

## TITLE 17

### Zoning

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## CHAPTER 17.04

### General Provisions

#### 17.04.010 Short title.

This Title shall be known and may be cited as the "Zoning Code of the Town of Avon." (Ord. 91-10 §1(part))

#### 17.04.020 Purposes.

The purposes of this Title are:

- (1) To divide the Town into zones, or districts, restricting and requiring therein the location, erection, construction, reconstruction, alteration and use of buildings, structures and land for trade, industry, residence and other specified uses;
- (2) To require the intensity of the use of lot areas;
- (3) To regulate and determine the area of open spaces surrounding such buildings;
- (4) To establish building lines and locations of buildings designed for specified industrial, business, residential and other uses within such areas;
- (5) To fix standards to which buildings or structures shall conform;
- (6) To fix standards for use of areas adjoining such buildings or structures;
- (7) To implement the goals of the adopted master plan of the Town. (Ord. 91-10 §1(part))

#### 17.04.030 Intent.

As authorized by the Statutes of the State and by Article XX of the Colorado Constitution, this Title is intended to ensure the following benefits to the citizens:

- (1) To promote the health, safety and welfare of the community;
- (2) To lessen congestion on the roads and enhance pedestrian and vehicular movement with the least detriment to environmental quality;
- (3) To secure the safety of the people against fire hazards, avalanche, instable slopes, rock fall, mudslides and flood danger;
- (4) To provide adequate light and open space and avoid undue concentration of population;
- (5) To provide clean air by protecting the clean air drainage basin and reducing pollutants into the air;
- (6) To protect water sources by maintaining the natural watershed, preventing accelerated erosion, reducing runoff and consequent sedimentation, eliminating pollutants introduced directly into streams and enhancing public access to recreational water sources;

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

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

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

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

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

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

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

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

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

(16) To assist in controlling the effect of any proposed improvement on the outlook of any adjacent or neighboring property. (Ord. 91-10 §1(part))

#### **17.04.040 Recordation of waiver of district regulations.**

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

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

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

(d) All such limitations shall be binding upon the applicant and his or her successors and assigns, all of whom shall be deemed conclusively to have assented to all of these conditions, waivers or limitations and to have waived objection to the same. (Ord. 91-10 §1(part))

**17.04.060 Exemption for certain essential services.**

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

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

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

(d) Business offices and maintenance yards of such public utilities, special districts or municipal departments are not included in the exemption granted by this Section. (Ord. 91-10 §1(part))

**17.04.070 Authority to require additional studies.**

Whenever the Planning and Zoning Commission has review of a development proposal by means of the provisions of this zoning code, it shall be necessary to adequately apprise itself of the consequence of a development, including all applicable items listed in Sections 17.04.020 and 17.04.030. The applicant, at his or her cost, shall furnish information and data needed for his or her project. All required statements or analyses shall be executed by professionals or other persons qualified to provide the requested reports. If the board refuses to accept said persons as qualified, which refusal shall not be arbitrary, the applicant shall present alternate qualified persons to the satisfaction of the board. The results of any study or analysis shall not dictate either approval or disapproval of the proposed project. (Ord. 91-10 §1(part))

**17.04.080 Applicability to public agencies.**

The provisions of this Title shall apply to all public bodies, districts and agencies of the federal, state, county and municipal governments. (Ord. 07-08 §1; Ord. 91-10 §1(part))

**17.04.090 Conceptual or preliminary approvals.**

Whenever within the requirements of this Title provision is made for a conceptual or preliminary approval by the Planning and Zoning Commission or Town Council of a plan, project, rezoning activity or other action, such approval shall not be considered binding, nor as a final approval, and any person, firm or corporation who expends time or funds in reliance thereon shall do so at his or her or its own risk. The Town shall have no liability or responsibility for any detriment incurred thereby nor shall its agencies be estopped by reasons thereof from withholding final approval. (Ord. 91-10 §1(part))

## CHAPTER 17.08

### Definitions

#### **17.08.010 Interpretation.**

For the purpose of this zoning code, certain words and phrases shall be defined as set forth in this Chapter. When not inconsistent with the text, words used in the present tense include the future, words used in the singular number include the plural, words in the plural include the singular, and the masculine includes the feminine. The word *shall* is mandatory, and the word *may* is permissive. (Ord. 91-10 §1(part))

#### **17.08.020 Access.**

*Access* means the place, means or way by which pedestrians and vehicles shall have adequate and usable ingress and egress to property, use or parking space. (Ord. 91-10 §1(part))

#### **17.08.030 Accessory apartment.**

*Accessory apartment* means an additional dwelling unit either in or added to the existing principle building on the lot, for use as a complete, independent living facility with provision within the accessory apartment for cooking, eating, sanitation and sleeping. Such a dwelling is an accessory use to the main dwelling or use of the lot and shall not be sold separately. (Ord. 91-10 §1(part))

#### **17.08.040 Accessory building or use.**

*Accessory building* or *accessory use* means a subordinate building or use which is located on the same lot on which the main building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such building or main use, and does not change the basic character thereof as determined by its principal use. Accessory buildings shall not be provided with kitchen or bath facilities sufficient to render them suitable for permanent residential occupancy; and approval of the Planning and Zoning Commission and a building permit are required. Accessory building and uses shall be permitted in every zone district. (Ord. 05-03 §4; Ord. 91-10 §1(part))

#### **17.08.050 Accommodation unit.**

*Accommodation unit* means any room or group of rooms used primarily for transient lodging and accessible from common corridors, walks or balconies without passing through another accommodation unit and shall be no larger than six hundred (600) square feet. An accommodation unit may only include an efficiency kitchen. Each accommodation unit shall be counted as one-third ( $\frac{1}{3}$ ) of a dwelling unit for purposes of calculating allowable units per acre except as set forth in Section 17.08.270 of this Article. (Ord. 91-10 §1(part); Ord. 05-11 §2, 2005)

#### **17.08.060 Alley.**

*Alley* means a public or private way permanently reserved as a secondary means of access to abutting property. (Ord. 91-10 §1(part))

**17.08.070 Apartment.**

*Apartment* means a room or suite of rooms in a multi-family structure, which is arranged, designed, used or intended to be used as a housekeeping unit for a single family. (Ord. 91-10 §1(part))

**17.08.080 Automobile service station and repair.**

*Automobile service station and repair* means any premises where gasoline and/or other petroleum products are sold and/or light maintenance activities such as engine tune-ups, lubrication and minor repairs are conducted; but shall not include premises where heavy automobile maintenance activities such as engine overhauls, tire recapping and body repainting or repair are conducted. (Ord. 91-10 §1(part))

**17.08.090 Automobile storage yard.**

*Automobile storage yard* means any place where two (2) or more motor vehicles are stored in the open or any land, building or structure used for wrecking or storing such motor vehicle or parts thereof, including farm vehicles or farm machinery and other commercial or contractor's equipment and machinery. (Ord. 91-10 §1(part))

**17.08.100 Balcony.**

*Balcony* means that portion of a structure which is essentially open and outward from the main building with a floor and a railing, with or without a ceiling, and over four (4) feet above the existing ground level. (Ord. 91-10 §1(part))

**17.08.110 Basement.**

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

**17.08.120 Bed and breakfast residence.**

*Bed and breakfast residence* means an owner-occupied dwelling unit that contains no more than three (3) guest rooms where lodging, with or without meals, is provided for compensation. (Ord. 91-10 §1(part))

**17.08.130 Bedroom.**

*Bedroom* means any room separate from the primary living area of a dwelling unit conforming to the applicable building codes and this code for habitable space or rooms. (Ord. 91-10 §1(part))

**17.08.140 Buildable area.**

*Buildable area* means the area of any site, lot, parcel or any portion thereof which does not contain land under water, public rights-of-way or areas in excess of forty percent (40%) slope. (Ord. 91-10 §1(part))

**17.08.145 Building area ratio.**

(a) For the purpose of calculating *building area ratio*, there shall be included that area within the surrounding exterior walls (measured from their exterior surface) of a building or portion thereof. The

building area of a building or portion thereof shall include all exterior walkways, terraces, courts, stairways or other constructed areas under a horizontal projection of a roof or floor above.

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

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

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

(c) Decks which are above grade and are uncovered and which extend out from the enclosed space of the structure shall be included in building area ratio calculations to the extent that fifty percent (50%) of such decks shall be calculated; and decks which do not exceed height restrictions established in this zoning code and which are constructed on the roofs of floors below shall not be included in building area ratio calculations.

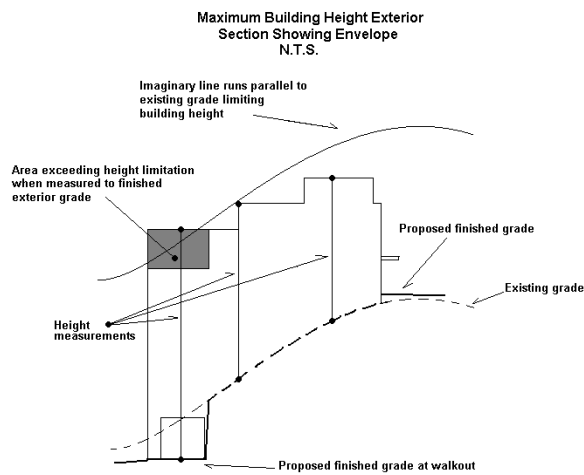
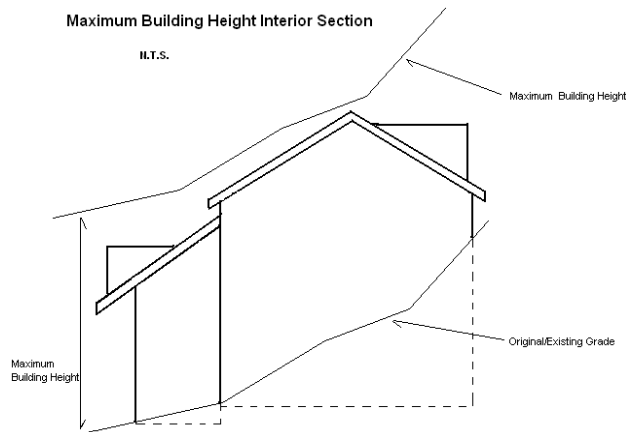
(d) Crawl spaces without windows, suitable only for storage and not in excess of four (4) feet in height, shall not be included in building area ratio calculations. (Ord. 05-03 §5; Ord. 91-10 §1(part))

**17.08.150 Building.**

*Building* means any permanent structure built for the shelter or enclosure of persons, animals, chattels or property of any kind, and does not include advertising signboards or fences. (Ord. 91-10 §1(part))

**17.08.160 Building height.**

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



(Ord. 04-12 §1; Ord. 91-10 §1(part))

**17.08.170 Building line.**

For the purpose of this Title, *building line* means the same as the front lot setback line. (Ord. 91-10 §1(part))

**17.08.180 Building site.**

*Building site* means the area or lot or lots upon which a building or structure may be erected. (Ord. 91-10 §1(part))

**17.08.190 Carport.**

*Carport* means a structure attached or made a part of the main structure, and which is open to the weather on at least two (2) sides for the purpose of sheltering motor-driven vehicles used by occupants of the main structure. (Ord. 91-10 §1(part))

**17.08.200 Common area.**

*Common area* means that portion of a condominium project held in common ownership by the owners or the condominium association or that portion of a project other than a condominium project which is not under the exclusive ownership or possession of the owners or occupants of a limited portion of the project. (Ord. 91-10 §1(part))

**17.08.210 Court.**

*Court* means an open unoccupied space, other than a yard, on the same lot with a building and bounded on two (2) or more sides by such building. (Ord. 91-10 §1(part))

**17.08.215 Density exclusion.**

*Density exclusion* is calculated as follows:

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

(2) Whenever there is proposed for development a tract of land containing slope in excess of forty percent (40%), there shall be excluded from the calculation in determining allowable density those areas of the development tract in excess of forty percent (40%) slope, except where such a requirement would prevent construction of a single-family residence. (Ord. 05-03 §16; Ord. 91-10 §1(part))

**17.08.220 District.**

*District* means a section or sections of the incorporated area of the Town for which the regulations and provisions governing the use of building and land are uniform for each class of use permitted therein. (Ord. 91-10 §1(part))

**17.08.230 Dwelling.**

*Dwelling* means a building or portion thereof used for residential purposes, including single-family, duplex and multi-family dwellings, but not including hotel or lodge units. (Ord. 91-10 §1(part); Ord. 05-08 §1, 2005)

**17.08.240 Dwelling, duplex.**

*Duplex dwelling* means a detached building containing two (2) dwelling units, designed for or used as a dwelling exclusively by two (2) families, each living as an independent housekeeping unit. (Ord. 91-10 §1(part))

**17.08.250 Dwelling, multi-family.**

*Multi-family dwelling* means a building containing three (3) or more dwelling units, not including hotels or lodges, but including townhouses, condominiums and apartments with accessory use facilities limited to an office, laundry, recreation facilities and off-street parking used by the occupants. (Ord. 91-10 §1(part))

**17.08.260 Dwelling, single-family.**

*Single-family dwelling* means a residential building containing not more than one (1) dwelling unit occupied exclusively by one (1) family as an independent housekeeping unit. (Ord. 91-10 §1(part))

**17.08.270 Dwelling unit.**

*Dwelling unit* means:

(1) One (1) or more rooms, including cooking facilities, intended or designed for occupancy by a family or guests independent of other families or guests, or

(2) An aggregate of accommodation units provided as follows:

a. Three (3) accommodation units shall be counted as one (1) dwelling unit.

b. Two (2) accommodation units in association with a dwelling unit shall be counted as one (1) dwelling unit. (Ord. 91-10 §1(part))

**17.08.280 Easement.**

*Easement* means an ownership interest in real property entitling the holder thereof to use, but not possession, of that real property for one (1) or more specific purposes, public or private. (Ord. 91-10 §1(part))

**17.08.285 Efficiency kitchen.**

*Efficiency kitchen* means a portion of a room within an accommodation unit or dwelling that may contain a sink, refrigerator, dishwasher, microwave oven, cooktop, wet bar or similar facility but expressly not a stove or oven. Stub-outs for natural gas, propane or 220-V electric hookups are not allowed. (Ord. 05-11 §3, 2005)

**17.08.290 Employee housing.**

*Employee housing* means that housing used exclusively for persons employed in the Avon area. (Ord. 91-10 §1(part))

**17.08.300 Family.**

*Family* means any individual, or two (2) or more persons related by blood or marriage or between whom there is a legally recognized relationship, or a group of not more than four (4) unrelated adults occupying the same dwelling unit. (Ord. 91-10 §1(part))

**17.08.310 Garage parking.**

*Parking garage* means a building, either public or private, used only for parking of motor vehicles. (Ord. 91-10 §1(part))

**17.08.320 Garage, private.**

*Private garage* means an accessory building for the storage of motor-driven vehicles used by occupants of the main structures. (Ord. 91-10 §1(part))

**17.08.330 Garage, public.**

*Public garage* means a building other than a private garage, used for the care, repair or maintenance of motor-driven vehicles, or where such vehicles are parked or stored for remuneration, hire or sale within the structure. (Ord. 91-10 §1(part))

**17.08.340 Grade, existing.**

*Grade, existing* means the existing or natural topography of a site prior to construction. (Ord. 91-10 §1(part))

**17.08.350 Grade, finished.**

*Grade, finished* means the grade upon completion of a project. (Ord. 91-10 §1(part))

**17.08.353 Historic and/or cultural landmark.**

*Historic and/or cultural landmark* means a site and/or structure designated as an historic landmark by the Historic Preservation Committee within the Town. (Ord. 08-04 §1)

**17.08.356 Historic Preservation Committee.**

*Historic Preservation Committee* means a five-person advisory committee appointed by the Town Council to make recommendations and findings regarding historic sites, structures or features in the Town. (Ord. 08-04 §1)

**17.08.360 Home occupation.**

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

- (1) Does not produce noise audible outside the dwelling unit where such activity is taking place;
- (2) Limits the amount of customers, visitors or persons, other than the occupants, to no more than five (5) per day. In the case of day care, no more children than allowed by the State license for a childcare home (a State license is also required to operate a childcare home);
- (3) Does not cause the visible storage or parking of vehicles or equipment not normally associated with residential use, which shall include but is not limited to the following: trucks with a rating greater than three-fourths ( $\frac{3}{4}$ ) ton, earth-moving equipment and cement mixers;
- (4) Does not alter the exterior of the property or affect the residential character of the neighborhood;
- (5) Does not interfere with parking, access or other normal activities on adjacent properties, or with other units in a multi-family residential development;

(6) Does not require or allow employees to work on the property;

(7) Does not require alteration to the residence to satisfy applicable Town fire or building codes, or County health regulations;

(8) Does not require or allow any signs to be visible from the outside of the property. (Ord. 98-3 §VI; Ord. 91-10 §1(part))

**17.08.365 Home office.**

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

(1) Does not produce noise audible outside the dwelling unit where such activity is taking place;

(2) Does not cause or require customers, delivery persons, employees or any person, other than the occupants of the dwelling unit, to enter the property on which the dwelling unit is located;

(3) Does not require alteration to the residence to satisfy applicable Town fire or building codes, or County health regulations;

(4) Does not require or allow any signs to be visible from the outside of the property;

(5) Does not change the appearance or residential character of the structure.

Any activity that meets the above definition shall be considered an accessory use, and shall not require Town approval. (Ord. 98-3 §V)

**17.08.370 Hospital.**

*Hospital* means an institution providing health services primarily for human inpatient medical or surgical care for the sick or injured and including related facilities such as laboratories, outpatient departments, training facilities, central services facilities and staff offices that are an integral part of the facilities. (Ord. 91-10 §1(part))

**17.08.380 Hotel.**

*Hotel* means a building containing three (3) or more accommodation units, occupied by paying guests on a temporary basis. Accessory use facilities may consist of an office, laundry facilities used by the occupants, recreation facilities, a lobby or lounge, kitchen and dining facilities and similar accessory uses commonly found in association with a commercial hotel operation and meeting the requirements of the particular zone district in which the building is located. (Ord. 91-10 §1(part); Ord. 05-08 §2, 2005)

**17.08.390 Kennel.**

*Kennel* means any lot or premises on which four (4) or more dogs, of at least four (4) months of age, are kept. (Ord. 91-10 §1(part))

**17.08.400 Kitchen.**

*Kitchen* means a room or portion of a room devoted to the preparation or cooking of food for a person or a family living independently of any other family, which contains a sink and a stove, cooktop or oven powered by either natural gas, propane or 220-V electric hook-up. (Ord. 91-10 §1(part); Ord. 05-11 §4, 2005)

**17.08.410 Laboratory.**

*Laboratory* means a place devoted to experimental study such as testing and analyzing. Manufacturing of product or products is not to be permitted within this definition. (Ord. 91-10 §1(part))

**17.08.420 Landscape area.**

*Landscape area* means that portion of a parcel of land with any combination of living plants, such as trees, shrubs, vines, groundcover, flowers or lawns; natural features and nonliving groundcover such as rock, stone and bark; and structural features, such as fountains, reflecting pools, art works, screen walls, fences and benches; but shall not include paved walkways or parking areas. (Ord. 91-10 §1(part))

**17.08.430 Loading space.**

*Loading space* means an off-street space or berth on the same lot with a building, or contiguous thereto, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access. (Ord. 91-10 §1(part))

**17.08.435 Lodge.**

*Lodge* means a building containing common kitchen and dining facilities occupied by paying guests on a temporary (thirty-one [31] days or less) basis, but not including a bed and breakfast residence. (Ord. 05-08 §3, 2005)

**17.08.440 Lot.**

*Lot* means a parcel of real property as shown with a separate and distinct number or letter on a plat recorded with the County Clerk and Recorder, or when not so platted in a recorded subdivision, a parcel of real property abutting upon at least one (1) public street and held under separate ownership. (Ord. 91-10 §1(part))

**17.08.450 Lot area.**

*Lot area* means the total horizontal area within the lot lines of a lot, except that beneath the mean waterline of a body of water. (Ord. 91-10 §1(part))

**17.08.460 Lot depth.**

*Lot depth* means the shortest horizontal distance between the front and rear lot lines measured in the mean direction of the side lot line. (Ord. 91-10 §1(part))

**17.08.470 Lot line (front, rear and side).**

(a) *Lot lines* defined.

(1) *Front lot line* means the property line dividing a lot from a street.

(2) *Rear lot line* means the property line opposite the front lot line.

(3) *Side lot line* means any lot lines other than front or rear lot lines.

(b) If a question arises as to what line shall be the front, rear or side lot line, the Planning and Zoning Commission shall make the necessary determination. (Ord. 91-10 §1(part))

**17.08.480 Lot setback.**

*Lot setback* means the distance from a lot or site line, creek or stream measured horizontally to a line or location within the lot or site which establishes the permitted location of uses, structures or buildings on the site. No building projections shall be permitted into required lot setback areas, either above or below grade, except that there shall be no restriction on walks and steps. No encroachment into easements or stream setbacks shall be permitted. (Ord. 05-03 §8; Ord. 91-10 §1(part))

**17.08.490 Lot setback, front.**

*Front lot setback* means an area extending the full width of the lot or parcel, the depth of which is measured by the least horizontal distance between the front lot line and the nearest wall of any building. (Ord. 91-10 §1(part))

**17.08.500 Lot setback, rear.**

*Rear lot setback* means an area extending the full width of the lot or parcel, the depth of which is measured by the last horizontal distance between the rear lot line and the nearest wall of any building. (Ord. 91-10 §1(part))

**17.08.505 Lot setback, stream.**

*Stream lot setback* is defined as a thirty-foot strip of land measured horizontally from the mean annual flood high water mark on each side of any live stream located within the boundaries of a proposed subdivision and shall be protected in its natural state, with the exception that footpaths, bridges, irrigation structures, flood control and erosion protection devices may be constructed thereon. If such stream is along the outer boundaries of the subdivision, this requirement shall apply to that part of such stream and strip which is within the subdivision. Underground utilities may be located in such protected area, provided that there is no practical alternative location for such utilities, that the plans are approved by the Town Council through its designated representative and that all construction scars are revegetated. (Ord. 05-03 §15; Ord. 91-10 §1(part))

**17.08.510 Lot width.**

*Lot width* means the distance between the side lot lines measured congruent with the front lot setback lines. (Ord. 91-10 §1(part))

**17.08.515 Manufacturing.**

*Manufacturing* means the conversion of raw materials or parts into finished products. Facilities generally have ancillary office, warehouse, research and associated functions. (Ord. 06-04 §1

**17.08.520 Mixed-use project.**

*Mixed-use project* means the development of a lot, tract or parcel of land, building or structure with two (2) or more different uses such as, but not limited to, residential, office, retail, public, personal service or entertainment designed, planned and constructed as a unit. (Ord. 91-10 §1(part))

**17.08.530 Mobile home.**

*Mobile home* means a structure constructed partially or entirely in a factory, designed for long-term residential or temporary office use and transported to its occupancy site on its own wheels, arriving at the site as a complete dwelling unit, equipped with the necessary service connections (electrical, plumbing and sanitary facilities) and designed to be installed in a permanent or semi-permanent manner. (Ord. 91-10 §1(part))

**17.08.540 Mobile home park.**

*Mobile home park* means a lot, parcel or tract of land which is designed and improved for the purpose of providing a location or accommodations for one (1) or more mobile homes and within which spaces are available to the general public for rent, lease and the placement thereon of mobile homes for occupancy. (Ord. 91-10 §1(part))

**17.08.550 Mobile home subdivision.**

*Mobile home subdivision* means a subdivision designed for the sale of parcels for the placement of mobile homes for residential living purposes. (Ord. 91-10 §1(part))

**17.08.560 Motor home.**

*Motor home* means a self-propelled vehicle with accommodations for sleeping, eating, cooking, bathing or similar activities, and includes campers having such facilities when mounted on a motive means. (Ord. 91-10 §1(part))

**17.08.570 Nursing home or rest home.**

*Nursing home or rest home* means a public or private home for the care of children or the aged or infirm or a place of rest for those suffering bodily disorders, but does not include facilities for the treatment of sickness or injuries, or for surgical care. (Ord. 91-10 §1(part))

**17.08.580 Occupied.**

*Occupied* means and includes arranged, designed, built, altered, converted, rented or leased, or intended to be occupied. (Ord. 91-10 §1(part))

**17.08.590 Open-use recreation site.**

*Open-use recreation site* means land devoted to public or private use for recreation, and includes, but is not limited to, such facilities as playgrounds and playfields, golf, tennis and similar court installations, riding rings, racks and stables and similar facilities. (Ord. 91-10 §1(part))

**17.08.600 Parking area, private.**

*Private parking area* means an open area for the parking of privately owned automobiles and not for public use. (Ord. 91-10 §1(part))

**17.08.610 Parking area, public.**

*Public parking area* means an open area, other than streets, used for the temporary parking of more than four (4) automobiles and available for public use, whether free, for compensation or as an accommodation for clients or customers. (Ord. 91-10 §1(part))

**17.08.620 Parking space.**

*Parking space* means an area, enclosed in the main building, in an accessory building or unenclosed, sufficient in size to store one (1) standard automobile, which has adequate access to a public street or alley and permitting satisfactory ingress and egress of an automobile. (Ord. 91-10 §1(part))

**17.08.630 Person.**

The word *person* also includes association, firm, partnership or corporation. (Ord. 91-10 §1(part))

**17.08.640 Personal service shops.**

*Personal service shops* means shops primarily engaged in providing services generally involving the care of the person or such person's apparel such as laundry and dry cleaning, retail outlets, portrait/photographic studios and beauty and barber shops. (Ord. 91-10 §1(part))

**17.08.650 Planned Unit Development.**

*Planned Unit Development* means an area of land, controlled by one (1) or more landowners, to be developed under unified control or a unified plan and is developed as a whole in a single development operation or programmed series of development stages. The development may include dwelling units, commercial, educational, recreational or industrial uses, or any combination of the foregoing, the plan for which may not correspond in lot size, bulk or type of use, density, lot coverage, open space or other restrictions to the existing land use regulations. (Ord. 91-10 §1(part))

**17.08.660 Porch.**

*Porch* means a roofed entrance to a building, projecting out from the wall or walls of the main structure and commonly open to the weather in part. (Ord. 91-10 §1(part))

**17.08.670 Professional office.**

*Professional office* means an office for use by those such as physicians, dentists, lawyers, architects, engineers, accountants and others, who, through training, are qualified to perform services of a professional nature, and where a very limited storage or sale of merchandise exists. (Ord. 91-10 §1(part))

**17.08.680 Public institution.**

*Public institution* means a building occupied by a nonprofit corporation or a nonprofit establishment for public or semipublic use. (Ord. 91-10 §1(part))

**17.08.690 Public way.**

*Public way* means any parcel of land unobstructed from the ground upward, dedicated or appropriated to the free passage of the general public. (Ord. 91-10 §1(part))

**17.08.700 Recreation club.**

*Recreation club* means a building devoted to public or private use, and includes such facilities as golf clubhouse, swimming pool club or clubhouses and may include kitchen facilities, assembly halls, meeting rooms, locker facilities, etc. (Ord. 91-10 §1(part))

**17.08.710 Road or street.**

*Road* or *street* means a public way, other than an alley, which affords the principal means of access to abutting property, including private streets. (Ord. 91-10 §1(part))

**17.08.715 Self-storage.**

*Self-storage* means buildings in which a number of storage units or vaults are rented for the storage of goods. Each unit is physically separated from other units, and access is usually provided through an overhead door or other common access point. Units are nonhabitable and contain no plumbing, running water or electric outlets. (Ord. 06-04 §1)

**17.08.720 Service yard.**

*Service yard* means any yard area utilized for storage of material accessory to or used in conjunction with the principal use of the lot or building, or used for garbage or trash containers or the location of mechanical equipment accessory to the principal building or use. (Ord. 91-10 §1(part))

**17.08.725 Showroom.**

*Showroom* means a room where goods are displayed for advertising or sale. (Ord. 06-04 §1)

**17.08.730 Signs and displays, indoor with outdoor exposure, outdoor advertising, etc.**

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

of *outdoor advertising sign* and *outdoor advertising structure*, includes erecting, constructing, posting, painting, art crafting, printing, tacking, taping, mailing, gluing, sticking, carving or other fastening, affixing or making visible in any manner whatsoever. (Ord. 91-10 §1(part))

**17.08.740 Single-use project, large.**

*Large single-use project* means any building intended for commercial use which exceeds ten thousand (10,000) square feet in area, which is designed for one (1) or more commercial premises, at least one (1) of which premises is more than twenty-five percent (25%) of the total area. A large single-use project may include residential uses, provided the total commercial premises are at least ten thousand (10,000) square feet in area. (Ord. 91-10 §1(part))

**17.08.750 Site coverage.**

*Site coverage* means the portion of a site covered by buildings, excluding roof or balcony overhangs, measured at the exterior walls or supporting members of the building at ground level. (Ord. 91-10 §1(part))

**17.08.755 Snow storage.**

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

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

(2) Any designated snow storage area shall be not less than six (6) feet wide, shall be adjacent to the impermeable surface area from which the snow is to be removed, shall not be included in any parking area required by the minimum parking requirements of the Town and shall be contained in such a manner that runoff is directed through a treatment facility as described in Subsection (3) of this Section, when such treatment facility is required as a part of the drainage plan.

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

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

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

b. Arrangements for the off-site removal have been made in a manner assuring the continuation of such practice throughout the life of the project. (Ord. 05-03 §14; Ord. 91-10 §1(part))

**17.08.760 Story.**

*Story* means that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it. (Ord. 91-10 §1(part))

**17.08.770 Structure.**

*Structure* means anything constructed or erected, which requires location on the ground, or attached to something having a location on the ground, but does not include poles, lines, cables or other existing transmission or distribution facilities of public utilities. (Ord. 91-10 §1(part))

**17.08.780 Terrace, open.**

*Open terrace* means a level and narrow plane or platform which, for purposes of this Title, is located adjacent to one (1) or more faces of the main structure, and which is constructed not more than four (4) feet in height above the average level of the adjoining ground. (Ord. 91-10 §1(part))

**17.08.790 Timesharing unit.**

*Timesharing unit* means any parcel or lot of land or condominium unit, whether fee interest, leasehold or contractual right, whereby more than four (4) persons (ownership of an interest in joint tenancy by two [2] persons being considered one [1] person for the purpose of this Section) are entitled to the use, occupancy or possession of such lot, parcel or unit according to a fixed or floating time schedule occurring periodically over any period of time (the use, occupancy or possession by each person being exclusive of that by the others). *Timesharing unit* includes, but is not limited to, a timeshare estate as defined in Section 38-33-110, C.R.S., (1973), as amended. (Ord. 91-10 §1(part))

**17.08.800 Townhouse.**

*Townhouse* means a single-family dwelling in a structure containing three (3) or more units sharing one (1) or more vertical common or party walls. (Ord. 91-10 §1(part))

**17.08.810 Trailer, automobile.**

*Automobile trailer* means a vehicle without motive power, designed to be drawn by a motor vehicle and to be used for human habitation or for carrying persons or property. (Ord. 91-10 §1(part))

**17.08.820 Use.**

*Use* means the purpose for which land or a building is designated, arranged or intended, or for which it either is or may be occupied or maintained. Uses not expressly allowed in this Chapter as an "allowed use" are expressly prohibited, unless otherwise approved. (Ord. 91-10 §1(part); Ord. 05-11 §1, 2005)

**17.08.830 Warehouses.**

*Warehouses* are primarily devoted to the storage of materials and may also include office and maintenance areas. (Ord. 06-04 §1)

**17.08.840 Wholesale sales outlet.**

*Wholesale sales outlet* means the sale of merchandise to retailers rather than directly to the public. (Ord. 06-04 §1)

**CHAPTER 17.12**

**Administration Provisions**

**17.12.010 Development – designated by zoning code and map.**

This zoning code and the zoning district map designate what development will be permitted in accordance with the plan of development for all the land designated. (Ord. 91-10 §1(part))

**17.12.020 Development – approval of plan required – procedure.**

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

(1) All Planning and Zoning Commission procedures, rules and regulations, adopted by the Town, shall be followed.

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

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

(4) No building or other structure or improvement shall be erected or constructed except in compliance with the development plan approved by the Planning and Zoning Commission. Nor shall any completed building or other structure or improvement be reconstructed or altered as to use, density, parking lot requirements, height or lot coverage, unless such reconstruction or alteration shall have first been approved by the Planning and Zoning Commission.

(5) No application for approval of a development plan or for amendment of a development plan shall be received for processing or approved, and no application for a building permit shall be granted, when the applicant is in default under any related or unrelated agreement or obligation to the Town. (Ord. 06-10 §1; Ord. 91-10 §1(part))

**17.12.030 Permit requirement.**

It is unlawful to erect, construct, reconstruct, alter, move or change the use of any building or other structure or improvement within the Town without obtaining a building permit from the Town building administrator, and such permit shall not be issued until the plans of and for the proposed erection, construction, reconstruction, alteration, moving or use fully conform to the zoning regulations then in effect, and unless plans to be kept as a permanent public record are submitted to the building administrator, and approved by the Planning and Zoning Commission. (Ord. 91-10 §1(part))

**17.12.040 Revocation and invalidation of permits.**

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

(b) No permit issued pursuant to this zoning code shall remain in force and effect if the use or structure authorized therein becomes nonconforming; provided, however, if, subsequent to and in reliance upon the issuance of the permit, an applicant has so substantially changed his or her position or incurred extensive obligations and expenses that it would be highly inequitable and unjust to destroy the rights acquired by issuance of the permit, then such permit shall not be invalidated and the approved development shall be allowed to proceed to completion if not otherwise unlawful. (Ord. 91-10 §1(part))

**17.12.050 Interpretation – conflict with other laws.**

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

(b) Whenever the requirements of the zoning code are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances or other legislative actions by the Town Council, the more restrictive, or that imposing the higher standard shall govern.

(c) Whenever restrictions imposed by this zoning code are either more or less restrictive than regulations adopted by any state or federal agency, the rules or regulations which are more restrictive or which impose higher standards or requirements shall govern. (Ord. 91-10 §1(part))

**17.12.060 Liability of Town.**

This zoning code shall not be construed to hold the Town or its authorized agents responsible for any damage to property or injury to persons by reason of inspection authorized herein, or failure to inspect, or by reason of issuance of a building permit as herein provided. (Ord. 91-10 §1(part))

**17.12.070 Violations – penalties and remedies.**

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

(b) Any person violating any of the provisions of this Title shall be deemed to have committed a civil infraction for each and every day or portion thereof during which any infraction is committed, continued or permitted and shall be subject to the penalties contained in Chapter 1.09 of this Code.

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

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

(e) Any remedies provided for in this Section shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law. (Ord. 07-03 §23; Ord. 02-08 §9; Ord. 91-10 §1(part); Ord. 04-05 §1)

**17.12.080 Enforcement – Planning Director – right of entry.**

(a) There is established a Planning Department under the administration and control of a Planning Director, who is authorized and directed to enforce all provisions of this Title. For such purpose he or she shall have the powers of a law enforcement officer. Whenever the term *zoning administrator* or other similar designation is used in this Title or in any other provision of this Code, it shall be construed to mean the Planning Director

(b) Whenever necessary to make an inspection to enforce any of the provisions of this Title, or whenever the Planning Director or his or her authorized representative has reasonable cause to believe that there exists in any building or upon any premises any violation of this Title, the Planning Director or his or her authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Planning Director by this Title; provided that if such building or premises are occupied, he or she shall first present proper credentials and demand entry; and if such building or premises are unoccupied, he or she shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. Should entry be refused, the Planning Director or his or her authorized representative shall have recourse to every remedy provided by law to secure entry. When the Planning Director or his or her authorized representative shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other person having charge, care or control of any building or premises shall fail or neglect, after proper demand is made as herein provided, to promptly permit entry therein by the Planning Director or his or her authorized representative for the purpose of inspection and examination pursuant to this Title. Any person failing or refusing to permit entry shall be deemed to have committed a violation of this Section. (Ord. 91-10 §1(part))

**17.12.090 Hearings – conduct.**

When required by statute or by this Title, hearings before the Planning and Zoning Commission and the Town Council shall be conducted in accordance with the provisions of this Chapter. (Ord. 91-10 §1(part))

**17.12.100 Hearings – setting date.**

(a) Upon filing of an application, the disposition of which requires a hearing before either the Planning and Zoning Commission or the Town Council, or both, pursuant to this Title, a date for the hearing shall be set which shall be not more than thirty (30) days from the date of acceptance of the complete application, unless otherwise specified by specific chapter of this title.

(b) The Planning and Zoning Commission shall hold a public hearing on the application, and notice of such hearing shall be published at the expense of the applicant in a newspaper of general circulation within the Town, or posted in at least three (3) public places within the Town, in addition to posting at the office of the Town Clerk, at least twelve (12) days prior to the hearing date. Further, a copy of such notice shall be mailed to all property owners within three hundred (300) feet of the property in question, by regular

mail, at least twelve (12) days prior to the meeting, and certificate of such mailing shall be filed with the Planning and Zoning Commission. If a property requiring notification is a condominium project, notice may be mailed to the managing agent, registered agent or any member of the board of directors thereof.

(c) The Town Council shall hold a public hearing on any recommendation of the Planning and Zoning Commission, and notice of such public hearing shall be published at the expense of the applicant in a newspaper of general circulation within the Town, or posted in at least three (3) public places within the Town, in addition to posting at the office of the Town Clerk, at least six (6) days prior to the hearing date.

(d) The notices required by this Section shall state the time and place of the hearing, name of the applicant, a general description of the subject property indicating its location (which may be shown by map), a brief summary of the subject matter of the hearing, and a statement that the application or information relating to the proposed change or amendment is available in the zoning administrator's office during regular business hours for review or inspection by the public. (Ord 04-12 §2; Ord. 04-03 §§1,2; Ord. 02-12 §2; Ord. 04-03 §1; Ord. 91-10 §1(part))

## **CHAPTER 17.14**

### **Vested Property Rights**

#### **17.14.010 Purpose.**

The purpose of this Section is to provide procedures necessary to implement the provisions of Article 68 of Title 24, C.R.S., as amended. (Ord. 91-10 §1(part))

#### **17.14.020 Definitions.**

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

*Site specific development plan* means a planned unit development plan approved pursuant to Section 17.20.110 of this Code, together with a development agreement approved pursuant to Section 17.14.060(a) hereof.

*Vested property right* means the right to undertake and complete the development and use of property under the terms and conditions of a site specific development plan. (Ord. 06-09 §1; Ord. 91-10 §1(part))

#### **17.14.030 Vested property right created.**

A vested property right shall be deemed to have been created only upon the approval of a site specific development plan in accordance with this Chapter. (Ord. 91-10 §1(part))

#### **17.14.040 Notice and hearing.**

No site specific development plan shall be approved until after public hearings in compliance with Chapter 17.28 of this Code. (Ord. 06-09 §2; Ord. 91-10 §1(part))

**17.14.050 Notice of approval.**

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

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

(b) The failure of the document constituting a site specific development plan to contain this language shall invalidate the creation of the vested property right. In addition, a notice generally describing the type and intensity of the use approved and the specific parcel or parcels affected, and stating that a vested property right has been created, shall be published once by the landowner in a newspaper of general circulation in the Town not more than fourteen (14) days after final adoption of the ordinance approving the site specific development plan. (Ord. 06-09 §3; Ord. 91-10 §1(part))

**17.14.060 Duration of vested right.**

(a) A property right vested pursuant to this Chapter after June 1, 2006, shall remain vested for a period designated in a development agreement, not to exceed five (5) years; provided that nothing contained in this Subsection shall be construed so as to prevent the Town Council from agreeing as a part of the development agreement for extensions of the period of vesting upon further public hearing and demonstration by the landowner that it meets the conditions for such extension contained in the development agreement and that the site specific development plan complies with the comprehensive plan in effect at the time of consideration of the extension.

(b) Any site specific development plan for a multiple-phase development approved after June 1, 2006, may have separate vesting created for each phase. The vesting for any subsequent phase may be contingent upon completion of the preceding phase and review by the Town Council. Such review shall include but not be limited to whether the landowner or developer is in compliance with its obligations to the Town, including but not limited to the site specific development plan, the development agreement and any other agreements between the landowner and the Town, as they may have been amended from time to time.

(c) The rights vested by any site specific development plan approved after June 1, 2006, may be terminated, upon a finding of a material breach of any condition of approval of the plan or any component thereof, including the failure of the landowner to comply with the terms and conditions of the development agreement, the site specific development plan, a related subdivision improvements agreement or any other agreement related to that development. Any such hearing shall be initiated by the adoption by the Town Council of an order and notice to show cause, which shall describe the basis on which termination is sought. (Ord. 06-09 §4; Ord. 91-10 §1(part))

**17.14.070 Other provisions unaffected.**

The establishment of a vested property right shall not preclude the application of ordinances or regulations which are general in nature and are applicable to all property subject to land use regulation by the Town, including but not limited to the regulations contained in Title 15 of this Code. (Ord. 91-10 §1(part); Ord. 06-09 §5)

**17.14.080 Amendment to site specific development plan.**

Any consideration after June 1, 2006, of an amendment to a site specific development plan shall include compliance with the comprehensive plan then in effect. In the event an amendment to a site specific development plan is approved, the same shall have a new period of vesting created pursuant to and subject to the provisions of this Chapter in effect at the time of approval of the amendment. (Ord. 06-09 §6; Ord. 91-10 §1(part))

**17.14.090 Effect of termination on public rights-of-way.**

The termination of a vested property right shall have no effect upon public streets, alleys or rights-of-way previously dedicated with respect to such property. (Ord. 91-10 §1(part))

**CHAPTER 17.16**

**Zone Districts and Official Map**

**17.16.010 Zone districts – created.**

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

- (1) RSF: Residential Single-Family.
- (2) RD: Residential Duplex.
- (3) RLD: Residential Low Density.
- (4) RMD: Residential Medium Density.
- (5) RHD: Residential High Density.
- (6) RHDC: Residential High Density and Commercial.
- (7) NC: Neighborhood Commercial.
- (8) SC: Shopping Center.
- (9) TC: Town Center.
- (10) IC: Industrial and Commercial.
- (11) GPEH: Government, Park and Employee Housing.
- (12) OLD: Open Space, Landscaping and Drainage.
- (13) PUD: Planned Unit Development. (Ord. 91-10 §1(part))

**17.16.020 Zone districts – determination of uses.**

If a question arises as to whether a specific use does or does not come within any of the expressed use categories set forth in Section 17.16.010, any person may apply to the Planning and Zoning Commission, as established by ordinance of the Town, for a determination as to whether a specified use is an allowed or special review use, which determination shall be made on an analysis of the intention for the district and the compatibility of the proposed use with allowed and special review uses. (Ord. 91-10 §1(part))

**17.16.030 Zoning district map – incorporated – official map.**

(a) The location and boundaries of the zoning districts established in Section 17.16.010 are set forth on the zoning district map of the Town which

accomplishes this zoning code and which map, with all notations, references and other information shown thereon, is incorporated in and is as much a part of this zoning code as if fully described and set forth in this Title.

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

(c) Regardless of the existence of purported copies of the official zoning district map which from time to time may be made or published, the official map, which shall be located in the office of the Town Clerk, shall be the final authority as to the current zoning status of land, buildings and other structures in the Town. (Ord. 91-10 §1(part))

**17.16.040 Zoning district map – interpretation – authority and standards.**

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

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

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

(3) In such cases where the zone district cannot be determined from the map, it shall be classified as OLD zone open space, landscaping and drainage, subject to rezoning according to the provisions of this zoning code. (Ord. 91-10 §1(part))

## CHAPTER 17.20

### Zone District Regulations

#### 17.20.010 Industrial and Commercial – IC.

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

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

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

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

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

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

(d) Development standards.

- (1) Minimum lot size: one-half (.5) acre;

(2) Maximum building height: forty-eight (48) feet;

(3) Minimum building setbacks:

Front: twenty-five (25) feet;

Side: seven and one-half (7.5) feet;

Rear: ten (10) feet;

(4) Maximum site coverage: fifty percent (50%);

(5) Minimum landscaped area: twenty percent (20%);

(6) Maximum density: four (4) dwelling units per lot when approved as a special review use. (Ord. 06-04 §2; Ord. 75-08 §§1, 2; Ord. 91-10 §1(part))

### **17.20.020 Town Center – TC.**

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

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

(1) Retail stores;

(2) Specialty shops;

(3) Restaurants, excluding drive-through windows;

(4) Cocktail lounges;

(5) Personal service shops;

(6) Professional offices;

(7) Hotels;

(8) Lodges;

(9) Apartments;

(10) Condominiums;

(11) Indoor recreation and/or entertainment facilities;

(12) Theaters;

(13) Financial institutions;

(14) Bed and breakfast lodge;

(15) Church;

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

(c) Special review uses.

(1) Public transportation facilities;

(2) Public parking facilities;

(3) Timeshare, interval ownership and fractional fee ownership projects;

(4) Aboveground public utility installations;

(5) Drive-through windows;

(6) Medical center/hospital.

(d) Development standards.

(1) Minimum lot size: thirty thousand (30,000) square feet;

(2) Maximum building height: eighty (80) feet;

(3) Minimum building setbacks:

Front: twenty-five (25) feet;

Side: seven and one-half (7.5) feet;

Rear: ten (10) feet;

(4) Maximum site coverage: fifty percent (50%);

(5) Minimum landscaped area: twenty percent (20%);

(6) Maximum density: thirty (30) dwelling units per acre of buildable area or ninety (90) accommodation units per acre of buildable area. (Ord. 97-14; Ord. 91-10 §1(part))

#### **17.20.030 Shopping Center – SC.**

(a) Intention. The Shopping Center District is intended primarily for major retail establishments and smaller retail shops and personal service establishments, offices and limited apartments.

(b) Allowed uses.

(1) Department stores;

(2) Grocery stores;

(3) Retail shops;

- (4) Professional offices;
- (5) Personal service shops;
- (6) Financial institutions;
- (7) Theaters;
- (8) Bakery;
- (9) Medical center/hospital;
- (10) Restaurants;
- (11) Cocktail lounges;
- (12) Bowling alleys;
- (13) Accessory apartments, exclusive of the ground-level story;
- (14) Indoor recreation and/or entertainment facilities;
- (15) Church;

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

(c) Special review uses.

- (1) Automobile service station and repair;
- (2) Car wash;
- (3) Aboveground public utility installations.

(d) Development standards.

- (1) Minimum lot size: one (1) acre;
- (2) Maximum building height: forty-eight (48) feet;
- (3) Minimum building setbacks:
  - Front: twenty-five (25) feet;
  - Side: seven and one-half (7.5) feet;
  - Rear: ten (10) feet;
- (4) Maximum site coverage: fifty percent (50%);
- (5) Minimum landscape area: twenty percent (20%);

(6) Maximum density: seven and one-half (7.5) units per acre of buildable area for accessory units. The maximum residential floor area of the accessory units shall not exceed a 2:1 ratio of the commercial floor area. (Ord. 91-10 §1(part))

**17.20.040 Neighborhood Commercial – NC.**

(a) Intention. The Neighborhood Commercial Zone District is intended to provide sites for commercial facilities and services for the principal benefit of residents of the community and also to highway-oriented convenience commercial needs.

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

- (1) Retail stores;
- (2) Professional offices;
- (3) Car wash;
- (4) Restaurants;
- (5) Accessory apartments, exclusive of the ground-level story;
- (6) Churches;

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

(c) Special review uses.

- (1) Automobile service station and repair;
- (2) Commercial printing facility;
- (3) Aboveground public utility installations.

(d) Development standards.

- (1) Minimum lot size: one-half (.5) acre;
- (2) Maximum building height: thirty-five (35) feet.
- (3) Minimum building setbacks:
  - Front: twenty-five (25) feet;
  - Side: seven and one-half (7.5) feet;
  - Rear: ten (10) feet;
- (4) Maximum site coverage: fifty percent (50%);
- (5) Minimum landscape areas: twenty percent (20%);

(6) Maximum density: seven and one-half (7.5) units per acre of buildable area for accessory units. The maximum residential floor area of the accessory units shall not exceed a 2:1 ratio of the commercial floor area. (Ord. 93-1 §1; Ord. 91-10 §1(part))

**17.20.050 Residential Single-Family – RSF.**

(a) Intention. The Residential Single-Family Zone District is intended to provide sites for single-family dwellings on separate lots, with accessory uses.

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

- (1) One-family dwelling;
- (2) Accessory buildings and uses.

(c) Special review uses.

- (1) Home occupations;
- (2) Aboveground public or private utility installations;
- (3) Churches.

(d) Development standards.

- (1) Minimum lot size: seven thousand five hundred (7,500) square feet;
- (2) Maximum building height: thirty-five (35) feet;
- (3) Minimum building setbacks:
  - Front: twenty-five (25) feet;
  - Side: seven and one-half (7.5) feet;
  - Rear: twenty (20) feet;
- (4) Maximum site coverage: fifty percent (50%);
- (5) Minimum landscape area: twenty-five percent (25%);
- (6) Maximum density: one (1) unit per lot. (Ord. 91-10 §1(part))

**17.20.060 Residential Duplex – RD.**

(a) Intention. The Residential Duplex District is intended to provide sites for low-density residential development.

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

- (1) Single-family homes;
- (2) Duplex homes;

- (3) Accessory caretaker apartments (one [1] per unit).
- (c) Special review uses.
  - (1) Home occupations;
  - (2) Residential bed and breakfast;
  - (3) Aboveground public utility installations;
  - (4) Churches.
- (d) Development standards.
  - (1) Minimum lot size: one-quarter (.25) acre;
  - (2) Maximum building height: thirty-five (35) feet;
  - (3) Minimum building setbacks:
    - Front: twenty-five (25) feet;
    - Side: seven and one-half (7.5) feet;
    - Rear: ten (10) feet;
  - (4) Maximum site coverage: fifty percent (50%);
  - (5) Minimum landscaped area: twenty-five percent (25%);
  - (6) Maximum density: two (2) dwelling units per lot plus one (1) accessory caretaker apartment per dwelling unit. (Ord. 91-10 §1(part))

**17.20.070 Residential Low Density – RLD.**

(a) Intention. The Residential Low Density District is intended to provide sites for single-family, two-family, and multiple-family dwellings at a density not to exceed seven and one-half (7.5) dwelling units per acre.

- (b) Allowed uses. The following uses shall be permitted in the RLD District:
  - (1) Single-family residences;
  - (2) Two-family residences;
  - (3) Multiple-family dwellings including townhouses, condominiums, apartments, with no more than eight (8) dwelling units in any new building.
- (c) Special review uses.
  - (1) Mobile home parks;
  - (2) Home occupations;

- (3) Residential bed and breakfast;
  - (4) Aboveground public utility installations;
  - (5) Churches.
- (d) Development standards.
- (1) Minimum lot size: one-quarter (.25) acre;
  - (2) Maximum building height: thirty-five (35) feet;
  - (3) Minimum building setbacks:
    - Front: twenty-five (25) feet;
    - Side: seven and one-half (7.5) feet;
    - Rear: ten (10) feet;
  - (4) Maximum site coverage: fifty percent (50%);
  - (5) Minimum landscaped area: twenty-five percent (25%);
  - (6) Maximum density: seven and one-half (7.5) dwelling units per acre of buildable area. (Ord. 91-10 §1(part))

**17.20.080 Residential Medium Density – RMD.**

(a) Intention. The Residential Medium Density District is intended to provide sites for multiple-family dwellings at a density not to exceed fifteen (15) dwelling units per acre.

- (b) Allowed uses. The following uses shall be permitted in the RMD District:
- (1) Multiple-family dwellings, including townhouses, condominiums, apartments.
- (c) Special review uses.
- (1) Home occupations;
  - (2) Residential bed and breakfasts;
  - (3) Aboveground public utility installations;
  - (4) Churches.
- (d) Development standards.
- (1) Minimum lot sizes: one-half (.5) acre;
  - (2) Maximum building height: forty-eight (48) feet;
  - (3) Minimum building setbacks:

Front: twenty-five (25) feet;  
Side: seven and one-half (7.5) feet;  
Rear: ten (10) feet;

- (4) Maximum site coverage: fifty percent (50%);
- (5) Minimum landscaped area: twenty-five percent (25%);
- (6) Maximum density: fifteen (15) dwelling units per acre of buildable area. (Ord. 91-10 §1(part))

**17.20.090 Residential High Density – RHD.**

(a) Intention. The Residential High Density District is intended to provide sites for multiple-family dwellings at a density not to exceed twenty (20) dwelling units per acre.

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

- (1) Multiple-family dwellings, including townhouses, condominiums, apartments.

(c) Special review uses.

- (1) Home occupations;
- (2) Bed and breakfast lodges;
- (3) On-site rental offices;
- (4) Aboveground public utility installations;
- (5) Churches.

(d) Development standards.

- (1) Minimum lot size: one (1) acre;
- (2) Maximum building height: sixty (60) feet;
- (3) Minimum building setbacks:

Front: twenty-five (25) feet;  
Side: seven and one-half (7.5) feet;  
Rear: ten (10) feet;

- (4) Maximum site coverage: fifty percent (50%);
- (5) Minimum landscaped area: twenty-five percent (25%);
- (6) Maximum density: twenty (20) dwelling units per acre of buildable area. (Ord. 91-10 §1(part))

**17.20.100 Residential High Density Commercial – RHDC.**

(a) Intention. The Residential High Density Commercial District is intended to provide sites for the development of multiple-family dwellings and lodge units, along with accessory commercial uses, not to exceed a density of twenty-five (25) dwelling units per acre or seventy-five (75) accommodation units per acre.

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

(1) Multiple-family dwellings, including townhouses, condominiums, apartments;

(2) Hotels and lodges, bed and breakfast lodges;

(3) Retail shops, restaurants, service shops and other establishments located within a lodge or hotel and not occupying more than twenty percent (20%) of the total gross floor area of the main structure or structures upon the site;

(4) Churches.

(c) Special review uses.

(1) Home occupations;

(2) Residential bed and breakfasts;

(3) Aboveground public utility installations;

(4) Churches;

(5) One (1) accessory apartment per lot in addition to the maximum allowable density.

(d) Development standards.

(1) Minimum lot size: one (1) acre;

(2) Maximum building height: sixty (60) feet;

(3) Minimum building setbacks:

Front: twenty-five (25) feet;

Side: seven and one-half (7.5) feet;

Rear: ten (10) feet;

(4) Maximum site coverage: fifty percent (50%);

(5) Minimum landscaped area: twenty percent (20%);

(6) Maximum density: twenty (20) dwelling units per acre of buildable area or sixty (60) accommodation units per acre of buildable area. (Ord. 92-17 §1; Ord. 91-10 §1(part))

**17.20.110 Planned Unit Development – PUD.**

(a) Intention. The Planned Unit Development (PUD) Zone District is intended to provide for flexibility and creativity in the development of land in order to promote its most appropriate use. Development in the PUD zone will be permitted only in accordance with an approved plan for the PUD. The approved plan for the standards for guiding development of the property within a PUD and the elements of the approved plan shall be as outlined in Subsection (d) of this Section.

(b) Application. An application for approval of a PUD may be filed by any owner of property to be included in the PUD or his or her agent or authorized representative. The application shall be made on a form provided by the Town and shall include:

(1) A legal description of the property;

(2) A list of names and mailing addresses of all adjacent property owners within three hundred (300) feet of the proposed PUD;

(3) Written consent of owners of all property to be included within the PUD;

(4) Submittal requirements as outlined in Subsection (d) of this Section.

(c) Development review procedures.

(1) Prior to preparations, building construction or other improvements to land within a PUD District, there shall be an approved development plan for said district. The approved development plan shall establish requirements regulating development, including site development standards such as lot sizes, density setbacks, building height, site coverage, landscaping, uses and permitted activity within a PUD.

(2) Prior to submittal of a formal application for a PUD District, it is recommended that the applicant hold a preapplication conference with the Community Development Department. The purpose of this meeting shall be to discuss the goals of the proposed PUD District, the relationship of the proposal to applicable elements of the Comprehensive Plan, and the review procedure that will be followed for the application.

(3) A complete application for a PUD must be submitted to the Community Development Department at least thirty (30) days prior to a regularly scheduled meeting of the Planning and Zoning Commission. A report of the Community Development Department findings and recommendations shall be made at the initial formal hearing before the Planning Commission. A report and resolution of the Planning Commission stating its findings and recommendations, and the staff report shall then be transmitted to the Town Council. The Town Council shall consider the PUD District in accordance with Section 17.28.050 of this Code.

(4) The Community Development Department will review preliminary findings and recommendations on PUD applications with the applicant (or applicant representative) at least six (6) days in advance of the initial formal hearing before the Planning Commission.

(d) Submittal requirements. Submittal requirements may vary depending on the complexity of the proposed development as determined by the Community Development Department, and whether or not the

PUD is being requested in connection with the review of a development agreement pursuant to Chapter 17.14 of this Code.

(1) Generally, the following submittal requirements shall apply for all new PUD applications and proposed amendments to existing PUD districts:

- a. Application form and filing fee;
- b. A written statement describing the nature of the project, to include information on proposed uses, densities, nature of the development proposed, contemplated ownership patterns and phasing plans;
- c. A survey stamped by a licensed surveyor (no older than three [3] years from the date of application) indicating existing conditions of the property to be included, to include the location of improvements, existing contour lines, natural features, existing vegetation, watercourses and perimeter property lines of the parcel;
- d. A complete zoning analysis of existing and proposed development, to include a square footage or density breakdown of all proposed uses and parking. Where a structure or building exists, a complete set of plans depicting the existing conditions of the parcel (site plan, floor plans, elevations), if applicable;
- e. A vicinity plan showing the proposed improvements in relation to all properties at a scale not smaller than one (1) inch equals one hundred (100) feet. For projects larger than two (2) acres in size, the appropriate scale shall be determined by the Community Development Department;
- f. Evidence of available utilities, such as water and sewer service, as provided;
- g. Proposed site plan showing the approximate locations and dimensions of buildings, or approximate building envelopes and all principal site development structures or features. For projects less than two (2) acres in size, the plan shall be prepared at a scale not smaller than one (1) inch equals twenty (20) feet. For projects larger than two (2) acres in size, the appropriate scale shall be determined by the Community Development Department.

(2) Additional submittal requirements, as determined necessary by either the Community Development Department or the Planning and Zoning Commission, may be required and include the following:

- a. Preliminary building elevations, sections and floor plans at a scale not smaller than one-eighth ( $\frac{1}{8}$ ) inch equals one (1) foot in sufficient detail to determine floor areas, circulation, location of uses and general scale and appearance of the proposed development;
- b. Photo overlays and/or other acceptable techniques for demonstrating a visual analysis of the proposed development in relationship to existing conditions;
- c. A site-massing model depicting the proposed development in relationship to development on adjacent parcels;
- d. Environmental impact report;

- e. Preliminary drainage analysis and grading plans;
- f. Economic model of the proposed uses and densities where an application proposes uses that may impact the ability of the Town to provide adequate public services;
- g. Any additional material or information as deemed necessary for proper review of the proposed PUD or PUD amendment.

(3) Four (4) complete copies of the above information, with the exception of the massing model shall be submitted with an application for a PUD.

(e) Development plan. An approved development plan is the principal document in guiding the development, density, uses and activities of a PUD. A development plan shall be approved by ordinance by the Town Council in conjunction with the review and approval of any PUD. The development plan shall be comprised of materials submitted in accordance with Subsection (d) of this Section. The development plan shall contain all relevant material and information necessary to establish the parameters with which the special development district shall develop. The development plan may consist of, but not be limited to, the approved site plan, floor plans, building sections and elevations, vicinity plan, parking plan, preliminary open space/landscape plan, densities and permitted, special review and accessory uses.

(f) Density. Allowable density shall be determined in accordance with the project's compliance with the design criteria in Subsection (h) of this Section and the suitability of the proposed density for the site.

(g) Uses. Determination of permitted and accessory uses shall be made by the Planning and Zoning Commission and Town Council and shall be compatible with the character of the area adjacent to and surrounding the PUD.

(h) Design criteria. The following design criteria shall be used as the principal criteria in evaluating a PUD District. It shall be the burden of the applicant to demonstrate that submittal material and the proposed development plan comply with each of the following design criteria or demonstrate that one (1) or more of them is not applicable, or that a particular development solution consistent with the public interest has been achieved. Where the PUD District is being requested in connection with the review of a development agreement pursuant to Chapter 17.14 of this Code, not all design criteria may be applicable, as determined by the Community Development Department.

- (1) Conformity with the Comprehensive Plan goals and objectives;
- (2) Conformity and compliance with the overall design theme of the Town, the subarea design recommendations and design guidelines adopted by the Town;
- (3) Design compatibility with the immediate environment, neighborhood and adjacent properties relative to architectural design, scale, bulk, building height, buffer zones, character and orientation;
- (4) Uses, activity and density which provide a compatible, efficient and workable relationship with surrounding uses and activity;
- (5) Identification and mitigation or avoidance of natural and/or geologic hazards that affect the property upon which the PUD is proposed;

(6) Site plan, building design and location and open space provisions designed to produce a functional development responsive and sensitive to natural features, vegetation and overall aesthetic quality of the community;

(7) A circulation system designed for both vehicles and pedestrians addressing on- and off-site traffic circulation that is compatible with the Town transportation plan;

(8) Functional and aesthetic landscaping and open space in order to optimize and preserve natural features, recreation, views and function;

(9) Phasing plan or subdivision plan that will maintain a workable, functional and efficient relationship throughout the development of the PUD. The phasing plan shall clearly demonstrate that each phase can be workable, functional and efficient without relying upon completion of future project phases;

(10) Adequacy of public services such as sewer, water, schools, transportation systems, roads, parks and police and fire protection;

(11) That the existing streets and roads are suitable and adequate to carry anticipated traffic within the proposed PUD and in the vicinity of the proposed PUD.

(12) That the PUD or amendment to PUD requested provides evidence of substantial compliance with the public purpose provisions of the Zoning Code as specified in Section 17.28.085.

(i) Development standards. Development standards including lot area, site dimensions, setbacks, height, density control, site coverages, landscaping and parking shall be determined by the Town Council as part of the approved development plan with consideration of the recommendation of the Planning Commission. This determination shall be based upon the evaluation of the proposed PUD's compliance with the design criteria outlined in Subsection (h) of this Section.

(j) Existing Planned Unit Developments.

(1) Existing PUDs which have had a precise or specific plan for development approved shall not be affected by these regulations, and terms, conditions and agreements contained within those PUDs shall continue to be binding upon the applicants thereof and the Town.

(2) Existing PUDs which have not been approved with a precise or specific plan shall be subject to the review procedures for the adoption of an approved development plan as described above.

(k) Amendment procedures.

(1) Amendments. Requests for amendments to an approved Planned Unit Development District shall be reviewed in accordance with the procedures described above. Amendments that propose substantial changes to land use in connection to existing development agreements and development plans as outlined in Chapter 17.14 of this Code may require additional information and/or development agreements and amendment to development plans.

(2) Owners of all property requesting the amendment, or their agents or authorized representatives, shall sign the application. Notification of the proposed amendment shall be made to owners of all property adjacent to the property requesting the proposed amendment, owners of all property adjacent to

the PUD and owners of all property within the PUD that may be affected by the proposed amendment (as determined by the Community Development Department).

(l) Time requirement.

(1) The developer must begin initial construction of the PUD within three (3) years from the time of its final approval, and continue diligently toward the completion of the project.

(2) If the applicant does not begin and diligently work toward the completion of the PUD or any stage of the PUD within the limits imposed by the preceding Subsection, the approval of said Planned Unit Development shall be void. The Planning Commission and Town Council shall review the Planned Unit Development District upon submittal of an application to reestablish the PUD following the procedures outlined above.

(m) Preliminary Subdivision Application with PUD. Where subdivision approval will be required to implement development in a proposed PUD, a Preliminary Subdivision Plan application must be filed concurrently and in conjunction with the PUD application. The provisions and procedures for public notice, hearing and review for a PUD as prescribed in this Title shall apply to the Preliminary Subdivision Plan application. No development may be implemented in a PUD prior to approval and recording of a corresponding Final Subdivision Plat. (Ord. 05-03 §2; Ord. 04-12 §§3-8; Ord. 04-03 §3; Ord. 91-10 §1(part))

**17.20.120 Open space, Landscaping and Drainage – OLD.**

(a) Intention. Areas to remain primarily as they exist and to be public or private undeveloped open spaces. Some landscaping and drainage control work may be necessary and desirable.

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

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

(c) Special review uses.

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

(d) Development standards.

- (1) Minimum lot size – NA;
- (2) Maximum building height – NA;
- (3) Minimum building setbacks – NA;
- (4) Maximum site coverage – NA;
- (5) Minimum landscape area – one hundred percent (100%);
- (6) Maximum density – NA. (Ord. 91-10 §1(part))

**17.20.130 Government, Park and Employee Housing – GPEH.**

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

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

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

(c) Special review uses.

- (1) Public assembly facilities;
  - (2) Residential units for the efficient operation of the facilities;
  - (3) Private employee housing for Avon area employees.
- (d) Development standards.
- (1) Minimum lot size – NA;
  - (2) Maximum building height – sixty (60) feet;
  - (3) Minimum building setbacks:
    - Front: twenty-five (25) feet,
    - Side: seven and one-half (7.5) feet,
    - Rear: ten (10) feet;
  - (4) Maximum site coverage – fifty percent (50%);
  - (5) Minimum landscape area – twenty-five percent (25%);
  - (6) Maximum density – NA. (Ord. 91-10 §1(part))

## **CHAPTER 17.24**

### **Off-Street Parking and Loading**

#### **17.24.010 Scope and application.**

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

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

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

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

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

(c) Permissive parking and loading facilities. Nothing in this Chapter shall be deemed to disallow the voluntary establishment of off-street parking or loading facilities to serve any existing use of land or buildings, provided that all regulations herein governing the location, design and operation of such facilities are satisfied.

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

(e) Submission of site plan. Any application for a building permit, or for a certificate of occupancy where no building permit is required, shall include therewith a site plan, drawn to scale and fully dimensioned, showing all off-street parking or loading facilities and points of access to be provided. (Ord. 91-10 §1(part))

#### **17.24.020 Off-street parking.**

(a) General requirements.

(1) Location.

a. All parking spaces required to serve buildings or uses erected, established, altered or enlarged after the effective date of the ordinance codified in this Chapter shall be located on the same lot as the building or use served, except that up to forty percent (40%) of the parking spaces required to serve industrial buildings or uses may be located within five hundred (500) feet of the building or use served, or to serve commercial and residential buildings or uses may be located within three hundred (300) feet of such building or use served, but only if such parking is developed in accord with all the applicable district regulations. Off-site parking shall not be located in such a location so as to require the user to cross a major barrier such as a street, river, ditch, etc., in order to reach the use requiring the parking. Establishment of off-site parking shall be a special review use.

b. Buildings or uses existing on the effective date of this Chapter which are subsequently altered or enlarged so as to require the provision of parking spaces under this Chapter may be served by parking facilities located on land other than the lot on which the building or use served is located, provided such facilities are within five hundred (500) feet walking distance of a main entrance to the use served for industrial uses and three hundred (300) feet for commercial uses.

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

d. Off-street parking spaces, including the adjacent area used for turning movements necessary to enter or leave the parking spaces when open to the sky, may be located in any yard except the front ten (10) feet of the required front yards, and unless otherwise specifically restricted by this Chapter.

Enclosed buildings and carports containing off-street parking shall be subject to the applicable district yard requirements.

(2) Control of off-site parking facilities.

a. In cases where parking facilities are permitted on land other than the lot on which the building or use served is located, such facilities shall be in the same possession as the lot occupied by the building or use to which the parking facilities are accessory. Such possession shall be by deed or lease, and such deed or lease shall be filed with the recorder of deeds of Eagle County.

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

(3) Size and vertical clearance. All minimum requirements as to size, shape and design of spaces, aisles and drives shall meet standard Town specifications. Such space shall have a vertical clearance of at least seven and one-half (7.5) feet, a minimum width of nine (9) feet and a depth of eighteen (18) feet for ninety degree (90°) parking. All spaces exposed to the weather shall be marked with yellow striping at least once a year.

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

(5) Shared parking provisions.

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

b. Public facilities.

1. Where the Town has constructed or proposes to construct public off-street parking facilities, the Town Council may, by resolution, establish a shared parking district within the boundaries of an area set forth by the resolution. When such a shared parking district has been established, all, or a part, of the private off-street parking spaces required within the parking district may be provided by a public off-street parking facility located within said district.

Prior to property owners within the established parking district being allowed to so reduce the number of private off-street parking spaces, such owners shall submit, and the Town Council must approve, a parking and site development plan for the affected properties within the parking district. Such plan shall show proposed development of the area and how the total number of

required off-street parking spaces will be provided by the use of public and private facilities. In addition to an approved parking and site development plan, the Town Council may, as it deems necessary and appropriate, require formal agreements with the property owners concerning land dedications and easements, participation in construction and maintenance costs of the public facilities and other related matters. Subsequent to formal execution of agreements and availability of the parking facilities, property owners may reduce the number of private off-street spaces required in accord with the approved parking and site development plan.

2. The total number of off-street parking spaces provided by the combined public and private facilities within the shared parking district shall not be at any time less than the number required by this Section.

(6) Reduction in parking requirements for mixed-use projects. Notwithstanding the provisions of Subsection (c) hereof, the minimum parking requirement for a mixed-use project shall be determined by the Planning and Zoning Commission as part of its review of any plan for development and shall be calculated as follows:

Main level – 5.5 spaces/1,000 square feet;	
Additional levels, including basements –	4.0 spaces/1,000 square feet;
Residential – in accordance with Section	17.24.020(c)(1);

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

- a. No parking spaces are reserved for use (except by handicapped persons);
- b. The mixed-use project will be served by the Town's bus system;
- c. The mixed-use project is located within a TC, SC, RHDC or PUD zone district;
- d. Adequate snow storage on site will be provided;
- e. At least seventy-five (75) parking spaces are provided; if application of the reduction formula results in the requirement of less than seventy-five (75) spaces, the minimum requirement hereinabove provided shall govern and reduction will not be permitted.

Reductions in the number of required parking spaces for mixed-use projects shall not be made in combination with a reduction made on a large single-use basis.

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

(8) Reduction in parking requirements for large single-use projects. Minimum requirements for large single-use projects shall be determined in accordance with Subsection (c) hereof. The minimum parking requirements for commercial uses established by Subsection (c) hereof may be reduced by a factor of fifteen percent (15%) in the case of large single-use projects upon determination by the

Planning and Zoning Commission (as part of its review of any plan for development but not as a special review use) that the following criteria are met:

- a. No parking spaces are reserved for use (except by handicapped persons);
- b. The large single-use project will be served by the Town's bus system;
- c. The large single-use project is located within a TC, SC, RHDC or PUD zone district;
- d. Adequate snow storage on site will be provided;
- e. At least seventy-five (75) parking spaces are provided; if application of the reduction formula results in the requirement of less than seventy-five (75) spaces, the minimum requirement hereinabove provided shall govern and reduction will not be permitted.

Reduction in the number of required parking spaces for large single-use projects shall not be made in combination with a reduction made on a mixed-use basis.

(9) Computation. When determination of the number of off-street parking spaces required by this Chapter results in a requirement of a fractional space, any fraction shall be counted as one (1) parking space. Parking spaces required on an employee basis shall be based on the maximum number of employees on duty and/or residing on the premises at any one (1) time.

(10) Utilization. Except as may additionally be provided for the parking of trucks and other large vehicles, accessory off-street parking facilities provided in accord with the requirements of this Chapter shall be solely for the parking of passenger motor vehicles of patrons, occupants, visitors or employees of such uses.

(11) Design and maintenance.

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

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

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

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

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

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

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

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

(b) Specific requirements.

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

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

(3) If for any reason the classification of any use for the purpose of determining the amount of off-street parking, or the number of spaces to be provided by such use is not readily determinable hereunder, the parking requirements of such use or the number of spaces to be provided shall be determined by the zoning administrator, after recommendation by appropriate Town departments, based upon the most similar uses for which specific requirements are provided.

(c) Off-Street Parking Table.

*Off-Street Parking Table*

<u>(1) Residential Land Use</u>	<u>Minimum Requirements</u>
a. Per dwelling unit:	
1. Single-family or duplex	2 spaces/unit 3 spaces/unit for units over 2,500 sq. ft. not including garage
2. Multifamily building and townhouses	
a) Studio	1 space
b) One bedroom	1½ spaces
c) All others	2 spaces
b. Per accommodation unit including lockoffs:	
1. One bedroom	1 space
2. Over one bedroom	1 space plus ½ space for each additional bedroom in excess of one
c. Guest parking spaces:	
1. Multifamily and townhouses	
a) 3—5 units	2 spaces
b) 5—10 units	3 spaces

c) 11—15 units	4 spaces
d) 16—20 units	5 spaces
e) 21—25 units	6 spaces
f) over 25 units	7 spaces plus 1 space for each 5 units in excess of 25 up to a maximum of 10 additional spaces
d. Mobile home parks:	2 spaces/mobile home space
e. Timesharing units:	1 space per 600 square feet but not less than 1 space per unit unless reduced as part of a mixed-use project reduction.
(2) <u>Commercial Land Use</u>	<u>Minimum Requirements</u>
a. Shopping and convenience goods retail	4/1000 sq. ft. GLFA
b. Personal services and repair est. Businesses and professional services Office buildings and banks (except drive-in banks)	3/1000 sq. ft. GLFA
c. Drive-in banks	3/1000 sq. ft. GFA plus 5 storage spaces/outside teller window or drop station
d. Restaurants – food consumed within structure only, outside patio used with a bar or restaurant do not require any additional parking.	1/60 sq. ft. of seating area
e. Restaurants – carry-out only – food consumed on premises	10/1000 sq. ft. GFA
f. Restaurants with drive-up window	1/60 sq. ft. of seating area plus storage for 7 car/drive-up window
g. Service stations	2/1000 sq. ft. GFA
h. Commercial recreation facilities, bowling alleys Tennis courts Handball and racquetball courts Swimming pools Skating rinks	4/alley plus 1/employee 4/court plus 1/employee 2/court plus 1/employee 20/1000 sq. ft. GWA 10/1000 sq. ft. GFA
(3) <u>Industrial Land Uses</u>	<u>Minimum Requirements</u>
Manufacturing plants, warehousing, wholesaling establishments, freight terminals	1/800 sq. ft. GFA
(4) <u>Industrial and Commercial Minimum Parking Requirement</u>	<u>Minimum Requirements</u>
a. Warehousing	1.2/1000 sq. ft. GFA
b. Light manufacturing plants	1/800 sq. ft. GFA
c. Wholesales outlets/Showrooms	1/800 sq. ft. GFA
d. Self-storage	1/2500 sq. ft. GFA
e. Utility company	1/800 sq. ft. GFA plus 1 space per employee vehicle parked on site
f. Industrial, construction & wholesale offices	3/3000 sq. ft. GFA
g. Laboratories	1/800 sq. ft. GFA
(5) <u>Education Land Uses</u>	<u>Minimum Requirements</u>
a. Nursery schools and day care centers	2/1000 sq. ft. GFA
b. Elementary and junior high schools	1/employee
c. Senior high schools	1/employee plus 1/each 6 students based on design capacity
d. Trade schools	1/each 2 students
(6) <u>Medical Land Uses</u>	<u>Minimum Requirements</u>
a. Doctors' offices, including optometrist, medical, dental, chiropractor, chiropodist and all others	5/1000 sq. ft. GFA
b. Hospitals	1/bed
(7) <u>Public Buildings</u>	<u>Minimum Requirements</u>
a. Auditoriums, theaters, stadiums and arenas	1/4 seats
b. Museums and libraries	4/1000 sq. ft. GFA
c. Public utilities companies	3/1000 sq. ft. GFA
(8) <u>Other Land Uses</u>	<u>Minimum Requirements</u>
a. Churches	1/each 3 seats provided in main seating area

- b. Clubs and lodges
- c. Other uses

5/1000 sq. ft. GFA  
As determined by zoning administrator

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(d) Payment-in-Lieu Program.

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

(2) Parking fund. There is established for the purpose of meeting the demand and requirements for vehicle parking, the Town parking fund. The parking fund shall receive and distribute funds for the purposes of conducting parking studies or evaluations, including evaluations of alternative transportation means; acquisition, design and construction of parking facilities or alternative transportation means in any area exempted from the off-street parking requirements; maintenance of public parking facilities; payment of bonds or other indebtedness for parking facilities; and administrative services relating to parking.

(3) Payment in lieu.

a. Application. An applicant for planning and zoning approval for a development plan in an area exempted from the off-street parking requirements may seek a mitigation of the off-street parking requirements via a payment in lieu. Such an application may be approved by the Planning and Zoning Commission only if the applicant demonstrates that the parking needs of the residents, customers, guests and employees of the project have been met, taking into account potential uses of the parcel, the projected traffic generated by the project, how the project impacts on the parking of the neighborhood, and the project's proximity to mass transit routes. The decision of the Planning and Zoning Commission may be appealed to the Town Council.

b. Approval. Approval of an application for payment in lieu shall be at the discretion the Town.

c. Fee. In all cases in which approval has been given for a payment in lieu of parking, the applicant shall make a one-time only payment to the Town, in the amount of thirty thousand dollars (\$30,000.00) per parking space. This fee shall be automatically adjusted on the first day of January, annually, by the percentage the Consumer Price Index of the city of Denver has increased over each successive year. The payment in lieu shall be due and payable at the time of the issuance of a building permit. All funds collected shall be transferred by the Building Official to the Finance Director, for deposit in the Town parking fund. (Ord. 06-04 §3; Ord. 04-12 §9; Ord. 99-05 §1; Ord. 91-16 §1; Ord. 91-10 §1(part))

**17.24.030 Off-street loading.**

(a) General requirements.

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

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

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

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

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

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

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

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

(b) Specific requirements. The minimum amount of off-street loading or unloading space to be provided shall be as follows:

<u>Land Use</u>	<u>Gross Floor Area</u>		
	Floor Area Requiring One 12' x 35' Berth	Floor Area Requiring an Additional 12' x 35' Berth	Floor Area Requiring 12' x 55' Berth
(1) Residential: Multifamily Dwellings	As determined by the Planning and Zoning Commission		
(2) Office – Institutional – Educational:			
a. Health and medical institutional uses; educational, cultural, religious institutions; recreation and social; banks, financial institutions; medical-dental clinics; business and professional offices	10,000 sq. ft.	Over 100,000 sq. ft.	
(3) Commercial Uses			
a. Retail	5,000 sq. ft.	Over 20,000 sq. ft.	Over 35,000 sq. ft.
b. Hotels-Motels	10,000 sq. ft.	Over 100,000 sq. ft.	-----
c. Commercial recreation (including bowling alleys)	10,000 sq. ft.	Over 100,000 sq. ft.	-----
d. Wholesale	10,000 sq. ft.	Over 40,000 sq. ft.	-----
e. Restaurants	5,000 sq. ft.	Over 25,000 sq. ft.	-----
f. Laundry	10,000 sq. ft.	Over 25,000 sq. ft.	-----
g. Funeral homes	5,000 sq. ft.	Over 100,000 sq. ft.	-----
(4) Industrial Uses			
a. Manufacturing and warehousing	Up to 5,000 sq. ft.	Over 40,000 sq. ft.	-----
b. Storage	Up to 10,000 sq. ft.	Over 25,000 sq. ft.	-----
(5) Other Uses			
a. Stadiums, auditoriums and arenas	Up to 20,000 sq. ft.	-----	Over 20,000 sq. ft.
b. Transportation terminals	5,000 sq. ft.	Over 40,000 sq. ft.	-----

c. Sewage treatment plants – municipal                      10,000 sq. ft.                      -----                      -----

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(Ord. 91-10 §1 (part))

## **CHAPTER 17.28**

### **Amendments to Zoning Code and District Map**

#### **17.28.010 Authority.**

The Town Council may, from time to time, amend, supplement or repeal the regulations and provisions of this zoning code. (Ord. 91-10 §1(part))

#### **17.28.020 Initiation of procedures.**

Amendments to the text of the zoning code may be initiated by the Town Council, the Planning and Zoning Commission or by written application of any property owner or resident of the Town. Amendments to the zoning district map may be initiated by the Town Council, the Planning and Zoning Commission or by a real property owner in the area to be included in the proposed amendment. (Ord. 91-10 §1(part))

#### **17.28.030 General rezoning of Town.**

Whenever the zoning district map is in any way to be changed or amended incidental to or as part of a general revision of the zoning code, whether such revision be made by repeal of the existing zoning code, or otherwise, the requirement of an accurate survey map or other sufficient legal description of, and the notice to and listing of names and addresses of owners of real property in the area of the proposed change, shall be waived. However, the proposed zoning map shall be available for public inspection in the Town office during all business hours for fifteen (15) days prior to the public hearing on such amendments. (Ord. 91-10 §1(part))

#### **17.28.040 Application, filing and processing.**

(a) An application, with required materials (see Section 17.28.070), shall be filed at the Department of Community Development. The staff shall review the application in accordance with the criteria established in this Section.

(b) Upon filing of an application for amendment or upon initiation of an amendment by the Town Council or Planning and Zoning Commission, the zoning administrator shall set a date for hearing in accordance with the provisions of Section 17.12.100. (Ord. 91-10 §1(part))

#### **17.28.050 Planning and Zoning Commission recommendations.**

(a) Following the required hearing, the Planning and Zoning Commission shall consider the testimony and evidence presented at the hearing and evaluate the application in accordance with Section 17.28.080, and recommend approval, approval with conditions or denial, either in whole or in part. The Planning and Zoning Commission shall transmit its recommendation, together with a report on the public hearing and its deliberations and findings, to the Town Council.

(b) The recommendation of the Planning and Zoning Commission shall be scheduled for a public hearing before the Town Council in accordance with Section 17.12.100. The hearing shall be held no later than thirty (30) days following the Planning and Zoning Commission action. (Ord. 91-10 §1(part))

**17.28.060 Hearing by Town Council.**

(a) The Town Council shall, after receiving the report and recommendations from the Planning and Zoning Commission, hold a public hearing and act upon the proposed amendment as prescribed in Section 17.12.100.

(b) Following the required hearing, the Town Council shall consider the comments and evidence presented at the hearing and evaluate the application in accordance with Section 17.28.080 and approve, approve with conditions or deny the application, in whole or in part. (Ord. 91-10 §1(part))

**17.28.070 Submittal requirements.**

The applicant shall submit to the Department of Community Development the following materials. Only complete submittals shall be accepted.

- (1) A completed zone district amendment application and fee;
- (2) A legal description for all property to be considered for rezoning;
- (3) A list of the owners of all properties within the boundaries of the area to be rezoned or changed, and the property within three hundred (300) feet of the property proposed to be rezoned or changed. The owners list shall include the name of all owners, their addresses and a general description of the property owned by each. Accompanying the list shall be stamped, addressed envelopes to each owner to be used for the mailing of the notice of hearing;
- (4) A certified survey map of the area included in the proposed change showing:
  - a. Location and boundaries, including dimensions, of the property proposed for rezoning,
  - b. The acreage or square footage contained within the property proposed for rezoning,
  - c. All existing land uses in the proposed rezone area,
  - d. Zoning and existing land uses on all lands adjacent to the proposed rezone,
  - e. The location and dimensions for all existing public rights-of-way, including streets, and watercourses within and adjacent to the rezone,
  - f. The names of all adjoining subdivisions with lines of abutting lots, and departing property lines of adjoining properties not subdivided;
- (5) A written statement describing the proposal and addressing the following points:
  - a. Need for the proposed rezoning,
  - b. Present and future impacts on the existing adjacent zone districts, uses and physical character of the surrounding area,

- c. Impact of the proposed zone on area accesses and traffic patterns,
  - d. Availability of utilities for any potential development,
  - e. Present and future impacts on public facilities and services, including, but not limited to, fire, police, water, sanitation, roadways, parks, schools and transit,
  - f. The relationship between the proposal and the Comprehensive Plan,
  - g. Public benefits arising from the proposal;
- (6) An environmental impact report (if deemed necessary by the zoning administrator).

It shall be the responsibility of the applicant to ensure that accurate and complete information is provided. (Ord. 91-10 §1(part))

**17.28.080 Criteria for review, recommendation and approval.**

The following evaluations shall be made in reviewing rezone applications:

- (1) Is the proposed rezoning justified by changed or changing conditions in the character of the area proposed to be rezoned?
- (2) Is the proposed rezoning consistent with the Comprehensive Plan?
- (3) Is the proposed use compatible with the surrounding area or uses?
- (4) Are adequate facilities available to serve development for the type and scope suggested by the proposed zone? (Ord. 91-10 §1(part))

**17.28.085 Zoning applications.**

The Town shall consider the following public benefit criteria when evaluating zoning applications:

- (1) The application demonstrates a public purpose which the current zoning entitlements cannot achieve.
- (2) Approval of the zoning application provides long-term economic, cultural or social community benefits that are equal to or greater than potential adverse impacts as a result of the changed zoning rights.
- (3) The flexibility afforded in approval of the zoning application will result in better siting of the development, preserving valued environmental and cultural resources and increasing the amount of public benefit consistent with the community master plan documents. (Ord. 05-05 §1)

**17.28.090 Temporary suspension of building permits.**

Whenever the Town Council or the Planning and Zoning Commission has properly initiated proceeding to amend the text of the zoning code or the zoning district map pursuant to the provisions of this Title, and the Planning and Zoning Commission has, subsequent to the public hearing, adopted a resolution recommending to the Town Council approval of such amendment, no building permits shall be issued by

the Town Building Administrator which would be prohibited by the proposed amendment for a period of one (1) year following the date of such Planning and Zoning Commission resolution; provided, however, if the Town Council should, by resolution, refuse to further consider such amendment, or if an ordinance adopting the proposed amendment, or an amendment substantially similar to the proposed amendment, has not been passed by the Town Council pursuant to law within the one-year time period, all building permits applied for during such period, which otherwise conform to the existing zoning regulations, shall be issued, provided the building permit application meets all other regulations of the Town in effect at the time. (Ord. 91-10 §1(part))

**17.28.100 Notation to map.**

In the event the Town Council has adopted an ordinance recommending approval of a change to the zoning district map, within thirty (30) days of each resolution, notation to the zoning district map shall be made to show the pending amendment, and failure to make such notation shall suspend the effect of the resolution until such is made; provided, however, if the required notation is made within the thirty-day period, it shall have effect retroactively to the date of the resolution. (Ord. 91-10 §1(part))

**CHAPTER 17.32**

**Nonconforming Uses and Structures**

**17.32.010 Intent.**

Within the districts established by this zoning code, or amendments thereto that may be adopted, there may exist lots, structures and uses of land and structures, which were lawfully established before this zoning code was passed or amended, but which would be prohibited, regulated or restricted under the terms of this zoning code or future amendment. It is the intent of this Chapter to permit these nonconformities to continue until they are removed, abandoned or more than fifty percent (50%) destroyed. It is the further intent of this Chapter that nonconforming structures and uses shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district. (Ord. 91-10 §1(part))

**17.32.020 Uses of land.**

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

(1) No such nonconforming use shall be enlarged or increased, nor extended to occupy greater area of land than was occupied at the effective date of adoption or amendment of the ordinance codified in this zoning code;

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

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

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

(b) A nonconforming use shall not be changed to a use of a lower or less restrictive classification, but such nonconforming use may be changed to another use of the same or higher classification. (Ord. 91-10 §1(part))

**17.32.030 Structures.**

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

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

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

(3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after having been moved. (Ord. 91-10 §1(part))

**17.32.040 Uses of structures or of structures and premises in combination.**

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

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

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

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

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

(5) When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for a period of one (1) year, the structure, or structure and premises in

combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.

(6) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. *Destruction*, for the purpose of this Subsection, is defined as loss of fifty percent (50%) or more or of substantial damage to the structure. (Ord. 91-10 §1(part))

**17.32.050 Lot reduction – prohibition against establishing new nonconforming uses.**

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

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

(c) Any transferee who acquires a lot or parcel of land in violation of this Section without knowledge of such violation, and any subsequent transferee, shall have the right to rescind and/or receive damages from any transferor who violates the provisions of this Section. (Ord. 91-10 §1(part))

**17.32.060 Priority of use classifications.**

Whenever in this Chapter reference is made to a higher (or more restrictive) classification and lower (or less restrictive) classification of uses in providing that a nonconforming use may be converted to a higher but not a lower classification, uses shall be considered higher or lower according to the following sequence (highest to lowest): open space, residential, public, office, accommodations, commercial, industrial. (Ord. 91-10 §1(part))

**CHAPTER 17.36**

**Variances**

**17.36.010 Purpose of provisions – limitations.**

In order to prevent or to lessen such practical difficulties and unnecessary physical hardships inconsistent with the objectives of this Title as would result from strict or literal interpretation and enforcement, variances from certain regulations may be granted. A practical difficulty or unnecessary physical hardship may result from the size, shape or dimensions of a site or the location of existing structures thereon; from topographic or physical conditions on the site or in the immediate vicinity; or from other physical limitations, street locations or traffic conditions in the immediate vicinity. Cost or inconvenience to the applicant of strict or literal compliance with a regulation shall not be a reason for granting a variance. It is not the intent of this Chapter, however, to allow variances in the classification of uses of property. (Ord. 91-10 §1(part))

**17.36.020 Application – public hearing.**

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

(b) A public hearing shall be held in accordance with Section 17.12.100. (Ord. 91-10 §1(part))

**17.36.030 Application – contents.**

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

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

(2) Legal description, street address and other identifying data concerning the site;

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

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

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

(6) Such additional materials as the Planning and Zoning Commission may prescribe or the applicant may submit pertinent to the application and to the findings prerequisite to the issuance of a variance. (Ord. 91-10 §1(part))

**17.36.040 Approval criteria.**

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

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

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

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

(4) Such other factors and criteria as the Planning and Zoning Commission deems applicable to the proposed variance. (Ord. 91-10 §1(part))

**17.36.050 Findings required.**

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

- (1) That the granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same district;
- (2) That the granting of the variance will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity;
- (3) That the variance is warranted for one (1) or more of the following reasons:
  - a. The strict, literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of this Title,
  - b. There are exceptional or extraordinary circumstances or conditions applicable to the site of the variance that do not apply generally to other properties in the same zone,
  - c. The strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties in the same district. (Ord. 91-10 §1(part))

**17.36.060 Conditional granting.**

The granting of a variance may be conditioned on action by the applicant. (Ord. 91-10 §1(part))

**17.36.070 Fees – term.**

Variance fees shall be paid at the time of the application for the variance and prior to its receipt by the applicant. The variance shall lapse if construction is not commenced within one (1) year of the date of issuance and diligently pursued to completion. (Ord. 91-10 §1(part))

**17.36.100 Action notice.**

The Town Clerk shall notify the applicant for a variance in writing of the Town Council's action within seven (7) days after a decision has been rendered. (Ord. 91-10 §1(part))

**CHAPTER 17.44**

**Flood Damage Prevention**

**17.44.010 Purpose.**

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

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood control projects;

(3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) To minimize prolonged business interruptions;

(5) 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;

(6) 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;

(7) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions. (Ord. 91-10 §1(part))

#### **17.44.020 Methods of reducing flood losses.**

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

(1) Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

(2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel floodwaters;

(4) Controlling filling, grading, dredging and other development which may increase flood damage; and

(5) Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas. (Ord. 91-10 §1(part))

#### **17.44.030 Definitions.**

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

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

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

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

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

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

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

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

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

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

The term does not, however, include either:

- a. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
- b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places. (Ord. 91-10 §1(part))

#### **17.44.040 Basis for establishing the areas of special flood hazard.**

The Flood Insurance Rate Map (FIRM) for Eagle County and incorporated areas dated December 4, 2007, serves as the basis for this Chapter and is adopted by reference. The FIRM is on file with the Town Clerk, Avon Municipal Building, 400 Benchmark Road, Avon, Colorado. (Ord. 07-16)

#### **17.44.050 Lands to which this Chapter applies.**

This Chapter shall apply to all areas of special flood hazards within the jurisdiction of Avon. The areas of special flood hazards identified on the Flood Insurance Rate Map shall be presumed to be areas of special flood hazards governed by this Chapter. The presumption shall be conclusive unless and until the Town receives further technical evidence from the Federal Emergency Management Agency establishing that the areas of special flood hazard are other than those located on the Flood Insurance Rate Map. (Ord. 91-10 §1(part))

**17.44.060 Compliance.**

No structure or land shall hereafter be constructed, located, extended, converted or altered nor shall any development occur without full compliance with the terms of this Chapter and other applicable regulations. (Ord. 91-10 §1(part))

**17.44.070 Abrogation and greater restrictions.**

This Chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Chapter and another provision of this Code, any easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 91-10 §1(part))

**17.44.080 Interpretation.**

In the interpretation and application of this Chapter, 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. (Ord. 91-10 §1(part))

**17.44.090 Warning and disclaimer of liability.**

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

(b) This Chapter shall not create liability on the part of Avon, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this Chapter of any administrative decision lawfully made thereunder, nor shall any person rely on the provisions of this Chapter in seeking assurance that any property is safe from flooding, nor that any measures required hereby will prevent or mitigate the effects of flooding. (Ord. 91-10 §1(part))

**17.44.100 Permit requirement.**

It is unlawful to commence construction of any development within any area of special flood hazard established in Section 17.44.050 without obtaining a building permit from the Building Administrator. Application for a permit required by this Chapter shall be made on forms furnished by the Building Administrator and may include, but not be limited to the requirement that the following be provided: plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- (1) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;

- (2) Elevation in relation to mean sea level to which any structure has been flood-proofed;
- (3) Certification by a registered professional engineer or architect that the flood-proofing methods for any residential or nonresidential structure meet the flood-proofing criteria in Section 17.44.130; and
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. (Ord. 91-10 §1(part))

**17.44.110 Duties and responsibilities for administration.**

(a) Submittal to Building Administrator. The Building Administrator is appointed to administer and implement this Chapter by granting or denying building permit applications in accordance with its provisions. The Building Administrator shall forward to the Town Engineer for review and report, all building permit applications requesting approval for structures to be located in an area of special flood hazard. No permit shall be acted on until the Town Engineer's report is received by the Building Administrator.

(b) Review by Town Engineer.

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

- a. To determine whether this Chapter is applicable and, if so, whether the permit requirements of this Chapter have been satisfied;
- b. To determine that all necessary permits have been obtained from those federal, state or local governmental agencies for which approval is required;
- c. To determine if the proposed development adversely affects the flood-carrying capacity of the area of special flood hazard. For the purpose of this Chapter, *adversely affects* means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.

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

(2) Use of other base flood data. When base flood elevation data has not been provided in accordance with Section 17.44.040, the Town Engineer shall obtain, review and reasonably utilize any flood elevation data available from a federal, state or other source, in order to administer Section 17.44.130.

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

- a. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement;
- b. For all new or substantially improved flood-proofed structures:

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

2. Maintain the flood-proofing certifications required in Subsection 17.44.100(3);

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

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

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

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

(c) Action by Building Administrator.

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

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

(3) If the proposed development is a building, then the provisions of this Chapter shall apply. (Ord. 91-10 §1 (part))

#### **17.44.120 General standards.**

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

(1) Anchoring.

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

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

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

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

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

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

(2) Construction materials and methods.

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

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

(3) Utilities.

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

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

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

(4) Subdivision proposals.

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

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

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

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

(5) Encroachments. Any proposed development shall be analyzed to determine effects on the flood-carrying capacity of the area of special flood hazard as set forth in Section 17.44.110(B)(1)(c). (Ord. 91-10 §1(part))

**17.44.130 Specific standards.**

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 17.44.110(b)(2), the following standards are required:

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

(2) Nonresidential construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement,

elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- a. Be flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
- b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- c. Be certified by a registered professional engineer or architect that the standards of this Subsection are satisfied. Such certifications shall be provided to the official as set forth in Section 17.44.100(3). (Ord. 91-10 §1(part))

## **CHAPTER 17.46**

### **Environmental Impact Reports**

#### **17.46.010 Purposes.**

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

- (1) To ensure that complete information on the environmental effects of the proposed development is available to the Town Council, the Planning and Zoning Commission and the general public;
- (2) To ensure that long-term protection of the environment is a criterion to be considered in development planning, and that land use and development decisions, both public and private, take into account the relative merits of possible alternative actions;
- (3) To provide procedures for local review and evaluation of the environmental effects of proposed projects prior to granting of permits or other authorizations for commencement of building and development. (Ord. 91-10 §1(part))

#### **17.46.020 Applicable projects.**

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

- (1) By altering an ecological unit or landform, such as a ridgeline, saddle, draw, ravine, hillside, cliff, slope, creek, marsh, watercourse or other natural landform feature;
- (2) By directly or indirectly affecting a wildlife habitat, feeding or nesting ground;
- (3) By substantially altering or removing native grasses, trees, shrubs or other vegetative cover;

(4) By affecting the appearance or character of a significant scenic area or resource, or involving buildings or other structures that are of a size, bulk or scale that would be in marked contrast to natural or existing cultural features;

(5) By potentially resulting in avalanche, landslide, siltation, settlement, flood or other landform change or hazard to health and safety;

(6) By discharging toxic or thermally abnormal substances, or involving use of herbicides or pesticides, or emitting smoke, gas, steam, dust or other particulate matter;

(7) By involving any process which results in odor that may be objectionable or damaging;

(8) By requiring any waste treatment, cooling or settlement pond, or requiring transportation of solid or liquid wastes to a treatment or disposal site;

(9) By discharging significant volumes of solid or liquid wastes;

(10) By increasing the demand on existing or planned sewage disposal, storm drainage or other utility systems to a level which is likely to cause an adverse impact on the environment;

(11) By involving any process which generates noise that may be offensive or damaging;

(12) By either displacing significant numbers of people or resulting in a significant increase in population;

(13) By preempting a site which is desirable for recreational uses or planned open space;

(14) By altering local traffic patterns or causing an increase in traffic volume or transit service need;

(15) By being a part of a larger project which, at any future stage, may involve any of the impacts listed above. (Ord. 91-10 §1(part))

#### **17.46.030 Exemptions.**

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

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

(2) A development which, in the basis of a preliminary environmental assessment covering each of the factors prescribed in Section 17.46.020 is found to have an insignificant impact on the environment. The preliminary environmental assessment and the finding on environmental impact shall be made by the zoning administrator;

(3) Alteration, repair and maintenance of existing structures and site improvements. (Ord. 91-10 §1(part))

**17.46.040 Studies and data.**

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

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

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

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

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

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

(5) Noise levels and odor characteristics, and any potential changes or impacts thereof.

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

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

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

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

(c) The environmental impact report shall summarize the findings and recommendations of the technical and other supporting studies in terms that can be assessed and evaluated by Town officials and the general public. Technical data shall be submitted as supporting documentation. Technical data prepared as a part of any other procedure or requirement of this resolution, or of any ordinance or federal, state or Town regulation, also may be used to support an environmental impact report. (Ord. 91-10 §1(part))

**17.46.050 Report contents.**

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

(b) The environmental impact report shall include a general statement, identifying and describing the proposed subdivision and its purpose. To the extent that such items are not otherwise included in other

materials submitted with any application or preliminary plan, descriptive materials, maps and plans shall be submitted showing the following information:

- (1) Project boundaries, and boundaries of the area within which environmental impact is likely to be significant;
- (2) Present and proposed uses of the site;
- (3) Present and proposed zoning of the site;
- (4) Quantitative information relative to the development, such as site area, numbers of residential units, proposed height and bulk of buildings, building floor area in square feet and such other data as will contribute to a clear understanding of the scale of the development;
- (5) A list of regulatory or review agencies and the specific regulations to which the proposed development will be subject;

(c) The environmental impact report shall include an environmental inventory, providing reasonably complete information on the environmental setting existing prior to the proposed development and containing sufficient information to permit independent evaluation by reviewers of factors that could be affected by the proposed development. The environmental inventory shall include maps, photographs or other appropriate illustrative material. Areas categorized according to type of possible impact shall be identified. The environmental inventory shall describe both the physical and biological natural setting and the manmade setting of the site and its surroundings.

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

- (1) Adverse effects which cannot be avoided if the proposal is implemented;
- (2) Mitigating measures proposed to minimize the impact;
- (3) Possible alternatives to the proposed action;
- (4) Cumulative and long-term effects of the proposal, which either significantly reduce or enhance the state of the environment;
- (5) Irreversible environmental changes resulting from implementation of the proposal;
- (6) Population and economic growth-inducing impacts of the proposal. (Ord. 91-10 §1(part))

**17.46.060 Additional materials.**

The Planning and Zoning Commission may further prescribe the form and content of the environmental impact report, setting forth in greater detail the factors to be considered and the manner in which the report

shall be prepared, and may require submission of information in addition to that required in Section 17.46.050. (Ord. 91-10 §1(part))

**17.46.070 Application and review.**

The Planning and Zoning Commission and the Town Council shall review the environmental impact report as part of the review process of any zone change application. The Planning and Zoning Commission and the Town Council may receive additional statements or supporting materials from the applicant, the planning staff, professional consultants or others. Such additional materials may be considered as a supplement or as an amendment to the environmental impact report. (Ord. 91-10 §1(part))

**CHAPTER 17.48**

**Special Review Use**

**17.48.010 Special review use permit.**

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

(b) A special review use shall not be considered a use by right without review and approval, as set forth in Section 17.48.020, nor shall the use vest unless a development plan is approved for the property. (Ord. 91-10 §1(part))

**17.48.020 Application filing and processing.**

(a) An application with required materials (see Section 17.48.030) shall be filed at the Department of Community Development. Only complete submittals shall be accepted.

(b) Staff shall review the application in accordance with the criteria established in this Section and present the application at a public hearing in accordance with Section 17.12.100.

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

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

(e) If conditions of approval are not maintained, it shall be considered a violation of this code and subject to revocation proceedings. (Ord. 91-10 §1(part))

**17.48.030 Submittal requirements for special review use.**

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

- (1) A complete special review use permit application and required fee;
- (2) A legal description of the parcel;
- (3) A site plan showing proposed uses and structures on the property;
- (4) Scaled elevations and/or perspective drawings of any proposed structures;
- (5) A proposed development schedule indicating:
  - a. Date of the beginning of the use and/or construction,
  - b. Phases in which the project may be developed and the anticipated rate of development,
  - c. The date of completion of the project;
- (6) Any agreements, provisions or covenants to be recorded;
- (7) Restoration or reclamation plans shall be required for all uses requiring extensive grading, for extractive uses and may be required for other uses as necessary;
- (8) A statement regarding any provisions for proper ongoing maintenance of the use and site which shall be provided;
- (9) Any additional materials, which, in the opinion of the administrator, are necessary to adequately review the application. (Ord. 91-10 §1(part))

**17.48.040 Criteria for review, recommendation and approval of special review uses.**

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

- (1) Whether the proposed use otherwise complies with all requirements imposed by the zoning code;
- (2) Whether the proposed use is in conformance with the Comprehensive Plan;
- (3) Whether the proposed use is compatible with adjacent uses. Such compatibility may be expressed in appearance, architectural scale and features, site design and the control of any adverse impacts including noise, dust, odor, lighting, traffic, safety, etc.
- (4) That the granting of the special review use requested provides evidence of substantial compliance with the public purpose provisions of the Zoning Code as specified in Section 17.28.085. (Ord. 05-03 §3; Ord. 91-10 §1(part))

**17.48.050 Amendments to special review use permit.**

No approved special review use may be modified, structurally enlarged or expanded in ground area, unless such modification, enlargement or expansion receives the prior approval of the Planning and Zoning Commission, which shall be obtained by repetition of the granting procedures provided in this Chapter. (Ord. 91-10 §1(part))

**17.48.060 Special rules governing special review use permit for home occupation/child day care home in duplex and multifamily dwelling units.**

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

(b) When a special review use permit is sought for a licensed child day care home as a home occupation within a duplex or multifamily dwelling unit where the occupants of such dwelling units share a common wall, in addition to the submittal requirements set forth in Section 17.48.030, the applicant shall also submit to the Department of Community Development the following:

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

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

(c) Once a special review use permit has been granted for a licensed child day care home as a home occupation within a duplex or multifamily dwelling unit, notwithstanding Section 17.48.020, there shall be no requirement that the special review use permit is valid only so long as the consent given as provided by Subsection (b) hereof is maintained. In the event a consent given as provided by Subsection (b) is withdrawn after a special review use permit has been granted, the Town will review the use and in its discretion decide whether to continue to permit the use in accordance with the criteria set forth in Section 17.48.040. No special review use permit for a licensed child day care home as a home occupation issued pursuant to this Section will be cancelled by the Town based solely upon the withdrawal of consent as provided in Subsection (b) hereof; and, in cases where the consent provided for herein has been withdrawn, no special review use permit issued pursuant to this Section shall be cancelled unless a hearing has been held on the issue of the cancellation of the use (unless the holder of the special review use permit waives entitlement to a hearing). (Ord. 01-13 §1)

**CHAPTER 17.50**

**Historic and/or Cultural Preservation Designated**

**17.50.010 Intent and purpose.**

The purpose and intent of this Chapter is the promotion of the health, safety and welfare of the residents of the Town through the regulation of historic and/or cultural sites and structures in order to:

(1) Foster civic pride in the beauty and accomplishments of the past;

- (2) Protect and enhance the Town's attraction to tourists and visitors and increase the quality of life of the residents;
- (3) Promote the use of historical or architectural sites, structures and objects for the education and welfare of the residents of the Town;
- (4) Promote and encourage private ownership, stewardship and utilization of such sites, structures and objects;
- (5) Integrate historic and/or cultural preservation with the Comprehensive Plan;
- (6) Maintain the Town's unique character by recognizing the importance of preservation and renewing the Town's legacy for present and future generations;
- (7) Discourage the unnecessary demolition of historic and/or cultural resources;
- (8) Provide incentives for the continued use of historic and/or cultural resources and facilitate their appropriate stewardship and reuse;
- (9) Encourage the conservation of historic settings and landscapes; and
- (10) Promote retention of historical integrity in the context of proposed land use. (Ord. 08-04 §2)

**17.50.020 Landmark designation.**

A site or structure may be eligible for historic and/or cultural landmark designation if it has been in existence for at least fifty (50) years or meets any of the following criteria:

- (1) Historic significance:
  - a. Has character or is a point of interest that reflects the heritage and political, economic and/or social history or cultural development of the Town, the State or the Nation;
  - b. Is associated with historical persons or groups or represents important events in national, state or local history;
  - c. Is associated with an important individual or group who contributed in significant ways to the political, social and/or cultural life of the community; and
  - d. Has prehistoric interest or information.
- (2) Architectural significance:
  - a. Characterizes a style associated with a particular era;
  - b. Has a strong or unique relationship to other areas potentially eligible for preservation;
  - c. Is architecturally unique or innovative; and

d. Has visual symbolic meaning or appeal for the community or, due to its unique location or singular characteristics, represents established and familiar visual features of the neighborhood or community. (Ord. 08-04 §2)

**17.50.030 Procedure for landmark designation.**

(a) The Historic Preservation Committee shall recommend historic and/or cultural landmarks to the Planning and Zoning Commission. A public hearing is required with the Planning and Zoning Commission, which will then recommend to the Town Council sites or structures for historic and/or cultural landmark designation. The recommendation shall identify the criteria forming the basis of the recommendation and shall include all pertinent information related to the site or building supporting the designation.

(b) The Town Council will approve or disapprove historic and/or cultural landmark designation after public hearing, at which the owner of the site or structure and interested persons shall have an opportunity to be heard. A majority decision of the Town Council is required for nomination. (Ord. 08-04 §2)

**17.50.040 Incentives.**

The benefits of historic landmark designation may include the following:

- (1) Waiver of building permit fees;
- (2) Local property tax credits;
- (3) Preservation, maintenance or relocation assistance and other incentives as deemed necessary by the Town Council; and
- (4) Other appropriate incentives, also as determined by the Town Council. (Ord. 08-04 §2)

**17.50.050 Review of plans for sites and structures having designation.**

Any application for any permit which includes the exterior alteration, relocation or removal of a site or structure designated as a historic and/or cultural landmark must be reviewed by the Planning and Zoning Commission for recommendation of approval or disapproval to the Town Council on the basis of the following criteria. The Town Council shall approve or disapprove the application after public hearing at which the landowner and interested persons have an opportunity to be heard.

- (1) Criteria for alteration of a site or structure:
  - a. Whether the architectural or historical character will itself be materially altered so as to negatively impact the historical landmark;
  - b. Whether the architectural style and arrangement and the texture of the exterior surface materials of the existing structure and the proposed alteration appropriately relate to each other and to other structures in the vicinity;
  - c. Whether the alteration will negatively change or destroy the exterior architectural features and details of the structure; and

d. The effect of the proposed alteration on the protection, enhancement, perpetuation and use of the historic landmark.

(2) Criteria for relocation of a structure:

a. Significance of the original site;

b. Whether the structure can be rehabilitated or used on its original site consistent with the reasonable and beneficial use of the property;

c. Whether the proposed site is compatible with or detracts from the importance of the historic landmark;

d. Whether the structure can be moved without causing significant damage to its physical integrity; and

e. Whether the relocation of the structure is necessary to prevent undue hardship on the property owner.

(3) Criteria for removal of a structure:

a. Whether the structure presents an imminent hazard that cannot otherwise be properly mitigated;

b. Whether the structure can reasonably be rehabilitated and maintained in its present location and the significance of the original site;

c. Whether relocation of the structure is reasonably possible or practical;

d. Whether the structure can be rehabilitated or used on its original site consistent with the reasonable and beneficial use of the property; and

e. Whether the removal of the structure is necessary to prevent undue hardship on the property owner. (Ord. 08-04 §2)

**17.50.060 Standards governing approval of development plans for sites and structures having designation.**

Any approved development plan including the alteration, relocation or removal of a historic and/or cultural landmark shall be deemed to incorporate the following standards, except to the extent they are determined not to be applicable by the Town Council:

(1) The most current version of the Secretary of the Interior's standards for rehabilitation of historic structures, as amended, shall be used as a guideline in carrying out any plans involving the alteration of historic landmarks.

(2) The historic and/or cultural landmark shall continue to be used in a manner consistent with its original purpose or a compatible purpose, so long as such use does not violate any of the provisions of this Code.

(3) The historic character of the historic and/or cultural landmark shall be maintained by avoiding the removal or alteration of features important to such character.

(4) The use of original materials is encouraged. Distinctive and unique features, finishes, materials and examples of craftsmanship should be retained and preserved. Repairs and replacement of such features should match the original in color, shape, texture and design. Replacements should be fully documented with pictorial or physical evidence and a copy of such evidence filed with the Town.

(5) Where possible, additions and expansions shall be differentiated from the existing structure so as to protect the historic landmark's historic integrity. Additions and expansions shall also be undertaken in such a manner that their removal in the future would not destroy the form or integrity of the original structure. (Ord. 08-04 §2)

**17.50.070 Removal of historic landmark designation.**

The Town Council, after public hearing at which the owner of the historic and/or cultural landmark and interested persons shall have an opportunity to be heard, may remove historic and/or cultural landmark designation from a site or structure, based upon one (1) or more of the following findings:

(1) The historic and/or cultural landmark designation creates undue hardship for the owner.

(2) The structure is an imminent hazard to the health and safety of the public despite the owner's efforts to properly maintain it.

(3) The structure is structurally unsound despite the owner's efforts to properly maintain it. (Ord. 08-04 §2)

**CHAPTER 17.52**

**Mobile Home Parks and Subdivisions**

**17.52.010 Purpose and intent.**

(a) Provide minimum requirements for the protection of the health and safety of the occupants of mobile home parks and subdivisions and the general public;

(b) Provide minimum standards for mobile home parks and for permits, expansion, additions and alterations to existing parks;

(c) Ensure that if any hazard to health, safety or welfare exists within the park, that it is resolved by the earliest reasonable time;

(d) This regulation complies with applicable sections of the Colorado Department of Public Health and Environment, *International Building Code*, *International Mechanical Code*, *Uniform Plumbing Code* and *National Electrical Code*. (Ord. 91-10 §1(part))

**17.52.020 Applicability.**

(a) No mobile home shall be occupied or otherwise used for dwelling, cooking or sleeping purposes within the Town except while located in a mobile home park or subdivision constructed and operated in accordance with this Chapter. No person shall own, operate, create or occupy a mobile home park or mobile home subdivision unless it is approved in accordance with this Chapter.

(b) No mobile home shall be maintained upon any private property in the Town when the same is used for living purposes, except in compliance with this Chapter, nor shall any mobile home be stored in any front or side yard.

(c) Any mobile home park in existence on the effective date of this regulation may continue to operate and shall be considered a legal nonconforming use. No change shall be made in the design layout or operation of a nonconforming mobile home park which would make the park less in conformance with the provisions of this Chapter.

(d) Mobile home parks. A special review use permit in accordance with Chapter 17.48 of this code is required to establish a mobile home park or for any additions to existing parks.

(e) Mobile home subdivisions. All mobile home subdivisions which are subdivided for individual lot ownership shall meet the applicable requirements of Title 16, Section 17.20.100, as well as the provisions of this Chapter of this Code. (Ord. 91-10 §1(part))

**17.52.030 Park and subdivision.**

(a) Site plan.

(1) Area. No mobile home park or subdivision shall be less than ten (10) acres in size.

(2) Access. All mobile home parks or subdivisions shall have access to a public street or road.

(3) Streets.

a. Street alignment. Streets shall be designed to take advantage of natural terrain features and shall be largely curvilinear. Streets shall be designed such that lot configuration promotes privacy and layout other than a strict grid pattern.

b. Street construction, ownership and maintenance. Every street in any mobile home park or subdivision shall conform to the Town's street design and improvement standards. Streets in mobile home parks shall be private streets, maintained by the park operator.

(4) Walkways. Paved walkways, not less than four (4) feet wide and sufficiently illuminated, shall be provided along streets as required for safety and convenience of inhabitants.

(5) Drainage. The park shall be located on a well-drained site, graded or drained, and free from stagnant pools of water.

(6) Landscaping. The site plan shall include a landscaping plan prepared by a landscape architect or licensed architect, which shows size, species and location of plant materials. Landscaping shall be completed within one (1) year.

(7) Setbacks. The minimum setback along the periphery of a mobile home park or subdivision shall be fifty (50) feet from an arterial street, thirty (30) feet from a collector or a local street, and twenty (20) feet along any boundary not abutting a street. Said setbacks shall serve as a landscaped buffer and shall be bermed a minimum of three (3) feet higher than the street elevation measured from a point of the nearest street surface or above natural grade in the case of boundaries not abutting a street. In addition, entrances and exits to the park or subdivision shall be landscaped so as to provide a clear delineation of traffic flow patterns.

(8) Snow storage. Adequate areas for snow storage throughout the development shall be provided.

(9) Parking. Each mobile home space shall have off-street paved parking spaces for at least two (2) automobiles. In addition, a mobile home park or mobile home subdivision must provide a common parking area for visitors in accordance with the parking provisions of Section 17.24.020(c).

(10) Utilities.

a. All utilities shall be underground.

b. Every mobile home park or mobile home subdivision shall be connected to the Town's water distribution system.

c. Every mobile home park shall be constructed and maintained in accordance with the Uniform Plumbing Code provisions for mobile home park water, sewerage, fuel and any other provisions, and with any other applicable state and local regulations.

(11) Common facilities.

a. Central maintenance shed. Central facilities for the storage of implements necessary for the maintenance of common areas, including landscaping, streets and parking, shall be provided.

b. Common storage areas. A common storage area for the use of the mobile home park residents shall be provided. A minimum of one hundred (100) square feet of common storage area per mobile home space shall be provided. The area shall be paved and fenced. Rules for the operation of the common storage area shall be developed and enforced by the park operator or a homeowners' association.

c. Trash receptacles. In mobile home parks common trash receptacles shall be provided in an amount and place necessary to meet the needs of the population. Areas for trash receptacles shall be sited so that the receptacle, as much as possible, cannot be viewed from the primary streets in the park. Access to the receptacles must be provided to allow easy ingress and egress by trash-hauling vehicles. All pickup areas shall have a concrete floor and be enclosed on three (3) sides by visually opaque screening fences or walls.

d. Open space. A minimum of ten percent (10%) of the total gross acreage of the park shall be provided as maintained usable open space. (The area allocated shall not include roadways, storage areas, mobile home spaces, parking and similar features.)

(12) Maintenance. All mobile home subdivisions shall be required to have a property owners' association with a board of directors who shall administer and enforce the required covenants, conditions and restrictions. The of directors shall provide for management staff to handle the daily

enforcement and property management for the association. The board of directors shall be responsible to ensure that the mobile home subdivision is consistently in compliance with all requirements of this code.

(b) Mobile home lot requirements. Every mobile home, whether in a mobile home park or in a mobile home subdivision shall be placed on a mobile home lot. A mobile home lot shall contain no more than one (1) mobile home and shall meet the following minimum standards.

(1) Minimum lot size. The minimum mobile home lot sizes in mobile home parks shall be three thousand (3,000) square feet for single-wide lots and four thousand (4,000) square feet for double-wide lots. The minimum lot size for lots in a mobile home park subdivision shall be as shown on the approved site development plan. The minimum depth for any mobile home lot shall be one hundred (100) feet.

(2) Lot coverage. The maximum lot coverage for mobile homes, storage sheds and appurtenant structures is thirty-five percent (35%).

(3) Minimum setback. There shall be a minimum setback of ten (10) feet from any portion of a mobile home (including appurtenant structures) to any mobile home lot boundary.

(4) Mobile home lot provisions. All mobile home lots must make provisions for the following items:

a. Mobile home pad. The mobile home pad shall be defined as the outline of the actual mobile home including the paved portion of any outdoor living area or attached deck area. If structural additions to a mobile home are proposed or anticipated, such as carports, attached rooms, decks and attached storage areas, they shall be considered part of the mobile home pad. No pad shall be within twenty (20) feet of another pad. No pad shall be within fifteen (15) feet of the paved street or driving surface. All mobile home pads shall be concrete. The mobile home pad must be shown on the preliminary plan and final plat for mobile home subdivisions and on the special review use site plan for mobile home parks.

b. Storage buildings. All mobile home lots shall be provided with one (1) storage building with a minimum square footage of sixty-four (64) square feet. Building materials composing the exterior facade must be consistent with materials used in the park and with each other. Storage buildings shall be provided at the time of final certificate of occupancy for the park or individually when each lot becomes occupied.

c. Utility corridor. A minimum five-foot-wide utility corridor that is aligned adjacent and parallel to the mobile home pad is required. Utility corridors must be shown on the preliminary plan and final plat for mobile home subdivisions and on the special review use site plan for mobile home parks.

d. Skirting. Skirting shall be applied to all mobile homes within three (3) months after mobile homes have been moved onto mobile home pads. Skirting shall be of an impervious material compatible with the exterior siding of the mobile home. (Ord. 91-10 §1(part))

**17.52.040 Variances.**

Any owner of a mobile home park may make application to the Planning and Zoning Commission for a variance from the provision of this Chapter. Such application may be granted upon a showing that compliance with the provision would be a hardship and that noncompliance will not cause any hazard to the health, safety or welfare of the inhabitants of the mobile home park. (Ord. 91-10 §1(part))

**17.52.050 Conflicting provisions.**

Nothing contained herein shall be construed so as to relieve compliance with all other applicable ordinances of the Town and state statutes. Whenever any provision of this Chapter conflicts with any provision of any other ordinance of the Town or state statute, the more restrictive provision shall control. (Ord. 91-10 §1(part))