit issued in accordance with the provisions of this Section. The requirements of this Section shall apply in addition to any other applicable provisions of the Code, including, but not limited to, issuance of a demolition permit by the Building Official under the applicable building code.
- C. Conflict. In the event of any conflict or inconsistency between the provisions of this Section and the other provisions of the Code, the provisions of this Section shall control, except that in case of conflict with Article 8 regarding historic preservation, the provisions of Article 8 shall control.
- D. Procedure. All Redevelopment Permit applications shall follow the common development review procedures as described in Section 2.3. Specific additions and modifications to the common review procedures are identified below. Applications for redevelopment permits may be submitted concurrently with design review applications submitted pursuant to Section 2.4.8.
- E. Approval Criteria. Recommendations and approval decisions on applications shall adhere to the following approval criteria:
 1. The applicant has agreed to redevelop the originating site and, in the case of relocation, the receiving site, pursuant to an approved redevelopment plan;
 2. The historic and present architectural character of other buildings remaining on the site and in the neighborhood are compatible with the redevelopment plan and will not be substantially compromised or diminished;
 3. The applicant has agreed to comply with a preservation, rehabilitation, and/or restoration plan for any building that is proposed to be relocated;
 4. The applicant has agreed to post with the Town a bond or other suitable collateral as determined by the planning commission, ensuring the safe clean-up, site rehabilitation, revegetation, and redevelopment of the originating site. In the case of relocation, the bond shall

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additionally ensure safe relocation, preservation, rehabilitation, and repair of the building, preparation of the receiving site and infrastructure connections; and

5. The applicant has applied for, paid all required fees, and eligible to receive a full building permit for the buildings to be constructed pursuant to the redevelopment plan; this standard may be waived by the Town Council if demolition is immediately necessary because the building is not structurally sound and is an immediate threat to the public health, safety and welfare, or if the applicant agrees to deed restrict the property to open space uses and the Council finds that such restriction constitutes a greater benefit to the neighborhood than would redevelopment.
- F. Post Approval Actions. An applicant may apply for permits required under the applicable building code for the associated demolition, partial demolition, or relocation following the effective date of the redevelopment permit.
- G. Lapse of approval. Within one (1) year from the approval of the redevelopment permit, the property owner shall have commenced development and/or obtained the necessary permits to carry out the approved redevelopment permit. If such application has not been filed, the redevelopment permit shall be considered null and void.
- H. Reuse of materials. The applicant is required to sell or reclaim a building and the materials to be demolished or permit others to salvage them and to provide an opportunity for others to purchase or reclaim the building or its materials. The Director may issue a waiver if this process is deemed unreasonable or impossible for the particular project.
- I. Penalties. The following provisions apply in addition to the general penalty provisions in Section 1.6.4., Penalties and Remedies.
 1. Post-conviction revocation or moratorium on permits.
 - a. Revocation or moratorium authorized. Upon determination of an unauthorized demolition violation and resulting in conviction, the Town Council shall be authorized for a period of up to ten (10) years to revoke or impose a moratorium on issuance of any development permits, building permits or certificates of occupancy upon the property on which the building was demolished, removed from, or relocated from or to.
 - b. Hearing. Such revocation or moratorium may be imposed only after a public hearing preceded by ten (10) days' prior written notice mailed to the owner by registered mail. An affirmative vote of a majority of the Town Council members present and voting shall be required in order to impose any such revocation or moratorium, by a majority vote.
 - c. Record notice. Notice of the imposition and duration of any revocation or moratorium imposed pursuant to this Section shall be recorded with the Archuleta County Clerk and Recorder.
 - d. Suspension of revocation or moratorium authorized. No sooner than one (1) year after the revocation of or imposition of the moratorium on issuance of a development permit, building permit, or certificate of occupancy pursuant to this Section, the Town Council may suspend, reduce, or terminate the revocation or moratorium, with or without conditions, after considering the following factors:
 - i. The impact of the demolition, partial demolition, or removal upon the historical character and architectural integrity of the neighborhood area;
 - ii. Factual circumstances concerning the cause of the demolition, partial demolition or removal, as may be identified by investigation of the Director, Building Official, or Fire Marshal;
 - iii. Whether the demolition, partial demolition, or removal would likely have been approved had an application been submitted;
 - iv. Whether the purposes of the revocation or moratorium have been achieved; and

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- v. The effect of a revocation or moratorium as an incentive to the owner to restore or rehabilitate any remaining portion of the demolished or relocated structure, if such action would substantially contribute to the historical character and architectural integrity of the neighborhood.

2.4.11. FLOODPLAIN DEVELOPMENT PERMIT

- A. Purpose. The floodplain development permit is intended to ensure that development in areas of special flood hazard complies with all applicable provisions of this Land Use Code and the Town's adopted floodplain standards.
- B. Applicability. A floodplain development permit shall be obtained before construction or development begins within any area of special flood hazard. Applications shall be processed concurrently with building plan submittal or development review application.
- C. Procedure. All Floodplain Development Permit applications shall follow the common development review procedures as described in Section 2.3.
- D. Application Submittal. Applications for floodplain development permits shall be submitted to and processed by the Floodplain Administrator.
- E. Approval Criteria. Recommendations and approval decisions on applications shall adhere to the following approval criteria:
 - 1. Floodplain Administrator review and decision. The Floodplain Administrator shall review each floodplain development permit application based on the approval criteria listed below and shall act to approve, approve with conditions, or deny the application.
 - 2. Approval criteria. The Floodplain Administrator shall review the floodplain development permit for compliance with the following:
 - a. All applicable provisions of Section 6.2, Flood Damage Prevention Regulations, of this Land Use Code; and
 - b. All necessary permits have been obtained from any federal, state, and local governmental agencies from which prior approval is required.

2.4.12. SIGN PERMITS

- A. Applicability.
 - 3. General. No signs, except as exempted in Section 6.12.2, shall be erected, re-erected, placed, moved, constructed, reconstructed, altered, or displayed unless a sign permit has been issued. No permit shall be issued for a sign unless the sign is in compliance with all applicable provisions of this Section and Section 6.12, Sign Code, or such provisions have been modified or varied pursuant to this Land Use Code. No electrical sign shall be erected unless an a state of Colorado electrical permit has been issued.
 - 4. Individual Signs. Applications for individual signs or multiple signs for an individual business that are to be individually erected or modified for existing developed properties, vacant properties, or involve a sign face, a change in sign structures, or a change in business identification, shall be processed in accordance with the procedures in subsection B. below.
 - 5. Comprehensive Sign Program. Applications for signs as part of a commercial development whereas individual signage is proposed for separate businesses to establish a unified design theme shall require approval as a Comprehensive Sign Program (CSP), and shall be processed in accordance with the procedure in subsection C. below. The purpose of the CSP is to establish a unified design theme for all signs within a development project, shopping center, or business complex. The intent of such a program is to create a visually pleasing method of providing compatible and complementary signs throughout the project site; to inform owners and tenants of desired sign characteristics; to minimize visual clutter; and to unify the appearance of the development to create a distinctive sense of place.

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- B. Procedure for Individual Signs. All Individual Sign Applications shall follow the common development review procedures as described in Section 2.3. Specific additions and modifications to the common review procedures are identified below.
1. Approval Criteria. The Director shall review each sign permit application based on the standards and requirements of Section 6.12.
 2. Lapse of approval. Within one (1) year from the approval of the sign permit, if the property owner has not erected and maintained the sign pursuant to all applicable standards of this Land Use Code, the sign permit shall lapse and be considered null and void.
- C. Procedure for comprehensive sign program (CSP). All Comprehensive Sign Program applications shall follow the common development review procedures as described in Section 2.3.
1. Concurrent applications with comprehensive sign programs. Comprehensive sign programs may be processed concurrently with Design Review in accordance with Section 2.4.9.
 - a. Signs associated with design guideline requirements. Signs that are integral to developments that require review in accordance with design guidelines must be reviewed and approved in accordance with those established guidelines. The sign regulations of Section 6.12 shall be used for determining allowable signage, and any sign features that exceed the standards of this Land Use Code shall be identified and included in all reviews and approvals of the development.
 - b. Signs associated with Planned Developments. Signs that are integral to new PDs must be reviewed and approved in accordance with the PD regulations. The sign regulations of Section 6.12 shall be used for determining allowable signage, and any sign features that exceed the standards of this Land Use Code shall be identified and included in all reviews and approvals of the development.
 2. Approval Criteria.
 - a. Projects proposing four (4) signs or fewer on a site will be reviewed and approved, approved with conditions, or denied by the Director. The Director may refer such applications for review and decision by the Design Review Board if the Director determines that additional review is necessary.
 - b. Projects with five (5) or more signs: Design Review Board. Projects proposing five (5) or more signs shall be reviewed and approved, approved with conditions, or denied by the Design Review Board.
 - c. A CSP shall be approved upon a finding that the application complies with all applicable requirements of Section 6.12 of this Land Use Code.
 3. Alterations. A sign that is part of a CSP may have the text or artwork changed to suit the requirements of a new tenant without being subject to additional fees, provided that the changes meet the guidelines of the originally approved CSP. The sign owner must still submit a detailed description of the new signage to the Director, and any alteration not stipulated in the CSP will be subject to review and payment of fees.
 4. Appeal. An appeal of any action pertaining to the sign regulations in Section 6.12 shall be heard and acted upon pursuant to Section 2.4.20. However, prior to filing an appeal, the applicant or aggrieved party must request an interpretation of the sign regulations of this Land Use Code by the Design Review Board. The request for interpretation must be submitted to the Director and then acted upon by the Design Review Board. If, upon receiving the Board's interpretation, the applicant desires to proceed with an appeal, the applicant may do so consistent with the process set forth in Section 2.4.20.

2.4.13. TEMPORARY USE PERMITS

- A. Applicability. No temporary use that is classified as an allowed use in the zoning district in which it is to be located shall be placed or established on the property without first receiving a temporary use permit, unless exempted from the permit requirements by Article 3, Use Regulations.

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- B. Procedure. All Temporary Use applications shall follow the common development review procedures as described in Section 2.3.
- C. Application Submittal. All applications for temporary use permits shall be filed at least four (4) weeks prior to the date the temporary use will commence, or at least six (6) weeks prior to the date the temporary use will commence if enhanced, supplemental, or special public safety support will be required from the Town.
- D. Action by Director. The Director shall review each application and distribute the application to other reviewers as he or she deems necessary. Based on the results of those reviews, the Director shall take final action on the application and approve, approve with conditions, or deny the application based on the applicable approval criteria below.
- E. Duration of permit. A temporary use permit shall be valid only for the time period stated on the permit unless otherwise authorized in this Land Use Code.
- F. Approval criteria. The Director shall issue a temporary use permit only upon finding that the proposed temporary use satisfies the requirements set forth in Section 4.4., Temporary Uses and Structures.
- G. Lapse of Approval. The temporary use permit shall lapse and be null and void upon expiration of the time limit specified in the permit.

2.4.14. OUTDOOR COMMERCIAL ESTABLISHMENTS

- A. Applicability. No use that is classified as an Outdoor Commercial Establishment in the zoning district in which it is to be located shall be placed or established on the property without first receiving a Outdoor Commercial Establishment permit.
- B. Procedure. All Outdoor Commercial Establishment applications shall follow the common development review procedures as described in Section 2.3.
- C. Application Submittal. All applications for Outdoor Commercial Establishments shall be filed at least four (4) weeks prior to the date the operation will commence, or at least six (6) weeks prior to the date the operation will commence if enhanced, supplemental, or special public safety support will be required from the Town.
- D. Action by Director. The Director shall review each application and distribute the application to other reviewers as he or she deems necessary. Based on the results of those reviews, the Director shall take final action on the application and approve, approve with conditions, or deny the application based on the applicable approval criteria below.
- E. Duration of permit. An Outdoor Commercial Establishment permit shall be valid only for the time period stated on the permit unless otherwise authorized in this Land Use Code.
- F. Approval criteria. The Director shall issue an Outdoor Commercial Establishment permit only upon finding that the proposed use satisfies the requirements set forth in Section 4.4.4 Outdoor Commercial Establishments.
- G. Lapse of Approval. The Outdoor Commercial Establishment permit shall lapse and be null and void upon expiration of the time limit specified in the permit.

2.4.15. HISTORIC DESIGNATION

- A. Purpose. To allow for the designation of structures as a Historic Landmark or a group of structures as a Historic District.
- B. Applicability. Buildings over fifty (50) years old that meet the requirements of Article 5, Section 5.3.
- C. Procedure. All Historic Designations shall follow the common development review procedures as described in Section 2.3 with final decision by the Historic Preservation Commission.
- D. Approval Criteria. Recommendations and approval decisions on applications shall adhere to the criteria in Section 5.3.

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2.4.16. CERTIFICATE OF ALTERATION

- A. Purpose. To allow for the alteration of Historic Landmarks or structures in a Historic District.
- B. Applicability. Structures designated as a Historic Landmark or Historic District per Article 5 herein.
- C. Procedure. All Certificates for Alteration shall follow the common development review procedures as described in Section 2.3 with final decision by the Historic Preservation Commission.
 - 1. If the proposed alterations would have an impact on the history, archeology, architecture, or culture of the Town, the local region or the nation, the alterations shall be determined significant in scale, and the Historic Preservation Board may, in its discretion, conduct its review in a public hearing.
- D. Approval Criteria. Recommendations and approval decisions on applications shall adhere to the following approval criteria:
 - 1. Evaluation of Certificate of Alteration for relocation:
 - a. Documentation shows the structure cannot be rehabilitated or re-used on its original site for any beneficial use of the property;
 - b. The contribution the structure makes to its present setting;
 - c. The structure can be moved without significant damage to its physical integrity and the applicant can show the relocation is the best preservation method for the character and integrity of the structure/neighborhood; and
 - d. Whether a structural report submitted by a licensed structural engineer adequately demonstrates the soundness of the structure proposed for relocation.
 - 2. Evaluation of a Certificate of Alteration for a new location:
 - a. Whether the structure is compatible with its proposed site and adjacent properties; and
 - b. The structure's architectural integrity and its compatibility with the character of the adjacent properties and neighborhood.

2.4.17. DEMOLITION PERMIT

- A. Purpose. To allow for the demolition of Historic Landmarks or structures within a Historic District.
- B. Applicability. Structures designated as a Historic Landmark or Historic District per Article 5 herein.
- C. Procedure. All Demolition Permit applications shall follow the common development review procedures as described in Section 2.3 with final decision by the Historic Preservation Commission.
- D. Approval Criteria. Recommendations and approval decisions on applications shall adhere to the criteria in Section 5.6

2.4.18. VARIANCES

- A. Purpose. The Board of Adjustment shall hear and decide all requests for a variance from the requirements of this Land Use Code, unless otherwise provided in this Section. The variance process is intended to provide limited relief from the requirements of this Land Use Code in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of land in a manner otherwise allowed under this Land Use Code. State and/or federal laws or requirements may not be varied by the Town.
- B. Applicability. A variance may be initiated only by the property owner or the designated representative. The application must state with particularity the relief sought and must specify the facts or circumstances that are alleged to show that the application meets the approval criteria of Step 8 below.
 - 1. Unless otherwise specified, variances from regulations of this Land Use Code shall be reviewed pursuant to the procedure in subsection C. below.

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2. Variances from the flood damage prevention regulations of Section 6.2 shall be reviewed pursuant to the procedure in subsection D. below.
 3. Reserved.
 4. Variances from the sign regulations of Section 6.12 shall be reviewed pursuant to the procedure in subsection F. below.
- C. Limitations. Variances are intended to provide limited relief where the requirements of this Land Use Code render the land difficult or impossible to use because of some unique physical attribute of the property itself or some other factor unique to the property for which the variance is requested. It is not intended that variances be granted to
1. allow a use in a zone district where it is not permitted by this Land Use Code; or
 2. merely remove inconveniences or financial burdens that the requirements of this Land Use Code may impose on property owners in general.
- D. Procedure All Variance applications shall follow the common development review procedures as described in Section 2.3.
- E. Approval criteria. The Board of Adjustment may approve a variance only upon finding that all of the criteria below have been met:
1. There are unique physical circumstances or conditions, such as size, irregularity, narrowness or shallowness of lot, location, surroundings, or exceptional topographical or other physical conditions peculiar to the affected property;
 2. The unusual circumstances or conditions do not exist throughout the neighborhood or district in which the property is located;
 3. Such physical circumstances or conditions were not created by the applicant or the previous owner of the property;
 4. Because of such physical circumstances or conditions, the property cannot reasonably be developed in conformity with the provisions of this Land Use Code because such conformance with the Code would deprive such property of privileges enjoyed by other property of the same classification in the same zoning district;
 5. The variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property; and
 6. The variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the provisions of this Land Use Code that are in question.
 7. No variance shall be granted that violates the intent of this Land Use Code or its amendments. No variance may make any changes in the terms of this Land Use Code provided the restriction in this subsection shall not affect the authority to grant variances pursuant to this Section 2.4.10.
 8. No variance shall be granted from any written conditions attached by another decision-making body to the approval of a conditional use permit, subdivision plat, or site plan.
 9. No variance shall be granted if the conditions or circumstances affecting the applicant's property are of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situations.
 10. No variance may authorize a use other than those permitted in the district for which the variance is sought; also, an application or request for a variance shall not be heard or granted with regard to any parcel of property or portion thereof upon which zoning request for any parcel of property or portion thereof has not been finally acted upon by both the Planning Commission and by the Town Council.

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- F. The applicant has the burden of proving the necessary facts to warrant favorable action by the BOA.
- G. Lapse of approval. Within one (1) year from the approval of the variance, the property owner shall have commenced development and/or obtained the necessary permits to carry out the approved variance. If such application has not been filed, the variance shall be considered null and void.
- H. Variances from Flood Damage Prevention Regulations.
 - 1. Applicability. Variances from the flood damage prevention regulations of Section 6.2 of this Land Use Code may be granted for new construction and substantial improvements to be erected on lots equal to one-half (0.5) acre or less located contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that the criteria for a variance as set forth below and the purpose and intent of this Section are met.
 - 2. Exemptions. Any structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or Local Landmark Registry shall be exempt from compliance with the standards and procedures set forth in this Section upon application for a development permit to reconstruct, rehabilitate, or restore the listed structure.
 - 3. Procedure. Variances from the flood damage prevention regulations of this Land Use Code shall be submitted and reviewed pursuant to the general variance procedure in Section 2.4.15.D-G., with the following modifications:
 - a. Approval Criteria. Recommendations and approval decisions on Variances from Flood Prevention Regulations shall adhere to the following approval criteria:
 - i. A determination that the granting of a variance will not result in:
 - ii. Increased flood elevations;
 - iii. Additional threats to public safety;
 - iv. Extreme or ordinary public expense;
 - v. Creation of nuisances;
 - vi. Fraud on or victimization of the public; or
 - vii. Conflict with existing local laws or ordinances.
 - b. A variance shall not be granted within any designated floodway if any increase in flood elevation during the base flood discharge would result.
 - c. A variance shall be granted only upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - d. Record of approved floodplain variances.
 - i. The Floodplain Administrator shall maintain records of all variances granted and appeals, including technical information on which the granting of the variance or appeal was based, and report any variance to FEMA when so requested.
 - ii. 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 flood elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- I. Variance from Sign Regulations. When a sign owner seeks a variance from the standards contained in the sign regulations in Section 6.12, such request shall be heard and acted upon by the Design Review Board only after all other administrative procedures required for issuance of a sign permit have been completed. The Design Review Board is authorized to grant a variance when it finds that unique situations require a deviation from the provisions and that the purpose and intent of the sign regulations of Section 6.12 have not been violated. A request for an increase in sign

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size shall not be subject to the procedures in this subsection, but shall be processed as a standard variance as set forth in Section 2.4.15.D-G of this Chapter.

2.4.19. ADMINISTRATIVE VARIANCE

- A. Purpose. This Section sets forth the required review and approval procedures for "minor modifications," which are minor deviations from otherwise applicable standards that may be approved by the Director. Administrative Variances are to be used when the size of the modification requested and proposed impact are minimal and unlikely to have adverse effects on nearby properties or the neighborhood, making it unnecessary to complete a formal variance process.
- B. Applicability.
1. General. As part of the review and approval of any procedure set forth in this Land Use Code, the Director may approve an Administrative Variance of up to a maximum of ten (10) percent from the following general development and zoning district standards, provided that the applicable approval criteria below are met.
 - a. Minimum lot area requirements;
 - b. Setback requirements; and
 - c. Quantitative development standards set forth in Article 6, Development Standards (e.g., percentage of site landscaping, number of parking spaces, etc.).
 2. The maximum allowable modification is calculated by applying the ten percent modification to the resulting units derived from the application of the numerical development standard in this Land Use Code, rounded to the nearest whole number.
 3. Exceptions to authority to grant an Administrative Variance. In no circumstance shall the Director approve an Administrative Variance that results in:
 - a. An increase in overall project density;
 - b. A change in permitted uses or mix of uses;
 - c. An increase in building height;
 - d. A deviation from the use-specific standards in Section 4.2;
 - e. A change in conditions attached to the approval of any site plan or conditional use permit;
 - f. A deviation from the flood damage prevention standards in Section 6.2;
 - g. A deviation from the sensitive area protection standards in Section 6.4;
 - h. A change to a development feature already modified through a variance or minor modification; or
 - i. A deviation from the roadway standards, as set forth in Section 6.6.3; or
 - j. Requirements for sanitary sewer, central water, and access to or construction of utilities.
- C. Procedure. The Director may initiate or approve an Administrative Variance allowed under this Section at any time prior to submittal of the staff report on an application to another decision-making body, or prior to final decision if the Director is the final decision-maker. Staff shall specify any approved Administrative Variance and the justifications for such variance on the pending development application for which the variance was sought.
- D. Approval criteria. The Director may approve the Administrative Variance only if he or she finds that the variance meets all of the criteria below:
1. The requested modification is consistent with the Comprehensive Plan, other adopted plans, and the stated purpose of this Land Use Code; and
 2. The requested modification meets all other applicable building and safety codes; and

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3. The requested modification does not encroach into a recorded easement or right-of-way; and
4. The requested modification will not adversely affect the proposed development or use of adjacent property or neighborhood; and
5. The modification, if granted, will not change the character of the zone district in which the property is located; and
6. The requested modification is necessary to either: (a) compensate for some practical difficulty or some unusual aspect of the site of the proposed development not shared by landowners in general; or (b) accommodate an alternative or innovative design practice that achieves to the same or better degree the objective of the existing design standard to be modified. In determining if "practical difficulty" exists, the approval criteria for variances in Section 2.4.12.C. shall be considered.

2.4.20. APPEALS

A. Purpose. This Section sets forth the process for appealing final decisions made under this Land Use Code.

B. Definitions.

1. Appellant shall mean a party-in-interest who has taken an appeal from the original decision-maker to the appellate decision-maker, or from the appellate decision-maker to the Town Council by the timely filing of a notice of appeal.
2. Appellate decision-maker shall mean the board or commission to which a decision made under this Land Use Code has been appealed.
3. Applicant shall mean the person who or organization which submitted the original application to the original decision-maker.
4. Final decision shall mean the action of the Director, or a Board, Commission, Town Council or other decision-maker by a vote of a majority of its members when no further rehearing is available before such board, commission, or other decision-maker; provided, however, that a recommendation to the Town Council from a board, commission or other decision-maker shall not be considered as a final decision of that board, commission, or other decision-maker.
5. Original decision-maker shall mean the Director, Board, or commission that made an initial decision on an application pursuant to this Land Use Code.
6. Party-in-interest shall mean a person who or organization which has standing to appeal the final decision of the original decision-maker or appellate decision-maker. Such standing to appeal shall be limited to the following:
 - a. The applicant;
 - b. Any party holding a proprietary or possessory interest in the real or personal property which was the subject of the decision being appealed;
 - c. Any person to whom or organization to which the Town mailed notice of either the hearing of the original decision-maker or the appeal hearing before the appellate decision-maker; and
 - d. Any person who appeared and submitted testimony or evidence before the original decision-maker's hearing or the appeal hearing before the appellate decision-maker.

C. Appeals. Appeals of land use decisions are available at each step of review and decision-making. Administrative decisions may be appealed to the appropriate board or the Planning Commission, and decisions of any board or the Planning Commission may be appealed to the Town Council, as further set forth in this Section.

1. First level of appeal—Appeals of administrative decisions.

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- a. General. A denial by the Director of a permit or other approval sought pursuant to this Land Use Code may be appealed by the applicant to the Board of Adjustments, except for the following:
 - i. Decisions regarding sign regulations and Administrative Design Review may be appealed to the Design Review Board; and
 - ii. Decisions regarding Minor Subdivision Final Plat applications, Conditional Use Permits, and Floodplain Development Permits may be appealed to the Planning Commission.
 2. Second level of appeal—Appeals to Town Council. Decisions made by the Board of Adjustments, the Design Review Board, the Planning Commission, or any other board or commission pursuant to this Land Use Code may be appealed to the Town Council by a party-in-interest.
 3. Judicial appeals of Town Council Decisions. Any party-in-interest may appeal a final decision of the Town Council made pursuant to this Land Use Code to the court of jurisdiction.
- D. Grounds for appeal. The permissible grounds for appeal shall be limited to allegations that the original or appellate decision-maker committed one (1) or more of the following errors:
1. Failed to properly interpret and apply relevant provisions of the Town Code or Charter.
 2. Failed to conduct a fair hearing in that:
 - a. The original or appellate decision-maker abused its discretion as contained in the Town Code or Charter;
 - b. The original or appellate decision-maker substantially ignored its formally established rules of procedure resulting in a denial of procedural due process; or
 - c. The original or appellate decision-maker based its decision on evidence which was substantially false or grossly misleading.
- E. Notice of appeal.
1. Appeals shall be made within ten (10) days of the final decision which is the subject of the appeal. All appeals shall be filed in writing with the Town Clerk and shall include the following:
 - a. If the appeal is filed by the applicant and the original application was filed by multiple individuals or entities, all of the original applicants must sign the appeal;
 - b. The final decision of the original decision-maker and appellate decision-maker, if applicable, and identification of which decision(s) is(are) the subject of the appeal;
 - c. The date(s) of final decision(s);
 - d. The name, address, telephone number and relationship of each appellant to the subject of action of the original decision-maker and appellate decision-maker, if applicable;
 - e. The grounds for the appeal, including specific allegations of error and a summary of the facts contained in the record on appeal which support those allegations;
 - f. In the case of an appeal alleging under Section 2.4.17.D.2.c, that the original decision-maker or appellate decision-maker based its decision on evidence that was substantially false or grossly misleading, references to the record in support of this allegation;
 - g. In the case of an appeal filed by more than one (1) appellant, the name, address and telephone number of one (1) such appellant who shall be authorized to receive, on behalf of all appellants, any notice required to be sent by the Town; and
 - h. Any other information required by the Town Clerk.
 2. Review of notice of appeal. The Town Clerk shall review the notice of appeal for any defects in form or substance. The Town Clerk shall notify the appellant in writing of any such defect in the

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notice of appeal, which notice shall be mailed no more than seven (7) days from the date of filing of the notice of appeal.

3. Amended notice of appeal. If the Town Clerk discovers any defects in the notice of appeal, the appellant may file an amended notice of appeal within five (5) days of the date of the notice of default. An amended notice of appeal shall correct those defects identified by the Town Clerk and shall include all information required under Section 2.4.20.E.1 of this Land Use Code.
- F. Cost of appeal. The appellant shall pay a fee of one hundred dollars (\$100.00) at the time the notice of appeal is submitted.
- G. Appeals process.
1. Briefs. The appellant and the Town shall have an opportunity to file briefs for consideration by the appellate decision-maker, or Town Council, as applicable, as follows:
 - a. The appellant may file an opening brief no later than fourteen (14) days after filing the notice of appeal; or, within seven (7) days of filing an amended notice of appeal.
 - b. Town staff, on behalf of either the original decision-maker or appellate decision-maker, if the appeal is before the Town Council, may file a response brief no later than fourteen (14) days following the date that the appellant's opening brief is filed.
 - c. Appellant may file a reply brief within seven (7) days of the date the Town filed its response brief.
 - d. If the applicant is not the appellant, the applicant may request in writing permission from the appellate decision-maker or Town Council to file a brief. Such request shall be granted if the appellate decision-maker or town council believes the applicant's interest will be furthered. If such request is granted, the applicant shall file a response brief on the same schedule as the Town staff.
 2. Record on appeal. Any appeal under this Section shall be an appeal on the record of the hearing before the original decision-maker, or the appellate decision-maker. The record provided to the appellate decision-maker or Town Council, as applicable, shall include the following:
 - a. All exhibits, including without limitation, all writings, drawings, maps, charts, graphs, photographs, and other tangible items received or viewed by the original decision-maker and, if the appeal is before the Town Council, any items received or viewed by the appellate decision-maker; and
 - b. A recording or verbatim transcript of such proceedings before the original decision-maker, and if the appeal is before the Town Council, the appellate decision-maker.
 3. Burden of proof. Any final decisions of the original decision-maker and appellate decision-maker shall be presumed to be correct. The appellant has the burden of proof to show that a preponderance of the evidence introduced before the original decision-maker or appellate decision-maker supports the conclusion that the decision should be overturned based on the criteria set forth in Section 2.4.17.H.
 4. Appeal hearing.
 - a. The Director shall schedule a public hearing on the appeal no later than sixty (60) days after the date the appeal was filed with the Town Clerk. The appeal hearing may be extended up to ninety (90) days after the filing of the appeal if agreed to by both the Director and the appellant.
 - b. Notice of the public hearing shall be published on the Town's official website no fewer than fifteen (15) days prior to the scheduled hearing date. Written notice of the appeal hearing shall also be mailed to the appellant, the applicant, and all property owners and mineral estate owners and lessees required to receive notice pursuant to Sections 2.3.6.D and E. All such notices shall meet the requirements of Section 2.3.6.A. of this Land Use Code.

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5. Pre-hearing procedures.
 - a. Procedural issues. Prior to the date of the appeal hearing, the appellate decision-maker or Town Council, as applicable, may establish any procedural rules related to the appeal hearing, including, but not limited to the possible introduction or exclusion of certain evidence, the period of time to be allowed for presentation of arguments on the merits of the appeal, and any concerns or objections related to the record on appeal. On its own initiative or for good cause shown by any party to an appeal, the appellate decision-maker or Town Council may order the modification of any procedural requirements of this Section so long as such modification does not shorten a time period, or eliminate or reduce a party's ability to file a notice, brief, or appeal, or present or defend an appeal.
 - b. Consolidation of multiple appeals. In the event of multiple appeals involving the same final decision, prior to the appeal hearing, the appellate decision-maker or Town Council, as applicable, may consolidate the appeal or otherwise modify the procedures contained in Section 2.4.17.G.6 as necessary.
6. Order of proceedings at appeal hearing. The order of the proceedings at the appeal hearing shall be as follows:
 - a. Director overview. The Director shall have fifteen (15) minutes to provide an overview of the original application.
 - b. Appellant presentation. The appellant shall have a total of thirty (30) minutes to present information in support of the appeal, subject to the determination of the appellate decision-maker or Town Council as to relevance. Copies of all portions of the record that the appellant wishes the appellate decision-maker or Town Council to consider must be submitted to the Director no fewer than five (5) working days before the public hearing.
 - c. Staff report presented. The Director and Town staff shall have a total of thirty (30) minutes in which to present a response to the appeal and appellant's presentation, as well as a staff report that includes a written recommendation. This recommendation shall address each standard required to be considered by this Land Use Code applicable to the original application.
 - d. Appellant response. The appellant shall have a total of fifteen (15) minutes to rebut any presentation by the Town.
 - e. Questions. Following the presentations and rebuttals, the arguments will be closed and the appellate decision-maker or Town Council, as applicable, may ask questions of the Town staff, the appellant, and any parties-in-interest.
7. Conduct of public hearing.
 - a. Presentation time periods. The time periods set forth in Section 2.4.17.G.6 herein may be extended by the appellate decision-maker or Town Council, as applicable, based on the complexity of the issues raised in the notice of appeal, the length of the record on appeal, the potential impact that the determination of the appeal may have on the community at large and the number of parties-in-interest who wish to address the appellate decision-maker or Town Council with regard to the merits of the appeal.
 - b. Exclusion of new evidence. The appellate decision-maker may exclude arguments based on testimony or evidence that it finds to be irrelevant, immaterial, or unduly repetitious. The appellate decision-maker or Town Council shall not consider arguments not raised in the notice of appeal and new evidence shall not be considered on appeal except upon a showing that such evidence could not have reasonably been presented to the original decision-maker or, if the appeal is before the Town Council, the original or appellate decision-maker, and is not repetitive of evidence already within the record.
 - c. Continuance of public hearing. The appellate decision-maker or Town Council, as applicable, may, either on its own motion or at the request of any party-in-interest, continue

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the appeal hearing to a fixed date, time and place. All continuances shall be granted at the discretion of the appellate decision-maker or Town Council, as applicable.

8. Decision. Following the public hearing, the appellate decision-maker or Town Council may, in whole or in part, affirm, reverse, or amend the decision being appealed based on the appeal criteria set forth in Section 2.4.17.H herein, and to that end the appellate decision-maker or Town Council shall have all the powers of the original decision-maker. The appellate decision-maker may also remand the matter back to the original decision-maker and the Town Council may remand the matter back to either the original decision-maker or appellate decision-maker, as deemed appropriate, for further proceedings consistent with the Land Use Code. The final decision shall be stated in writing in the body's minutes as well as in a written order to be delivered to the appellant and shall include specific findings of fact with specific reference to relevant standards as set forth in this Land Use Code.
9. Notification to applicant. Notification of the appellate decision-maker's or Town Council's final decision shall be provided by the Director to the parties in the appeal within ten (10) days of the decision and shall be published on the Town's official website for a period of not less than ten (10) days after the final decision.
10. Record of appeal proceedings.
 - a. Record of appeal hearing. The appellate decision-maker or Town Council shall record the public hearing by any appropriate means. A copy of the record of the appeal may be acquired by any person upon application to the Director and payment of a fee to cover the cost of duplication of the record.
 - b. The record. The record of the appeal shall consist of the following:
 - i. The record of the original decision-maker which was appealed;
 - ii. Any supplemental evidence approved by the appellate decision-maker or Town Council, including any exhibits, writings, drawings, maps, charts, graphs, photographs, and other tangible items received or viewed at the proceedings by the appellate decision-maker, or the Town Council if the appeal is before the Town Council;
 - iii. Any briefs submitted by the parties;
 - iv. All minutes of the proceedings;
 - v. If appealed to the Town Council, the recording or a verbatim transcript of the proceedings before the appellate decision-maker. The cost of the transcript shall be borne by the party appealing the decision.
- H. Appeal criteria. The appellate decision-maker or Town Council shall reverse, amend, or remand a decision upon a finding that the at least one (1) of the grounds for appeal set forth in Section 2.4.17.D occurred, and that the final decision being appealed was materially affected thereby.

2.4.21. VESTED RIGHTS

- A. Purpose. The purpose of this Section is to provide the procedures necessary to implement the provisions of Article 68 of Title 24, C.R.S., as amended.
- B. Definition. For purposes of Article 68 of Title 24, C.R.S., a site-specific development plan means a document that complies with all requirements of this Section and consists of one of the following:
 1. A zone amendment to Planned Development Overlay District;
 2. A Final Subdivision Plat; or
 3. A Development Plan.
- C. Notice and hearing. To obtain a site-specific development plan, the developer must seek from the Town Council approval of the project at a public hearing conducted at the request of the landowner, which hearing follows the successful approval of the development at all other required stages of

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the development review process. The public hearing shall be preceded by written notice of public hearing pursuant to Section 2.3.6. Such notice may, at the Town's option, be combined with the notice required for amending zoning regulations, or with any other required notice. At such public hearing, interested persons shall have an opportunity to be heard. Failure of the landowner to request such a hearing renders the approval not a "site specific development plan," and no vested rights shall be deemed to have been created.

- D. Approval, effective date and amendments. A site-specific development plan shall be deemed approved upon the effective date of the ordinance approving the plan. 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 Town Council specifically finds to the contrary and incorporates such finding in its approval of the amendment. The Town Council may, by agreement with the developer, designate an approval other than the final development plan or final plat to serve as the site-specific development plan approval for a specific project.
- E. Notice of approval. Each map, plat, site plan, or other document constituting a site-specific development plan shall contain the following language: "Approval of this Plan may create a vested property right pursuant to Article 68 of Title 24, C.R.S." Failure of the map, plat, or site plan to contain this statement shall invalidate the creation of the vested property right. In addition, a notice describing the type and intensity of use approved, the specific parcel or parcels of property affected, and stating that a vested property right has been created, 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.
- F. Duration. A vested property right approved pursuant to this Section shall last a period of three (3) years, unless otherwise agreed upon by the Town and the applicant.
- G. Payment of costs. In addition to any and all other fees and charges imposed by the Town of Pagosa Springs' Municipal Code, the applicant for approval of a site-specific development plan shall pay all costs incurred by the Town as a result of the site-specific development plan review, including publication of notices, public hearing, and review costs.
- H. Other provisions unaffected. Approval of a site-specific development plan shall not constitute an exemption from, or waiver of, any other provisions of the Code pertaining to the development and use of property.
- I. Limitations. 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 state law or a judicial determination that said law is invalid or unconstitutional, this Section shall be deemed to be repealed, and the provisions hereof no longer effective.

(Ord. No. 754, § 1, 5-20-2010; Ord. No. 805, § I, 3-4-2014; Ord. No. 823, § 1, 2-19-2015; Ord. No. 916, § 1g, 6-20-2019; Ord. No. 941, § 1, 10-6-2020)

ARTICLE 3: - ZONING DISTRICTS

3.1. – PURPOSE AND ORGANIZATION

3.1.1. PURPOSE

This article describes each zone district and their associated dimensional requirements.

3.1.2. ORGANIZATION

- A. Section 3.1, Purpose and Organization
- B. Section 3.2., Official Zoning Map
- C. Section 3.3., Zoning Districts
- D. Section 3.4., Residential Districts
- E. Section 3.5., Mixed-Use Districts
- F. Section 3.6., Non-Residential and Other Districts
- G. Section 3.7., Overlay Districts
- H. Section 3.8., Measurements and Exceptions

3.2 - OFFICIAL ZONING MAP

The Official Zoning Map shows the boundaries for each zoning district. Procedures on how to amend the map can be found in Section 2.4.2. In the event of a dispute, the Planning Director will make a ruling that can be appealed to the Planning Commission. If an appeal is made, the Planning Commission makes the final decision.

3.3 - ZONING DISTRICTS

3.3.1 TABLE OF ZONING DISTRICTS

District Type	Abbreviation	District Name
Residential	R-A	Agricultural/Residential
	R-T	Rural Transition
	R-6	Town Residential - Low Density
	R-12	Town Residential - Medium Density
	R-22	Town Residential - High Density
Mixed-Use	MU-R	Mixed-Use Residential
	MU-C	Mixed-Use Corridor
	MU-TC	Mixed-Use Town Center
Non-Residential and Other	C	Commercial
	LI	Light Industrial
	OS	Open Space and Parks

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District Type	Abbreviation	District Name
	PS	Public/Quasi Public
Special Purpose and Overlays	OPD	Planned Development
	ODE	Downtown East Village Overlay
	ODB	Downtown Business and Lodging Overlay
	OHD	Downtown Historic Business District Overlay
	OHSB	Hot Springs Boulevard Overlay
	OPH	Putt Hill Overlay

3.3.2. RELATIONSHIP TO OVERLAY DISTRICTS

All lands within the Town shall be designated as one of the base zoning districts listed in Sections 3.4 through 3.6. Overlay district regulations are in addition to those for the underlying zoning district. If there is a conflict, the overlay district regulations take precedence.

3.3.3. ANNEXED TERRITORY

When the Town expands its boundaries, the Planning Director will recommend zoning designations to the Planning Commission, who ultimately makes the final decision for the new territory. Section 2.4.2. includes notice requirements and provisions for making amendments.

(Ord. No. 853, § 1b., 2-23-2017)

3.4. - RESIDENTIAL DISTRICTS

3.4.1. GENERAL PURPOSES OF ALL RESIDENTIAL ZONE DISTRICTS

The residential zoning districts are intended to:

- A. Provide areas for residential development that are consistent with the Comprehensive Plan and standards for public health, safety, and general welfare;
- B. Ensure adequate light, air, and privacy for all dwelling units;
- C. Minimize traffic congestion and overloading of public services and utilities;
- D. Protect residential neighborhoods from incompatible uses that create excessive noise, illumination, unsightliness, odor, and smoke;
- E. Create a mixture of residential uses; and
- F. Preserve edges and transitions between districts.

3.4.2. AGRICULTURAL/RESIDENTIAL (R-A)

- A. The R-A zone district is intended for agricultural uses and detached dwellings.
- B. The district provides for low density development adjacent to very low density, county agricultural/rural residential areas. Landowners may develop large lot detached dwelling residential, or cluster residential units on smaller lots to conserve open space, views, agriculture or equestrian land, and other natural features. Clustering should occur near the edges of property close to existing or planned development.

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- C. Density can range from one (1) unit per five (5) acres, to up to one (1) unit per acre, with more density being allowed proportionately with increased dedication of land for conservation purposes.

3.4.3. RURAL TRANSITION (R-T)

- A. The R-T zone district is intended primarily for detached dwellings, attached dwellings up to two (2) units and patio homes if clustered in a cottage court configuration.
- B. The district provides a transition between medium to high density Town neighborhoods and the low-density R-A district. Landowners may develop large lot detached dwelling residential, or cluster residential units on smaller lots to conserve open space, views, agriculture or equestrian land, and other natural features. Clustering should occur near the edges of property close to existing or planned development.
- C. Density can range from one (1) unit per two (2) acres, to up to two (2) units per acre, with more density being allowed proportionately with increased dedication of land for conservation purposes.

3.4.4. TOWN RESIDENTIAL - LOW DENSITY (R-6)

- A. The R-6 zone district is intended primarily for detached dwellings and attached dwellings of up to four (4) units.
- B. The district shall have pedestrian-oriented, connected local streets and sidewalks, as well as accessibility to parks, open space, schools, and other civic activities.
- C. The maximum density is six (6) units per acre.

3.4.5. TOWN RESIDENTIAL - MEDIUM DENSITY (R-12)

- A. The R-12 zone district is intended primarily for detached dwellings, attached dwellings of up to eight (8) units, multi-unit dwellings of up to eight (8) units, and patio homes.
- B. The district is intended for locations closer to commercial centers and near downtown and may serve as a transition between higher and lower-density residential areas.
- C. The district shall have pedestrian-oriented, connected local streets and sidewalks, as well as accessibility to parks, open space, schools, and other civic activities.
- D. The maximum density is twelve (12) units per acre.
- E. Parking must be provided onsite.

3.4.6. TOWN RESIDENTIAL - HIGH DENSITY (R-22)

- A. The R-22 zone district allows the broadest range of residential types, including detached dwellings, attached dwellings, multi-unit dwellings, patio homes, and apartments.
- B. The district is intended for locations adjacent to mixed-use districts, commercial centers, and downtown, and may serve as a transition between commercial centers and medium to lower-density residential neighborhoods.
- C. The district shall have pedestrian-oriented, connected local streets and sidewalks, as well as accessibility to parks, open space, schools, and other civic activities. Additional private recreational amenities, such as tot lots or garden/courtyards, should be provided in apartment or townhome complexes.
- D. The maximum density is twenty-two (22) units per acre.
- E. Parking must be provided onsite.

3.4.7. TABLE OF DIMENSIONAL STANDARDS FOR RESIDENTIAL DISTRICTS

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All primary and accessory structures are subject to the dimensional standards set forth in the table below. These general standards may be further limited or modified by other applicable sections of this Land Use Code. General rules for measurement and exceptions are in Section 3.8.

District		R-A	R-T	R-6	R-12	R-22
Density	Maximum without clustering (Dwelling Unit/gross acre)	0.2 [1]	0.5 [1]	NA	NA	NA
	Maximum with clustering (Dwelling Unit/gross acre)	1.0	2.0	6.0	12.0	22.0
	Minimum	-	-	-	-	-0-
Lot Size, minimum (sq. ft.)		20,000 sq. ft.	10,000 sq. ft.	7,500 sq. ft.	Townhouse: 3,000 sq. ft. All other: 3,630 sq. ft. [3]	Townhouse: 1,875 sq. ft. All other: 1,875 sq. ft. [3]
Setbacks, minimum	Front to dwelling (ft)	25'	25'	15'	10'	10'
	Front to garage (ft)	NA	NA	20'	15'	15'
	Side (ft) [2]	10'	5'	5'	5'	5'
	Rear (ft)	10'	10'	10'	5'	5'
Dwelling Unit Size, minimum (sq. ft.) [5]		400	400	400	400	400
Building Height, maximum (ft)		28'	28'	28'	28' detached dwelling 35' any other structure	35'
Landscaping (%)		-	-	15%	15%	15%
<p>[1] Density will vary depending on how much land is set aside for conservation purposes. See Section 7.6, Conservation Subdivisions. [2] Corner lots shall have a minimum 10-foot side setback on the street sides. [3] Minimum lot width shall be 25 feet wide. [4] Parking must be provided onsite for R-12, R-22 Districts. [5] Multi-unit Dwellings and Accessory Dwelling Units may be less than 400 sf so long as they meet building code requirements</p>						

(Ord. No. 853, § 1a., 2-23-2017)

3.5. - MIXED-USE DISTRICTS

3.5.1. GENERAL PURPOSES OF ALL MIXED-USE DISTRICTS

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The mixed-use zoning districts are established to:

- A. Promote higher-density residential development near and within downtown and commercial centers, and other areas as appropriate;
- B. Concentrate higher-intensity commercial and employment in and around the downtown and other centers of community activity;
- C. Encourage mixed-use redevelopment, conversion, and reuse of aging and underutilized structures and areas, and increase the efficient use of available commercial land in the Town;
- D. Create pedestrian-oriented environments that encourage transit use and pedestrian access;
- E. Ensure that the appearance of residential and nonresidential uses are of high and unique aesthetic character and quality; and
- F. Ensure that residential and nonresidential uses are integrated with one another and the character of the area in which they are located.

3.5.2. MIXED-USE RESIDENTIAL (MU-R)

- A. The MU-R zone district is intended to allow for vertical or horizontal mixing of uses, with the primary use being medium to high -density residential. Mixed-use residential is appropriate near activity centers, near major arterial and collector streets and near transit.
- B. The district should promote neighborhoods that contain a range of residential housing types, including small lot detached dwelling units, attached units, patio homes, apartments, and live-work units. A lesser portion of the site area shall be allocated to non-residential uses that serve the neighborhood and or the greater community.
- C. .

3.5.3. MIXED-USE TOWN CENTER (MU-TC)

- A. The MU-TC district is intended to promote a wide range of residential and non-residential land uses in the downtown core.
- B. The district is intended to maintain and improve the vibrant downtown area as an environment that has employment and shopping opportunities, a range of housing types, and parks, lodging, open space, and civic uses. New development should occur in traditional development patterns-with narrower streets, smaller blocks, and smaller lots.
- C. The MU-TC district is intended to encourage predominantly vertical with some horizontal mixed-use in a pedestrian-friendly environment that is not dominated by one (1) land use or housing type.

3.5.4. MIXED-USE CORRIDOR (MU-C)

- A. The MU-C zone district is intended to allow for a balance of high-density residential, commercial uses, including retail, offices, hotels, and tourism-related businesses, along major highways.
- B. The district is intended to promote gradual development and redevelopment of existing commercial corridors to become more vibrant and attractive mixed-use areas.

3.5.5. TABLE OF DIMENSIONAL STANDARDS FOR MIXED USE DISTRICTS

All primary and accessory structures are subject to the dimensional standards in the table below. These general standards may be further limited or modified by other applicable sections of this Land Use Code. General rules for measurement and exceptions are in Section 3.8.

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District		MU-R	MU-C	MU-TC
Density/ Intensity	Maximum Residential Density, (Dwelling Unit/gross acre)	16.0	16.0	16.0
Setbacks, minimum	Front (ft)	20'	40' from highway	; .. All other areas: 10'
			20' from secondary roads	
			At least fifty percent (50%) of the primary street frontage must be occupied by a building wall. Also see site layout standards in Section 6.7.4.	
	Side (ft) [1]	5'	5'	5'
	Rear (ft)	10'	5'	5'
Dwelling Unit Size, minimum (sq. ft.) [3]		400 sq. ft.	400 sq. ft.	400 sq. ft.
Building Height, maximum (ft)		24' for detached dwelling 35' for any other building	35'	40'
Landscaping (%)		15%	15%	15% (may be reduced to 5% in ODB overlay)
NOTES:				
[1] Corner lots shall have a minimum 10-foot side setback on the street sides.				
[2] Density bonuses may be granted per the Town's Density Bonus Policy addressed in Section 3.8.1.				
[3] Multi-unit Dwellings and Accessory Dwelling Units may be less than 400 sf so long as they meet building code requirements				

3.6. - NON-RESIDENTIAL AND OTHER DISTRICTS

3.6.1. GENERAL PURPOSES OF ALL NON-RESIDENTIAL AND OTHER DISTRICTS

The non-residential and other zoning districts are intended to:

- A. Provide appropriately located areas consistent with the Comprehensive Plan for retail, service, office, and industrial uses;

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- B. Strengthen the Town's economic base and provide employment opportunities close to home for residents of the Town and surrounding communities; and
- C.
- D. Minimize any negative impact of nonresidential development on adjacent residential districts.

3.6.2. COMMERCIAL (C)

The C zone district is intended for retail and office uses. The district includes existing retail centers that provide shopping service to surrounding neighborhoods and the community.

3.6.3. LIGHT INDUSTRIAL (LI)

The LI zone district is intended for industrial, wholesale, commercial services, and office uses. The Light Industrial land use type is generally located near commercial centers, along major streets, or near the airport.

3.6.4. OPEN SPACE AND PARKS (OS)

The OS zone district is intended for open space and parks. The district is intended for public or quasi-public facilities and private facilities of a non-commercial character serving the general public.

3.6.5. PUBLIC/QUASI PUBLIC (PS)

The PS zone district is intended for uses related to community services, such as fire stations, schools, libraries, community centers, Town buildings, utilities, public facilities, and cemeteries.

3.6.6. TABLE OF DIMENSIONAL STANDARDS FOR NON-RESIDENTIAL AND OTHER DISTRICTS

All primary and accessory structures are subject to the dimensional standards set forth in the table below. These general standards may be further limited or modified by other applicable sections of this Land Use Code. General rules for measurement and exceptions are in Section 3.8.

District		C	LI	OS	PS
Setbacks, minimum	Front (ft)	40' from highway	50' from arterial	30'	20'
		20' from secondary roads	30' from other roads		
	Side (ft) [1]	5'	20'	20'	5'
			50' if abutting residential		
Rear (ft)	5'	10'	20'	5'	
Building Height, maximum (feet)		35'	35'	25'	35'
Landscaping (%)		20%	10%	NA	NA

NOTE:

[1] Corner lots shall have a minimum 10-foot side setback on the street sides.

[2] When non-residential and residential lots abut one another, the non-residential use must meet the same setback requirements as the residential lot abutting it.

3.7. - OVERLAY DISTRICTS

3.7.1. PLANNED DEVELOPMENT OVERLAY (OPD)

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- A. The Planned Development (OPD) Overlay District is enacted pursuant to the Planned Unit Development Act of 1972 as amended, §§ 24-67-101, et seq. C.R.S. The district is intended to:
 - 1. Allow and encourage compatible uses to be developed in accordance with a unified development plan in harmony with the environment and surrounding neighborhood;
 - 2. Permit greater flexibility in the application of zoning and development standards and greater freedom in providing a mix of land uses in the development of a balanced community; and
 - 3. Encourage the preservation of critical environmental resources, provide above average open space and recreational amenities (as applicable), include exceptional and innovative design, and provide greater efficiency in the layout and provision of roads, utilities, and other infrastructure.
- B. Properties may rezone to an OPD if they meet the minimum lot size of ten (10) acres or more pursuant to the Rezone application process detailed in Section 2.4.3.D.

3.7.2. DOWNTOWN EAST VILLAGE OVERLAY (ODE)

- A. The ODE Overlay is established to accommodate less intense commercial uses such as small offices, restaurants with onsite dining, individual retail stores, galleries, and other uses of similar impact. The Town encourages adaptive reuse of existing residential buildings in this district for non-residential use. New residential uses are permitted with the primary main floor use along Highway 160 to be non-residential.

3.7.3. DOWNTOWN BUSINESS AND LODGING OVERLAY (ODB)

- A. The ODB Overlay is established to protect the character and function of the downtown business and lodging areas. These areas will accommodate a variety of commercial enterprises that are appealing to pedestrian traffic and serve local residents and visitors. This overlay will likely attract office buildings, retail, dining, lodging establishments, and leisure facilities. Many of these uses are established in older existing downtown buildings that lend to the downtown character and charm.

3.7.4. DOWNTOWN HISTORIC BUSINESS DISTRICT OVERLAY (OHD)

- A. The Downtown Historic Business District overlay is established to protect the historic character and integrity of downtown Pagosa Springs. The Downtown Historic Business District Overlay includes all properties on the north side of Pagosa Street between 4th Street and 5th Street, and all properties on both sides of Lewis Street between 4th Street and 5th Street. The Downtown Historic Business District design guidelines shall apply to all development within this district as outlined in Article 5.

3.7.5. HOT SPRINGS BOULEVARD OVERLAY (OHSB)

- A. The Hot Springs Boulevard Overlay district is established to expand the Town center to include new opportunities for commercial, residential, and mixed-use development south of the downtown core, anchored by a government district. Development in this overlay will strengthen the vitality of downtown Pagosa Springs as a place to live, work, and shop by allowing a variety of land uses to be developed in a manner harmonious with the traditional small urban atmosphere of the Town center. The intent of this district is also to accommodate land uses that focus on the natural resource of the hot mineral springs.

3.7.6. PUTT (PUTNAM) HILL OVERLAY (OPH)

- A. The Putt Hill Overlay District is established to consider architectural and site planning standards that protect the natural surroundings, specifically the large areas of undisturbed timber growth along Highway 160 to include opportunities for primarily commercial or light industrial uses. Development in this overlay shall be accessed by way of a secondary roadway system per the US 160 - Pagosa Springs West Access Control Plan. Free standing signage shall be associated

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with secondary roadway system and not allowed along US 160. Wall signage shall be allowed on building facades visible from US 160.

3.7.7. TABLE OF DIMENSIONAL STANDARDS FOR OVERLAY DISTRICTS

- A. All primary and accessory structures are subject to the dimensional standards set forth in the table below. These general standards may be further limited or modified by other applicable sections of this Land Use Code. General rules for measurement and exceptions are in Section 3.8.

District		ODE	ODB	OHD	OHSB	OPH
Setbacks, minimum	Front (ft)	Flexible build-to zone of 15' to 20' from back of sidewalk [2]	First floor placed on build-to line of 0' from back of sidewalk [2]	Per Historic Preservation Design Guidelines	First floor placed at build-to line of 50' from centerline of Hot Springs Blvd or 40' from centerline of other collector streets	
	Rear (ft)				Setback 80' from Highway 160 with allowance for 50% of building façade allowed to encroach up to 40' into setback	
Building Height, maximum (feet)		35' Stepped back from street above second floor	40' Stepped back from street above second floor		45' Stepped back from the street on the second and third floors	35'
<p>NOTE: [1] Corner lots shall have a minimum 10-foot side setback on the street sides. [2] See Section 6.7.5.C.6</p>						

3.8. - MEASUREMENTS AND EXCEPTIONS

3.8.1. DENSITY

- A. Acre, gross. Means a measure of land area (forty-three thousand five hundred sixty (43,560) square feet).
- B. Density. Means the number of dwelling units allowed for each gross acre of land. Density is determined by dividing the number of dwelling units on a site by the gross acreage of the site, after dedicated rights-of-way, private streets, and open space are set aside from the area. To determine the number of residential units to be allowed on a specific parcel of land, any

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fractional unit greater than or equal to one-half ($\frac{1}{2}$) of a unit shall be rounded up to equal a full unit.

- C. Dwelling units allowed. The number of dwelling units allowed on a site is based on the presumption that all other applicable standards of this Land Use Code shall be met. The maximum density established for a zoning district is not a guarantee that such densities may be obtained, nor a valid justification for varying or modifying other dimensional or development standards.
- D. Additional density may be granted per the Town's Density Bonus Policy in the amount 50% of the allowable units permitted provided that at least 25% of the total units provided are rented or for sale at 100% or below Area Medium Income (AMI). The deed restriction shall be in place for a minimum of seven years.
 - 1. Additional units may increase the building height above allowable height restrictions, encroach into setbacks, require additional parking, etc.
 - 2. Any variance or waiver from the provisions of the LUDC shall only be considered with an accompanying mitigation plan that is acceptable to the Town Council.

3.8.2. LOT SIZE

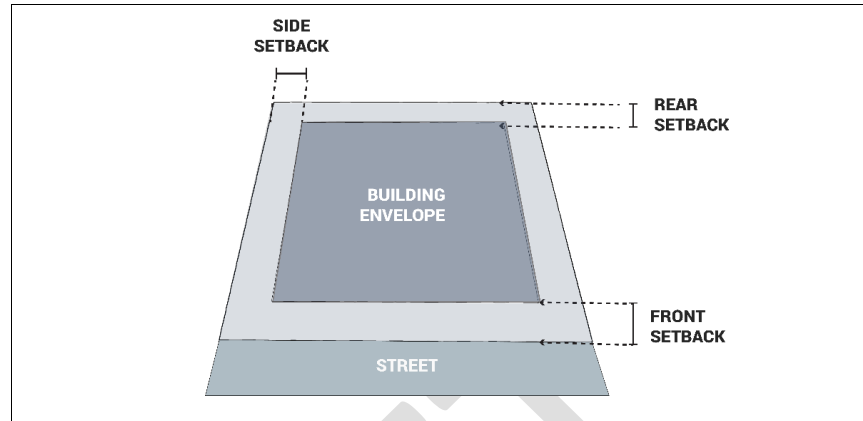
- A. Minimum lot dimensions. Any lot that is created, developed, used, or occupied shall meet the minimum lot size and frontage requirements in Tables 3.4.7, 3.5.5, 3.6.6, and 3.7.7 for the zoning district in which it is located, except as otherwise established in this Land Use Code for particular uses. New lots shall also meet the development standards set forth in Section 7.3.3, Blocks and Lots.
- B. Number of principal buildings or uses per lot.
 - 1. Only one (1) primary detached or attached dwelling unit, with permitted accessory buildings, may be located upon a lot or unplatted tract. Every dwelling shall face or front upon and have legal means of access to a public right-of-way or officially approved place.
 - 2. Where a lot or tract of land is used for multiple-unit, mixed use, commercial, or industrial purposes, more than one (1) main building may be located upon the lot but only when such buildings conform to all requirements of this Land Use Code applicable to the uses and district, and when all primary buildings face upon a public right-of-way or otherwise approved place.

3.8.3. SETBACKS

- A. Required setbacks.
 - 1. A building, structure, or lot must meet the minimum setback requirements set forth in Tables 3.4.7, 3.5.5, 3.6.6 and 3.7.7 for its designated zoning district unless a variance or minor modification has been granted. Setbacks shall be measured from the property lines.

Figure 1: Illustration of Setback

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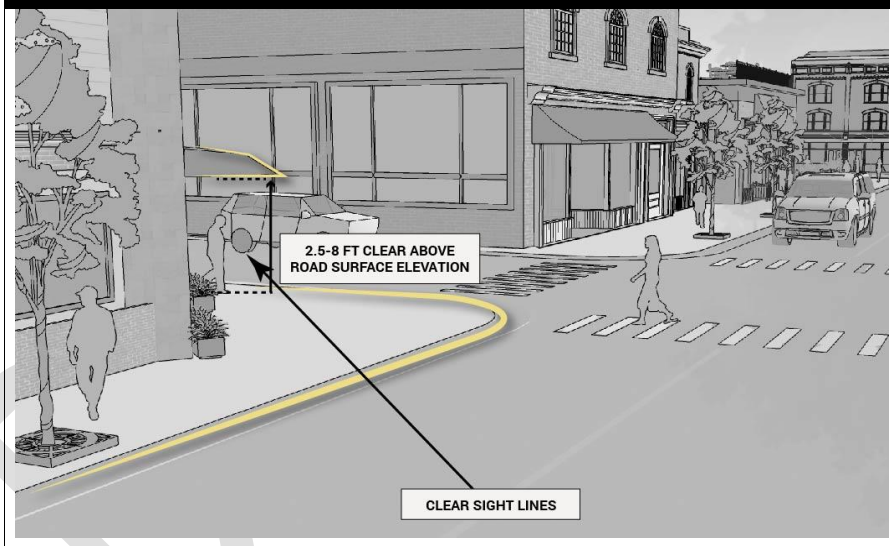


2. Setbacks shall be unoccupied and unobstructed by any structure or portion of a structure from thirty (30) inches above grade upward; provided, however, that fences, non-structural walls, trellises, poles, posts, ornaments, furniture, landscaping, and other customary yard features may be permitted within these setbacks.
3. The following structures are subject to setback requirements as they create a visual obstruction or generate activity similarly to a building.
 - a. Gas pumps and overhead canopies or roofs.
 - b. Fences running along lot boundaries adjacent to public rights-of-way that exceed six (6) feet in height and are substantially opaque.
- B. Projections into required setbacks, general. The following structures may project into required front, side, or rear setbacks as specified in this subsection:
 1. Paved terraces. Paved terraces may project into any required setback, provided that no structures placed there shall violate other requirements of this Land Use Code and are at least five (5) feet from the lot line.
 2. Unroofed landings, decks, stairs and balconies. Unroofed landing, decks, and stairs may project into required setbacks, provided that no portion other than a handrail shall extend higher than thirty (30) inches above the finished grade level. Unroofed balconies may project into a required side or rear yard provided these projections are at least five (5) feet from the property line.
 3. Incidental architectural features. Cornices, eaves, canopies, sunshades, gutters, chimneys, flues, belt courses, headers, sills, pilasters, lintels, ornamental features, and other similar architectural features may project not more than two (2) feet into any required yard provided these projections are at least seven and one-half (7.5) feet from the lot line.
 4. Roofs over porches and other exterior approaches. Roofs over porches, stairways, landings, terraces, or other exterior approaches to pedestrian doorways may encroach up to five (5) feet into a front setback. The covered porch or entrance area encroaching into the setback shall remain exterior to the building and enclosed by no more than a railing.
 5. Projections into easements and rights-of-ways prohibited. Projections shall not extend or encroach into any public or private easement(s) or right(s)-of-way.
 6. Handicap ramps. Handicap access ramps may be located within required front, side, and rear setbacks.

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- C. Contextual front setbacks. The following exceptions to the front setback requirements for dwellings abutting local streets, not collector or arterial streets, are authorized for a lot in any district.
 - 1. If there are dwellings on both abutting lots with front setbacks of less than the required depth for the district, the front setback of the lot need not exceed the average front setback of the abutting dwellings.
 - 2. If there is a dwelling on one (1) abutting lot with a front setback of less than the required depth for the district, the front setback for the lot need not exceed a depth one-half ($\frac{1}{2}$) way between the depth of the abutting lot and the required front setback depth.
- D. Corner sight distance. On corner lots, an unobstructed line of sight shall be maintained for safe flow of pedestrian and vehicular traffic. To achieve this, the area between two and one-half (2.5) feet and eight (8) feet above road surface elevation within an established sight triangle must remain clear to provide drivers a clear view of the intersection. The sight triangle is formed by measuring from the point of intersection, a distance of twenty-five (25) feet along the front and side lot lines and connecting the points to create a triangle.

Figure 2: Illustration of Corner Site Distance

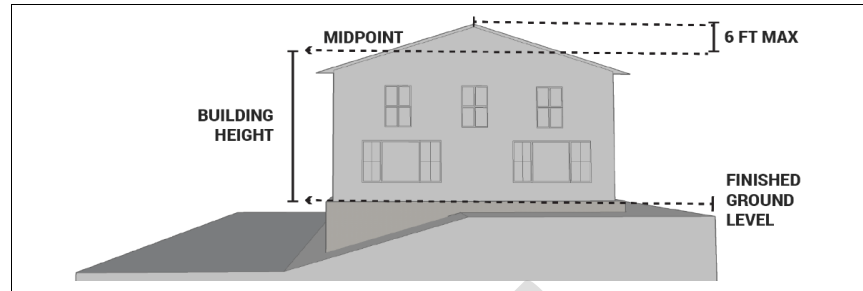


5.2.4. BUILDING HEIGHT

- A. Building height shall be measured from the highest point of the finished grade to the highest point of the structure as follows:
 - 1. Gable, hip, gambrel, or shed roof. Height shall be measured to the midpoint between the highest ridge or wall and where the eave meets the vertical wall plane, provided, however, that a peak may extend no greater than six feet (6') above the specified maximum building height for any zone district.

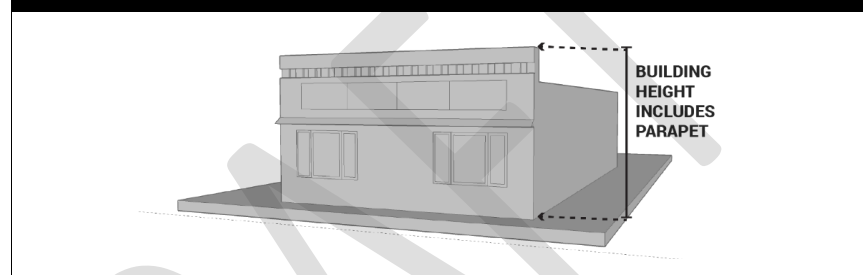
Figure 3: Illustration of Building Height Measurement to Gable, Hip, Gambrel, or Shed Roof

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2. Flat roof: Height shall be measured to the highest point of the building, including top of a parapet wall, but excluding architectural features per 5.2.4.C below.

Figure 4: Illustration of Building Height Measurement to Parapet Wall



- B. Height requirements generally. No building shall be erected or altered that will exceed the height limit for the respective zoning district, unless otherwise provided in subsection B. below or elsewhere in this Land Use Code.
- C. Height exceptions for appurtenances. Except as specifically provided elsewhere in this Land Use Code, the height limitations contained in this Land Use Code do not apply to cupolas, flagpoles, chimneys, antennas, heating and ventilation equipment, stairwell towers or similar appurtenances; provided, however, the following:
 1. The appurtenance does not interfere with Federal Aviation Regulations;
 2. The appurtenance does not extend more than five (5) feet above the maximum permitted building height, except for flagpoles, church belfries, and antennas that must be of greater height in order to function;
 3. The appurtenance is not constructed for the purpose of providing additional floor area in the building;
 4. The appurtenance complies with the screening requirements for mechanical equipment and appurtenances in 6.10.4(D), Screening; and
 5. The appurtenance is functional.

ARTICLE 4: USE REGULATIONS

4.1 PURPOSE AND ORGANIZATION OF ARTICLE

4.1.1. PURPOSE

This article describes the uses allowed within all base zoning districts in this Land Use Code.

4.1.2. ORGANIZATION

- A. 4.1 Purpose and Organization of Article
- B. 4.2 Table of Allowed Uses
- C. 4.3 Residential Uses
- D. 4.4 Public, Institutional, and Civic Uses
- E. 4.5 Commercial Uses
- F. 4.6 Marijuana Uses
- G. 4.7 Industrial Uses
- H. 4.8 Accessory/Miscellaneous Uses
- I. 4.9 Temporary Uses and Structures

4.2 TABLE OF ALLOWED USES

4.2.1. APPLICABILITY

Approval of a use listed in Table 4.2-1, and compliance with the applicable use-specific standards for that use, authorizes that use only. Development or use of a property for any other use not specifically allowed in Table 4.1-1 and approved under the appropriate process is prohibited.

4.2.2. CLASSIFICATION OF NEW AND UNLISTED USES

The Town recognizes that new types of land use will develop, and forms of land use not anticipated in this Land Use Code may seek to locate in the Town. When application is made for a use category or use type that is not specifically listed in Table 4.1-1, the Director shall determine the appropriate classification of any new or unlisted form of land use in the following manner:

- A. The Director shall provide an interpretation that establishes the proposed use to the appropriate zoning classification. The Director shall consider the nature of the use and whether it involves dwelling activity; sales; processing; type of product, storage and amount, and nature; enclosed or open storage; anticipated employment; transportation requirements; the amount of noise, odor, fumes, dust, toxic material, and vibration likely to be generated; and the general requirements for public utilities such as water and sanitary sewer.
- B. Standards for new and unlisted uses may be interpreted as those of a similar use.
- C. Appeal of the Director's decision shall be made to the Town Council following procedures under Section 2.4.13.

4.2.3. EXPLANATION OF TABLE ABBREVIATIONS

- A. Permitted by-right uses. "P" in a cell indicates that the use is permitted by right in the respective zoning district. Permitted uses are subject to all other applicable regulations of this Land Use Code, including the use-specific standards in this Article and the requirements of Article 6, Development Standards.

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- B. Conditional uses. "C" in a cell indicates that, in the respective zoning district, the use is allowed only if reviewed and approved as a conditional use in accordance with the procedures of Section 2.4.7, Conditional Use Permits. Conditional uses are subject to all other applicable regulations of this Land Use Code, including the use-specific standards in this Article and the requirements of Article 6, Development Standards.
- C. Prohibited uses. A blank cell indicates that the use is prohibited in the respective zoning district.
- D. Use-specific standards. Regardless of whether a use is allowed by right or permitted as a conditional use, there may be additional standards that are applicable to the use. The existence of these use-specific standards is noted through a cross-reference in the last column of the table. Cross-references refer to Section 4.2, Use-Specific Standards. These standards apply in all districts unless otherwise specified.

4.2.3. TABLE ORGANIZATION

In Table 4.2-1, land uses and activities are classified into general "use categories" and specific "use types" based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions. This classification provides a systematic basis for assigning present and future land uses into appropriate zoning districts. This classification does not list every use or activity that may appropriately exist within the categories, and specific uses may be listed in one (1) category when they may reasonably have been listed in one (1) or more other categories. The use categories are intended merely as an indexing tool and are not regulatory.

TABLE 4.2-1: Table of Allowed Uses

Use Category	Use Type	RA	RT	R6	R12	R22	MUR	MUC	MUTC	C	LI	OS	PS	Use Specific Standards
RESIDENTIAL USES														
Household Living	Dwelling, live/work						P	P	P	P	P			
	Dwelling, factory built mftd. (HUD) and mobile	C	C											
	Dwelling, multi-unit				C	P	P	P	P					
	Dwelling, detached (incl. modular)	P	P	P	P	P	P							
	Dwelling, timeshare						C	C	C					
	Dwelling, attached		C	P	P	P	P	P	P					
	Dwelling, Patio Home/Cottage Court				P	P	P							
	Mobile Home Park	C	C											
Group Living	Group Living Facility, large							C	C	C				

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Use Category	Use Type	RA	RT	R6	R12	R22	MUR	MUC	MUTC	C	LI	OS	PS	Use Specific Standards
	Group Living Facility, small (Type A)	P	P	P	P	P	P	P	C	C				
	Group Living Facility, small (Type B)				C	C	P	P	C					
	Nursing Care Home				P	C	P	P	P				P	
	Nursing Care Facility				C	C	C	C	C	C			P	
PUBLIC, INSTITUTIONAL, AND CIVIC USES														
Community and Cultural Facilities	Government Admin. and Civic Buildings						C	P	P	P			P	
	Social, fraternal lodges						C	P	P	P			P	
	Public Assembly	C	C	C	C	C	P	P	P	P			P	
	Public Safety Facility	C	C	C	C	C	C	P	P	P	P	P	P	
Child Care Facilities	Child Care Center				C	C	C	P	P	P			C	
	Day Care Home	C	C	C	C	C	C							
Health Care Facilities	Hospital							P	C	P	P			
	Immediate Care Facility							C	C	P			P	
	Medical or Dental Office or Clinic						P	P	P	P				
Parks and Open Space	Athletic Fields and Courts	P	P	C	C	C	P	P	P	P	P	P	P	
	Community Garden	P	P	P	P	P	P	P	P	P	P	P	P	
	Open Space	P	P	P	P	P	P	P	P	P	P	P	P	
	Park	P	P	P	P	P	P	P	P	P	P	P	P	
Educational Facilities	College or University	C	C				C	C	C	C			C	
	School	C	C				C	C	C	C	C		P	
	Trade or Vocational school	C	C				C	C	C	C	C		C	
Death Care Services	Cemetery									P	P		P	
	Funeral Services									P	P			
COMMERCIAL USES														
Agriculture	Farming, traditional or ranch uses	P	C	C										
	Stables	P	C								P			
Animal-Related Services	Kennel	C	C					P	P	P				
	Veterinary Clinic/Hospital	P	P					P	P	P				

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Use Category	Use Type	RA	RT	R6	R12	R22	MUR	MUC	MUTC	C	LI	OS	PS	Use Specific Standards
Financial Services	With drive-through						C	C	C	P	P			
	Without drive-through						C	P	P	P	P			
Food and Beverage Services	Bar or nightclub						C	P	P	P				
	Brewery/Distillery								P	P	P			
	Restaurant, with drive-through							P	C	P				
	Restaurant, no drive-through						C	P	P	P	P			
Lodging Facilities	Bed and Breakfast	C	C				C	P	P	C				
	Campground, Guest Ranch, or RV Park	C	C						P					
	Hotel, Motel, or Lodge							P	P	P				
	Vacation Rental	C	C	C	C	C	C	P	P					
Offices, Business and Professional	4,000 s.f. or less						C	P	P	P	P			
	More than 4,000 s.f.							P	P	P	P			
Outdoor Commercial Establishment	Mobile Vendor Type A								P	P	P			
	Mobile Vendor Type B								P	P	P			
	Seasonal								P	P	P			
	Special Event								P	P	P	P	P	
	Year-round													
Personal Services	Dry Cleaning and Laundry Service							P	P	P	P			
	General Personal Services						P	P	P	P	P			
Recreation and Entertainment, Indoor	Adult Entertainment									C				
	Art Gallery						P	P	P	P	P		P	
	Movie Theater						C	P	C	P				
Recreation and Entertainment, Outdoor	General Outdoor Recreation, commercial	C	C					C		P		C	C	
	Golf Course or Driving Range	C	C							C			C	
Retail Sales	Greenhouse or Nursery, commercial	C					C	P	C	P	P			

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Use Category	Use Type	RA	RT	R6	R12	R22	MUR	MUC	MUTC	C	LI	OS	PS	Use Specific Standards
	Grocery Store						C	P	P	P				
	Liquor Store						C	P	P	P				
	Retail, general, over 4,000 s.f.							P	P	P				
	Retail, general, 4,000 s.f. or less						C	P	P	P	P			
Vehicles and Equipment	Parking Lot/Structure						C	C	C	P	P			
	Gasoline Sales							C	C	P	P			
	Vehicle Sales and Rental							C		P	P			
	Vehicle Service and Repair							C		P	P			
MARIJUANA USES														
Marijuana	Retail and Medical Marijuana Sales													
	Marijuana-infused Products Manufacturer													
	Marijuana Optional Premises Cultivation Operation													
	Marijuana Research and Development Facility													
	Marijuana Testing Facility													
INDUSTRIAL USES														
Industrial Service	Building Materials Sales							C	C	P	P			
	General Industrial Service									C	P			
	Natural Resource Processing									C	P			
Manufacturing and Production	Assembly, light							P		P	P			
	Manufacturing, heavy										C			
	Manufacturing, light							C		C	P			
	Artisanal/Craft Manufacturing									P	P			
Warehouse and Freight Movement	Mini-storage							C		P	P			
	Storage yard										P			
	Warehouse									C	P			
	Wholesale Establishment							C	C	C	P			

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Use Category	Use Type	RA	RT	R6	R12	R22	MUR	MUC	MUTC	C	LI	OS	PS	Use Specific Standards
Telecommunications	Tower/antenna of any height										P	C		
Waste and Salvage	Salvage or Junk Yard										C			
ACCESSORY/MISCELLANEOUS USES														
	Accessory Dwelling Unit	P	P	P	P	P	P	P	P					
	Accessory Building	P	P	P	P	P	P	P	P	P	P	P	P	
	Accessory Use	P	P	P	P	P	P	P	P	P	P	P	P	
	Home Occupation	P	P	P	P	P	P	P	P					
	Outdoor Display and Sales									P	P	P	P	
	Outdoor Storage									P	P	P	P	
	Cargo Shipping Containers				P	P	P	P	P	P	P		P	

(Ord. No. 834, § 1, 12-17-2015; Ord. No. 853, § 1c, 2-23-2017; Ord. No. 880, § 1, 4-4-2018)

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4.3 RESIDENTIAL USES

4.3.1. Dwelling, Live/Work.

A. Defined.

A structure or portion of a structure that provides residential living space for the owner or an employee of a commercial or manufacturing use; ;

1. Where the resident owner or employee of the business is responsible for the commercial or manufacturing activity performed; and
2. Where the commercial or manufacturing activity conducted takes place subject to a valid business license associated with the premises.

B. Use Standards

1. The use may have a maximum of one (1) additional employee who is not a resident.

4.3.2. Dwelling, Detached.

A. Defined.

A residential structure designed to be occupied by one (1) family. This use type includes modular homes, but excludes manufactured (HUD) and mobile homes.

B. Use Standards

4.3.3. Dwelling, Manufactured (HUD)

A. Defined.

A home built entirely in the factory under a federal building code administered by the U.S. Department of Housing and Urban Development (HUD). Manufactured homes may be single or multi section and are transported on their own chassis (but not under their own power) to the site and installed on permanent or temporary foundations.

B. Use Standards

1. The federal standards regulate manufactured housing design and construction, strength, durability, transportability, fire resistance, energy efficiency and quality.
2. The HUD Code also sets performance standards for the heating, plumbing, air conditioning, thermal and electrical systems.
3. On-site additions, such as garages, decks and porches must be built to local building codes.
4. A building permit must be obtained for all work performed on site to install this type of home.

4.3.4. Dwelling, Mobile Home

A. Defined.

1. Mobile homes may be single or multi section and are transported on their own chassis (but not under their own power) to the site and installed on permanent or temporary foundations. The chassis remains permanently attached to the home.

B. Use Standards

2. On-site additions, such as garages, decks and porches must be built to local building codes.
3. A building permit must be obtained for all work performed on site to install this type of home.

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4.3.5. Dwelling, Modular Home

A. Defined.

1. A home built entirely in a factory constructed to state and locally adopted building codes. Modules are transported to the site and installed on a permanent foundation.

B. Use Standards

1. On-site additions, such as garages, decks and porches must be built to local building codes.
2. A building permit must be obtained for all work performed on site to install this type of dwelling.

4.3.6. Dwelling, Multi-Unit.

A. Defined.

A dwelling or group of dwellings on one (1) lot containing separate residential units for two (2) or more families with one (1) family per unit. Multi-unit dwellings may be stacked side by side or on top of one another and may have joint utility services or facilities. This use includes condominiums and apartments.

1. Type A Multi-Unit. A multi-unit dwelling consisting of up to eight (8) families on one (1) lot.
2. Type B Multi-Unit. A multi-unit dwelling consisting of more than eight (8) families on one (1) lot.

B. Use Standards

1. In the MU-C and MU-TC districts, multi-unit units shall be allowed only on the second and third floors of buildings, unless those units are required to meet ADA or FHA accessibility requirements.
2. Multi-unit dwellings are not allowed along the Hot Springs Boulevard frontage.
3. Multi-unit dwellings are allowed in the R-T district only if approved as part of a cluster development that meets the standards of Section 7.5.

4.3.7. Dwelling, timeshare.

A. Defined.

A residential unit or property containing multiple residential units, in which more than one (1) person has a fractional or interval ownership interest

B. Use Standards

4.3.8. Dwelling, Attached.

A. Defined.

Two or more dwelling units where each unit is attached to other units by common walls, and where habitable spaces of different units are arranged in side-by-side, rather than in a stacked configuration, with each unit located on its own lot.

B. Use Standards

1. Up to four (4) attached units may be allowed in the R-T district only if approved as part of a conservation development that meets the standards of Section 7.6.

4.3.9. Dwelling, Cottage Court.

A. Defined.

A residential development that consists of a group of two or more detached or attached residential structures arranged around a shared court visible from the street.

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B. Use Standards

4.3.10. Mobile Home Park.

A. Defined.

A residential development that consists of mobile homes that are transported to the park site for use as permanent dwelling units.

B. Use Standards

Group Living Facility: Large/Special.

A. Defined.

Any residence for more than eight (8) unrelated individuals, including but not limited to, any of the following facilities that meet this definition:

1. A secure residential treatment center, as defined in §§ 26-6-102(9), et seq., C.R.S., as amended; or.
2. A shelter for homeless persons; or.
3. A dormitory; or.
4. A rooming or boarding house.

4.3.11. Group Living Facility: Small.

A. Defined.

A residence for up to eight (8) unrelated individuals, none of whom are receiving on-site medical or psychological treatment, but some or all of whom may be receiving on-site physical assistance with day-to-day living activities, including but not limited to:

1. Type A.
 - a. A state-licensed group home for the exclusive use of developmentally disabled persons, which are known as community residential homes, as defined in § 27-10.5-102(4), C.R.S., accommodating at least four (4) but no more than eight (8) persons; or a facility where independent residential support services, as defined in §27-10.5-102(19), C.R.S., are provided to no more than three (3) persons with developmental disabilities, which is not required to be licensed by the state; or
 - b. A group home for the aged for the exclusive use of up to eight (8) persons sixty (60) years of age or older per home, as defined in §§ 31-23-303(2)(B)(II), C.R.S.; or
 - c. A state-licensed group home for the exclusive use of up to eight (8) persons with mental illness, as that term is defined in §§ 27-10-102(8.5) and 31-32-303(2)(b.5), C.R.S.; or
 - d. A foster care home, as defined in §§ 26-6-102(4.5), C.R.S., for up to eight (8) children.
2. Type B.
 - a. A state-licensed residential child care facility, as defined in §§ 26-6-102(8), C.R.S., for five (5) or more but no more than eight (8) children; or
 - b. A family child care home, as defined in §§ 26-6-102(4), C.R.S., for two (2) or more but no more than six (6) children; or
 - c. A state-licensed assisted living residence, as defined in § 25-27-102(1.3), C.R.S., for three (3) or more but no more than eight (8) adults.

B. Use Standards

4.3.12. Nursing Care Home.

A. Defined

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A residential facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital to no more than nine (9) residents.

B. Use Standards

4.3.13. Nursing Care Facility.

A. Defined

A facility that is maintained primarily for the care, treatment, and dispensing or administration of medication to more than nine (9) inpatients including the aged, ill, injured, or infirm, on a twenty-four-hour basis, under the direction of a licensed physician or nurse.

A. Use Standards

4.4 PUBLIC, INSTITUTIONAL, AND CIVIC USES.

4.4.1 Government Administration and Civic Buildings.

A. Defined.

An office of a governmental agency that provides administrative and/or direct services to the public, such as, but not limited to: post offices, employment offices, libraries, museums, public assistance offices, or motor vehicle licensing and registration services.

B. Use Standards

4.4.2 Social, Fraternal Lodges.

A. Defined.

Buildings and facilities owned or operated by a corporation, association, person, or persons for a social, educational, or recreational purpose, to which membership is required for participation, and not primarily operated for profit nor to render a service that is customarily carried on as a business.

B. Use Standards

4.4.3 Public Assembly.

A. Defined.

A building or structure, or group of buildings or structures, intended primarily for the conducting of organized assembly, with membership not required for participation. Accessory uses may include meeting rooms and childcare provided for persons while they are attending assembly functions. Schools associated with assembly uses are not an accessory use.

B. Use Standards

4.4.4 Public Safety Facility.

A. Defined.

The conduct of publicly owned safety and emergency stations, such as, but not limited to, fire stations, police stations, and emergency medical and ambulance services.

1. Child Care Facilities.

2. Facilities that provide care for children on a regular basis away from their primary residence. Accessory uses include offices, recreation areas, and parking. This category does not include public or private schools or facilities operated in connection with an employment use, shopping center, or other principal use, where children are cared for while parents or guardians are occupied on the premises.

B. Use Standards

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4.4.5 Child Care Center.

A. Defined.

A facility, by whatever name known, that is maintained for the whole or part of a day, but less than twenty-four (24) hours for the care of six (6) or more children who are eighteen (18) years of age or younger and who are 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.

B. Use Standards

4.4.6 Day Care Home.

A. Defined.

Any child care arrangement in a residential setting that provides day care on a regular basis for less than twenty-four (24) hours per day for no more than twelve (12) children who are eighteen (18) years of age or younger, and who are unrelated to the home's occupants.

B. Use Standards

4.4.7 Health Care Facility.

A. Defined.

Health care uses are characterized by activities focusing on medical services, particularly licensed public or private institutions that provide primary health services and medical or surgical care to persons suffering from illness, disease, injury, or other physical or mental conditions. Accessory uses may include laboratories, outpatient, or training facilities, and parking, or other amenities primarily for the use of employees in the firm or building. Specific use types include, but are not limited to:

4.4.8 Hospital.

A. Defined.

A building or portion thereof for the accommodation of sick, injured, or infirm persons. Services regularly include the keeping of patients overnight.

4.4.9 Immediate Care Facility.

A. Defined.

A non-residential facility, whether public or private, principally engaged in providing on an emergency basis out-patient services for health diagnosis, treatment of human disease, pain, injury, or physical condition, by licensed physicians and nurses, and providing access for emergency vehicles. These facilities may also provide for the dispensing of pharmaceutical or medical supplies.

4.4.10 Medical or Dental Office or Clinic.

A. Defined.

An establishment primarily engaged in furnishing, on an outpatient basis, chiropractic, dental, medical, surgical, medical imaging, or other services to individuals, including the offices of chiropractors, physicians, dentists, and other health practitioners, medical and dental laboratories, outpatient care, and outpatient care facilities. Patients are not kept overnight except under emergency conditions.

Park and Open Space.

4.4.11 Athletic Fields and Courts.

A. Defined

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Land, often requiring equipment, designed for outdoor games and sports such as baseball, football, tennis, and soccer.

B. Use Standards

4.4.12 Community Garden.

A. Defined.

A public facility for cultivation of fruits, flowers, vegetables, or ornamental plants by more than one (1) person or family.

B. Use Standards

4.4.13 Open Space.

A. Defined.

An area that is not developable due to environmental constraints or on which development has been limited for aesthetic, environmental, or recreational purposes, not including golf courses.

B. Use Standards

4.4.14 Park.

A. Defined,

An area open to the general public and reserved for recreational, educational, or scenic purposes.

1. Educational Facilities.

2. Public, private, and parochial institutions at the primary, elementary, middle, high school, or post-secondary level, or trade or business schools, that provide educational instruction to students. Accessory uses include play areas, cafeterias, recreational and sport facilities, auditoriums, and before- or after-school day care. Specific use types include, but are not limited to:

B. Use Standards

4.4.15 College or University.

A. Defined.

A degree-granting institution, other than a trade school, that provides education beyond the high school level. The use includes, but is not limited to, classroom buildings, offices, laboratories, lecture halls, athletic facilities, and dormitories.

B. Use Standards

4.4.16 School.

A. Defined.

An educational institution that satisfies the applicable education laws of the State of Colorado for students in elementary or secondary grades.

B. Use Standards

4.4.17 Trade or Vocational School.

A. Defined.

A secondary or higher education facility primarily teaching usable skills that prepares students for jobs in a trade or in industry, construction, or commerce, and meeting all applicable state requirements for a facility of its type.

4.4.18 Cemetery.

A. Defined.

WORK SESSION DISCUSSION ITEMS I.1.

A burial ground for the interment of the human dead. This includes any burial ground or mausoleum.

B. Use Standards

4.4.19 Funeral Services.

A. Defined.

Any facility used for human funeral services, embalming and the performance of other services used in the preparation of the dead for burial, the performance of autopsies and other tests or surgical procedures on human remains. In addition to these functions, funeral services may also store caskets, funeral urns, hearses, and other vehicles used in funeral processions. Funeral services may also include a crematorium as an accessory use, provided the crematorium has no more than one incinerator.

B. Use Standards

4.5 COMMERCIAL USES.

4.5.1 Farming, traditional or ranch uses.

A. Defined.

Land in active agricultural or horticultural use.

4.5.2 Stables.

A. Defined.

A facility where horses are sheltered, fed, or kept for hire.

4.5.3 Kennel.

A. Defined.

Any facility where animals owned by another person are temporarily boarded for compensation; provided, however, that this definition shall not apply to zoos or to veterinary hospitals.

B. Use Standards

1. Outdoor runs are not allowed in the MU-C districts and shall not be located within one hundred (100) feet of any residential use or zoning district.

4.5.4 Veterinary Clinic/Hospital.

A. Defined.

A facility where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. Use as a kennel shall be limited to short-term boarding and shall be only incidental to the clinic/hospital use.

4.5.5 Financial Services.

A. Defined.

Establishments that provide retail banking services, mortgage lending, and similar financial services to individuals and businesses. This classification includes those institutions engaged in the on-site circulation of cash money and check-cashing facilities, but does not include bail bond brokers. Accessory uses may include automatic teller machines, offices, and parking. The use may or may not be allowed to have a drive-through facility, depending on the zone district.

B. Use Standards

4.5.6 Food and Beverage Services.

A. Defined.

WORK SESSION DISCUSSION ITEMS I.1.

Food and beverage service businesses serve prepared food or beverages for consumption on or off the premises. Accessory uses may include food preparation areas, offices, and parking. Specific use types include, but are not limited to:

B. Use Standards

4.5.7 Bar or Nightclub.

A. Defined.

A building or part of a building used primarily for the sale or dispensing of alcoholic beverages or liquor by the drink. Dancing and musical entertainment are permitted, subject to all applicable Town regulations.

B. Use Standards

4.5.8 Brewery/Distillery.

A. Defined.

An establishment where malt liquors or fermented malt beverages, spirits or other alcohol, including but not limited to, beer, fermented cider, or wine are manufactured that has a manufacturer's or wholesaler's license under the Colorado Liquor Code.

4.5.9 Restaurant, with drive-through.

A. Defined.

An eating/drinking establishment in which the principal business is the preparation and sale of foods or beverages to the customer in a ready-to-consume state and in which the design or method of operation of all or any portion of the business allows food or beverages to be served directly to the customer in a motor vehicle without the need for the customer to exit the motor vehicle.

B. Use Standards

4.5.10 Restaurant, without drive-through.

A. Defined.

An area or structure in which the principal business is the preparation and sale of foods and beverages to the customer in a ready-to-consume state. Operations may or may not include outdoor seating areas or outdoor food service, but the operation does not include a drive-through facility.

4.5.11 Bed and Breakfast.

A. Defined.

One (1) building containing no more than eight (8) sleeping rooms that are occupied or intended or designed to be occupied as temporary accommodations for persons who are lodged with or without meals, for compensation, but not including a trailer court or camp, hospital, asylum, orphanage, or correctional facility. A Bed and Breakfast shall be always occupied by the owner or site manager.

B. Use Standards

4.5.12 Campground, Guest Ranch, or RV Park.

A. Defined.

Any plot or parcel of real estate upon which two (2) or more recreational vehicle or campsites are located, established, maintained, or occupied for dwelling or sleeping purposes for the general public as temporary (not to exceed fourteen (14) days) living quarters for recreation or vacation purposes regardless of whether a charge is made for such accommodation. A campground is a parcel of land under single, unified, commercial ownership or control, within

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which spaces are rented or used by the ownership for occupancy by two (2) or more tents, recreational vehicles, cabin sites or travel trailers for nightly or short-term rental.

B. Use Standards

4.5.13 Hotel, Motel, or Lodge.

A. Defined.

A building or group of buildings containing nine (9) or more sleeping rooms that are occupied or intended or designed to be occupied as temporary accommodations for persons who are lodged with or without meals, for compensation.

B. Use Standards

4.5.14 Vacation Rental.

A. Defined.

The renting out of a furnished dwelling unit, or a portion thereof, for less than thirty (30) consecutive days per rental. Meals are not provided, although guests may have full access to kitchen facilities. Hotel, motel, or lodge rooms, B&B or inns are not considered a vacation rental.

1. Non-permanent Structure. Tent (or other temporary structure), trailer, truck, cart, etc.

2. Offices, business and professional. Business and professional office provide executive, management, administrative, or professional services, but not involving the sale of merchandise except as incidental to a permitted use. Typical examples include real estate, insurance, property management, investment, employment, travel, advertising, law, architecture, design, engineering, accounting, call centers, and similar offices.

Accessory uses may include cafeterias, health facilities, parking, or other amenities primarily for the use of employees in the firm or building.

B. Use Standards

4.5.15 Outdoor Commercial Establishment.

A. Defined.

A commercial operation that conducts business from an outdoor location such as mobile food vendor, mobile vendor of merchandise, sale of merchandise and/or services, and including special events, seasonal farmer's markets and other similar fresh food sales, temporary art, craft fairs, carnivals and festivals, seasonal holiday sales, and community events; operating from a cart, trailer, vehicle, tent, temporary structure or other outdoor configuration.

1. Mobile Vendor. A vendor that sells or attempts to sell any commodity or thing of value from a vehicle, push cart, wheeled cart, or other mobile equipment or implement on a transient basis at one or more locations within the Town.

B. Use Standards

4.5.16 Mobile Vendor Type A:

A. Defined.

A mobile vendor that sells goods from a vehicle in the public right-of-way and periodically stops outside of the flow of traffic on an as-needed basis to respond to immediate demand for goods. This type of mobile vendor includes but is not limited to ice cream trucks.

B. Use Standards

4.5.17 Mobile Vendor Type B:

A. Defined.

A mobile vendor that sells goods or services from a custom-constructed vehicle, cart or other moveable equipment on property outside the public right-of-way. This type of vendor may be located on a single property throughout the day or may move from one approved property to

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another for fixed periods during the day. This type of vendor includes but is not limited to food trucks or hot dog carts.

1. Seasonal. A seasonal outdoor commercial establishment is one that operate on a seasonal basis for up to nine (9) months per calendar year at location(s) identified in an approved outdoor commercial establishment permit on private property or public property, and allows operation from more than one (1) location as long as each location has been approved with a separate OCE permit application.

B. Use Standards

4.5.18 Special Event.

A. Defined.

A special event outdoor commercial establishment are those that operate within the boundaries of a Town-permitted special event with permission from the event coordinator.

B. Use Standards

4.5.19 Year-round.

A. Defined.

A year-round outdoor commercial establishment are those that operate year-round on an eligible existing developed property complying with site improvement standards as set forth in LUDC Articles 4, 5, 6, unless determined to be an eligible non-conforming development as defined under LUDC article 9, or an outdoor commercial establishment development set up specially for OCEs and approved under a Planned Development application specific to such OCE development and meeting the intent of LUDC Articles 4, 5, 6.

4.5.20 Dry Cleaning and Laundry Service.

A. Defined.

An establishment where laundry or dry cleaning is dropped off and picked up by customers, and that also includes on-site laundry and/or cleaning activities.

B. Use Standards

4.5.21 General Personal Services.

A. Defined.

An establishment, whether for consideration or not, that provides care, advice, aid, maintenance, repair, treatment, or assistance, not including the practice of a profession and the wholesale or retail sale of goods. Examples include, but are not limited to, shoe repair, beauty and barber shops, massage therapy, tanning salons, and dry cleaning pick-up and drop-off shops that do not conduct cleaning on the premises.

B. Use Standards

4.5.22 Recreation and Entertainment, Indoor.

A. Defined.

Indoor recreation and entertainment uses provide recreation or entertainment activities within an enclosed environment. Accessory uses may include concessions, snack bars, parking, and maintenance facilities. Specific use types include, but are not limited to:

4.5.23 Adult Entertainment.

A. Defined.

Entertainment that is distinguished or characterized by an emphasis on material depicting, describing, or relating to specified sexual activities or specified anatomical areas. Uses shall include, but shall not be limited to, the following:

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1. Adult Bookstore: An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other periodicals and goods and items held for sale which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas, or an establishment with a segment or sections devoted to the sale or display of such material.
 2. Adult Photo Studio: An establishment that, upon payment of a fee, provides on-premises photographic equipment, services, and/or models for the purpose of photographing specified anatomical areas.
 3. Adult Theater: A theater used for the presentation of material distinguished or characterized by an emphasis on material depicting, describing, or relating to specified sexual activities.
- B. Use Standards
1. All adult entertainment uses must be located at least one thousand (1,000) feet away from all churches, schools, residential neighborhoods, and any use frequented by children (e.g., library, cinema, etc.).
- 4.5.24 Art Gallery.
- A. Defined.
- Any permanent facility for the collection and display of objects of art.
- 4.5.25 Movie Theatre.
- A. Defined.
- An indoor theater for the showing of motion pictures.
- 4.5.26 Recreation and Entertainment, Outdoor.
- A. Defined.
- Outdoor recreation and entertainment uses provide recreation or entertainment activities outside of an enclosed environment. Accessory uses may include concessions, snack bars, parking, and maintenance facilities. Specific use types include, but are not limited to:
- 4.5.27 General Outdoor Recreation, commercial.
- A. Defined.
- Intensely developed recreational uses such as amusement parks, miniature golf courses, commercial tennis courts, batting cages, skateboard or skate parks or courses, bicycle motocross courses, water parks or slides, drive-in movie theaters, and archery facilities.
- B. Use Standards
1. In all districts requiring a conditional use permit application, the application shall be considered by the Planning Commission, as set forth in section 2.4.4, at a public hearing with public notifications as set forth in section 2.3.6
- 4.5.28 Golf Course or Driving Range.
- A. Defined.
- A tract of land laid out with a course having nine (9) or more holes for the playing of golf, including any accessory clubhouse, driving range, offices, restaurant, concession stand, picnic tables, pro shop, maintenance facilities, or similar accessory uses or structures.
- 4.5.29 Greenhouse or Nursery, commercial.
- A. Defined.
- Land or green houses used to raise flowers, shrubs, and plants for sale.

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4.5.30 Grocery Store.

A. Defined.

A retail establishment primarily selling prepackaged and perishable food as well as other convenience and household goods.

B. Use Standards

1. In the MU-R district, the use is limited to a four thousand (4,000) square feet maximum.

4.5.31 Liquor Store.

A. Defined.

A retail establishment licensed to sell alcoholic beverages such as beer, wine, and liquor. No on-site consumption is allowed.

B. Use Standards

1. In the MU-TC district, liquor stores shall not have any drive-through facilities.

4.5.32 Peddling and Vending.

A. Defined.

Selling, offering for sale, or soliciting orders for goods or services or distributing, disseminating, or gathering information by written or spoken word upon the streets, sidewalks, or alleys of the Town, or by going from place to place in a mobile nature, whether by foot or by other means of transportation.

4.5.33 Retail, general.

A. Defined.

A commercial enterprise that provides goods directly to the consumer, where such goods are available for immediate purchase and removal from the premises by the consumer. Examples include, but are not limited to, apparel shops, appliance sales, auto parts store, bait shops, bakeries, bookstores, convenience stores without gas pumps, department stores, factory outlet stores, florists, and souvenir shops. This use does not include commercial greenhouses, grocery stores, or liquor stores.

4.5.34 Special Event.

A. Defined.

A special event is an organized commercial event held on private or public property for up to ten (10) days that has been permitted by the Town. Special events include admission-based events and open to the general public events. Special events include, but are not limited to: live music/performance events, commercial entertainment, fairs, festivals, carnivals, athletic competitions, and other events that create the need for coordination with the Town and other entities to ensure event impacts are mitigated.

4.5.35 Temporary Structure.

A. Defined.

A structure without any permanent foundation or footings and that is removed when the designated and permitted time period, activity, or use for which the temporary structure was approved has ceased.

4.5.36 Undeveloped Property.

A. Defined.

A property that does not contain a primary structure and the required site development improvements as is required under Articles 4, 5 and 6.

B. Use Standards.

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1. Vehicles and Equipment. Vehicles and equipment uses include a broad range of uses for the maintenance, sale, or rental of motor vehicles and related equipment. Accessory uses may include incidental repair and storage and offices. Specific use types include, but are not limited to:
 - a. Parking Lot. An open, hard-surfaced area, other than a street or public way, to be used for the temporary storage of operable vehicles, and available to the public, whether for compensation or for free. This use type does not include off-street parking that is provided as accessory to principal use. For the purposes of this Land Use Code, parking structures shall also be considered parking lots. Parking structures are structures designed to accommodate vehicular parking spaces that are fully or partially enclosed or located on the deck surface of a building. This definition includes parking garages and deck parking.
 - b. Gasoline Sales. Any area used for retail sales of gasoline or other fuels, or automobile accessories and incidental services.
 - c. Vehicle Sales and Rental. An establishment engaged in the display, sale, leasing, or rental of new or used motor vehicles. Vehicles included, but are not limited to, automobiles, light trucks, vans, trailers, recreational vehicles, motorcycles, personal watercraft, utility trailers, all-terrain vehicles, and mobile homes.
 - i. Vehicle Service and Repair. An establishment engaged in the repair and maintenance of motor vehicles.

4.6 MARIJUANA USES.

4.6.1 Marijuana Club. A. Defined.

An entity or place of assembly that allows members and their guests, or any other persons, to consume marijuana or marijuana products whether for-profit or not-for-profit. Marijuana clubs shall not include social gatherings within a residential zoning district of adults twenty-one (21) years of age and older as guests of a resident at the location, where a fee is not charged, goods are not sold, and no profit is made by the individual hosting the gathering.

4.6.2 Marijuana Cultivation Facility. A. Defined.

Shall have the same meaning as set forth in Article XVIII, Section 16(2)(h) of the Colorado Constitution.

4.6.3 Marijuana Establishment. A. Defined.

Shall have the same meaning as set forth in Article XVIII, Section 16(2)(i) of the Colorado Constitution.

4.6.4 Marijuana Product Manufacturing Facility. A. Defined.

Shall have the same meaning as set forth in Article XVIII, Section 16(2)(j) of the Colorado Constitution.

4.6.5 Marijuana Testing Facility. A. Defined.

Shall have the same meaning as set forth in Article XVIII, Section 16(2)(l) of the Colorado Constitution.

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4.6.6 Retail Marijuana Store.

A. Defined.

Shall have the same meaning as set forth in Article XVIII, Section 16(2)(n) of the Colorado Constitution.

4.7 INDUSTRIAL USES.

4.7.1 Building Materials Sales.

A. Defined.

An establishment for the sale of materials, hardware, and lumber customarily used in the construction of buildings and other structures, including facilities for storage. Operations may be indoor and/or outdoor.

4.7.2 General Industrial Service.

A. Defined.

All other industrial service establishments not listed within one (1) of the other enumerated use types. Examples include: construction materials storage; welding shops; machine shops; electric motor repair; repair, storage, salvage, or wrecking of heavy machinery; and heavy truck servicing and repair.

1. Natural Resource Processing.

2. The development or extraction or processing of a rock, mineral, or timber product.

- a. Manufacturing and Production. This use category includes firms involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, constructed, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Custom industry is included (i.e., establishments primarily engaged in the on-site production of goods by hand manufacturing involving the use of hand tools and small-scale equipment). Goods are generally not displayed or sold on site, but if so, such activity is a subordinate part of sales. Relatively few customers come to the manufacturing site. Accessory activities may include retail sales, offices, cafeterias, parking, employee recreational facilities, warehouses, storage yards, repair facilities, truck fleets, and caretaker's quarters. Specific use types include, but are not limited to:

4.7.3 Assembly, light.

A. Defined.

An establishment engaged only in the assembly of goods. No manufacturing of parts occurs. Goods are shipped to the establishment, assembled, packaged, and reshipped.

4.7.4 Manufacturing, heavy.

A. Defined.

An establishment engaged in the manufacture or compounding process of raw materials. Such activities may include the storage of large volumes of highly flammable, toxic matter or explosive materials needed for the manufacturing process. Examples include, but are not limited to: refining or initial processing of raw materials; rolling, drawing, or extruding of metals; asphalt batching plants; sawmills; meat slaughtering or packing house; and manufacture or packaging of cement products, feed, fertilizer, flour, glue, paint, petroleum products, soap, turpentine, varnish, charcoal, or distilled products.

4.7.5 Manufacturing, light.

A. Defined.

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An establishment engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing. Examples include, but are not limited to: airplane, automobile, or truck assembly, remodeling, or repair; bottling works; boat building, machine or blacksmith shops; metalworking or welding shops; paint shops; and printing and publishing shops.

4.7.6 Artisanal/Craft Manufacturing.

A. Defined.

Establishments manufacturing and/or assembling small products primarily by hand, including jewelry, pottery, ceramics, small glass, metal art, and craft products.

4.7.7 Warehouse and Freight Movement.

A. Defined.

Firms involved in warehouse and freight movement are engaged in the storage or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some will call pickups. There is little on site sales activity with the customer present. Accessory uses may include offices, truck fleet parking, and maintenance areas. Specific use types include, but are not limited to.

4.7.8 Mini-storage.

A. Defined.

A building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual, compartmentalized, and controlled access stalls or lockers for the storage of customers' goods or wares.

1. Storage Yard. Any lot or portion of a lot that is used for the sole purposes of the outdoor storage of fully operable motor vehicles, construction equipment, construction materials, or other tangible materials and equipment.
2. Warehouse. A structure containing an area available for the purpose of storing raw materials, goods, or property.
3. Wholesale Establishment. An establishment primarily engaged in the sale or distribution of goods and materials in large quantity to retailers or other businesses for resale to individual or business customers. This shall not include heavy manufacturing, resource extraction, bulk storage of hazardous materials, or scrap or salvage operations.

B. Use Standards

1. All mini-storage buildings shall set back at least one hundred (100) feet from highways, frontage roads, and major arterials.

4.7.9 Telecommunications.

A. Defined.

Telecommunications facilities transmit analog or digital voice or communications information between or among points using electromagnetic signals via antennas, microwave dishes, and similar structures. Supporting equipment includes buildings, shelters, cabinets, towers, electrical equipment, parking areas, and other accessory development.

4.7.10 Waste and Salvage.

A. Defined.

Waste and salvage firms receive solid or liquid wastes from others for disposal on the site or for transfer to another location. The category includes uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the composting of organic material

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or processing of scrap or waste material. Waste and salvage uses also include uses that receive hazardous wastes from others. Accessory uses may include recycling of materials, offices, and repackaging and shipment of by-products. Specific use types include, but are not limited to:

4.7.11 Salvage or Junk Yard.

A. Defined.

A parcel used for storage of non-operable vehicles (autos, commercial equipment, RV's, etc.) or scrap materials (steel, lumber, miscellaneous materials, etc.). A salvage yard must be completely fenced with all accesses secured from the public.

B. Use Standards

1. All site boundaries shall be fenced with a sight-obscuring fence at least eight (8) feet tall. No fencing shall be required on the portion of site boundaries where a structure abuts the lot line. The design of the fence shall be compatible with the surrounding properties and shall be approved by the Director.

4.8 ACCESSORY/MISCELLANEOUS USES AND STRUCTURES.

4.8.1. PURPOSE

This Section authorizes the establishment of accessory/miscellaneous uses that are incidental and customarily subordinate to principal uses. An accessory use is "incidental and customarily subordinate" to a principal use if it complies with the standards established in this Section.

4.8.2. APPROVAL OF ACCESSORY/MISCELLANEOUS USES AND STRUCTURES

All principal uses allowed in a zoning district shall include those accessory uses, structures, and activities typically associated with the use, unless specifically prohibited in this Section. Section 11.3, Definitions of General Use Categories and Specific Use Types, identifies typical accessory uses associated with principal uses as part of the principal use definition. All accessory uses shall be subject to the standards in this Section 4.3, as well as any use-specific standards applicable to the associated principal use established in Section 4.2 above.

4.8.3. GENERAL STANDARDS FOR ALL ACCESSORY/MISCELLANEOUS USES AND STRUCTURES

All accessory uses and structures shall comply with the general standards in this Section 4.3.3.

A. Compliance with this Land Use Code.

1. All accessory uses and structures are subject to the dimensional requirements of Article 5 as well as the development standards in Article 6. In the case of any conflict between the accessory use/structure standards of this Section and any other requirement of this Land Use Code, the more restrictive standards determined by the Director shall apply.
2. Accessory uses shall comply with all standards of this Land Use Code applicable to the principal use with which they are associated. Parking requirements shall be met for both the principal use and any accessory use.
 - a. All accessory structures shall be consistent in design and appearance as the principal structure on the property, including color, materials, roofing, orientation, etc.
 - b. All accessory structures require a building permit prior to construction or placement.

B. Dimensional standards for accessory buildings and structures.

1. Same lot. The accessory use or structure shall be conducted and/or located on the same lot(s) as the principal use.
2. Size. Except in the R-A and R-T districts, the maximum size of any accessory building shall be one thousand (1,000) square feet unless otherwise approved by planned development or otherwise stated in this Section. No accessory building shall be constructed until the

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construction of the main building has been commenced, and no accessory building shall be used unless the main building is also being used.

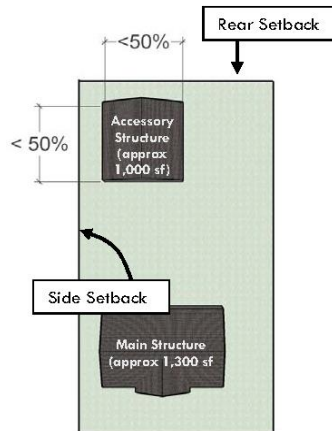


Figure 4-1: Accessory structures cannot exceed 1,000 square feet or occupy more than 50% of the required rear and side yard setback combined.

3. Percentage of required setbacks occupied. Unless otherwise specified in this Land Use Code, detached accessory buildings shall occupy no more than fifty (50) percent of the area of the required side and rear setbacks combined.
- C. Same ownership required. The principal use and the accessory use shall be under the same ownership.
- D. Same utility meter required. The principal use and the accessory use shall utilize the same utility meter except for an approved accessory dwelling unit.
- 4.8.4. ADDITIONAL STANDARDS FOR SPECIFIC ACCESSORY USES AND STRUCTURES**
The specific standards of this Section 4.3.4. shall apply in addition to the general standards of Section 4.3.3. In the event of conflict, the more restrictive standard determined by the Director shall apply.
- 4.8.5 Accessory Dwelling Unit.**
- A. Defined.
A subordinate dwelling unit either attached to a detached single-family principal dwelling or located on the same lot and having an independent means of access.
 - B. Use Standards.
 1. Size/area. An accessory dwelling unit shall be no more than seventy-five (75) percent of the gross floor area of the primary residential dwelling unit structure and a maximum of eight hundred (800) square feet, whichever is smaller.
 2. Accessory dwelling units shall be connected to the same utilities as the primary dwelling unit, unless determined by the Director to be infeasible.
- 4.8.6 Accessory Structure.**
- A. Defined.

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A building detached from a principal building located on the same lot and customarily incidental and subordinate to the principal building or use.

4.8.7 Accessory Use.

A. Defined.

A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.

4.8.8 Cargo Shipping Containers.

A. Defined.

An enclosed metal space that stores materials and products that is easily transportable by a freight train, commercial truck, or cargo ship. This use may be repurposed for residential development.

B. Use Standards.

1. Cargo shipping containers shall comply with Article 4 of this LUDC.
2. Cargo shipping containers may be repurposed for residential development pursuant to the following requirements.
 - a. Metal building materials shall not exceed 50% of the front façade.
 - b. Metal building materials shall not exceed 75% of the rear and side façades.
 - c. A front porch of at least 50 square feet shall be provided.
3. Cargo shipping containers in the Commercial District, Mixed-Use Corridor District and Mixed-Use Town Center District, are limited to three hundred twenty (320) square feet, unless otherwise approved with a conditional use permit pursuant to Section 2.4.4.
4. Cargo shipping containers in the Downtown Business and Lodging Overlay District and Downtown East Village Overlay District, are limited to one hundred sixty (160) square feet, unless otherwise approved with a conditional use permit pursuant to Section 2.4.4.
5. Cargo shipping containers in the Public/Quasi Public District, are limited to one hundred sixty (160) square feet, unless otherwise approved with a conditional use permit pursuant to Section 2.4.4.
6. Cargo shipping containers in place in any zoning district at the time of this Code amendment, are considered nonconforming and shall comply with Article 9, unless the container was placed in violation of the LUDC or building code adopted at the time of placement.

4.8.9 Farmer's Markets.

A. Defined.

An occasional or periodic open air market where items such as fresh produce, seasonal fruits, and fresh flowers are offered for sale directly to the consumer. A farmers market may also include accessory sales of value-added food products such as jams, jellies, pickles, sauces, or baked goods, arts and craft items, and prepared food and beverages. The phrase "farmers market" does not include the sale of second-hand goods or commercially produced or packaged goods.

4.8.10 Food Trucks.

A. Defined.

A food establishment that reports to and operates from a commissary and is readily moveable, is a motorized wheeled vehicle, or a towed wheeled vehicle, designed and equipped to serve food.

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4.8.11 Home Occupation.

A. Defined.

A commercial activity conducted in a residential zone district that complies with the home occupation standards of this Land Use Code as set forth in Section 4.3.4.B.

B. Use Standards.

1. Location. The home occupation shall be conducted in the home or an accessory building on the same lot by a resident of the primary dwelling.
2. Size/area. The business or service located within the dwelling or an associated accessory building shall not exceed fifty (50) percent of the combined floor area of the structures.
3. Employees and residency. The principal person(s) providing the business or service shall reside in the dwelling on the premises. There shall be no more than one (1) employee in addition to the resident(s) of the primary dwelling unit; at least one (1) additional off-street parking space shall be provided for such employee.
4. Neighborhood compatibility.
 - a. The home occupation shall cause no change in the external appearance of the existing buildings and structures on the property.
 - b. All vehicles used in connection with the home occupation shall be of a size, and located on the premises in such a manner, so that a casual observer or a person of normal sensibilities will not be able to detect any sign of the premises being used as a home occupation. No vehicle larger than one (1) ton shall be kept on the premises.
 - c. No parking areas shall be located in the front setback or side setback.
 - d. The property shall contain no outdoor display or storage of goods or services that are associated with the home occupation.
 - e. Wholesale or retail sales of goods shall not occur on the premises.
 - f. The home occupation shall not create traffic or parking congestion, noise, vibration, odor, glare, fumes, or electrical or communications interference that can be detected by the normal senses off the premises, including visual or audible interference with radio or television reception.
5. Prohibited home occupations. The following uses, because of their impacts on the surrounding residential area, shall not be permitted as home occupations: auto repair or motorized implement repair; dance, music or other types of instruction (if more than four (4) students are being instructed at one (1) time); dental offices; medical offices; the painting of vehicles, trailers or boats; private schools with organized classes; motor vehicle towing operation; barber or beauty shops having more than one (1) chair; welding shops; nursing homes; bed and breakfast and other such transient lodging, or any other home occupation that, in the sole opinion of the Director, will have negative impacts on the neighborhood.

4.8.12 Outdoor Display and Sales.

A. Defined.

The display and sale (or rental) of products and services primarily outside of a building or structure that houses an existing, licensed business including, but not limited to, vehicles, garden supplies, gas, tires, motor oil, food and beverages, boats and aircraft, farm equipment, motor homes, burial monuments, building and landscape materials, and lumber. Such uses are part of or related to the principal use, and shall not exceed 25 percent of the gross floor area of the principal structure.

B. Use Standards.

1. Procedural requirements. Outdoor display and/or sale shall require approval of the Director. All new development plans must show the location of such areas in accordance with this

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Section. Existing non-residential uses must submit a plan showing the location of the outdoor display or sales areas and how the requirements of this Section are to be met. Approval may be subject to appropriate conditions by the Director.

2. Where permitted.
 - a. All outdoor display of goods shall be located immediately adjacent to the storefront and not in drive aisles, loading zones, fire lanes, or parking lots.
 - b. The area used for outdoor display or sales shall not occur on the sides and rear of buildings and shall be limited to no more than one-quarter ($\frac{1}{4}$) of the length of the store front, unless increased by the Director after taking into account aesthetic and safety concerns or other relevant factors. In the case of a shopping center, the "storefront" shall include the entire frontage of the shopping center, meaning that the total amount of display for all the in-line tenants combined shall not exceed twenty-five (25) percent of the aggregate store front of the overall shopping center.
 - c. No goods shall be attached to a building's wall surface.
 - d. The height of the outdoor display shall not exceed six (6) feet, unless the Director grants an exception to this provision.
 - e. The outdoor display area shall take place on an improved surface such as the sidewalk or pavement.
 - f. No outdoor displays shall be allowed in required landscape areas.
3. No pedestrian obstruction. At least five (5) feet along the parking lot side of the display shall be maintained free of obstruction to allow for pedestrian and handicap movement, such that handicapped pedestrians and others do not have to enter the parking lot or drive aisle to walk around the display.

4.8.13 Outdoor Storage.

A. Defined.

The storage of products and services primarily outside of a building or structure that houses an existing, licensed business including, but not limited to, vehicles, garden supplies, gas, tires, motor oil, food and beverages, boats and aircraft, farm equipment, motor homes, burial monuments, building and landscape materials, and lumber. Such uses are part of or related to the principal use, and shall not exceed 25 percent of the gross floor area of the principal structure.

1.6. TEMPORARY USES AND STRUCTURES

1.6.1. PURPOSE

This Land Use Code establishes certain temporary uses for limited duration, provided that those uses comply with the general and specific standards of this Section.

1.6.2. TEMPORARY USES AND STRUCTURES ALLOWED

The following temporary uses are allowed and shall comply with the general standards of Section 4.4.3.

- A. A dwelling unit situated on a lot, parcel, or tract, along with a primary dwelling unit, that provides a temporary residence for the residents of the associated primary dwelling unit that (i) has been deemed uninhabitable due to fire, flood or other disaster, or (ii) is under construction or undergoing substantial repairs or reconstruction. The temporary residence is allowed on the lot, parcel or tract only while the primary residence is undergoing new construction or repair. A temporary dwelling unit may also include a residence located on a nonresidential construction site and occupied by persons having construction or security responsibilities over such

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construction site. The temporary residence is to be removed from the lot, parcel or tract upon completion of such construction.

- C. Retail sales of products, including but not limited to Christmas trees, nursery products, agricultural produce, or fireworks, in any nonresidential district for a period not to exceed the number of days specified in the temporary use permit (Section 2.4.10 of this Land Use Code). Display of products need not comply with the setback requirements of this Land Use Code provided that no display shall be located within an area restricted by the vision clearance area requirements of Section 5.2.3.
- D. Temporary office space and equipment storage when accessory to an approved construction project, including sales offices on residential development sites are allowed. These uses shall be located on the site no more than thirty (30) days prior to the start of construction and removed no more than thirty (30) days after completion of such project, or in the case of sales offices on residential development sites, removed when all houses or units are sold or leased.
- E. Expansion or replacement facilities, consisting of transportable buildings that are pre-constructed and arrive at the site ready for occupancy and are readily removed and installed at other sites. Such facilities may include, but are not limited to, the following:
 - 1. Expansion of existing religious assembly facilities, health care facilities, and government offices following the approval of filed plans and applications for the permanent alteration/expansion of these facilities.
 - 2. Temporary classroom space for existing schools.
 - 3. Temporary office space for construction and security personnel during the construction of an approved development for which a grading or building permit has been issued.
 - 4. Temporary space for recreational uses provided in connection with an approved residential development under construction.
 - 5. Temporary space for a residential or non-residential use following the destruction of a building by fire or other catastrophic event.
 - 6. Temporary office space (one (1) per site) for hiring, membership solicitation, apartment office/leasing, and general office use following the issuance of a building permit for the construction of a permanent office building.
- F. The Director may approve other temporary uses or structures using the process established in Section 4.1.3., Classification of New and Unlisted Uses.
- G. Cargo shipping containers may be allowed for temporary use and placement in all districts, with an approved temporary use permit, issued pursuant to section 2.4.10. A temporary use permit shall be valid for a maximum of one hundred eighty (180) days, with a maximum of three hundred sixty (360) days consecutive use allowed. The applicant must demonstrate the need for such temporary use in their application.

1.6.3. GENERAL REQUIREMENTS FOR ALL TEMPORARY USES AND STRUCTURES

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

- A. The temporary use or structure shall not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare.
- B. The temporary use shall comply with all applicable general and specific regulations of this Section 4.4. unless otherwise expressly stated.
- C. Permanent alterations to the site are prohibited.

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- D. All temporary signs associated with the temporary use or structure shall be properly permitted and removed when the activity ends or permit expires, whichever occurs first.
 - E. The temporary use or structure shall not violate any applicable conditions of approval that apply to a principal use on the site.
 - F. The temporary use regulations of this Section do not exempt the applicant or operator from any other required permits, such as Health Department permits.
 - G. If the property is undeveloped, it shall contain sufficient land area to allow the temporary use or structure to occur, as well as any parking and traffic circulation as required that may be associated with the temporary use, without disturbing sensitive or protected resources, including required buffers, one hundred-year floodplains, river protection setbacks, and required landscaping. At the conclusion of the temporary use or at expiration of the permit, whichever occurs first, all disturbed areas of the site shall be restored or improved to the condition that existed prior to the use.
 - H. If the property is developed, the temporary use shall be located in an area that is not actively used by an existing approved principal use, and that would support the proposed temporary use without encroaching or creating a negative impact on existing buffers, open space, landscaping, traffic movements, pedestrian circulation, or parking space availability.
 - I. Tents and other temporary structures shall be located so as not to interfere with the normal operations of any permanent use located on the property, shall be anchored, and meet the requirements of the Building Official, including fire rating.
 - J. Off-street parking shall be adequate to accommodate the proposed temporary use.
 - K. Applications for temporary structures to be located in the one hundred-year floodplain shall be required to submit a plan to the Building Department for the removal of such structure(s) in the event of a flood notification. The plan shall include the following information:
 - 1. The name, address, and phone number of the individual responsible for the removal of the temporary structures and the property owner;
 - 2. The time frame prior to the event at which a structure will be removed; and
 - 3. A plan to remove the temporary use earlier than the scheduled removal date, if required.
- 1.6.4. OUTDOOR COMMERCIAL ESTABLISHMENTS
- A. *Purpose.* An outdoor commercial establishment permit allows for a transient, mobile or temporary commercial use and/or non-permanent commercial structures not otherwise allowed under the Town's development design criteria or building permit regulations, to locate within the Town in a zone district in which such use is currently allowable, on non-residential property with the owner's consent. This section is intended to allow outdoor commercial establishments which contribute to the pedestrian and small mountain Town atmosphere of the Town by permitting certain outdoor commercial uses in zoning districts in which the proposed use is currently allowed as defined under table 4.1-1.
 - B. *Permit Approval.* It shall be unlawful to construct, erect, use, or to cause to be constructed, erected, changed, or used, in any zoning district of the Town, any outdoor commercial establishment structure, or mobile equipment, or to engage in an outdoor commercial establishment use, unless and until an approved Outdoor Commercial Establishment Permit Application has been approved by the Planning Director as provided in LUDC Section 2.4.10. and 4.4.4., and including a business license issued by the Town Clerk. At the discretion of the Planning Director, any Outdoor Commercial Establishment Permit application may be referred to the Planning Commission and/or Building Code Official for additional approval consideration.
 - C. *Permitted Uses.*
 - 1. Outdoor commercial establishment allowed structures include, and are limited to the following: mobile cart, trailer or truck; non-permanent structure like a tent or temporary placed structure; or other similar outdoor configuration.

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2. Outdoor commercial establishment uses are limited to those currently allowed in Table of Allowable Uses. 4.1-1 for the zoning district the proposed establishment is located, unless otherwise approved by Town Council for public spaces. Uses include: mobile vendors of food, merchandise, or services; commercial sales of food, merchandise, or services from a non-permanent structure; mobile vendors of food, merchandise or services such as for sidewalk sales; and other special events, seasonal farmer's markets and other similar fresh food sales; temporary art and craft fairs; festivals; carnivals and community events.
 3. Seasonal commercial outdoor establishments are limited to nine (9) months of operation per calendar year.
 4. Seasonal and year-round commercial outdoor establishments shall be in operation a minimum of eight (8) days per month and shall limit non-operational periods to no more than thirty (30) consecutive days.
 5. Special Event commercial outdoor establishments operating within the boundaries of a permitted Special Event, are exempt from the Outdoor Commercial Establishment Permit application requirements under this Section, however, still require applicable Town business license, State sales tax license, Health Department license and other required permits or license as required.
 6. Camping and overnight parking is prohibited.
 7. Storage of equipment, vehicles and items not associated with the Outdoor Commercial Establishment is prohibited.
- D. *Permit Application Submittals.*
1. An Outdoor Commercial Establishment Permit application shall include a site map showing:
 - a. Property lines,
 - b. Location of proposed establishment with setback distances from property lines noted,
 - c. Points of access and circulation patterns for vehicles and pedestrians,
 - d. Existing parking spaces and those dedicated for the establishment's use,
 - e. Location of existing structures on the lot,
 - f. Proposed signage,
 - g. Trash receptacles,
 - h. Seating areas,
 - i. Photos of proposed structures and/or mobile equipment, and
 - j. Any other information as required by the Director.
 2. Written description explaining:
 - a. The nature of the proposed outdoor commercial establishment,
 - b. Types of structures or mobile equipment proposed,
 - c. Hours of operation,
 - d. Time period requested, and
 - e. Any other information that is requested by the Director for purposes of evaluating the application,
 3. Evidence of Town business license, and other required license and permits as may be applicable, for example, a State of Colorado sales tax license, San Juan Basin Health Department license, Department of Regulatory Agency license, etc.

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4. Written agreement from the property owner which contains the owners name, contact information and terms operation.
 5. Payment of application fees.
 6. For public property locations, proof of liability insurance and if determined necessary by the Town Council, financial security may be required for to ensure compliance with any and all conditions of approval and/or to restore the subject property to its original use and condition.
- E. *Permit Review Criteria.* The Planning Director shall approve an application if all of the foregoing and following applicable criteria and specific regulations are met or may deny an application for failure to meet the foregoing or following applicable criteria and specific regulations, or may impose such conditions of approval as may be necessary for approval of an Outdoor Commercial Establishment Permit application to ensure that all of the following applicable criteria and specific regulations are met:
1. Allowance of outdoor commercial establishment will not be detrimental to the public health, safety, or general welfare, and the outdoor commercial establishment is compatible with the purpose and intent of this article and the specific zoning district in which the outdoor commercial establishment is proposed.
 2. The outdoor commercial establishment is compatible in intensity of use, characteristics, and appearance with the existing land uses in the immediate vicinity of the proposed location. The use, value, and qualities of the neighborhood surrounding the proposed location will not be adversely affected by the outdoor commercial establishment or activities within it. Factors such as location, access, traffic generation, noise, lighting, parking, dust control, site maintenance, hours of operation, as well as height, size, and appearance will be considered.
 3. The applicant shall provide as part of their application written consent from the property owner. If the outdoor commercial establishment is to be located partially or entirely on Town property, approval of the Town Council is required.
 4. Adequate parking is to be provided to serve the outdoor commercial establishment and must not be located on or displace required parking spaces, including offsite spaces, seasonal snow storage areas (from October 31st to April 15th) or loading areas of the existing principal permitted uses on the site. Required parking will be calculated based on the Town's parking requirements in Section 6.9 of the LUDC (unless the establishment is in close proximity to public parking areas along San Juan Street and Pagosa Street, between 1st Street and 8th Street). Parking required for the outdoor commercial establishment shall be paved unless the applicant provides a method to minimize air pollution or dust on the property and on adjacent properties.
 5. All lighting proposed for the outdoor commercial establishment shall meet the requirements of Section 6.11, Exterior Lighting. Spot lights shall not be permitted.
 6. Outdoor commercial establishments shall not be located within the public right-of-way, Town-owned park, parking lot, Riverwalk or other Town owned property without the prior approval of the Town Council. For outdoor commercial establishments on Town-controlled property, at the discretion of the Town Council, financial security may be required to ensure compliance with any condition of approval and/or to ensure that the subject property is restored to its original use and condition. Proof of liability insurance is required.
 7. No outdoor commercial establishment will be approved in a residential zoning district or in an area where exclusively residential uses exist.
 8. Outdoor commercial establishments shall provide for trash disposal, removal of trash and site cleaning daily.
 9. An outdoor commercial establishment is limited to a maximum of ten (10) square feet of signage, including any banners, and such signage may not be affixed to any building. An A-frame sign limited to five (5) square feet per side may also be permitted to be placed on the ground with a separately approved sign permit application. No other items intended to draw

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attention to the outdoor commercial establishment are permitted (such as balloons, flags, feather banners, etc.). All other requirements of LUDC Section 6.12 as amended from time to time, shall apply.

10. Before an outdoor commercial establishment may begin operating, the applicant's business must have a valid business license from the Town Clerk's office which, which may include if applicable evidence of State of Colorado Sales Tax License, San Juan Basin Public Health License and Colorado Department of Regulatory Agency license.
11. Prior to tents and other temporary structures being erected, special approval from the Building Code Official is required regarding structural capacity, fire safety issues and snow loading concerns among other code requirements.
12. All equipment, vehicles and trailers shall be removed from the site at the end of the OCE permit term.
13. A development application for and an approval of an outdoor commercial establishment shall not constitute nor be interpreted by any property owner, applicant or court as a site-specific development plan entitled to vesting under Article 68 of Title 24 of the Colorado Revised Statutes. Outdoor commercial establishments shall be considered transitory at all times and shall not vest.
14. The failure of an applicant to adhere to any condition of approval for an outdoor commercial establishment shall result in the immediate forfeiture of approval and such establishment and the use of any accompanying structure or equipment shall immediately cease and may be subject to abatement as a public nuisance as provided for in the Code of the Town of Pagosa Springs.

(Ord. No. 828, § 1, 10-22-2015; Ord. No. 941, § 1, 10-6-2020)

ARTICLE 5: - HISTORIC PRESERVATION

5.1. - PURPOSE AND APPLICABILITY

5.1.1. PURPOSE

The purpose of this Article is to recognize, protect, and promote the retention and use of historic sites and districts within the community by:

- A. Identifying and designating Historic Landmarks and Historic Districts to ensure the preservation of Pagosa Springs' historic character as a timber, logging and livestock Town, as well as a hot springs destination and a regional economic and cultural center.
- B. Promoting the cultural, educational, and economic welfare of Pagosa Springs through the preservation of historic structures and areas, the stabilization of historic neighborhoods and the preservation of the historic and cultural character of the community.
- C. Creating a means to draw a reasonable balance between private property rights and the public interest in preserving the unique historical and cultural character of Pagosa Springs.
- D. Ensuring that alteration, relocation, or demolition of a property of historic value is carefully considered for its impact on the property's historic and cultural contribution to Pagosa Springs' heritage.
- E. Increasing economic and financial benefits to the Town and owners of historic properties while protecting and improving the attractiveness of the Town, as a result of the preservation of the historic and cultural character of the community.
- F. Fostering civic pride in the beauty and noble accomplishments of the past, as represented in Pagosa Springs' Historic Landmarks and Historic Districts.
- G. Retaining and enhancing the value of those properties and architectural features that contribute to the character of Historic Landmarks and Historic Districts (as well as those found outside of the Historic District), and encouraging their adaptation for current use.
- H. Encouraging the maintenance and upkeep of historic resources.
- I. Educating citizens and visitors about the history of the local and regional community, the value of preserving historic properties and the materials and methods of preservation.

5.1.2. APPLICABILITY

Any property designated as a Historic Landmark or a Historic District by the Town of Pagosa Springs Town Council shall be subject to this section.

5.2. - STRUCTURES OF MERIT

- A. The Historic Preservation Board shall establish a list of structures and sites of merit that demonstrate historic and architectural integrity to recognize and encourage the protection of such resources. The list shall include structures and sites that have not been designated as Historic Landmarks and are not located within a designated Historic District.
- B. Regulations within this Article do not apply to structures or sites of merit and incentives are not available to structures or sites designated as such.

5.3. - DESIGNATING HISTORIC LANDMARKS AND HISTORIC DISTRICTS

5.3.1. REQUIREMENTS FOR DESIGNATION OF LOCAL HISTORIC LANDMARKS

In order to qualify for designation as a Local Historic Landmark the following criteria must be met:

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- A. The property, building, structure, feature, object, and/or area must be fifty (50) years old or older. The Historic Preservation Board and Town Council reserve the right to waive this requirement;
- B. The property, building, structure, feature, object, and/or area retains structural integrity, which for the purpose of this Article shall mean that it does not present an imminent hazard to public health and safety, as determined by a licensed structural engineer; and
- C. One (1) or more of the following criteria for architectural, social/cultural or geographic/environmental significance applies to the property:
 - 1. Architectural.
 - a. It is a portrayal of the environment or a group of people in an era of history characterized by a distinctive architectural style.
 - b. It embodies distinguishing characteristics of an architectural style valuable for the study of a period, type, method of construction or the use of indigenous materials.
 - c. It embodies elements of architectural design, materials or craftsmanship that represent a significant architectural or structural innovation.
 - 2. Social/Cultural.
 - d. It retains character, interest or value as part of the development, heritage or cultural characteristics of local, regional or national significance.
 - e. It is the location of a site of a significant local, state or national historic event.
 - f. It is identified with a person or persons who significantly contributed to the culture and development of the Town.
 - 3. Geographical/environmental.
 - g. Its unique location or singular geological, archaeological, or physical characteristic represents an established and familiar visual feature of a neighborhood.
 - h. Its relationship in terms of size, location, and architectural similarity to other structures or sites of historic or architectural significance, makes the structure or site critical to the preservation of the character and identity of the local community or to a historically significant neighborhood.

5.3.2. REQUIREMENTS FOR DESIGNATION OF LOCAL HISTORIC DISTRICTS

- A. In order to qualify for designation as a local Historic District the proposed District must be a geographically definable area possessing a concentration, linkage or continuity of buildings, structures and/or objects united by past events, plans, social activities or physical development.
- B. A Historic District may contain contributing and non-contributing elements, as follows:
 - 1. Contributing elements of the proposed Historic District shall have historical significance per the criteria listed in Section 5.3. All contributing elements shall be identified on a list retained by the Town Planning Department; and
 - 2. Non-contributing elements of the district do not contribute to the overall significance of the district, and are not required to meet the criteria as listed in Section 5.3.

5.4. - RECEIVING, AMENDING, OR REMOVING DESIGNATIONS

5.4.1. RECEIVING OR AMENDING HISTORIC DESIGNATION

- A. Eligibility:

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1. For a local Historic Landmark designation, the property owner(s) of record shall be the eligible Applicant.
 2. For a Historic District designation, an eligible Applicant shall be either written consent of sixty-seven (67) percent of the property owners of record within the proposed Historic District or the Historic Preservation Board.
- B. Applications to receive or amend a Historic Landmark or Historic District designation shall follow procedures set forth in Section 2.4.15.¹
- C. Criteria for designation shall be per Section 5.3 above.

5.4.3. REMOVING DESIGNATIONS

- A. Eligibility:
1. For removal of a local Historic Landmark designation, an eligible Applicant shall be either the property owner(s) of record or the Historic Preservation Board.
 2. For removal of a property(s) within a Historic District an eligible Applicant shall be either the property owner(s) of record or the Historic Preservation Board.
 3. For removal of an entire Historic District designation, an eligible applicant shall be either fifty-one (51) percent of the property owners of record within the District or the Historic Preservation Board.
- B. Applications to receive or amend a Historic Landmark or Historic District designation shall follow procedures set forth in Section 2.4.15.²
- C. The Historic Preservation Board and the Town Council shall base their decision to remove a designation upon the following findings:
1. The Historic Landmark or Historic District no longer maintain their historic significance as determined in their designating ordinances.
 2. The property within the Historic District is no longer a part of the geographically definable area possessing a concentration, linkage or continuity of buildings, structures an/or objects united by past events, plans, social activities or physical development as determined in the District's designating ordinance.

5.4.4. POST-DESIGNATION ACTIONS

- B. Once designated, the Applicant shall be required to display signage as provided by the Historic Preservation Board. Signage shall be maintained by the property owner(s).
- C. Any designated Historic Landmark or District shall be named in the Town of Pagosa Springs Historic Register.

5.5. - RELOCATION, ALTERATIONS, AND NEW CONSTRUCTION

5.5.1. APPLICABILITY

- A. No person shall be permitted to carry out any relocation, alteration, or new construction of a structure or other feature on a designated Historic Landmark or on/in a property within a Historic District without first obtaining a Certificate of Alteration for the proposed work.

The property owner of record must submit a completed Certificate of Alteration and follow application procedures set forth in Section 2.4.16. 5.5.1. APPROVAL CRITERIA

- A. A Certificate of Alteration may be issued only if the following can be determined:

¹ Language removed below was moved to Article 2, Application Procedures

² Language removed below was moved to Article 2, Application Procedures

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1. The proposed work will not detrimentally alter, destroy or adversely affect any architectural or landscape feature that contributes to the original Historic designation;
2. The proposed work will conform to adopted design criteria and guidelines; and
3. The proposed work will conform to the United States Secretary of Interior's Standards for Rehabilitation and the Treatment of Historic Properties.

5.9 –RELIEF FROM REGULATIONS

- A. This Section applies to relief from regulations within this Land Use and Development Code for Certificate of Alteration applications.
- B. Parking Relief.
 1. Multi-unit Dwellings: No additional parking is required if half of the required parking is already provided on-site, and the building addition does not exceed a fifty percent (50%) increase in number of units.
 2. Commercial Structures: A parking reduction of up to fifty percent (50%) will be granted.
- C. Relief from Nonconforming Structure Requirements.
 3. Properties are allowed to increase existing nonconformities on expansions by matching existing setbacks, height, and other dimensional standards.
 4. Properties are exempted from the limitation on replacing and expanding nonconforming structures.
 5. Multi-unit developments may apply for additional units without bringing existing nonconformities into conformance.

³5.6. - DEMOLITION OF HISTORIC LANDMARKS OR STRUCTURES WITHIN A HISTORIC DISTRICT

5.6.1. APPLICABILITY

- A. No person shall be permitted to carry out any demolition of a structure or a feature of a structure that has been designated a Historic Landmark or within a designated Historic District without first obtaining a Demolition Permit in accordance with Section 2.4.17.

5.5.1. APPROVAL CRITERIA

A Demolition Permit may be issued only if the following can be determined:

- B. A contributing structure within a Historic District is no longer a contributing element of the Historic District.
- C. A feature of a Historic Landmark, or contributing structure within a Historic District will not compromise the essential form or integrity of the structure or District if removed or demolished.
- D. More than fifty (50) percent of the structure is damaged by a natural disaster.
- E. It can be determined that demolition of a designated Historic Landmark or contributing structure within a Historic District allows for a different use for public benefit such as affordable housing, public open space and trails, or transportation connection.
- F. A designated Historic Landmark or contributing structure within a Historic District is necessary to rectify a condition of structural hardship or economic viability, as described below. The Applicant shall provide any additional information requested by staff, the Historic Preservation Board and/or the Town Council to verify or clarify the standards, factors, evidence, and testimony considered in this determination.

³ Moved criteria to Article 2 with application procedures

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1. Structural hardship exemption. A structural hardship exemption shall be granted if one (1) of the following conditions exist:
 - a. The structure must be demolished because it presents an imminent hazard to public health and safety as determined by a licensed structural engineer; or
 - b. The structure proposed for demolition is not structurally sound despite evidence of the Applicant's efforts to rehabilitate and properly maintain the structure.
2. Economic viability. The economic viability of the property should be determined by reviewing one (1) or more of the following factors, evidence, and testimony from the Applicant. Any economic incentives and/or funding available to the applicant for the subject property shall also be considered.
 - a. The economic feasibility of rehabilitation or reuse of the existing property versus demolition. This may be shown by preparing actual project costs and by comparing the estimated market value of the property in its current condition, after rehabilitation and after demolition. The Applicant shall include the following as evidence and testimony:
 - (i) A five-year pro forma or projected revenues and expenses of the reasonable uses or revenues that takes into consideration the utilization of incentive programs available.
 - (ii) Report and/or testimony from a licensed engineer or architect with experience in historic restoration or rehabilitation as to the structural soundness rehabilitation or reuse of any buildings/structures on the property and their suitability for rehabilitation.
 - (iii) At least three (3) estimate indicating the cost of the proposed construction, alteration, relocation or demolition and estimates of any additional cost that would be incurred to comply with the Secretary of Interior's Standards for Rehabilitation and Treatment of Historic Properties and/or any adopted design guidelines.
 - b. The current level of economic return on the property as considered in relation to the following⁴:
 - (i) Amount paid for the property and the date of purchase.
 - (ii) A substantial decrease in the fair market value of the property as a result of the denial of the demolition permit.
 - (iii) The fair market value of the property at the time the application was filed, to be prepared by a professional appraiser.
 - (iv) Real estate taxes from the previous three (3) years.
 - (v) Annual gross and net income, if any, from the property for the previous three (3) years; itemized operating and maintenance expenses for the previous three (3) years; and depreciation deduction and annual cash flow before and after debt service, if any, for the previous three (3) years.
 - (vi) Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, during the previous three (3) years.
 - (vii) All appraisals obtained within the previous three (3) years by the owner(s) or Applicant in connection with the purchase, financing or ownership of the property.

⁴ Do we want to keep this portion of the economic viability exemption, it is very subjective.

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- (viii) Any state or federal income tax returns on or relating to the property for the previous three (3) years.
- (ix) The marketability of the property for sale or lease, considered in relation to any listing of the property for sale or lease and the price asked and offers received, if any, within the previous two (2) years. This determination can include testimony and relevant documents regarding:
 - 1. Any real estate broker or firm engaged to sell or lease the property.
 - 2. The price or rent sought by the Applicant.
 - 3. Any advertisements placed for the sale or rent of the property by the owner or Applicant.
- G. Conduct not supporting economic hardship: Demonstration of economic hardship by the Applicant shall not be based on conditions caused by or resulting from any of the following:
 - 1. Willful or negligent acts by the Applicant;
 - 2. Purchasing the property for substantially more than market value;
 - 3. Failure to perform reasonable maintenance and repairs as outlined in section 5.7;
 - 4. Failure to diligently solicit and retain tenants;
 - 5. Failure to prescribe a rental amount which is reasonable for the current market rates;
 - 6. Failure to provide normal tenant improvements.
- H. If the Town Council approves an application to demolish, consideration will be given to whether materials can be recycled for use as part of another building or structure or whether any component of the building can be donated to a local museum.

5.7. - PROPERTY MAINTENANCE REQUIRED

- A. It is the Town Council's intention to preserve the exterior portions of designated Historic Landmarks and properties within Historic Districts from deliberate neglect.
- B. No owner of any Historic Landmark or structure within a Historic District shall allow significant deterioration of the exterior of the structure/feature beyond the condition of the structure on the effective date of the designating ordinance. Allowing such significant deterioration shall be considered a nuisance as defined in Article 8 of this Land Use Code.
- C. Property owner(s) shall reasonably maintain the surrounding environment. Failing to reasonably maintain the surrounding environment shall be considered a nuisance as defined in Article 8 of this Land Use Code.
- D. Prior to the Town filing a complaint in municipal court for failure to maintain the designated Historic Landmark or property or structure within a Historic District, the Historic Preservation Board shall notify the property owner(s) of the need to repair, maintain or restore the property. The Historic Preservation Board shall also assist the property owner(s) in determining the actions necessary to preserve the property and shall allow the property owner(s) reasonable time to complete such work.

5.8. - DESIGN GUIDELINES AND CRITERIA

- A. Property owner(s) of record of a Historic Landmark property or of a structure within a Historic District shall follow design guidelines adopted by the Town Council.
- B. Design guidelines create a standard of appropriate architectural features and site activity that includes, but are not limited to, parking, landscaping, and pedestrian provisions that will preserve the historic and architectural character of a local Historic Landmark or District.

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- C. A property owner of record of a Historic Landmark or of a structure within a Historic District may request variations from the Design Guidelines to be submitted with a Certificate of Alteration.
- D. A Variation may be approved if it is determined that it has no impact on the history, archaeology, architecture, or culture of the Town, the local region, or the nation.
- E.

5.10. – ENFORCEMENT

- A. Enforcement:
 - 1. The Town, or its designee, is hereby authorized to enforce the provisions of this chapter and, in addition, all other available powers authorized under city ordinances or statute. The city attorney is authorized to take such legal actions as are provided under city ordinance or statute.
- B. Restoration Required:
 - 1. Any person or entity who constructs, alters, removes or demolishes a resource in a historic preservation district, or an interior area of a publicly-owned structure in violation of this article shall be required to restore the structure to its appearance or setting prior to the violation to the extent such restoration is require to restore the structure to its appearance or setting prior to the violation to the extent such restoration is physically possible.

ARTICLE 6: - DEVELOPMENT AND DESIGN STANDARDS

6.1. - PURPOSE AND ORGANIZATION

6.1.1. PURPOSE

This Article includes standards for development that protect the health, safety, and welfare of the community by addressing the relationship between adjacent properties, public streets, neighborhood character, and the natural environment.

6.1.2. ORGANIZATION

Section 6.1. - Purpose and Organization

Section 6.2. - Flood Damage Prevention Regulations

Section 6.3. - Grading and Drainage

Section 6.4 - Sensitive Area Protection

Section 6.5 – Alternative Energy and Green Infrastructure

Section 6.6 - Access and Circulation

Section 6.7 - Non-Residential Design Standards

Section 6.8 - Residential Design Standards

Section 6.9 - Parking and Loading

Section 6.10 - Landscaping and Screening

Section 6.10 - Exterior Lighting

Section 6.12 - Sign Code

Section 6.13. – International Building Code

6.1.3. ALTERNATIVE EQUIVALENT COMPLIANCE

- A. Purpose and scope. To encourage creative and unique design, "alternative equivalent compliance" allows development to occur in a manner that meets the intent of this Land Use Code, yet through an alternative design that does not strictly adhere to Code standards. This is not a general waiver of regulations. Rather, this process authorizes a site-specific plan that is equal to or better than a plan compliant with the strict application of the standard.
- B. Applicability. The alternative equivalent compliance procedure applies only to the following sections:
 1. Section 6.6: Access and Circulation;
 2. Section 6.7: Non-Residential Design Standards;
 3. Section 6.8: Residential Design Standards; and
 4. Section 7.3: Subdivision Design.
- C. Pre-application conference required. An applicant proposing alternative equivalent compliance shall request and attend a pre-application conference prior to submitting application materials for the applicable permit(s) to discuss the project, the applicable Code standards, and the proposed method of alternative compliance. The application shall include sufficient explanation and justification, in both written and graphic form, for the requested alternative compliance.
- D. Decision-making responsibility. Final approval of any alternative compliance proposed under this Section shall be the responsibility of the decision-making body responsible for deciding upon the

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application. Administratively approved projects proposing alternative compliance shall receive written approval of the alternative compliance from the Director.

- E. Criteria. Alternative equivalent compliance may be approved if the applicant demonstrates that following criteria have been met by the proposed alternative:
 - 1. Achieves the intent of the subject standard equally well or better than the subject standard;
 - 2. Advances the goals and policies of the Comprehensive Plan and this Land Use Code equally well or better than the subject standard;
 - 3. Results in benefits to the community that are equivalent to or exceed benefits associated with the subject standard; and
 - 4. Imposes no greater impacts to adjacent properties than would occur through compliance with the specific requirements of this ordinance.
- F. Effect of approval. Alternative compliance shall apply only to the specific site for which it is requested and shall not establish a precedent for approval of other requests.

6.2. - FLOOD DAMAGE PREVENTION REGULATIONS

6.2.1. INTENT

The intent of this Section is to meet or exceed the minimum standards for floodplain regulations in accordance with the Federal Emergency Management Agency (FEMA) by provisions designed:

- A. To protect human life and health;
- B. To minimize expenditure of public money for costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- F. To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. To ensure that potential buyers are notified that property is in an area of special flood hazard; and
- H. To ensure that those who occupy the areas of special flood hazard assume the risks of locating in such areas.

6.2.2. APPLICABILITY

- A. The Legislature of the State of Colorado has, in Title 29, Article 20 of the Colorado Revised Statutes delegated the responsibility to local governments to adopt regulations designed to minimize flood loss.
- B. Applicability. This Section shall apply to all areas of special flood hazard and areas removed from the flood plain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F) within the jurisdiction of the Town.

6.2.3. GENERAL PROVISIONS

- A. The areas of special flood hazard are established by FEMA in a scientific and engineering report entitled "The Flood Insurance Study for Archuleta County, and Incorporated Areas," dated September 25, 2009, with accompanying Flood Insurance Rate Maps dated September 25, 2009 and any revisions thereto are hereby adopted by reference and declared to be a part of this Section. These documents are on file at the Pagosa Springs Town Hall.

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- B. This Section is not intended to repeal any existing easements, covenants, or deed restrictions. However, where this Section and other ordinances, easements, covenants, or deed restrictions conflict or overlap, the more stringent restrictions shall prevail.
- C. In the interpretation and application of this Section, all provisions shall be:
 - 1. Considered as minimum requirements;
 - 2. Liberally construed in favor of the governing body; and
 - 3. Deemed neither to limit nor repeal any other powers granted under State statutes.
- D. The degree of flood protection required by this Section is considered reasonable for regulatory purposes and is based upon scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Section does not imply that land outside the area of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. This Section shall not create liability on the part of the Town, any officer or employee thereof, or FEMA, for any flood damage that results from reliance on this Section or any administrative decision lawfully made hereunder.

6.2.4. ADMINISTRATION

- A. A floodplain development permit shall be obtained from the Floodplain Administrator before construction or development begins within any area of special flood hazard. Application for a floodplain development permit shall be made on forms furnished by the Director to include the following information:
 - 1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
 - 2. Elevation in relation to mean sea level to which any structure has been floodproofed;
 - 3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the flood-proofing criteria set forth below; and
 - 4. Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.
- B. Section 6.2 shall be administered by the Floodplain Administrator who shall have the following duties and responsibilities:
 - 1. Review of all floodplain development permits.
 - 2. Obtain, review, and reasonably utilize any base flood elevation data available from a federal, state or other source when base flood elevation data has not been provided.
 - 3. Verify, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including the basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
 - 4. Maintain the required floodproofing certifications of all new and substantially improved structures.
 - 5. Maintain for public inspection all records pertaining to the provisions of this Section.
 - 6. Notify Archuleta County and the Colorado Water Conservation Board prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.
 - 7. Require that an altered or relocated portion of a watercourse be maintained so that the flood carrying capacity is not diminished.
 - 8. Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this Section, including proper elevation of the structure.

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9. Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazard and actual field conditions. Any person contesting the location of boundaries shall be given a reasonable opportunity to appeal the interpretation as set forth below.

6.2.5. STANDARDS

General standards. In all areas of special flood hazard, new construction and substantial improvements must meet the following standards:

A. Alteration of Watercourse.

1. For all proposed developments that alter a watercourse within a special flood hazard area, the following standards apply:
 - a. 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.
 - b. Channelization and flow diversion projects shall evaluate the residual one-hundred-year floodplain.
 - c. Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable Federal, State and local floodplain rules, regulations and ordinances.
 - d. Any stream alteration activity shall be designed and sealed by a registered Colorado Professional Engineer or Certified Professional Hydrologist.
 - e. All activities within the regulatory floodplain shall meet all applicable Federal, State and Town of Pagosa Springs, Colorado, floodplain requirements and regulations.
 - f. Within the regulatory floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a Floodway analysis and report, sealed by a registered 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 community first applies for a CLOMR and floodway revision in accordance with Section D of Article V of the Colorado Floodplain Damage Prevention Ordinance.
 - g. Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

B. Anchoring.

1. All permanent structures shall be anchored to prevent flotation, collapse, or lateral movement and to withstand hydrodynamic loads.
2. All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors as follows:
 - a. Over-the-top ties shall be provided at each of the four (4) corners of the manufactured home, with two (2) additional ties per side at intermediate locations, with manufactured homes less than fifty feet (50') long requiring four (4) additional ties per side;
 - b. Frame ties shall be provided at each corner of the home with five (5) additional ties per side at intermediate points, with manufactured homes less than fifty feet (50') long requiring four (4) additional ties per side;
 - c. All components of the anchoring system be capable of carrying a force of four thousand four hundred pounds (4,400lbs); and

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- d. Any structural additions to the manufactured home shall be similarly anchored.
- C. Construction materials and methods.
1. All structures shall be constructed with materials and utility equipment resistant to flood damage.
 2. All structures shall be constructed using methods and practices that minimize flood damage.
 3. New construction and substantial improvements with fully enclosed areas below the base flood elevation that are usable solely for parking of vehicles, building access, or storage in an area other than a basement shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - a. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
 - b. The bottom of all openings shall be no higher than one (1) foot above grade.
 - c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.
- D. Utilities.
1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
 2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;
 3. On-site waste disposal systems shall be located to avoid impairment to or contamination from them during flooding; and
- E. Subdivision.
1. All subdivision proposals shall be consistent with the need to minimize flood damage;
 2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
 3. All subdivisions shall provide adequate drainage to reduce exposure to flood damage; and
 4. All subdivisions shall provide base flood elevation data.
- F. All residential structures shall have the lowest floor, including the basement, and electrical, heating, ventilation, air conditioning and plumbing facilities elevated to at least one foot above the base flood elevation.
- G. All nonresidential structures shall either have (a) the lowest floor, including the basement utilities, elevated to at least one foot above the base flood elevation, or (b) together with attendant utility and sanitary facilities, shall:
1. Be floodproofed to at least one (1) foot above the base flood elevation;
 2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 3. Provide that where the structure is intended to be made watertight below the base flood level:
 - a. A registered 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 for meeting the applicable provisions of this Section; and

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- b. A record of such certifications shall be maintained in the records of the Floodplain Administrator.
- H. All new manufactured homes or those to be substantially improved shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at least one (1) foot above the base flood elevation and is securely anchored to an adequately anchored foundation system.
- I. Recreational vehicles shall either:
 - 1. Be on the site for fewer than one hundred eighty (180) consecutive days;
 - 2. Be fully licensed and ready for highway use (on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
 - 3. Meet the anchoring requirements for manufactured homes.
- J. Floodways. A floodway is an extremely dangerous area due to the velocity of flood water that carries debris and potential projectiles, and the potential for harmful buildup of erosion-related sediment. Therefore, the Town shall:
 - 1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development, in a floodway unless a technical evaluation prepared by a registered professional engineer demonstrates that such encroachments will not result in any increase in flood level during the base flood discharge.
 - 2. If an engineer's evaluation determines that an encroachment will not increase the flood level, such encroachments shall comply with all standards of this Section.
- K. Standards for areas of shallow flooding as indicated by AO and AH Zones in the community's flood insurance rate map (FIRM). These areas have special flood hazards associated with base flood depths of one (1) 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; therefore, the following provisions apply:
 - 1. The lowest floor (including basement and utilities of all new construction and substantial improvements of residential structures shall be elevated a minimum of one (1) foot above the depth number specified on the community's FIRM (at least three (3) feet if no depth number is specified).
 - 2. All new construction and substantial improvements of non-residential structures shall meet the following provisions:
 - a. The lowest floor (including basement) shall be elevated a minimum of one (1) foot above the depth number specified on the community's FIRM (at least three (3) feet if no depth number is specified); or
 - b. Together with attendant utility and sanitary facilities be designed so that below the shallow flood area 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 of effects of buoyancy.
 - 3. A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section are satisfied.
 - 4. Within Zones AO and AH there shall be adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures must be provided.
 - 5. A floodplain development permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F), unless such new structure or addition complies with the following:

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

L. Standards for Critical Facilities

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

It is the responsibility of the Town of Pagosa Springs, Colorado Town Council to identify and confirm that specific structures in their community meet the following criteria:

Critical facilities are classified under the following categories: (a) essential services; (b) hazardous materials; (c) at-risk populations; and (d) vital to restoring normal services.

- a. Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines.
 - i. Specific exemptions to this category include wastewater treatment plants (WWTP), non-potable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances.
 - ii. Public utility plant facilities may be exempted if it can be demonstrated that the facility is an element of a redundant system for which service will not be interrupted during a flood.
- b. Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials.
 - i. Specific exemptions from this section include agricultural products intended for agricultural use and pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products.
- c. At-risk population facilities include medical care, congregate care, and schools.
- d. Facilities vital to restoring normal services including government operations. These facilities consist of:
 - i. These facilities may be exempted if it is demonstrated that the facility is an element of a redundant system for which service will not be interrupted during a flood.

(Ord. No. 799, §§ I—XI, 12-2-2013)

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6.3. - GRADING AND DRAINAGE

6.3.1. INTENT

The intent of this section is to ensure that the stormwater drainage system addresses the broader goals of drainage and flood control problem alleviation, environmental preservation enhancement that considers water quality, water way stability and natural habitat and resource protection, and the long-term maintenance of the Town's drainage systems.

6.3.2. EXCAVATION, GRADING, AND EROSION CONTROL

- A. Excavation and grading. Excavation and grading shall comply with the adopted building code.
- B. Erosion Control. The prevention of soil erosion and transport of sediments during construction is of paramount importance. Development of sites greater than one half (0.5) acre requires an Erosion Control Plan, consistent with the State of Colorado's requirements for Stormwater Management Plans (SWMP), and, a copy of the stormwater discharge permit obtained from the State of Colorado.
- C. To the maximum extent feasible, site grading and erosion control techniques shall include, but not be limited to:
 - 1. limitation of land disturbance and grading;
 - 2. maintenance of natural vegetation;
 - 3. minimization of impervious surfaces;
 - 4. use of terraces, contoured landscapes, runoff spreaders, grass or rock-lined waterways;
 - 5. use of infiltration devices;
 - 6. use of recharge basins, seepage pits, dry wells, seepage beds or ditches, porous pavement or sub-drain systems.

6.3.3. SITE DRAINAGE

- A. General. The standards of this Section are intended to protect properties, both private and public, against flooding, erosion, sedimentation, and other encroachment due to storm waters.
 - 1. Peak discharge control is required when post-development runoff rates exceed historic one hundred-year (100 year) base storm runoff rates due to the change in site conditions as a result of the development. Post-development peak discharge for the minor storm event shall not exceed the historic or pre-development conditions for the minor storm event.
 - 2. The major drainage system that conveys off-site drainage through the development and/or serves as the primary drainage channel for the development and all drainage structures therein must safely convey the base storm peak discharge and maintain them within the confines of public rights-of-way and easements. There is no requirement to provide peak discharge control for the base storm peak discharge.
 - 3. The minor drainage system that collects on-site drainage and conveys it through the development to primary drainage channels and consists of curb, gutter, inlets, storm drains, culverts, swells, ditches and detention facilities shall be designed to convey flows from the minor storm event and maintain their integrity if overtopped by flows from a base storm event.
 - 4. Determination of storm runoff shall be made by the methods defined in the following table:

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TABLE 6.3-1: Run-Off Rates Determination Methods

Area of Basin for which Peak Flow or Hydrograph is being Calculated	Specific Applications and/or Basin Characteristics	Determination Method
< 25 acres	To determine storage volume for peak discharge control where basin characteristics are applicable to the rational method	Modified rational method
< 5 acres	Area characteristics not applicable to rational method	NRCS WinTR-55
5 - 25 acres	If on one main tributary, if there are multiple tributaries	NRCS WinTR-55, TR-20
25 -640 acres	All circumstances	TR-20
>640 acres	All circumstances	Army Corps of Engineers HECRAS

5. Waivers from peak discharge control requirements must be requested in writing and must include supporting engineering documentation. Waivers may only be granted when:
 - a. Residential development is occurring that does not require new subdivision of land. Supporting engineering documentation is not required.
 - b. Subdivision will result in a gross residential density of two (2) dwelling units per acre or less. Supporting engineering documentation is not required.
 - c. The increase in peak discharge is less than ten (10) percent over current condition of the site prior to development application.
 - d. It has been determined and can be demonstrated that natural or manmade detention facilities exist downstream, there is adequate capacity to handle the increased peak discharge, and the subdivider has obtained legal right to utilize the required capacity of the existing facility.
 - e. It has been determined that detention will cause a deleterious impact relative to base storm drainage and peak discharge.
 - f. Additions to existing structures will not result in a net increase of impervious area of a site by more than twenty-five (25) percent.
- B. Master Drainage Report. Unless waived by the Town Engineer, the project engineer shall conduct a Master Drainage Report of the area to be developed and adjacent areas that affect the development. The subdivision of a single, previously subdivided lot into no more than two (2) new lots shall be exempt from drainage studies. The report should implement the drainage design and construction in the format described below. Drainage reports shall include:
 1. Off-site flows. Describe the effect of off-site flow rates on the development and how they are affected by the development. Determine the necessary control measures or the proper method of conveyance.
 2. On-site flows. Define the system that will convey the on-site flows (both historic and developed) throughout the development and describe how the flows will be dispersed off-site, based on the methodology shown in the most recent version of the Urban Storm Drainage Criteria Manual, published by the Urban Drainage and Flood Control District.
 3. On-site detention. On-site detention or retention facilities are required to store run-off that represents the difference between the one hundred-year historic run-off and developed storm

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runoff, and shall limit the rate of runoff from the site to the one hundred-year historic flow rate.

4. Storm drain system. The design of the interior storm drain system shall follow the standards set forth in the most recent version of the Urban Storm Drainage Criteria Manual, published by the Urban Drainage and Flood Control District, or per Town standard practices. The ten-year storm shall be the criteria for the design of all interior drain systems. The design of cross culverts and bridges of major drainage ways shall accommodate the one hundred-year storm frequency.

C. Methodology.

1. Rainfall and runoff analysis. The analysis of storm runoff shall be based on the rainfall data taken from the National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Atlas 14, "Precipitation Frequency Atlas of the Western United States, Volume III - Colorado." The Storm Run-Off Rates Determination Method Table No. 5-8 shall be used for determining the quantity of storm runoff.
2. Storage (detention/retention). Requisite detention facility volumes can be determined from the criteria found in the Urban Drainage and Flood Control District detention volume estimating workbook. These volumes are minimum requirements.
3. Storage release mechanism. The release mechanisms from retention/detention ponds shall accommodate recurrence intervals of ten-year and one hundred-year storms by utilizing a structure which employs both orifice and weir flow control. Other methods of release can be specified as approved by the Town Engineer.

D. Procedures. Developments shall be required to submit drainage design plans in conjunction with any application that requires submittal of a drainage report/plan.

1. Design review stage. Drainage design plans may be submitted at the design review stage as set forth in Section 2.4.6. Such drainage plans shall meet the requirements set forth in the user's manual.
2. Building permit stage. Drainage design plans may be submitted at the building permit stage only when subdivision and zoning for the property have already been approved. Such drainage plans shall meet the requirements set forth in the user's manual and adopted building code.

6.4. - SENSITIVE AREA PROTECTION

6.4.1. INTENT

The regulations of this section are intended to ensure protections of the Town's natural habitats and physical features that have significant ecological value.

6.4.2. SLOPES

Steep land (thirty (30) percent or greater slopes), unstable ground, and land subject to hazards such as landslides, rockfall, ground subsidence, shall not be platted or developed for residential or other uses that may endanger life and limb or improvements, unless appropriate provisions, as deemed necessary by the building department, are made to eliminate or mitigate the hazard.

6.4.3. AREAS OF SPECIAL FLOOD HAZARD

The Director shall keep on file and available to the public, a set of maps clearly showing all known and identified areas of special flood hazard in the Town, as such become available. The Town shall not approve any proposed subdivision or development in either an identified area of special flood hazard or in an area suspected of being in an area of special flood hazard, unless the subdivider or developer can submit adequate evidence, prepared by a registered professional engineer, that the

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proposed subdivision or development is not in an area of special flood hazard or meets the conditions set forth in Section 6.2.

6.4.4. GEOLOGIC HAZARD AREAS

The Town Clerk shall keep on file and available to the public, a set of maps clearly showing all known and identified geologic hazard areas, as such become available. The Town shall not approve any subdivision plan or site plan if the proposed subdivision or development is either within an identified geologic hazard area or is an area suspected of being in a geologic hazard area, unless the applicant can submit adequate evidence, prepared by a registered professional geotechnical engineer, that the proposed subdivision or development meets the following conditions:

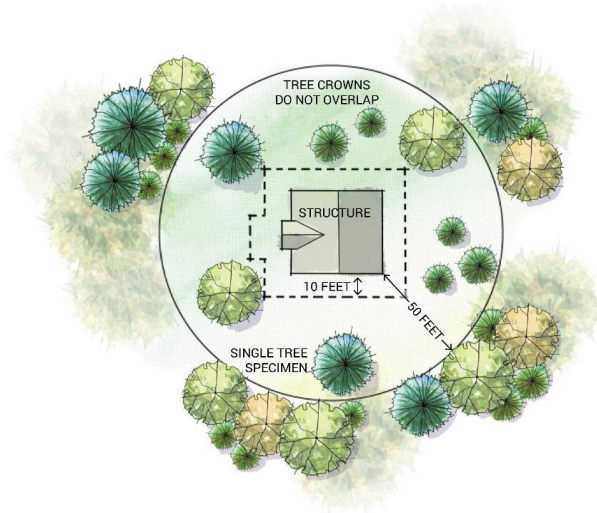
- A. Provisions have been made for the long-term health, welfare, and safety of the public from geologic hazards to life, property, and improvements.
- B. The proposed development will not create an undue financial burden on the existing or future residents of the area or community as a result of damage due to geologic hazards.
- C. Structures designed for human occupancy or use shall be constructed to prevent danger to human life or property.
- D. Permitted land uses, including public facilities serving such use, shall avoid or mitigate geologic hazards at the time of initial construction.
- E. Man-made changes shall not initiate or intensify adverse natural conditions within a geologic hazard area.

6.4.5. WILDFIRE HAZARD AREAS

The Planning Department shall keep on file and available to the public, a set of maps clearly showing all known and identified wildfire hazard areas, as such become available. The Town shall not approve any subdivision plan or site plan if the proposed subdivision or development is in an area identified as a wildfire hazard area or is in an area suspected of being in a wildfire hazard area, unless the applicant can submit adequate evidence, prepared by a qualified professional forester, that the proposed subdivision or development meets the following conditions:

- A. Any development shall have adequate roads for emergency service by fire trucks, fire fighting personnel, and fire breaks or other means of alleviating conditions conducive to wildfire hazard.
- B. All subdivision and development plans shall adhere to the Guidelines and Criteria for Wildfire Hazard Areas published by the Colorado State Forest Service.
- C. Consideration shall be given to recommendations of the State Forest Service resulting from review of a proposed subdivision or development in a wildfire hazard area.
- D. A mitigation plan for vegetative management and defensible space shall be submitted with site plans for principal building construction.
- E. Fuel breaks shall be implemented along access roads, driveways and subdivision boundaries. The fuel break shall be a minimum of 10 feet wide. Plant material shall be no taller than four inches in the fuel break and trees limbed up to a minimum height of 10 feet above the ground.
- F. Defensible space shall be provided around principal structure per the International Wildland Urban Interface Code (general image included below).

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6.4.7. WILDLIFE FRIENDLY PERIMETER FENCING

Perimeter fencing on properties one half acre or more in size shall be wildlife friendly per suggested details provided by Colorado Parks and Wildlife per the suggested dimensional standards in the image below so as not to impede the movement of deer and elk.

6.4.8. NATURAL HABITAT AND FEATURES

Subdivisions and any development plan shall preserve to the maximum extent feasible existing waterways (lakes, rivers, and streams), wetlands, forests and primary vegetation (trees), rock formations, and natural vistas.

6.4.8. WETLAND AND RIPARIAN PROTECTION

- A. This subsection is intended to promote, preserve, and enhance the important hydrologic, biological, ecological, aesthetic, recreational, and educational functions that river and stream corridors, associated riparian areas, and wetlands provide.
- B. Wetlands shall be delineated by a professional ecologist or wetland specialist using the National Wetland Inventory to generally indicate property within 50 feet of a wetland. The professional shall delineate the wetland based on plant, soil and water conditions present that indicate the area of the wetland and provide buffer distance and mitigation recommendations per the specialist's written assessment report.
- C. Buffer zones surrounding wetlands and riparian areas shall be shown on the development plan for any development that is subject to this section. The purpose of the buffer zones is to protect the ecological character of the wetland and riparian areas from the impacts of the ongoing activity associated with the development.
- D. If the development site contains or immediately abuts a body of water, the development plan shall include such enhancements and restoration as are necessary to provide reasonable wildlife habitat and improve aesthetic quality in areas of shoreline transition and areas subject to wave erosion. The development plan shall also include a design that requires uniform and ecologically and aesthetically compatible treatment among the lots or tracts surrounding the body of water with regard to the establishment of erosion control protection and shoreline landscaping on or adjacent to such lots or tracts. Water bodies and features such as irrigation

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ponds, reflecting pools and lagoons constructed as new landscaping features of a development project shall be exempt from the standards

E. Development Activities Within the Wetland and Riparian Buffer Zones.

1. No disturbance shall occur within any buffer zone and no person shall engage in any activity that will disturb, remove, fill, dredge, clear, destroy or alter any area, including vegetation within natural habitats or features including without limitation lakes, ponds, stream corridors and wetlands, except as provided in subsection (c) below.
2. If the development causes any disturbance within the buffer zone, whether by approval of the development plan or otherwise, restoration and mitigation measures within the buffer zone shall be undertaken such as regrading and/or the replanting of native vegetation. Any such mitigation or restoration shall be at least equal in ecological value to the loss suffered by the community because of the disturbance and shall be based on such mitigation and restoration plans and reports as have been requested, reviewed and approved by the decision maker. Unless otherwise authorized by the decision maker, if existing vegetation (whether native or non-native) is destroyed or disturbed, such vegetation shall be replaced with native vegetation and landscaping.
3. Disturbance or construction activity may occur within the buffer zone for the following limited purposes:
 - a. Mitigation of development activities;
 - b. Restoration of previously disturbed or degraded areas or planned enhancement projects to benefit the natural area or feature;
 - c. Emergency public safety activities;
 - d. Utility installations when such activities and installations cannot reasonably be located outside the buffer zone or other nearby areas of development;
 - e. Construction of a trail or pedestrian walkway that will provide public access for educational or recreational purposes provided that the trail or walkway is compatible with the ecological character or wildlife use of the natural habitat or feature; and
 - f. Construction or installation of recreation features or public park elements, provided that such features or elements are compatible with the ecological character or wildlife use of the natural habitat or feature.

6.4.9. TREE PROTECTION

- A. Development shall be designed to preserve existing significant mature trees and vegetation that contribute to the site's ecological, shade, canopy, aesthetic, habitat and cooling value. The size, species and location of trees to be protected must be designated within required landscape plans.
- B. Any tree six-inch caliper or larger in size that is proposed for removal shall apply for a tree removal permit and mitigate removed trees per Section 6.10.5.

6.4.10. SCENIC FEATURES AND VISTAS

- A. All projects shall be designed to integrate with and otherwise preserve existing site topography, including, but not limited to, such characteristics as steepness of slopes, existing drainage features, rock outcroppings, river and stream terraces, valley walls, ridgelines and scenic topographic features.
- B. No development shall intrude into any ridgeline protection area identified during the development review process. For the purposes of this subsection, a designated ridgeline protection area shall include the crest of any hill or slope so designated, plus the land located within one hundred (100) horizontal feet (plan view) on either side of the crest of the hill or slope.

6.5. – ALTERNATIVE ENERGY AND GREEN INFRASTRUCTURE

6.5.1. INTENT

This Section is intended to encourage, support and promote alternative and renewable energy technologies, and to design renewable energy sources that minimize negative impacts to surrounding properties.

6.5.2. SOLAR ENERGY SYSTEMS

- A. It is the Town's intent to encourage the use of both active and passive solar energy systems for heating air and water in homes and businesses. The following standards mitigate the potential impact of shade caused by buildings, structures and trees.
1. At least sixty-five percent (65%) of detached residential lots less than fifteen thousand (15,000) square feet in area in a subdivision must conform to the definition of a "solar-oriented lot" in order to preserve the potential for solar energy usage.
 2. All new or infill residential development in an existing neighborhood shall orient new buildings or additions to protect the adjacent properties' access to sunshine, to the maximum extent feasible.
 3. Buildings shall be located and designed so as not to cast a shadow onto structures on adjacent property greater than the shadow which would be cast by a twenty-five-foot hypothetical wall located along the property lines of the project between the hours of 9:00 am and 3:00 pm, MST, on December 21.
 4. The impact of trees shall be evaluated on an individual basis considering the potential impacts of the shading and the potential adverse impacts that the shading could create for the adjacent properties in terms of blocking sunlight in indoor living areas, outdoor activity areas, gardens and similar spaces benefiting from access to sunlight. Shading caused by deciduous trees can be beneficial and is not prohibited.

6.5.3. ELECTRIC VEHICLE CHARGING INFRASTRUCTURE

- A. Charging levels. Electric vehicle charging stations have standardized indicators of electrical force, or voltage, at which an electric vehicle's battery is recharged. The terms 1, 2, and 3 are the most common charging levels, and include the following specifications:

Level	Charging Speed	Voltage
1	slow charging	0 - 120
2	medium charging	121 - 240
3	fast or rapid charging	> 240

- B. Permitted Locations. An electric vehicle charging station equipped with Level-1 or Level-2 charging equipment is permitted outright as an accessory use to any principal use in any zoning district.
- C. If the primary use of the parcel is the retail electric charging of vehicles, the use is considered a gas station for zoning purposes.
- D. Readiness Requirements. New construction of detached and attached dwellings with garages shall provide a 220-240-volt / 40 amp outlet on a dedicated circuit and in close proximity to designated vehicle parking to accommodate the potential future hardwire installation of a Level-2 electric vehicle charging station.
- E. Multi-Unit and Non-Residential. New and expanded parking areas of multi-unit and non-commercial development shall provide the electrical capacity necessary to accommodate the future hardwire installation of Level-2 electric vehicle charging stations for fifteen percent (15%) of the total required parking spaces on-site.

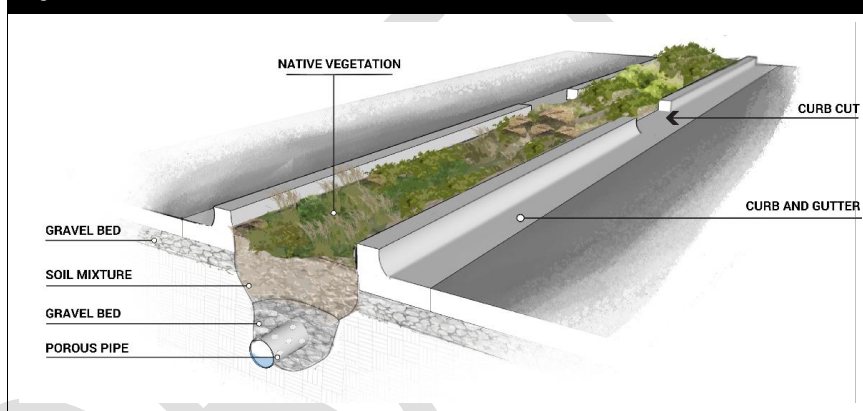
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- Each site shall include at least one installed or future hardwire installation of a charging station for e-bikes and e-scooters.

6.5.4. LOW IMPACT DEVELOPMENT

- Traditional storm water management practices include detention basins and underground stormwater capture that the Town is not set up with. Alternatives include capturing and treating storm water at the source to prevent contamination of local water resources.
- Applicants are encouraged to implement any of the following Low Impact Development (LID) options at the time of site development. They are not intended to be prescriptive or inhibit creative design.
 - Bioswales. Bioswales are vegetated swales planted with a variety of plant species that can tolerate occasional water inundation and serve to transport, store, and allow infiltration of water.

Figure #: Illustration of Bioswale



- Grassed swales: Grassed swales are designed to convey water over the surface of the ground to a point of disposal and serve to slow the flow of water allowing some particulates to drop out before the water reaches the disposal point.
- Permeable Pavement. Permeable pavement can be in the form of permeable concrete or asphalt, or grass or concrete pavers that allow water to infiltrate through the surface thereby reducing runoff. When used in connection with street tree plantings, they allow for more air circulation around tree roots.
- Rain Gardens. Rain gardens are small shallow, depressions planted with a variety of native or ornamental plants that can treat small amounts of runoff to improve water quality.
- Sand Filters. Sand filters are depressions or trenches constructed of porous mineral matter that improve ground water recharge to filter, clean and trap waterborne pollutants.

6.5.5. SUSTAINABLE SITE IMPROVEMENTS

- All new residential and non-residential development shall achieve a minimum of five (5) points from the following menu of sustainable site improvements.

TABLE 6.5.1. Sustainable Site Improvements Menu of Options

Menu Item	Points	Public Benefit
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Plant at least 20% additional trees than otherwise required	3	Reduce urban heat island
Provide community garden plots, fruit trees, or other means of food production on site for at least 15% of multi-unit dwellings. Plots must be at least 20 square feet each.	3	Foster local food production.
Construct residential buildings to be elongated on an east-west axis, with south facing windows that receive sunlight between the hours of 9:00 a.m. and 3:00 p.m. (sun exposure) during the heating season. Combine with awnings or other shade structures on the east and west facing windows, appropriate use of glazing, daylighting, and other passive solar design techniques.	3	Reduce energy demand and reliance on non-renewable energy sources.
For vertical mixed-use buildings with commercial/office building areas, include at least one dwelling per 3,000 square feet of commercial/office floor area.	2 points per dwelling	Increase attainable housing options
Provide a cottage court or cluster of small units on a large residential parcel that would otherwise be used for a single detached dwelling unit.	2 points for each additional unit	Increase attainable housing options
Provide compost bin location on multi-unit, mixed use, and non-residential properties with contract for pick-up service.	2	Reduce waste
Provide double the minimum of the required amount of bicycle parking on site.	1	Reduce carbon footprint by providing a variety of mobility options
Provide a bike repair station.	1	Reduce carbon footprint by providing a variety of mobility options
Install additional level 2 or higher electric plug-in stations for hybrid and electric vehicles on-site over the minimum applicable standard, or additional conduit over the minimum applicable standard.	1-5 total: 1 per electric plug-in station + 1 per 15% of spaces for conduit	Reduce carbon footprint by providing a variety of mobility options

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Add designated and signed car share space(s) to site.	2	Reduce carbon footprint by providing a variety of mobility options
Employ stormwater runoff reduction strategies to slow runoff and promote infiltration, designed in accordance with Section 6.5.4.	1-5: 1 point per 20% of impervious area routed through grass buffers or swales, bioretention (such as rain gardens), and/or permeable pavement	Protect natural resources
Plant a vegetated roof for a portion of the roof area.	1-10: Points awarded on a sliding scale, with one point per 10% of vegetated roof area.	Protect natural resources and reduce urban heat island.
Exceed landscape area requirement by at least 25%.	3	Protect natural resources and reduce urban heat island.
Place at least 50% of parking area and spaces either under cover with a roof that has a minimum SRI (Solar Reflectance Index) of 29, or beneath finished living space.	5	Protect natural resources and reduce urban heat island.
Renewable energy system. Install any renewable energy system allowed by zoning district (e.g. solar photovoltaic, solar thermal, geothermal heat pump).	7	Reduce energy demand and reliance on non-renewable energy sources.
Incorporate native plant material for at least 50% of required landscape area.	5	Protect water resources
Use a high-efficiency irrigation system with drip or sub-surface system and rain sensors	3	Protect water resources

6.6. – ACCESS AND CIRCULATION

6.6.1. INTENT

This Section is intended to support the creation of a highly connected transportation system considering use by all modes of transportation , (including , without limitation cars, trucks, buses, bicycles, pedestrians and emergency vehicles), reduce vehicle miles of travel and travel times; improve air quality; reduce emergency response times; and mitigate the traffic impacts of new development.

6.6.2. CONNECTIVITY

- A. Street and block patterns should include a clear hierarchy of well-connected streets that accommodate the safe, efficient, and convenient movement of vehicles, bicycles, transit users,

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and pedestrians and distribute traffic over multiple streets to avoid traffic congestion on principal routes.

- B. Any residential development of more than one hundred (100) units or commercial or mixed-use development with one hundred thousand (100,000) square feet or more of gross floor area, or additions to existing developments such that the total number of units or size exceeds these thresholds, shall provide vehicular access to any adjacent public streets, and a minimum of two (2) street access points, unless such connections are rendered infeasible due to topography, natural features or existing development.
- C. Where new development is adjacent to developable parcels, all streets, trails, and access ways in the development's proposed street system shall continue to the development plan boundary, as determined by the Director, to provide for the orderly subdivision and development of such adjacent land or the transportation system. In addition, all redevelopment and street improvement projects shall take advantage of opportunities for retrofitting existing streets to provide increased vehicular and pedestrian connectivity.
- D. Every proposed public or private street system shall be designed to provide vehicular interconnections to all similar or compatible adjacent uses (existing and future) when such interconnections would facilitate internal and external traffic movements.
 - 1. Street connections shall be spaced at intervals between one thousand two hundred fifty (1,250) to one thousand five hundred (1,500) linear feet for each cardinal direction in which the subject property abuts similar or compatible uses.
 - 2. If the common property boundary in any direction is less than one thousand two hundred fifty (1,250) linear feet, the subject property will be required to provide an interconnection if it is determined by the Director that the interconnection can best be accomplished through the subject property.
 - 3. The Director may increase the length requirement and/or require pedestrian connections should the vehicular connection be deemed impractical. The Director may delay the interconnection if such interconnection requires State approval or will result in significant hardship to the property owner.
- E. Street systems shall be interconnected.. Permanent cul-de-sacs and dead-end streets shall only be used when topography, the presence of natural features, and/or vehicular safety factors make a vehicular connection impractical..
- F. Street systems shall connect neighborhoods to each other and to local destinations such as schools, parks, greenbelt trail systems and shopping centers. Configuration of local and internal streets and traffic calming measures shall be used to discourage use of the local street system for cut-through vehicle traffic.

6.6.3. ROADWAYS

- A. This Section sets forth criteria and standards for roadway design .
- B. Roadway Design Standards.
 - 1. General.
 - a. All new roadways and roadway improvements shall comply with the standards in this Section. This includes graveling, paving, surfaced roadway width, grades, shoulders, culverts, bridges, signs, etc.
 - b. In determining the design of a new roadway or street improvements, the following shall be considered:
 - i. Projection of future development densities.
 - ii. Traffic volumes generated by the development.
 - iii. Environmental impact.

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- iv. Connection to existing roadways and the traffic impact created.
 - v. Roadway grades and sight distance.
 - vi. The AASHTO Green Book, is included in these standards for the designer's quick reference and use.
2. Roadway Classifications.
- a. Major Highway. Any right-of-way designated as a numbered State or Federal route.
 - b. Arterial Street. Any right-of-way designed to carry traffic volumes greater than two thousand five hundred (2,500) vehicles per day.
 - c. Collector Street. A street designated to carry traffic volumes of four hundred (400) to two thousand four hundred ninety-nine (2,499) vehicles per day.
 - d. Local Street, Class I, Class II and Class III. A street designated to directly serve residential areas or less concentrated activities.
 - i. Class I local streets are designed to carry two hundred (200) to three hundred ninety-nine (399) vehicles per day,
 - ii. Class II local streets are designed to carry one hundred (100) to one hundred ninety-nine (199) vehicles per day, and
 - iii. Class III local streets are designed to carry ninety-nine (99) or fewer vehicles per day.
 - e. Alley. A way for service or access to the rear or sides of properties that also abut a street.
 - f. Cul-de-sac. A dead end street terminating in a circular turn-around.
3. Roadway Design Policies.
- a. Roadway design shall be based on the projected needs twenty (20) years after construction. Projection of development over the design period shall be based on land use regulations, existing land use, proximity to developed areas, historic growth, and other factors expected to influence development.
 - b. The general design controls cited in the most recent version of the AASHTO Green Book shall be the basis for roadway design including stopping sight distances, passing sight distances, vertical alignment, crest vertical curves, sag vertical curves, horizontal alignment, and guardrails.
 - c. Roadways shall bear a logical relationship to the site's topography.
 - d. There shall be no less than two (2) street rights-of-way accessing any subdivision to minimize traffic congestion and/or blockage in times of emergency.
 - e. Dead-end streets are prohibited, unless they are designed as a cul-de-sac to serve no more than twenty (20) dwelling units or designed to connect with future streets on adjacent land, in which case a temporary cul-de-sac or barricades or both shall be provided consistent with requirements of the MUTCD.
 - f. Streets with cul-de-sacs shall be no longer than one thousand (1,000) feet unless approved by the Town Engineer and the local fire district, and a surfaced turnaround shall be provided at the closed end with a radius of at least forty-five (45) feet to the inside edge of the improved road surface and a right-of-way radius of at least fifty (50) feet.
 - g. Half streets shall not be permitted. When a proposed half street in a subdivision adjoins another property the entire street shall be platted.

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- h. Acquiring right-of-way from the adjoining property owner shall be the responsibility and expense of the development.
- i. Paved access to the subdivision or development from Town, County or State roads shall be provided by the subdivision or development through public streets and any additionally required permitting.
- j. All streets serving subdivisions shall have curb and gutter; however subdivisions with an average density of one (1) dwelling unit per acre or less may, substitute grassed swales for curb and gutter.
- k. Trip generation should be based on projected ADT as set forth in the most recent edition of the Trip Generation manual, published by the Institute of Traffic Engineers.
 - i. If trip generation volumes exceed one thousand (1,000) ADT for a given roadway, the developer shall provide a Traffic Impact Study ("TIS") for the proposed roadway prepared by a registered Professional Engineer. The TIS shall present trip generation calculations and level of service calculations based upon actual studies of comparative developments and uses. Traffic safety shall be addressed as well as the need for roadway improvements, such as acceleration/deceleration lanes, left turn lanes, guardrails, signs, and striping. Warrants and design criteria for acceleration/deceleration lanes shall be required, pursuant to the State Highway Access Code and the AASHTO Green Book.
 - ii. When unusual conditions exist, the Town may require a TIS for roadways with a calculated ADT in excess of five hundred (500), at the discretion of the Director.
 - iii. Roadway geometric design should be developed using design hour volume ("DHV") when adjusted ADT exceeds one thousand (1,000). The DHV is the thirtieth highest hour volume per year and shall be calculated as ten (10) percent of adjusted ADT for roadways with ADT less than one thousand (1,000), or shall be as developed by the TIS required above for roadways with an ADT greater than one thousand (1,000).
- l. Design Speed. The following are appropriate ranges of design speeds for various conditions:

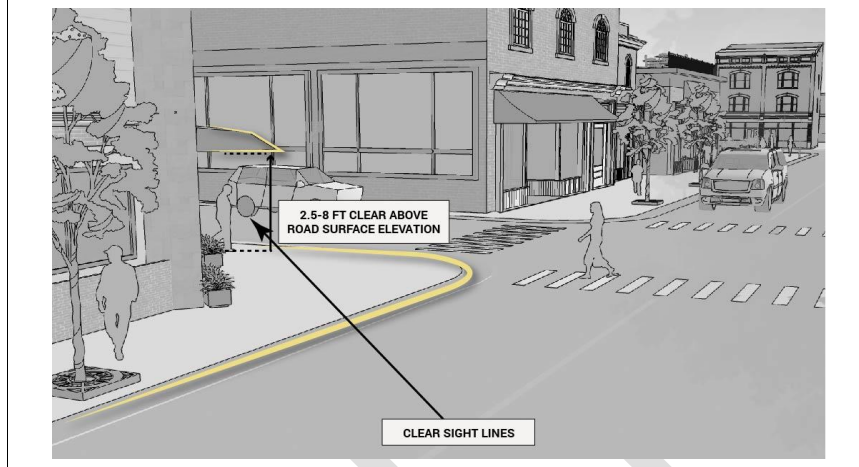
TABLE 6.6-1. Design Speed

Terrain	Collector Street (mph)	Local Street (mph)
Level and Rolling, slopes less than 15%	30—45	20—30
Mountainous, slopes greater than 15%	25—40	20—25

- 4. Intersections.
 - a. Under normal conditions, roads should be designed to intersect at right angles, except where topography or other site conditions justify variations. A minimum angle of intersection of roads generally shall be no less than seventy-five (75) degrees.
 - b. Intersections, including median openings, shall be designed with adequate corner sight distance, and the area shall be kept free of obstacles.
 - c. The sight distance triangle shall comply with the AASHTO Green Book. The sight distance triangle is based on the classification of the intersecting street and is based on the property lines of the adjacent parcels. The site distance triangle will be shown on any relevant civil design plans. No fence, wall, shrub, tree or other permanent object shall obscure the corner sight distance between eighteen inches and eight (8) feet above the curb elevation.

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Figure #: Illustration of Corner Treatment Options



- d. Roads entering a roadway from opposite sides shall either align or offset by at least one hundred fifty (150) feet from centerline to centerline or sight distance requirements, whichever is greater, and be 150 feet from the nearest four legged intersection.
- e. The gradient within one hundred feet (100') of an intersection should not exceed five percent (5%) and shall be as flat as reasonably possible.
- f. Corner radii at all intersections shall be a minimum of twenty feet (20') in residential areas and forty feet (40') in industrial or commercial areas.
- g. Private driveways shall not exceed twelve percent (12%) in grade.
5. Roadway surfacing requirements.
 - a. All new roads having a projected trip generation of two hundred (200) or greater ADT shall be paved.
 - b. Private drives and roadways serving more than three (3) lots accessing onto a paved public road shall have paved aprons approved by the Town Engineer.
 - c. The minimum surfacing requirement shall be eight (8) inches of Class 3 ABC material with three (3) inches of Class 6 ABC finish material, unless a geotechnical study requires greater.
6. Roadway structure design.
 - a. A subgrade investigation and pavement design report must be provided that is prepared by a Colorado Certified Licensed Professional Geotechnical Engineer.
 - b. Road structure methodologies for asphalt and Portland cement concrete are addressed and essentially follow the Metropolitan Government Pavement Engineers Council (MGPEC), methodology..
 - c. Subgrade materials shall be tested as required by a soils engineer or certified "R" values or CBR values necessary to support selected subbase, base course, and surfacing requirements as outlined in the DOH manual or as required by the Town Engineer. "R" values or CBR values shall be determined by testing of subgrade soils or by comparable design soils conditions, as determined by the project's soil engineer.

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- d. The results of the testing and the road structure design shall be submitted to the Town Engineer during the development review process.
7. Horizontal alignment.
- a. Horizontal alignments in rural areas are usually dictated in large measure by (i) topography, and (ii) intended or existing land uses on adjacent properties. However, where possible both horizontal and vertical street alignments should relate to the natural contours of the site insofar as practical, while being consistent with safe geometric design.
 - b. Collector roads shall be designed in accordance with the AASHTO Green Book.
 - c. Local and stub road curves shall be designed in accordance with the AASHTO Green Book.
 - d. Because of snow and ice conditions the maximum super-elevation rate shall be 0.08 ft/ft.
 - e. Roadway alignment in commercial and industrial zoned areas should be commensurate with the topography but should be as direct as possible. Alignment in residential areas should fit closely with the existing topography to a reasonable extent without reducing the safety of the roadway.
 - f. The alternative compliance procedure in Section 6.1.2 may be used to allow the Town Engineer to approve curve radii less than required for design speeds in special situations where smaller radii can be shown to create less environmental impact without significant reduction in safety. In no case shall any curve radius be less than fifty (50) feet.

TABLE 6.6-2. Roadway Classification and Design Standards

Template Design	Arterial	Collector	Class I Local Street	Class II Local Street	Class III Local Street
Design Capacity ADT	More than 2,500	400 to 2,499	200 to 399	100 to 199	99 or fewer
Minimum R.O.W.	70'	60'	60'	50'	40'
Pavement Width	30' 3' bikeway	26' 3' bikeway	22'	22'	20'
Driving Lanes No. and Width	2—12' drive lane 2—3' bike lane	2—11' drive lane 2—3' bike lane	2—11' drive lane	2—11' drive lane	2—10' drive lane
Shoulder Lanes No. and Width	2—4' graveled shoulders	2—4' graveled shoulders	2—3' graveled shoulders	2—3' graveled shoulders	2—1' graveled shoulders
Sidewalk Width	Min. 8'	Min. 5' one side and 8' other side	Min. 5'	Min. 5'	Min. 5'
Cross Slope	2%	2%	2%	2%	—
Curb and Gutter	Yes	Yes	Yes	No	No
Design Speed	30—45 Mph	20—35 Mph	20—30 Mph	15—30 Mph	15—30 Mph
Max % Grade	8%	8%	8%	10%	10%
Minimum Surface	Asphalt	Asphalt	Asphalt	Gravel	Gravel

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Stabilization	Engineered	Engineered	Engineered	Engineered	Engineered
Drainage	Engineered	Engineered	Engineered	Engineered	Engineered

C. Alleys.

1. Alleys shall be allowed in residential neighborhoods within the Town core area where practical.
2. Alleys or other suitable means of service access shall be allowed in commercial and industrial developments.
3. The minimum width of an alley right-of-way shall be twenty (20) feet.

D. Roadway drainage. Drainage shall meet AASHTO Green Book standards for all streets and alleys. Gutters, roadside ditches, culverts, and other forms of drainage channels must drain to natural drainage ways or other means of positive removal of runoff water. Minor drainage shall be designed and installed to carry the flow from a ten-year frequency storm event. Surface drainage structures, road and street configurations and site grading shall be designed and constructed to carry the flow from a base flood with no damage to the drainage system or any adjoining structures. No drainage above historic rates shall drain into protected waterways.

E. Roadway utilities. Any utility lines to be located within a platted public right-of-way shall be installed before paving or graveling is commenced.

F. Roadway naming guidelines. Street names shall comply with guidelines shown below and shall not duplicate any previously platted street names within the Town, unless the new street is a continuation of an existing alignment. A logical, systematic pattern of street names should be developed for each subdivision or development to assist in locating a desired street. For instance, names starting with progressive letter of the alphabet (i.e. Apple Court, Brookhill Drive, Capricho Street, etc) might be assigned to streets taking off from the principal streets running through a subdivision. Prefixes of North, South, East, and West could be helpful in many circumstances. A name assigned to a street or avenue should not be used for a court or drive. "Mall," "terrace," "lane," and other suffixes not set forth below are generally not appropriate and should not be used. The following table outlines acceptable suffixes for new roadways.

Table 6.6-3. Guidelines for Naming New Roadways

Street Type	Addressing Standard
Avenue	This suffix may be used broadly. Generally avenues should run approximately at right angles to streets.
Boulevard	This suffix should be used sparingly and applied only to principal arterials through subdivisions.
Circle	This suffix should be used for roadways that start and end at the same roadway.
Court*	This suffix should be used for relatively short roadways ending in a cul-de-sac or a turnaround, unless the turnaround or cul-de-sac is temporary and the roadway is expected to be extended in the future.
Drive	This suffix should be used for a minor roadway starting at one roadway and ending at another.
Place*	This suffix should be used for relatively long roadways ending in a cul-de-sac or a turnaround, unless the turnaround or cul-de-sac is temporary and the roadway is expected to be extended in the future.
Road	This suffix should be applied to existing roads comprising the basic network throughout the Town.
Street	This suffix may be used broadly. Generally streets should run approximately at right angles to avenues.

G. Roadway signs.

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1. All signing, striping, signalization, markers, delineators, signals and other traffic control devices shall conform to the requirements of the Manual on Uniform Traffic Control Devices as published by the U.S. Department of Transportation, Federal Highways Administration.
 2. In new developments, all required street name signs, speed limit signs, stop signs and other traffic control devices are to be installed to the satisfaction of the Town Engineer and paid for by the Developer. Street name signs shall be installed at all intersections in the subdivision, according to the street names approved on the Final Plat.
 3. Non-standard signs or other traffic control devices are subject to the control and approval of the Town Engineer. Requests to install non-standard signs or other devices must be submitted to the Town Engineer along with data required to support the request.
- H. Roadway snow storage and removal.
1. All roads shall be designed and constructed to permit space for snow storage adjacent to the roadway.
 2. Snow shall be removed such that sight distance is not impaired.
 3. Snow shall not be cleared from private property or public sidewalks onto public rights-of-way or other private property.
- I. Procedures for roadways. All new roads created or modified as part of an application for realignment, development or subdivision shall comply with the procedures set forth in the user's manual.
- J. Roadway construction and inspection. At least seven (7) working days prior to the commencement of construction within Town rights-of-way, the developer/contractor shall: (i) notify the Town Engineer of their intent to commence construction, (ii) obtain a road construction permit, (iii) submit a proposed schedule of construction activities, and (iv) notify the Town Engineer of any changes in scheduling. Changes in design can be approved only by the Town Engineer.
1. The Town Engineer and/or staff shall inspect the work throughout the construction period to verify that the work complies with Town's general design requirements and regulations.
 2. In cases where rights-of-way have not been publicly dedicated, the Town Engineer shall have authority pursuant to an executed development improvements agreement to ensure that construction complies with the approved subdivision or development.
 3. Upon completion of construction of a roadway, the developer shall request in writing an inspection of the completed project. Inspections of completed projects during snowy or freezing weather shall be postponed until acceptable weather conditions prevail.
- K. Roadway acceptance.
1. Dedicated roads within the Town's jurisdiction are approved for release of security by the Town Council upon recommendation from the Director and/or the Town Engineer when the roadways have met the following minimum requirements:
 - a. Streets have been constructed according to Town regulations and standards and have been certified by the project engineer.
 - b. All drainage criteria, as outlined in the Town regulations and standards, have been satisfied and have been certified by the project engineer.
 - c. Adequate easements or rights-of-way for drainage requirements and pedestrian movement, both off-site and on-site, have been identified, are shown on the plans, and have been certified by a registered surveyor that all improvements are located within established rights-of-way or easements.
 - d. The included roads are properly connected to the existing Town road system.

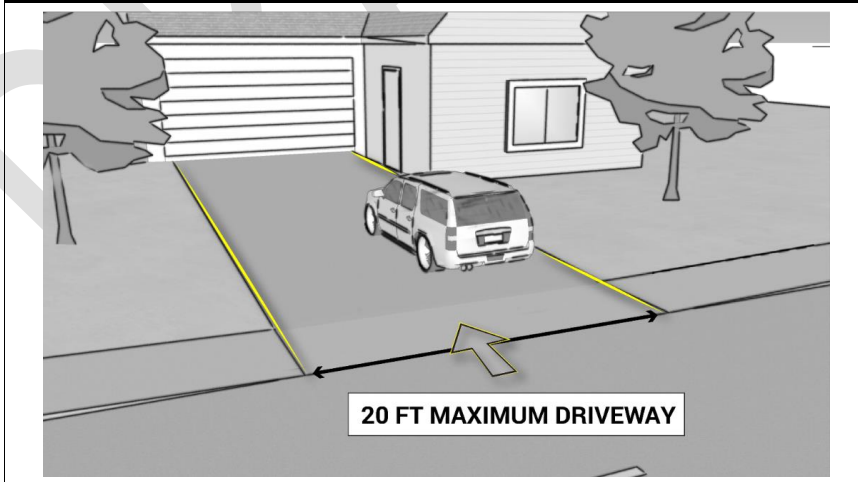
WORK SESSION DISCUSSION ITEMS I.1.

- e. All necessary road rights-of-way have been conveyed as required.
 - f. All combustible or objectionable material has been cleared from the roadside, and all required signing is properly installed. All areas requiring seeding and/or foliage shall have been planted as prescribed by the plans.
2. The Town will not completely release the performance guarantee for roads until after a three-year warranty period following the completion and inspection pursuant to the development improvement agreement.
- L. Road and alley cuts.
- 1. Permit required.
 - a. A permit shall be required for any curb cut or excavation or opening in or under the surface of any street, alley, sidewalk, right-of-way or other public place, or to install repair or perform miscellaneous work on any underground utility service in or under such areas, or to bore in or under such areas.¹
 - b. Refer to Municode section for Public Works

6.6.4. PRIVATE DRIVEWAYS

- A. Unless the Town has entered into an agreement with a property owner to relocate a driveway due to construction of a public road or right-of-way, the expense of the driveway culverts, surface, labor and maintenance are the complete responsibility of the property owner.
- B. All new private driveways shall not exceed a twelve (12) percent maximum sustained grade.
- C. All private driveways and driveway accesses shall meet the following minimum requirements:
 - 1. Residential driveways for detached and attached dwelling units shall not exceed twenty feet (20') in width.

Figure #: Illustration of Corner Treatment Options



- 2. Non-residential driveways and those for multi-unit residential dwellings shall not exceed twenty-four feet (24') in width with a minimum twelve-foot (12') wide traveled way.

¹ Have Martin review

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3. Eight-foot wide, sixty-foot long turn out areas located no further than four hundred (400) feet apart where visibility is less than four hundred (400) feet.
4. Thirty-five-foot (35') radius centerline curves with an appropriately widened travel way.
5. Stabilized cut and fill slopes or no steeper than 2:1.
6. Roadside drainage ditches.
7. Lines and grades as approved by the Town Engineer.
8. Minimum twenty-foot easement (20') width or wide enough to accommodate required physical improvements, if applicable, as well as any necessary drainage easements.
9. At any intersection of a Town road with another highway, road or street, where right-of-way has been acquired to provide clear sight distance, no driveway approach shall be permitted within the frontage thereof. At any other intersection, a driveway shall be restricted for a sufficient distance from the intersection to preserve the normal safe movement of traffic.
10. All entrances and exits shall be located and constructed so that vehicles approaching or using them will have adequate visibility in both directions along the roadway to maneuver safely and without interfering with roadway traffic.
11. All driveways shall be located so that the flared portion adjacent to the traveled way will not encroach upon adjoining property.
12. The axis of an approach to the highway shall be at a right angle to the centerline of the roadway and of any angle between ninety (90) degrees and sixty (60) degrees. Adjustments will be made according to the type of traffic to be served and other physical conditions.
13. Construction of parking or servicing areas within Town right-of-way is specifically prohibited unless approved by the Town Council.
14. All driveways and approaches shall be constructed so that they do not interfere or overload the existing drainage system adjacent to the street or roadway. Property owners must provide, at their own expense, drainage structures at entrances and exits that will become an integral part of the existing drainage system. The dimensions of all drainage structures must be approved by the Town Engineer or Streets Superintendent, prior to installation.
15. The property owner shall assume responsibility for the removal or clearance of snow, ice or sleet upon any portion of the driveway approach, despite that the snow may have been deposited on the driveway in the course of the Town's snow removal operations.
16. In no event shall runoff from a driveway drain onto the Town roadway.
17. Minimum culvert size shall be twelve (12) inches.
18. Minimum cover over culvert shall be eight (8) inches.

6.6.5. SIDEWALKS, MULTI-USE PATHWAYS, AND TRAILS

A. Intent.

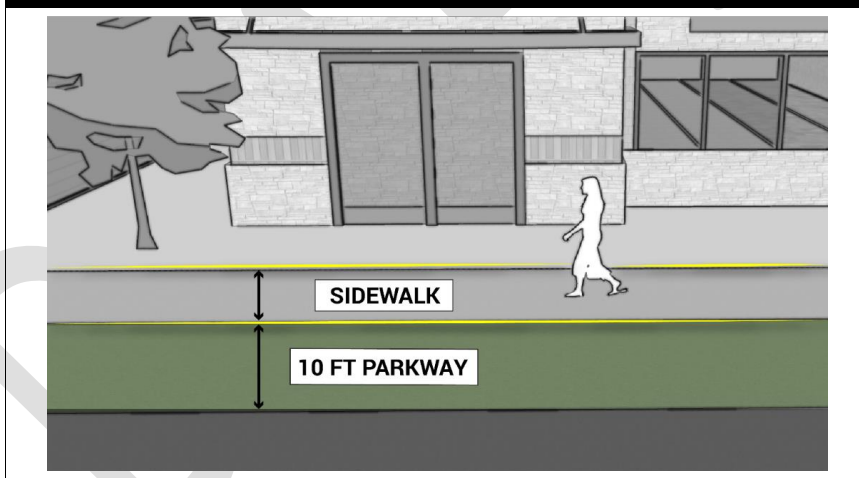
1. The intent of the standards for sidewalks, multi-use pathways, and trails is to assure a safe, convenient, and attractive pedestrian/bicycle system that minimizes conflicts between vehicles, bicycles and pedestrians. Any person who seeks approval of a development plan generating pedestrian or bicycle traffic shall provide sufficient pedestrian traffic improvements as defined in this Land Use Code, including portions of collector or regional street improvements. The improvements shall facilitate or mitigate the pedestrian traffic generated by the development and allow convenient pedestrian access through or across the development, and join with pedestrian ways on adjacent properties.
2. Any development subject to trail impact fees, as provided in Article 10 of this Land Use Code, shall pay a fee as adopted by town ordinance.

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B. General provisions.

1. Interconnected network. A sidewalk network that interconnects all dwelling units with other dwelling units, non-residential uses, and common open space shall be provided throughout each development. Sidewalks shall be separate and distinct from motor vehicle circulation to the greatest extent possible and may be required to be separated by a parkway and/or curb and gutter. The pedestrian circulation system shall include gathering/sitting areas and provide benches, landscaping, and other street furniture where appropriate.
2. Sidewalks required. In all zone districts, excluding Agricultural/Residential (RA), sidewalks are required along both sides of a street unless otherwise waived through the issuance of a variance as described in Section 2.4.11 or the project meets the alternative compliance requirements as set forth in Section 6.1.2.
3. Sidewalk width. Sidewalks shall be a minimum of five (5) feet wide along local streets; a minimum of five (5) feet wide along one (1) side and eight (8) feet wide along the other side of collector streets; and a minimum of eight (8) feet wide along both sides of arterial streets. Sidewalks adjacent to storefronts in the downtown commercial areas shall be ten (10) to fifteen (15) feet in width, or consistent with the average sidewalk width on the block if sidewalks already exist.
4. Sidewalks may be attached or detached with a minimum ten foot (10') wide parkway separating the sidewalk from the adjacent roadway.

Figure #: Illustration of Corner Treatment Options



5. Sidewalk location. Sidewalks shall be located within the right-of-way unless otherwise authorized by the Town Council.
 - a. Walkways along buildings and within parking lots shall be raised and curbed, where suitable.
 - b. A direct pedestrian connection from public sidewalks to building entries, public space and parking areas shall be provided.
6. Sidewalk materials. Sidewalks shall be constructed of concrete, brick, colored/textured concrete pavers, concrete containing accents of brick, pervious pavement, or some combination thereof that is compatible with the style, materials, colors, and details of the surrounding buildings or sidewalks. Asphalt shall not be used for sidewalks. Sidewalks must be constructed of approved materials of sufficient strength to support light maintenance vehicles.

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7. Sidewalk installation. Sidewalks and related improvements shall be installed in accordance with plans and specifications approved by the Town; and after installation or construction, they shall be subject to inspection and approval by the Town Engineer.
8. Accessibility. Sidewalks, walkways, and multi-use trails shall be universally accessible. Refer to the Americans with Disabilities Act (ADA) requirements.
9. Lighting. All sidewalks and other pedestrian walkways shall have lighting that complies with the standards in Section 6.11, Exterior Lighting, using poles and fixtures consistent with the overall design theme for the development.
10. Walkways. Walkways through a subdivision block shall be not less than eight (8) feet in width, shall be within a dedicated right-of-way not less than twenty (20) feet in width, and shall be flanked with appropriate landscaping and lighting. Walkways shall be constructed of the same materials as sidewalks; except that walkways internal to asphalt surfaced parking lots may be of asphalt construction. Walkways crossing driveways in parking lots shall be clearly delineated by a change in pavement color or texture or paint striping.
11. Multi-use trails. Multi-use trails shall be provided within a pedestrian easement to link internal open space areas with peripheral open space areas, and shall connect to multi-use trail routes throughout the community.
 - a. Trails shall be a minimum width of ten feet (10") and constructed of concrete or pervious pavement.
 - b. The trail location, shall be consistent with the adopted Regional Parks, Recreation, Open Space, and Trails Master Plan or as otherwise required or waived.

6.6.6. PARKING AND VEHICLE ACCESS

- A. Purpose. The location of parking lots and driveways shall minimize the impact on aesthetics, adjacent properties, pedestrian environment and safety.
- B. Vehicle access to multi-unit dwellings, non-residential sites, and parking lots shall be minimize or shared.
 1. Driveways shall be no closer than one hundred feet (100') from the nearest driveway or street intersection..
 2. Driveways should be accessed via alleyways, if available, and should be located so that they are less visually dominant.

6.7. - NON-RESIDENTIAL DESIGN STANDARDS

6.7.1. INTENT

This Section is intended to promote high-quality commercial and mixed-use building design with visual interest and a vibrant connected pedestrian environment. In addition, this Section intends to create a distinct image for highly visible areas of the Town.

6.7.2. APPLICABILITY

Development of any structure that will contain a use categorized in Table 4.1-1, Table of Allowed Uses, as a commercial use, or a mix of commercial and other uses, shall comply with Section 6.7.3. General Standards Supplemental standards are provided for the following areas:

- A. Section 6.7.4 – Highway 160 or Highway 84 Frontage
- B. Section 6.7.5 – Mixed-Use Town Center (MU-TC) District
- C. Section 6.7.6 – Downtown East Village (ODE) Overlay District
- D. Section 6.7.7 – Downtown Business and Lodging (ODB) Overlay District
- E. Section 6.7.8 – Hot Springs Boulevard (OSHB) Overlay District

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F. Section 6.7.9 – Buildings of 12,000 Square Feet in Size or Greater

G. In case of conflict, the more restrictive standard shall apply.

6.7.3. GENERAL STANDARDS

A. Site Planning.

1. Siting. The siting of the building shall:
 - a. Work with the natural topography.
 - b. Enable preservation of significant or important vegetation and natural features..
 - c. Work in harmony with existing buildings.
2. Building Orientation.
 - a. Consider snow and ice accumulation orienting buildings on a site and ensure that snow shed from roofs does not impede the flow of pedestrian traffic.
 - b. Orient public gathering spaces to take advantage of solar access in the winter months and shade in the summer months.
 - c. Orient buildings to protect view corridors.
3. Street Corner Treatment.
 - a. Concentrate the tallest portions of the building at the intersection to frame the corner; or
 - b. Employ architectural features, such as angled façades, prominent entrances, a stepped parapet wall, or other unique building features at the corner;
 - c. Incorporating enhanced landscaping; and/or
 - d. Incorporating outdoor gathering spaces.
 - a.

Figure #: Illustration of Corner Treatment Options

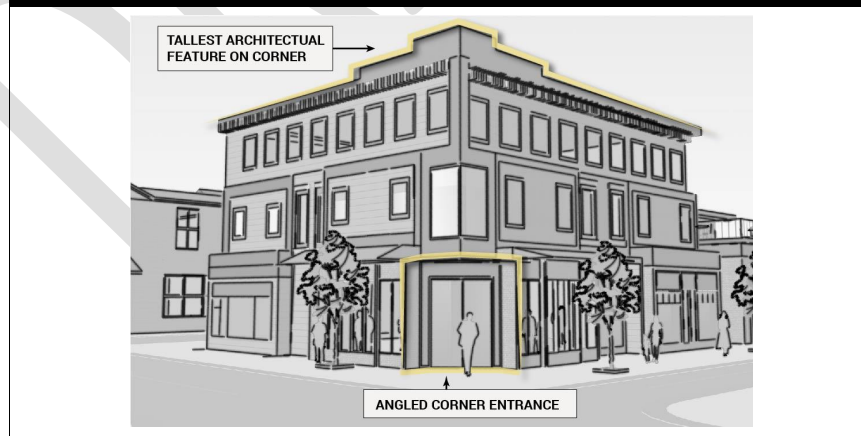


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WORK SESSION DISCUSSION ITEMS I.1.

4. Pedestrian environment. All commercial and mixed-use development shall incorporate pedestrian amenities to activate spaces.
 - a. All new development shall tie into existing sidewalks and connections between adjacent sites.
 - b. If existing plazas, paseos or active public spaces exist adjacent to new development, the new development shall incorporate or enhance these features with orientation of the new buildings.
 - c. Incorporate decorative paving such as colored, stamped or exposed aggregate concrete, pervious pavers, or brick to differentiate public gathering spaces and traffic crossings from the primary pedestrian sidewalks.
 - d. Incorporate pedestrian amenities such as benches, drinking fountains, planters, trash receptacles, path lighting, and bicycle racks along active facades of buildings.
 - e. Construction of and/or land dedication for pedestrian improvements may be required pursuant to the subdivision/development regulations and/or development improvement agreement.

Figure #: Illustration of Active Pedestrian Environment



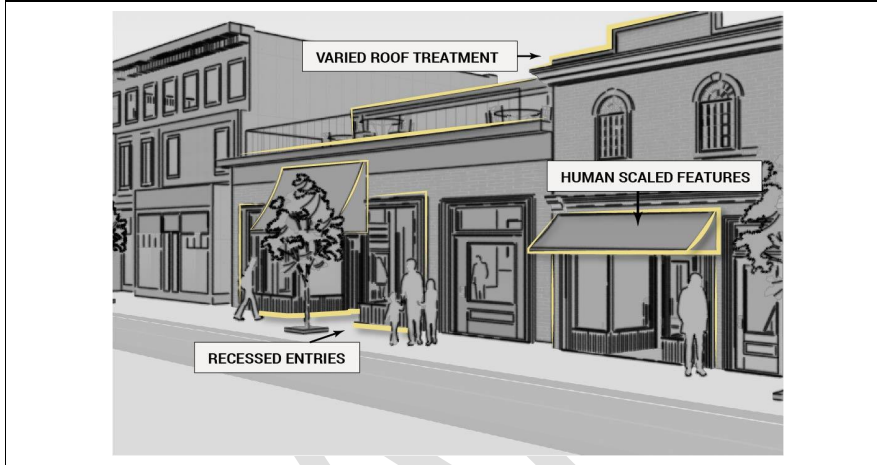
B. Building Design.

1. Building massing and form. Unless otherwise provided in this Land Use Code, building form and architectural style may vary widely, as long as the following features of building form are considered:
 - a. Within the development, vary size and shape of buildings.
 - b. Incorporate human-scaled features at the ground level, to encourage pedestrian use. (e.g. articulated entries and windows, canopies, arcades, recessed entries, changes in color, material, or texture).
 - c. Building facades longer than fifty feet (50') in length shall provide both vertical and horizontal variety by one or a combination of the following:

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- i. Incorporate indentations or bump outs of at least two feet (2') in depth to provide relief and shadow;
- ii. Vary building materials at strategic points along the façade such as buildings entries or breaks in plane;
- iii. Vary building height and roof treatment along the façade.

Figure #: Illustration of Building Massing and Form



2. Exterior building materials. Unless otherwise provided in this Land Use Code, a wide range of exterior building siding materials is acceptable, including, but not limited to wood, brick, stone, and stucco.
 - a. Incorporate materials appearing to derive from local natural settings, such as timber and native stone.
 - b. Use multiple exterior siding materials, siding textures and/or architectural wall features.
 - c. Metal may be used on the exterior of buildings for architectural features (excluding corrugated and standing seam metal) covering no more than ten percent (10%) of any building façade, unless the decision-making body determines that additional metal in the design creates a high-quality or unique building design that meets the purpose and intent of the standards in this section. Metal roofs are allowed and are exempt from the limitation on percentage of metal.
 - d. Wainscot treatments are encouraged and should generally be a minimum of three (3) feet in height, and maximum four (4) feet in height.
 - e. Vinyl and plastic may be considered for sign letters only.
3. Four-sided architecture. All building façades shall be designed with a similar level of design detail. Blank walls void of architectural detailing shall not be permitted. Exceptions may be granted for those areas of the building envelope that the applicant can demonstrate are not visible from adjacent development, public rights-of-way, trails, or the San Juan River.

Figure #: Illustration of Four-Sided Architecture

WORK SESSION DISCUSSION ITEMS I.1.



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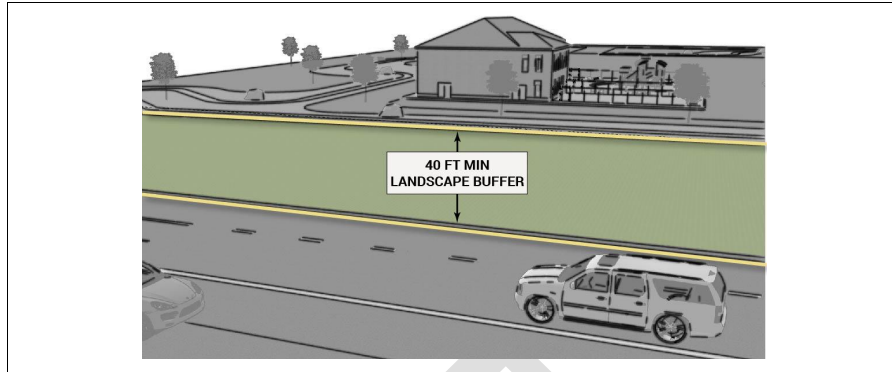
4. Entrance visibility. Entrances shall be clearly delineated and visible from the street.
 - a. Buildings shall include entries accessible from the adjacent public right-of-way, as opposed to entries accessible only from parking lots.
 - b. When entries cannot be located adjacent to the public right-of-way, pathways using building and landscape elements should enhance building entries.

6.7.4. SUPPLEMENTAL STANDARDS: HIGHWAY 160 OR HIGHWAY 84 FRONTAGE

- A. Applicability. Development of any structure that will contain a use categorized in Table 4.1-1, Table of Allowed Uses, as a commercial use, or a mix of commercial and other uses, and that has frontage along either Highway 160 or Highway 84, shall comply with the general site layout and building design standards of Sections 6.7.3. plus the standards of this Section.
- B. Setbacks.
 1. Highway landscape buffer. All development shall be buffered from Highway 160 or Highway 84 by a landscaped area a minimum of forty feet (40') deep, measured from the property line. Buildings and parking areas shall not be located in this buffer area. On sites with severe topographic constraints, this landscaped buffer may be reduced at the discretion of the Director.

Figure #: Illustration of Landscape Buffer

WORK SESSION DISCUSSION ITEMS I.1.



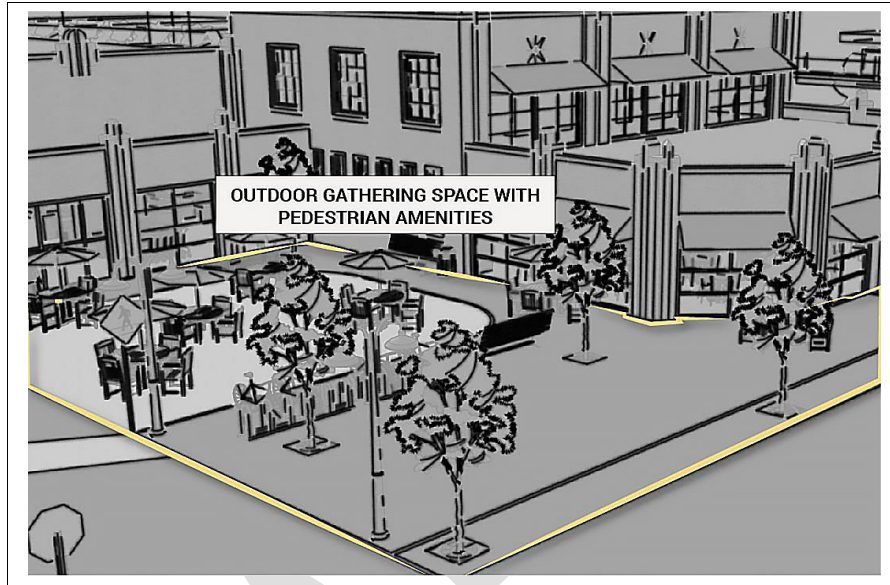
- C. Building Orientation.
- D. Focus building orientation and face entryways onto the internal road system, rather than a highway orientation.
- E. Orient buildings towards focal points within the site (e.g., unique natural features, a building of central importance, internal streets, or planned open space).
- F. Service and utility entrances, mechanical support facilities, and unimproved building "back sides" shall not be located within view of neighboring residences or visible from highway right-of-way. Service and utility courts or alleys may contain these necessary support functions.
- G. Access. Coordinated access points along Highway 160 and Highway 84 will be required in accordance with CDOT requirements. Location and design of these highway accesses will be based on projected traffic flows and CDOT guidelines

6.7.5. SUPPLEMENTAL STANDARDS: MIXED-USE TOWN CENTER DISTRICT (MUTC)

- A. Applicability. Development of any structure that will contain a use categorized in Table 4.1-1, Table of Allowed Uses, as a commercial use, or a mix of commercial and other uses, and that is located within the Mixed Use-Town Center District, shall comply with the general site layout and building design standards of Sections 6.7.3. plus the standards of this Section.
- B. Site Planning.
 - 1. Primary entrances. Orient entrances towards and visible from the primary street frontage, and the San Juan River where applicable.
 - 2. Outdoor gathering spaces. Buildings ten thousand square feet (10,000 sf) in size or larger shall incorporate outdoor gathering spaces. Outdoor gathering spaces may include, but are not limited to, plazas, mini-parks, or courtyards that are open to and accessible to the public.
 - a. Minimum size. All outdoor gathering spaces shall have a minimum depth and width of twenty (20) feet and a minimum total area of one thousand (1,000) square feet.
 - b. Pedestrian amenities. Outdoor gathering spaces shall include amenities that encourage pedestrian activity, such as seating and/or tables, water features, drinking fountains, planters, landscaped areas and plantings, public art, trash receptacles and bicycle racks.

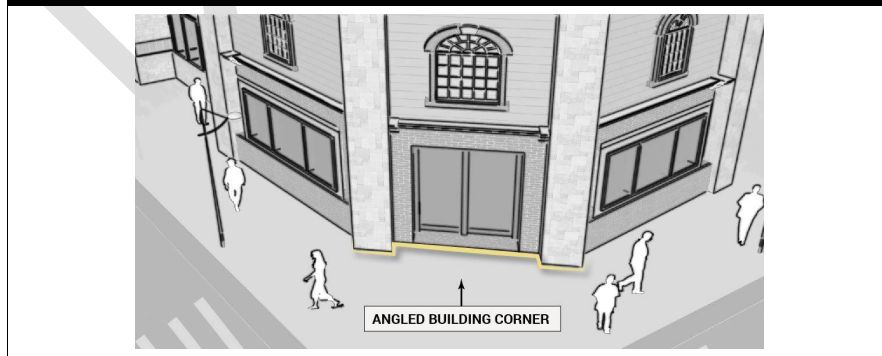
Figure #: Illustration of Outdoor Gathering Spaces

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3. Parking location. Locate surface parking behind buildings. Surface parking is not permitted between the building and the primary street frontage or to the side of the building where it may be viewed from the primary street frontage.
4. Ground-floor uses. The ground floor along street frontages shall contain active uses such as retail shops and/or restaurants to encourage pedestrian activity. This shall specifically apply to Pagosa Street, Lewis Street, San Juan Street, Highway 160, and other downtown street frontages, as well as adjacent to major public spaces, such as along the San Juan River, where a high level of activity and visibility is desirable.
5. Street Corners. Buildings at the intersection of pedestrian oriented streets such as Pagosa Street, Lewis Street, and San Juan Street shall have rounded or angled features or shall step back from the property line in order to accommodate an enhanced entry or outdoor seating area at the building corner.

Figure #: Illustration of Angled Building Corner



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C. Building Articulation.

1. The perceived mass and scale of downtown development shall be reduced to achieve a human scale by incorporating a series of smaller design elements that are consistent with the development's architectural character. Appropriate design elements for every development shall incorporate, but are not limited to, at least four (4) of the following:
 - a. Variations in roof form and parapet heights;
 - b. Pronounced recesses and projections;
 - c. Wall plane off-sets;
 - d. Off-sets to accommodate outdoor gathering spaces;
 - e. Distinct changes in texture and color of wall surfaces;
 - f. Contrasting material wainscot;
 - g. Ground-level arcades and second or third-floor galleries/balconies;
 - h. Awnings and canopies;
 - i. Protected and recessed entries;
 - j. Decorative feature lighting; or
 - k. Vertical accents or focal points.

Figure #: Illustration of Building Articulation

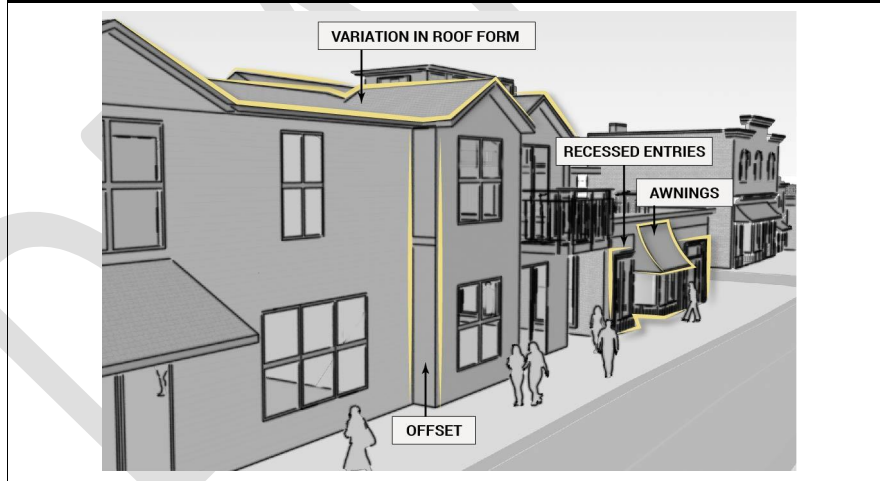


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- ## D. Materials. Primary building materials shall be durable and project an image of permanence typical of the traditional Downtown Core.
1. Appropriate materials include, but are not limited to:
 - a. Brick, stone, split face block, or other masonry products;
 - b. Composite, or painted or stained wood siding;
 - c. Textured, cast concrete;

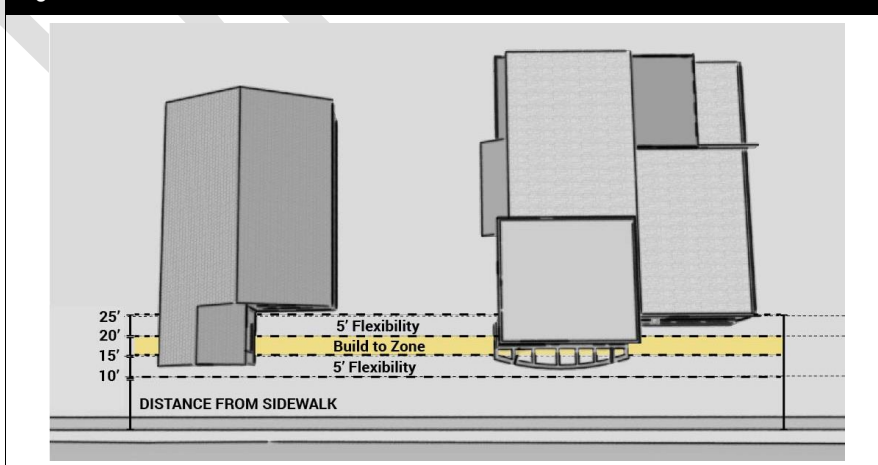
WORK SESSION DISCUSSION ITEMS I.1.

- d. Steel (may be used for accents only);
 - e. Stucco (for no more than 50% of the façade);
 - f. Comparable material approved by the Director.
2. Color. Limit use of bright colors for accents and decorative details such as window details, storefronts and entrances.
 3. Awnings. Design awnings as integral elements of the building façade. Material, size, configuration, dimension, and location of awnings shall complement the architectural features of the building.

6.7.6. SUPPLEMENTAL STANDARDS: DOWNTOWN EAST VILLAGE OVERLAY DISTRICT (ODE)

- A. Applicability. Development of any structure that will contain a use categorized in Table 4.1-1, Table of Allowed Uses, as a commercial use, or a mix of commercial and other uses, and that is located within the ODE Overlay District, shall comply with the general site layout and building design standards of Sections 6.7.3., plus the standards of this Section.
- B. Build-To zone . The build-to zone for the ODE Overlay District shall be fifteen to twenty feet (15-20') from the back of the sidewalk or property line.
 1. The front façade of all buildings shall be located within the build-to zone.
 2. The front building façade may only be located outside of the build-to zone to:
 - a. Reflect existing, adjacent development in which case buildings shall be built to the average setback of the adjacent existing structures on either side of the proposed development;
 - b. Accommodate an outdoor gathering space, as defined in Section 6.7.5.B.2. ; or
 - c. Accomplish a similar objective, as approved by the Director and/or Design Review Board.
 3. Portions of the front façade that are not located within the build-to zone shall:
 - a. Not extend further than five feet (5') from the build-to zone; and
 - b. Be limited to twenty feet (20') in length or twenty percent (20%) of the length of the front façade, whichever is less.

Figure #: Illustration of ODE Built-To Zone

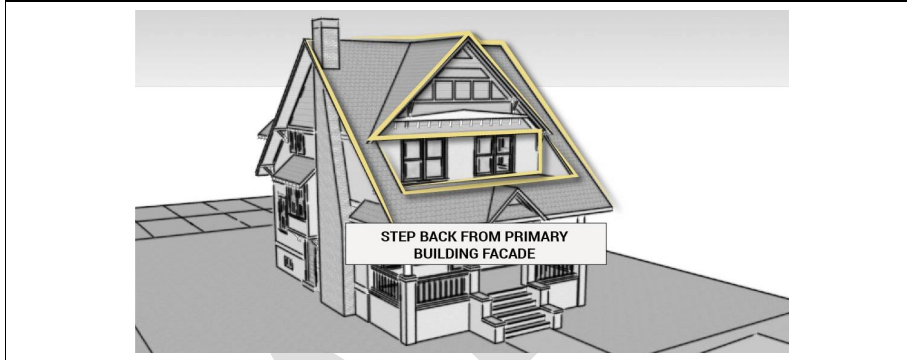


WORK SESSION DISCUSSION ITEMS I.1.

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- C. Building Height and Massing. A single, large, dominant building mass shall be prohibited. In addition to the requirements for building articulation in Section 6.7.5.C building mass and height above the second floor shall be stepped back from the primary building façade a minimum of ten feet (10').

Figure #: Illustration of ODE Built-To Zone

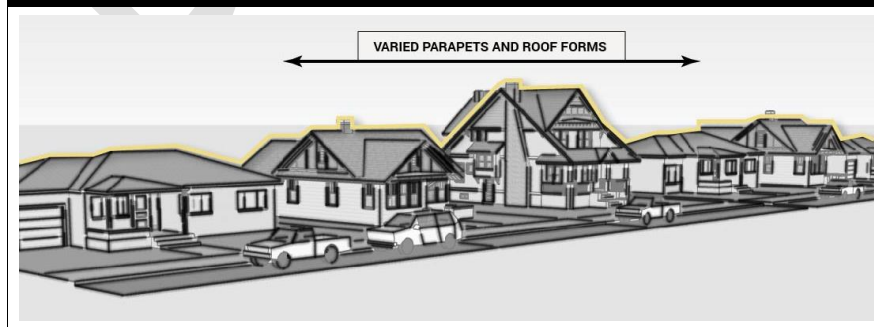


- D. Lot Consolidation. The consolidation of existing lots is permitted to enhance infill and redevelopment opportunities; however, developments occupying two (2) or more combined lots shall meet the building massing and form standards of Section 6.7.3.B.1 to reflect traditional lot widths of the East Village.
- E. San Juan River Frontage. Buildings with frontage along both a primary street frontage and the San Juan River shall be designed to have two (2) "front" façades to promote pedestrian activity in both locations.

Roof Form. Box-like structures and flat roofs are incompatible with the traditionally residential character found in the East Village. The following standards shall apply:

1. A variety of roof forms and surfaces (pitched, shed, and dormers) shall be incorporated into structures to break up large roof planes, provide visual interest, and manage snow loads.
2. Flat roof sections shall be limited to a maximum of one-third (1/3) of the total roof area and shall be located where they are not visible from the primary street frontage or public right-of-way.

Figure #: Illustration of ODE Roof Forms



WORK SESSION DISCUSSION ITEMS I.1.

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- F. Street level transparency. Each ground-floor building façade that faces a street, plaza, park, the San Juan River, or other public space, shall be comprised of a minimum of forty percent (40%) transparent window openings. Such openings shall be taller than they are wide.

6.7.7. SUPPLEMENTAL STANDARDS: DOWNTOWN BUSINESS AND LODGING OVERLAY DISTRICT (ODB)

- A. Applicability. Development of any structure that will contain a use categorized in Table 4.1-1, Table of Allowed Uses, as a commercial use, or a mix of commercial and other uses, and that is located within the ODB Overlay District, shall comply with the general site layout and building design standards of Sections 6.7.3., plus the standards of this Section.
- B. Build-to line. First floors of all buildings within the ODB Overlay District shall "build to" the back of the sidewalk or edge of property. Exceptions to the build-to line may be permitted if:
 - 1. The space set back from the build-to line is used for an outdoor gathering space, as defined in Section 6.7.5.B.2.;
 - 2. The space set back from the build-to line is designed as a protected walkway for pedestrians, with the second floor placed at the build-to line; or
 - 3. The space set back from the build-to line is used to provide a mid-block pedestrian connection to an outdoor gathering space provided at the rear of the building, to the San Juan River, or to an adjacent trail corridor. Mid-block pedestrian connections shall be a minimum of fifteen (15) feet in width.

Figure #: Illustration of ODE Roof Forms

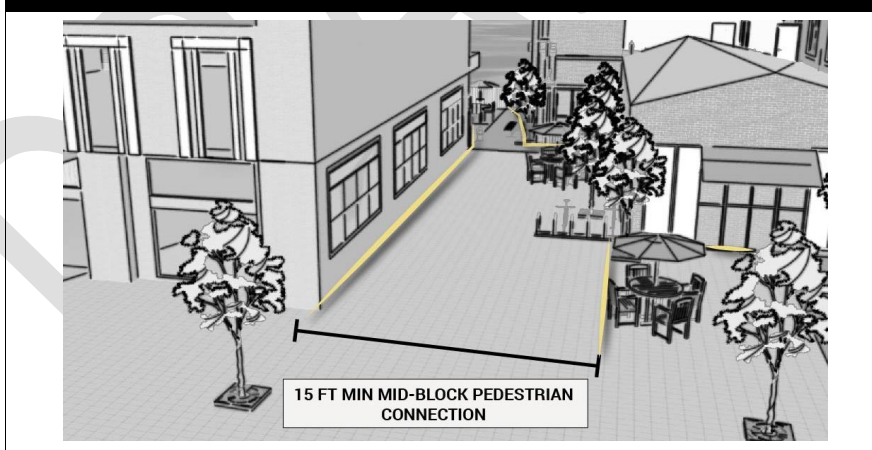
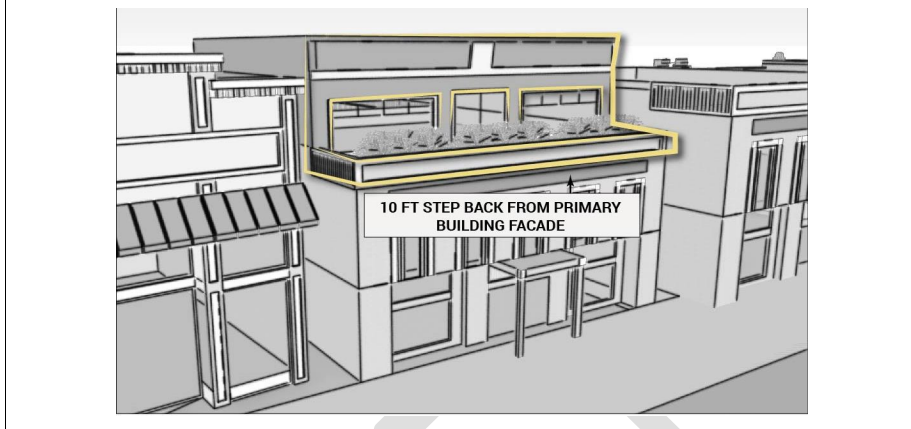


IMAGE REPLACED WITH GRAPHIC

- B. Building Height and Massing. A single, large, dominant building mass shall be prohibited. In addition to the requirements for building articulation in Section 6.7.5.C above, building mass and height above the second floor shall be stepped back from the primary building façade a minimum of ten feet (10') on all street frontages and along the San Juan River corridor.

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Figure #: Illustration of ODB Height and Massing



1.

IMAGE REPLACED WITH GRAPHIC

- C. Lot consolidation. The consolidation of existing lots is permitted to enhance infill and redevelopment opportunities; however, developments occupying two (2) or more combined lots shall provide façade variety and modulation to reflect traditional storefront widths within the downtown core, which range from twenty-five to fifty feet (25-50') in width.

Figure #: Illustration of ODB Height and Massing

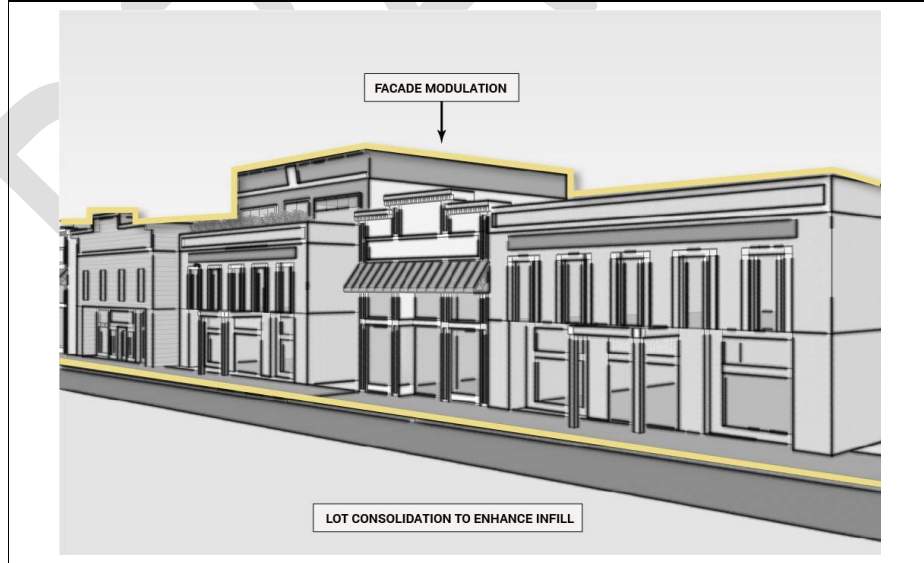


IMAGE REPLACED WITH GRAPHIC

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- D. San Juan River frontage. Buildings with frontage along both a primary street frontage and the San Juan River shall be designed to have two (2) "front" façades to promote pedestrian activity in both locations.

IMAGE REPLACED WITH GRAPHIC

- E. Roof form.
1. Buildings shall consist of flat roof forms with parapet walls which are traditionally found in the ODB district. .
 2. Parapet walls shall vary in height and detail every twenty-five to fifty feet (25-50') along a building façade to reduce the appearance of large, unbroken expanses of roofline.

Figure #: Illustration of ODB Height and Massing

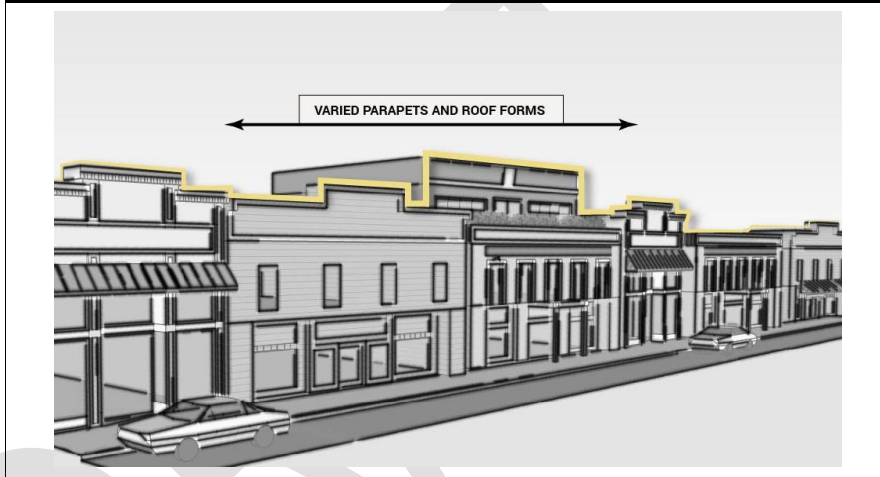


IMAGE REPLACED WITH GRAPHIC

- F. Street level transparency. Each ground-floor building façade that faces a street, plaza, park, the San Juan River, or other public space, shall be comprised of a minimum of fifty percent (50%) transparent window openings. Such openings shall be taller than they are wide.

6.7.8. SUPPLEMENTAL STANDARDS: HOT SPRINGS BOULEVARD OVERLAY DISTRICT (OHSB)

- A. Applicability. Development of any structure that will contain a use categorized in Table 4.1-1, Table of Allowed Uses, as a commercial use, or a mix of commercial and other uses, and that is located within the OHSB district, shall comply with the general site layout and building design standards of Sections 6.7.3. plus the standards of this Section.
- B. Build-to line. First floors of all commercial buildings in the OHSB Overlay District shall be placed at the build-to line established at fifty (50) feet from the right-of-way center line along Hot Springs Boulevard, and at forty (40) feet from the center line on collector streets intersecting Hot Springs Boulevard. Exceptions to the build-to line may be permitted if:
 1. The space set back from the build-to line is used for an improved public space such as a courtyard, plaza, patio, or garden between the building and the sidewalk. Such an area shall

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have landscaping, low walls, fencing, railings, a tree canopy, pedestrian amenities, and/or other similar site improvements designed for pedestrian interest, comfort and visual continuity.

2. The space set back from the build-to line is designed as a protected walkway for pedestrians, with the second floor placed at the build-to line.
 3. The space set back from the build-to line is used as a recessed entry.
- C. Building height/mass. A single, large, dominant building mass is prohibited.
1. Second and third floors shall be stepped back from the primary façade a minimum of five feet (5') on the on all street frontages.
 2. Variation in mass shall be related to entrances, the integral structure, and/or the organization of interior spaces and activities and not merely for cosmetic effect. False fronts or parapets create an insubstantial appearance and are prohibited.
 3. Horizontal mass shall not exceed a height to width ratio of 1:2 without substantial variation in mass that includes a change in height and a projecting or recessed element.
- D. Parking.
1. Parking lots on Hot Springs Boulevard. Buildings shall be sited so that parking lots are located in interior block locations with no frontage on Hot Springs Boulevard.
 2. Parking lots on collector and minor streets. Parking lots and vehicular use areas on collector and minor streets may occupy no more than fifty (50) percent of the block's street frontage and shall be screened by a landscaped area at least six (6) feet in width.
- E. View corridors. The North Range view corridor from Hot Springs Boulevard shall be preserved to the greatest extent feasible. Views of the San Juan River and the wetlands shall be preserved and visual access shall be maintained and enhanced whenever practicable.

6.7.9. SUPPLEMENTAL STANDARDS: BUILDINGS 12,000 SQUARE FEET IN SIZE AND GREATER

- A. Applicability. Development of any building that will be twelve thousand (12,000) square feet in size or greater shall comply with the general site layout and building design standards of Sections 6.7.3. above, plus the standards of this Section.
- B. Setbacks. Reduced building setbacks may be approved by the Design Review Board if the overall design reflects an urban style building form and site design (e.g., connected sidewalks, on-street parking, benches, display windows, awnings, etc).
- C. Building height, bulk, scale. Buildings should be visually harmonious with their surroundings, by considering the scale, proportions and character of adjacent structures and landforms.
1. Incorporate pedestrian-oriented open space, such as courtyards or other unified landscaped areas..
 2. Building facades longer than one hundred feet (100') in length shall provide both vertical and horizontal variety by one or a combination of the following:
 - a. Incorporate indentations or bump outs of at least two feet (2') in depth to provide relief and shadow;
 - b. Vary building materials at strategic points along the façade such as buildings entries or breaks in plane;
 - c. Vary building height and roof treatment along the façade, the addition of dormers, balconies, deep eaves and overhangs may create visual interest.;
 - d. Incorporate upper story building setbacks; or
 - e. Incorporate extended and/or covered building entries.

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D. Architectural Elements.

1. Buildings should be unique to the community and should not be recognizable by its architecture as a standard trademark design. Generic franchise architecture shall not be acceptable.

E. Color.

1. Bright colors should be used minimally and may be considered only for accents and decorative details such as window details and entrances.
2. Colors should be used to coordinate the entire building façade as a composition.

(Ord. No. 754, § 1, 5-20-2010; Ord. No. 822, § 1, 2-19-2015)

6.8. - RESIDENTIAL DESIGN STANDARDS

6.8.1. INTENT

The intent of this section is to ensure that medium to high density residential development exhibits creativity and variety to ensure infill development that is harmonious with existing neighborhood character.

6.8.2. APPLICABILITY

These standards shall be applicable to all new and remodeled attached and multi-unit development.

6.8.3. SITE PLANNING

- A. Building orientation. The primary entrance and façade of individual units within an attached or multi-unit development shall be oriented towards:
 1. Primary internal or perimeter streets, or
 2. Common open space, such as interior courtyards, parks, or on-site natural areas with a clearly defined and accessible pedestrian circulation system.
 3. Primary entrances and façades shall not be oriented towards parking lots, garages, or carports. No primary access shall be located more than two hundred (200) feet from public right-of-way including a street or sidewalk.
- B. Pedestrian connections. An on-site system of pedestrian walkways shall be designed to provide direct access and connections to and between the following:
 1. The primary entrance or entrances to each unit;
 2. Sidewalks or walkways on adjacent properties that extend to the shared boundary ;
 3. Any public sidewalk system along the adjacent perimeter;
 4. Any adjacent commercial land uses, including but not limited to retail shopping centers, office buildings, restaurants, or personal service establishments; and
 5. Any adjacent or on-site public park, trail system, open space area, greenway, or other public or civic use including but not limited to schools, religious land uses, public recreational facilities, or government offices.
- C. Garage Placement and Design.
 1. General. The use of alley or side-loaded garages, or a combination of garage orientations is encouraged where practicable.
 2. Freestanding common garages, carports, parking lots.

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- a. To the maximum extent feasible, garage entries, carports, and parking lots, shall be located behind the primary building.
- b. Freestanding common garages, carports, and parking lots shall not occupy more than thirty percent (30%) of each perimeter public street frontage
- c. To the maximum extent practicable, freestanding common garages and carports that are visible from perimeter public streets shall be sited perpendicular to the perimeter street in order to reduce visual impacts on the streetscape.
- d. Freestanding common garages and carports shall be limited to sixty feet (60') in length with a visual break such as column or material change every twenty feet (20').
- e. Freestanding garages with second-floor residential units shall be limited to eighty feet (80') in length with a visual break such as column or material change every twenty feet (20').
- f. Detached common garages and carports shall incorporate materials, scale, colors, architectural details, and roof slopes similar to those of the primary attached and multi-unit buildings.

Figure #: Illustration of Garage Placement

Placeholder for graphic if needed

3. Front loaded garages.
 - a. The façade of attached front loaded garages shall be set back a minimum of four feet (4') from the primary building façade or front porch measuring a minimum forty-eight square feet (48 sq.ft.).
 - b. Banks of more than two (2) garage doors must be interrupted by a building entry.
4. Garage door color. Darker accent colors shall be utilized on garage door surfaces to minimize their visual prominence—particularly for hillside and riverfront properties. White or other highly reflective colors shall not be permitted on garage doors.

6.8.4. BUILDING DESIGN

- A. Four-sided design. All building facades shall display a similar level of quality and architectural detailing.
- B. Façade articulation. Building facades shall be articulated through the incorporation of three (3) or more of the following:
 1. Balconies,
 2. Bay or box windows,
 3. Insets or other relief in the wall plane,
 4. Porches,
 5. Dormers,
 6. Variations in materials; or
 7. Variations in roof forms.
- C. Roof form. Multi-unit buildings with four (4) or more units shall incorporate a variety of roof forms. Generally, multi-unit buildings shall incorporate roof pitches of between 3:12 and 12:12; however, alternative roof forms or pitches may be allowed for small roof sections over porches, entryways, or similar features.

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- D. Multi-building developments. Multi-unit developments with more than three (3) buildings shall incorporate more than one (1) distinction between building designs. Examples may include:
1. A variation in length of thirty (30) percent or more;
 2. A variation in the footprint of the building of thirty (30) percent or more;
 3. A distinct variation in color and use of materials;
 4. A variation in the type of dwelling unit contained in the building that results in a significantly different scale and mass (i.e., apartments vs. townhomes or duplexes); or
 5. A distinct variation in building height and roof form.

6.9. - PARKING AND LOADING

6.9.1. INTENT

These requirements are intended to establish orderly, safe, and efficient vehicular parking, circulation and access on adjoining thoroughfares within developments.

6.9.2. APPLICABILITY

- A. The standards of this Section shall apply to all parking lots and parking structures including parking lots as a primary use, parking lots as an accessory use, and temporary parking lots. t.
- B. The standards of this Section shall also apply when an existing structure or use is expanded or enlarged, or when there is a change in use. Additional off-street parking and loading spaces shall be required to equal one hundred percent (100%) the minimum ratio established in this Section.

6.9.3. TABLE OF OFF-STREET PARKING REQUIREMENTS

- A. Unless otherwise expressly stated in this Land Use Code, off-street parking spaces shall be provided per the minimum requirements listed in the table below for the associated use category.

TABLE 6.9-1: Off-street Parking Schedule

Use Category	Use Type	Minimum Number of Off-Site Parking Spaces Required
RESIDENTIAL USES		
	All use types not listed below	2 spaces per dwelling unit
Household Living	Dwelling, multi-unit	1 space per dwelling unit for studio units 1.5 spaces per dwelling unit for one-bedroom units 2 spaces per dwelling unit for all other units All projects shall provide 0.25 guest spaces per unit.
	Accessory dwelling units (ADU)	1 space per ADU
	Home occupation	See Article 4, Use Standards, Home Occupations
Group Living	Group living facility, large	1 space per two beds plus 1 space per 100 square feet of assembly area.
	Group living facility, small (both Type A and Type B)	
		1 space per four beds, based upon maximum capacity

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Use Category	Use Type	Minimum Number of Off-Site Parking Spaces Required
	Nursing care home	
	Nursing care facility	
PUBLIC, INSTITUTIONAL, AND CIVIC USES		
Community and Cultural Facilities	Government administration and civic buildings	1 space per 300 square feet of building area
	Social, fraternal lodges	
	Public assembly	
	Public safety facility	
Child Care Facilities	Child care center	1 space per 400 square feet of building area plus 1 additional space per 800 square feet of building area reserved for pickup and delivery of children (in addition to requirement for principal use if approved as accessory use)
	Day care home	
Health Care Facilities	Hospital	1 space per two beds, based on maximum capacity, plus 1 space per 300 square feet of office and administrative area, plus required parking for supplemental uses
	Immediate care facility	1 space per 300 square feet
	Medical or dental office or clinic	
Parks and Open Space	All use types	. Playfields (soccer, baseball, etc.) shall have minimum of 20 spaces per field
Educational Facilities	College or university	1 space per 300 square feet of enclosed floor space
	Elementary or secondary school	1 space per six seats in the main auditorium or assembly room, based on maximum capacity, or 1.25 spaces per classroom, whichever is greater
	Trade or vocational school	1 space per 300 square feet of enclosed floor space
COMMERCIAL USES		
Agriculture	All use types	See Schedule B
Animal-Related Services	All use types	1 space per 300 square feet of building area
Financial Services	All use types	1 space per 300 square feet of building area (plus stacking spaces if drive-through is provided)
Food and Beverage Services	All use types not listed below	1 space per 200 square feet of building area
	Restaurant with drive-thru	1 space per 300 square feet of building area
Lodging Facilities	B&B or inn	1 space per guestroom
	Campground, guest ranch, or RV park	1 space per 2 beds, or 1space per cabin, sleeping unit, or tent site, whichever is greater

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Use Category	Use Type	Minimum Number of Off-Site Parking Spaces Required
	Hotel, motel, or lodge	1 space per guestroom, plus 1 space per 90 square feet of meeting or lounge area, plus any supplemental uses
	Vacation rental	1 space per 1 bedroom unit or studio; 2 spaces per 2 or 3 bedroom units, 3 spaces for 4 or more bedroom units. See Short Term Rental application requirements in Municipal Code for more details.
Offices, Business and Professional	All use types	1 space per 300 square feet of building area
Personal Services	All use types	1 space per 300 square feet of building area
Recreation and Entertainment, Indoor	Adult entertainment	1 space per 300 square feet of building area
	Art gallery	1 space per 300 square feet of building area
	Movie theater	1 space per four seats of principal room. If no fixed seating, then based on maximum capacity under provisions of the adopted building code.
Recreation and Entertainment, Outdoor	General outdoor recreation, commercial	1 space per 5,000 square feet of land area, or 1 space per 3 persons capacity (maximum), whichever is greater; playfields (soccer, baseball, etc.) shall have minimum of 20 spaces per field
	Golf course or driving range	Golf course: 4 spaces per green Driving range: 1 space per tee
Retail Sales	Greenhouse or nursery, commercial	See Schedule B
	Grocery store	See Schedule B
	All other uses	1 space per 300 square feet of building area
Vehicles and Equipment	Gasoline sales	See stacking space requirements
	Vehicle sales and rental	See Schedule B
	Vehicle service and repair	See Schedule B
INDUSTRIAL USES		
Industrial Service	All use types	See Schedule B
Manufacturing and Production	All use types	See Schedule B
Warehouse and Freight Movement	Mini-storage	1 space per 50 storage units, plus 1 per space 300 square feet of office area, plus vehicle stacking spaces for security gate. Aisles suitable for temporary loading and unloading may be counted as required parking stalls in accordance with Table 6.9-4 as determined by the traffic engineer.
	All other uses	See Schedule B
Waste and Salvage	Salvage, junk yard	See Schedule B

B. Schedule B. Uses subject to Off-Street Parking Schedule B, as indicated in Table 6.9-1 shall provide the minimum number of off-street parking spaces listed in Table 6.9-2 below. Unless

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otherwise approved, lots containing more than one (1) activity shall provide parking and loading in an amount equal to the total of the requirements for all activities.

TABLE 6.9.2: Off-street Parking Schedule B

Activity	Number of Spaces Required
Offices	1 per 300 square feet
Indoor sales area	1 per 250 square feet
Outdoor sales or display area (3,000 square feet or less)	1 per 750 square feet
Outdoor sales or display area (over 3,000 square feet)	1 per 2,000 square feet
Indoor storage/warehousing/vehicle service/manufacturing area	
1-3,000 square feet	1 per 300 square feet
3,001-5,000 square feet	1 per 650 square feet
5,001-10,000 square feet	1 per 750 square feet
10,001-50,000 square feet	1 per 1,250 square feet
50,001 square feet+	1 per 1,500 square feet

- C. Maximum number of spaces permitted.
1. General maximum requirement. For any use categorized as a "Commercial" or "Industrial" use in Table 4.1-1, Table of Allowed Uses, off-street vehicle parking spaces shall not be provided in an amount that is more than one hundred twenty-five percent (125%) of the minimum requirements established in Table 6.9-1.
 2. Exceptions.
 - a. If application of the maximum parking standard would result in less than six (6) parking spaces, the development shall be allowed six (6) parking spaces.
 - b. For the purpose of calculating parking requirements, the following types of parking spaces shall not count against the maximum parking requirement, but shall count toward the minimum requirement:
 - i. Accessible parking;
 - ii. Vanpool, carpool, and ride share parking;
 - iii. Structured parking, underground parking, and parking within, above, or beneath the building(s) it serves;
 - iv. Electric vehicle charging spaces
 - c. For the purpose of calculating parking requirements, fleet vehicle parking spaces shall not count against either the minimum or maximum requirements.
 - d. Exceptions to the maximum parking requirement may be allowed in situations that meet all of the following criteria as determined by the Director:
 - i. The proposed development has unique or unusual characteristics such as high sales volume per floor area or low parking turnover, which create a parking demand that exceeds the maximum ratio and which typically does not apply to comparable uses; and
 - ii. The parking demand cannot be accommodated by on-street parking, shared parking with nearby uses, or by increasing the supply of spaces that are exempt from the maximum ratio; and

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- iii. The request is the minimum necessary variation from the standards; and
 - iv. If located in a mixed-use district, the uses in the proposed development and the site design are highly supportive of the mixed-use concept and support high levels of existing or planned transit and pedestrian activity.
- D. Computation of parking and loading requirements.
- 1. Fractions. When measurements of the number of required spaces result in a fractional number, any fraction shall be rounded up to the next higher whole number.
 - 2. Multiple uses. Lots containing more than one (1) use shall provide parking and loading in an amount equal to the total of the requirements for all uses, unless the uses have different hours of operation, in which case the parking spaces may be shared **per Section 6.9.5 below**.
 - 3. Area measurements. Unless otherwise specified, all square footage-based parking and loading standards shall be computed on the basis of gross floor area of the use in question. Structured parking within a building shall not be counted in such measurement.
 - 4. Computation of off-street loading. Required off-street loading space shall not be included as off-street parking space.
 - 5. Parking for unlisted uses. Parking requirements for uses not specifically listed in Table 6.9-1 shall be determined by the Director based on the requirements for the closest comparable use, as well as on the particular parking demand and trip generation characteristics of the proposed use. The Director may require the submittal of a parking demand study that justifies estimates of parking demand based on the recommendations of the Institute of Transportation Engineers, and includes relevant data collected from uses or combinations of uses that are the same or comparable to the proposed use in terms of density, scale, bulk, area, type of activity, and location.

6.9.4. PARKING AREA LAYOUT AND DESIGN

- A. Stall dimensions.
- 1. Parking stall and aisle dimensions shall be measured from the middle of the stall stripe of a parking stall to the middle of the adjacent stall stripe. Aisles for two-way flows shall be a minimum of twenty-four feet (24'), except when no spaces are backing onto the aisle, in which case width shall be twenty feet (20').
 - 2. A minimum of one (1) universally accessible, ADA-compatible, space shall be provided in each parking lot in compliance with the adopted building code, and as set forth in the following table:

TABLE 6.9.3: Accessible Parking Spaces

Total Parking Spaces Provided	Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9

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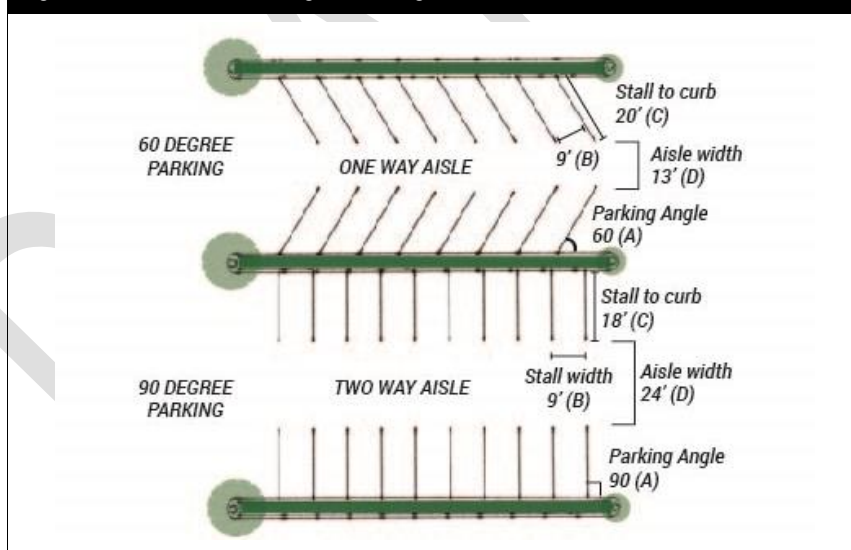
More than 500	2% of total
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- In parking lots of twenty (20) spaces or more, special considerations will be made for compact car spatial dimensions.
- The following table outlines the required minimum dimensions for layout of all parking lots.

TABLE 6.9.4: Parking Stall Design

Type of Stall	Parking Angle (A)	Stall Width (B)	Stall to Curb (C)	Aisle Width (D)	Curb Length (E)
Passenger Vehicle	0°	8' (7' on local roads as approved by town Engineer)	8'*	12'	24'
Passenger Vehicle	45°	9'	19'	13'	12'8"
Passenger Vehicle	60°	9'	20'	13'	12'8"
Passenger Vehicle	90°	9'	18'	24'	9'
Accessible Space	90°	8' with 5' adjacent access area	18'	24'	9'
Accessible Van Space	90°	8' with 8' adjacent access area	18'	24'	9'

Figure #: Illustration of Parking Stall Design



B. Parking area layout.

- Surface. All parking spaces, drive aisles, and access lanes shall be surfaced with asphalt, concrete, pervious pavement or similar materials, unless otherwise approved by the Town Engineer. Accent paving is recommended to indicate pedestrian linkages.
- Integrate parking lots with surroundings. Parking lots shall not dominate the frontage of pedestrian-oriented streets, interfere with designated pedestrian routes, or negatively impact

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surrounding neighborhoods. The pedestrian character of streets and buildings shall be maximized through continuity of building and landscape frontage.

3. Design standards. All parking lot placement and design shall comply with the applicable standards in Sections 6.7, Non-residential Design Standards, and 6.8, Residential Design Standards.
4. Lot size. Required parking shall be broken into component parking lots, avoiding large, unrelieved expanses of paving.
- C. Parking for detached residential dwelling units. This Land Use Code requires two (2) parking spaces per detached residential dwelling unit. The on-street parking lane at each lot's street frontage may fulfill the requirement for one (1) parking space, with driveway and garage meeting the additional requirement. Driveways and garage entrances from interior block alleys are preferred.
- D. Shared access. Wherever feasible, parking lots shall share access lanes.
- E. Circulation area design. Parking lots that accommodate twenty (20) or more vehicles must maintain continuous circulation patterns, with no dead-ends, and safe access to public streets.
- F. Lighting and maintenance. All parking area lighting shall comply with the Town's lighting requirements and provide adequate lighting for safety if night use is intended. Parking lots shall provide adequate security and limit visual clutter.
- G. Drainage. All parking areas shall have adequate drainage as determined by a drainage report.
- H. Loading/unloading areas. The Town requires all new and substantially remodeled commercial and industrial developments to provide adequate loading and unloading zones. The loading/unloading zones must be illustrated on the parking plan submitted for approval. Loading and unloading areas shall not impede major roads, highways, intersections, or other paths of travel. Also, these zones must be located away from areas where there is heavy pedestrian travel unless such areas cannot be avoided, as in the Mixed-Use Town Center District.
- I. Adequate space for snow storage shall be provided. For planning purposes, one (1) square foot of snow storage space is generally necessary for each two (2) square feet of area to be cleared.

6.9.5. PARKING ALTERNATIVES

- A. The Director may approve alternatives to providing the number of off-street parking spaces required by Table 6.9-1, in accordance with the following standards.
- B. Shared parking. The Director may approve shared parking facilities for developments or uses with different operating hours or different peak business periods if the shared parking complies with all of the following standards:
 1. Location. Every shared parking space shall be located no farther than six hundred feet (600') from the entrance to each building for which the shared parking is provided (measured along the shortest legal pedestrian route).
 2. Shared parking study. A shared parking analysis shall be submitted to the Town that clearly demonstrates the feasibility of shared parking.
 - a. The study shall be provided in a form established by the Director and shall be made available to the public.
 - b. It shall address, at a minimum, the size and type of the proposed development, location of required parking, the composition of tenants, the anticipated rate of parking turnover, and the anticipated peak parking and traffic loads for all uses that will be sharing off-street parking spaces.

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- c. The applicant shall also demonstrate that any parking reduction requested as part of the shared parking study will not result in the spillover of parking onto other properties.
 - d. The study shall utilize the Urban Land Institute shared parking methodology to calculate temporal and locational parking reductions.
 3. Agreement for shared parking. All parties involved in shared parking facilities shall submit a written agreement in a form to be recorded for such joint use, approved by the Director.
 - a. The agreement shall provide for the maintenance of jointly used facilities.
 - b. The agreement shall include assurance that the shared parking facility will continue to include the minimum number of parking spaces required to serve all users under the agreement.
 - c. Recordation of the agreement shall take place before issuance of a building permit for any use to be served by the shared parking area.
 - d. A shared parking agreement may be revoked only if all required off-street parking spaces will be provided in accordance with the requirements of this Land Use Code.
 - C. Off-site parking. The Director may approve the location of required off-site parking spaces on a separate lot from the lot on which the principal use is located if the off-site parking complies with all of the following standards:
 1. Location. Off-site parking space must be located within six hundred feet (600') of an entrance to the use being served (measured along the shortest legal pedestrian route). Off-site parking spaces shall be connected to the use by a sidewalk meeting the requirements of Section 6.6 above.. Off-site parking spaces may not be separated from the use served by a street right-of-way with a width of more than eighty (80) feet, unless a grade-separated pedestrian walkway, a traffic signal, a shuttle bus, or other traffic control device or remote parking shuttle bus service is provided.
 2. Control of site. Required parking spaces for residential and lodging uses must be located on the site of the use or within a tract owned in common by all the owners of the properties that will use the tract.
 3. Ineligible activities. Required accessible parking spaces may not be located off-site.
 4. Agreement for off-site parking. In the event that an off-site parking area is not under the same ownership as the principal use served, a written agreement between the owners of record shall be required, as approved by the Director.. The agreement shall guarantee the use of the off-site parking area for a minimum period of at least twenty (20) years. The Director may impose such conditions of approval as may be necessary to ensure the adequacy of parking in areas affected by such an agreement. An attested copy of the agreement between the owners of record shall be submitted to the Town for recordation in a form acceptable by the Town Attorney. Recordation of the agreement shall take place before issuance of a building permit for any use to be served by the off-site parking area. An off-site parking agreement may be revoked only if all required off-street parking spaces will be provided in accordance with the requirements of this Land Use Code.
 - D. On-street parking. On-street parking spaces in the right-of-way along the property line, may be counted to satisfy the minimum off-street parking requirements, if approved by the Director. On-street parking spaces shall not be considered reserved spaces for the adjacent property or business owner and shall be remain open for public use.
 - E. District parking. Minimum required off-street parking spaces may be waived or reduced for properties within the boundaries of a public parking or local improvement district that provides district-wide parking facilities, based on the projected parking demand to be addressed by the district-wide facility.
 - F. Stacked, tandem, and valet parking. Stacked, tandem, or valet parking for nonresidential uses is allowed if an attendant is present to move vehicles. In addition, a guarantee acceptable to

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the Town shall be filed with the Town ensuring that a valet parking attendant shall always be on duty when the parking lot is in operation. For residential uses, tandem or stacked vehicle parking may be allowed.

G. Structured parking.

1. Maximum parking waiver. Where seventy-five (75) percent or more of the parking accessory to a use is in structured parking, there shall be no maximum cap on the number of parking spaces.
2. Credit for nearby public structured parking. Spaces available in public parking structures located within one thousand (1,000) feet of the subject use may be counted toward the total amount of required off-street parking.
3. Density bonus. A density bonus shall be granted for underground parking structures in the commercial and mixed-use districts. The bonus shall be granted at a ratio of 0.01 du/gross acre of additional residential density for each one hundred (100) square feet of structured parking that is underground.

H. Sites in mixed-use districts. In the mixed-use districts, the total requirement for off-street parking facilities shall be the sum of the requirements for each use computed separately, subject to the modifications set forth below.

1. All uses within mixed-use districts shall be eligible for parking reductions per the following.
 2. The minimum parking requirement may be reduced ten percent (10%) if the use is within three hundred feet (300') of a transit stop that meets minimum design standards established by the Town.
 3. The minimum parking requirement may be reduced ten percent (10%) for sites that incorporate space for micro mobility hubs or rideshare pick-up and drop off.
 4. For every five (5) bicycle rack spaces provided, the minimum parking requirement may be reduced by one (1) parking space. The total number of required parking spaces required may be further reduced by the Director if the applicant prepares a parking evaluation that demonstrates a reduction is appropriate based on the expected parking needs of the development, availability of mass transit, and similar factors and the Town Engineer accepts such study as an accurate reflection of parking demand. The parking evaluation shall be prepared in a form and manner prescribed by the Director.
- I. Other eligible alternatives. The Director may approve other alternatives to providing off-street parking spaces on the site of the subject development if the applicant demonstrates to the satisfaction of the Director that the proposed plan will protect surrounding neighborhoods, maintain traffic circulation patterns, and promote quality urban design to at least the same extent as would strict compliance with otherwise applicable off-street parking standards.

J. Parking in-lieu fees. Reserved.

(Ord. No. 861, § 2, 7-20-2017; Ord. No. 894, § 4, 9-20-2018)

6.10. - LANDSCAPING AND SCREENING

6.10.1. INTENT

This Section is intended to ensure that new landscaping and the retention of existing vegetation is an integral part of all development, conserves water, and improves the environmental and aesthetic character of the community.

6.10.2. APPLICABILITY

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All landscaping, buffering, and screening provided pursuant to this Land Use Code shall comply with the standards in this Section. A minimum landscaped area is required for development in certain zoning districts, as identified in the Sections, 3.4.7, 3.5.5, and 3.6.6, .

6.10.3. GENERAL DESIGN STANDARDS

- A. All land development applications shall be accompanied by a landscape plan prepared by a licensed Landscape Architect. Building permit applications for individual detached residences will not require landscape plans. However, all landscaping within the community shall comply with the intent of these regulations.
- B. All unimproved earth areas shall be planted, restored, or otherwise protected from erosion. No more than thirty (30) percent of any landscaping provided to meet the requirements of this Land Use Code shall consist of inorganic materials.
- C. Landscape design shall enhance the site's natural features, drainage ways, and environmental resources.
- D. All landscape improvements shall be designed for mature landscapes and shall provide appropriate visibility for cars and pedestrians.
- E. Buildings and parking areas shall be located to preserve existing trees, environmental resources, and natural drainage ways to the greatest extent possible.
- F. Trees shall be located to provide summer shade and limit winter shade on walks and streets.
- G. Landscaping provisions shall not be cumulative or overlapping. When more than one standard applies, the most restrictive landscape standard shall apply.
- H. All landscapes shall follow these xeriscape design principles to facilitate water conservation:
 - 1. Use alternate turf varieties to minimize the use of bluegrass.
 - 2. Use shredded hardwood mulch to maintain soil moisture and reduce evaporation.
 - 3. Organize plant material by water use hydrozone with higher water use plants grouped together and lower water use plants grouped together.
 - 4. Use bioswales, water quality ponds, and rain gardens to filter runoff from parking lots, streets, and other impervious surfaces.
 - 5. Design with xeric and native plant material per the Pagosa Springs Suggested Plant Material Guide.
 - 6. Improve the soil with organic matter.
 - 7. Use efficient irrigation systems.
 - 8. Ensure proper plant maintenance and irrigation schedules.
- I. All areas disturbed by construction shall be revegetated per the regulations in this Section. Open areas shall be re-seeded with a native grass seed at rates recommended by the manufacturer.
- J. A minimum of fifty percent (50%) of all areas not covered in building or paving shall be covered in live plant materials.

6.10.4 PLANT MATERIAL SPECIFICATIONS.

- A. Plant material shall consist of native and regionally adapted species per the Pagosa Springs Suggested Plant Material Guide.
- B. Prohibited plant species. In addition to plants listed on the Colorado Noxious Weed List the following trees are prohibited in the Town:
 - 1. Russian olive (an invasive species that threatens native trees in riparian ecosystems).

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2. Lombardy poplar (susceptible to canker-forming fungi for which there are no available controls).
 3. Siberian elm (can dominate native vegetation, especially in disturbed areas; is weak-wooded and subject to continuous dieback when large; can be devastated by the elm leaf beetle).
 4. Cotton-bearing cottonwood (Often considered a public nuisance.)
 5. Ash, *Fraxinus* species (primary host to the destructive Emerald Ash Borer)
 6. Plants listed as an invasive species by the Colorado State University Extension Service are prohibited.
- C. Landscapes shall consist of a variety of species to enhance biodiversity. No one (1) species may make up more than twenty-five percent (25%) of the total non-grass plant materials on any one (1) site.
- D. Minimum planting sizes on all required landscaping shall be as follows:
1. Deciduous Trees: two-inch (2") caliper
 2. Ornamental Trees: one-and-one-half-inch (1.5") caliper
 3. Evergreen Trees: six-foot (6') tall
 4. Shrubs: five (5) gallon size
- E. Landscaping shall be no more than thirty (30") inches high when located in a sight distance triangle.
- F. Trees may not be located within five feet (5') of gas, electric, and cable lines.
- G. Trees shall not be located within ten feet (10') of water and sewer lines.
- H. Ornamental trees shall not be located within fifteen feet (15') of streetlights.
- I. Shade trees shall not be located within forty feet (40') of streetlights.
- J. All landscape turf and mulched planting areas shall be separated by steel edging a minimum of four inches (4") deep with a roll-top edge.
- K. Trees planted in lawn areas shall include a five-foot diameter (5' dia) ring of hardwood mulch at the base to provide separation between grass thatch and the trunk of the tree.
- L. No plastic shall be used for weed control barrier under mulches. When used, weed barrier shall be nonwoven polypropylene that allows water and air to penetrate.
- M. All planting areas shall be mulched to a minimum depth of four inches (4") with wood or rock mulch. No planting area shall contain mulch alone without plantings.
- N. All planting holes shall be amended with organic compost to support healthy plant growth. A soils test will be required to assess the proper rate of application. Typically, soil amendment shall be incorporated in each planting hole at a rate of fifty percent (50%) amended soil, to fifty percent (50%) native soil.
- O. All plants shall conform to standards for measurements, grading, branching, quality, ball and burlapping as stated in the American Standard for Nursery Stock, 1990 Edition, American Association of Nurserymen, Inc. (AAN-ASNS) and the Colorado Nursery Act of 1965 (CNA).
- P. All nonresidential landscaping shall be irrigated with an efficient, automated underground irrigation system as required for plant establishment and maintenance.
1. Temporary above ground irrigation may be used to establish native grasses and vegetation but must be removed following the second growing season after installation.
 2. All irrigation systems shall consist of efficient equipment such as:
 - a. Controllers;

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- b. Rain sensors; and/or
 - c. Efficient spray heads such as the Hunter MP Rotator
- Q. All newly installed landscapes shall include a contractor warranty for a minimum of two (2) years during which time the contractor shall replace all dead plant material on an annual basis.
- R. Landscaping shall be watered and maintained by the property owner or leaseholder as necessary to preserve the intent of any approved landscape plan. Ongoing maintenance shall include the replacement of dead or unhealthy plants. Violations of this Section shall be subject to penalties pursuant to Section 1.6 of this Land Use Code.
- S. All property owners or occupants shall be responsible for maintenance of landscaping within the portion of the public right-of-way between the back of the curb or street pavement and the adjacent property unless the Town has specifically agreed in a development agreement to take over maintenance.

All plant material shall be installed prior to issuance of a Certificate of Occupancy.

6.10.5. PROTECTION OF EXISTING VEGETATION

- A. The appeal and character of the site shall be preserved and enhanced by retaining and protecting existing vegetation and trees whenever possible.
- B. All existing trees eight-inch (8") caliper or larger proposed for removal on any new or infill development shall require a tree removal permit. Single detached dwelling units are exempt from this provision
- C. Trees proposed for removal shall be mitigated at the following rate:

Table 6.10-1 Tree Replacement Rates

Tree to be removed	Replace with
8" to 12" caliper tree	One 3" caliper min. tree
12" to 24" caliper tree	Two 3" caliper min. trees
24" or larger caliper tree	Three 3" caliper min. trees

- D. If it is determined by the Director that the required trees for mitigation will not fit on the site without crowding out other required site or street trees, then the applicant may pay a fee in lieu of mitigation per a rate established by the Town's adopted list of fees.
- A. Trees to be preserved shall be indicated on the landscape plan and shall be protected with fencing around the dripline of the tree during construction. Any existing tree six-inch (6") caliper or larger proposed for preservation that is lost to damage or disease within two (2) years of construction shall be replaced at the rate given in table ### above.

6.10.6 STREET TREE STANDARDS

- A. A minimum of one (1) deciduous street tree is required for every forty (40) linear feet of block frontage or portion thereof.
- B. Street trees shall be planted in the area between the curb and sidewalk in a minimum six foot (6') wide tree lawn or within five feet (5') of the back of walk where there is no tree lawn present.
- C. Spacing of street trees shall not exceed two (2) times the tree's mature crown diameter.
- D. Type. Street trees shall consist of varieties per the Pagosa Springs Suggested Plant Material Guide .

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- E. Additional landscaping. Additional landscaping within the area between the curb and sidewalk may consist of shrubs, annuals, perennials, ground cover and a maximum of fifty percent (50%) high water bluegrass turf and shall be planted and maintained by the adjacent property owners.

6.10.7 PARKING LOT LANDSCAPE STANDARDS

- A. Landscaping. At least ten (10) percent of the total parking lot area shall be used for landscaping to include the following:
 - 1. A minimum of one (1) tree for every five (5) parking spaces located around the perimeter of the parking lot.
 - 2. Screen headlights with one of the following options:
 - a. A hedge of shrubs and ornamental grasses with a minimum height of thirty inches (30") to screen seventy five percent (75%) the length of the perimeter
 - b. A berm with a minimum of thirty inches (30") height; or
 - 3. A masonry wall with a height between three and four feet (3-4') with landscape material planted at least fifty percent (50%) of the length of the street side of the wall. A minimum of one (1) landscape island every fifteen (15) parking spaces with a minimum width of nine feet (9').
 - 4. A minimum of seventy five percent (75%) live plant material coverage of the required planting area.
 - 5. Space for snow storage that does not impede the flow of vehicular or pedestrian traffic.
- B. It is strongly encouraged to include curb cuts around the perimeter of the parking area to allow for the flow of stormwater into planted bioswales.
- C. Ongoing maintenance, including the replacement of dead or unhealthy plants, shall be provided by the parking area owner/leaseholder.

6.10.8 NONRESIDENTIAL AND MIXED-USE DEVELOPMENT LANDSCAPE STANDARDS

- A. Developments in the Mixed-Use Town Center (MU-TC) zone district are exempt from this section.
- B. Landscape areas shall include no more than thirty percent (30%) high water use plant material such as irrigated turfgrass.
- C. Building perimeter landscape requirement:
 - 1. A planting area with a minimum width of six feet (6') shall be provided around the perimeter of all commercial buildings planted at a rate of one and a quarter (1.25) plants per five feet (5') of building perimeter.
 - 2. A minimum of five (5%) of the building perimeter requirement shall include trees.
 - 3. Required plants shall contain a mix of trees, shrubs, ornamental grasses and perennials.
- D. Street right-of-way buffer requirement:
 - 1. A minimum buffer width of fifteen feet (15') shall be provided between commercial buildings and the public right-of-way to contain one (1) per forty lineal feet (40') of required buffer. Signage may be included in this setback.
- E. Site perimeter landscape buffer requirement:

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Adjacent Use	Buffer Yard Width and Quantity	Example Image
Single-family, townhome, multi-family	15' wide 1 tree and 5 shrubs per 25 linear feet (50% shall be evergreen)	<Include graphic>
Commercial	10' wide 1 tree and 5 shrubs per 40 linear feet	<Include graphic>
Industrial	15' 1 tree and 5 shrubs per 25 linear feet (50% shall be evergreen)	<Include graphic>

6.10.9. BUFFERING AND SCREENING

- A. Intent. To integrate adjacent land uses and provide seamless transitions from one use to another through the use of building orientation and access, landscaping, and appropriate architectural elements.
- B. General provisions.
 - 1. Special consideration shall be given to adjacent land uses of different intensities. It shall be the responsibility of the more intensive use to ensure that the transition from one use to another is attractive, functional, and minimizes conflicts between the current and planned uses.
 - 2. It is the responsibility of the higher intensity use to demonstrate that the uses will be compatible. This can be accomplished through the effective use of shared access and parking, appropriate building orientation and setbacks, landscaping, architectural treatment and limited use of fencing and screening walls. Special consideration shall be given to the impact of aesthetics, noise, lighting, and traffic.
 - 3. Buffering may be required between any development and adjacent natural or environmentally sensitive areas. This will be determined on a case-by-case basis.
 - 4. Under no circumstances shall a fence be the only screening material used as a buffer between land uses.
- C. Loading and service areas.
 - 1. Location. Loading docks, solid waste facilities, recycling facilities and other service and utility areas shall be placed to the rear or side of buildings in visually unobtrusive locations.
 - 2. Screening and landscaping. Screening and landscaping shall prevent direct views of the loading areas and their driveways from adjacent properties or from public rights-of-way. Screening and landscaping shall also prevent spill-over glare, noise, or exhaust fumes. Screening and buffering shall be achieved through walls, architectural features, and landscaping, and shall be visually impervious. Recesses in the building or depressed access ramps may be used.

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- D. Mechanical equipment. Mechanical equipment antennas, rooftop appurtenances, and outdoor storage areas should be screened. Rooftop appurtenances, such as mechanical equipment and antennas shall be screened from view.
- E. Dumpsters and trash storage areas. Every development that is required to provide one (1) or more dumpsters for solid waste collection shall provide sites for such dumpsters that are:
 - 1. Trash storage areas shall be screened from view and secure from animals.
 - 2. Adjacent properties shall combine trash areas when feasible.
 - 3. Located to facilitate collection and minimize any negative impact on persons occupying the site, neighboring properties, or public rights-of-way; and
 - 4. Constructed to allow for collection without damage to the site or the collection vehicle; and
 - 5. Screened to prevent them from being visible to:
 - a. Any dwelling unit on residential property, other than the property on which the dumpster is located;
 - b. Occupants, customers, or other invitees to any building on nonresidential property, other than the property on which the dumpster is located; and
 - c. Persons traveling on any public street, sidewalk, or other public way.

6.11. – EXTERIOR LIGHTING

6.11.1. INTENT

The intent of this Section is to require outdoor lighting for safety and convenience; in scale with the activity being illuminated and its surroundings; downward directed; and protects dark skies for wildlife and a pleasant night environment.

6.11.2. APPLICABILITY

- A. General. All exterior lighting for any type of residential or nonresidential development shall comply with the standards of this Section, unless exempted in subsection D. below.
- B. Existing lighting. All lighting existing prior to the adoption of this Section shall be brought into compliance with this Section upon application of business permit or building permit. Existing bulbs being replaced with LEDs need to provide shielding to direct light downward and conceal the light source.
- C. Lighting plan requirement. The submission of an exterior lighting plan is required any application for subdivision, planned unit development, site plan, or building permit. The plan shall describe the light source, level of illumination, hours of illumination, orientation, and the effects the illumination has on adjoining properties and roadways.
- D. Exempt lighting. The following types of lighting are exempt from the requirements of this Section.
 - 1. Temporary lighting for emergency or nighttime work and construction.
 - 2. Temporary lighting for theatrical, television, and performance areas, or for special events authorized by the Town.
 - 3. Lighting required and regulated by the Federal Aviation Administration.
 - 4. Lighting for outdoor recreational uses such as baseball diamonds, playing fields, tennis courts, and similar uses, provided that such uses comply with the following standards:
 - a. Maximum permitted light post height: Eighty (80) feet.
 - b. Maximum permitted illumination at the property line: Two (2) footcandles.

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- c. Limits on hours of illumination: Exterior lighting shall be extinguished no later than 11:00 p.m. An exception may be granted by the Town Council for special events.

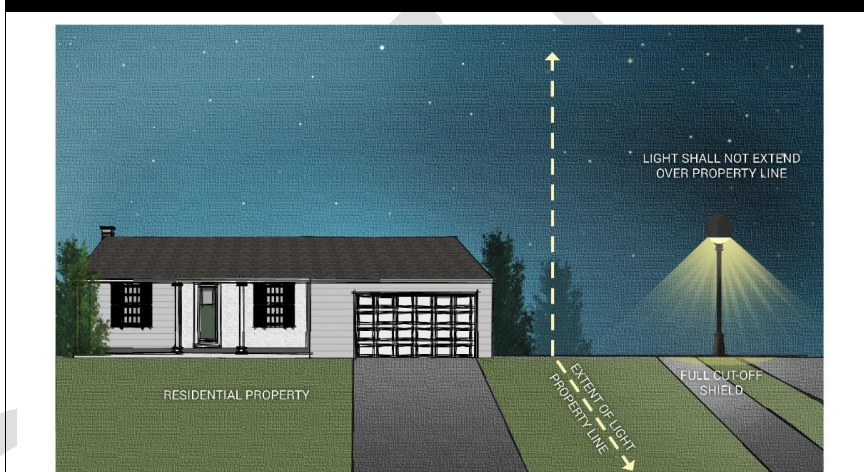
6.11.3. GENERAL REVIEW STANDARD

- A. If installed, all exterior lighting shall meet the functional security needs of the proposed land use without adversely affecting adjacent properties or the community. For purposes of this Section, properties that comply with the design standards of Section 6.11.4 shall be deemed to not adversely affect adjacent properties or the community.

6.11.4. DESIGN STANDARDS

- A. Exterior lighting is not required except for purposes of public safety. However, if installed, all exterior lighting shall meet the following design standards:
 - 1. There shall be no light trespass on adjacent property. In no case shall exterior lighting add any footcandle illumination at any point off-site.

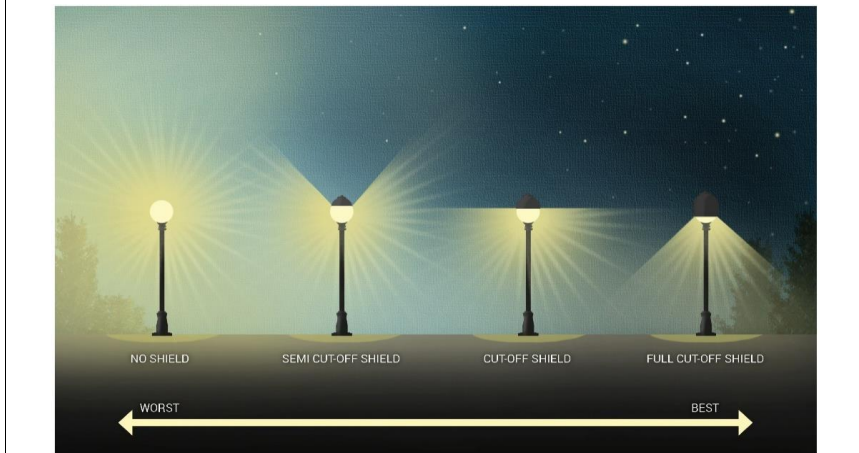
Figure #: Illustration of Lighting Trespass



- 2. All lighting shall be per the following standards:
 - a. All fixtures shall be downward directed and shielded.
 - b. Lighting shall not exceed a color temperature of more than 300 Kelvin.
 - c. Only light the area that needs lighting.
 - d. Only turn on lights when needed.

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Figure #: Illustration of Shielding Examples



3. Parking lots and other background spaces shall be illuminated as unobtrusively as possible while meeting the functional needs of safe circulation and protection of people and property. Foreground spaces, such as building entrances and outside seating areas, shall utilize local lighting that defines the space without glare.
4. All exterior light not necessary for security purposes shall be activated by motion sensor detectors, or turned off during non-operating hours.
5. Decorative string lights shall meet the light output and color limitations contained herein and shall be turned off outside of business hours.
6. Light fixtures used to illuminate flags, statues, or any other objects mounted on a pole, pedestal, or platform shall use a narrow cone beam of light that will not extend beyond the illuminated object.
7. For upward-directed architectural, landscape, and decorative lighting, direct light emissions shall not be visible above the building roof line.
8. No flickering or flashing lights shall be permitted.
9. The spacing of street lights shall be determined by a lighting professional for local streets.
10. Internally illuminated signs are prohibited.

6.12. - SIGN CODE

6.12.1. INTENT

- A. The intent of the Pagosa Springs Sign Code is to regulate signage with a comprehensive system of reasonable, effective, consistent and nondiscriminatory sign standards and requirements to maintain public safety and overall community welfare.
- B. Objectives. This comprehensive Sign Code is necessary to achieve the above stated intent and to accomplish the following objectives:
 1. To preserve the historically and architecturally unique character of the Town.
 2. To maintain scenic views.

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3. To encourage signage that is compatible with surrounding buildings, landscaping and site features.
4. To establish signs that advertise uses while not concealing or obstructing adjacent land uses or signs.
5. To establish sign size in relation to the scale of the lot and building frontage along which the sign is to be placed.
6. To lessen the confusion and visual clutter.
7. To accommodate the rights of private entities to freedom of speech
8. To preserve, protect and promote the public health, safety and general welfare

6.12.2. APPLICABILITY

- A. The provisions of the Sign Code shall apply to the display, construction, installation, erection, alteration, use, location, maintenance, and removal of all signs within the Town that are not specifically exempt from such application.
- B. No sign shall be installed, or altered without first receiving a Sign Permit from the Pagosa Springs Planning Department other than those signs listed in Section 16.12.3.
- C. This Sign Code does not apply the following:
 1. Signs located entirely within the interior of a building or structure and not visible from the outside of the buildings
 2. Traffic and public safety signage including street addresses
 3. A sign carried or worn by a person
 4. Public signs
 5. Bumper stickers
- D. Message Neutrality:
 1. No sign in this section is subject to any limitation based on the content of its message.

6.12.3. SIGNS EXEPMT FROM A SIGN PERMIT

- A. The following signs are exempt from permit requirements, but shall otherwise be in conformance with all requirements contained in the Sign Code.
 1. Artistic murals.
 2. Construction signs not exceeding nine square feet (9 sq. ft.) in size. Such signs shall be removed prior to the issuance of a certificate of occupancy.
 3. Flags-governmental, which are limited to no more than two (2) per parcel.
 4. Flags-nongovernmental, which are limited to no more than one (1) per parcel and shall not contain any advertising. For purposes of this provision, signs containing "open" and "welcome" are considered advertising.
 5. Holiday decorations, which may be erected for no more than forty-five (45) consecutive days per holiday.
 6. Temporary signs which do not exceed six square feet (6 sq. ft.) in size and are displayed for no more than forty-five (45) days associated with a specific event.
 7. Vehicle signs, provided they are permanently attached to a vehicle and incidental to the primary use of the vehicle.
 8. Window signs occupying no more than fifty percent (50%) of window area attached to the inside of the glass.

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6.12.4. PROHIBITED SIGNS

- A. The following signs are prohibited within the Town:
1. Billboards.
 2. Inflatable figures, shapes or mascots used for advertising purposes, unless otherwise permitted herein.
 3. Flashing signs with lights or illumination that flash, move, rotate, scintillate, blink, flicker, vary in intensity, vary in color, or use intermittent electrical pulsations.
 4. Nongovernmental flags used for advertising purposes.
 5. Offsite signs, unless otherwise permitted under a specific provision in the Sign Code.
 6. Pennants, feather flags, and streamers, excluding those under the provisions of Section 6.12.6 .
 7. Search lights or beacons.
 8. Signs in the public right-of-way, except authorized traffic control devices.
 9. Signs mounted on a pole.

6.12.5. REGULATIONS AND STANDARDS

- A. Permanent sign standards. The following standards apply to all permanent signs unless specifically exempted in other parts of the Sign Code or by a variance granted by the Design Review Board. In many instances, the following standards are minimum requirements and the sign(s) may be subject to additional requirements elsewhere in the Sign Code.
- B. Sign Zones. Below is a list of sign zones that are referenced throughout the Sign Code and the general areas they encompass:
1. Sign Zone #1: All property zoned non-residential between 1st street and 10th street.
 2. Sign Zone #2: All property zoned non-residential not included in sign zone #1.
 3. Sign Zone #3: All property in the ODB Overlay or designated as a historic landmark.
 4. Sign Zone #4 All property zoned residential.
- C. Area. The area of a sign shall be equivalent to the total exposed surface devoted to a sign message, including ornamentation, embellishment and symbols, but excluding supporting structures. Listed below are additional area definitions and specifications:
1. Aggregate area. The following rules shall apply in determining the aggregate area of all signage on a single parcel of land:
 - a. The aggregate area shall not exceed one (1) square foot of signage per linear foot of lot frontage.
 - b. Parcels with more than one (1) frontage may calculate maximum allowable aggregate area as the total of one (1) frontage plus fifty (50) percent of any additional frontage.
 2. Maximum area. The maximum area of any one (1) sign shall be determined by the following formulas:
 - a. Wall-mounted signs shall not exceed five percent (5%) of the façade on which it is mounted in Zone 1 or ten percent (10%) of the façade in which it is mounted in Zone 2, up to a maximum of one hundred square feet (100 sq. ft.) in total.
 - b. Projecting signs shall not exceed one-half square foot (0.5 sq. ft.) per linear foot of building frontage to a maximum of twenty-four square feet (24 sq. ft.).

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- c. Freestanding signs shall not exceed seventy-five square feet (75 sq. ft.) in Zone 1, and one hundred square feet (100 sq. ft.) in size in Zone 2, and shall not exceed one (1) freestanding sign per lot.
 - d. Signs in a manufactured home park or on a subdivision site on which there is construction shall not exceed total area of two hundred square feet (200 sq. ft.).
 - e. In residential areas, no permanent sign of any type shall exceed twenty-four square feet (24 sq. ft.).
3. Single-faced signs. The area of a sign with one (1) sign face shall be calculated as the total area of the face. In the case of cutout letters, displays, symbols, statuaries or logos, the area will be calculated as that area which can be enclosed within a rectangle, series of attached rectangles, or other geometric shapes.

Figure #: Single Faced Signs



4. Double-faced signs. The area of a sign with two (2) sign faces shall be calculated as one (1) sign face only as long as the sign faces are identical and parallel.

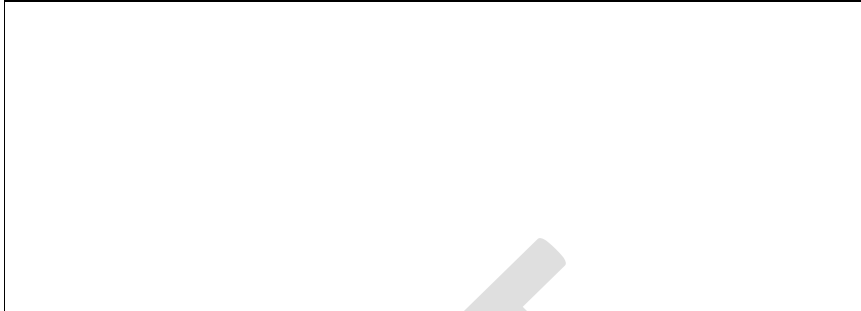
Figure #: Double Faced Signs



5. Angled signs. If the angle between the two (2) faces is greater than thirty (30) degrees, the sign area shall be calculated by adding the areas of the two (2) faces. If the angle is less than thirty (30) degrees, the sign area shall be calculated in the same manner as for double-faced signs.

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Figure #: Angled Signs



6. Multi-faced (three (3) or more) signs. The sign area shall be computed as the sum of the area of all sign faces.

Figure X: Multi-faced Signs



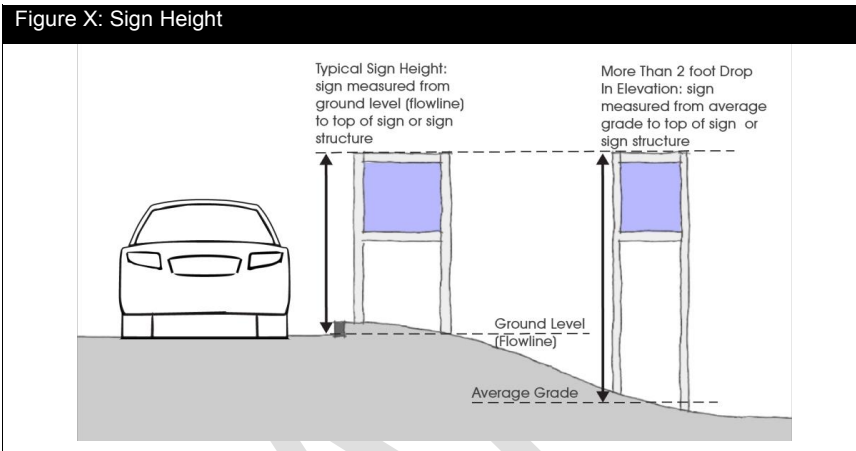
7. Three-dimensional signs.

Figure X: Three-Dimensional Signs



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- D. Height. The maximum height for any freestanding sign and supporting structure is not to exceed fifteen (15) feet in Zone 1 and twenty (20) feet in Zone 2. Height is measured from the average grade at the base of the sign to the top of the highest point of the sign. In no case shall any sign exceed the height of any building for which signage is provided.
1. Freestanding signs in residential zones shall not exceed five (5) feet in height.
 2. Roof-mounted signs shall not extend beyond the roofline.



- E. Sign Clearance. Sign clearance is the distance between the bottom of a sign or related structural element that is not affixed to the ground and the nearest point on the ground-level surface under it. Sign clearance shall be a minimum of eight feet (8') in all instances.



- F. Location. The following rules and standards shall apply in establishing the location of signs:
1. No sign shall be placed to impede the visibility of motorists or pedestrians.
 2. Signage may be mounted on any side of a building.

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3. Except for approved sandwich board signs, no signs or sign structures shall be built or placed on the sidewalk, curb or area between sidewalk and curb, or public right-of-way except for approved sandwich board signs.
 4. Except as provided in this subsection, freestanding signs shall be installed a minimum of six (6) feet from the street right-of-way and five (5) feet from the side lot line. No sign may cross the plane of the property line.
 5. In the Mixed-Use Town Center District from 1st Street to 4th Street, freestanding signs may be installed to within one (1) foot of the sidewalk with approval by the Director.
 6. On a corner lot, freestanding signs shall not be placed within a triangle formed by measuring thirty-five (35) feet along each right-of-way line and connected by a hypotenuse.
 7. Projecting signs located over sidewalks or public ways shall be placed not less than eight and one-half (8.5) feet from the travel way to the base of the sign. The projecting edge of the sign shall be at least two (2) feet back from any curb line.
- G. Illumination. The following rules and standards shall apply in establishing the type of illumination that may be used for signs:
1. The source of a sign's illumination (bulb or direct lamp image) shall not be visible from any street, sidewalk or adjacent property.
 2. The light from any illuminated sign shall be shaded, shielded or directed so that the light intensity or brightness will not be disruptive to residential property or create a distraction to a motorist.
 3. No sign shall have or contain blinking, flashing, fluttering or intermittent lights or other devices that create a change in color, brightness, direction or intensity of lighting.
 4. In residential districts, only indirect lighting may of the adjacent lot.
 5. Neon may be used in sign text only, not as an architectural feature.
- H. Electronic message center (EMC) sign operation shall adhere to the:
1. Exterior and interior (see item 11 below) EMCs shall be allowed in sign Zone 2.
 2. Exterior EMCs shall be prohibited in sign Zones 1, 2, and 3.
 3. EMCs are restricted to monument and wall signs only, and shall make up no more than thirty (30) percent of such total sign area.
 4. No more than one EMC sign is allowed per property.
 5. Limit of no more than one message change each three minutes.
 6. Message transition shall occur through a minimum five-second gradual dissolve or fade-in/fadeout.
 7. EMC messages shall be static. Moving messages, animation and effects described in LUDC Sections 6.12.3.3 and 6.12.4.F.3 are prohibited.
 8. EMC light level output shall be a maximum of three-tenths (0.3) foot-candles, as measured directly in front of the sign.
 9. EMC signs shall be equipped with automatic dimming software or solar sensors to control brightness for nighttime viewing and variations in ambient light. Manufacturer's verification is required.
 10. Text shall be the lighter color and the background shall be the darker color.
 11. EMC sign regulations shall apply to all EMC signs located inside a building and visible from a public sidewalk or public street.
 12. Temporary signage is prohibited for businesses that have an EMC sign installed.

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- I. Landscaping. Freestanding signs shall be landscaped at their base. A landscape plan shall be reviewed and approved by the Director or Design Review Board at the time of sign permit application. Landscaping material shall be consistent with Section 6.10 herein.
- J. Sign maintenance. All signs shall be properly maintained, kept in good repair and condition, and shall be constructed of safe and permanent materials. Failure to abide by this maintenance provision will constitute a violation as specified in Section 1.6.2 of this Land Use Code.

6.12.6. PERMANENT SIGN TYPES

- A. Freestanding Sign. Any sign attached to a base or solid structure with a width of at least two thirds (2/3) the width of the widest part of the sign face. Also known as a monument sign.
 - 1. Base materials of freestanding signs shall be masonry, stone or similar building material complementary of the primary building materials.
 - 2. As part of a Comprehensive Sign Program, all freestanding sign bases shall be consistent in design and materials.
- B. Wall Mounted Sign. Any sign that is applied to or affixed to a building wall.
 - 1. Wall mounted signs shall not extend further than eighteen inches (18") from the surface on which it is mounted.
- C. Projecting Sign. A sign that extends perpendicular to the wall surface extending at least eighteen inches (18") from a building wall. Include awning signs, fin signs, marquee signs, and hanging signs.
- D. Window Sign. A type of temporary or permanent sign that is painted on, applied to, or attached to the inside of a window but clearly visible from the outside of the building and includes any sign that is mounted within three feet (3') of the inside of a window and oriented toward the window to be visible from the outside.

TABLE 6.12-1: Sign Type Table

Sign Type	Sign Zone	Max Area	Max Height
Free Standing Signs	#1	50 square feet	10' – 0"
	#2	75 square feet	15' – 0"
	#3	25 square feet	10' – 0"
	#4	24 square feet	5' – 0"
Wall Mounted Signs	#1	100 square feet, no more than 50% of facade	No higher than the roof
	#2	100 square feet, no more than 10% of facade	
	#3	25 square feet	
	#4	24 square feet	
Projecting Signs	All	24 square feet max, no more than ½ of street frontage	No higher than the roof
Window Signs	#1 & #2	50% coverage of window	NA
	#3	30% coverage of window	

6.12.7. STRUCTURAL AND SAFETY CONSIDERATIONS

- E. All exterior signs shall be designed to withstand a minimum wind load of eighty (80) miles per hour and snow load of sixty-five (65) pounds per square foot. The Building Official may require

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structural signs to be designed by a Colorado licensed engineer with plans complete with required information and professional stamps.

- F. All electrical service for sign lighting shall be provided with underground or hidden devices. All such devices, as well as signage using electrical devices, must comply with the State Electrical Code, and a permit must be obtained to that effect.
- G. All parts of any electric, illuminated or transparent sign shall be of metal or other materials that are not readily combustible.
- H. Freestanding signs must be anchored in concrete unless the structure is sufficiently small to allow alternative means of anchoring.
- I. Wall-mounted and projecting signs shall be directly secured by metal anchors, bolts, supports, stranded cable or braces, in such a manner as to assure that the sign remains securely attached.
- J. All structural components shall be compatible with surrounding design and architectural features.

6.12.8. TEMPORARY SIGN AND BANNER STANDARDS

- A. All temporary signs require sign permits and payment of a fee and a deposit, unless otherwise exempted under Section 6.12.3.
- B. Each temporary sign permit shall be valid for a maximum of two (2) consecutive weeks, unless otherwise approved in the permit.
- C. Each business or allowed use shall be allowed five (5) temporary sign periods per calendar year.
- D. The maximum area of a temporary sign shall not exceed ten (10) square feet.
- E. Signs permitted in conjunction with a conditional use permit and issued for a temporary use may exceed ten (10) square feet as approved by the Design Review Board.
- F. Sandwich board signs. One (1) sandwich board (SB) sign is allowed per parcel and shall be placed no more than three (3) feet from the primary entrance of the building maintaining a pedestrian way of at least forty-two (42) inches.
 - 1. SB signs shall be removed daily, upon close of business.
 - 2. SB signs shall not exceed five (5) square feet of surface area per side.
 - 3. Within the OHD Overlay, SB signs are limited to twenty-four (24) inches in width, and shall be placed along the building wall on the sidewalk.
- G. Hot Springs Boulevard banners. The Town reserves the right to refuse to hang any banner across Hot Springs Boulevard determined to be unsafe or unsuitable by the Director.
- H. Application, design and removal of banners.
 - 1. Application for a banner must be submitted at least two (2) weeks prior to installation.
 - 2. Banners must be delivered to the Town Hall one (1) week prior to the installation date.
 - 3. The banner must have the proper configuration of grommets to facilitate hanging it. One (1) grommet must be placed at each corner. Grommets must be placed along the bottom and top edges, equally spaced and not more than twenty-four (24) inches apart. Vinyl banners shall have two (2) rows of "U" shaped wind holes (6" x 6") cut no more than twenty-four (24) inches apart and equally spaced throughout the banner.
 - 4. Banners must be picked up immediately after removal date. Unclaimed banners will be disposed of. The Town is not responsible for damage or loss.

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- I. Qualified organization. To qualify for a banner permit an organization or entity making application must submit evidence to the Town indicating that such organization or entity is and has been for a period of not less than ninety (90) days preceding the date of application:
 - 1. Incorporated under the laws of Colorado for purposes of social, fraternal, patriotic, or athletic-nature, and not for pecuniary gain, or
 - 2. A regularly chartered branch, lodge or chapter of a national nonprofit organization or society that is organized for social, fraternal, patriotic, cultural or athletic purposes.
- J. Fees. A hanging fee will be assessed for each banner installation and the amount shall be set by Town Council resolution.

6.12.9. ADDITIONAL DISTRICT SPECIFIC STANDARDS

- A. OHSB District. In the Hot Springs Boulevard Neighborhood, special consideration shall be given to pedestrian-oriented sign programs, clustering of signs for individual establishments, and signs containing historic appeal and/or close association with surrounding architecture. In addition to compliance with the Sign Code, Town staff will review architectural sketches of proposed signs.
- B. OHD District. All signs on properties in designated historic districts or designated as a historic landmark shall comply with the standards in Article 5, Historic Preservation, and the adopted Historic Design Guidelines, in addition to the standards of the Sign Code.
- C. Buildings eighteen thousand (18,000) square feet in size and greater.
 - 1. Changeable copy signs shall be prohibited on the building and site.
 - 2. Directory/marquee signs should be used to reduce the number of signs used in a single location.

6.12.10. TOURIST ORIENTED DIRECTIONAL SIGNS (TODS)

- A. Tourist Oriented Directional Signs (TODS) require an annual approved town sign permit as preapproval to the Colorado Department of Transportation TODS annual application approval.
- B. Only one (1) TODS assembly of four (4) business plaques will be allowed at the following approved Highway 160 intersection locations: North Pagosa Blvd (Hwy 160 west bound only), Pinon Causeway (Hwy 160 east and west Bound) and Piedra Road (Hwy 160 west and east bound).
- C. Two (2) TODS stands of four (4) business plaques each will be allowed at the following approved Highway 84 intersection location: South approach to Highway 160.
- D. TODS locations are prohibited between 1st Street and 10th Street.
- E. Eligible tourist oriented businesses for TODS are restricted to Service Businesses (defined as: Gas, Food, Lodging and Camping), Cultural Businesses (defined as Drama, Amphitheater and Galleries), Commercial Businesses (defined as Antique Shops, Farm Markets and Gift Shops) and Recreation (defined as Natural Scenic Beauty, Outdoor Recreation, Rafting, Guest Ranch).

6.12.11. PROHIBITED, ILLEGAL, NONCONFORMING, AND UNUSED SIGNS

- A. General. In order to achieve the general purpose and objectives of the Sign Code, it is necessary to remove all signs that are illegal, nonconforming, prohibited and unused. Each such classification of signs involves a varying level of impact upon the general purpose and objectives of the Sign Code. The following subsections identify circumstances under which such classifications occur and the method of correction and/or disposition required.
- B. Removal.
 - 1. Determination of violation. Any sign and its supporting structure determined to be in violation of the Sign Code shall be removed within thirty (30) days from the date of notice of violation, unless the Director or Design Review Board has determined that such sign qualifies as a

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legal nonconforming sign. If such signs are not removed from the premises by the owner, user, or property owner following the thirty (30) days notice of violation, such signs shall be subject to removal by the Director or their designee in accordance with the provisions set forth below. The existence of any prohibited or illegal sign shall also be considered a violation of the provisions of the Sign Code and shall be subject to penalties as stated in Section 1.6, Enforcement.

2. Removal by authorities. The Director is hereby authorized to remove any sign determined to be in violation of the Sign Code that is not removed in the designated timeframe and shall mail to the sign permittee or owner by first-class, certified or registered mail a bill for the removal costs. Such costs shall be paid within thirty (30) days of receipt of the bill by the owner, agent or person having the beneficial use of the building, structure or premises upon which the sign is located. If such costs have not been remitted to the Town as directed, such unpaid charge shall constitute a lien upon the real estate. The Town Attorney is hereby authorized to file a notice of lien in the office of the County Clerk to foreclose this lien, and to sue the owner of the real estate or sign permittee, or their agents, to recover the money due, plus all its costs, together with reasonable attorney's fees to be fixed by the court. Included in the expenses recoverable by the Town shall be the costs, together with all office and legal expenses, incurred in connection with collection of the amount due hereunder.

C. Nonconforming signs.

1. No new permanent sign permits will be issued if nonconforming signage exists on the property.
2. Any nonconforming sign may be brought into conformity with the Sign Code by independent action of the sign owner or user upon review and approval of an application for a sign permit. Sign permit fees shall be waived for any nonconforming sign brought into conformity with the Sign Code.
3. If one (1) of the following triggering events occurs the nonconforming signs shall be brought into conformity with the Sign Code within two (2) years of the triggering event. Triggering events are:
 - a. A building permit is approved for construction valued at fifty thousand dollars (\$50,000.00) or greater, according to the most recently amended International Code Council Valuation Chart, or
 - b. A change in business use or activity occurs, or
 - c. A nonconforming sign is altered, repaired or relocated, which results in a decrease in the sign's nonconforming features.
4. An area and/or height variance of up to ten percent (10%) may be issued for an existing nonconforming sign. Only one (1) sign per property may be granted a variance.

D. Unused (abandoned) signs.

1. All unused signs that are also nonconforming with the provisions of the Sign Code shall be removed from the premises upon which it is located within thirty (30) days from the date of notice of violation.
2. All unused signs that otherwise conform to the provisions of the Sign Code and have a valid sign permit may remain on the premise for six (6) months following the conclusion or termination of the reason for the sign. The unused sign shall have the copy, text, icon or any other message delivering features removed within thirty (30) days from the date of notice of violation.

6.12.12. FEES

- A. The Town Council shall adopt by separate resolution fees for sign permit application for the following

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1. Permanent sign.
2. Temporary sign.
3. Signs within a comprehensive sign program.
4. Additional signage to the comprehensive sign program.

(Ord. No. 761, § 1, 5-3-2011; Ord. No. 833, § 1, 11-19-2015; Ord. No. 859, § 1, 6-8-2017)

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ARTICLE 7: SUBDIVISION STANDARDS

7.1. PURPOSE AND ORGANIZATION OF ARTICLE

7.1.1. PURPOSE

These Subdivision Regulations are designed and enacted for the purpose of promoting the health, safety, convenience, order, prosperity, and welfare of the present and future inhabitants of the Town by:

- A. Promoting compact, well-defined, sustainable neighborhoods that enhance the Town's character and are compatible with adjoining lands.
- B. Ensuring that any proposed subdivision does not create an excessive burden on the Town's taxpayers.
- C. Creating livable neighborhoods that foster a sense of community and reduce dependency on private vehicles.
- D. Encouraging the proper arrangement of streets in relation to the Access Control Plan and to existing or planned streets and ensuring streets facilitate safe, efficient, and pleasant walking, biking, and driving.
- E. Providing a variety of lot sizes and housing types in every neighborhood.
- F. Protecting sensitive natural and historic areas and the Town's environmental quality.
- G. Providing for adequate and convenient open spaces for traffic, utilities, access of fire apparatus, recreation, light, and air and for the avoidance of congestion of population.
- H. Providing open spaces for adequate storm water management.
- I. Providing adequate spaces for educational facilities.
- J. Providing protection from natural hazards and flood prone areas.
- K. Ensuring compliance with the Land Use and Development Code and the Town Comprehensive Plan or Land Use Plan, whichever was last updated.
- L. Regulating such other matters as the Town Council may deem necessary to protect the best interest of the public.

7.1.2. ORGANIZATION

- A. Section 7.1, Purpose and Organization
- B. Section 7.2, Subdivision Design Standards
- C. Section 7.3, Subdivision Dedication Requirements
- D. Section 7.4, Subdivision Improvements and Development Agreements
- E. Section 7.5, Conservation Subdivisions
- F. Section 7.6, School Fees in Lieu of Public Land Dedication

7.1.3. APPLICABILITY

- A. This Article applies to any subdivision of land within the Town's municipal boundary unless expressly and specifically exempted or provided otherwise .. The description of a lot or parcel by metes and bounds shall not exempt the transaction from these Subdivision Regulations.
- B. No land shall be subdivided for any use where the land has limitations adversely affecting the proposed use unless mitigation measures satisfy the evaluation criteria outlined in subsequent sections of these Regulations.

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7.1.4. ADMINISTRATION

- A. Any subdivision of land and associated roads, alleys, parks and open space or other portions of the subdivision intended to be dedicated to a public use shall require major or minor subdivision approval per Article 2.
- B. Acceptance of proposed public dedications is given by separate action of the Town Council.
- C. Pursuant to CRS sections 31-23-214(1), the Town Council delegates the authority to approve plat corrections to the Planning Director.

7.2 SUBDIVISION DESIGN STANDARDS

7.2.1. GENERAL DESIGN STANDARDS

- A. The general layout of lots, roads, driveways, utilities, drainage facilities, and other services within all proposed subdivisions shall be designed in a way that minimizes land disturbance, maximizes open space within the development, preserves existing trees/vegetation, protects wetlands and critical wildlife habitat, and otherwise accomplishes the purpose and intent of this Land Use Code and of the zone district in which the subdivision is located. Additionally, applicants shall apply the general development standards in Article 6 .
- B. Land subject to hazardous conditions such as floods, mud flows, rock falls, wildfire, possible mine subsidence, mine shafts, shallow water table, open quarries, and polluted or non-potable water supply shall be identified and shall not be subdivided until the hazards have been mitigated or will be mitigated by the subdivision and construction plans.
- C. The design standards in this Section represent minimum standards. The Town may impose more restrictive standards when it finds that they are necessary based on topography, or hazardous conditions listed in 7.2.1(B) to conform the design of a proposed subdivision to sound engineering or design standards or other standards in this Land Use Code.

7.2.2. BLOCKS AND LOTS

- A. Blocks.
 - 1. Block lengths and widths shall be designed to allow convenient access and circulation for emergency vehicles and be practical and compatible with the overall design of the subdivision, topography, and natural features.
 - 2. Where block lengths exceed one thousand (1,000) feet, pedestrian rights-of-way no less than ten (10) feet wide shall be dedicated, as needed, .¹
- B. Lots.
 - 1. Each lot shall have frontage on a public street right-of-way.
 - 2. Lots shall meet the minimum area per the associated zone district and have a width, depth, shape, and orientation that can accommodate the established setback and yard requirements.
 - 3. Measurements of lot dimensions and sizes shall exclude dedicated public street, alley, or pedestrian rights-of-way.
 - 4. Double frontage lots shall only be allowed where it is essential to provide separation from major highways or incompatible land uses.

7.2.3. STREETS

¹ Is this intended to be a mid-block pedestrian access perpendicular to the roadway to break up the length of the block? Do we want to define a specific block length range such as 300' to 700'

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- A. All streets shall comply with the Town of Pagosa Springs Standard Engineering Specifications and Land Use Code Section 6.6, Access and Circulation
- B. Streets shall be designed to enhance an interconnected street system within and between neighborhoods and shall consider solar orientation, topography, and natural features.
- C. Street design shall be coordinated with the Town's overall transportation system design and transportation systems on adjacent land.

7.2.4 OUTDOOR RECREATION AREA

- A. For residential subdivisions containing fifty (50) or more residential dwelling units, outdoor recreation areas shall be provided at a rate of one half acre for every fifty units.
- B. Recreation area may include playgrounds, gathering areas with wildlife viewing, community gardens, dog parks, neighborhood trails, or sport courts.

7.2.5. STREET LIGHTING

Street lighting shall be provided in all subdivisions consistent with Section 6.11.

7.2.6. EASEMENTS AND UTILITIES

- A. Utility easements shall be provided per Table 7.2.1 below.

TABLE 7.2-1. Utility Easement Requirements

Utility Easement Location	Required Easement Dedication
Rear (each side of abutting lot lines)	10'
Rear at subdivision perimeter where adjacent to unsubdivided property	10'
Side lot line, where necessary	15' full width (7.5' either side of lot line)
Front lot line	10'

- B. If the location of utility easements adjacent to rear property lines is unsuitable for use by utility providers due to drainage, irrigation ditches or other obstructions, the subdivision shall provide like width easements adjacent to said areas of obstruction.
- C. Easements may be greater or less than widths stated if the specific utility requests, in writing, a width other than that required by this Land Use Code. Utility easements shall be subject to the approval of the Town and applicable utility provider.
- D. Easements shall be designed to provide efficient installation of utilities. Public utility installations shall be designed to permit multiple installations within the easements. The developer will establish final utility grades prior to utility installations.
- E. All utilities, including but not limited to telephone lines, electric lines, cable television lines, fiber optic lines, gas lines and other like utility services shall be placed underground. The subdivider shall be responsible for making the necessary arrangements for undergrounding utilities including payment of any construction or installation charges to each utility provider for the installation of such facilities.
- F. Transformers, switching boxes, meter cabinets, pedestals, ducts, and other facilities shall be placed underground or on the surface but not on utility poles. Electric transmission and distribution feeder lines and necessary appurtenances thereto may not be placed above ground unless they are carrying greater than one hundred fifteen (115) kV. Such facilities shall be placed within easements or public rights-of-way, or in private easements or rights-of-way.
- G. Easements for runoff, storm drainage, or flood control may be required as deemed necessary by engineered drainage systems.

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H. Subdivisions within the Archuleta County Airport influence area shall be conditioned upon the property owners granting to the Town and Archuleta County an avigation easement. Any avigation easements granted shall be noted on all final plats.

7.2.8. SURVEY MONUMENTS

Permanent survey reference monuments shall be set for all perimeter boundaries, blocks, lots, tracts, and parcels in compliance with CRS Sections 38-51-100.3, et. seq.

7.2.9. BRIDGES

All bridges shall be designed by a licensed engineer and will be constructed to prevent obstruction of a one-hundred-year flood. A floodplain permit shall be obtained for all bridges prior to construction.

7.2.10. OTHER IMPROVEMENTS

Other improvements not specifically provided for in this Section but found appropriate and necessary given the characteristics or requirements of the subdivision, shall be constructed within such time and in conformance with such specifications in an executed Development Improvements Agreement.

7.3 SUBDIVISION DEDICATION REQUIREMENTS

7.3.1. STREETS

All street rights-of-way shall be dedicated to the public. In cases where any part of an existing street is abutting or within the tract being developed and/or subdivided, the applicant shall dedicate such additional rights-of way as may be necessary to increase such roadway to the minimum width required under this Land Use Code.

7.3.2. ALLEYS

The Town Council may require the dedication of alley rights-of-way where it finds that alleys are necessary for access, off-street loading, or parking.

7.3.3. SIDEWALKS, WALKWAYS, AND MULTI-USE TRAILS

All walkways, sidewalks, and multi-use paths located within the right-of-way shall be dedicated to the Town

All walkways, sidewalks, and multi-use paths that are not located with the right-of-way shall be dedicated to a duly formed owners' association.

7.4 SUBDIVISION IMPROVEMENTS AND DEVELOPMENT AGREEMENTS

7.4.1. PUBLIC IMPROVEMENTS

- A. The Town shall require a developer to execute a Development Improvements Agreement (DIA) for public improvements agreeing to construct all public improvements required by this Land Use Code.
- B. Developers shall provide to the Town a construction security for at least one hundred (100) percent of the cost of the required public improvements in the form of a development bond, letter of credit, cash, certificate of deposit or other means, as determined by the Town Council, to complete said public improvements in accordance with approved development plans .
- C. No subdivision plat shall be signed by the Town or recorded at the Office of the Archuleta County Clerk and Recorder, and no building permit shall be issued for development, until a DIA has been executed and construction security has been posted.

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- D. The DIA shall include a list of all agreed-upon public improvements, an estimate of the cost of such improvements, the form of construction security for the improvements, and any other provisions or conditions deemed necessary by the Town Council to ensure that all public improvements will be completed in a timely, cost-effective manner that meets the Town's engineering standards. A DIA shall run with and be a burden upon the land described in the agreement.
- E. The Town, at its discretion, may require the developer to execute other agreements or contracts setting forth the plan, method, and parties responsible for the construction of any required public improvements shown in the approved documents.
- F. All public improvements shall be inspected by the Director upon completion. If it is determined that the required public improvements are not constructed in compliance with specifications, a list of specific deficiencies shall be provided to the subdivider with the request that such deficiencies be corrected before preliminary approval will be granted. If it is determined that the subdivider will not construct any or all of the public improvements or remedy the deficiencies in accordance with the construction plans, the Town Council may withdraw and employ from the construction security such funds as may be necessary to construct the public improvements or remedy deficiencies.
- G. The following public improvements shall be constructed unless waived by the Town Council.
 - 1. Road base, grading, and surfacing.
 - 2. Curbs and gutters and driveway returns.
 - 3. Street lights.
 - 4. Sidewalks, multi-use paths/trails and open space development.
 - 5. Sanitary sewer collection system.
 - 6. Fire hydrants and assembly.
 - 7. Storm sewers, storm drainage system or manholes, as required.
 - 8. Utility distribution system for public parks, open space, and medians.
 - 9. Street signs at all street intersections and other traffic signs.
 - 10. Permanent reference monuments and monument boxes.
 - 11. Berm, fence, or buffer along major arterial and collector streets and surrounding development.
 - 12. Required landscaping and street trees.
 - 13. Erosion control.
 - 14. Domestic water system.
 - 15. Electricity.
 - 16. Natural gas.
 - 17. Telephone and cable.
- H. The required time for the completion of all required improvements shall be two (2) years from the recording date of the final plat. Town Council may extend such time for completion at the request of the subdivider. When such improvements are not completed within the required time, the Town may use the collateral to complete the required improvements, withhold building permits, or revoke approval of the final plat.
- I. Warranty.
 - 1. All workmanship and materials for all required public improvements shall be warranted by the subdivider for a period of three (3) years from the date of the Town's acceptance of the required public improvements.

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2. The subdivider shall post a warranty security in an amount established by the Town, in its sole discretion. The warranty security shall not exceed one hundred (100) percent of the cost to reconstruct the improvements. The Town shall not release the construction security until the Town has granted final acceptance of the improvements.
3. In the event that any other provision of this Land Use Code or specifications adopted pursuant thereto, or the DIA requires a warranty of workmanship or materials for a different period of time or for a greater amount of construction security, that provision shall apply.
4. The inspection or acceptance of any required improvement by the Town shall not relieve the subdivider of his or her warranty of workmanship and materials.

7.5.2. PRIVATE IMPROVEMENTS

- A. In addition to a DIA for public improvements, the Town shall require developers to execute a DIA for private improvements stating the developer agrees to construct all private improvements shown in the final plat documents. The developer shall also post sufficient construction security, in the judgment of the Town, to complete said improvements in accordance with the approved design and time specifications. No subdivision plat shall be signed by the Town or recorded at the Office of the Archuleta County Clerk, and no building permit shall be issued for development, until a DIA between the Town and the developer has been executed and construction security has been posted. The DIA shall include a list of all agreed-upon private improvements, an estimate of the cost of such improvements, the form of financial guarantee, and any other provisions or conditions deemed necessary by the Town Council to ensure that all private improvements will be completed in a timely, quality, and cost-effective manner. A DIA shall run with and be a burden upon the land described in the agreement.
- B. The Town, at its discretion, may require the developer to execute other agreements or contracts setting forth the plan, method, and parties responsible for the construction of any required private improvements shown in the final plat documents.
- C. All private improvements shall be inspected by the Director upon completion. One hundred (100) percent of the construction security shall be released within thirty (30) days of private improvements inspection approval.
- D. The required time for the completion of all required private improvements shall be two (2) years from the recording date of the final map or plat. Town Council may extend such time for completion upon request from the subdivider. When such improvements are not completed within the required time, the Town may use the construction security to complete the required private improvements, withhold building permits, or revoke the final plat approval.

7.5 CONSERVATION SUBDIVISIONS

7.5.1 INTENT

This Section provides an optional process and standards for conservation subdivision development, or "cluster development." In a conservation subdivision some or all of the lot sizes may be reduced (in area and width) below the minimum required within the underlying zoning district, with the remainder of the property permanently preserved as common open space..

7.5.2. APPLICABILITY

The conservation subdivision option is only available within the Agricultural/Residential (R-A) and Rural Transition (R-T) districts for development of detached residential dwellings, and attached dwellings of up to four (4) units.

7.5.3. APPROVAL OF CLUSTER DEVELOPMENT PLANS

In lieu of the major subdivision sketch plan required by Section 2.4.4, the developer shall prepare and submit an application for conservation subdivision, which shall include an existing resource

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and site analysis map delineating steep slopes, hydrology, vegetation, and significant natural and cultural features. A conservation subdivision plan shall be submitted consistent with requirements for sketch plan, preliminary plat, and final plat as defined in this Land Use Code and the user's manual.

7.5.4. SITE DESIGN FOR CONSERVATION SUBDIVISIONS

The following site design standards shall apply to conservation subdivisions:

- A. Under the conservation subdivision option, a minimum of forty (40) percent of the total area of the subdivision shall be set aside as common open space. Residential densities may be increased when greater percentages of preserved open space are provided. The total area of common open space shall determine the maximum allowable residential density on the site, as shown in the following table:

TABLE 7.6-1: Conservation Subdivision Requirements

District	Common Open Space Protected (% of Gross Acreage)	Maximum Density (DU/ acre)
R-A	40	0.4
	50	0.6
	60	0.8
	70+	1.0
R-T	40	1.0
	50	1.4
	60	1.8
	70+	2.0

- B. To determine the maximum number of lots permitted on a tract of land, the net buildable area (calculated as the gross acreage, minus the preserved open space) shall be multiplied by the maximum density shown in the table above. Lot sizes shall be established by the Town at the time of approval of the conservation subdivision. The minimum lot area shall be six thousand (6,000) square feet. The minimum lot width shall be thirty (30) feet.
- C. The design of the conservation development shall be appropriate for the site, as demonstrated by compliance with all of the following criteria:
1. Preservation of significant natural resources, natural features, native vegetation, open lands or agricultural property.
 2. Provision of additional amenities such as parks, trails, common areas or access to public recreational areas and open space.
 3. Minimizing the visual intrusion of dwellings and other structures and the blocking of prominent mountain vistas by avoiding building in the center of a meadow or open area.
 4. To the extent reasonably feasible, clustered lots should occur near the edges of property close to planned or existing development.
 5. Protection of adjacent residential development through landscaping, screening, fencing, buffering or similar measures.
 6. Designing the layout of lots in the conservation development so as to conform to terrain and locating such lots so that grading and filling are kept to a minimum, and natural features such as drainage swales, rock outcroppings and slopes are retained.

WORK SESSION DISCUSSION ITEMS I.1.

- D. There shall be no further subdivision of land in an area approved for conservation subdivision. However, easements for public utilities may be permitted.
- E. Conservation subdivisions shall meet all subdivision design standards herein.

7.5.5. PROVISION AND MAINTENANCE OF COMMON OPEN SPACE AND FACILITIES

- A. All open space shall be marked in the field with appropriate permanent signage markers to distinguish these areas from private property.
- B. The open space shall be shown on the development plan, with a notation to indicate that the common space shall not be used for future structures.
- C. The open space shall be permanently maintained and protected as:
 - 1. Open space lots with deed restrictions; or
 - 2. Land dedicated to the Town; or
 - 3. Protected through a dedicated conservation easement.
- D. For any land not dedicated to the Town, the developer shall establish and incorporate a property owners association, which shall have the responsibility for maintaining the open space and associated facilities at its own expense. As an alternative to a property owners association, a private, non-profit organization, whose primary purpose is open space conservation or preservation, can own and manage the open space within a cluster housing development.

7.5.6. USE OF OPEN SPACE

- A. The preserved open space shall be used for low-intensity recreation, agriculture, high quality forests, critical wildlife habitat, or other passive outdoor living purposes.
- B. Open space shall not include rights-of-ways for roads or parking areas, or active recreation uses such as tennis courts, swimming pools, or similar activities.

7.5.7. CHARACTERISTICS OF OPEN SPACE TO BE PRESERVED

The following characteristics should be considered general guidelines to ensure that the land to be set aside is suitable as open space.

- A. Location.
 - 1. The space shall be located to reasonably serve the recreation and open space needs of residents of the subdivision.
 - 2. Applicable plans, maps, and reports shall be used to determine whether significant resources exist on a proposed site that should be protected, with priority being given to the following areas (which are not listed in a particular order):
 - a. Wetlands;
 - b. Flood hazard areas;
 - c. Lakes, rivers, stream/riparian corridors, and drainageways;
 - d. Wildlife habitat and migration corridors;
 - e. Tree retention areas, or
 - f. Scenic resources.
 - 3. The open space shall form a single parcel of land, except where the Town Council determines that two (2) or more parcels would be in the best interest of the public, given the type and distribution of open spaces needed to adequately serve the proposed development. In such cases, the Town Council may require that such parcels be connected by a protected strip of land at least thirty (30) feet in width.

WORK SESSION DISCUSSION ITEMS I.1.

- B. At least fifty (50) percent of the open space set aside pursuant to this Section shall be suitable for passive or active recreational purposes. No part of such fifty (50) percent shall be within adesignated floodway.
- C. Unless the land being protected is a sensitive environmental area to which access should be restricted for preservation purposes, access to the protected open space by residents of the subdivision shall be provided either by adjoining street frontage or, if required by the Director, by a dedicated easement, at least twenty (20) feet wide, that connects the dedicated land to a street or right-of-way. Gradients adjacent to existing and proposed streets shall allow for reasonable access to the dedicated land.
- D. Areas not eligible. Lands within the following areas shall not be accepted as open space for purposes of this Section:
 - 1. Private or common yards;
 - 2. Public or private streets or rights-of-way;
 - 3. Open parking areas and driveways for dwellings; and
 - 4. Land covered by structures not intended solely for recreational uses.

7.6 SCHOOL FEES IN LIEU OF PUBLIC LAND DEDICATION 2

7.6.1. USE OF FEES

- A. All development shall dedicate or convey land for public school purposes hereto referred to as public land dedication.
- B. Section 7.6 is intended to provide for the administration and expenditure of all fees collected by the Town pursuant to Ordinance No. 677 (Series 2006), which was repealed by Ordinance No. 911 (Series 2019). In lieu fees shall be accounted for as required by law. Fees shall be deposited in an interest-bearing account which clearly identifies the lot, development activity and development approval for which the fee in lieu of public land dedication was collected and the associated category, account or fund of capital facility, by either aggregate or individual land development. Each such category, account, or fund shall be accounted for separately. Any interest or any income earned on moneys deposited in said interest-bearing account shall be credited to the account.
- C. Revenues from fees in lieu of public land dedication shall be used exclusively for capital facilities.
- D. No fees shall be used for periodic or routine maintenance, personnel costs or operational expenses.
- E. If bonds or similar financing instruments are used for the advanced provision of any capital facilities for which fees in lieu of public land dedication are required, fee revenues may be used to pay debt service on such bonds or similar financing instruments.
- F. The Town may enter into an intergovernmental agreement with Archuleta School District 50 Joint Public School District ("School District") or any local government to jointly fund and provide capital facilities needed to provide public school services to the development for which the fees in lieu of public land dedication were imposed. To the extent such intergovernmental agreements utilize revenues from the fees imposed by this Article, they shall include such terms requiring compliance with this Article as deemed appropriate by the Town Council. Such intergovernmental agreements may provide that once paid to the School District, the fees in

² Moved from Article 6. There is no provision in this code for specific public land dedication other than right-of-way dedications. Does this section still apply?

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lieu of public land dedication may be used in the sole discretion of the School District so long as the other requirements of this Article are met.

- G. In the event this Ordinance is repealed or any intergovernmental agreement entered into pursuant to this Section is terminated, any fees previously paid to the School District or other local government and capital facilities purchased by the School District or other local government with such fees shall remain the property of the School District or other local government for use for the purposes contemplated by this Article.

DRAFT

ARTICLE 8: - DEFINITIONS

8.1. - GENERAL RULES OF CONSTRUCTION

The following rules shall apply for construing or interpreting the terms and provisions of this Land Use Code.

8.1.1. MEANINGS AND INTENT

All provisions, terms, phrases, and expressions contained in this Land Use Code shall be construed according to the general purpose set forth in Section 1.3 and the specific purpose statements set forth throughout this Land Use Code. When, in a specific section of this Land Use Code, a different meaning is given for a term defined for general purposes in this Article, the specific section's meaning and application of the term shall control.

8.1.2. HEADINGS, ILLUSTRATIONS, AND TEXT

In the event of a conflict or inconsistency between the text of this Land Use Code and any heading, caption, figure, illustration, table, or map, the text shall control.

8.1.3. LISTS AND EXAMPLES

Unless otherwise specifically indicated, lists of items or examples that use terms such as "for example," "including," and "such as," or similar language are intended to provide examples and are not exhaustive lists of all possibilities.

8.1.4. COMPUTATION OF TIME

The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the Town, the deadline or required date of action shall be the next day that is not a Saturday, Sunday, or holiday observed by the Town. References to days are calendar days unless otherwise stated.

8.1.5. REFERENCES TO OTHER REGULATIONS/PUBLICATIONS

Whenever reference is made to a resolution, ordinance, statute, regulation, or document, it shall be construed as a reference to the most recent edition of such regulation, resolution, ordinance, statute, regulation, or document, unless otherwise specifically stated.

8.1.6. DELEGATION OF AUTHORITY

Any act authorized by this Land Use Code to be carried out by a specific official of the Town may be carried out by a designee of such official.

8.1.7. TECHNICAL AND NON-TECHNICAL TERMS

Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

8.1.8. PUBLIC OFFICIALS AND AGENCIES

All public officials, bodies, and agencies to which references are made are those of the Town of Pagosa Springs unless otherwise indicated.

8.1.9. MANDATORY AND DISCRETIONARY TERMS

The words "shall," "must," and "will" are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words "may" and "should" are permissive in nature.

8.1.10. CONJUNCTIONS

Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

WORK SESSION DISCUSSION ITEMS I.1.

-
- A. "And" indicates that all connected items, conditions, provisions or events apply; and
 - B. "Or" indicates that one or more of the connected items, conditions, provisions, or events apply.

8.1.11. TENSES, PLURALS, AND GENDER

Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.

8.2. - INTERPRETATIONS

The Director has final authority to determine the interpretation or usage of terms used in this Land Use Code. Any person may request an interpretation of any term by submitting a written request to the Director who shall respond in writing within thirty (30) days.

8.4. - ACRONYMS

BOA - Board of Adjustment

DRB - Design Review Board

HPB - Historic Preservation Board

8.5. - TERMS DEFINED

A

Accessory dwelling unit (ADU). A secondary residential dwelling unit with its own kitchen, bathroom, living area and separate entrance that shares the building lot of a larger primary residential dwelling structure. The ADU may be attached to an existing dwelling structure (house), garage or accessory structure, or it may be a stand-alone structure, using the same utility connections of the primary house and may be rented separately.

Alter, or alteration. Any act or process that changes one (1) or more of the interior or exterior architectural or structural features of a building, including but not limited to the erection, construction, reconstruction, or removal of any building.

Appeal. A request for a review of a decision made pursuant to this Land Use Code.

Area of shallow flooding. A designated AO Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one (1) to three (3) feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.

Area median income (AMI). The median household income for Archuleta County, as estimated by the most recent U.S. Census Small Area Income and Poverty Estimates.

Area of special flood hazard. The land in the floodplain subject to a one (1) percent or greater chance of flooding in any given year.

Avigation easement. A written privilege granted by a homeowner related to aircraft overflight, noise, and associated effects which may arise in the ordinary operation of the airport.

Awning. A device attached to a building when the same is so erected as to either permit its being raised or retracted to a position against the building when not in use, or to provide shade.

B

WORK SESSION DISCUSSION ITEMS I.1.

Base flood elevation. The elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one (1) percent chance of equaling or exceeding that level in any given year.

Building. A structure designed to be used as a place of occupancy, storage, or shelter.

Building, principal. The primary building on a parcel intended for principal use.

Building frontage. The portion of a building that faces and is most nearly parallel to a public or private street.

Building inspector. As used in any adopted technical code of the Town, the Town Building Inspector.

C

California Bearing Ratio (CBR). A value determined from a penetration resistance of compacted specimen of the soil in question, which is compared to a standard resistance of crushed stone. The determined resistance divided by the standard for the stone multiplied by one hundred (100) is called the California Bearing Ratio.

Canopy. A structure, other than an awning, attached to a building and carried by a frame supported by the ground or sidewalk.

Cargo shipping container. A large, usually rectangular-shaped, steel constructed unit that is built and used to carry goods for transport by sea, road, rail or air. Depending on the proposed use, cargo shipping containers are considered temporary or permanent structures when placed on a property.

Certificate of alteration. A certificate issued by the Historic Preservation Board indicating its approval of plans for alteration, construction, or removal of a designated historic landmark.

Conditional use permit. A permit that authorizes the recipient to make use of property in accordance with the requirements of this Land Use Code. A neighborhood compatibility meeting may be required, with the Planning Commission maintaining the final approval or denial authority.

Condominiums. Multiple units contained within one (1) building whether for residential or commercial purposes, each unit of which is held in separate ownership.

Conservation subdivision. A residential subdivision in which some or all of the lots are allowed to be smaller (in area and width) than otherwise required for the underlying zoning district, in exchange for the protection of additional common open space beyond the base requirements of this Land Use Code.

Consolidation. The combining of two (2) or more lots, tracts, or parcels in a platted subdivision, which removes the common boundary lines and forms a single lot, tract or parcel.

Context. The relationship of the building to its surroundings in terms of size, form, character and site development.

Contributing building, structure, site/area, or object. Any building, structure, site/area, or object that helps to define or reflect the historical or architectural significance of a site or historic district.

Critical feature. An integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

D

Demolish, or demolition. To tear down, wreck, or ruin a structure.

Density, gross. A measurement of the number of dwelling units per acre and/or the number of square feet of enclosed commercial space per acre of land area.

Density, net. The same measurement as in gross density, except that the land area considered excludes lands dedicated to the public, rights-of-way, and dedicated open space, whether such open space is held in public or private ownership.

WORK SESSION DISCUSSION ITEMS I.1.

Design guideline. A standard of appropriate architectural features and site activity to include parking, landscaping, pedestrian provisions, etc., that will preserve the historic and architectural character of a landmark, building, area, or object.

Design review board (DRB). The board or commission appointed by the Town Council to review design or architectural related guidelines/standards.

Developer. Any person(s) completing allowed and permitted improvements on a lot, parcel or tract of land. A developer may be the owner or a person authorized by the owner.

Development activity. An improvement that is allowed and permitted and completed on a lot, parcel, or tract of land by a developer or property owner. The term "development activity" shall include annexation, zoning, subdivision, planned unit development, building permit issuance, construction, alterations, land grading, excavating, and clearing.

Development approval. Any final approval of a development activity.

Development code administrative manual. A document, available to the public, that contains the development requirements for application contents, forms, fees, and the submission and review schedule (including approximate time frames for review).

Development improvements agreement/annexation agreement. One (1) or more agreements made between the developer or owner and the Town to ensure completion of the roads, streets, water lines, sewer lines, sidewalks, curbs, gutters, storm sewers, or other public or private improvements associated with annexations, subdivision approval, zoning or other development activity.

Dimensional nonconformity. A situation that occurs when a dimensional requirement (e.g., elevations, setbacks) was approved legally but no longer conforms to the required standard of this Land Use Code.

Director. The Town Planner, per Section 2.3.15, Pagosa Springs Municipal Code, or his/her designee, or any individual designated by the Town Council to administer this Land Use Code; or, for purposes of administering the floodplain regulations of this Land Use Code, the floodplain administrator.

Double-frontage lot. A lot with two (2) sides that abut a street.

Driveway. That portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.

E

Easement. An interest in land owned by another that entitles the easement holder to a specific use of the described land.

Economic hardship.

- (a) For investment or income-producing properties: The building, site, or object cannot be feasibly used or rented at a reasonable rate of return in its present condition; or if proposed to be rehabilitated, where denial of a demolition permit would deprive the owner of all reasonable use of the property.
- (b) For non-income producing properties and/or institutional properties not solely operating for profit: The building, site or object has no beneficial use as a residential dwelling, or for an institutional use in its present state; or if proposed to be rehabilitated; where denial of the demolition permit would deprive the owner of all reasonable use of the property.

Emergency repairs. Repairs immediately necessary to protect the health and safety of the property owner, user, or general public.

Existing construction. Means for the purposes of determining National Flood Insurance 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."

WORK SESSION DISCUSSION ITEMS I.1.

Expansion of an existing manufactured home park or subdivision. The preparation of additional sites by the construction of facilities for the 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).

Exterior architectural features. The features that contribute to the architectural character and general composition of the exterior of a building or structure, including but not limited to the kind, color, and texture of the building materials and the type, design, and character of all windows, doors, light fixtures, signs and appurtenant features.

Extraterritorial planning area. An area immediately adjoining the Town corporate limits within the Town's major street plan, and subject to planning designations that may be enacted if the area is annexed into the corporate limits at a future time. This area may also be subject to intergovernmental agreements established between the Town and County for planning purposes.

F

Façade. The front of a building including entries, parapets and rooflines, specifically the principal face.

Family. One (1) or more persons living together as a single housekeeping unit.

Flag, governmental. Any device composed of flexible cloth, plastic, or similar material that is affixed to a line or pole and that may display local, state, or federal emblems, seals, or colors.

Flag, nongovernmental. Any device composed of flexible cloth, plastic, or similar material that is affixed to a line or pole and that may display emblems, business or corporate logos, symbols, or illustrations.

Fleet vehicle. Fleet vehicles are groups of automobiles with a single owner, typically a company or corporation, rather than an individual or family.

Flood, or flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, and/or the unusual and rapid accumulation or runoff of surface waters from any source.

Flood hazard area. Areas subject to inundation by the "base flood" as identified by the Federal Emergency Management Agency reports and maps.

Flood Insurance Rate Map (FIRM). An official map of the Town on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood insurance study. The official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevations of the base flood.

Floodplain. Any land area susceptible to being inundated by water from any source.

Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

Floor area, gross. The total area of a building measured along the outside dimensions of the building, including each floor or level used for occupancy and storage.

Floor area, habitable. The total area of a building measured along the outside dimensions of the building, including each habitable floor or level used for occupancy only.

Floor Area Ratio (FAR).

Floor plate. The total area of a building measured along the outside dimensions of the building, including each habitable floor or level used for occupancy only.

Foundation. The base or substructure of a building that bears the weight of the structure above. Foundations are typically located below grade and are typically situated at or below the frost line depth.

Frontage. Any boundary line of a lot or parcel of land that coincides with the right-of-way of a street.

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G

Green book. The most recent edition of the Policy on Geometric Design of Highways and Streets by the American Association of State Highway and Transportation Officials.

H

Height. Unless otherwise provided in any specific zone district, "height of building" or "building height" means the vertical distance between the following two (2) points:

- (a) From grade, specified as:
 - (i) The average of the pre-construction grade of the building's site coverage, or the average of the post construction grade at the perimeter of the building's site coverage (including window and door wells which extend greater than four (4) feet from the exterior perimeter of the building's site coverage, whichever is more restrictive;
 - (ii) The approved grade, which shall be considered to be the grade approved by the Planning Commission for reasons such as, but not limited to, building out of the floodplain, etc.
- (b) The highest point of any structure or the points specified for the following types of roofs:
 - (i) Flat roof. Height shall be measured to the highest point of the building, including parapet walls and rooftop appurtenances, but excluding architectural features and chimneys which may be permitted by locally adopted codes.
 - (ii) Gable, hip, gambrel or shed roof. Height shall be measured to the mean height level between the highest ridge or wall and the underside of its highest associated eave where it meets the vertical wall plane, provided, however, that a peak may extend no greater than six (6) feet above the specified maximum building height for any zone district. If any parapet wall equals or exceeds the height of the highest ridge, then height shall be measured to the highest point of the parapet.

Historic district. A geographic area, defined as historic by ordinance, possessing a significant concentration, linkage, or continuity of buildings, structures, sites or objects united by past events, plans or physical development. Historic district contains both contributing and non-contributing properties.

Historic designation. The act of the Town Council, based on the recommendation of the Historic Preservation Board, designating as "historic" a property, building or structure, pursuant to the procedures prescribed herein, which is worthy of preservation because of its historic and/or architectural significance locally, regionally or nationally.

Historic landmark. A property, building, structure, feature, object, and/or area designated as a "landmark" by the Town Council, based on the recommendation of the Historic Preservation Board, pursuant to the procedures described in Article 8, which is worthy of rehabilitation, restoration, and preservation because of its historic and/or architectural significance.

Historic property. The cultural resources, including buildings, structures, objects, or districts that are of historic significance.

Historical significance. Having architectural, social, or geographical/environmental significance; as outlined in Article 8.

Historic site. The location of a former activity that has historic significance locally, regionally or nationally. A site may or may not include structures.

Holiday decorations. Temporary decorations, strings of lights, or displays, clearly incidental to and customarily associated with any state, local, religious or other holiday.

I

Improvements. Any changes, additions, or deletions made to property that did not naturally exist thereon.

WORK SESSION DISCUSSION ITEMS I.1.

Improvements guarantee. A bond, certified check, loan commitment, public or private escrow agreement, or other security determined acceptable in the sole discretion of the Town, covering the estimated cost of the required improvements to be completed by the developer. Such improvements guarantee shall be posted by the developer with the Town in conjunction with the execution of an improvements agreement.

Incidental architecture features. Ornamentations or decorative features that project from a building or structure including cornices, eaves, canopies, sunshades, gutters, chimneys, flues, belt courses, headers, sills, pilasters, lintels, ornamental features, and other similar architectural features.

Intergovernmental agreement. An agreement established between the Town and another government entity, such as the State or the County or other municipalities or special districts.

Intensity of use. The type(s), amount, and level of use anticipated in the development of any parcel of land.

L

Land development activity. Any activity requiring a development approval that requires developers to contribute to the construction or financing of public improvements including pedestrian traffic improvements, public roadways, and public facilities. When a change of use, redevelopment, or modification of an existing use requires a development approval, the impact fees shall be based upon the net increase in unmitigated impacts for the new use as compared to the previous use.

Levee. 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.

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

Level of service. In the context of roadways or traffic impacts, a general term that describes the operating conditions a driver will experience while traveling on a particular roadway. Where roadway conditions (physical characteristics of the highway) are fixed, levels of service on any particular highway varies primarily with volume.

Loading area. A portion of the vehicle accommodation area used for loading and unloading of goods, equipment, people, etc.

Lot. A section of land whose boundaries have been established by an approved and recorded subdivision, or other plat/metes and bounds, and that is recognized as a separate legal parcel for the purpose of transferring of legal title.

Lot area. The total area circumscribed by the boundaries of a lot. Note that when the lot boundaries include public transportation rights-of-way extending into the lot, the lot area calculation shall not include the transportation right-of-way area.

Low-income housing. A housing unit with a rental amount or annualized mortgage amount that qualifies as affordable housing for households earning between sixty-one (61) percent and eighty (80) percent of AMI.

Lowest floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of section 60.3 of the National Flood Insurance Program Regulations.

M

Manufactured home. A structure built in compliance with 42 USC 5401, the National Manufactured Housing Construction and Safety Standards Program (adopted on June 15, 1976), and which is (i) transportable in one (1) or more sections, (ii) eight (8) feet or more in width, (iii) twenty-four (24) feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and (iv) is built on a permanent chassis and designed to be

WORK SESSION DISCUSSION ITEMS I.1.

used as a dwelling with or without a permanent foundation when connected to the required utilities, including plumbing, heating, air conditioning, and electrical systems.

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

Mass/scale. The appearance of the building in terms of size, height, bulk, and building mass, and its proportion to surrounding landforms, vegetation, and buildings.

Mean sea level. For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NEVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Minor modification. A minor deviation from otherwise applicable standards that may be approved pursuant to Section 2.4.12 of this Land Use Code.

Moderate-income housing. A housing unit with a rental amount or annualized mortgage amount that qualifies as affordable housing for households earning between eighty-one (81) percent and one hundred (100) percent of AMI. This term is synonymous with workforce housing.

Modulation/articulation. Variation of the building façade (e.g., stepping out or extending back the footprint/façade, variation in the roofline, addition of building elements such as balconies, decks, porches, window patterns/types, and variation in building materials/colors).

Mural, artistic. A picture or decoration that is painted on or otherwise applied directly to an external wall, visible to the public, and does not contain advertising of any kind.

N

Nonconformity. Any lawful use of property or any lawful structure, sign, or platted lot, or any site feature: that exists or existed on the date of the adoption of an ordinance that rendered it nonconforming with the provisions of the new ordinance or this Land Use Code; or that currently conforms to the regulations in this Land Use Code, but in the future will not conform to a future rezoning, or amendment to the text of this Land Use Code; or that currently conforms to the regulations in this Land Use Code, but because of future governmental action, such as the acquisition of property for a public purpose, will not conform to the provisions of the code in effect at the time.

New construction. Structures for which the "start of construction" commenced on or after the effective date of any provisions in this Land Use and Development Code that placed restrictions on construction of similar structures. For the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvement to such structures.

New manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the Town.

Nonconforming lot. A lot that was in compliance with the Land Use and Development Code when created, but that does not meet current requirements of this Land Use Code.

Nonconforming project. Any structure, development, or undertaking that was incomplete and being constructed in compliance with the Land Use and Development Code when created, but which does not meet current requirements of this Land Use Code.

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Nonconforming situation/use. A situation or use that complied with the Land Use and Development Code when created, but which does not currently conform to one (1) or more of the regulations applicable to the district in which the lot or structure is currently located.

Noncontributing. All those structures that are new or not-historic construction within a proposed or designated historic district; or historic structures with complete loss of integrity due to deterioration or modification beyond recognition of historic elements.

O

Ordinary repairs and maintenance. Work done on a building in order to correct or prevent any deterioration, decay of, or damage to such building or any part thereof, in order to restore or preserve the same as nearly as practicable to its condition prior to such deterioration, decay or damage.

Orientation. The relationship of a structure to streetscape, parking lots, sidewalks, surrounding structures, and landforms.

Outdoor display and sales. The display and sale of products and services, primarily outside of a building or structure, which are normally vended within the contiguous business or organization.

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

Overlay zone. An overlapping zone that identifies special physical and cultural characteristics and requires specific use and development constraints in order to maintain the uniqueness of the zone, and which constraints are in addition to the underlying zone district restrictions.

Owner. The fee owner, possessor or user of property, developer, contractor, or any other person or organization who is obligated or responsible for performing work with Town approval. For purposes of sign regulation, an owner is the fee owner or lessee of the sign, the fee holder or lease holder of the property upon which the sign is located, or the individual, person or business who has purchased the copy on a sign.

P

Parapet. The top of a wall that forms the upper portions of a building façade.

Parcel. A lot or tract of land typically delineated as part of a recorded subdivision plat. Parcels may also exist outside the boundaries of a recorded subdivision. See also the definition of "lot."

Parking area aisles. A portion of the vehicle accommodation area consisting of lanes providing access to parking spaces.

Parking space. A portion of the vehicle accommodation area set aside for the parking of one (1) vehicle.

Pedestrian traffic improvements. Facilities and improvements, including but not limited to concrete sidewalks that are typically not less than five (5) feet wide, drainage improvements, bridges, site preparation, signage, gutters, curbs, handicap access, and associated components typically associated with the development and construction of sidewalks, walking and bicycle paths, and walkways. Pedestrian traffic improvements include planning, preliminary architectural and engineering services, architectural and engineering design studies, land surveys, land acquisition, site improvements and off-site improvements; the construction of facilities and improvements; and the purchase of facilities and improvements with an average useable life of at least three (3) years, necessary to adequately mitigate the pedestrian and bicycle traffic generated by the land being developed. Pedestrian traffic improvements do not include periodic or routine maintenance of facilities and improvements, personnel costs or operational expenses.

Pennant. Any advertising device made of flexible material such as cloth or plastic, displayed singly or in multiples and attached to a rope or line.

Person. An individual, counselor, executor, trustee, other fiduciary, corporation, firm, partnership, association, organization, or other entity acting in cooperation.

WORK SESSION DISCUSSION ITEMS I.1.

Physical features. In reference to historic landmarks, the features of a landmark that help to define its historic significance (e.g., archeological resources, architectural features, structural foundations, gravestones, tailings piles, etc.).

Planned development (PD). An area of land, controlled by one (1) or more land owners to be developed under unified control or unified plan of development for a number of dwellings units, commercial, educational, recreational, or industrial uses, or any combination of the foregoing, and which does not typically correspond in lot size, bulk, or type of use, density, lot coverage, open space or other restrictions in the subdivision and zoning regulations, but instead establishes unique overlay zoning, uses and design elements.

Planning jurisdiction. The area within the Town limits and the extraterritorial planning area.

Plat. A map of certain described land prepared typically to become part of the public record of land division.

Premises. The physical location where an activity is routinely conducted, which may include the primary structure, parking facilities and private roadways.

Preservation. The protection, enhancement, and maintenance of historic properties, which generally includes renovation, restoration, reconstruction, and/or rehabilitation.

Private driveway. A driveway intended for the private benefit of the property being accessed, leading to a vehicle accommodation area that includes that portion of the Town right-of-way between the maintained roadway edge and the property line, which is designed and used for the interchange of traffic between the roadway and the abutting property and the driveway (as defined) located on private property.

Private common open space. Private open land area set aside for the exclusive use and enjoyment of a development's residents, employees, or users.

Program deficiency. A defect in a community's Floodplain Management Regulations or administrative procedures that impairs effective implementation of those Floodplain Management Regulations or of the NFIP standards, as per NFIP Sections 60.3, 60.4, 60.5, or 60.6.

Public easement. A right-of-way granted and dedicated to the Town where the general use and maintenance of such right-of-way is governed by an agreement that runs with the land, is unseverable therefrom, and is recorded on the deed.

Public use. Uses that, unless otherwise stated herein, are owned and operated by a local, state or federal government.

Public water supply system. Any water supply system furnishing potable water to ten (10) or more dwelling units or businesses, or any combination thereof.

R

"R" value (thermal resistance). The inverse of the time rate of heat flow through a building thermal envelope element from one (1) of its bounding surfaces to the other for a unit temperature differences between the two (2) surfaces under steady state conditions, per unit of area ($h \times \text{sq ft} \times F/\text{Btu}$).

Recreational vehicle (RV). 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.

Restrictive covenants. Private, contractual requirements or restrictions on the use of property, which in the context of the federal Fair Housing Act, may not regulate the transfer, rental, or lease of any housing unit because of race, creed, color, sex, national origin, or ancestry.

WORK SESSION DISCUSSION ITEMS I.1.

Right-of-way (R.O.W.). An area of land designated for public use for access across property, or location of private or government owned utilities, including streets, roads, alleys, walkways, etc.

Roadway. The portion of a right-of-way surfaced for vehicular traffic, including curb and gutter, when required.

Roofline. The upper most edge of a roof or parapet.

S

Sign. Any object, device, display or structure that is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, motion, illumination or projected images.

Sign, animated. Any sign or part of a sign that changes physical position by any movement or rotation.

Sign, banner. Any advertisement device composed of flexible cloth, plastic, paper, or similar material and affixed by wires, ropes, or other temporary methods.

Sign, billboard. A sign intended to advertise a business, commodity, service, entertainment, product, or attraction sold, offered, or existing elsewhere than on the property where the sign is located.

Sign, changeable copy. A sign whereon provisions are made for letters or characters to be placed in or upon the surface area either manually or electronically to provide a message or picture.

Sign, directional. Any sign that directs the movement of pedestrian or vehicular traffic without reference to or including the name of a product sold or service performed on the lot.

Sign, dissolve. A mode of message transition on an electronic message center accomplished by varying the light intensity or pattern, where the first message gradually appears to dissipate and lose legibility simultaneously with the gradual appearance and legibility of the second message.

Sign, electrical. Any sign containing electrical wiring. This does not include signs illuminated by indirect illumination.

Sign, electronic message center. A sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means.

Sign, fade. A mode of message transition on an electronic message display accomplished by varying the light intensity, where the first message gradually reduces intensity to the point of not being legible and the subsequent message gradually increases to the point of legibility.

Sign, freestanding. A sign that is supported by one (1) or more columns or braces extending from the ground and is not attached to any part of any building.

Sign, government. Signs erected by governments or government agencies for regulatory and informational purposes.

Sign, illegal. Any sign that has not received a valid sign permit.

Sign, illuminated. A sign lighted by or exposed to artificial lighting either by lights within the sign or lights directed towards the sign.

Sign, indirect illumination. Light only from a concealed light source outside the sign face that reflects upon the sign face.

Sign, internal illumination. Light from a source concealed or contained within the sign that becomes visible through a translucent surface.

Sign, non-conforming. A sign that complied with the sign code at the time it was erected, altered, moved and received a valid sign permit but does not conform to the current provisions of the current sign code, nor has it been subsequently granted a variance from the sign code.

Sign, non-profit. Signage used in conjunction with business, activities or events sponsored by non-profit agencies.

WORK SESSION DISCUSSION ITEMS I.1.

Sign, offsite. A sign that conveys a political or ideological message or directs attention to a business, product, commodity, service, entertainment or attraction sold, offered or existing elsewhere than upon the same lot where such sign is displayed.

Sign, pedestrian-oriented. A sign located in such manner as to be generally viewed by a person who is walking. Typically, such signs are located within the first story of a building or directly on the ground.

Sign, permanent. A sign that is permanently affixed or attached to the ground or to a structure.

Sign, political. A non-commercial sign that either displays a message conveying political or ideological views or supports a specific political candidate or issue for election.

Sign, vehicle. A sign that is painted or otherwise mounted upon a vehicle, van, truck, trailer, automobile, bus, railroad car or other vehicle or movable structure.

Sign, projecting. Any sign, other than a wall sign, which projects from and is supported by a wall or building.

Sign, roof-mounted. A sign, any part of which is located on or attached to a roof.

Sign, sandwich. A sign placed directly on the ground and out of the public right-of-way and which shall be removed nightly.

Sign, temporary. A sign that would otherwise be classified as a permanent sign in that it identifies an establishment, service(s) or product(s) provided on a site, but is not permanently affixed to the ground or a building.

Sign, unused (abandoned). A sign that received a valid sign permit and that meets any of the following criteria:

- (a) A sign that identifies an establishment, product(s) or service(s) that no longer exists or is no longer provided on the premises where the sign is located.
- (b) A sign that identifies a time, event or purpose which has passed or no longer applies.
- (c) A sign that is vacant of copy.

Sign, wall-mounted. A sign painted on or mounted against a wall of a building or structure that extends no more than twelve (12) inches from the wall surface upon which it is attached and whose display surface is parallel to the face of the building.

Sign, window. Any sign visible from the exterior of a building that is painted, attached, glued or otherwise affixed to a window or depicted upon a card, paper or other material and placed on, taped or displayed from a window for the specific purpose of advertising.

Sign, yard/garage sale. Temporary placards, posters and signs placed in front of a yard or property advertising sale of goods.

Sign area. The total exposed surface on all surfaces devoted to a sign message, including ornamentation, embellishment and symbols, but excluding supporting structures.

Sign display surface. The area made available on the sign structure for the purpose of displaying the message (see also "sign face").

Sign districts.

- Zone 1: Commercial properties located between 1st Street through 10th Street.
- Zone 2: Commercial properties except 1st Street through 10th Street.
- Residential: All residential zone districts.
- Historic district/landmark properties: Properties located within the Historic District or locally designated as a Historic Landmark.

Sign face. The surface of a sign upon, against or through which the advertising is displayed or illuminated.

WORK SESSION DISCUSSION ITEMS I.1.

Sign permit. A permit issued by the Administrative Officer that authorizes the recipient to erect, move, enlarge, or substantially alter a sign.

Site-specific development plan. A development plan submitted by a developer seeking to obtain vested rights in that particular development plan. Specifically, the following approvals shall be eligible for vesting as site specific development plans: a rezoning to a PD or Planned Development Overlay District, a final subdivision plat, or a development plan.

Special flood hazard area (SFHA). A FEMA-identified high-risk flood area where flood insurance is mandatory for properties. An area having special flood, mudflow, or flood-related erosion hazards, and shown on a flood hazard boundary map of flood insurance rate map as Zone A, AO, A1-A30, AE, A99, AH, AR, AR/A, AR/AE, AR/AH, AR/AO, AR/A1-A30, V1-V30, VE or V.

Start of construction. The time at which the developer begins substantial improvement of a property, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of a slab of 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.

Street or road. A public or private thoroughfare used for passage of vehicular traffic.

Street, alley. A public or private way, at the rear or side of property, permanently reserved as an ancillary means of vehicular or pedestrian access to abutting property.

Street, arterial. A major street that serves as an avenue for the circulation of traffic into, out of, or around the town, and carries high volumes of traffic. Arterial classification requires in excess of four thousand (4,000) average daily trips (ADT).

Street, cul-de-sac. A dead-end street that widens sufficiently at the end to permit a vehicle to make a U-turn. The circular cul-de-sac should have a minimum radius of forty (40) feet in residential areas and fifty (50) feet in commercial areas.

Street, local. A street whose sole function is to provide access to farms, residences, businesses, or other abutting properties. It serves or is designed to serve at least ten (10), but not more than twenty-five (25) dwelling units and is expected to handle between zero and one thousand (1,000) ADT.

Street, major collector. A street whose principal function is to carry traffic between local and minor collector streets and arterial streets, but may also provide direct access to abutting properties. It serves or is designed to serve, directly or indirectly, more than one hundred (100) dwelling units, and is expected to handle between two thousand five hundred (2,500) and four thousand (4,000) ADT.

Street, minor collector. A street designed and designated to carry traffic volumes in the range of four hundred (400) to two thousand four hundred ninety-nine (2,499) vehicles per day.

Street, private. Any right-of-way or area set aside to provide vehicular access within a development that is not dedicated or intended to be dedicated to the town and that is not maintained by the Town.

Street, stub. A dead-end road used for access to a maximum of three (3) single-family dwellings not exceeding eight hundred (800) feet in length.

Structure. Anything constructed, assembled, erected or built on a lot.

Structures of Merit.

WORK SESSION DISCUSSION ITEMS I.1.

Subdivision or subdivided land. The process and product of creating lots, plots, tracts or any parcel of land that is to be designated for individual titled ownership, along with completion of requirements within the Town subdivision regulations.

Subdivision, minor. The subdivision of land into no more than three (3) lots from one (1) lot, parcel or tract.

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

Substantial improvement.

- (a) Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either:
 - (i) Before the improvement or repair is started, or
 - (ii) If the structure has been damaged and is being restored, before the damage occurred.
- (b) For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.
- (c) The term does not, however, include either:
 - (i) Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications that are solely necessary to assure safe living conditions, or
 - (ii) Any alteration of a structure listed on the National Register of Historic Places or State Inventory of Historic Places.

Supporting. In the context of historical preservation, all those historic resources that have lost their original integrity, but are "retrievable" as historic structures or sites. These structures have been substantially altered over the years, but with substantial effort could be considered contributing once again.

T

Tract. A section of land used interchangeably with the term lot, particularly in the context of subdivisions, where one (1) tract is subdivided into several lots. See also the definition of "lot."

Transfer. The conveyance of property to another by deed or other method.

U

Use, principal. A use listed in the table of permitted uses in Article 4, which use shall be the dominant use on the property.

Utilities. Public services or facilities including domestic water, sanitary sewer, cable T.V., electric power, gas, telephone, irrigation, water, and drainage.

Utility facilities. Any structure or facility owned by a governmental entity, a nonprofit organization, a corporation, or any entity defined as a public utility under Colorado law, and used in conjunction with the production, generation, transmission, delivery, collection, or storage of, water, sewage, electricity, gas, oil, or electronic signals.

V

Variance. A grant of permission by the Board of Adjustment that authorizes the recipient to develop or use property in a manner that, according to the strict letter of this Chapter, is not otherwise legally permitted.

Vehicle accommodation area. That portion of a lot that is used by vehicles for access, circulation, parking, loading and unloading, and comprises all of the above effected uses.

WORK SESSION DISCUSSION ITEMS I.1.

Very low-income housing. A housing unit with a rental amount or annualized mortgage amount that qualifies as affordable housing for households earning between zero (0) percent and sixty (60) percent of AMI. Very low-income housing is a sub-category of low-income housing.

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

Violation of flood damage prevention regulations. The failure of a structure or other development to be fully compliant with the Town's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 6.2 of the Town of Pagosa Springs Land Use and Development Code.

W

Water surface elevation. The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplain of coastal or riverine areas.

Workforce housing. A housing unit with a rental amount or annualized mortgage amount that qualifies as affordable housing for households earning between eighty-one (81) percent and one hundred (100) percent of AMI. This term is synonymous with moderate-income housing.

Z

Zoning district. Any section or sections of the town for which the regulations governing the use of land and the use, density, bulk, height, and coverage of buildings and other structures are uniform.

Zoning map. The map adopted as an ordinance by the town that delineates the extent of each district or zone established in this Land Use Code.

(Ord. No. 828, § 1, 10-22-2015; Ord. No. 833, § 1, 11-19-2015; Ord. No. 861, § 3, 7-20-2017; Ord. No. 878, § 1, 3-22-2018; Ord. No. 911, § 8, 6-4-2019)