

CHAPTER 17

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ARTICLE 1

General Provisions

Sec. 17-1-10. Authority.

The Town Council hereby finds, determines and declares that it has the power to adopt these subdivision regulations pursuant to Sections 29-20-104, 31-23-213 and 31-23-214, C.R.S., and the powers granted to home rule municipalities in Colorado by Article XX of the Colorado Constitution. (Prior code 15-3-1)

Sec. 17-1-20. Purpose.

These subdivision regulations are intended and designed to protect the health, safety and welfare of the citizens of the Town by:

(1) Helping to ensure the orderly and efficient development of the Town;

(2) Establishing minimum standards for the design of land subdivisions to ensure that all public and private facilities are provided while also protecting the land form, streams, wildlife and vegetation from the effects of development, such as erosion, pollution, loss of wetlands and open spaces, and other forms of environmental deterioration;

(3) Apportioning the costs of public services and facilities serving subdivision residents through the payment of fees, provision of facilities and dedication of land and rights-of-way to the Town in order to assure that new development pays its way and does not burden the Town's fiscal resources;

(4) Requiring disclosure to purchasers of known, suspected or potential hazards;

(5) Assuring future buyers of land that the subdivider owns the land proposed to be sold, provides access to each building site and constructs and provides for the maintenance of improvements, utilities and amenities;

(6) Obtaining accurate surveying and a permanent public record of the separate interests created by subdivision; and

(7) Implementing the Crested Butte Land Use Plan, including the Crested Butte Three-Mile Plan. (Prior code 15-3-1)

Sec. 17-1-30. Compliance required; jurisdiction.

(a) From and after the effective date of these regulations, it shall be unlawful for any person to subdivide or develop real property, sell any real property or transfer any interest in real property, including a condominium interest, which is part of a subdivision of a larger tract of land which has not been approved by the Town for subdivision if applicable, nor shall any person offer for recording any deed conveying such land, or any interests therein in the Town, unless there shall be on file with the County Clerk and Recorder a final plat of said subdivision, having the endorsement thereon of the appropriate Town authority.

(b) These subdivision regulations shall apply to any lands annexed to the Town; to any lands within the Town that are not subdivided and will be subdivided, or are subdivided and will be resubdivided; to any lands within the Town that have no publicly dedicated streets providing access to each subdivided lot, tract or parcel; to any lands within the Town which are not zoned and for which zoning for a nonagricultural use is requested; and to a P.U.D. application for more than eight (8) lots, tracts or parcels.

(c) No interest in land shall be transferred, conveyed, sold, subdivided or acquired to create or extend a nonconformity, or to avoid or circumvent any provision of these subdivision regulations.

(d) No construction of major subdivision improvements shall be started until:

(1) The final plan, including the subdivision improvement agreement, has been approved by the Town in accordance with these subdivision regulations; and

(2) The final plat has been approved by the Town and recorded.

After the improvement plans have been filed as part of the final plan, and the approval of the Town has been obtained, the subdivider shall construct the required improvements according to the approved or properly amended improvement plans.

(e) A written agreement to sell or lease an interest in land which is expressly conditioned upon full compliance by the seller with these subdivision regulations within a specified period of time, and which expressly recites that the seller's failure to satisfy such condition within said period of time may terminate the agreement and entitle the buyer to the prompt return of all consideration paid by the buyer, at the buyer's option, shall not constitute a violation of these subdivision regulations.

(f) No building permits of any kind for the construction of any building or other improvements upon any land to which these regulations apply shall be issued by the Building Official or any other administrative officer of the Town, unless and until all requirements of these subdivision regulations have been met, including demonstrating that the building site has access to a public street.

(g) No subdivision plat shall be filed or recorded for the territory within three (3) miles of the Town limits, except the area on the Mt. Crested Butte side of a line equally distant from the respective municipal limits of the Town and Mt. Crested Butte, until it has been approved by the Planning Commission as provided in Sections 31-23-212, 31-23-213 and 31-23-214, C.R.S. (Prior code 15-3-1; Ord. 4 §1, 2009)

Sec. 17-1-40. Interpretation.

(a) Existing subdivision agreements and covenants. This Article shall not apply to final plats recorded prior to the effective date of the initial ordinance codifying these subdivision regulations unless all or any portion of lands within the property depicted on the final plat is proposed for resubdivision in such manner as to fall within the definition of a subdivision under these subdivision regulations. In the instance of areas of land contained within a recorded subdivision of the original Town Plat which are proposed for resubdivision into new parcels, the resubdivision shall comply with all provisions of these subdivision regulations except for those which, in the opinion of the Planning Commission, have substantially complied with the requirements of these subdivision regulations prior to the original filing. These subdivision regulations are not intended to repeal, abrogate, annul or in any way impair or interfere

with existing provisions of private agreements or restrictive covenants running with land to which the Town is a party. Where these subdivision regulations impose a greater restriction than that imposed by an existing easement, covenant or other private agreement, the provisions of these subdivision regulations shall govern.

(b) Public provisions. This Article is not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute or other provision of law not specifically repealed in the initial ordinance codifying these subdivision regulations. Where any provision of these subdivision regulations impose a restriction or standard different from those imposed by any other ordinance, rule, regulation or other provision of law, the more restrictive or the higher standard shall control. (Prior code 15-3-1; Ord. 4 §1, 2009)

Sec. 17-1-50. Compliance with zoning and simultaneous applications.

It is the intent of these subdivision regulations that they be carried out simultaneously with provisions of this Chapter and other applicable regulations, ordinances, codes and rules. All final plats and plans submitted must be in a form which satisfies provisions of this Chapter and other applicable ordinances. (Prior code 15-3-1; Ord. 4 §1, 2009)

Sec. 17-1-60. Severability.

(a) It is hereby declared to be the legislative intent of the Town Council that the multiple provisions of these subdivision regulations shall be severable as set forth in the ordinance codifying these subdivision regulations.

(b) If the application of these subdivision regulations is declared to be invalid by a decision of any court of competent jurisdiction, then:

(1) The effect of such decision shall be limited to that area of land immediately involved in the controversy, action or proceeding in which the judgment or decree of invalidity was rendered; and

(2) Such decision shall not affect, impair or nullify these subdivision regulations as a whole or the application of any provision thereof to any other lands. (Prior code 15-3-1)

Sec. 17-1-70. Save harmless; disclaimer of liability.

(a) As a condition of subdivision approval, the landowner shall agree to save the Town, its officers, employees and agents harmless from any and all costs, including reasonable attorneys' fees, damages and liabilities which may occur by reason of any work performed upon any subdivision platted under these regulations. This condition shall be contained in the subdivision improvements agreement executed by the landowner as part of the subdivision of land.

(b) These subdivision regulations shall not be construed as imposing upon the Town, or any official or employee of the Town, any liability or responsibility for damages of any kind to any person or property by reason of these subdivision regulations. (Prior code 15-3-1)

Sec. 17-1-80. Amendments.

The procedures, standards and criteria contained in these regulations may from time to time be supplemented, changed, modified or repealed, and any such amendment shall be promulgated by using the same procedures set forth in Chapter 16, Article 23 of this Code, by any person, group or agency. (Prior code 15-3-1)

Sec. 17-1-90. Presumption of validity.

All provisions of these subdivision regulations are presumed to be valid and enforceable. In any challenge to the validity of any provision hereof, the burden of proof shall rest with the person bringing the challenge. (Prior code 15-3-1)

Sec. 17-1-100. Definitions.

The following words and phrases shall have the meaning indicated. Terms and phrases not defined herein shall have the meanings indicated by Chapter 16 of this Code. Where terms or phrases are not defined, the commonly understood meanings shall apply.

Affordable housing means resident-occupied, deed-restricted affordable housing limited to specific segments of the market by deed restriction. The intended beneficiaries for such housing are people who qualify for affordable housing in major subdivisions and who cannot afford unrestricted market sale or rental prices for housing. Such housing is designed to rent or sell for amounts that are commensurate with Upper East River Valley incomes. Part IV of the *Affordable Housing Guidelines for Major Subdivisions in Crested Butte* describes in detail the requirements and limitations of affordable housing and those who qualify for affordable housing in major subdivisions.

Alternate transportation facilities means any structures, land areas or other infrastructure designed to facilitate transportation that does not use, or is not dependent upon, automobiles.

Board means the Town's Board of Zoning and Architectural Review.

Building Official means the Town's Building Official or his or her designee.

Building site means the lot, tract or parcel area required or used for the construction or location of buildings. This is a generic term for land that may be conveyed to individuals for construction of improvements. Because the Town was originally platted into lots that are three thousand one hundred twenty-five (3,125) square feet, and because these lots are smaller than the minimum residential building site in the Town, the following terms shall apply to areas of land used for building sites depending upon their location or the process used to create them:

a. Lot: All land in Blocks 1 through 65 and Lots 17 through 32 in Block 66, will be legally described as the historical Blocks and lots defined on the original Town Plat prior to resubdivision.

b. Tract: All land within the Town and outside of the above-described area shall be legally described as Blocks and tracts prior to the resubdivision.

c. Parcel: Any combination of or change in lots or tracts, regardless of location, that is the result of resubdividing land through the use of the minor or major subdivision process. After a

resubdivision, each building site will receive a parcel designation such as A, B, C or D, and each parcel will be legally described as part or all of a lot or lots, or part or all of a tract or tracts.

Cluster means to place all the development on a smaller portion of the property, leaving a larger percentage of the property open and unencumbered with buildings, streets or other development. Clustered is not dispersed.

Dwelling unit, multi-family means a building or portion thereof designed exclusively for occupancy by four (4) or more families living independently of each other in separate residential units.

Dwelling unit, one-family means a detached building designed exclusively for occupancy by one (1) family, in one (1) residential unit.

Dwelling unit, two-family means a structure consisting of a single building designed exclusively for occupancy by two (2) families living independently of each other, in two (2) separate residential units contained therein.

Easement means a right granted by the property owner, generally established in a real estate deed or on a recorded plat, to permit the use of land by the public, a public agency, a utility, a business entity or particular persons for a specified purpose or use.

Excessive slope review area. See Section 16-10-20 of this Code.

FAR or floor area ratio. See Section 16-1-20 of this Code.

Final decision means a written decision on a specific application for subdivision which has been rendered by the Planning Commission or Town Council, as the case may be.

Floodplain means any area subject to a one-percent or greater chance of flooding in any given year, or the area that can be anticipated to be inundated by the one-hundred-year frequency storm.

Front tract or parcel line means the property line dividing a tract or parcel from the street or, in the absence of a street, from an alley. On a corner tract or parcel, only one (1) street shall be considered as a *front tract or parcel line*, and the shorter street frontage shall be considered the *front tract or parcel line* unless permission otherwise is granted by the Board. On a corner lot which is square, the *front tract or parcel line* shall be determined by the Board.

Ghosting means and refers to a technique for drawing which lightly places objects or lines on a drawing for reference purposes with the proposed development. Usually objects or other lines that are shown by *ghosting* are drawn lightly with dashed lines.

Hazardous areas means and includes floodplains, avalanche areas, rock fall, landslide and debris flow areas, wildfire areas labeled B, C or X on the wildfire map in the Crested Butte Area Plan, thirty-percent or greater slopes and other areas posing a risk to public health or safety.

High quality wetland means a high quality wetland performing at least one (1) wetland function to a high degree. Functions performed by wetlands in the vicinity of the Town include groundwater discharge, flood storage, sediment retention, shoreline anchoring, water quality improvement, wildlife habitat and aquatic food chain support. These functions are explained in "Wetlands of the Crested

Butte Region," by David J. Cooper, Ph.D. Ecologist, 1993, and have been further refined in Article 13 of this Chapter. These functions provide critical environmental benefits for the Slate River valley. *High quality wetlands* may also be wetlands supporting plant or animal species of national, state or regional concern as listed by the U.S. Fish and Wildlife Service, other federal agencies, the State, the County or the Town. Sites that are hydrologically connected to high quality wetlands, and proposed modifications of the surface water or groundwater on those sites that could adversely affect high quality wetlands, must be carefully considered prior to allowing development on these sites to prevent negative impacts to high quality wetlands. Wetlands which could be restored to high quality wetlands by the removal of drainage ditches, cessation of irrigation, grazing, vegetation removal, metal pollution or streambed degradation should be considered potential high quality wetlands. The Planning Commission is the body that makes the final determination about whether a wetland is a high quality wetland.

Hydrologic gradients means the elevation differences between the water table in different portions of a wetland study area.

Improvement plans means the plans submitted by the subdivider that describe how the subdivision will be built. They include but are not limited to the following: site plans, landscaping plans, grading plans, utility plans, revegetation plans and dust abatement plans.

Land Use Plan means the Crested Butte Land Use Plan. This is a master plan for the physical development of the Town, adopted by the Planning Commission, including any areas outside of the Town's boundaries, subject to Sections 31-23-206 and 31-12-105(1)(e), C.R.S., which in the Planning Commission's judgment bear relation to the planning of the Town. Such plan, with the accompanying maps, plats, charts and descriptive matter, shall show the Planning Commission's recommendations for the development of said territory. The Crested Butte Area Plan is a part of the Land Use Plan. As the work of making the whole Land Use Plan progresses, the Planning Commission may from time to time adopt and publish parts thereof. The Planning Commission may amend, extend, delete or add to the Land Use Plan from time to time.

Local housing means permanently deed-restricted housing. The intended beneficiaries for Local Housing are people who cannot afford unrestricted sale or rental housing prices. At a minimum, the occupants of Local Housing are a variety of mixed income people who earn at least eighty percent (80%) of their income in Gunnison County. "Earned Income" is defined by the Internal Revenue Service. (IRC §32(c)(2)). Other restrictions such as maximum income, maximum assets and/or maximum resale price may also be a part of a deed restriction on Local Housing.

Lot. See *building site*.

Lower quality wetlands means wetlands that are not high quality. Evidence of low quality may include, but is not limited to, low diversity of vegetation, stream widening, loss of riparian vegetation or lowered water tables.

Major subdivision means a subdivision having the characteristics set forth in Section 17-3-30 of this Chapter.

Minor subdivision means a subdivision having the characteristics set forth in Section 17-3-20 of this Chapter.

Open lands means lands preserved in perpetuity by the subdivider to be open and free of all buildings or structures or other impediments to being preserved as an open area. Some structures may be allowed such as agricultural barns, but only as agreed to by the Town. *Open lands* typically include but are not limited to the following: unique and/or fragile areas, steep slopes, critical or significant wildlife habitat, historically significant structures and sites, and areas which have historically provided, or are reasonably identified as desirable for, open space or public access to public lands.

Open space means areas of land that are free of structures or other buildings. Some open space may be preserved in perpetuity by a landowner to remain open space. Other open space is open but may not be preserved in perpetuity.

Parcel. See *building site*.

Planning Commission means the Crested Butte Town Council acting as the Town Planning Commission, pursuant to Ordinance No. 12, Series 1993, and Colorado law.

Property. When *Property* is capitalized, it means the real property being subdivided and all contiguous land owned or under option by the same owner or entity.

Proposed subdivision means the area of land proposed for subdivision.

Public notice for a public hearing, unless otherwise provided by this Article, means all of the following:

a. Notice by the Town. The Town shall publish notice of the date, time, place, reviewing entity and purpose of the hearing, the location of the development, using a commonly known description, and the type of approval requested, in the Town's newspaper of record. Notices shall be published at least two (2) times: at least thirty (30) but not more than thirty-seven (37) days, and a second at least ten (10) days but not more than seventeen (17) days prior to the date of the public hearing. Notice shall also be posted in the Town's official posting place.

b. Notice by the subdivider.

1. The subdivider shall post the proposed subdivision at least thirty (30) days prior to the public hearing. The signs posting the lands to be subdivided shall be located on all sides of the proposed subdivision and shall be spaced no more than two hundred sixty-six (266) feet apart on public streets and roads along the perimeter of the proposed subdivision. The public notice shall describe the date, time, place, reviewing entity and purpose of the hearing, the location of the development, using a commonly known description, and the type of approval requested. The signs shall be provided by the Town.

2. The subdivider shall send notification to tenants of the lands to be subdivided and landowners within three hundred (300) feet of the proposed subdivision, by first class mail, at least thirty (30) but not more than thirty-seven (37) days prior to the public hearing to discuss the proposed subdivision. The notice shall state the date, time, place and purpose of the public hearing, the location of the development, using a commonly known description, the type of approval requested and that any questions or comments may be directed to the Planning Department or to the Planning Commission when it meets to discuss the proposed subdivision.

3. An affidavit stating that the subdivider has posted the lands to be subdivided and has notified the proposed subdivision tenants and abutting land owners, in accordance with this Section, shall be submitted to the Planning Director prior to the public hearing. Such affidavit shall be made a part of the record related to the approval or denial of the subdivision plat.

Public right-of-way means public property upon which the following may exist:

- a. Streets and alleys as defined in Section 16-1-20 of this Code;
- b. Sidewalks, bridges, pedestrian and other trails, and other related public improvements; or
- c. Other unimproved lands reserved for the uses listed above.

Raw land means land that has not previously been subdivided and recorded.

Recognized environmental conditions means presence or likely presence of any hazardous substances or petroleum products on a property under conditions that indicate an existing release, a past release or a material threat of a release of any hazardous substances or petroleum products into structures on the property or into the ground, groundwater or surface water of the property. The term includes hazardous substances or petroleum products even under conditions in compliance with laws. The term is not intended to include de minimis conditions that generally do not present a material risk of harm to public health or the environment and that generally would not be the subject of an enforcement action if brought to the attention of appropriate governmental agencies.

Record or recorded means submission and acceptance of documentation as a public record by the County Clerk and Recorder.

Residential unit means one (1) or more rooms, in addition to separate kitchen and bath facilities, intended or designed for occupancy by a family, independent of other families, on a long-term basis. (See Chapters 13 and 16 of this Code.)

Resource areas means lands that generally have the following characteristics. They are areas determined by the Town to be valuable to the residents of the community because they preserve important resources in the vicinity of the Town. They include wildlife areas, wetlands and visual resources. The general locations of these areas are mapped on maps that are one (1) inch equals one thousand (1,000) feet and located in the Planning Office. Reduced copies are included in the Crested Butte Area Plan. The maps are titled:

- a. Wetlands Crested Butte Area Plan.
- b. Visual Resources Crested Butte Area Plan.
- c. View Shed Crested Butte Area Plan.

The location of *resource areas* may be clarified during the subdivision review process with more refined information as discussed in the Crested Butte Area Plan.

Resubdivision means the proposed subdivision of land depicted within an existing subdivision plat or the original Town Plat.

Ridgeline means the crest or brow of a hillside located at the top of a hillside. When traveling up a hillside, the ridgeline is the point where one reaches the top of the hillside and where, if movement is continued in the same direction, one begins to descend down the other side.

Significant means important and of consequence. The Planning Commission is the body that determines the issue of significance.

Special flood hazard area. See Section 16-1-20 of this Code under *Area of special flood hazard*.

Stratigraphy, as used in these subdivision regulations means and refers to profiles of soil. *Stratigraphy* is a geological term. In these subdivision regulations it refers to how the soils are changing across the site. This information is necessary because soils can vary significantly in short distances, which will affect designs for roads, utilities and buildings.

Street. See Section 16-1-20 of this Code. For purposes of this Chapter, a *street* shall include avenues, which run in an east-west direction. Streets are local streets unless otherwise stated.

Street, arterial means an interregional road conveying traffic between neighborhoods or zone districts. Efficient movement of higher volumes of traffic is the primary function of *arterial streets*. Private access and frontage onto arterial streets should be limited or avoided. An *arterial street* may also accommodate public transit such as buses.

Street, collector, as the principal collecting street within residential or commercial areas, carries relatively high traffic volumes and conveys traffic from arterial streets to lower volume streets. Its function is to promote the free flow of traffic. The collector's secondary function is to serve abutting land uses. A *collector street* may also accommodate public transit such as buses.

Structures. See Section 16-1-20 of this Code.

Subdivider means the applicant for subdivision approval or his or her successor. The *subdivider* shall be the owner of the Property or the authorized representative of the owner. (See Section 17-2-10 of this Chapter.)

Subdivision means any area of land within the Town, or proposed for annexation into the Town, which is divided into two (2) or more lots, tracts, parcels or separate interests, and any lots, tracts, parcels or separate interests of land which are combined with other lots, tracts or parcels by vacating the existing lot, tract or parcel lines or changing the legal description of the existing lot, tract or parcel, unless such lot, tract, parcel or separate interests are created by the acquisition of an interest in land, without changing the legal description of the existing lot, tract or parcel as a joint tenant or tenant in common. *Subdivision* includes the division of residential or nonresidential zoned land, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat or other recorded instrument. *Subdivision* includes resubdivision, which is the division or consolidation of existing recorded lots, tracts or parcels of land into two (2) or more parcels or other divisions of land for the purpose, whether immediate or future, of sale or for development.

Subdivision improvements means all improvements within a subdivision required by the Town or proposed by the subdivider or owner.

Substantial means material, considerable in importance, value, degree, amount or extent. The Planning Commission is the body that determines the issue of substantiality.

Town means the Town of Crested Butte, Colorado.

Town Council means the Town Council of the Town of Crested Butte.

Town Plat means the official Town Plat of the Town of Crested Butte, dated September 7, 1964.

Tract. See *building site*.

Turnaround means a wide area usually found in a dead-end road used to allow emergency and other vehicles to turn around. Turnarounds are usually as wide as cul-de-sacs.

Wetlands means those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. *Wetlands* generally include wet meadows, fens, riparian areas and other similar areas. High quality wetlands include wetlands that were naturally occurring high quality wetlands, as demonstrated by areas where native wetland vegetation still persists, that could be restored to high quality wetlands. For purposes of this definition, the procedures used to identify a wetland are as described in the 1987 Army Corps of Engineers Wetland Delineation Manual.

Zoning map means the Official Zoning District Map for the Town of Crested Butte, Colorado. (Prior code 15-3-2; Ord. 11 §1, 1997; Ord. 20 §3, 1997; Ord. 16 §2, 2006; Ord. 4 §1, 2009)

ARTICLE 2

Administrative Provisions

Sec. 17-2-10. Subdivision by owner or agent.

No person other than the owner of land may subdivide land or make application to subdivide land without first having obtained a properly acknowledged power of attorney, granting the power and authority to subdivide such land on behalf of the owner thereof. If the subdivider is not the sole owner of the property, a properly notarized letter shall be submitted, signed by the other owners or an association representing the owners, consenting to or joining in the subdivision application. The letter shall state the representative's name, address and telephone number. If a professional planner or other agent represents the owners at meetings with the Town, or draws the plans, all applications will be signed by the owners. (Prior code 15-3-3)

Sec. 17-2-20. Prerequisites for subdivision review and approval.

- (a) Prior to review of any subdivision, the Property must:
 - (1) Be within the Town limits; or
 - (2) Be the subject of an annexation application.

(b) No Property shall be subdivided unless it is first zoned. (Prior code 15-3-3)

Sec. 17-2-30. Fees.

The subdivider shall pay the following fees as a requirement of subdivision approval. Failure to pay any fee, cost or expense required by this Article shall require denial of any application.

(1) Review fees.

a. Minor subdivision: A fee as established by resolution of the Town Council.

b. Major subdivision: The following fees shall be paid at the time of application submission for each step of the subdivision process. Applications for each stage of the subdivision review process shall not be reviewed by the Planning Commission or Board, as appropriate, until the fees are paid for the appropriate stage of subdivision review. The final plat shall not be recorded until all fees are paid:

1. Sketch plan: A fee as established by resolution of the Town Council plus a fee as established by resolution of the Town Council per proposed residential unit and a fee in an amount established by resolution of the Town Council per two thousand five hundred (2,500) square feet of land to be subdivided for the proposed business, commercial or other use.

2. Preliminary plan: A fee as established by resolution by the Town Council plus a fee as established by resolution of the Town Council per proposed residential unit. A fee in an amount established by resolution by the Town Council plus a fee established by resolution of the Town Council per two thousand five hundred (2,500) square feet of land to be subdivided for the proposed business, commercial or other use.

3. Final plan: A fee as established by resolution of the Town Council.

(2) Publication fee. The subdivider shall pay the cost of publication for each publication required prior to submission of all publications to the official newspaper of the Town. If republication is necessary due only to Town error, the Town will pay the republication charge.

(3) Mailing fee. The subdivider shall notify land owners within three hundred (300) feet of the proposed subdivision and tenants of the Property as required in the sketch, preliminary and final plan stages. All other mailing expenses incurred by the Town shall be reimbursed by the subdivider within fifteen (15) days of submission of an invoice for costs from the Town.

(4) Other fees. The subdivider will also be required to pay for actual, reasonable costs incurred by the Town, for services of the Town Attorney, other professional services, consultants or review agencies which charge for their review, during the review and consideration of the proposed subdivision under these regulations. The Town will send invoices to the subdivider for expenses incurred as the Town is billed. Such invoices sent prior to the next formal decision by the Town must be paid prior to that decision. Invoices not paid prior to the decision shall be cause to deny the application or table the decision until the fees are paid. (Prior code 15-3-3)

Sec. 17-2-40. Adequacy of applications.

(a) All materials and information, as required by applicable sections of these regulations, including applications, fees, sketches, maps, plans, plats and reports, must be submitted to the Planning Director, complete in every detail.

(b) Any item or application which is not complete or which is not otherwise in compliance with these regulations shall be placed on a meeting agenda of the Board, Planning Commission or the Town Council. The Planning Director shall determine the compliance of each application and shall be the authority for placing any application or item on an agenda. (Prior code 15-3-3)

Sec. 17-2-50. Penalty for knowing misrepresentation.

A subdivider's knowing presentation, submission or representation to the Town of incorrect or false information or data associated with any subdivision application shall be a violation of this Code and shall be punishable as provided in Section 16-24-20 of this Code. (Prior code 15-3-3)

Sec. 17-2-60. Changes and erasures on final plat.

No changes, erasures, modifications or revisions shall be made on the final plat after approval by the Board or Planning Commission, as appropriate, without specific approval, in writing, by the Board or Planning Commission, as appropriate. Any such revisions shall be indicated on the final plat. (Prior code 15-3-3)

ARTICLE 3

Major and Minor Subdivisions Generally

Sec. 17-3-10. Descriptions.

There are two (2) types of subdivision review processes in the Town. They differ in terms of scale, the number of steps involved in the review process and the materials which must be submitted for review. All subdivision activities fall within one (1) of these subdivision types. Condominiumization and the creation of townhouses are not subdivision activities. The minor subdivision review process shall not be used to circumvent the requirements of the major subdivision review process. The two (2) types of subdivisions are characterized in Sections 17-3-20 and 17-3-30 below. (Prior code 15-3-4; Ord. 24 §1, 1998)

Sec. 17-3-20. Characteristics of minor subdivisions.

- (a) A minor subdivision is any one (1) or more of the following activities:
 - (1) A minor relocation or adjustment of an easement on a final plat or a building site or parcel line.
 - (2) A correction of an engineering or survey error or other minor change to a recorded plat which has no effect on the representations made and conditions applied to the approval of the recorded plat.

(3) A vacation of a building site, lot, parcel or tract line.

(4) A resubdivision creating eight (8) or fewer parcels from lots if:

a. No new public dedications are necessary for public or private services as determined by the Town;

b. The property is zoned;

c. Each building site is adjacent to a street, thereby having access to such street; and

d. Each resulting parcel conforms with the dimensional requirements of the existing zone district.

(5) A resubdivision creating four (4) or fewer parcels from tracts if:

a. No new public dedications are necessary for public or private services;

b. The property is zoned;

c. Each building site is adjacent to a public street, thereby having access to such street; and

d. Each resulting parcel conforms with the dimensional requirements of the existing zone district.

(6) A subdivision or resubdivision of land zoned public.

(b) No more than one (1) such minor subdivision shall be approved in any twelve-month period for the same land owner or his or her representative.

(c) This process may result in the creation of parcels described as parts of lots or tracts. (Prior code 15-3-4; Ord. 6 §2, 1996)

Sec. 17-3-30. Characteristics of major subdivisions.

(a) A major subdivision is a subdivision or resubdivision which meets one (1) or more of the following criteria:

(1) A resubdivision creating more than eight (8) parcels from lots.

(2) A resubdivision creating more than four (4) parcels from tracts.

(3) A subdivision creating any number of tracts from raw or unimproved land.

(4) A resubdivision in the business, commercial or tourist zone districts that:

a. Does not conform to all dimensional requirements in the applicable zone district;

b. Creates more than the existing number of nonconforming parcels; or

c. Creates more than four (4) parcels.

(5) A subdivision which is not otherwise a minor subdivision.

(b) Any application for a P.U.D. which contains more than twenty-five thousand (25,000) square feet of land shall be required to comply with the procedures and requirements of a major subdivision, whether or not a subdivision is actually proposed. This requirement shall not, however, apply to lands platted and zoned within the Town prior to July 20, 2007, which shall be reviewed for approval as a P.U.D. only under the Town's P.U.D. requirements. (Prior code 15-3-4; Ord. 15 §2, 2007)

Sec. 17-3-40. Exemptions.

The following divisions of unimproved land shall be exempt from these subdivision regulations: the separation of up to six (6) existing platted lots, tracts or parcels separated by an existing platted lot, tract or parcel line if:

(1) All of the new building sites meet all requirements for the zoning district in which the land is located; and

(2) If all new building sites will have access to an existing dedicated public street. (Prior code 15-3-4)

ARTICLE 4

Minor Subdivisions

Sec. 17-4-10. Application for Building Official review.

All minor subdivision applications must be reviewed for approval by the Building Official or the Board as set forth in Sections 17-4-20 and 17-4-30 below. All applications for approval of a minor subdivision shall be processed by making an application to the Building Official. The application shall include the following minimum information:

(1) The required application fee.

(2) The legal description of the Property and proof of ownership of the Property acceptable to the Town.

(3) Location Improvement Certificate certified by a Colorado licensed surveyor.

(4) Floor plan of any existing structures sufficient to allow the Building Official to calculate the Floor Area Ratio (FAR).

(5) A map of the proposed subdivision parcels sufficient to determine the size and area of each proposed parcel, and describing each such parcel as a portion of a lot, tract or parcel, or lots, tracts or parcels on the Town Plat. The map shall also identify the location of all public rights-of-way, the location and size of the vehicular access to each parcel and to each structure, and the location of all utilities and all public facilities.

(6) A narrative statement describing the following:

- a. How fire protection will be provided;
- b. Whether there is any potential for damage to public or private property by fire, flood erosion or snow slides and what mitigation measures will be undertaken to minimize such damage;
- c. How emergency access will be provided;
- d. How flood protection will be provided; and
- e. A description of the proposed access to each proposed parcel.

(7) A copy of the restrictive covenants that have been recorded and affecting the lots, tracts or parcels that are the subject of the resubdivision.

(8) Any other information or documents requested by the Town that are necessary to render a decision under the criteria of Sections 17-4-20 or 17-4-50 below, as applicable. (Prior code 15-3-5; Ord. 24 §2, 1994; Ord. 11 §4, 1997; Ord. 24 §3, 1998)

Sec. 17-4-20. Procedure for Building Official approval.

(a) The Building Official may approve the resubdivision if he or she determines from the above information that:

- (1) All such proposed parcels are divided by, or parallel to and the same length as, the original lot, tract or parcel lines on the Town Plat.
- (2) All of the developed proposed parcels have the maximum yard setbacks which can be required for the existing structures.
- (3) All structures on proposed parcels do not exceed the FAR allowed "as a matter of right" in the subject zone district;
- (4) All of the proposed area parcels conform with the dimensional characteristics of lots or tracts in the applicable zone district of Chapter 16 of this Code.
- (5) The minor subdivision application creates no more than two (2) parcels.
- (6) None of the proposed parcels violates Section 17-4-50 below or Sections 16-11-160 or 16-19-70 of this Code.

(b) The Building Official's decision shall be in writing, shall list the reasons for the decision and shall be sent to the subdivider no more than thirty (30) days after receipt of a complete and conforming application. (Prior code 15-3-5; Ord. 24 §3, 1998)

Sec. 17-4-30. Application for Board review.

(a) If the Building Official determines that any of the above criteria has not been met, or if the above required minimum information is deemed by the Building Official to be insufficient to make the required determinations, the Building Official shall refer the matter to the Board for consideration. In such case, the applicant shall provide to the Town the information and documentation contained in Subsection (b) below.

(b) A final plat of the resubdivision proposal shall be provided. The final plat shall be prepared by a Colorado licensed surveyor on twenty-four-inch-by-thirty-six-inch sheet size and shall contain the following:

- (1) Scale no less than one (1) inch to thirty (30) feet;
- (2) A legal description of the existing lots or tracts and proposed parcels within the resubdivision, identifying the proposed parcels as parts of lots or tracts and blocks on the Town Plat;
- (3) All Town boundary (if applicable), lot, tract and parcel lines, easements and rights-of-way;
- (4) All such lines with exact lengths and land bearings, which shall close within the limits of one (1) in ten thousand (10,000);
- (5) The location of any existing and proposed public rights-of-way, having their width, curves, radii and other dimensions clearly shown;
- (6) The existing and proposed names of streets within the resubdivision;
- (7) The location of any existing and proposed snow storage areas;
- (8) The proposed use of parcels within the resubdivision; and
- (9) The name of the subdivision or the original Town Plat, within which the property lies and the wording required in Appendix I to this Code. (Prior code 15-3-5; Ord. 11 §3, 1997; Ord. 4 §1, 2009)

Sec. 17-4-40. Procedure for Board review.

(a) Referral to Board. Upon a determination by the Building Official that an application is complete, the Building Official will refer the proposal to the Board for determination and cause the required notice to be published.

(b) Public hearing. The Board shall hold a public hearing on the proposed resubdivision to receive written or oral comment. Notice of the time, place and purpose of the public hearing shall be published in the official Town newspaper at least ten (10) days prior to the date set for the public hearing. The notice shall describe the resubdivision location by lots or tracts and blocks, and street address, if possible. The Building Official shall cause notices of the proposed resubdivision to be posted on the subject property for the same ten-day period.

(c) Approval by Board. No minor subdivision shall be approved unless the Board finds that it complies with all of the criteria in Section 17-4-50 below. If the resubdivision does not comply with all

of the above-referenced criteria, it shall either be approved with conditions which assure compliance with all such criteria, continued to a date certain or denied.

(d) Recording final approval. If a final plat has been required to be provided pursuant to Section 17-4-30 above, the finally approved final plat must be certified by the Board and Town Council as being in compliance with the requirements hereof and recorded in the real property records of the County. For all other final minor subdivisions approvals, the Building Official may require the applicant to record a document in the real property records of the County which sets forth the previous legal description of the subject Property, and the new legal description to be used following said final approval. (Prior code 15-3-5; Ord. 6 §2, 1998; Ord. 24 §3, 1998; Ord. 4 §1, 2009)

Sec. 17-4-50. Criteria for review and approval of minor subdivision.

(a) No minor subdivision shall be approved unless the Board finds that it complies with all of the following criteria. The resubdivision must:

(1) Comply with all applicable zoning requirements of the zone district in which the resubdivision is located.

(2) Have a front parcel line on a street only, and such parcel access shall have the following characteristics:

a. Said front parcel line must be at least twenty-five (25) feet long or the minimum lot width for the applicable zone district, whichever is shorter;

b. The vehicular access and parking to any primary structure on a parcel shall be from a street, and no extraordinary measures shall be utilized to provide said access;

c. Any such access must be from a street, must be a minimum of twenty-five (25) feet wide along its entire length, and must be owned in fee simple by the owner of the parcel being accessed;

d. The only exception to this requirement for access from a street is on Elk Avenue, where Section 16-16-30 of this Chapter states that no vehicular access shall be allowed from Elk Avenue directly to any off-street parking;

e. Notwithstanding the foregoing, the Board may permit such vehicular access to structures existing on January 1, 1992, to be not less than sixteen (16) feet wide when serving one-family dwelling units, and twenty-two (22) feet wide when serving multi-family dwelling units, provided that such access shall not exceed one hundred fifty (150) feet in length, if the Board determines that the twenty-five (25) foot minimum access requirement would be unreasonable based upon the structure and lot configuration;

f. Vehicular access to a primary structure from an alley, including the access required pursuant to this Paragraph (2), may be approved by the Board only if either one (1) of the following conditions exists:

1. The primary vehicular access existed from an alley prior to January 1, 1992; or

2. The division between resubdivision parcels is a stream or similar physical barrier preventing vehicular access from the street. In such case, the applicant shall provide additional land to create an alley at least twenty (20) feet wide from the subject parcel to the nearest Town street and upgrade the alley to Town standards or, in the absence thereof, to the approval of the Public Works Director;

(3) Provide for underground utilities to each building site.

(4) Provide for adequate fire and flood protection and emergency access.

(5) Not increase the potential for breach of the public safety, or damage to public or private property by fire, flood, erosion or snow slides.

(6) Not create congestion, automotive or pedestrian safety problems or other traffic hazards.

(7) Not use easements across another lot, tract or parcel for private primary vehicular access.

(8) Be designed in a manner that directs the placement of roads, utilities and structures away from any unstable soils, or mitigates the effect of unstable soils, geologic hazards and other site conditions so as to minimize the potential for breach of the public safety or damage to public or private property.

(9) Not create significant adverse effects to public facilities, rights-of-way or utilities.

(10) Not create significant adverse impacts on the use of adjacent property.

(11) Provide vehicular access easements onto Town streets for use by those lots, tracts or parcels which do not abut an avenue if within the B2 Business District.

(12) Otherwise be consistent and comply with the objectives, purposes, conditions and requirements of these subdivision regulations and Chapter 16 of this Code.

(13) Execute a subdivision improvements agreement memorializing the subdivider's or owner's obligation and agreement to construct, at the subdivider's or owner's cost and expense, all public and private utility and street improvements in accordance with the Town's utility and street standards. The subdivision improvements agreement shall be in substantial conformance with the subdivision improvements agreement attached as Appendix J to this Code, and shall be approved as to form by the Town Attorney.

(b) Any of the requirements of these subdivision regulations may be varied or waived, upon a referral by the Board of Zoning and Architectural Review to the Planning Commission, and a finding by the Planning Commission that the subdivider will be providing amenities to the Town over and above those already required by these regulations, that are of such benefit to the Town that requirements of these regulations may be varied or waived in return for the receipt of such amenities. (Prior code 15-3-5; Ord. 1 §1, 2002; Ord. 4 §1, 2009)

ARTICLE 5

Major Subdivisions

Sec. 17-5-10. Preapplication conference procedure.

(a) Preapplication conference. A conference between the subdivider and appropriate Town staff shall take place prior to the submission of any application for subdivision review. The purpose of the conference is to acquaint the Town with the subdivider's intentions concerning the proposed subdivision, to acquaint the subdivider with the substantive and procedural requirements of these subdivision regulations and to identify policies which create opportunities or pose constraints for the proposed subdivision.

(b) Preapplication submittals. The subdivider shall provide a scale drawing of the Property indicating the following for review at the preapplication conference:

- (1) Proposed lot, tract or parcel and block configurations;
- (2) The proposed density, number of units and population;
- (3) On-site and off-site traffic circulation;
- (4) Proposed land uses;

(5) The one-hundred-year floodplain as described on the Federal Emergency Management Agency or its successor agency maps;

(6) Any wetlands on the property as described in *Wetlands of the Crested Butte Region, 1993*, or as otherwise identified if not within the study area of that publication;

(7) Known, potential or suspected hazardous conditions; and

(8) Other information pertinent to the issues under consideration.

(c) Second preapplication conference. Following the initial preapplication conference and, at the discretion of the Planning Director, a second preapplication conference may be held where referral agencies as described in Subsection 17-5-40(c) below are asked by the Planning Director to attend to discuss issues that may be substantial during review of the subdivision proposal.

(d) Comments are preliminary. Any comments made by any member of the staff during the preapplication conferences are only preliminary in nature. Formal comments will not be made by the Town until after the sketch plan application is submitted and abutting property owners and referral agencies have had an opportunity to formally respond. (Prior code 15-3-6)

Sec. 17-5-20. Sketch plan procedure.

A subdivider seeking approval of a sketch plan shall follow the steps outlined below.

(1) Submit sketch plan. The subdivider shall submit a complete sketch plan application to the Planning Director containing those materials listed in Section 17-5-30 below.

(2) Staff review and referral. The Planning Director shall review the application to determine whether it is complete and complies with the requirements of the existing or proposed underlying zone districts, these subdivision regulations and the Town's Land Use Plan.

a. If the Planning Director finds the application is complete and so complies, the application shall be assigned an agenda date and referred to other appropriate departments for their comment.

b. If the application is incomplete or does not comply, it shall be returned to the subdivider and not be assigned an agenda date; and no further action shall be taken until its defects are remedied. The Planning Director shall provide written comments to the subdivider detailing the reasons why the application is incomplete.

(3) Public notice. Unless otherwise provided by this Article, public notice shall be provided prior to all public hearings required by this Article, as defined in Section 17-1-100 of this Chapter.

(4) Staff report. Prior to the public hearing to consider the application, the Planning Director shall prepare and forward a report to the Planning Commission summarizing whether the plan is in general conformance with these subdivision regulations, the existing or proposed underlying zone districts and the Town's Land Use Plan.

(5) Public action by Planning Commission.

a. The sketch plan public hearing will be reasonably scheduled with the Planning Commission so as to allow adequate time for the staff to prepare and distribute the staff report as determined by the Planning Director.

b. Information concerning any aspect of the proposed subdivision may be discussed at the sketch plan review.

c. Prior to any comments by the Planning Commission, or as a result of discussions with the subdivider, the Planning Commission may, at its discretion, request that the sketch plan be reviewed by the Board for specific recommendations, and may also refer the sketch plan to any or all of the following referral agencies for their review, comments and recommendations concerning said sketch plan:

1. Gunnison County Board of County Commissioners;
2. Gunnison County Planning Commission;
3. Mountain Express;
4. Town of Mt. Crested Butte;
5. Colorado Division of Wildlife;
6. Gunnison Trails Commission;

7. REIJ School District;
8. Crested Butte Fire Protection District;
9. Gunnison County Planning Department;
10. Colorado Geologic Survey; and/or
11. U.S. Army Corps of Engineers.

d. The Planning Commission shall conduct a public hearing to review the conformance of the sketch plan with all applicable general and specific design and improvement standards set forth in Articles 6 through 12 of this Chapter, the existing or proposed underlying zone districts and the Town's Land Use Plan. The Planning Commission is authorized to take action on the sketch plan and may either approve, approve with conditions or deny the sketch plan, based on specific findings of fact concerning substantial compliance of the proposed subdivision with this Article. The Planning Commission is also authorized, at its discretion or upon request by the subdivider, to table the proposed sketch plan to a date certain, so that the subdivider may make modifications or provide additional information before the Planning Commission takes action. If the subdivider submits such modifications or additional information for approval, the Town shall have at least twenty-one (21) days to complete the review of this material before assigning an agenda date for further consideration by the Planning Commission.

(6) Effect of sketch plan approval. Approval of the sketch plan, with or without conditions, shall constitute authorization for the subdivider to prepare and submit a preliminary plan in accordance with any conditions included in the sketch plan approval. Sketch plan approval shall be effective for a maximum of twelve (12) months unless, upon application for good cause, the Planning Commission grants an extension of time. Submittal of a complete preliminary plan application, even if for less than the entire area covered by the sketch plan, shall extend the duration of the sketch plan approval to a date six (6) months following the date of submittal of the preliminary plan. Approval of the sketch plan shall not be deemed to provide the subdivider with the right to begin conveying real property interests or to begin any subdivision improvements. (Prior code 15-3-6; Ord. 3 §3, 2008; Ord. 4 §1, 2009)

Sec. 17-5-30. Sketch plan submittals.

(a) Application. The application shall consist of the Subdivision Application Form, attached as Appendix K to this Code, and payment of the sketch plan fee and publication fee.

(b) Legal description. The sketch plan shall contain the legal description of the property and the legal description of the proposed subdivision.

(c) Site plan. The sketch plan site plan shall consist of the following:

(1) The name of the proposed subdivision (the subdivision name shall be followed by the term "Sketch Plan"):

- a. The name shall consist of alphabetic characters only.

- b. If the land to be subdivided is part of an existing subdivision, the name shall include the name of the existing subdivision.
 - c. The name of the proposed subdivision shall not be the same or similar to any name used in a recorded plat in the County, unless the subdivision is part of an existing subdivision.
- (2) Date of preparation, written and graphic scale, and north arrow designated as true north (each revised drawing shall have a new date).
- (3) Contour lines related to an established benchmark or other datum approved by the Town Engineer and having contour intervals as follows:
- a. For slopes less than ten percent (10%), one-foot contours.
 - b. For slopes ten percent (10%) or greater, five-foot contours.
- (4) Schematic representation of the proposed subdivision, including:
- a. General location and type of all units.
 - b. Existing or proposed zoning.
 - c. Location, shape and size of all tracts or parcels, recreation areas, open lands, off street parking and snow storage areas.
 - d. Proposed landscaping.
- (5) The proposed internal vehicular and pedestrian access scheme and the surrounding public road and pedestrian systems which provide access to the Property.
- (6) All recorded easements and rights-of-way which are within the proposed subdivision, within one hundred (100) feet of the proposed subdivision or which could affect the proposed subdivision.
- (7) All existing structures, utilities and other physical features which could affect the proposed subdivision.
- (8) Significant natural, human-made and topographic features, including but not limited to:
- a. Rock outcroppings or other prominent geologic features.
 - b. Drainage ways and ditches.
 - c. Agricultural ditches.
 - d. Bodies of water.
 - e. The location and direction of all water courses and the location of all areas subject to the one-hundred-year floodplain within the Property or within one hundred (100) feet of the Property,

and the estimated flow rate used in determining the one-hundred-year floodplain location, based on an independent engineer's calculations.

f. Natural hazards.

g. Hazardous or toxic deposits.

h. Wildlife habitat areas.

i. The location, size and type of existing vegetation, including the location of willows and shrubs at least two (2) feet in diameter and trees with a trunk diameter of six (6) inches or more measured four and one-half (4½) feet above the ground, and an indication of which trees are proposed to be removed (where large groves are to remain undisturbed, single willow, shrubs or trees need not be located); and the proposed limits of any excavation or regrading in the proposed subdivision.

j. Wetlands within the proposed subdivision and wetlands within at least one hundred (100) feet of the proposed subdivision. The function and value of any wetlands in the proposed subdivision and a one-hundred-foot buffer between any high quality wetlands and the development shall be identified. For this submittal, *high quality wetlands* include wetlands that were naturally occurring high quality wetlands, as demonstrated by areas where native wetland vegetation still persists, that could be restored to high quality wetlands. If wetlands are located in areas that have been grazed or irrigated for more than one (1) year within the past five (5) years, the following methodology shall be used to determine the true location of wetlands:

1. All areas where the water table is within sixteen (16) inches of the ground surface for two (2) weeks or more shall be determined by a hydrologist or other person familiar with hydrologic investigations, who has installed groundwater monitoring wells sufficient to understand the water levels and direction of flow of groundwater;

2. The wells shall be monitored at least once per week after the snow melts and throughout May, June, July and August; during the period of monitoring, there shall be no irrigation of the proposed subdivision; and

3. This information shall be used together with the U.S. Army of Corps of Engineers Wetland Delineation Manual, 1987, to determine areas that have wetlands hydrology.

(d) Sketch plan facility plan. The sketch plan facility plan shall show the general location of the following:

(1) Water supply lines and treatment facilities.

(2) Sewage disposal lines and treatment facilities.

(3) Irrigation ditch system.

(4) Other utilities.

(5) Drainage.

- (6) Fire protection facilities.
- (7) School facilities.
- (8) Other public facilities.
- (9) An estimate by the subdivider of the number of gallons per day required of the water system (see Section 17-11-380 of this Chapter).

(e) Soils report.

(1) The sketch plan shall include evidence establishing soil suitability, in the form of a report prepared by a registered professional engineer specializing in geotechnical engineering, in accordance with the "Soil Survey of Gunnison Area, Colorado" by the United States Department of Agriculture, Soil Conservation Service, "Soil Survey," which shall minimally include a description of the subdivision site soil, including:

- a. Types.
- b. Locations.
- c. Characteristics supported by:
 - 1. Soil maps.
 - 2. Soil logs.
- d. Data from the "Soil Survey" and other information needed to determine:
 - 1. Soils suitability for proposed development;
 - 2. Constraints on development based on the findings;
- e. Analysis and evaluation of such descriptive information; and
- f. The structural characteristics of the soil as they relate to the proposed uses and development.

(2) Test borings should be sufficient in number to identify the different soils types within the proposed subdivision. The soils information should establish in reasonable detail the stratigraphy, together with a basic knowledge of the engineering properties of the overburden and bedrock formations which will be affected by or will have an effect upon the new structures, roads, utilities and other facilities in the proposed subdivision. A nontechnical discussion shall be provided to describe what to do about the identified soils that may pose problems during construction of the subdivision infrastructure or private structures.

(f) Vicinity map. The sketch plan shall include a vicinity map indicating the location of:

- (1) The Property and the proposed subdivision within it.

- (2) Commonly known landmarks.
 - (3) Roads.
 - (4) Abutting land uses.
 - (5) Existing zone districts in which the proposed subdivision and adjacent properties are located.
- (g) Narrative. The sketch plan shall include a narrative description which provides:
- (1) A conceptual description of the proposed land uses and densities for the Property.
 - (2) A conceptual description of the proposed number of residential and commercial units on each proposed tract or parcel.
 - (3) A conceptual description of the proposed zoning, landscaping and road and utility plans for the proposed subdivision.
 - (4) A written report setting forth the findings of the floodplain study and the wetlands study, if either is applicable.
 - (5) The name and address of the owner of any mineral estates, including mineral leases, if any, underlying the proposed subdivision.
 - (6) The names and addresses of all property owners within three hundred (300) feet of the proposed subdivision.
- (h) Number of copies. Four (4) copies of the above maps, plans and narrative information shall be submitted to the Town. Additional copies shall be provided by the subdivider, as determined by the Planning Director, for submittal to other agencies or if additional copies are needed for the Planning Commission. The subdivider shall provide at least three (3) copies for the Planning Commission and the public at all public meetings. All copies shall be provided by the subdivider. (Prior code 15-3-6; Ord. 4 §1, 2009)

Sec. 17-5-40. Preliminary plan procedure.

- (a) Presubmittal meeting. The subdivider may request a presubmittal conference with the Planning Director, prior to submission of a preliminary subdivision plan. The purpose of the meeting is to acquaint the subdivider with the substantive and procedural requirements of these subdivision regulations for the preliminary plan procedure and to make recommendations to the subdivider concerning issues deemed important by the Planning Director at this stage, including identification of significant views and natural vistas.
- (b) Submittal of preliminary plan. The subdivider shall submit a complete preliminary plan application to the Planning Department containing those materials listed in Section 17-5-50 below.
- (c) Staff review and referral.

(1) If the Planning Director finds that the application is complete, the application shall be assigned a Planning Commission agenda date and shall be referred to the following departments and agencies for their review, comments and recommendations unless the Planning Director finds that the proposed subdivision is not related to the issues addressed by a particular referral agency listed. The subdivider will be required to provide one (1) copy of the preliminary plan application for each referral:

- a. Public Works Department;
- b. Building Department;
- c. Mountain Express;
- d. Mt. Crested Butte;
- e. Colorado Division of Wildlife;
- f. Gunnison Trails Commission;
- g. RE1J School District;
- h. Crested Butte Fire Protection District;
- i. Gunnison County Planning Commission;
- j. Colorado Geologic Survey;
- k. U.S. Army Corps of Engineers; and
- l. Any other agency or entity as determined by the Town.

(2) The Planning Director may, as appropriate, also distribute copies of the submittals to the following agencies that may be concerned with a matter or area of local interest which could be affected by the subdivision, for comment:

- a. Colorado Department of Transportation, when the proposed subdivision is adjacent to or in sufficient proximity to affect or may require a State right-of-way, accel/ decel lane or other State approval or highway facility;
- b. United States Forest Service;
- c. Colorado State Forest Service;
- d. Bureau of Land Management;
- e. Soil Conservation District;
- f. Colorado Water Conservation Board for designation and approval of any one-hundred-year floodplain; or

g. The appropriate housing authority.

(3) The Planning Director shall instruct each of the departments and agencies to which the preliminary plans are distributed that all comments and recommendations must be submitted to the Planning Department within thirty (30) days after receipt of such referral materials, or the plan will be deemed to have been approved by the referral department or agency as proposed by the subdivider.

(d) Meeting with review departments and/or agencies. If the Planning Director determines that the impacts of a proposed subdivision are of such magnitude as to require a meeting of the subdivider with any of the referral departments or agencies, the Planning Director shall call a meeting to discuss the proposed subdivision with the affected parties.

(e) Incomplete application. If the application is incomplete and therefore does not comply with the requirements of these subdivision regulations, it shall be returned to the subdivider and shall not be assigned an agenda date; and no further action shall be taken until its defects are remedied.

(f) Engineering review. If the Planning Director refers the submittals to other Town departments, the departments shall provide a written report to the Planning Commission assessing substantial compliance of the preliminary plan with the appropriate street and utility standards, making recommendations for compliance and reporting on any other areas of engineering concern. The Town, at its discretion and as deemed necessary, may solicit additional engineering services to be performed by the Town Engineer.

(1) At the time the preliminary plan is submitted to the Town for review, the Town will estimate the costs of additional engineering review. The subdivider shall pay these costs in accordance with Section 17-2-20 of this Chapter. No preliminary plan shall be placed on an agenda for consideration by the Planning Commission until such estimated costs are paid.

(2) If the actual costs of engineering review are less than the estimated costs, any excess funds paid to the Town account shall be returned to the subdivider. If the actual costs exceed the estimated costs, the subdivider shall pay the additional costs within fifteen (15) days of submission of a bill for costs by the Town.

(g) Staff report. Prior to the public hearing to consider the preliminary plan application, the Planning Director shall prepare and forward a written report to the Planning Commission summarizing any review agency comments received and evaluating the proposed preliminary plan's compliance with the standards contained in these subdivision regulations, the existing or proposed underlying zone districts and the policies of the Town's Land Use Plan.

(h) Public notice. Unless otherwise provided by this Section, public notice shall be provided prior to all public hearings required by this Section as defined in Section 17-1-100 of this Chapter.

(i) Review period. The Planning Commission hearing will be scheduled by the Planning Director no sooner than forty-five (45) days after preliminary plan submittal by the subdivider to allow for department and agency review and comment, for planning staff review of those comments and the preliminary plan, and for adequate preparation of staff reports for the Planning Commission and review of such reports by the Planning Commission.

(j) Planning Commission review and public action.

(1) The Planning Commission shall evaluate all of the following in its deliberations:

a. Conformance of the preliminary plan with all applicable provisions of these subdivision regulations, the existing or proposed underlying zone district and the Town's Land Use Plan;

b. Whether the proposed plan represents good planning practices; and

c. Whether the proposed plan adequately safeguards against known and suspected hazards and adequately protects known resources. In its deliberations, the Planning Commission shall review reports on file, together with other reports available pertaining to avalanche, geologic, toxic waste, wildfire and flood hazards, mineral resource areas, significant wildlife areas, wetlands and visual resources, and shall consider the guidelines and recommendations as prepared by the appropriate referral agency to mitigate hazards and to protect resources (if the Planning Commission finds the reports on file to be inadequate or none exist, it may have such reports prepared addressing specific issues and the subdivider shall pay the costs for such reports).

(2) The Planning Commission may, at its discretion, require that the preliminary plan be reviewed by the Board for specific recommendations.

(3) The Planning Commission shall conduct a public hearing to review the conformance of the preliminary plan with the requirements of these subdivision regulations.

a. The Planning Commission is authorized to take action on the preliminary plan and may either approve, approve with conditions or deny the preliminary plan, based on specific findings of fact concerning substantial compliance of the proposed subdivision with the provisions of these subdivision regulations, including the following major topics:

1. Conformance with the Town's Land Use Plan;
2. Payment of fees due at this time;
3. The standards in Articles 6 through 12 of this Chapter;
4. The applicable provisions of the existing or proposed underlying zone district;
5. The subdivision improvements agreement;
6. The publication requirements; and
7. All other requirements of these subdivision regulations.

b. The Planning Commission is also authorized, at its discretion or upon request by the subdivider, to continue the public hearing to a date certain, so the subdivider may make modifications or provide additional information before the Planning Commission takes final action. If new material or revisions are to be submitted for approval, the Town and the referral agencies shall have at least twenty-one (21) days to complete the review of this material, before assigning an agenda date for further consideration by the Planning Commission.

(k) Actions following approval.

(1) Effect of preliminary plan approval. Preliminary plan approval shall constitute only authorization to proceed with an application for final plan and final plat approval in accordance with the representations made by the subdivider and conditions imposed onto the proposed subdivision. Approval of a preliminary plan shall not constitute final approval of the subdivision or permission for development to occur.

(2) Expiration. If an application for final plat approval is not submitted to the Town within one (1) year of the date of approval of the preliminary plan, the preliminary plan approval shall expire.

(3) Extension:

a. A subdivider may request one (1) automatic extension of the submission deadline for the final plat of up to ninety (90) days by submitting a written request to the Planning Director prior to the expiration date. The Planning Director shall be authorized to extend the approval for a period of up to ninety (90) days.

b. A subdivider may request an additional extension of the submission deadline for the final plat by submitting a written request to the Planning Director prior to the expiration date, for consideration by the Planning Commission, which request shall demonstrate good cause for granting the extension. The approval shall be deemed extended until the Planning Commission has acted on the request for extension. The Planning Commission shall be authorized to extend the approval for a period of up to one (1) year and to impose additional conditions if necessary. (Prior code 15-3-6; Ord. 4 §1, 2009)

Sec. 17-5-50. Preliminary plan submittals.

A preliminary subdivision plan shall contain, at a minimum, the following:

(1) Fees. Payment of the preliminary plan fee and publication fee.

(2) Subdivision name. The name of the proposed subdivision. The subdivision name shall be followed by the term "Preliminary Plan" and shall comply with the requirements of Paragraph 17-5-30(c)(1) above.

(3) Ownership and encumbrances. A statement of ownership and encumbrance of the proposed subdivision listing the names of all owners of the property and all mortgages, judgments, liens, easements, contracts, agreements and other encumbrances affecting the Property. The statement of ownership and encumbrance may be in the form of the following:

a. A commitment from a title insurance company that is not older than thirty (30) days;

b. Ownership and encumbrance report prepared by a title insurance company; or

c. Other documentation acceptable to the Town Attorney.

The statement of ownership and encumbrance, with the required power of attorney, if applicable, shall demonstrate to the satisfaction of the Town Attorney that the subdivider has the right to submit the development application.

(4) Legal description. The subdivider shall submit the legal description of the proposed subdivision and of the proposed open land which will be permanently preserved in compliance with of Article 9 of this Chapter. Open land shall be adequate to comply with said Article for all units approved in the preliminary plan, and a conceptual plan will also be presented for any remaining required open lands for units in the approved sketch plan that are not included in the preliminary plan.

(5) Names of preparers. The names, addresses and telephone numbers of the surveyor, engineer, land planner and/or designer, and the hydrologist, when applicable (who must be licensed in the State).

(6) Vicinity map. A vicinity map at a scale of one (1) inch equals two thousand (2,000) feet, or other appropriate scale, indicating the location of the Town and showing the location of the property and the proposed subdivision within it, commonly known landmarks, streets, paths and utilities, and the zone district of the proposed subdivision and adjacent properties. This map, or accompanying map at an appropriate scale, should include a sketch of the general layout of the proposed subdivision.

(7) Site analysis information. Site analysis information must include:

a. A boundary survey indicating the location and dimensions of: the exterior boundary of the proposed subdivision, all existing public rights-of-way, streets and alleys, all existing easements, all public and private utilities, above and below the surface of the ground, section lines, property corners, Town boundary lines, monuments and other significant man-made, ground level features within or adjacent to the proposed subdivision.

b. Existing uses on the Property, including the location of all existing structures.

c. The location of all existing or historical pedestrian and bicycle paths on site, and any easements relating to these facilities.

d. Contour lines related to an established benchmark or other datum approved by the Town Engineer and having contour intervals as follows:

1. For slopes less than ten percent (10%): one-foot contours; and
2. For slopes ten percent (10%) or greater: five-foot contours.

e. The location and direction of all water courses and the location, within the Property and within one hundred (100) feet of the Property, of all areas subject to the twenty-five-year floodplain and the one-hundred-year floodplain and the estimated flow rate used in determining the locations, based on an independent engineer's calculations (the location of the one-hundred-year floodplain shall be certified by an engineer licensed to practice in the State).

f. Significant natural features, including but not limited to:

1. Rock outcroppings or other prominent geologic features.
2. Drainage ways.
3. Agricultural or drainage ditches.

4. Bodies of water.

5. Wetlands. If the wetlands study is unchanged since the sketch plan stage, no new study will be needed for the preliminary plan submittal. If it has been revised since submittal for the sketch plan stage, a revised wetlands study shall be submitted at the preliminary plan stage addressing the following within the proposed subdivision and within at least one hundred (100) feet of the proposed subdivision:

a) The function and value of any wetlands in the proposed subdivision and a one-hundred-foot buffer between any high quality wetlands and the development shall be identified.

b) For this submittal, high quality wetlands shall include wetlands that were naturally occurring high quality wetlands, as demonstrated by areas where native wetland vegetation still persists, that could be restored to high quality wetlands.

c) If wetlands are located in areas that have been grazed or irrigated for more than one (1) year within the past five (5) years, the following methodology shall be used to determine the true location of wetlands:

1) In areas where the water table is within sixteen (16) inches of the ground surface, the wetland location shall be determined by a hydrologist or other person familiar with hydrologic investigations, who has installed groundwater monitoring wells sufficient to understand the water levels and direction of flow of groundwater.

2) The wells shall be monitored at least once per week after the snow melts and throughout May, June, July and August (during the period of monitoring, there shall be no irrigation of the property).

3) This information shall be used, together with the U.S. Army of Corps of Engineers Wetland Delineation Manual, 1987, to determine areas that have wetlands hydrology).

g. The location, size and type of existing vegetation, including the location of willows and shrubs at least two (2) feet in diameter and trees with a trunk diameter of six (6) inches or more measured four and one-half (4½) feet above the ground, and an indication of which trees are proposed to be removed (where large groves are to remain undisturbed, single willows, shrubs or trees need not be located); and the proposed limits of any excavation or regrading in the proposed subdivision.

h. The designation of all areas that constitute natural hazard areas, including but not limited to avalanche, mudslide, rockslide and wildfire.

i. The location of all existing or historical wildlife movement corridors, strutting grounds or other wildlife habitat.

j. Ghosting in the existing lot or tract lines, streets or other subdivision features which are proposed to be changed or removed.

k. Ghosting in structures existing or approved by the Town, the County or Mt. Crested Butte located within the proposed subdivision, and within three hundred (300) feet of the proposed subdivision.

l. The names of adjacent subdivisions and the zoning, if applicable.

m. A map indicating the ridgelines lying on the proposed subdivision which are identified in the Crested Butte Area Plan and highlighting the highest forty (40) feet, as measured vertically, below the top of each ridgeline.

n. A preliminary analysis of the site concerning any existing or potential hazardous conditions, including but not limited to soils, mine tailings, mine drainages, petroleum residue, etc.

o. Evidence establishing soil suitability in the form of a report prepared by a registered professional engineer specializing in geotechnical engineering, in accordance with the "Soil Survey of Gunnison Area, Colorado" by the United States Department of Agriculture, Soil Conservation Service, which shall minimally include a description of site soil:

1. Types.

2. Locations.

3. Characteristics supported by:

a) Soil maps.

b) Soil logs.

4. Data from the "Soil Survey" and other information needed to determine:

a) Soils suitability for proposed development.

b) Constraints on development based on the findings.

5. Analysis and evaluation of such descriptive information, together with sufficient soils engineering data, with recommendations regarding:

a) Structural and facility constraints.

b) Foundation design considerations.

c) Erosion control.

d) The adequacy of the structural characteristics of the soil as they relate to the proposed uses and development.

The soils information should establish, in reasonable detail, the stratigraphy, together with a basic knowledge of the engineering properties of the overburden and bedrock formations which will be affected by or will have an effect upon the new structures, roads and utilities. Because this

information will be used to design the roads and utilities, the road soils test holes for investigation shall be a minimum of four (4) feet deep and the spacing shall be no more than four hundred (400) feet or one (1) test hole for each soil type, whichever is closer. Test holes for utilities shall be sufficiently deep to identify the soil conditions that may influence the performance of the utility. The spacing of test holes for structures such as buildings shall be a minimum of one (1) per two (2) single-family residential, mobile home or commercial tracts or parcels and one (1) per ten thousand (10,000) square feet of multi-family residential development, but no more than one (1) per one hundred (100) feet, provided that additional test holes may be required as determined by the engineer. Test holes for structures shall be sufficiently deep to identify the soil conditions that may influence the performance of foundations.

(8) Preliminary site plan scale. A graphic conceptual site plan of the proposed development and surrounding area shall be legibly drawn on a sheet of paper that is twenty-four (24) inches by thirty-six (36) inches in size, using a map scale large enough for effective public presentations, but generally no smaller than one (1) inch equals one hundred (100) feet. The scale may be increased or decreased if necessary to fit the paper, but in all cases the scale used shall be in multiples of ten (10). Sheets for presentations may be larger for effective public presentations.

(9) Preliminary site plan labeling information. The preliminary site plan shall be labeled as follows:

- a. The proposed name of the subdivision.
- b. The date of preparation (each revised drawing shall have a new date).
- c. A true north arrow.
- d. Written and graphic scale of drawing.
- e. The location of the subdivision by section, township and range sufficient to define the location and boundaries of the proposed subdivision.

(10) Preliminary site plan map. The preliminary site plan shall include the following information relating to the proposed subdivision:

- a. Existing and proposed zoning districts.

b. A road plan showing the location, width, name and approximate grade and radii of new streets and street curves and the relationship of proposed subdivision streets to any existing streets, or proposed streets as shown in map or written form in the Town Land Use Plan, and drawn with the following information:

1. Centerline profiles of streets and roads shall be plotted with sufficient accuracy to ensure that street designs will conform with the prescribed standards of the Town Engineer; and

2. All centerline profiles shall be drawn to a scale of ten (10) feet vertical and fifty (50) feet horizontal to the inch, or five (5) feet vertical and fifty (50) feet horizontal to the inch, as required by the Town.

c. The location, width and approximate grades of all proposed pedestrian and bicycle paths, and their relationship to any existing paths or proposed trails as shown in map or written form in the Town Land Use Plan or the planning documents of the Gunnison County Trails Commission.

d. The location, width and purpose of any proposed easements.

e. The location, approximate dimensions and acreage of each:

1. Single-family residential tract or parcel;

2. Multi-family residential tract or parcel;

3. Business or commercial tract or parcel;

4. Mobile home tract or parcel;

5. Separate area of land to be reserved or dedicated for public use as a park, drainage detention ponds, etc., together with the purpose and conditions of such reservations or dedications; and

6. Separate area of land to be preserved as open lands.

f. The location of all off-street parking areas and off-street snow storage areas.

g. An outline of the areas proposed for phased development, if applicable.

h. A utility plan, prepared by a registered professional engineer licensed in the State, which shall include the following at a minimum:

1. The location of all existing utilities and all existing easements on the proposed subdivision.

2. The proposed location of water supply lines and related water service facilities and where any proposed system will connect with existing systems.

3. The proposed location of sewage disposal lines and water service facilities and where any proposed system will connect with existing systems.

4. Culverts, storm water drainage and water quality measures, including profiles where appropriate.

5. Utility upgrades required to serve the subdivision if required by the Town Engineer.

6. The proposed location of all other applicable utilities, including without limitation, telephone, electrical service, television cable and gas and the location of the proposed connections with existing systems.

7. Statements of approval signed by a representative of each utility provider for the electric, gas, telecommunications, cable television, telephone companies and such other utilities as

appropriate, which shall be in a manner as found in Appendix L attached to this Code (a similar letter shall also be provided from the Crested Butte Fire Protection District and the School District indicating that adequate facilities exist or that the subdivider has agreed to mitigate the impacts of the new subdivision on the district).

8. Report evaluating the relationship between the available capacity of existing utility systems, including water and sewer treatment facilities, and the projected demand of the subdivided property at full build-out. The evaluation of available utility capacity shall consider and include projected demand by all properties that have previously paid either a system development fee or availability of service fee regardless of whether or not such properties currently require water or sewer services. In the event that the report identifies that service to the subdivision shall result in exceeding eighty percent (80%) of the total available capacity of either the water distribution or treatment system or the sewer collection or treatment system, then the report shall identify and recommend alternatives to address and mitigate the shortage of service capacity resulting from the proposed subdivision.

i. Any revised contour lines related to an established benchmark or other datum approved by the Town Engineer and having contour intervals as follows:

1. For slopes less than ten percent (10%): one-foot contours; and
2. For slopes ten percent (10%) or greater: five-foot contours.

j. Where the proposed subdivision covers only a part of the Property, a conceptual plan for the entire Property shall be submitted, and the proposed streets, utilities, easements and other improvements of the proposed subdivision shall be considered with reference to proposed development of the other portions of the Property (The Planning Commission will reasonably decide the level of detail needed on the conceptual plan to judge the proposed subdivision in light of the maximum number and type of units on the Property and the surrounding areas).

k. Subdivisions adjacent to lands used for agriculture shall submit the following information:

1. The location, size and decreed capacity of any agricultural ditch crossing or adjoining the proposed subdivision.

2. The location of historical easements utilized for any purpose, including gaining access to headgates, ditches and fences for maintenance or operation purposes.

3. The location of any established stock drive crossing or adjoining the proposed subdivision and the location of any new fences or other obstacles proposed to be built across such stock drive.

4. The location of any proposed or existing fences which will continue to exist after subdivision of the property.

l. Such other information as may be required by the Planning Commission or other reviewing agency to aid in the evaluation of the proposed subdivision and to assure that the subdivision is capable of construction without undue adverse effect upon the surrounding area.

(11) Landscaping plan. A landscaping plan containing the following information shall be provided:

a. The landscaping plan shall be overprinted on the preliminary plan, prepared by a licensed architect or a professional landscape architect familiar with the ecology of the East River Valley, and shall show:

1. Location.

2. Size.

3. Type of proposed landscape features accompanied by a written statement setting forth the types of vegetation.

4. Other landscaping improvements, including steps which will be taken to revegetate all exposed land surfaces.

5. The estimated cost to accomplish the plan.

b. To ensure the preservation of existing vegetation in the developed area, an existing vegetation map shall be provided, locating all existing trees and willows and all shrubbery meeting the minimum sizes described in Subparagraph (7)g. above, vegetation to be removed and vegetation to be added to the developed area.

c. A description of the proposed program to maintain the landscaping after it has been installed.

d. A snow storage plan.

e. All landscaping proposed to be completed by the subdivider for proposed developed parks, trails and all public areas.

(12) Soil erosion control plan. A soil erosion control plan, including revegetation and water quality monitoring, meeting the standards set forth in applicable provisions of Section 17-6-80 shall be provided.

a. A description and location of all soil erosion control features shall be provided.

b. Pollution avoidance plan which proposes measures to avoid degradation of waterways, water bodies or wetlands.

(13) Grading plan. At the request of the Planning Director, the subdivider shall submit a grading plan which illustrates the extent and limits of the land disturbance which is to occur on the proposed subdivision. The grading plan shall illustrate existing site features and estimated amounts of cut-and-fill, and shall depict existing and proposed contours, using a contour interval of one (1) foot.

(14) Drainage study. A drainage study for the proposed subdivision shall be prepared and the site's drainage system shall be designed by a registered professional engineer according to generally accepted storm drainage practices. The drainage study shall describe how the expected maximum water flows from any twenty-five-year flood event and any one-hundred-year flood event shall be

directed away from all buildings, other developed areas of the proposed subdivision and adjacent lands. The drainage study should anticipate flows from existing developed property, the proposed subdivision and other likely, future potential development. The drainage study shall show all existing lakes, water courses and limits of tributary flows and, where practical, computation of expected tributary flows and the results indicated. The limits of the one-hundred-year floodplain shall be studied and plotted. Location and sizes of all culverts and other drainage structures shall be provided, and all bridges, drainage ditches, channels and easements shall be shown. A description of how runoff will avoid polluting existing lakes and watercourses shall be included.

(15) Narrative. The preliminary plan shall be accompanied by written statements containing the following information:

a. Tabular summary of the development proposal which identifies the total proposed subdivision in acres, and the number of acres and percentages devoted to the following:

1. Residential development with subtotals for:
 - a) One-family dwelling units;
 - b) Two-family dwelling units;
 - c) Multi-family dwelling units; and
 - d) Mobile homes.
2. Commercial and business development with subtotals for:
 - a) Commercial; and
 - b) Business development.
3. Developed parks dedicated to the Town;
4. Other municipal land to be dedicated to the Town;
5. Open lands;
6. Roads, streets and trails; and
7. Land for schools.

b. The total number of proposed residential dwelling units and their type, including one-family dwelling units, two-family dwelling units, multi-family dwelling units and mobile homes units.

c. A tabular summary of the development proposal which demonstrates that the preliminary plan conforms with all applicable off-street parking and snow storage requirements for the following land uses:

1. Multi-family dwelling units;

2. Commercial and business development; and
 3. Mid-block street snow storage.
- d. A preliminary estimate of the cost of all required public improvements and a description of proposed methods of financing, the tentative development schedule for public improvements with development phases identified, and proposed performance guarantees.
 - e. Any agreements with agricultural ditch owners, when appropriate.
 - f. A preliminary draft of any protective covenants or deed restrictions desired by the applicant or these subdivision regulations.
 - g. A description of the function, ownership and manner of maintenance of public parks and other facilities, and open land areas to be reserved by the subdivider.
 - h. A preliminary draft of any conservation easement or other document acceptable to the Town, permanently preserving open land as required in Article 9 of this Chapter.
 - i. A traffic analysis, prepared by a person engaged or employed in the field of traffic engineering, together with maps and diagrams where appropriate, addressing the following:
 1. The estimated traffic flow on existing streets, roads or highways that will serve or convey traffic to and from the proposed subdivision;
 2. The estimated increase in traffic flow on existing streets resulting from the proposed subdivision;
 3. Visibility at existing and proposed intersections;
 4. The total number of proposed off-street parking spaces, excluding parking associated with single-family, duplex or mobile home residential tracts or parcels;
 5. A description of the alternate transportation facilities proposed to be a part of the subdivision; and
 6. An evaluation of the need for road improvements to be made to existing streets based on the impacts of the proposed subdivision.
 - j. If any natural hazards or hazardous conditions as described in Subparagraph (7)n. above are identified on the land to be subdivided, a report shall be submitted by a professional, as described below, providing evidence to show that all areas of the proposed subdivision which involve natural hazard areas or hazardous conditions or require special precaution, treatment or development have been identified by the subdivider, and that the proposed uses of these areas are compatible with such conditions. The following hazards shall be addressed in reports by the following types of expert:
 1. Avalanche, by a professional avalanche control engineer;

2. Mudslide, rockslide or other geologic hazard, by a professional engineering geologist;
3. Wildfire, by a professional range scientist or graduate forester;
4. Floodplain, by a licensed professional engineer; and
5. Hazardous soils, mine tailings, mine drainage and petroleum residual by a professional engineer and water quality expert.

k. A plan for revegetation and a reclamation plan for disturbed areas describing the native species and weed prevention measures which will be implemented.

l. A plan for dust abatement during and, as applicable, after construction.

m. A description of the steps that have been taken to protect and enhance the use of solar energy in the proposed subdivision.

n. Documentation of the subdivision's water requirements per day.

(16) Subdivision improvement agreement. The proposed subdivision improvements agreement, in the form set forth in Appendix J attached to this Code, shall be submitted to the Town. If the subdivider objects to any provisions of the form, those objections shall be set forth in a statement to the Town.

(17) Annexation impact analysis. In addition to the foregoing, if the property to be subdivided is also proposed for annexation, the submittals shall include the requirements of Subparagraph 15-1-60(b)(2)g of this Code.

(18) Number of copies. A minimum of twelve (12) copies of all of the above maps, plans and information shall be submitted to the Town. Additional copies may be required if submittal to other agencies is required by the Planning Director or if additional copies are needed for the Planning Commission. All copies are to be provided by the subdivider. (Prior code 15-3-6; Ord. 3 §2, 2008; Ord. 4 §1, 2009)

Sec. 17-5-60. Final plan procedure.

A subdivider seeking approval of a final subdivision plan shall follow the steps outlined below:

(1) Preapplication conference. The subdivider may request a preapplication conference with the Planning Director, prior to submission of a final plan for final subdivision approval.

(2) Submit final plan. The subdivider shall make a complete final plan submittal to the Planning Director, containing those materials listed in Section 17-5-70 below.

(3) Final plan distribution.

a. The Planning Director may transmit copies of the final plan application to those persons and agencies to whom distribution of the preliminary plan was made, if additional comment is deemed necessary due to greater detail being provided or substantial modifications to the plan.

Recommendations or conditions required by other departments or review agencies may be made conditions of the final plan and final plat approval. The agencies to whom referrals are made shall make recommendations within thirty (30) days after mailing by the Town of such plans, unless a necessary extension of not more than thirty (30) days has been consented to by the subdivider and the Town.

b. The subdivider shall respond in writing to all issues raised during the referral process within thirty (30) days after receiving the final department and/or agency comments. Such responses shall be made part of the application and will be used in conjunction with the original submittal as a basis for final Planning Director recommendations to the Planning Commission.

c. If the subdivider is unable to supply responses within the thirty (30) days allowed, then the subdivider, in writing, may request a delay of up to ninety (90) days stating the reason for the request. The Planning Director may grant an extension of no more than ninety (90) days. If the subdivider fails to supply responses within the specified time, then the Planning Director shall base the recommendations on the material in the file as it exists and proceed toward a Planning Commission public hearing.

d. If, in the reasonable judgment of the Planning Director, the responses from the subdivider result in a substantial change in the proposal, then the Planning Director may refer the amended application and supporting materials to those referral departments and agencies to whom distribution of the preliminary plan was made, and the processing schedule will be amended to conform to this Section.

e. The Planning Director may forego the requirements of Subparagraphs a., b. and c. above if he or she finds that further materials from the subdivider and further comments by the referral departments and agencies are not necessary to fully evaluate the final plan.

(4) Staff review and agenda date. The Planning Director shall review the final plan to determine whether it is complete.

a. If the Planning Director finds that the final plan is complete, then a Town Council meeting date shall be set to consider the subdivision improvements agreement and any required land dedications. The date shall be set to allow sufficient time for the referrals to occur and comments to be received, as described in Paragraph (3) above, if appropriate.

b. If the application is incomplete or does not comply, it shall be returned to the subdivider and shall not be assigned a meeting date. The Planning Director shall list, in writing, the deficiencies and provide that list to the subdivider, and no further action will be taken until its defects are remedied.

(5) Review by Town Council. The subdivision improvements agreement and any required land dedications shall be reviewed by the Town Council. The Town Council review shall occur at a properly noticed public hearing. Public notice shall be provided as defined in Section 17-1-100 of this Chapter. The Town Council may approve, approve with conditions or reject the subdivision improvements agreement. The Town Council may accept, accept with conditions or reject the land dedications. Any approval of the subdivision improvements agreement and acceptance of land dedications shall be contingent upon final plat approval by the Planning Commission.

(6) Approval and execution of the final plan and final plat. After the subdivision improvements agreement has been accepted by the Town Council, the Planning Commission shall meet to review the final plan and final plat. The Planning Commission review shall occur at a properly noticed public hearing. Unless otherwise provided by this Section, public notice shall be provided prior to all public hearings required by this Section as defined in Section 17-1-100 of this Chapter.

a. The Planning Commission shall approve or approve with conditions the final plan and final plat upon a finding by the Planning Commission that:

1. The following have been submitted:

- a) The final plat,
- b) All required documents as described in Section 17-5-70 below; and
- c) The subdivision improvements agreement approved by the Town Council;

2. The final plat complies with the following:

- a) The approved preliminary plan and fulfillment of all the conditions of preliminary plan approval,
- b) The subdivision improvements agreement, approved by the Town Council,
- c) Any land dedication accepted by the Town Council; and
- d) The requirements of these subdivision regulations;

3. The final plat is consistent with the final plan documents submitted to comply with Section 17-5-70 below; and

4. With the exception of Subsections 17-6-10(c), (d) and (g); Subsection 17-6-30; Sections 17-6-60; 17-6-80 and 17-10-200; Article 8 of this Chapter; Article 11, Divisions 2, 3 and 4 of this Chapter, any of the requirements of these subdivision regulations may be varied from or waived, upon a finding by the Planning Commission that the subdivider will be providing amenities to the Town, over and above those already required by these regulations, that are of such benefit to the Town that requirements of these regulations may be varied from or waived in return for the receipt of such amenities.

b. The Planning Commission shall deny the final plan and final plat unless new technical or other information has been made available upon a finding by the Planning Commission that:

1. Any of the following has not been submitted:

- a) The final plat.
- b) All required documents as described in Section 17-5-70 below.
- c) The subdivision improvements agreement approved by the Town Council.

2. The final plat does not comply with the one (1) or more of the following:
 - a) The approved preliminary plan and fulfillment of all the conditions of preliminary plan approval.
 - b) The subdivision improvements agreement approved by the Town Council.
 - c) Any land dedication accepted by the Town Council.
 - d) The requirements of these subdivision regulations.
3. The final plan is not consistent with the final plan documents submitted to comply with Section 17-5-70 below.

A Planning Commission denial shall contain a listing of the reasons for such action.

c. If new technical or other information has been made available, the Planning Commission may approve, or approve with conditions, the final plan and final plat if it finds that:

1. The new information alters previous findings of the Planning Commission concerning the preliminary plan approval;
2. The final plat conforms with the requirements of these subdivision regulations;
3. The final plan submittals conform with the requirements of these subdivision regulations;
and
4. The subdivision improvements agreement as approved, and dedications as accepted, by the Town Council still apply to the final plat.

The Planning Commission is also authorized, at its discretion or upon request by the subdivider, to reasonably continue consideration of the proposed final plan and final plat review for ninety (90) days or less, to a date certain, to provide the Planning Commission, subdivider or staff more time to review new technical or other information that has been made available at the final plat public hearing, or so the subdivider may make modifications or provide additional information before the Planning Commission takes final action.

d. After the Planning Commission has reviewed and approved the final plan and final plat, the owner, notary public, owner's attorney, land surveyor and any lender, if applicable, shall sign one (1) Mylar copy of the approved final plat. After the owner and the above listed representatives of the owner have signed the final plat, the Planning Commission Chairperson shall sign the same Mylar copy of the approved final plat indicating approval by the Planning Commission. After the Planning Commission Chairperson signs the final plat, the Mayor shall sign the same Mylar copy of the approved final plat, indicating approval by the Town Council of the subdivision improvements agreement and acceptance of the dedications; and the Town Clerk shall attest the Mayor's signature.

(7) Filing.

a. The following actions shall occur after approval of the final plan and final plat by the Planning Commission and prior to recording the final plat and associated documents.

1. The subdivider shall provide the Planning Director with all of the original documents and fees required below:

a) Corrected, modified and amended final plat in accordance with the approval and no other changes;

b) All signatures necessary for execution of the appropriate documents;

c) Final itemized estimates for the cost of required improvements that reflect the final plan and final plat as approved or conditionally approved;

d) The fully executed subdivision improvement agreement approved by the Town Council;

e) A final letter of credit or other financial guarantee for the construction of all public subdivision improvements satisfactory to the Town Council from the lending institution in accordance with the subdivision improvements agreement;

f) A certification from the County Treasurer's office that all ad valorem taxes on the proposed subdivision, for the years prior to the year in which recording of the plat is to occur, have been paid;

g) One (1) electronic copy of all approved drawings. The electronic copy of all approved drawings shall be compatible with the information set forth in Paragraph 17-5-80(g)(5) of this Article;

h) Payment of all required fees in lieu of land dedications if appropriate;

i) A signed and acknowledged conservation easement or other document acceptable to the Town permanently preserving the required open land;

j) Final protective covenants, if applicable;

k) Payment of any required capital expansion recovery system fees; and

l) Prepayment to the Town of all of the County Clerk's recording fees.

2. The Planning Director shall sign the face of the final plat authorizing the final plat to be filed for recording upon a finding that:

a) All approved corrections have been made to the final plat and other documents;

b) The subdivision improvements agreement has been finalized;

c) The final plat and subdivision improvements agreement have been properly executed by all other appropriate persons;

d) All payments and improvements guarantees have been received and equal one hundred twenty-five percent (125%) of the estimated improvement costs;

e) All ad valorem taxes on the proposed subdivision, for the years prior to the year in which recordation of the plat is to occur, have been paid;

f) All appropriate subdivision improvements have been dedicated to the Town;

g) All appropriate subdivision land dedications have been dedicated to the Town, or fees in lieu of dedications have been paid;

h) All conservation easements and other approved documents have been received for recording or have been recorded which permanently preserve at least the required open land for the number of approved units in accordance with of Article 9 of this Chapter.

i) All the documents are in the proper order, executed and ready for recordation; and

j) The subdivider has paid the Town all appropriate fees and prepaid to the Town all of the County Clerk's recording fee.

b. The Planning Director shall cause to be recorded the executed final plat, together with any required subdivision improvements agreement, conservation easements and other documents, in the office of the County Clerk and Recorder.

c. The subdivider shall cause to be recorded any protective covenants associated with the subdivision.

d. Unless there is compliance with all the requirements of this Section, the final approving action is withdrawn.

(8) After final plat approval and approval of the subdivision improvements agreement and any required land dedications, the subdivider shall submit complete engineering plans and specifications for all improvements to be installed in the subdivision, including but not limited to water, sewer and all other utilities, streets and related improvements, trails, bridges, excavations, landscaping and storm drainage. The plans and specifications must comply with the Subdivision Design and Improvement Standards set forth in Articles 6 through 12 of this Chapter, with all plan and design specifications previously approved with respect to the proposed new or revised land use or development, and with all other applicable codes and standards.

a. If the Town Manager determines that the proposed plans did not comply with the applicable standards, the Town Manager shall so notify the subdivider in writing, stating that the proposed plans are not in compliance, giving the reasons therefor and informing the subdivider of his or her right to be heard before the Planning Commission within thirty (30) days from the date of notification. The Planning Commission shall conduct a public hearing to review the conformance of the proposed plans with the appropriate requirements.

b. The Planning Commission shall make a finding as to whether the plans and specifications submitted comply with the applicable standards. If the plans do not comply with the applicable

standards, they shall either be approved with conditions that ensure compliance with all such standards, continued to a date certain or denied, and permission to commence construction shall be denied.

(9) Enforcement. Failure by the subdivider to meet any applicable condition of the subdivision approval or the stipulations of the approved subdivision improvements agreement, including but not limited to completing construction of improvements within the time agreed to in the subdivision improvements agreement, which shall be grounds for the Town to issue a stop work order. (See also Section 17-2-40 of this Chapter.)

(10) Time for completion and extension. Part of the final plat approval proceedings shall include a determination by the Town Council of a reasonable time by which the subdivision improvements should be completed. Extensions of such time limits may be obtained from the Town Council for good cause shown, upon request by the subdivider.

(11) Notation of completion date on final plat. All final plats given approval by the Town shall contain a notation indicating the above time by which subdivision improvements are to be completed. This notation shall be prima facie evidence of a reasonable time by which the subdivision improvements should have been completed.

(12) Obtaining a building permit and sale of tracts or parcels. The subdivider may construct the subdivision improvements after the final plat, subdivision improvements agreement and other documents to be recorded have been approved, duly executed and filed of record. No tract, parcel or any interest in them shall be transferred, conveyed or sold to or accepted by another party, and no building permit shall be issued, until all applicable conditions of the subdivision improvements agreement are met, the final plat, subdivision improvements agreement and other documents are recorded, the subdivision improvements are constructed and the Town has preliminarily accepted them in accordance with Subsection 17-5-80(g) below.

(13) Amendments subsequent to approval. A final plat, including any provision, stipulation, restriction or covenant which is subject to Town regulation, filed and recorded as part of the final plat shall not be altered subsequent to final plat approval by the Town, unless said change is first referred to and approved by the Planning Commission. Such changes may be referred to the Board by the Planning Commission for recommendations to the Planning Commission. Any proposed changes, other than corrections of errors, to the final plat or final plan shall be considered for approval as a resubdivision request under these subdivision regulations and shall follow the process described in the minor subdivision process unless the number of tracts or parcels affected exceeds the number of tracts or parcels for a minor subdivision, or unless the proposed changes would otherwise be a major subdivision as described in Section 17-3-30 of this Chapter. In such a case, the resubdivision and review by the Planning Commission shall begin with the sketch plan stage of the major subdivision process. (Prior code 15-3-6; Ord. 20 §3, 1999; Ord. 11 §1, 2000; Ord. 20 §1, 2000; Ord. 5 §1, 2008)

Sec. 17-5-70. Final plan submittals.

Unless otherwise specified, the application for approval of a final plan shall contain four (4) copies of the following information. If referrals are to be made, the subdivider shall provide the additional number of final plan submittals, adequate for all referrals.

(1) Final plan fee and publication fee. The final plan fee and publication fee as required in Section 17-2-30 of this Chapter.

(2) Title report. A title report prepared by a licensed title or abstract company containing the legal description of the proposed subdivision and identifying, listing and certifying the following:

a. A list of all owners of record of the proposed subdivision;

b. A list of all liens and encumbrances against the proposed Property, together with the book and page and reception number of each encumbrance as recorded in the office of the County Clerk and Recorder; and

c. All owners of any surface, subsurface or above-surface estates, rights or interests in the proposed subdivision, the nature of and description of such estate, right or interests, and the addresses of all such owners.

If the above information is contained in the submittal required in Paragraph 17-5-50(3) above, an endorsement or certificate that no changes in ownership, encumbrances or liens has occurred may be submitted.

(3) Final plat. The final plat shall:

a. Provide a permanent and accurate record of the exact size, shape, location and authorized use of the tracts or parcels, blocks, streets, easements, improvements, monuments, common areas and other parcels of land within the proposed subdivision;

b. Provide adequate space for construction of public improvements;

c. Dedicate public lands and space for improvements, parks and any other land to be dedicated to the Town or other appropriate public entity, including without limitation the RE1J School District and the Crested Butte Fire Protection District, in a manner that complies with the language in Appendix M attached to this Code; and

d. Be prepared by, or under the supervision of, a registered land surveyor licensed within the State.

(4) The final plat shall contain the following information and conform to the following specifications:

a. One (1) reproducible Mylar original and four (4) prints of the final plat.

b. Sheet size shall be twenty-four (24) inches by thirty-six (36) inches, with a one-half-inch border on the top, bottom and right-hand side and a one-and-one-half-inch border on the left side. As many sheets as necessary may be submitted.

c. All final plat map titles, road names, statements, certificates, notes and sheet numbers shall be oriented, to the greatest extent practicable, to the bottom (thirty-six-inch dimension) of each sheet.

d. Each sheet of the final plat shall display the particular number of the sheet and the total number of sheets, and shall clearly show the location relationship of land areas depicted on the overlay sheet by use of a small key sketch.

e. The final plat map scale shall be drafted in a scale that best conveys the detailed survey, engineering and design of the proposed subdivision and confines drafting error to less than one percent (1%). Acceptable scales are one (1) inch equals fifty (50) feet to one (1) inch equals one hundred (100) feet, but the scale shall be such as to clearly convey the necessary information listed in this Section. The scale may be increased or decreased if necessary to fit the paper, but in all cases the scale used shall be in multiples of ten (10).

f. Each sheet of the final plat shall display, in a prominent location and with prominent lettering, the subdivision name, generalized legal description and total acreage of the land to be subdivided. An example of the acceptable form is as follows:

FINAL PLAT of
SUBDIVISION NAME
A SUBDIVISION OF A PART OF THE N ½ OF THE NE ¼ OF
SECTION 3, T 14 S, R 86 W OF THE 6TH P.M.
CRESTED BUTTE, GUNNISON COUNTY, COLORADO
AREA = 78.183 ACRES

g. Each sheet shall show a written and graphic scale, north point (designated true north) and the date of the survey.

h. The locations and exact dimensions of all easements, including those shown on the preliminary plan, and a grant thereof to the public use or the specific entity which will use the easement, whether dedicated to a specific agency, individual or body, and the purpose of each easement.

i. Location of the proposed subdivision by reference to permanent survey monuments, with a tie to a section corner or a one-quarter (¼) section corner.

j. Bearings and dimensions to the nearest one-hundredth (.01) of a foot of tract or parcel lines and street centerlines.

k. All blocks and tracts or parcels shall be numbered in consecutive order for ease of identification (when blocks and tracts or parcels continue the Town grid, blocks shall be numbered beginning with the number next to the last block and tract, or parcel numbers shall begin in the northeast corner of the block and end in the southeast corner of the block).

l. The area of each tract or parcel in acres or in square feet shall be indicated.

m. Proposed ownership and use of open land shall be indicated.

n. All thoroughfares shall be named as follows:

1. North/south streets shall be numbered;

2. East/west avenues shall be named after mountains in the Elk Mountains; and

3. Streets and avenues in alignment with existing streets and avenues shall be named according to the streets or avenues with which they correspond.

o. The names of abutting subdivisions shall be indicated with dotted lines for abutting lots, tracts or parcels and, if adjacent land is unplatted, it shall be shown as such.

p. All section, range and township lines shall be shown and must close within the limits of one (1) in ten thousand (10,000). All tract or parcel lines must close within the limits of one (1) in ten thousand (10,000).

q. All curve data shall be shown in chart form on the face of the plat.

r. Radii, angles, points of curvature and length of all arcs shall be indicated.

s. Information and measurements complying with all monumentation, plat and survey requirements of Articles 50 and 51 of Title 38, C.R.S.

t. An identification of the streets, alleys, parks, trails and other public areas or facilities as shown on the preliminary plan, a dedication thereof to public use and identification of areas reserved for future public use.

u. A written legal description of the proposed subdivision, including the total acreage to the nearest one-thousandth (.001) of an acre.

v. A statement by the land surveyor explaining how bearings, if used, were determined.

w. Approved certificate language as set forth in Appendix M attached to this Code.

x. The following certificates are required on the final plat:

1. A certificate by the registered land surveyor as to the accuracy of the survey and plat and that the survey was performed by him or her;

2. A certificate of a title guarantor, title insurance company or attorney that the person dedicating to the public the public rights-of-way, areas or facilities as shown thereon are the owners thereof in fee simple, free and clear of all liens and encumbrances except those listed;

3. A certificate showing approval of the plat by the Planning Commission and the Planning Director;

4. A certificate showing acceptance of dedications and easements by the Town Council, with the signature by the Mayor and attestation of the Town Clerk;

5. A certificate of ownership and dedication;

6. A certificate of mortgage and approval by any mortgagee, if applicable; and

7. A certificate of recordation of the County Clerk and Recorder, including the date and time, a space for the reception number and the recorder's signature, but no book and page numbers.

y. Any other information reasonably required by the Planning Commission.

(5) Preliminary and proposed engineering designs and estimated costs for all improvements to be installed in the subdivision, including but not limited to water, sewer and all other utilities, streets and related improvements, trails, bridges, excavations, landscaping and storm drainage.

(6) A landscape plan showing location, size and type of proposed landscape features, where such features are located on common or dedicated areas.

(7) Copies of any monument records required of the land surveyor in accordance with state statutes.

(8) A certified statement by the subdivider stating that all supplemental information furnished with the preliminary plan is embodied in the final plan and final plat; or, if this is not the case, revised supplemental data of the same scope and format as required for the preliminary plan shall be furnished with the final plan and final plat.

(9) Three (3) copies of all draft protective covenants or restrictions placed on the proposed subdivision, one (1) of which shall be properly executed, acknowledged and filed with the final plat, following consultation with the Town and insertion of any amendments reasonably required. Such covenants shall not conflict with the existing or proposed zone district minimum or maximum dimensional or use standards, or the Crested Butte Design Guidelines.

(10) Two (2) copies of the draft conservation easements or other documents acceptable to the Town, permanently preserving open land for the proposed number of units as set forth in Article 9 of this Chapter.

(11) Upon request of the Town, the final plan application shall include an unexecuted warranty deed conveying to the Town all lands dedicated to the Town, other than streets, alleys and rights-of-way as shown on the final plat.

(12) A subdivision improvements agreement in the form substantially as set forth in Appendix J attached to this Code.

(13) Financial security for public improvements to be built by the subdivider as required in Subsection 17-5-80(c) below.

(14) A statement that the subdivider covenants that all information presented for the final plan is accurate and acknowledging that the Town is being asked to make a decision to approve or disapprove the proposed subdivision based on the information presented to it by the subdivider.

(15) Any other documents, certificates or information reasonably deemed necessary by the Planning Commission. (Prior code 15-3-6; Ord. 20 §2, 1999; Ord. 4 §1, 2009)

Sec. 17-5-80. Subdivision improvements agreement.

(a) Purpose. The subdivision improvements agreement is a contract between the Town and the owner of the proposed subdivision. It describes the improvements to be constructed by the subdivider and sets forth directly, or by reference, the construction specifications for these improvements. It provides a date for completion of the improvements and sets forth other terms and conditions, including without limitation, warranties, remedies for default by the owner and acceptance of the improvements by the Town.

(b) Agreement required. No final plat shall be executed by the Mayor, Town Clerk, Planning Commission Chairperson or Planning Director until the subdivider has submitted and the Town Council has approved, a subdivision improvements agreement (only if improvements are required), committing to timely construct those improvements which have been required pursuant to these subdivision regulations and according to specifications. The subdivision improvements agreement shall be in a form substantially as set forth in Appendix J attached to this Code.

(c) Collateral required.

(1) Suitable collateral to ensure completion of the public improvements according to design and time specifications in an amount stipulated in the subdivision improvements agreement, but no less than one hundred twenty-five percent (125%) of the estimated costs, including landscaping, as agreed upon by the subdivider and the Town, shall accompany the signed final plat submission for filing. The collateral shall be in the form of a certificate of deposit, letter of credit or other such legal assurance as may be deemed appropriate by the Town Council.

(2) Should a subdivider not provide collateral to ensure completion of the required public improvements, work on the improvements shall not be commenced, and the final plat shall not be executed by the Mayor, Town Clerk, Planning Commission Chairperson or Planning Director.

(d) Release of collateral. The subdivider may apply in writing to the Town Council for a partial or full release of collateral as the required public improvements in a subdivision are completed.

(1) Upon receipt of such application, the Town Manager shall cause the public improvements which have been completed to be inspected.

(2) If the Town Manager determines from such inspection that the improvements have been made in accordance with the final plan, the final plat and the subdivision improvements agreement, a portion of the collateral may be released upon authorizing resolution by the Town Council; however, collateral sufficient to cover at least one hundred twenty-five percent (125%) of the estimated cost of any incomplete improvements shall be retained.

(3) No partial releases of collateral will be granted in amounts less than twenty percent (20%) of the total original collateral.

(4) The last twenty percent (20%) of the original collateral will not be released until all the improvements have been accepted and any applicable warranty periods have expired.

(e) Use of collateral by Town. If the Town Manager determines that reasonable grounds for insecurity exist with respect to the performance of the subdivider, the Town Manager shall so notify the subdivider in writing, stating that the Town intends to withdraw funds from the collateral for the purpose of correcting, repairing or completing the improvements, giving the reasons therefor and informing the subdivider of his or her right to be heard before the Town Council within thirty (30) days from the date of notification. After the earlier of a hearing thereon or said thirty (30) days, if the Town Council determines that the subdivider will not or cannot construct the public improvements in accordance with the subdivision improvements agreement, the Town may withdraw funds from the collateral and expend such funds as may be necessary to correct, repair or construct the agreed-upon public improvements, to include covering such costs, including reasonable attorneys' fees, as are necessary for the Town to administer the construction and correct, repair or complete the improvements.

(f) Phased inspections and correction of defects.

(1) Upon completion of each phase of public improvements construction, as set forth in the subdivision improvements agreement, the subdivider shall notify the Town Manager and request inspection. The Town Manager shall cause the completed public improvements to be inspected and shall within five (5) days notify the subdivider, in writing, whether or not any unsatisfactory conditions were found.

(2) Upon notification of unsatisfactory conditions, the subdivider shall take necessary corrective measures and shall again request inspection. Such process shall continue until the subdivider receives notification that no unsatisfactory conditions exist.

(3) If the Town Manager determines that the subdivider is not constructing any or all of the improvements in accordance with the subdivision improvements agreement and specifications, the Town Manager shall notify the subdivider of noncompliance, and shall have the power to stop construction work on the subdivision improvements until a schedule and agreement on compliance have been reached.

(4) If it is necessary for the Town, as determined by the Town, to hire an engineer for inspection of the improvements, the subdivider shall reimburse the Town for expenses incurred by the Town for an engineering consultant prior to final acceptance by the Town.

(g) Preliminary acceptance.

(1) Upon completion of public improvements construction, the subdivider shall notify the Town Manager and request inspection. The Town Manager shall cause all public improvements to be inspected and shall notify the subdivider within five (5) days in writing of nonacceptance or preliminary acceptance. If the public improvements are not acceptable, the reasons for nonacceptance shall be stated, and corrective measures shall be outlined.

(2) Upon preliminary acceptance, the Town will assume responsibility for snow removal and other normal routine maintenance, but the subdivider shall remain responsible for all other maintenance and repairs pending final acceptance. After preliminary acceptance of the improvements, the Town may issue building permits for structures on the lots or tracts in the subdivision. Upon application, the Town may then release up to eighty percent (80%) of the collateral required for all public

improvements. At the Town's option, it may elect not to plow the streets until there is development on individual lots or tracts that warrant access.

(3) The Town shall not be required to make inspections during any period when climatic conditions interfere with making a thorough inspection, as determined by the inspecting person.

(4) Prior to Town acceptance of any public improvement located within an irrigation ditch easement, the subdivider shall provide the Town with an affidavit confirming that the ditch is presently located in compliance with state law and that the placement and use of the improvements within the ditch easement do not violate Section 37-86-104, et seq., C.R.S., or other applicable state law.

(5) As-built drawings.

a. As a condition for preliminary acceptance of the improvements, the subdivider shall submit one (1) digital copy of all "as-built" drawings for all improvements, including private utility lines, to the Town on either compact disk or DVD.

b. The digital copy shall be compatible with the Town's geographic information system software.

c. Image data must be submitted in a format compatible with the Town's software.

d. Data submitted becomes the property of the Town. A brief summary of the source of the data, including but not limited to company name, address, date, map number, date of last revision, scale and any applicable source data used in compiling or obtaining the data shall be included.

(6) Upon preliminary acceptance of all the subdivision improvements by the Town, the subdivision may begin closing sales of the tracts or parcels, and building permits may be issued by the Town.

(h) Final acceptance and release of collateral.

(1) Twenty-four (24) months following preliminary acceptance, the Town shall inspect all public improvements for final acceptance, except that landscaping shall be inspected only in the months of July and August and at least twenty-four (24) months after preliminary acceptance. The Town Manager shall notify the subdivider in writing of nonacceptance or final acceptance. If the improvements are not acceptable, the reason for nonacceptance shall be stated in writing, and corrective measures shall be agreed upon by the Town and subdivider and timely completed by the subdivider.

(2) Upon final acceptance by a resolution of the Town Council, the Town shall release the remaining collateral and assume all future maintenance and repair responsibilities for the public improvements. (Prior code 15-3-6)

Sec. 17-5-90. Subdivision dedication requirements.

(a) Purpose. New subdivisions require services provided through municipal facilities which are provided, in part, through the dedication of land necessary to construct the facilities. If there is no land

dedication by new subdivisions, sufficient land may not be made available at the time of subdivision to provide necessary services to new residents. In order to provide public services, the Town requires certain dedications of land or, in the appropriate circumstances, payment of fees in lieu of dedication. It is the intent of this Section and these subdivision regulations that new development pay its proportionate or pro-rata share of the costs attributable to the new growth, thereby relieving the public generally from subsidizing the cost of improvements and facilities attributable to new development. It is the further intent of this Section that the system be understandable and easy to apply, and that policies and fees be subject to revision as conditions change.

(b) Applicability and time of dedication. Each major subdivision of land within the Town shall dedicate land or, where appropriate, pay a fee in lieu of dedication, for parks, streets, municipal land, schools, fire services and trails in accordance with this Section. Unless another means of dedication or conveyance is approved by the Town, each required dedication shall be made on the final plat. Where a payment in lieu of dedication is permitted and approved by the Town, such payment shall be made a condition of subdivision approval and shall be made prior to the recordation of the final plat. All property held by a governmental entity for public use shall be exempted from the dedication requirements imposed by this Section.

(c) Interest in land to be dedicated. Unless otherwise provided by this Section or approved by the Town Attorney, all dedications shall be made in fee simple and lands dedicated shall be free and clear of liens and encumbrances.

(d) Street dedication requirement. All roads, streets, alleys or other public traffic ways located within the proposed subdivision and those that are necessary to serve the proposed subdivision shall be dedicated as public rights-of-way on the final plat for the subdivision.

(e) Park, public land and school land dedication requirement.

(1) The following minimum land acreage shall be dedicated to the Town for public park purposes, as recommended in the Crested Butte Area Plan, Part 1, Section III, Land Use, Residential Site Design, Public Lands, Policy 24, as amended:

a. For each single-family residential unit, including mobile home units, .0327 acres (1,425 square feet) of developable land; and

b. For each multi-family residential unit, including duplex units, residential units in commercial buildings and bed and breakfast units, .0336 acres (1,463 square feet) of developable land.

(2) The following minimum land acreage shall be dedicated to the Town for public purposes to be used for, for example and not by way of limitation, the location of a public meeting hall, a fire hall, equipment maintenance and storage, water and sewer treatment facilities or for other public purposes, as recommended in the Crested Butte Area Plan, Part 1, Section III, Land Use, Residential Site Design, Public Lands, Policy 23, as amended for each residential and commercial unit, including mobile home units, .032 acres (1,393 square feet) of developable land.

(3) The following minimum land acreage shall be dedicated to the Town for schools supported with public funds, as recommended in the Crested Butte Area Plan in Section III, Land Use,

Residential Site Design, Public Lands, Policy 25 for each residential unit, including mobile home units, .0034 acres (146 square feet) of developable land.

(4) Land dedicated for public park, public or school purposes for a subdivision may include historic or natural features and shall:

a. Lend itself to utilization: (a) for active recreational use (such as play areas, picnic areas, trails, ball fields or recreational structures); (b) for public uses to be used for the location of, for example, public meeting halls, equipment maintenance and storage sites, water and sewer treatment facilities or for other public purposes; and (c) for schools. (To achieve these uses, park sites, public use sites and school sites shall, at a minimum, not be located in any type of wetland, be dry, be accessible from a street or trail if approved by the Town, and shall include a minimum of ninety percent (90%) of the land with a slope of five percent (5%) or less);

b. Include the dedication of water rights adequate to irrigate all land dedicated for park use, public use or school use;

c. Not mix uses so that, for instance, land dedicated for school use does not interrupt continuous public use of a park;

d. Not include steep slopes, hazardous geologic formations, hazardous waste sites, adverse topography or other features that may be harmful to the health, safety or welfare of the public or may restrict the reasonable public use thereof;

e. Not be less than three thousand (3,000) square feet in size unless approved by the Town;

f. Be located to create large public spaces rather than many small public spaces at the minimum size, unless approved by the Town;

g. Be located so as to preserve air quality, the natural environment and community integrity in the most practicable, attractive manner possible;

h. Be designed to link open lands, trails and other major components of the Town's recreational system;

i. Not include land developed for stormwater control unless the design of any recreational amenities is clearly safe from hazards caused by use of the land as a stormwater control area; and

j. Be located within or in the vicinity of the proposed subdivision so that the park land, public uses and schools benefit residents of the subdivision.

(5) Where the required park, public or school lands dedication per unit within the proposed subdivision would not meet or exceed the minimum size defined in Paragraph (4) above because of the small size of the subdivision, the subdivider shall make a payment of a fee in lieu equivalent to the costs of dedicating the required acreage of park, public purpose or school land as further described in Section Paragraph (j) below.

(f) Trail dedication.

(1) Trail dedications shall be made within each subdivision in accordance with Article 10, Division 2 of this Chapter. Such dedications shall be made in the form of public easement or right-of-way as determined by the Town. For each proposed residential unit, including mobile homes, forty (40) lineal feet of trail right-of-way or easement shall be provided.

(2) Where the required trail dedication within a proposed subdivision is minimal because of the small size of the proposed subdivision and the number of lineal feet of trail required is not practical to create a usable or functional trail, the subdivider shall make a payment of a fee in lieu equivalent to the cost of dedicating the required lineal feet of trail less the lineal feet of trail actually dedicated to the Town within the subdivision.

(3) Land intended for dedication as a trail right-of-way or easement shall be designed and located in such a manner as to protect the safety of trail users, and shall be at least fifteen (15) feet in width, but in all cases the width shall be adequate to safely provide for the proposed and projected users and uses of the trail. Such lands shall be located to provide direct and convenient access to the public trail system for residents within the subdivision. Trails may overlap with other easements or rights-of-way, provided that such overlapping does not compromise the functional use of the subject easement or any other easement or right-of-way for the purposes intended.

(4) The most important trails to provide for each subdivision are the trails shown on the Crested Butte Trail Plan in the Crested Butte Land Use Plan that cross the proposed subdivision. The next most important trails to provide are trails that connect the subdivision with the trails shown on the Crested Butte Trail Plan.

(5) When the trail dedication required would result in more trails than practically viable for the site, a payment in lieu of the dedication may be made by the subdivider equivalent to the cost of dedicating the required acreage of trails if the requirements of Subsection (j) below have been met, or the subdivider may provide trails on another location; provided, however, that nothing herein shall obligate the Town to accept such substitute payment in lieu or dedication. The Town shall not accept any substitute dedication located more than three (3) miles from the Town boundary existing at the time of subdivision.

(g) Fire protection facility site dedication. (Reserved.)

(h) Substitute land dedication. As an alternative means of satisfying the required dedication of land within a proposed subdivision as provided by this Section, a subdivider may offer to the Town a substitute dedication of land of equivalent size owned by the subdivider that is located outside of the proposed subdivision; provided, however, that nothing herein shall obligate the Town to accept such substitute dedication. The Town shall not accept any substitute dedication located more than three (3) miles from the Town boundary existing at the time of subdivision.

(i) Payment in lieu of dedication.

(1) In lieu of any dedication of land required by this Section, the Town may request and, if requested, the subdivider shall make, a payment to the Town if:

a. The Town determines that the amount or quality of the land to be dedicated by the subdivider pursuant to this Section would not be of adequate size to achieve the purpose of the dedication; or

b. The Town reasonably determines that the dedication of the land would not serve the health, safety or welfare of the public.

(2) The amount of the payment in lieu of any land dedication requirement shall be determined as follows:

- Fair market per square foot value of the entire property proposed for subdivision prior to subdivision
- *Multiplied by:*
- The total square footage of land that is required for the dedication
- *Minus:*
- The value of any dedications made toward the required dedication at the fair market value as described above.

(3) The fair market square foot value of land for purposes of determining the amount of a payment in lieu of land dedication shall be determined from either:

a. A schedule of value of land set by ordinance of the Town Council following a public hearing (any such schedule shall be updated by ordinance of the Town Council annually); or

b. If such a schedule is not adopted or if the subdivider disagrees with the use of the land values set by the Town Council for purposes of determining the payment in lieu, the subdivider may request that all processing and review of the subdivision plat by the Town be suspended and that an independent real estate appraisal be obtained by the Town at the subdivider's cost. Such appraisal shall be performed by an appraiser acceptable to both the Town and the subdivider. The value determined by the appraisal shall be binding upon the subdivider and the Town.

(j) Payment in lieu of water rights for public park requirements. Where payment in lieu of public park land is made in accordance with this Section, the subdivider shall also either dedicate sufficient water to irrigate park land in the Town equivalent in size to the land that otherwise would have been required for dedication, or shall make an additional payment in lieu of water rights sufficient to irrigate land equivalent in size to the land that otherwise would have been required for dedication, including any costs necessary to deliver the water to the public park land. In determining the amount of payment in lieu of such water rights, the Town shall obtain an appraisal from a qualified person acceptable to the Town and the subdivider, at the subdivider's cost.

(k) Waiver of requirements. The Town may waive a required dedication of land or the payment in lieu of dedication required by this Section in the following cases:

(1) When the project has already been fully developed and the subdivision of land is necessary to bring the land into conformance with the as-built or as-constructed development;

(2) When the development does not result in any increase in demand for park, trail, fire or school facilities; or

(3) When the subdivider has provided more dedications than required for other purposes or other contributions and the Town Council finds it to be in the best interests of the health, safety and welfare of the Town to waive such requirements. (Ord. 16 §3, 2006; Ord. 26, 2007)

Sec. 17-5-100. Capital expansion recovery system.

(a) Intent.

(1) It is the intent of this Section to adopt a rational system for identifying growth-related costs incurred by the Town in providing for new and expanded capital facilities made necessary by expanded population levels; to develop a fee structure therefor directly related to such costs; and to provide a method for collection of such fees.

(2) It is the further intent of this Section that such fees accurately reflect actual growth-related capital costs; that once such costs are paid, ongoing operating charges will be similar to charges imposed in other areas of the Town prior to such development; that the system will be understandable and easy to apply; and that policies and fees shall be subject to revision as conditions change.

(b) Fees imposed.

(1) There are hereby imposed capital expansion recovery system fees upon every additional residential unit and upon additional structural square footage for business, commercial and tourist uses in new subdivisions as set forth in Table 17-A-1 entitled "Capital Expansion Recovery System Fees For Properties Which Historically Have Been Subject to Payment of the Crested Butte Land Transfer Excise Tax"; and Table 17-A-2 entitled "Capital Expansion Recovery System Fees For Properties Which Historically Have Not Been Subject to Payment of the Crested Butte Land Transfer Excise Tax."

Table 17-A-1

Capital Expansion Recovery System Fees for Properties Which Historically Have Been Subject to Payment of the Crested Butte Land Transfer Excise Tax

<i>Function</i>	<i>Each Single-Family Residential Unit</i>	<i>Each Multi-Family Residential Unit</i>	<i>Each Commercial Residential Unit</i>	<i>Each Square Foot of Business/Commercial/Tourist</i>
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Municipal Buildings	Reserved	Reserved	Reserved	Reserved
Fire	\$ 388.79	\$ 388.79	Reserved	\$00.138
Marshal	Reserved	Reserved	Reserved	Reserved
Library	Reserved	Reserved	Reserved	Reserved
Park & Recreation Improvements	\$2,510.20	\$2,382.95	\$2,070.62	Reserved
Trails	Reserved	Reserved	Reserved	Reserved
Total	\$2,898.99	\$2,771.74	\$2,070.62	\$00.138

Table 17-A-2

**Capital Expansion Recovery System Fees for Properties Which Historically
Have Not Been Subject to Payment of the Crested Butte Land Transfer Excise Tax**

<i>Function</i>	<i>Each Single-Family Residential Unit</i>	<i>Each Multi-Family Residential Unit</i>	<i>Each Commercial Residential Unit</i>	<i>Each Square Foot of Business/ Commercial/Tourist</i>
Municipal Buildings	Reserved	Reserved	Reserved	Reserved
Fire	\$ 388.79	\$ 388.79	Reserved	\$00.138
Marshals	Reserved	Reserved	Reserved	Reserved
Library	Reserved	Reserved	Reserved	Reserved
Park & Recreation Improvements	\$2,540.41	\$2,411.63	\$2,095.55	Reserved
Trails	Reserved	Reserved	Reserved	Reserved
Total	\$2,929.20	\$2,800.42	\$2,095.55	\$00.138

(2) There are hereby imposed capital expansion fees upon every additional square foot of street right of way in new subdivisions as set forth in Table 17-B entitled Capital Expansion Fees Per Square Foot of Right-of-Way.

Table 17-B

**Capital Expansion Recovery System Fees Per Square
Foot of Right-of-Way for Snow Plow Equipment**

<i>Function</i>	<i>Single-Family</i>	<i>"R2" Zoned Areas</i>	<i>Multi-family</i>	<i>Business/ Commercial/ Tourist</i>
If real estate transfer tax has been paid	\$.1287	\$.1122	\$.0256	\$.0468
If real estate transfer tax has not been paid	.137	.1254	.0654	.0491

The uses apply to the right-of-way in each zone district in which the right-of-way is located. Zone districts extend to the center of each right-of-way.

(3) Capital expansion recovery system fees shall be due and payable prior to recording the final plat. (See Subparagraph 17-5-60(7)a.1.k) of this Article.)

(c) Exemption from fee. The Town Council, in its sole discretion, may by resolution grant an exemption for all or any part of the capital expansion recovery system fee imposed upon a new subdivision upon a finding that such waiver is in the best interests of the public by virtue of the fact that the subdivider will provide specific public facilities which directly enhance the recreational, social, economic or cultural facilities of the community and that such subdivider-provided public facilities are approximately equivalent in value to the otherwise required capital expansion recovery system fee.

(d) Disposition of fees. All fees collected pursuant to this Section shall be deposited in an account identified for each function in Tables 17-A-1 and 17-A-2 above, to be created by resolution of the Town Council, and to be used for the capital needs therein identified. Such resolution shall be adopted to comply with the provisions of Section 31-15-302(1)(f)(I), C.R.S.

(e) Review. The fees imposed by this Section, and moneys expended from the accounts created as required, shall be reviewed annually. The Town Manager shall report to the Town Council, as part of the presentation of the annual proposed budget, the actual and proposed expenditures and projects accomplished and to be accomplished from the accounts.

(f) Refunds. Subdividers may request a refund of their fees if they are not spent within seven (7) years from the date they were paid. Fees are deemed to be spent in the order in which they are collected. If it is determined that the fees or a part thereof have not been spent within the above seven-year period, the fees shall be refunded to the owners of the subdivision. (Prior code 15-3-6; Ord. 13 §§1, 11, 1996; Ord. 11 §§1, 6, 1997; Ord. 13 §1, 2004; Ord. 4 §1, 2009)

ARTICLE 6

Major Subdivision Design Standards

Sec. 17-6-10. General requirements.

(a) Criteria for review of subdivision. No proposed major subdivision shall be approved unless the Planning Commission finds that it complies with the applicable general and specific design and improvement standards set forth below. If the proposed subdivision does not comply with the design and improvement standards, it shall either be approved with conditions which assure compliance with all such standards, continued to a date certain or denied.

(b) All subdivisions in the Town shall comply with the following general requirements. They shall:

(1) Conform to these subdivision regulations, the existing or proposed underlying zone districts and the Crested Butte Land Use Plan.

(2) Provide an overall public benefit to the Town.

(3) Provide adequate access for fire protection and emergencies.

(4) Result in no significant unmitigated adverse impacts on public facilities, rights-of-way or utilities.

(5) Result in no significant unmitigated adverse effects on the use of adjacent property, or adversely affect the future development of surrounding areas.

(6) Result in leaving existing lots or the creation of tracts or parcels which are capable of being built upon in conformance with these subdivision regulations, the final plat conditions, existing zone districts, the currently adopted edition of the Building Code and other adopted plans and regulations.

(7) Take into account the character of the land to be subdivided, the surrounding area and the climate.

(c) Subdivisions to be based on site analysis.

(1) To the maximum extent practicable, subdivision development shall be located to preserve the natural features of the Property, to avoid areas of environmental sensitivity and to minimize negative impacts and alteration of natural features. The subdivision design shall preserve sensitive natural features, even if at the expense of maintaining the traditional Town grid pattern discussed in Section 17-7-30 of this Chapter.

(2) Land subject to natural hazards such as flooding, falling rock, landslides, mudslides, soil creep, snow avalanches, snow slides, wildfire or other natural hazards or conditions shall not:

a. Be platted for any use which might endanger the health, safety or welfare of the inhabitants;
or

b. Contain public rights-of-way or utilities, unless the subject hazard can not be adequately avoided as determined by the Town.

(3) The design and development of subdivisions shall preserve, to the maximum extent possible, the natural terrain, bodies of water, marshes, wetlands, drainage, existing topsoil and vegetation, including tree masses, large individual trees, willow masses and large individual willow bushes.

(4) Subdivisions shall be designed to:

a. Avoid adverse impacts on ground water and aquifer recharge areas;

b. Minimize cut and fill;

c. Avoid unnecessary impervious cover;

d. Avoid increasing the potential for damage due to flooding;

e. Avoid or mitigate adverse effects of noise, odor and traffic; and

f. Minimize development that would negatively affect sensitive natural features.

(5) Subdivision design shall, to the maximum extent possible, preserve:

- a. Existing and historical trails;
 - b. Existing and historical wildlife movement corridors, strutting grounds or other wildlife habitat; and
 - c. Existing historic structures.
- (d) Improvements at subdivider's expense. Unless otherwise provided, all improvements shall be made at the subdivider's expense, according to the specifications described herein.
- (e) Efficiency. Subdivision design shall provide for efficiency in the installation and maintenance of all public and private facilities and services.
- (f) Patterns of development. The proposed subdivision shall not be designed to create development patterns that cause inefficiencies, duplication or premature extension of public facilities, or unnecessary public costs.
- (g) Unanticipated field conditions. Where field conditions require changed or additional construction techniques, such as the need for curtain drains to intercept a previously unknown drainage problem which will interfere with a subdivision improvement, the Town may require reasonable additional measures to be taken. Failure to take required corrective action may result in the Town not accepting the improvements and, therefore, not allowing sales of tracts or parcels or issuing building permits or certificates of occupancy within the subdivision. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-6-20. Adoption of standards.

- (a) The following publications are adopted by reference as provided in this Chapter:
- (1) *Draft of Proposed Revisions to the 1985 Colorado State Highway Access Code*, Colorado Code of Regulations, 2 CCR 601-1, including proposed revisions through July 1995, published by the Colorado Department of Transportation, 1995, which describes how access should be made to state highways;
 - (2) *Residential Streets*, published by the American Society of Civil Engineers, National Association of Home Builders, ULI (the Urban Land Institute), Second Edition, 1990, which describes how residential streets should be designed;
 - (3) *Guidelines, Standards and Fees for the Review of Fire Protection in Proposed Inclusions to the Crested Butte Fire Protection District; and New Subdivisions and P.U.D.s Within the Crested Butte Fire Protection District*, published by the Crested Butte Fire Protection District, CP. O. Box 1009, Crested Butte, Colorado, 81224, 1990, which describes fire protection standards for subdivisions; and
- (b) No less than one (1) certified copy of each of the manuals identified in Subsection (a) above are presently available for public inspection in the office of the Town Clerk. Upon adoption of the manuals by reference, at least one (1) copy of each publication shall be available in either the office of the Town Clerk or the office of the Chief Enforcement Officer.

(c) Where a conflict exists between the manuals adopted in this Section and the terms and provisions of the remainder of this Chapter, the terms and provisions of the remainder of this Chapter shall control. (Ord. 2 §§1—3, 1996; Ord. 4 §1, 2009)

Sec. 17-6-30. Hazardous areas standards.

(a) Development in hazardous areas shall be prohibited unless a subdivider can demonstrate, using an appropriate professional in the field, that the areas proposed for development are not in hazardous areas. Hazardous areas are mapped in the Crested Butte Area Plan. They have the following titles:

- (1) Avalanche hazard;
- (2) Flood hazards;
- (3) Geologic hazards;
- (4) Wild fire hazards; and
- (5) Slopes thirty percent (30%) and greater.

If all of the land owned by a person is in a hazardous area, then the density transfers described in Section 17-6-90 of this Article may be applicable to allow some economic beneficial use of the property in addition to grazing.

(b) Development in the one-hundred-year floodplain shall be prohibited except for arterial streets which cross Coal Creek or the Slate River, or trails approved by the Town and the exemptions applicable to the restrictive inner buffer listed in Subsection 17-8-90(b) of this Chapter.

(c) A twenty-foot strip of land measured horizontally from the one-hundred-year floodplain designation on each side of any stream located within the boundaries of the subdivision, and of any stream located on land adjacent to the subdivision property, shall be protected in its natural state and shall be available for emergency access during periods of high water flow, with the exception that footpaths and the exemptions applicable to the restrictive inner buffer listed in Subsection 17-8-90(b) of this Chapter may be constructed or conducted thereon. Underground utilities may be located in such protected areas, provided that there is no practical alternative location for such utilities, that the plans are approved by the Planning Commission and that all construction scars are revegetated and the natural flow of water is not constricted. The setback resulting in the largest distance from the water body or stream in Subsection 17-6-30(c) or Article 8 of this Chapter shall be maintained.

(d) Proposed cut-and-fill slopes for roads, building excavations and other earthwork must be based upon evaluations by a qualified soils engineer or engineering geologist.

(e) Development shall not occur on slopes greater than thirty percent (30%). In general, such steep land, unstable land and land with inadequate drainage shall not be platted unless a part of each tract or parcel, sufficient to accommodate a building unit, is deemed buildable by a qualified engineer approved by the Town, without the use of precautions such as cribbing or retaining walls, other than retaining walls less than four (4) feet high and less than twenty-five (25) feet long, unless otherwise approved by the

Town. In steep areas, particular attention must be paid to geologic and soil conditions, road grades, cut-and-fill slopes and revegetation.

(f) Because hazardous areas also include other areas posing a risk to public health or safety, a Phase 1 Environmental Audit or a Phase 1 Environmental Assessment shall be conducted on all properties proposed for subdivision. All recognized environmental conditions shall be reported by the subdivider to the Town and County and the applicable state and federal agencies. The subdivider shall address any such recognized environmental conditions in accordance with applicable law. (Prior code 15-3-7; Ord. 16 §8, 2006)

Sec. 17-6-40. Agricultural impacts.

(a) Fences. When a subdivision adjoins property classified by the County Assessor as agricultural and when the adjoining property is used for grazing, the subdivider shall construct a four-foot wire or wood fence along the subdivision boundary line adjacent to the agricultural use, which shall be capable of preventing livestock from passing through. After acceptance of the public improvements, it shall be the responsibility of the abutting property owner within the subdivision to properly maintain the fence unless the agricultural user agrees in writing to do so. Existing historical easements utilized to gain access to fences for maintenance or operational purposes shall be preserved or replaced with alternate easements suitable for such purposes.

(b) Irrigation ditch access.

(1) Where actively utilized irrigation ditches cross or adjoin the subdivision, adequate provisions shall be made to ensure that water can be conveyed across the subdivision, including maintenance thereof. Ditch rights-of-way shall not be interfered with unless in compliance with Section 37-86-104, et seq., C.R.S., and a maintenance easement of at least twenty (20) feet from the edge of each ditch bank shall be preserved unless the subdivider can prove conclusively that the ditch has been legally abandoned. Existing historical easements utilized to gain access to ditches and head gates for maintenance or operational purposes shall be preserved or replaced with alternate easements suitable for such purposes.

(2) Conflicts between recorded and unrecorded irrigation ditch rights-of-way or easements shall be resolved by the subdivider and the ditch owner prior to final plat approval.

(c) Irrigation ditch lining. Reasonable conditions may be imposed by the Town to protect subdivision residents from hazards caused by the existence of irrigation ditches in the subdivision and to ensure that irrigation water arrives at the irrigator's point of use. Reasonable protection may include lining and culverting of ditches.

(d) Irrigation ditches not for drainage. Unless approved by the Town and the ditch owner, ditches shall not be used as drainage facilities.

(e) Stock drive routes. Recorded easements for stock drive routes crossing the subdivision shall be maintained, or an alternate location may be established upon the prior written approval of the holder of the easement. The Town encourages subdividers to work with agriculture stock drivers to provide stock drives for moving stock where legal stock drive routes do not exist but where historic or traditional routes do exist.

(f) Roads and boundary fences. Roads will be located a sufficient distance back from subdivision boundary fences so that normal maintenance of such roads, including snow removal, will not damage the fences. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-6-50. Recreational facilities.

Any recreational facility proposed for dedication to the Town, or other appropriate entity, shall be included in the subdivision improvements agreement. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-6-60. Survey monuments.

All surveying data shall be tied to primary control points, the location and description of which shall be recorded with the County Clerk and Recorder. Prior to acceptance of any public improvements by the Town, permanent survey monuments shall be set at all subdivision boundary corners, at points within the subdivision where there is a change of direction, at all tract or parcel corners and at the intersections of street and avenue centerlines. The monuments shall not be more than one thousand three hundred twenty (1,320) feet apart. All monuments and surveys shall be set and performed in accordance with Articles 50 and 51 of Title 38, C.R.S. (Prior code 15-3-7)

Sec. 17-6-70. Landscaping.

(a) Landscaping subject to regulation. Because landscaping on public and private lands is essential to the aesthetic values, ecology and soil conservation of the Town, it is hereby declared to be a benefit to the general public. As such, landscaping shall be subject to regulation, be fully described in the subdivision improvements agreement and the landscape plan and be ensured by a guarantee of completion as provided in these subdivision regulations. The "Design Guidelines Town of Crested Butte" shall guide the subdivider on all topics that are not discussed in this Section.

(b) Existing trees and shrubs. The landscaping plan shall demonstrate that a reasonable effort has been made to preserve all existing healthy trees and shrubs.

(c) Appropriate vegetation. The landscaping plan shall provide for planting of indigenous vegetation or such other vegetation as may be recommended by the Colorado Forest Service. Cut-and-fill slopes shall be no steeper than a ratio of two (2) horizontal to one (1) vertical. All exposed ground surfaces shall be revegetated. Bluegrass and other grasses requiring high consumption of water are strongly discouraged.

(d) Obstruction of signs and fire hydrants. No vegetation shall be located so as to interfere with the ability of motor vehicle operators to have unobstructed vision of traffic signs, street signs and intersecting streets. Fire hydrants shall not be obstructed by landscaping.

(e) Protection of vegetation. Installation of vegetation protection devices shall be required during any construction.

(f) Landscaping guarantee. All landscaping planted in accordance with this Section shall live for at least two (2) years after the applicable landscaping subdivision improvements have been made in compliance with Paragraph 17-5-80(h)(1) of this Chapter. It shall be properly maintained by the owner of

the tract or parcel on which it is planted. Landscaping that dies within the two-year period shall be replaced and shall be required to live for at least two (2) years from the time it is replanted.

(g) Debris, junk and equipment. No cut trees, timber, debris, junk, rubbish or other waste materials of any kind shall be buried, left or deposited on any tract, parcel, street or other area within the subdivision for more than ninety (90) days during construction of subdivision improvements. All such materials shall be kept within the subdivision. No construction equipment which is not being regularly used in the subdivision shall be left outside on the Property or within the Town for more than thirty (30) days. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-6-80. Soil erosion control.

Permanent erosion and sediment control measures shall be installed and maintained during all stages of construction. At a minimum, soil erosion control shall meet the following criteria:

(1) All erosion control features shall be consistent with the drainage standards set forth in Article 11, Division 2 of this Chapter.

(2) Erosion control features such as berms and ditches shall be implemented prior to initiating construction activities for the subdivision, and dust suppression techniques shall be implemented during construction.

(3) Cut-and-fill shall be kept to a minimum.

(4) Graded or filled slopes shall be kept to a 3:1 slope or less and all slopes in excess of thirty percent (30%) shall be left undisturbed. Slope stabilization techniques shall be implemented where soil conditions warrant and approved by the Town Engineer.

(5) Berms and ditches shall be constructed around graded areas to contain sediment-laden runoff.

(6) Grading and earth moving activities shall be carried out in July or late fall to avoid runoff periods and the rainy season when large amounts of sediment could be transported off the site by the runoff.

(7) All natural vegetation shrubbery in excess of two (2) feet in diameter and all trees with a trunk diameter of six (6) inches or more measured four and one-half (4½) feet above the ground shall be preserved unless the Town allows individual plants to be removed.

(8) Impervious surfaces shall be as small as possible, and runoff for impervious surfaces shall be collected in ditches or trenches in conformance with the drainage plan.

(9) Runoff velocity shall not exceed presubdivision levels.

(10) Degradation of water quality by the subdivision in waterways, water bodies and wetlands shall not occur. (Prior code 15-3-7)

Sec. 17-6-90. Other provisions.

(a) The Town may require, as a condition of subdivision approval, the construction of improvements not otherwise required by these subdivision regulations where such improvements are reasonably necessary to protect the health, safety or welfare of the Town and are made necessary as a result of the impacts created by the proposed subdivision. The Town shall provide written documentation for such necessity, and the obligation on the part of the subdivider for any required improvement shall be roughly proportional to the impacts of the proposed subdivision.

(b) The final plat shall evidence conformance with any applicable requirements of the Americans with Disabilities Act (ADA) and any similar state requirements for accessibility of the subdivision and improvements to handicapped persons. Such conformance may be made a condition of subdivision approval; provided, however, that subdivision approval shall not constitute the Town's certification that the subdivision meets any applicable federal or state requirement. Conformance with such requirements shall remain an obligation of the subdivider and the property owner. Where an applicable requirement of these subdivision regulations is more stringent than a federal or state requirement, the more stringent requirement shall control.

(c) The Town Council may approve the transfer of all or any portion of residential density allowable under the zoning classification for any reasonably zoned property which is denied all reasonable economic use by operation of these subdivision regulations. Such transfer of density shall be permitted from such residentially zoned property to another identified residentially zoned property only. The Town Council may impose reasonable conditions upon such transfer such as, but not limited to, the landowner's preservation of the property from which the density was transferred as open lands in accordance with Section 17-9-240 of this Chapter. Any transfer shall be approved by ordinance in the same manner as applicable to the rezoning of property and shall be evidenced by either a recorded written agreement between the property owner and the Town or the recording of the ordinance approving the transfer of residential density.

(d) In the event that the subdivider disagrees with any dedication of land required by any provision of these subdivision regulations, the subdivider may provide to the Town studies and documentation identifying, through generally accepted techniques and models, the projected impact of the proposed subdivision upon the pertinent public facilities and amenities. Such study and documentation shall also include the subdivider's recommendation regarding a land dedication or fee which is proportional to the projected impact of the subdivision. Such evidence shall be considered by the Town in its final determination regarding land dedication requirements for the subdivision. (Prior code 15-3-7; Ord. 20 §3, 1997)

ARTICLE 7

Tract and Block Design Standards

Sec. 17-7-10. Application of requirements.

All subdivisions shall comply with the site requirements set forth in Sections 17-6-20 through 17-6-140 below. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-7-20. Building site sizes.

Remaining lots and new tracts or parcels (building sites) must comply with the minimum and maximum size, width, setback and frontage requirements, and all other applicable dimensional limitations of the proposed or existing zone district. The size of neighborhood parks and snow storage areas may vary from this requirement. (Prior code 15-3-7)

Sec. 17-7-30. Block and building site patterns.

Residential blocks and building sites shall be shaped to reflect the traditional grid pattern of the Town and, where the topography requires different shapes, tracts or parcels (building sites), shall be shaped so as to accommodate a lawful dwelling unit within the setbacks required by the applicable zone district. When the topography suggests shapes other than the traditional grid pattern of the Town due to features such as hills or rivers, tracts or parcels shall utilize natural dividers as their boundaries. (Prior code 15-3-7)

Sec. 17-7-40. Parking.

Tracts or parcels shall be designed with off-street parking adequate to accommodate the requirements of the existing or proposed underlying zone districts and proposed use for each tract or parcel. (Prior code 15-3-7)

Sec. 17-7-50. Configuration of each building site.

(a) The configuration of each tract or parcel (building site) shall be laid out generally to approximate a rectangular shape to allow for easy identification of boundaries by future owners and neighbors.

(b) Side tract or parcel lines shall be substantially at right angles or arranged like radii, to street lines.

(c) No tract or parcel shall be laid out so as to be located in two (2) governmental jurisdictions, including special districts, providing the same services.

(d) Each tract or parcel shall have safe access to a public street. Driveways shall not exceed an eight-percent grade. The preferred intersection angle is ninety (90) degrees; the minimum angle is forty-five (45) degrees. Primary vehicular access to tracts or parcels shall not use easements across adjacent lots, tracts or parcels. Access to lots, tracts and parcels shall not cross steep slopes or other areas of natural hazard or open land, unless no other access is reasonably available and such access is approved by the Town. Access and roadways through open lands is strongly discouraged unless no other access is available due to topographic or other natural features.

(e) Each tract or parcel shall be provided with at least twenty-five (25) feet of frontage on an approved public street or avenue or the minimum lot width in the existing or proposed zone district, whichever is less.

(f) Tracts or parcels with double frontage, except corner tracts or parcels, shall be avoided, except where necessary to provide separation from incompatible land uses or because of the slope of the site.

(g) Tracts or parcels with unusual configurations, other than rectangles, will be discouraged, unless topography or other physical limitations of the Property suggest otherwise.

(h) The depth and width of tracts or parcels laid out for business or commercial purposes shall be adequate to provide for the off-street parking, loading facilities, snow storage and trash receptacles required or necessary for the type of use contemplated.

(i) Residential tracts or parcels in blocks that are four hundred (400) by two hundred sixty-six (266) feet shall be one hundred twenty (120) feet deep, thereby creating twenty-six-foot-wide alleys to allow minimal space for snow storage and utility equipment use in the alleys.

(j) If tracts or parcels are in a grid pattern, they shall be oriented so their longer dimension is on the north-south axis. (Prior code 15-3-7)

Sec. 17-7-60. Major highways.

(a) No tract or parcel shall front on nor shall any private driveway obtain access to or from arterial roads such as the Gothic Road or State Highway 135. Access to all tracts or parcels shall be from a public subdivision street or frontage road or the Slate River Road because the buildable area along the Slate River Road is minimal.

(1) The right-of-way for Gothic Road shall be a minimum of one hundred (100) feet wide. There shall be a minimum of fifty (50) feet from the centerline of the Gothic Road to each tract or parcel. The Town may require screening or a buffer between tracts or parcels and arterial roads such as the Gothic Road.

(2) Within three (3) miles of the Town, on parcels of land that extend more than one-quarter ($\frac{1}{4}$) mile from State Highway 135, residential and commercial development shall be located at least one-quarter ($\frac{1}{4}$) mile from the State Highway to help preserve the views from the State Highway unless:

a. development more than one-quarter ($\frac{1}{4}$) mile from the State Highway right-of-way would be more visible than development within one-quarter ($\frac{1}{4}$) mile, such as development on a hillside;

b. buildings are proposed on a site adjacent to existing buildings;

c. development can be screened by existing topography or trees so that only roof tops are visible from the State Highway;

d. light industrial development is proposed adjacent to Riverland Industrial Park, on the west side of the State Highway;

e. the entire parcel of land is within the one-quarter-mile buffer; or

f. agricultural buildings or operations are proposed. The location of riding arenas exceeding eight thousand (8,000) square feet shall also be at least one-quarter ($\frac{1}{4}$) mile from the State Highway.

(b) The requirements of this Section are recommended in the Crested Butte Area Plan in Section V, Natural Resources, Visual Resources, Scenic Corridors, Policy 24. (Ord. 16 §6, 2006)

Sec. 17-7-70. Snow storage.

- (a) All snow storage necessary for the subdivision shall be provided within the subdivision.
- (b) For planning purposes, one (1) square foot of snow storage space is generally necessary for each three (3) square feet of public or private land to be cleared except streets. For every four hundred (400) feet of sixty-four-foot-wide public right-of-way on an avenue, two (2) spaces at least fifty (50) by one hundred twenty (120) feet shall be provided within each block for snow storage unless otherwise agreed to by the Town. The preferred location for snow storage is approximately mid-block.
- (c) Such snow storage areas should be graded so drainage for these areas drains away from adjacent residential building sites.
- (d) Subdivisions should not be designed so that snow storage will be solved by hauling snow from streets.
- (e) Snow storage should not interfere with intersection views, traffic or signage.
- (f) Snow storage shall not be located on wetlands, unless otherwise agreed by the Town. (Prior code 15-3-7)

Sec. 17-7-80. Service access.

Multi-family, business and commercial developments shall provide adequate garbage collection facilities, access to such facilities, suitable service access and other facilities reasonably deemed desirable by the Town. Sites for aboveground utility installations should be provided outside of right-of-way dedications. Attempts should be made to service more than one (1) tract or parcel from these locations. (Prior code 15-3-7)

Sec. 17-7-90. Excavations and fills.

Excavations and fills shall be minimized to the extent reasonably possible, designed in a manner compatible with adjacent properties, revegetated with native vegetation and maintained by the subdivider or his or her successors if necessary. (Prior code 15-3-7)

Sec. 17-7-100. Existing structures.

Existing structures shall be located on sites which comply with the applicable zone district requirements unless one (1) or more of the dimensions of the existing structure exceeds the maximum building site width or length. In such cases, the subject lot shall be designed to conform to the established setback requirements of the existing or proposed zone district. (Prior code 15-3-7)

Sec. 17-7-110. Block lengths.

Block lengths shall be four hundred (400) feet and shall conform to existing Town patterns unless another length is necessitated by topography or other physical limitations of the Property. (Prior code 15-3-7)

Sec. 17-7-120. Block widths.

Block widths shall be two hundred sixty-six (266) feet, and shall conform to existing Town patterns unless another width is necessitated by topography or other physical limitations of the Property. (Prior code 15-3-7)

Sec. 17-7-130. Pedestrian walkways.

Mid-block snow storage discussed in Section 17-7-70 of this Article should be designed for use as summer pedestrian walkways connecting the avenues. Such walkways may count toward the trail requirements in Subsection 17-5-90(f) of this Chapter after the trails indicated on the Crested Butte Trail Plan in the Crested Butte Land Use Plan that are located in the subdivision are provided. (Prior code 15-3-7)

Sec. 17-7-140. Buffers.

A buffer shall be required where a subdivision is adjacent to an intensive use such as a highway or recreational facility from which the subdivision should be protected; or a natural feature, such as a lake, which should be protected from the impacts of the subdivision. If adverse impacts are suspected or buffers or screening deemed appropriate, the Town may require plantings, berms, screening, the retention of existing vegetation, fencing or other reasonable measures to substantially reduce adverse impacts. Acceptable screening shall include trees and berms and may include fences if approved by the Town. No improvements shall be constructed in a manner that would create adverse impacts to the buffered area. (Prior code 15-3-7)

Sec. 17-7-150. Park size and access.

- (a) The minimum park size shall be three thousand (3,000) square feet.
- (b) Neighborhood pocket parks should be located occasionally throughout a subdivision, but most required park acreage should be combined to create areas large enough for ball fields and other organized sports.
- (c) Parks shall be easily accessible from rights-of-way or, if approved by the Town, from trails.
- (d) Parks should be dispersed throughout the subdivision. (Prior code 15-3-7)

Sec. 17-7-160. Solar access standards.

Because subdivision layouts can affect the future orientation of buildings and consequently determine the natural access to sunlight and because solar access is important, subdivision plans shall comply with the following solar access issues.

- (1) Avenue orientation. Avenues should be oriented in the east-west direction and tracts or parcels on a north-south axis, to minimize the risk of solar shading.
- (2) Setbacks. Where appropriate, the subdivider shall establish setbacks, easements or building envelopes which protect solar access to adjacent tracts or parcels.

(3) Buffers. Space may be required to create a buffer between zone districts which permit buildings with different heights, to protect a small building from the shadow cast by an adjacent higher building of another zone district.

(4) Solar easements. Protection of both existing solar easements and dedication of new solar easements may be required by the Town. Solar easements shall be described and enforced as provided by Article 32.5 of Title 38, C.R.S. (Prior code 15-3-7)

Sec. 17-7-170. Exterior lighting.

All exterior lighting or illumination shall be designed, located, placed and shielded to be architecturally and aesthetically in compliance with Chapter 16, Article 17 of this Code. (Ord. 4 §1, 2009)

ARTICLE 8

Compatibility With Natural Features

Sec. 17-8-10. Preservation of resource areas.

Subdividers shall preserve resource areas, including the following:

- (1) Existing waterways;
- (2) Wetlands as described in Section 17-8-50 of this Division;
- (3) Mature tree cover (all trees six [6] inches or more in diameter measured four and one-half [4½] feet above the ground);
- (4) Willows and shrubs two (2) feet in diameter or larger;
- (5) Wildlife movement corridors, strutting grounds and other wildlife habitat;
- (6) Rock formations;
- (7) Significant existing views and natural vistas reasonably designated by the Planning Commission across the proposed subdivision from adjacent properties and public areas and out of the proposed subdivision; and
- (8) Other environmentally sensitive resources identified by the Planning Commission. (Prior code 15-3-7; Ord. 11 §2, 1997)

Sec. 17-8-20. In character with land.

Subdivisions shall be designed to preserve the natural character of the land. The design of every subdivision shall be compatible with the existing topography, drainage patterns and other natural features of the Property. Deep or extensive excavations and fills scar the landscape and shall be avoided. The

practice of terracing hillsides in order to provide additional or larger building sites shall not be allowed. (Prior code 15-3-7; Ord. 11 §2, 1997)

Sec. 17-8-30. Clustering.

(a) All subdivisions shall be designed so the developed area is limited to a small portion of the site and avoids sensitive areas. Open lands or other open spaces shall be separate from the developed area and shall occupy the remainder of the property or other lands as approved by the Town. Clustered design is best defined by what it is not. It is not dispersed.

(b) Subdivisions shall be clustered on the flatter, less fragile portions of the Property when development is not designed as typical blocks and lots.

(c) Clustered development should be designed to protect the most scenic and less stable portions of the site by avoiding them.

(d) Pockets of visual density or clustered development on hillsides, which are related to the natural contours of the land, are preferable to even dispersal of development.

Note: The density for residential units shall not exceed the maximum density of the zone district. Higher density zones districts for parts of the property may be appropriate for those areas where development is proposed if the sensitive areas described above will not be developed. (Prior code 15-3-7; Ord. 11 §2, 1997)

Sec. 17-8-40. Long-term maintenance costs.

The design of the subdivision should, wherever reasonably possible, lower all infrastructure maintenance costs by a self-maintainable ecological system, which will conserve materials, land and environmental values. (Prior code 15-3-7; Ord. 11 §2, 1997)

Sec. 17-8-50. Wetlands.

(a) No development, including without limitation, platting of tracts or parcels, streets, sewer lines or other utilities, developed parks, dredging or filling, shall occur within high quality wetlands, lower quality wetlands that could be restored to high quality wetlands (potential high quality wetlands) or within a buffer zone of at least one hundred (100) feet from the boundary of any high quality wetlands or lower quality wetlands that could be restored to high quality wetlands. Potential high quality (lower quality wetlands that could be restored to high quality wetlands) are naturally occurring wetlands whose functions have been impaired or degraded by ditching and drainage, irrigation, vegetation removal, metal pollution, stream bed degradation and other factors. In many cases, these impacts can be removed and a high quality wetland restored.

(b) Sites that are hydrologically connected to high quality wetlands, and proposed modifications of the surface water or groundwater on those sites that could adversely affect a high quality wetland, must be carefully considered prior to allowing development on these sites to prevent negative impacts to high quality wetlands.

(c) Wetlands shall not be fragmented so that the interconnected functions of the wetlands are diminished or eliminated.

(d) For purposes of these subdivision regulations, the procedures used to identify a wetland are as described in the 1987 Army Corps of Engineers Wetland Delineation Manual. In addition to the Town standards, no dredging or filling of any wetlands shall occur without the required federal and other permits, and said dredging or filling shall occur in such a manner as to minimize the impacts to the wetlands.

(e) Provisions for wetland functional analysis are contained in Article 13 of this Chapter. (Prior code 15-3-7; Ord. 11 §2, 1997; Ord. 4 §1, 2009)

Sec. 17-8-60. Wildlife habitat.

Subdivision design shall avoid development in or near significant wildlife habitat.

(1) Areas of particular concern include:

- a. Nesting areas for ducks, teal and geese;
- b. Rookeries for Great Blue Herons;
- c. Migration corridors, calving grounds and winter range for elk;
- d. Migration corridors and fawning areas for deer;
- e. Streams for trout production;
- f. Nesting sites for raptors such as red tailed hawks, owls and northern goshawks;
- g. Habitat for boreal toads and other threatened or endangered species;
- h. Tiger salamander habitat;
- i. Denning sites for fox and black bears;
- j. Blue grouse staging areas; and
- k. Any high quality wetlands.

(2) Buffer zones similar to wetland buffers shall be provided and maintained between wildlife habitat areas and developed area. (Prior code 15-3-7; Ord. 11 §2, 1997)

Sec. 17-8-70. Ridgelines.

The top or roof line of any structures shall be at least forty (40) feet, as measured vertically, below the top of any ridgeline mapped in the Crested Butte Area Plan. (Prior code 15-3-7; Ord. 11 §2, 1997)

Sec. 17-8-80. Soils.

The location of all tracts and parcels and the construction of all infrastructure improvements shall be based on geotechnical investigations of the soils in the area and, within practicable limits, the stratigraphy and physical properties of the soils underlying the site. The strength of and deformation characteristics of the soil strata shall particularly be the basis of improvements designs, so that an appropriate soil and foundation relationship is established for the proposed construction, as determined by registered engineers practicing geotechnical engineering and structural engineering in the State of Colorado. (Prior code 15-3-7; Ord. 11 §2, 1997)

Sec. 17-8-90. Restrictive inner buffer.

(a) Distance. A setback of twenty-five (25) feet shall be maintained from all water bodies, including wetlands, unless a one-hundred-foot setback from high quality wetlands is appropriate, as discussed in Section 17-8-50 above. The setback shall be measured horizontally from the ordinary high water mark in average hydrologic years on each side of a water body. This setback is referred to as the "restrictive inner buffer." The following activities shall not be allowed in the restrictive inner buffer:

- (1) Construction, installation or placement of any obstruction or the erection of a structure.
- (2) Placement of material, including soil, sand, gravel, mineral, aggregate, organic material or snow plowed from roadways and parking areas.
- (3) Removal, excavation or dredging of solid material, including soil, sand, gravel, mineral, aggregate or organic material.
- (4) Removal of any existing vegetation or conduct of any activity that will cause any loss of vegetation, unless it involves the approved removal of noxious weeds, nonnative species or dead or diseased trees.
- (5) Lowering of the water level or water table by any means except as allowed by the Colorado Division of Water Resources.
- (6) Use of equipment within the buffer, except for the construction of roads or bridges across the water body.
- (7) Disturbance of existing natural surface drainage characteristics, sedimentation patterns, flow patterns or flood retention characteristics by any means, including grading and alteration of existing topography. Measures taken to restore existing topography, to improve drainage flow patterns or flood control shall be approved by the Town prior to taking the measures.

(b) Exemptions from restrictive inner buffer. The following structures, improvements and activities are exempt from the restrictive inner buffer:

- (1) Structures for decreed water rights, docks, piers, watercraft launches and ramps.
- (2) Activities and structures in wetlands resulting from agricultural operations.

(3) Projects primarily for water protection that have received required state or federal permits, such as those projects designed for the enhancement, protection and/or restoration of water body banks, channels, wetlands, riparian areas and/or piscatorial wildlife habitat.

(4) Emergency flood control measure.

(5) Maintenance, repair or replacement of roads, roads that approach bridges and bridges existing as of the effective date of the Crested Butte Area Plan.

(c) Variable outer buffer. A variable outer buffer shall also be maintained. The width of the variable outer buffer need not be uniform across a parcel. Specific features within one hundred (100) feet of the closest border of a water body should define the width of the variable outer buffer on a site-specific basis and include:

(1) Slopes steeper than fifteen percent (15%) and draining into a water body.

(2) Presence of highly erodible soils.

(3) Presence of features that provide bank stability or riparian area protection. Trees, shrubs, vegetation or other natural features that provide for bank stability or riparian area protection should be maintained.

(d) Maximum buffer size. In no circumstances shall a variable outer buffer be required to extend more than one hundred (100) feet beyond the outer boundary of the restrictive inner buffer.

(e) Exemptions from restrictive inner buffer. The activities listed in Subsection (a) above shall not be allowed in the variable outer buffer and the exemptions in Subsection (b) above shall also be exempt in the variable outer buffer.

(f) The requirements for setbacks from all water bodies contained in this Section are recommended in the Crested Butte Area Plan in Section V., Natural Resources, Wetlands, Avoidance, Policies 32—36. (Ord. 16 §9, 2006)

ARTICLE 9

Open Land

Sec. 17-9-10. Application of requirements.

Every subdivision shall satisfy the open land preservation requirements set forth in this Article. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-9-20. Amount required.

(a) For subdivisions within the Town. The subdivider shall provide for the preservation of at least two and one-tenth (2.1) acres of open lands for each residential unit proposed within the subdivision, based upon the number of residential units in Crested Butte and the number of acres of open lands, or open space, in which the Town has participated in preserving as of 2006.

(b) For subdivisions of land annexed into the Town. The subdivider shall provide at least five (5) acres of open lands, or open space, for each additional residential unit and for each five thousand (5,000) square feet of commercial development. As an incentive, if land is preserved in "Priority Preservation Areas" (as shown on the Preservation Priorities maps in the Crested Butte Area Plan), less open space shall be required as a way to preserve the more important open spaces. As another incentive, if local housing or affordable housing units are proposed, less open space is required. The requirements for the preservation of open lands or open space contained in this Subsection are recommended in the Crested Butte Area Plan in Section III, Land Use, General Policies for Land Use, Density and Density Transfers, Policy 5. Table 17-C below sets forth the required amount of open space per additional residential unit and for each five thousand (5,000) square feet of commercial development.

**Table 17-C
Number of Acres Required for Preservation**

<i>Type of Development</i>	<i>Type of Land Preserved</i>	
	<i>Hazard Areas, Developable Land, or land beyond the end of plowed roads</i>	<i>Priority Preservation Areas (Resource Areas)</i>
Each free market dwelling unit	5 acres	3 acres
Each local housing or affordable housing unit	1 acre	1 acre
Each 5,000 sq. ft. of commercial development	5 acres	3 acres

(Prior code 15-3-7; Ord. 16 §7, 2006; Ord. 4 §1, 2009)

Sec. 17-9-30. Eligible lands.

(a) All lands shown on the Preservation Priorities #1 map and on the Preservation Priorities #2 map and labeled "Priority Preservation Areas" or "Other Preservation" in the legend, in the Crested Butte Area Plan, shall be eligible for preservation as open lands under this Subsection; provided, however that land with the following characteristics shall not be eligible:

(1) Lands from which the subsurface mineral interests have been severed and are available for location and mining of minerals, and the mineral interests are not conveyed or appropriately restricted concurrently with the surface interests.

(2) Lands that are presently subdivided or platted under a recorded plat, unless such subdivision approval or plat is revoked or rescinded and such revocation or rescission is placed on public record, except a lot in a subdivision that is thirty-five (35) acres or more may be preserved if no structures exist on the lot or will be allowed on the lot.

(b) The percentage of open lands currently in the Town limits compared to the total amount of open lands preserved by the Town and the Crested Butte Land Trust shall be the minimum percentage of open lands preserved within the subdivision compared to the total open lands preserved by the subdivider. The above applies only to lands preserved by the Town and the Crested Butte Land Trust within three (3) miles of the Town. (Prior code 15-3-7; Ord. 16 §7, 2006; Ord. 4 §1, 2009)

Sec. 17-9-40. Methods.

Any or all of the following methods of open lands preservation, singly or in combination, may be employed to preserve open lands pursuant to the requirements of Article 9 of this Chapter, subject to approval by the Town Council:

(1) Conveyance of a fee interest in the land to the Town.

(2) Conveyance of a fee interest in the land to an organization which is a "qualified conservation organization" as defined by the Internal Revenue Code, having in present force and effect an exemption from taxation under Section 501(c)(3) of the Internal Revenue Code, or any successor section on the same subject.

(3) Conveyance of a conservation easement on the land conveyed either to the Town or to an organization described above.

(4) Imposition and recordation of a restrictive covenant running with the land, which is enforceable by the Town and which precludes its development for all uses in perpetuity; provided that nonresidential agricultural, park land, wildlife or wetland conservation or enhancement uses may be permitted. The allowance for nonresidential agricultural uses shall not be interpreted to allow feed lots or other noxious agricultural activity on open lands in the vicinity of the Town.

(5) Any other conveyance or restriction of the title to the land which has the effect of restricting, in perpetuity, the development of the land for other than nonresidential agricultural, park land, wildlife or wetland conservation purposes which includes adequate enforcement provisions to ensure such preservation as approved by the Town. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-9-50. Procedure for preservation.

Prior to the Town's acceptance of any lands as eligible and as qualifying for preservation under this Article, and prior to or simultaneous with final plat approval, the subdivider shall provide to the Town evidence of title to any encumbrances upon such lands, accompanied by the proposed means of conveyance or title restriction. Such open lands may include open lands that were previously preserved by the subdivider as open lands or open space prior to the submission of the present subdivision application, provided that the Town must approve such open lands as Priority Preservation Areas or Other Preservation Areas and therefore deem such open lands or open space acceptable for preservation, and that the open lands have not previously been used to satisfy open lands or open space requirements of the Town, the County of Gunnison or Mt. Crested Butte. (Prior code 15-3-7; Ord. 16 §7, 2006; Ord. 4 §1, 2009)

Sec. 17-9-60. Priority open lands.

The following areas are encouraged to be preserved as undeveloped lands to avoid development in inappropriate areas and to preserve sensitive and unique lands:

(1) All lands shown on the Preservation Priorities #1 map and on the Preservation Priorities #2 map and labeled "Priority Preservation Areas" in the legend in the Crested Butte Area Plan.

(2) Unique and/or fragile areas, including but not limited to geologic formations, forested areas, critical view sheds, ridgelines, bodies of water, streams and rivers (including one-hundred-year floodplains), and wetlands and their one-hundred-foot buffer as defined in this Chapter and verified by field inspection.

(3) Steep slopes in excess of thirty percent (30%) as measured over a ten-foot interval.

(4) Critical wildlife winter range and significant wildlife habitat as identified in Section 17-8-60 of this Chapter and by the Colorado Division of Wildlife.

(5) Historically significant structures and sites, as listed on federal or state lists of historical places, or reasonably determined by the Town.

(6) Areas which have historically provided, or are reasonably identified as desirable, for public access to public lands. (Prior code 15-3-7; Ord. 16 §7, 2006; Ord. 4 §1, 2009)

Sec. 17-9-70. Uses of open lands.

(a) Public open lands shall generally be accessible, subject to restrictions imposed by the Town, such as allowing hunting or not.

(b) Private open lands may be used for private purposes, such as agriculture or wildlife habitat. At the option of the owner, access to such lands may be restricted such as to those involved in agricultural or wildlife preservation activities.

(c) Road rights-of-way crossing open lands shall not be counted as open lands, and open lands shall not be occupied by buildings or other structures unless approved by the Town, nor shall they be used as the yards of single-family or multi-family dwellings, or for parking areas. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-9-80. Size of open lands.

(a) The size of each area of open lands which is designed to provide for recreational use as well as preservation shall be of such minimum dimensions as to be functionally usable for those purposes.

(b) Open lands should be large areas that can be easily identified rather than many small pieces that may be difficult to identify. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-9-90. Location of open lands.

Open lands should be located to link designated open lands or open space areas and conservation easements to other open lands or open spaces, particularly when stream corridors, contiguous wetlands and/or trails are incorporated within the open lands and open space. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-9-100. Maintenance of open lands.

(a) Any lands identified for use as open lands shall have conservation easements or deed restrictions ensuring that:

- (1) No residential, commercial or industrial buildings will be built on the open lands; and
- (2) The use of the land as open land shall continue in perpetuity.

(b) The subdivision improvements agreement shall include the necessary language stating that a stewardship fund, which can be used in the future to resolve boundary disputes or for other appropriate reasons, will be provided for all open lands, and subdividers are encouraged to agree in the subdivision improvements agreement to maintain open lands in their natural state, including but not limited to:

- (1) Requirements for removal of litter;
- (2) Maintenance of natural and artificial watercourses as free-flowing and devoid of debris;
- (3) Allowing adequate space for stream channels to change as they naturally do over time; and
- (4) The use of the land as open land in perpetuity shall be defended by the grantee of the conservation easement or other appropriate instrument.

None of the above provisions shall be construed or enforced so as to prevent wetlands or wildlife habitat enhancement. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-9-110. Public lands.

All property held by a governmental entity for public use shall be exempted from the dedication requirements imposed by this Section. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-9-120. Exemption from open lands requirement.

The Town Council, in its sole discretion, may by resolution grant an exemption for all or any part of the open lands preservation requirement when:

- (1) The subdivider has previously, permanently and irrevocably preserved property within three (3) miles of the Town boundary for open space prior to subdivision;
- (2) The subdivider has donated or otherwise conveyed property to the Town for park use and public access, in excess of any park requirements in these subdivision regulations; or
- (3) The subdivider has provided more dedications than required for other purposes or other contributions and the Town Council finds it to be in the best interests of the health, safety and welfare of the Town to waive such requirements. (Prior code 15-3-7; Ord. 4 §1, 2009)

ARTICLE 10

Street and Sidewalk Standards

Division 1 Street Standards

Sec. 17-10-10. Street patterns.

(a) Roads shall be designed and located with regard for natural features such as topography, creeks and wooded areas to enhance the natural features of the Property and protect the existing natural resources.

(b) The street pattern in the subdivision shall conform with the most appropriate development of adjoining areas.

(c) Streets and avenues shall be continued at equal width and in similar alignment as existing or proposed streets and avenues in the Town or adjacent platted subdivisions unless the evaluation required in the preliminary plan submittals indicates that road improvements are needed to existing streets based on the impacts expected due to the proposed subdivision, in which case both the proposed subdivision streets and the existing streets may be required by the Town to be enlarged to accommodate the identified impacts.

(d) Intersections shall approximate right angles and have a minimum tangent length of fifty (50) feet on each leg. The subdivision design shall minimize the number of local streets that intersect Gothic Road, Slate River Road and State Highway 135. Intersections of more than two (2) streets at the same location shall be avoided.

(e) Where a street will eventually extend beyond the development but is temporarily dead-ended, the Town may require an interim cul-de-sac to facilitate emergency vehicular movements.

(f) Proposed streets shall be extended to the boundary lines of the land to be subdivided, unless prevented by topography or other physical conditions or unless, in the opinion of the Planning Commission, such extension is not necessary for connection of the subdivision with the existing street layout or the probable future layout of adjacent tracts.

(g) Dead-end streets with or without cul-de-sacs, except for those temporary cul-de-sacs discussed above, shall be prohibited unless the Planning Commission determines that the topography or other physical constrain demands such a street pattern.

(h) Permanent dead-end streets shall be provided with cul-de-sacs and include areas for storage of plowed snow as required in Section 17-7-70 above.

(i) Right-turn lanes and left-turn lanes shall be required at the intersection of arterial streets or the intersection of an arterial street with a subdivision street if traffic conditions indicate they are needed. Sufficient right-of-way shall be dedicated to accommodate such lanes when they are needed. Generally, such lanes are required when the trips per hour exceed the trips described in the Draft of Proposed

Revisions to the 1985 Colorado State Highway Access Code, Colorado Code of Regulations, 2 CCR 601-1, including proposed revisions through July, 1995.

(1) Acceleration and deceleration lanes shall comply with the applicable provisions of the Draft of Proposed Revisions to the 1985 Colorado State Highway Access Code, Colorado Code of Regulations, 2 CCR 601-1, including revisions through July, 1995. Applicable provisions include:

- a. Section 1.5 4, Definitions;
- b. Section 1.7, References; and
- c. Section 4.1, et seq., Design Standards and Specifications.

(2) Due to the high amounts of snow and the limited sight distances throughout the winter at intersections, the lowest traffic volumes that trigger the need for extra lanes shall be used. Criteria 4.7(1)(d) shall receive special attention when subdivisions are reviewed in the Town. It states:

"When public safety so requires, due to site specific conditions such as limited site distance, a turn lane may be required even though the criteria in subsection 4.7 are not met."

(j) The creation of new arterial streets to serve a subdivision or within a subdivision is strongly discouraged.

(k) Subdivisions shall be designed so as to provide two (2) or more accesses for all parts of each subdivision.

(l) Private streets serving new subdivisions are prohibited within the Town.

(m) No subdivision shall be approved unless all tracts and parcels have access to a public street. *Access to a public street* shall mean that all tracts and parcels within the subdivision:

(1) Have frontage on an existing public street built to the standards required by this Section; or

(2) Have frontage on a public street shown on a subdivision plat that meets all requirements of this Section, and which is offered for dedication and is eligible for acceptance by the Town in accordance with this Section.

(n) Based on the findings of the traffic analysis requirements in Subparagraph 17-5-50(15)i. of this Chapter and its evaluation by the Planning Commission, the subdivider shall propose mitigating measures to make substantial reductions in the adverse effects of the subdivision. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-10-20. Street conformance with Fire District standards.

All streets shall conform to the Crested Butte Fire Protection District Guidelines and Standards adopted March 15, 1989, as amended, with the following modifications and exceptions:

(1) Grades of streets should conform as closely as possible to the original topography, but in no case shall road grades exceed seven percent (7%), and combinations of steep grades and curves should be avoided.

(2) Turn-arounds shall not be allowed.

(3) Streets ending at cul-de-sacs shall not exceed four hundred (400) feet in length from the nearest intersection to the far side of the cul-de-sac.

(4) The paved portion of a cul-de-sac shall not exceed sixty (60) feet in diameter if a fire hydrant is provided half-way between the nearest intersection and the end of the cul-de-sac and if the right-of-way for the cul-de-sac is at least one hundred (100) feet in diameter.

(5) Private circulation drives, except those serving a condominium or apartment complex on one (1) tract or parcel, shall not be used. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-10-30. Relationship to existing Town bearings.

Streets, avenues and alleys shall be laid out to be parallel with existing streets, avenues and alleys unless unusual planning considerations suggest otherwise. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-10-40. Street construction.

Streets shall be constructed by the subdivider to conform to the standards described in the Colorado Department of Transportation, Division of Highways, State of Colorado, Standard Specifications for Road and Bridge Construction, 2005. When there are conflicts between the standards set forth herein and the Colorado Department of Transportation, Division of Highways, State of Colorado, Standard Specifications for Road and Bridge Construction, 2005, the standards set forth herein shall prevail. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-10-50. Street layout.

(a) Street layout shall be designed to conform to the standards described in *Residential Streets*, Second Edition, published by the American Society of Civil Engineers, National Association of Home Builders and the Urban Land Institute in 1990. Copies are available in the Planning Department. When there are conflicts between the standards set forth herein and *Residential Streets*, the standards set forth herein shall prevail.

(b) Street layout shall conform to the Master Street Plan in the Crested Butte Land Use Plan. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-10-60. Safety.

Streets shall be designed to avoid or minimize congestion, automotive or pedestrian safety problems and other traffic hazards. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-10-70. Coordination with transit.

Street location and design shall be coordinated with the Town's and area's overall transportation systems. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-10-80. Access across rivers.

Vehicular or pedestrian access across rivers or creeks must be approved by the Town, shall conform to other governmental requirements regarding bridges across waterways and shall be carefully limited. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-10-90. Physically challenged access.

Where sidewalks are proposed, a ramp for wheelchair and other physically challenged users shall be installed at the end of each block. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-10-100. Alleys.

Alleys, open at both ends, shall be required in all blocks and shall be surfaced with road base at least four (4) inches thick. Alleys shall be a minimum of twenty-six (26) feet wide. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-10-110. Street signs, names and traffic control.

Street and avenue names shall be shown on the final plat. The subdivider shall pay for and erect signs at each intersection of streets and avenues setting forth the names of streets, avenues, roads and highways. Such signs will be consistent in size and design with the existing street and avenue signs throughout the Town and shall utilize reflective materials. Avenues shall be named after mountains in the Elk Mountains. No street or avenue names shall be used which duplicate or may be confused with the names of existing streets or roads in the Town or the upper East River Valley. The subdivider shall pay for and erect all traffic control and parking signs necessary to serve the proposed subdivision. The size, design and materials of signs shall be approved by the Town Council. The Town Council may accept recommended names for streets from the subdivider or choose other names it finds more appropriate. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-10-120. Right-of-way widths.

Rights-of-way shall be provided at the following minimum widths:

<i>Street Type</i>	<i>R.O.W. Width</i>
Avenues	64 feet
Extensions of Elk Avenue	74 feet
Ninth Street and every third north/south street	80 feet
Other streets	60 feet

When, due to topography, hazards or other design constraints, additional road width is necessary to provide for the public safety, then dedication of right-of-way in excess of the minimum standards set forth above shall be required. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-10-130. Pavement width.

Hard surfacing in accordance with Town requirements is required for all streets and avenues. Pavement widths will not exceed the following distances between curbs:

<i>Street Types</i>	<i>Pavement Width</i>
Avenues and streets	24 feet
Collector streets	40 feet

(Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-10-140. Curbs and gutters.

Mountable curbs and gutters shall be provided for all streets. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-10-150. Half-street dedications.

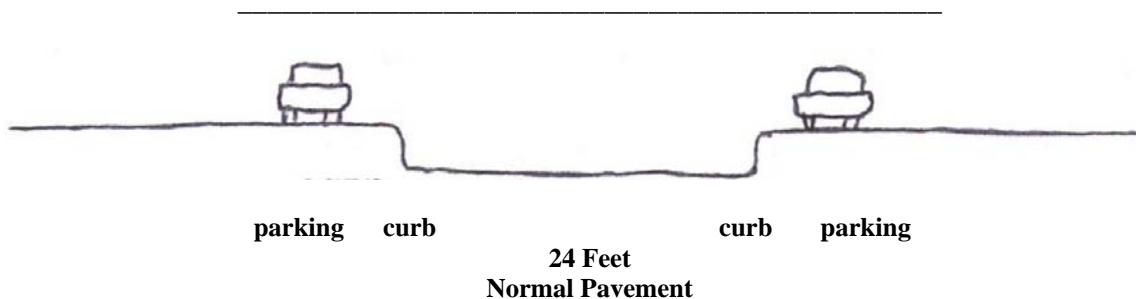
Half-street dedications shall be prohibited unless they are for the purpose of increasing the width of an inadequate existing right-of-way. No perimeter half-streets shall be permitted in new subdivisions. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-10-160. Curves.

Reverse curves on collector and bypass streets shall be joined by a tangent of at least one-hundred (100) feet in length. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-10-170. Street parking.

Parking on streets will be outside the curbs, except that the width of collector streets is designed to allow for parking between the curbs.





(Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-10-180. Transit.

Whenever a proposed subdivision embraces any part of an existing or planned street or transit alignment designated on an adopted plan, easements shall be provided to accommodate the plan within the subdivision. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-10-190. Street dedication and acceptance requirements.

Prior to and as a condition of the Town's acceptance of any street or other right-of-way for public use, the following conditions shall be satisfied by the dedicator of such street or right-of-way:

- (1) All of the above street standards shall be met as applicable;
- (2) The Property served by the street or right-of-way shall have received land development approval by the Town pursuant to this Chapter for the ultimate intended use of the Property so served;
- (3) The Property served by the street or right-of-way to be dedicated shall have received subdivision approval from the Town pursuant to these subdivision regulations;
- (4) The street or right-of-way shall have been constructed in accordance with required specifications and approved by the Town Engineer; and
- (5) The street or right-of-way shall be located in conformance with the Town's Master Street Plan contained in the Crested Butte Land Use Plan. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-10-200. Bridge standards.

(a) Bridges shall be designed by a registered engineer, be constructed to prevent obstruction to a one-hundred-year flood, and shall be subject to approval by the Town Engineer. The required federal and state permits shall be obtained for all bridges prior to construction. There shall be no culverts used as bridges over the Slate River or Coal Creek.

(b) Vehicular bridges shall be provided with pedestrian facilities, including trail walkways, bikeways and handrails.

(c) Bridges shall include adequate channeling, drainage and wingwalls to protect approach roadway fill.

(d) Bridges shall be designed so that the river bottom under the bridge does not step down at the bridge, thereby creating unnecessary erosion as the river bottom is eaten by the river trying to even out the step. Bridges shall not unnecessarily constrict flows and thereby create dams or change stream or flood characteristics. (Prior code 15-3-7; Ord. 4 §1, 2009)

Division 2
Standards for Trails, Walkways and Sidewalks

Sec. 17-10-310. Trail requirements.

It is the policy of the Town to require bicycle and pedestrian trails to be dedicated to the Town as a component of the Town's alternative transportation network and to provide recreational opportunities. Subdivision proposals shall include, as a component of the required public improvements, a pedestrian and bicycle trail system designed to integrate with existing trails within three (3) miles of the Town limits, integrate with existing improvements and provide service appropriate to the character of trails within three (3) miles of the Town limits. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-10-320. Compliance with trails plans.

The subdivider shall dedicate to the Town those portions of the trails, if any, shown on the Crested Butte Trail Plan which traverse the subdivision. The Town may accept reasonable alternative trail alignments and dedications proposed by the subdivider which will implement the trail plans and policies. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-10-330. Relationship to other land dedication requirements.

Land dedicated for a trail shall apply toward the subdivider's municipal land dedication requirements under Section 17-5-90 of this Chapter. Trails shall be dedicated to the Town unless they traverse open lands that will remain in private ownership. In such cases, permanent easements shall be provided for the trails in the name of the Town. Land area for sidewalks adjacent to streets for internal pedestrian circulation shall not be credited toward the open land requirement. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-10-340. Location requirements.

In fulfillment of the trail requirements of Section 17-5-90 of this Chapter, the subdivider shall dedicate trails to the Town which are reasonably necessary or convenient to the subdivision, including the following:

- (1) Trails shall be identified on the Crested Butte Trail Plan.
- (2) Trail or walkway systems or links shall provided for reasonable access to schools, shopping areas, parks, trails, open land and other public areas.
- (3) Trails and walkways through open land areas should take advantage of the visual qualities of the area and should be designed to be an alternative to vehicular traffic.
- (4) Trails shall link residential areas.

(5) Trails shall provide access to public lands.

(6) Trails should be parallel to internal or abutting streams and lake shores.

(7) Trails that create unsafe road crossings shall be avoided. Special structures and/or traffic control devices may be required at road crossings for safety. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-10-350. Design requirements.

(a) Separation between vehicular traffic ways and trails is required unless topography or other physical constraints necessitate a trail parallel to and near a traffic way. The minimum distance between vehicular rights of way and trails shall be twenty(20) feet.

(b) The type of construction for trails and walkways shall be compatible with the anticipated use.

(c) Sidewalks shall be six (6) feet wide and shall be required in all commercial or business zone districts on each side of a street.

(d) Improved, hard surfaced trail surfaces shall be no more than six (6) feet wide unless the terrain necessitates more width for safety purposes, and then no more than eight (8) feet wide.

(e) Easements for trails shall be dedicated to the Town and shall be at least fifteen (15) feet wide when they are located outside otherwise dedicated public land.

(f) Grades should be kept below five percent (5%) wherever possible, and should not exceed ten percent (10%) for sections of trail exceeding fifty (50) feet in length. The absolute maximum shall be twelve percent (12%) for sections of trail less than fifty (50) feet long, subject to approval of the Planning Commission. When long grades steeper than seven percent (7%) are unavoidable, consideration should be given to providing level stretches on which the user can rest or curves in the trail to make the grade less steep.

(g) Trails shall avoid all willows and shrubs larger than two (2) feet in diameter and shall avoid or go around all trees with a trunk diameter of six (6) inches or more measured four and one-half (4½) feet above the ground. Trails shall avoid rocks larger than four (4) feet in diameter and other natural features. Trails shall go around such vegetation and natural features to create interesting, winding ways. Where necessary, trails shall be built by hand to preserve such vegetation or other natural features. (Prior code 15-3-7; Ord. 4 §1, 2009)

ARTICLE 11

Utility Standards

Division 1

Utility Standards Generally

Sec. 17-11-10. Utilities placed underground.

The subdivider shall install service lines for local utilities underground, including those for electricity, natural gas, telephone, cable television and any other proposed utilities. If such lines are placed in a street or alley, they shall be in place prior to surfacing. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-11-20. Location of aboveground utilities.

Transformers, switching boxes, terminal compressor stations, pedestals or other similar facilities necessarily appurtenant and normally placed above ground may be placed within the subdivision easements or rights-of-way provided for the particular facilities in accordance with the approved utility service plan, but shall not be placed in any street or alley right-of-way to avoid conflicts with snowplowing. The location of each utility line shall be indicated on the utility plan. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-11-30. Oversizing for extensions.

Oversizing for likely extensions may be required to serve future phases. Utility lines, water and sewer lines, storm drainage facilities and irrigation ditches shall be sized to serve the total number of established and anticipated units in the subdivision and shall extend the full length of the subdivision. Oversizing may also be required to serve adjacent properties if a plan is in place at the time of subdivision approval stating that the cost of oversizing will be paid by subsequent users of the oversized line. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-11-40. Easement location and design.

Public utility easements shall be placed so as to be free from conflicting legal encumbrances, to avoid unnecessary removal of trees or excessive excavations and to be reasonably free from physical obstructions, and shall be dedicated at the time of final plat approval. Utility easements shall be at least twenty (20) feet wide; however, easements on two (2) adjoining tracts or parcels shall be a total of twenty (20) feet wide. In all cases, the subdivider shall work with the utility companies to provide reasonably sized easements a minimum of twenty (20) feet wide in appropriate locations. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-11-50. Soil compaction.

Soil compaction shall be required for fill of all utility lines, including service connections, within any public right-of-way. The compaction shall be ninety-five percent (95%) Standard Proctor. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-11-60. Propane gas.

No propane gas shall be used for structure, space or water heating. (Prior code 15-3-7; Ord. 4 §1, 2009)

*Division 2
Drainage Standards*

Sec. 17-11-110. Drainage study.

The drainage study shall be reviewed and approved by the Town Engineer to ensure that the information presented is accurate and uses standard engineering practices to solve expected drainage issues. The drainage plan shall describe how the expected maximum water flows from any twenty-five-year flood event and any one-hundred-year flood event shall be directed away from all buildings and other developed areas. (Prior code 15-3-7)

Sec. 17-11-120. Adjacent lands.

The drainage system shall be designed to accommodate not only runoff from the subdivision, but also the historic runoff for those areas adjacent to and upstream from the proposed subdivision, as well as its effects on lands downstream. (Prior code 15-3-7)

Sec. 17-11-130. Storm drainage separate from sanitary sewage systems.

Storm drainage systems shall be separate and independent of any sanitary sewer system. (Prior code 15-3-7)

Sec. 17-11-140. Historic runoff and drainage design.

The drainage system shall be designed and constructed by the subdivider so that only historic runoff, not including historic irrigation, shall be released from the site. Drainage flows in excess of this amount shall be retained, detained in on-site detention ponds to maintain the historical rate of runoff for the one-hundred-year flood from the undeveloped site, or handled in a storm sewer system which takes into account the low winter temperatures of the area. Drainage shall not be directed to any other property without the written permission, in perpetuity, of the owner of said other property. All capital costs associated with handling runoff generated by a subdivision shall be paid by the subdivider, and all ongoing maintenance and operations costs of structures on public property or easements shall be paid by the Town unless it is agreed that the subdivider or his or her successors will maintain the drainage facilities. (Prior code 15-3-7)

Sec. 17-11-150. Drainage facilities.

The subdivider shall provide culverts, drainage pipes, storm sewers, bridges and other flood and runoff control structures which shall be sized as required by the drainage study to protect all roadways, adjacent lots, tracts or parcels and property that is not a part of the subdivision. Particular attention will be given to items which will prevent over-topping, erosion or silting up of drainage facilities. Culverts and pipes shall be galvanized, corrugated steel or the approved equivalent. The minimum accepted culvert size shall be fifteen (15) inches in diameter. Open channels shall be a trapezoidal in shape with a minimum

side slope of two (2) horizontal to one (1) vertical. They shall be sized to retain the anticipated flows at the design velocities. (Prior code 15-3-7)

Sec. 17-11-160. Drainage easements.

Where a subdivision is traversed by a watercourse, drainage way, channel, stream, water supply ditch or canal (existing drainage way), there shall be provided in the subdivision a storm water or drainage easement or right-of-way conforming substantially to the lines of such existing drainage way. Such easements and existing drainage ways shall be of a width and constructed in a manner adequate to convey expected flows in a one-hundred-year flood. They shall also exclude improvements that would interfere with runoff. Drainage easements shall be shown on the final plat, shall provide a minimum access area on each side of the top of bank of twenty (20) feet for maintenance and access during flood events and shall be in accordance with the approved drainage study and drainage plan. (Prior code 15-3-7)

Sec. 17-11-170. Floodplain designated as open space.

Where a subdivision is located adjacent to the Slate River, Coal Creek or Washington Gulch, the subdivider should designate all land located within the one-hundred-year floodplain of the river, creek or gulch as open space or open land. In any event, no structures shall be placed within the one-hundred-year floodplain unless approved by the Town. One-hundred-year floodplain land designated for open space may apply toward the subdivider's open land requirements under Article 9 of this Chapter. (Prior code 15-3-7)

Sec. 17-11-180. Pollution from drainage.

The subdivision shall not result in reasonably avoidable degradation of waterways, other water bodies or wetlands. This standard shall apply to both the construction activities and the ultimate use of the land. Features such as settling ponds, filtration galleries and sand traps, and the maintenance of these items, shall be addressed and resolved prior to preliminary plan approval. (Prior code 15-3-7)

Sec. 17-11-190. Curbs.

Concrete curbs shall be required on both sides of streets and shall be designed to direct water so it will flow into the overall storm drainage system for the subdivision and the Town. Concrete curbs shall be located between the pavement edge of the street and sidewalk where sidewalks are proposed. Drainage shall be handled by surface drainage between curbs for a lineal distance of no more than nine hundred (900) feet or until the estimated flows exceed the capacity of the curbs, whichever is shorter. When the curbs can no longer handle the estimated flows, other drainage structures shall be used to direct water. (Prior code 15-3-7)

Sec. 17-11-200. Dips and swales.

Concrete dips, pans or swales are required at street intersections to direct water flowing along curbs through intersections. (Prior code 15-3-7)

Sec. 17-11-210. Phased development drainage plans.

A general drainage plan for the entire subdivision shall be presented as part of the first phase of a phased development, and appropriate development stages for the drainage system for each phase shall be indicated and constructed. (Prior code 15-3-7)

*Division 3
Water Supply*

Sec. 17-11-310. Connection required.

Each building site within a subdivision shall be connected to the Town's public water supply facilities. Water supply service lines shall be required to serve all tracts or parcels. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-11-320. Design.

The internal water distribution system of each subdivision shall be designed and sized hydraulically to meet the initial and future demands of the subdivision and shall be approved by the Utilities Director or the Town Engineer. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-11-330. Upgrading existing system.

In the event the Town Engineer determines that the existing water treatment plant, water distribution lines or water storage facilities are insufficient to meet the then-current demand, including demand of lots, tracts or parcels paying availability of service charges, and the demand of the proposed subdivision, then the subdivider shall be required to provide and pay for the upgrades necessary to supply the proposed subdivision with adequate water for lawn irrigation and fire-fighting capabilities, and adequate potable water for household and any approved business or commercial uses, as required as defined in Sections 17-9-360 and 17-9-380 below. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-11-340. Oversizing for extensions.

Oversizing for likely extensions may be required to serve future phases. Mains should be sized to serve the total number of established and anticipated units in the subdivision. Oversizing may also be required to serve adjacent properties. In such cases, an agreement shall be in place at the time of subdivision approval stating that the cost of oversizing will be paid by subsequent users of the oversized line. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-11-350. Sizing for fire demands.

All subdivisions shall be served by the Town's central treated water system. Water distribution systems shall be designed for fire flows as required by the Crested Butte Fire Protection District. The system shall be sized hydraulically for maximum day demand plus fire flow demand or for peak hour demand, whichever is greater.

(1) Maximum day demand, in gallons per minute, shall be three (3) times average day demand, and peak hour demand shall be assumed to be six (6) times the average day demand, unless calculations indicate otherwise and the design is approved by the Town.

(2) Minimum residual pressures shall be forty (40) pounds per square inch (psi) under peak hour demands and twenty (20) psi if direct flow is used. The actual pressure in the supply system under the conditions specified shall be used in designing the distribution system. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-11-360. Materials specifications.

The quality and materials specifications for all water systems must be submitted for review and are subject to approval by the Utilities Director. Proposed specifications should include the following:

(1) The strength rating for distribution piping and fittings with fire flow demand shall have a minimum safety factor of four (4) times the anticipated internal operating pressure.

(2) The system is to be designed for a minimum service life of fifty (50) years.

(3) Water lines shall be buried a minimum of seven (7) feet below the finished ground surface, or as approved by the Utilities Director, and they shall be insulated under street crossings and driveway crossings to avoid freezing.

(4) Dead-end mains are to be avoided but, if unavoidable, are to be provided with suitable means for flushing. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-11-370. Average daily demand.

Sufficient supply for the average daily demand of a subdivision is based upon three hundred (300) gallons per day (gpd) per residential unit or one hundred (100) gpd per capita, whichever is greater. For business and commercial uses, the quantity will be reviewed and established based on the anticipated demand of the uses. Appropriate multipliers may be utilized in calculating this amount. Minimum water for irrigation uses should be supplied from sources other than the central treated water system, and quantities will be based on eight hundred sixty (860) cubic feet per day per acre. Required irrigation quantities may be higher if for ball fields in a park or school yard and other areas receiving high usage. If a separate irrigation system will not be used, then the average daily demand should be increased for each unit based on the eight hundred sixty (860) cubic feet per day per acre figure and the proposed tract or parcel sizes. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-11-380. Stubbing water service lines.

Water service lines shall be stubbed at least ten (10) feet into each tract or parcel created in the subdivision by the subdivider prior to acceptance of improvements by the Town. Such stubbed service lines shall be provided with curb shutoff valves at the end of the service line. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-11-390. Fire hydrants.

Fire hydrants shall be required in all subdivisions and will be located in conformity with the Fire Code adopted by the Town in Chapter 18 of this Code. Generally, there shall be one (1) fire hydrant where each alley intersects with a street. No fire hydrant shall be acceptable unless the outlet threads correspond with the hose threads used by the Crested Butte Fire Protection District. Each fire hydrant shall allow a minimum flow of one thousand five hundred (1,500) gpm. Fire hydrants may be required to allow larger flows depending upon the proposed nearby land uses. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-11-400. Conformance with Fire District standards.

All water supply infrastructure shall conform to the Crested Butte Fire Protection District Guidelines and Standards adopted March 15, 1989, as amended, with the exception that subdivisions without central (treated) water supply shall not be allowed. (Prior code 15-3-7; Ord. 4 §1, 2009)

Sec. 17-11-410. Design and construction standards.

Unless otherwise provided by these subdivision regulations, all design and construction shall be performed in a manner which, at a minimum, meets the commonly accepted engineering and construction standards for the Town area and other communities located in mountainous settings with similar conditions and climate. (Prior code 15-3-7; Ord. 4 §1, 2009)

*Division 4
Sewage Disposal*

Sec. 17-11-510. Connection required.

Each subdivision shall be connected to the public sanitary sewage disposal facilities of the Town. Sanitary sewage disposal service lines shall be required to serve all tracts or parcels. (Prior code 15-3-7)

Sec. 17-11-520. Design.

Collection systems shall be designed to meet the demands of the proposed subdivision and shall be approved by the Utilities Director or Town Engineer. (Prior code 15-3-7)

Sec. 17-11-530. Upgrading of existing system.

In the event the Town Engineer determines that the existing wastewater treatment plant or sanitary mains are insufficient to serve the then-current demand, the future demand of tracts or parcels paying availability of service charges and the subdivision, the subdivider shall be required to provide and pay for the wastewater treatment plant and sanitary main upgrades necessary to meet the sewage treatment, sewage collection and sludge treatment demands of the proposed subdivision. (Prior code 15-3-7)

Sec. 17-11-540. Oversizing for extensions.

Oversizing for likely extensions may be required to serve future phases. Mains should be sized to serve the total number of established and anticipated units in the subdivision. Oversizing may also be required to serve adjacent properties. In such cases, an agreement shall be in place at the time of

subdivision approval stating that the cost of oversizing will be paid by subsequent users of the oversized lines or the Town, within twenty-four (24) months. (Prior code 15-3-7)

Sec. 17-11-550. Building permit limits.

Building permits may be reasonably limited by the Town according to the capacity of the system. Any such limitation shall be included in the subdivision improvement agreement. (Prior code 15-3-7)

Sec. 17-11-560. Infiltration.

The constructed system shall not permit infiltration in excess of two hundred (200) gallons per inch of diameter per mile of pipe per day, unless otherwise specified by the Town. (Prior code 15-3-7)

Sec. 17-11-570. Stubbing sanitary sewer service lines.

Sanitary sewer service lines shall be stubbed at least ten (10) feet into each tract or parcel, with cleanouts provided at the end of the service line stubs by the subdivider prior to acceptance of improvements by the Town. (Prior code 15-3-7)

*Division 5
Irrigation Systems*

Sec. 17-11-610. Irrigation systems encouraged.

Public and private irrigation systems using untreated water are encouraged to be installed when the terrain allows, to avoid using potable water for landscape irrigation. The use of a separate irrigation system may allow the size of the water treatment facilities and treated water storage to be decreased since lawn irrigation will not be necessary with treated water. (Prior code 15-3-7)

Sec. 17-11-620. Design.

An irrigation system shall be designed to be compatible with adjacent irrigation systems and development if reasonably possible, and shall be subject to approval by the Town. (Prior code 15-3-7)

ARTICLE 12

Affordable Housing and Local Housing

Sec. 17-12-10. Legislative intent.

It is the purpose of this Section to promote owner-occupied and rental unit, deed-restricted, affordable housing in major subdivisions which will serve many segments of the community that need affordable housing. The target groups for this housing are people who desire, but cannot afford to purchase, tracts or units for long-term housing in the Town and who qualify for local housing and/or affordable housing in major subdivisions as described in this Section and in Part IV of the *Model Affordable Housing Guidelines for Major Subdivisions in Crested Butte,* hereafter referred to as "Guidelines," as amended at

the time of final plat approval. The Affordable Housing Guidelines are attached as Appendix N to this Code. (Ord. 16 §11, 2006; Ord. 10 §2, 2008; Ord. 4 §1, 2009)

Sec. 17-12-20. Affordable housing and local housing requirements.

Any subdivider developing property that includes more than four (4) residential units shall comply with any of the following provisions:

(1) The subdivider shall reserve at least sixty percent (60%) of the total number of proposed residential units in the new development annexed to the Town as local housing units. Such units shall, at a minimum, be deed-restricted to a variety of mixed-income people who earn at least eighty percent (80%) of their income in the County. The requirements for the reservation of local housing units as part of a new development annexed to the Town set forth in this Section are based on the recommendations set forth in the Crested Butte Area Plan in Section VII, Housing, Policy 2.

(2) The subdivider shall reserve at least twenty-one percent (21%) of the total number of residential units in the development, which may be a portion of the local housing units required above, to be affordable to households earning one hundred eleven percent (111%) to one hundred fifty-three percent (153%) of the Area Median Income for Gunnison County as published by the U.S. Department of Housing and Urban Development, or the agency that publishes such a number in its place in the future.

(3) As an alternative means of satisfying the required reservation of affordable housing and/or local housing units within a subdivision, as provided by this Section, the subdivider may offer to the Town a substitute percentage of affordable housing and/or local housing units to be built by the subdivider; provided, however, that nothing herein shall obligate the Town to accept such amount of substitute built affordable housing and/or local housing units. The Town shall not accept any substitute affordable housing or local housing that attempts to solve the entire affordable housing or local housing requirements by locating all units in only one (1) geographic area of a subdivision. (Ord. 16 §11, 2006; Ord. 4 §1, 2009)

Sec. 17-12-30. Location of affordable housing and local housing.

(a) All local housing and/or affordable housing units required within a subdivision shall be located within and dispersed throughout the boundaries of the subdivision unless existing units are deed-restricted to affordable housing and/or local housing as described in Section 17-12-70 below. If the Town Council finds that unusual circumstances resulting from zoning and subdivision requirements or the location or size of the subdivision makes it unfeasible to reserve for use all or any portion of the required local housing and/or affordable housing units within the boundaries of the subdivision, the Town Council may, at its discretion, authorize the owner or subdivider to construct and reserve local housing and/or affordable housing units outside of the subdivision's boundaries to meet the affordable housing requirement for the subdivision.

(b) Regardless of the type of housing proposed in a subdivision (e.g., single-family, multi-family, duplex, mobile home), the same proportion of each housing type to be used for free market housing shall be reserved for local housing and/or affordable housing, except as provided in Section 17-12-70 below.

(c) The final plat shall identify each tract which shall have local housing and affordable housing units and it shall identify:

(1) The number of local housing and affordable housing units on each local housing and affordable housing tract;

(2) The number of affordable housing units in each category on the affordable housing tract, (the categories are described in the Guidelines); and

(3) The number of unrestricted units that may be built on the local housing and/or affordable housing tract, excluding accessory dwellings.

(d) The required number of affordable housing units shall be divided equally among the four (4) categories.

(e) The minimum size and minimum number of bedrooms in each category are described in the Guidelines, as amended at the time of final plat approval.

(f) To maintain compatibility with existing ratios of owner-occupied and rental units in the Town, at least forty percent (40%) of the affordable housing shall be owner-occupied units and at least forty percent (40%) shall be rental units. (Ord. 16 §11, 2006; Ord. 4 §1, 2009)

Sec. 17-12-40. Qualifying affordable housing and local housing units.

Affordable housing and local housing units intended for sale or rental use shall comply with Paragraph (1) below and affordable housing units shall also comply with Paragraph (2), (3) or (4).

(1) The subdivider shall record with the County Clerk and Recorder either a deed or an irrevocable covenant running with the property that limits the use of the local housing units and affordable housing units and the appropriate portion of the tracts to local housing and affordable housing. Such deed or covenant shall be in perpetuity, shall be approved by the Town Attorney prior to recordation and shall provide that the Town may enforce the use restriction contained in the covenant. Examples of the deed restriction are located in the Guidelines.

(2) The subdivider may convey all affordable housing units or tracts to the Town or a housing authority approved by the Town Council, at the Town's discretion. If conveyed to a housing authority, the housing authority may sell the owner-occupied units and may manage the rental units for the Town.

(3) If the affordable housing tracts are conveyed to a housing authority, such housing authority may seek approval from the Town to place duplexes on the single-family tracts to satisfy the unit requirements in Categories 2 and 3 only. This allowance is made in recognition that Category 2 and 3 units may be more cost-effective as duplexes rather than single-family units. The subdivider will receive no additional credit for such duplex units.

(4) If the subdivider chooses to build the affordable housing units, the subdivider may construct duplex units on some of the single-family tracts to satisfy the unit requirements in Categories 2 and 3 only. This allowance is made in recognition that Category 2 and 3 units may be more cost-effective as

duplexes rather than single-family units. The subdivider will receive credit for each such built additional duplex unit towards the single-family residential unit requirement. (Ord. 16 §11, 2006; Ord. 4 §1, 2009)

Sec. 17-12-50. Eligible occupants.

Eligible occupants of local housing in the subdivision shall be those people who, at a minimum, earn eighty percent (80%) of their income in the County as described in the Crested Butte Area Plan. Eligible occupants of affordable housing in the subdivision shall be those people described in the Guidelines, as amended at the time of final plat approval. Unless otherwise stated in the Guidelines, eligible occupants for affordable housing shall:

- (1) Be residents of the County;
- (2) Have earned income, eighty percent (80%) of which shall be earned income from within the County;
- (3) Have worked in the County for at least three (3) of the past five (5) years;
- (4) Not exceed the income categories established in the Guidelines or by a housing authority that has been given the responsibility to set income guidelines by the Town;
- (5) Own no other developed residential land for rental units and no residential land for owner-occupied units;
- (6) Live on site; and
- (7) Work at least an average of one hundred twenty (120) hours per month during each calendar year in the County. (Ord. 16 §11, 2006; Ord. 4 §1, 2009)

Sec. 17-12-60. Rent and sales price limits.

The Guidelines, as amended at the time of final plat approval, shall establish the maximum rent and sales price for each category of tenant or owner for all affordable housing units in major subdivisions. (Ord. 16 §11, 2006; Ord. 4 §1, 2009)

Sec. 17-12-70. Satisfying local housing and/or affordable housing owner-occupied unit requirements by deed-restricting units.

A subdivider may satisfy up to twenty-five (25%) of the requirements for local housing or for owner-occupied affordable housing by deed-restricting existing units in the Town.

- (1) Each existing unit that is deed-restricted to affordable housing shall be identified as a Category 1, 2, 3 or 4 unit, and the percentages of units in each category shall be maintained as required in Subsection 17-12-30(d) above.
- (2) The sales prices in the Guidelines, as amended at the time of final plat approval, shall apply to existing affordable housing units. Price increases for the resale of units shall take effect as described in the Guidelines, after the deed restriction is placed on the existing unit.

(3) No more than twenty-five percent (25%) of the affordable housing requirement may be met by deed-restricting existing units.

(4) Once deed-restricted, an affordable housing unit must be owner-occupied as set forth in the Guidelines. (Ord. 16 §11, 2006; Ord. 4 §1, 2009)

Sec. 17-12-80. Sale of local housing and/or affordable housing tracts.

(a) Local housing and/or affordable housing tracts shall be sold with unrestricted tracts or, in the case of local housing and/or affordable housing tracts, conveyed to the Town or a housing authority approved by the Town. All tracts must be developed so they are ready for conveyance and construction; i.e., improved tracts with water, sewer, telephone, electricity, gas and streets in place to the property line. A soils report, prepared by a qualified engineer and based upon test holes within the building envelope of each tract, stipulating that the tract is suitable for construction of the intended dwelling type without requiring unusual excavation, foundation work or accommodation of other unusual conditions, shall accompany the conveyance if deemed necessary by the Building Official. When conveying local housing and/or affordable housing tracts to the Town or its designee, conveyance shall be concurrent with preliminary acceptance by the Town of the subdivision improvements.

(b) Unless the tracts are conveyed to the Town or its designee, subdividers shall comply with the following rate of sales for each phase of a subdivision to ensure that a reasonable number of local housing tracts and/or affordable housing tracts are sold prior to unrestricted tracts:

(1) No more than twenty-five percent (25%) of the free market tracts in each phase of a subdivision shall be sold until twenty-five percent (25%) of either the local housing tracts or the affordable housing tracts, or a combination of both, are sold.

(2) No more than fifty percent (50%) of the free market tracts in each phase of a subdivision shall be sold until fifty percent (50%) of either the local housing tracts or the affordable housing tracts, or a combination of both, are sold.

(3) No more than seventy-five percent (75%) of the free market tracts in each phase of a subdivision shall be sold until one hundred percent (100%) of either the local housing tracts or the affordable housing tracts, or a combination of both, are sold.

(c) In the event the subdivider builds affordable housing, the Town Council shall reasonably decide how many free market tracts may be sold prior to the sale or rental of the affordable housing units or the local housing units, to be built by the subdivider. (Ord. 16 §11, 2006; Ord. 4 §1, 2009)

Sec. 17-12-90. Administration.

The Town Manager shall administer this Article and, subject to prior approval by the Town Council, may promulgate and enforce rules and regulations to implement its provisions. (Ord. 16 §11, 2006; Ord. 4 §1, 2009)

ARTICLE 13

Wetland Functional Analysis

Sec. 17-13-10. Description of functions.

The information contained in this Division is a description of wetland functions found in the Crested Butte Region and of how each function is evaluated in the field. Also included is a description of how the ranking system for that function was used in the field. (Prior code 15-3-11; Ord. 11 §3, 1997; Ord. 4 §1, 2009)

Sec. 17-13-20. Groundwater discharge.

This function involves the movement of groundwater to the ground surface. It is difficult to determine whether this function occurs unless it is seen or measured or unless an organic soil occurs. Organic soils always indicate groundwater discharge in the State. (Prior code 15-3-11; Ord. 11 §3, 1997)

Sec. 17-13-30. Flood storage.

(a) Flood storage is the process by which peak flows (from runoff, surface flow, groundwater flow and discharge and precipitation) enter a wetland basin and are delayed in their downslope journey. This function includes flood desynchronization. This latter process involves the simultaneous storage of peak flows in numerous basins within a watershed and their subsequent gradual release in a nonsimultaneous, staggered manner.

(b) Wetlands which are known to perform this function typically have some of the following characteristics: occur in a large watershed; are along an Order 1 or 2 (very small) stream; the size of the wetland is greatly increased in flood times; the basin is large and deep, has a low gradient, sediments are unsaturated (not permanently saturated), has high above ground and/or below ground storage, has no outlet and has dense vegetation. A wetland that would most likely perform this function to a high degree would occupy a large and broad, low gradient basin. Wetlands that most likely would not perform this function would be those having channeled stretches of streams, numerous irrigation ditches or canals. (Prior code 15-3-11; Ord. 11 §3, 1997)

Sec. 17-13-40. Sediment retention.

Sediment trapping is the process by which inorganic particulate matter of any size is retained and deposited within a wetland or its basin. This function may be performed for a short-term or long-term period. Wetlands which perform this function typically have the following characteristics: no outlet, surface water input exceeds surface water output, dense vegetation, gently sloping wetland edges and a wide floodplain. They have surface deposits of sediment from deposition. (Prior code 15-3-11; Ord. 11 §3, 1997)

Sec. 17-13-50. Shoreline anchoring.

Shoreline anchoring is the stabilization of soil at the water's edge or in shallow water by plant species with fibrous roots and may include long-term accretion of sediment. Wetlands that perform this function occur along open water (lakes and streams). Rating this function is done under the assumption that

vegetation density, vegetation type and wetland width are important predictors. Wetlands dominated by woody vegetation located along streams in which the stream bottom is largely covered by fibrous roots surely provide this function to a high degree. Wetlands that would not perform this function are not adjacent to lakes and streams. (Prior code 15-3-11; Ord. 11 §3, 1997)

Sec. 17-13-60. Water quality improvement.

(a) Included in this Article are water quality improvements due to biogeochemical processes. Excessive nutrient retention is the storing of nutrients within the substrate and vegetation of wetlands. Nutrient removal is the purging of nitrogen nutrients by conversion to gas (denitrification) while nutrient retention may involve trapping of runoff-borne nutrients in wetlands before they are carried downstream or to underlying aquifers. Nutrient storage in wetlands may be for long-term (greater than five [5] years) or short-term (thirty [30] days to five [5] years). The most critical nutrients for retention in aquatic ecosystems and removal are nitrogen and phosphorus compounds, although other nutrients may also be important.

(b) Wetlands that perform the nutrient retention or removal function for long-term periods typically have the following characteristics:

- (1) High sediment trapping function;
- (2) Organic matter accumulation;
- (3) No outlet; and/or

(4) Flooded permanently or semi-permanently (this creates reducing soil conditions which support active populations of denitrification bacteria and also minimizes the oxidation of organics which facilitates peat accumulation).

(c) An example of a wetland with long-term nutrient retention functions would be one with highly productive vegetation and highly organic soils that are permanently saturated. Other examples would be where sediment retention is high, because many nutrients are received attached to sediments. Many wetlands located in urban and industrial areas would perform this function.

(d) Wetlands that perform this function for short-term periods typically have the following characteristics:

- (1) High net biological productivity;
- (2) Sediment retention;
- (3) Nonacid soils; and/or

(4) Occur in watersheds that are highly developed, including urban, industrial and/or agricultural land uses with eroding soils and/or where fertilizer is applied.

(e) An example of a wetland that performs this function for the short term is one with extremely productive vegetation and permanently saturated soils. Most densely vegetated marsh stands would meet this criterion. A wetland that would not perform this function would have a very sparse vegetation, little

sediment retention and a steep slope which would keep sediment moving. (Prior code 15-3-11; Ord. 11 §3, 1997; Ord. 4 §1, 2009)

Sec. 17-13-70. Wildlife habitat in wetlands.

(a) Wildlife habitat includes those physical and chemical factors which affect the metabolism, attachment and predator avoidance of the adult or larval forms of fish, and the food and cover needs of wildlife in the place where they reside. These factors determine the suitability of a given site for an animal species. For the "Wetlands of the Crested Butte Region" study, habitat was evaluated for fish and for wildlife (birds and mammals) separately. Wetland physical and chemical characteristics that are good for one (1) species are not necessarily good for another species; thus there are few indicators of good habitat for animals in general. However, good habitat generally can be anticipated if a wetland has some of the following characteristics:

- (1) Good edge ratio;
- (2) Islands;
- (3) High plant diversity;
- (4) Some (but not excessive) alkalinity;
- (5) Sinuous and irregular basin;
- (6) The basin and wetland are not small;
- (7) Gentle gradient;
- (8) No artificial water level fluctuations;
- (9) Not dominated by moss;
- (10) pH in excess of 6.0;
- (11) Some open water;
- (12) Not urban or deep water;
- (13) Not channelized or farmed;
- (14) Undisturbed by man; and/or
- (15) Good food sources.

(b) An example of a wetland that would probably provide high quality wildlife habitat would be one that would support a diverse and productive vegetation, have some open water, be fairly undisturbed and provide some isolation from human activities. (Prior code 15-3-11; Ord. 11 §3, 1997; Ord. 4 §1, 2009)

Sec. 17-13-80. Aquatic food chain support.

(a) Food chain support is the export of organic matter produced in a wetland to a stream or lake where the energy and nutrients in that organic matter are utilized by animals inhabiting the aquatic environment. Food chain support may occur within that wetland basin or downstream. Wetlands that perform within basin food chain support typically have the following characteristics:

- (1) Not stagnant water;
- (2) Highly productive vegetation;
- (3) Irregularly shaped wetland with no outlet;
- (4) Not entirely shallow and warm water in the summer; and/or
- (5) Good mixing of the water.

(b) An example of a wetland that would have high within-basin food chain support value would be a wetland having diversity of plants and animals.

(c) Wetlands that perform downstream food chain support typically have the following characteristics:

- (1) An outlet;
- (2) Non-acidic waters;
- (3) Not sandy substrate;
- (4) Not permanently flooded;
- (5) A dense and diverse vegetation with high sustained productivity;
- (6) Not hyper-saline;
- (7) Good flushing flows; and/or
- (8) Vegetation overhanging the water. (Prior code 15-3-11; Ord. 11 §3, 1997; Ord. 4 §1, 2009)

ARTICLE 14

Appeals

Sec. 17-14-10. Appeals of Building Official, Planning Director or Board decisions.

(a) Perfecting the appeal. Any decision by the Building Official, Planning Director or Board may be appealed by an aggrieved person to the Planning Commission within fourteen (14) days of the decision, provided that a written and signed request for such appeal is filed by the aggrieved party with the Town

Clerk during said time period. This notice requirement is jurisdictional. The Planning Commission may also call a decision by the Building Official, Planning Director or the Board up for review by causing the Town Clerk to provide written notice to the Building Official, Planning Director or Board, and the subdivider.

(b) Appeal hearing. The Planning Commission shall hear the appeal or call-up after giving at least five (5) days written notice to the Building Official, Planning Director or Board and subdivider within twenty (20) days of the receipt by the Town Clerk or subdivider, as the case may be, of notice of appeal or call-up. The Planning Commission shall take evidence, make written findings of fact and render a written decision thereon. If necessary, the appeal hearing may be continued for good cause for a reasonable time period. The Planning Commission's decision shall be in writing and provided to the parties within five (5) days after the decision is made.

(c) Appeals decisions.

(1) The Planning Commission may uphold or reverse the appealed decision, or remand it to the Building Official, Planning Director or Board for further review and consideration. If new information, including but not limited to substantial changes in the design or other aspects of a proposal, is presented to the Planning Commission during the appeal that has not been reviewed by the Building Official, Planning Director or Board and, in the opinion of the Planning Commission this new information has a substantial impact on the proposal, the Planning Commission shall remand the proposal along with the new information to the Building Official, Planning Director or Board, as the case may be, for review and decision.

(2) If a decision is remanded, the Planning Commission may place conditions on the approval of the appealed decision so that it meets the intent of this Chapter and Chapter 16 of this Code. (Prior code 15-3-9; Ord. 4 §1, 2009)

Sec. 17-14-20. Appeal of Planning Commission or Town Council decisions.

(a) Administrative remedies provision. Where any subdivider believes that any provision or application of these subdivision regulations violates a provision of any federal or state statute other than Rule 106, C.R.C.P., or is otherwise unlawful, such person shall request in writing a hearing before the Town Council for the purpose of obtaining an administrative review by the Town Council of such claim and the evidence to support such claim. The Town Council shall schedule a public hearing to consider the claim. Within five (5) days following the conclusions of such hearing, the Town Council shall send or deliver to the aggrieved party a written finding regarding the claim, which may include either a finding that the claim is denied or a finding that the Town Council concurs with all or any part of the claim, and setting a time and date for the Town Council's review of and possible amendment or repeal of the provision. Failure of the Town Council to either set a hearing or reach a finding within the time required shall be deemed a denial of the claim. A request for such administrative proceeding and administrative remedy is a condition precedent to the filing of a complaint with a state or federal court challenging the subdivision regulations; provided, however, that nothing herein shall be deemed to apply to a claim brought pursuant to Rule 106, C.R.C.P.

(b) Perfecting the appeal. All appeals of Planning Commission or Town Council decisions shall be made by any aggrieved person as provided by state law, provided that the appealing party has provided a

written and signed notice of intent to appeal the decision to the Town Clerk within thirty (30) days after the decision is made. This notice requirement is jurisdictional.

(c) Effect of decision. A decision by the courts to uphold a decision of the Planning Commission to deny a proposal shall result in closure of the file and shall void any previous Town approvals if no reapplication for the appropriate step in the application process is received by the Planning Director within six (6) months of the final trial or appellate court order, decree, judgment or mandate.

(d) Decisions which may be appealed. For purposes of judicial review of these subdivision regulations or any decision made by the Planning Commission or Town Council pursuant to these regulations, no "final decision" under Rule 106(b), C.R.C.P. shall be deemed to have been made until a written decision on a specific application for subdivision has been rendered by the Planning Commission or Town Council, as the case may be. (Prior code 15-3-9; Ord. 4 §1, 2009)

ARTICLE 15

Enforcement and Penalty

Sec. 17-15-10. Enforcement.

It shall be the duty of the Town Council or its designee, to enforce the provisions of these subdivision regulations. No final plat of a subdivision shall be approved by the Town, nor shall any subdivision improvements agreement be approved by the Town, unless it conforms to the provisions of these regulations. (Prior code 15-3-8)

Sec. 17-15-20. Violation; penalty.

(a) Violation. It is unlawful for any person to violate any of the provisions of these subdivision regulations or to transfer, sell, lease or agree to sell or lease any lot, tract, parcel, site, separate interest (including a leasehold interest), condominium interest, time-share estate or any other interest within a subdivision or resubdivision within the Town which is subject to review and approval under these subdivision regulations unless and until the provisions of these subdivision regulations have been waived by the Building Official for a condominiumization or creation of townhouses, or such subdivision or resubdivision has been approved in writing by the Town and the final plat thereof recorded in the office of the County Clerk and Recorder, and any improvements described in the subdivision improvements agreement and in the final plan have been constructed and preliminarily accepted by the Town.

(b) Penalty. Any person who violates any of the provisions of these subdivision regulations, or who knowingly provides false information for the Town to use as the basis for its decision when considering the proposed subdivision, shall be fined an amount not to exceed one thousand dollars (\$1,000.00) per day for each offense, incarceration in the County jail for not more than one (1) year or both, and required to pay any expenses and costs incurred by the Town to successfully prosecute the violation, including reasonable attorneys' fees.

(c) Actions. The use of any land, building or structure, which activity or use is continued, operated or maintained contrary to any provision of these subdivision regulations, shall be unlawful. The Town may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove

such violation. Such remedies may include, without limitation, refusal to issue building permits, suspension of all building permits in the subdivision and refusal to issue certificates of occupancy in the subdivision.

(d) Remedies. The remedies herein provided shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

(e) Attorneys' fees. Any person who is found to be in violation of these subdivision regulations shall, in addition to any other penalties or remedies, pay the Town its reasonable attorneys' fees to ensure compliance with these subdivision regulations. (Prior code 15-3-8; Ord. 4 §1, 2009)