

CHAPTER 16

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ARTICLE 1

General Provisions

Sec. 16-1-10. Title, authority.

(a) This Chapter shall be known and may be cited as the "Fraser Zoning Ordinance and Map."

(b) The Fraser Zoning Ordinance and Map as set forth in this Chapter are authorized by state statutes. (Prior code 13-1-1, 13-1-2; Ord. 330 §1, 2007)

Sec. 16-1-20. Purpose.

This Chapter shall be for the purpose of promoting the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of the Town, by lessening congestion in the streets and roads; increasing safety from fire and other danger; providing adequate light and air; the classification of land uses and development; protection of the tax base; securing economy in governmental expenditures; fostering and encouraging business and industry; and the protection of urban and nonurban development. (Prior code 13-1-3)

Sec. 16-1-30. Interpretation.

For the purpose of this Chapter, certain words and phrases used herein shall be defined or interpreted as follows:

- (1) Words used in the present tense include the future;
- (2) Singular words include the plural;
- (3) The word *person* includes a corporation, association, partnership, firm or joint venture, as well as an individual.
- (4) The word *lot* includes *plot* or *parcel*;
- (5) The term *shall* is mandatory;
- (6) The term *occupied* or *used* shall be construed to also include *intended, arranged or designed to be used or occupied*. (Prior code 13-13-1)

Sec. 16-1-40. Definitions.

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

Absolute policy means a policy which, unless irrelevant to the development, must be implemented for a permit to be issued.

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

Accessory use means a use customarily associated with, but subordinate to, the principal use on the same lot.

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

Applicant means the owner of record of the property, which is the subject of an application, or the duly authorized agent of the owner or the successors in interest. The applicant is responsible for meeting all conditions on the issuance of the permit, and otherwise ensuring that all policies are implemented in the development. In the absence of the owner of record, or a duly authorized agent, the actual occupants at the development will be assumed to be acting jointly and severally as the applicant for the purposes of this Chapter.

Approval, in reference to an application made within the Business zone, means a decision indicating that the development implements all relevant absolute policies and has earned zero or more points pursuant to the relative policies based upon Town review of the application, and thus that a development permit may be issued. Approval may have conditions attached, and if so, the conditions are a part of the development permit.

Architectural style and detailing means the style of architecture of a building, indicated by features such as, but not limited to: exterior materials and colors, roof pitch, size and shape of windows and doors, use of decorative items and others.

Bed and breakfast means a business providing rooms and use of bath facilities to tourists on a nightly basis, for compensation, which business is incidental to the use of the premises for residential purposes. Structures containing such business shall contain no more than seven (7) bedrooms, of which no more than five (5) bedrooms are allowed for nightly rental purposes.

Building means any structure, including mobile homes, built for the shelter or enclosure of persons, animals, chattels or property of any kind, but excluding advertising signs, boards or fences.

Business offices means an office for the conduct of general business and service activities, such as offices of real estate or insurance agents, stock brokers, secretarial or stenographic services, or offices for general business activities and transactions, where storage, sale or display of manufactured goods on the premises is not allowed.

Capital Improvement Program means a document adopted by the Town which outlines the major capital improvement activities planned by the Town in the future.

Classification means a particular class that a development may be placed in for review within the Business zone under the provisions of this Code. In those instances where a development does not fall under one (1) of the two (2) classifications (major proposal or minor proposal), the Planning Commission shall place the proposal where the Commission deems appropriate, or if minor in nature, may conduct a staff evaluation and make a decision based on how well the

proposal implements the provisions of the Business zone. The Planning Commission shall also have the right to move a project to a higher classification if the Commission determines that the purpose of this Code would best be served by the reclassification. The Planning Commission shall reclassify a project within ten (10) days after first review of the application by the Commission.

Coal-burning appliance means any appliance that utilizes coal for heating, cooking or other similar purposes.

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

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

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

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

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

Development permit means a legal document issued upon approval of an application for development within the Business zone authorizing an applicant to proceed with his or her development. It is not a building permit.

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

Dwelling, multifamily means a building, or portion thereof, designed for or occupied by two (2) or more families living independently of each other.

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

Dwelling unit means one (1) or more rooms in a dwelling designed for occupancy by one (1) family for living purposes and having not more than one (1) kitchen. All dwelling units shall contain at least five hundred (500) square feet of floor area measured on the outside walls with the

exception of accessory dwelling units, which must contain at least two hundred (200) square feet of floor area.

Dwelling unit, accessory means one (1) or more rooms in a dwelling designed for occupancy by one (1) family for living purposes, incidental and subordinate in size and character to the primary residence and having not more than one (1) kitchen. *Accessory dwelling units* shall contain at least two hundred (200) square feet of habitable floor area.

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

Gross density means the ratio of the number of dwelling units per acre of the entire development parcel.

Height of building is the vertical distance above a reference datum measured to the highest point of the structure. The reference datum shall be selected by either of the following, whichever yields a greater height of building:

- a. The elevation of the highest adjoining sidewalk or ground surface within a five-foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than five (5) feet above lowest grade.
- b. An elevation five (5) feet higher than the lowest grade when the sidewalk or ground surface described in Subparagraph a. above is more than five (5) feet above the lowest grade.
- c. The height of a stepped or terraced building is the maximum height of any segment of the building.

Home occupation means any use customarily performed within a dwelling by the inhabitants thereof, but which is incidental to residence use. Such home occupation use shall have no external evidence except the sign as permitted herein and shall be operated only by persons residing on the premises.

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

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

Lot means a plot or parcel of real property, as shown with a separate and distinct number or letter on a plat recorded in the County Courthouse, or when not so platted in a recorded subdivision, a parcel of real property abutting upon at least one (1) public street and held under separate ownership.

Lot area means the number of square feet included within a lot, as measured within the boundaries of the lot lines on a horizontal plane upon which the boundaries have been vertically projected.

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

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

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

Lot width means the distance parallel to the front lot line measured between side lot lines at the front yard setback line or the front of the building located on the lot.

Major business complex means a development in a business or an accommodations zone over forty thousand (40,000) square feet of floor space combining permitted uses within one (1) building or in close proximity of each other and sharing facilities such as parking, signs, utilities, ingress and egress, walkways, etc.

Major proposals means any development within the Business zone which includes any of the following activities or elements:

- a. Residential uses which include four (4) units or more.
- b. Lodging and hotel uses.
- c. Bed and breakfasts, and boarding houses.
- d. Commercial, office and industrial uses, and additions greater than twenty-five percent (25%) of the size of the existing structure.

Minor business complex means a development in a business or an accommodations zone under forty thousand (40,000) square feet of floor space including at least four (4) principal business uses within one (1) building or in close proximity of each other and sharing facilities such as parking, signs, utilities, ingress and egress, walkways, etc.

Minor proposals means any development within the Business zone which includes any of the following activities or elements:

- a. Modifications to existing development permits.
- b. Single-family structures.
- c. Duplex residential structures.
- d. Triplex residential structures.

e. Additions to single-family and duplex structures equal or greater than twenty-five percent (25%) of the square footage of the existing structure.

f. Changes of use.

g. Temporary structures, events or uses.

h. Additions to commercial, office or industrial structures less than twenty-five percent (25%) of the size of the existing structure.

i. Major site work, landscaping, grading and utility installations, or any of these activities located within environmentally sensitive areas.

Mobile home means any dwelling unit designed to be moved upon wheels, and designed to be affixed to an axle, which is a part thereof, whether such axle is in place or has been removed. Any such unit which is permanently or semi-permanently attached to a foundation and connected to water and sewer mains does not lose its identity as a mobile home by reason thereof. This classification includes trailers, house trailers, trailer coaches and mobile homes.

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

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

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

Open space means an exterior space located within the physical boundaries of a project which, a) is usable for recreational purposes; b) provides for natural or man-made landscaping areas; or c) provides for the protection of natural resources such as stream channels, steep slopes, etc. Areas that qualify as open space are:

a. Landscaping areas, strips, planters, etc., with a minimum dimension in any direction of five (5) feet, and a minimum overall size of fifty (50) square feet.

b. Natural areas.

c. Outdoor recreational facilities, including on-grade plazas, swimming pools, tennis courts, playfields, picnic areas and all other similar outdoor areas.

d. Decks.

Areas that do not qualify as open space include, but are not limited to:

a. Parking and circulation areas.

b. Any areas covered with a structure.

c. Stairways.

d. Any areas that do not meet the minimum dimensions listed above.

Outdoor advertising device means a building or structure either independent of or attached to another building or structure and which is shaped, painted or made in such a way as to advertise a commodity, place or service or to support a pasted, painted or attached advertisement for any commodity, place or service.

Public building or use means any building open to the general use, participation or enjoyment of the public and owned by the municipality, county, state or federal government, or by a governmental subdivision thereof, or by a public utility corporation.

Public water and public sewage facility means those facilities of a municipality or a sanitation district approved by the State Health Department which provides for the furnishing of water or the processing of sewage.

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

Relative policy means a policy which the community encourages be implemented, but which need not be implemented. Positive, negative or zero points are allocated based on the features of the proposed development and how well it implements a particular relative policy.

Setback means the distance required by this Chapter between the face of a building and the lot line opposite that building face, measured perpendicularly to the building. Where angled buildings or lots, curved streets, etc., exist, the setback shall be taken as an average distance.

Sign means any writing, pictorial representation, form, emblem or any other figure of similar character which is a structure or any part thereof or is written, painted, projected upon, printed, designed into, constructed or otherwise placed on a building, board, plate or upon any material, object or device whatsoever, which by reason of its form, color, working, stereotyped design or otherwise attracts or is designed to attract attention to the subject thereof or is used as a means of identification, advertisement or announcement.

Storage areas means those portions of a building or site utilized for the storage and safe-keeping of goods. *Storage areas* shall not include areas that are utilized as or constitute work areas of any type.

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

Structure means anything constructed or erected upon the grounds, except utility poles, flag poles or walls and fences less than six (6) feet high.

Timeshare or interval ownership unit means single-family or multifamily dwelling, condominium or townhouse units that have been further subdivided into a stated number of additional interests in the unit, defined by the period of time during which the owner of the share may occupy it. Shares may be of two (2) types: first, *fee timeshares* or *interval estates*, wherein

diverse owners each own a present estate for years terminating on a date certain coupled with a future remainder interest in the unit as a tenant in common with the other diverse owners; second, *time span estates* operating on a tenancy in common principle coupled with an exclusive right to use and occupy the unit during a fixed annual recurring period of time.

Travel trailer means any vehicle or similar portable structure designed without a foundation other than wheels, jacks or skirts, and so designed or constructed as to permit occupancy for living or sleeping purposes, provided that any such structure over thirty-three (33) feet in total length, including hitch and bumper, shall be considered a mobile home for purposes of this Chapter.

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

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

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

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

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

Yard, side means a yard extending from the front yard to the rear yard between the side lot lines and the nearest point or points of the building or accessory building attached thereto. (Prior code 13-13-2; Ord. 290 Part 1.2.3, 2004)

Sec. 16-1-50. Planning Commission.

(a) The Planning Commission as established in Chapter 2, Article 6 of this Code shall be responsible for the implementation of this Chapter, and shall act in an advisory capacity to the Board of Trustees in those instances where these regulations call for review and recommendation by the Commission.

(b) The Planning Commission shall also have the sole authority to interpret this Chapter as set forth in Section 2-6-80 of this Code.

(c) The Planning Commission shall also have the sole authority to issue development permits as set forth in Article 4, Division 2 of this Chapter. (Prior code 13-1-4)

Sec. 16-1-60. Adoption of Comprehensive Community Plan.

The Board of Trustees hereby finds that the Fraser Comprehensive Community Plan Update dated April, 1986, with modifications attached thereto, as adopted by the Planning Commission, was made in accordance with the statutes and case law of the State. (Prior code 10-6-1; Ord. 330 §1, 2007)

Sec. 16-1-70. Enforcement.

This Chapter shall be enforced by the Building Inspector or other designee as appointed by the Board of Trustees, by the Board of Trustees or by any resident or property owner of the Town. No oversight or dereliction on the part of the Building Inspector or on the part of any official or employee of the Town shall legalize, authorize or excuse the violation of any of the provisions of this Chapter. (Prior code 13-9-1)

Sec. 16-1-80. Violations.

The erection, construction, enlargement, conversion, moving or maintenance of any building or structure and the use of any land or building which is continued, operated or maintained contrary to the provisions of this Chapter is hereby declared to be a violation of this Chapter, and the Town Attorney shall immediately, acting in behalf of the Board of Trustees, institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove such violation. Such action may also be instituted by any property owner who may be especially damaged by any violation of this Chapter. The remedy provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law. (Prior code 13-12-1)

Sec. 16-1-90. Penalties.

Every person convicted of a violation of any provision of this Chapter shall be punished as set forth in Section 1-4-10 of this Code. (Prior code 13-12-2; Ord. 290 Part 2, 2004; Ord. 296 Part 2, 2004; Ord. 313 Part 2, 2005; Ord. 330 §1, 2007)

ARTICLE 2

Zoning Districts, Zoning Map and District Boundaries

Sec. 16-2-10. Establishment of districts.

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

(1) R-1 – Low Density Residence. This District is for the standard urban-density subdivisions, composed of single-family dwellings.

(2) R-2 – Medium Density Residence. This District is for higher density of dwelling units than in the R-1 District, where not more than four (4) dwelling units are desired within a building or on a single parcel of land; except where contiguous lots of R-2 property are combined by vacating common lot lines with the intent to create one (1) single parcel, the number of units allowed under one (1) roof will (not to exceed twelve [12] units) be limited to the number of units that were allowed to the original individual lots immediately before the common boundary lines were vacated.

(3) R-3 – High Density Residence. This District allows for the highest density of dwelling units, where more than twelve (12) dwelling units are desired within a building and on a single parcel of land. No R-3 District shall abut an R-1 District.

(4) R-4 – Low Density Multifamily Residence. This District is for low density multifamily dwellings, where not more than four (4) units are desired within a building or on a single parcel of land.

(5) M-1 – Low Density Mobile Home. This District is for low density individual mobile homes where not more than one (1) mobile home is placed on each five thousand (5,000) square feet of land.

(6) M-2 – Medium Density Mobile Home. This zone provides for the location of individual mobile homes or mobile home parks where more than one (1) mobile home is placed on each five thousand (5,000) square feet of land.

(7) B – Business. This zone is to provide for any general business, commercial or wholesale activity.

(8) MD – Minimum Density. This District is for low density single-family dwellings, park facilities, farming and ranching structures, reservoirs, dams, water diversions and wastewater treatment facilities.

(9) A – Accommodations. This District provides for residential accommodations uses and associated commercial uses related to the operation of accommodations business enterprises.

(10) PD – Planned Development. This District is for the development of planned areas as a unit utilizing the following general types of land uses: residential, commercial, office or industrial and/or mixtures thereof, including necessary utilities, roads, open spaces and other land uses within the Town.

(11) ZLL – Zero Lot Line. This District provides for not more than two (2) single-family units to be attached in one (1) structure on individually deeded and platted lots. (Prior code 13-2-1)

Sec. 16-2-20. Zoning map.

The location of the zoning districts hereby established are shown on the map entitled "Official Zoning Map of the Town of Fraser" and is hereby made, along with the explanatory matter, a part of this Chapter. The official map shall be filed in the office of the Town Clerk, and shall be kept current at all times. All amendments to the map made in conformity with Article 13 of this Chapter shall be recorded in the map within twenty-four (24) hours of adoption, showing general location, effective date and nature of the change. Each map amendment shall become an amendment to this Article and shall contain a legal description of the area to be changed, as well as the nature of the change. No change shall be made to the Official Zoning Map, except in the manner provided herein, and any unauthorized change to the Official Zoning Map by any person shall be deemed a violation hereof and punishable as set forth in Article 1 of this Chapter. (Prior code 13-2-2)

ARTICLE 3

Residential and Transitional Districts

Division 1 General Provisions

Sec. 16-3-10. Application.

All of the incorporated area, present and future, within the Town shall be known as the "Fraser Zoning Area," and the following regulations, restrictions and provisions shall apply thereto, except as hereinafter provided:

(1) No building, structure or land shall hereinafter be occupied or used, and no building or structure or part thereof shall be erected, moved or structurally altered, unless in conformity with all of the regulations herein specified for the district in which it is located.

(2) No lots existing at the time of the adoption of the initial ordinance codified herein shall hereafter be reduced below the minimum dimensions or areas required by this Chapter. Lots which presently do not provide for the minimum dimensions provided for herein shall not be further reduced after the adoption of the ordinance codified herein.

(3) No yard or other open space provided about any building for the purpose of complying with the provisions of this Chapter shall be considered as providing a yard or open space for a building on any other lot, unless provided to the contrary by this regulation.

(4) The regulations contained herein are not retroactive and apply only to building and uses established after the effective date of the ordinance codified herein.

(5) All uses requiring water-using units (as defined in Section 13-2-10 of this Code) in the R-1, R-2, R-3, R-4, M-1, M-2, B, MD, A, PD and ZLL Districts shall be served by the Fraser Sanitation District and the Municipal Water System.

(6) In all zoning districts, it shall be unlawful for any person to establish or maintain any beehive, bee stand or bee box, where bees are kept, or keep any bees in or upon any premise except within an elementary or secondary school for the purpose of study or observation. (Prior code 13-3-1)

Sec. 16-3-20. Uses not permitted.

(a) Upon application or on its own initiative, the Board of Trustees may, by ordinance, add to the uses listed for a zoning district and any other similar use after public hearing after making the following special findings:

(1) That such use is appropriate in the use group to which it is being added.

(2) Such use conforms to the basic characteristics of the use group to which it is added.

(3) Such use does not create any more offensive noise, vibration, dust, heat, smoke, odor, glare or other objectionable influence or more traffic hazards than the minimum amount normally resulting from the other uses listed in the use group to which it is being added.

(b) When any use has been added to any use group in accordance with this Section, such use shall be deemed to be listed in the appropriate zoning district, and shall be added thereto in the published text of this Chapter at the first convenient opportunity. (Prior code 13-3-13)

Sec. 16-3-30. Exposed ground surfaces.

Exposed ground surfaces in any zoning district, as set forth in this Article, shall be paved or covered with a stone screening or other solid materials, or protected with a vegetated growth which is capable of preventing soil erosion and eliminating objectionable dust. (Prior code 13-3-14)

*Division 2
Residential Districts*

Sec. 16-3-110. R-1 – Low Density Residence District.

(a) In the R-1 – Low Density Residence District, no building or land shall be used, and no building shall hereafter be erected, converted or structurally altered, unless otherwise provided for herein, except for one (1) of the following permitted uses, along with accessory building uses:

- (1) Single-family dwellings; timeshare and interval ownership type dwelling units are not allowed in this District.
- (2) Schools, churches, hospitals and day care centers.
- (3) Parks and playgrounds.
- (4) Garden buildings.
- (5) Public utility and public service facilities; excluding business offices and excluding repair and storage facilities.
- (6) Accessory buildings and uses.

(b) The following uses may be approved as conditional uses subject to the procedures outlined in Section 16-6-60 of this Chapter:

- (1) Accessory dwelling units as specified in Section 16-6-30 of this Chapter.
- (2) Public gathering places, including government facilities, public meeting halls, auditoriums, arenas and outdoor concert venues.

(c) The minimum lot area for each principal use shall be as follows:

- (1) On subdivided land, two (2) acres with a minimum lot width of two hundred (200) feet.

(2) On subdivided lands served by both public water and public sewer facilities, and on unsubdivided land which is served by public water and sewer facilities and abuts on one (1) public street, six thousand (6,000) square feet or three (3) times the building area, whichever is greater, with a minimum lot width of fifty (50) feet.

(d) The minimum yard shall be as follows:

- (1) Minimum front yard, twenty (20) feet.
- (2) Minimum side yard, seven (7) feet.
- (3) Minimum rear yard, ten (10) feet.

(e) The maximum and minimum building heights shall be as follows:

- (1) Maximum height of buildings, thirty-five (35) feet.
- (2) Minimum height of buildings, eight (8) feet.

(f) The minimum area of a building on the ground floor shall be five hundred (500) square feet. (Prior code 13-3-2; Ord. 290 Part 1.2.3, 2004; Ord. 296 Part 1.1, 2004)

Sec. 16-3-120. R-2 – Medium Density Residence District.

(a) In the R-2 – Medium Density Residence District, no building or land shall be used, and no building shall be hereafter erected, converted or structurally altered, unless otherwise provided for herein, except for one (1) or more of the following uses:

(1) All uses provided for in the R-1 District.

(2) This District is for higher density of dwelling units than in the R-1 District, where not more than four (4) dwelling units are desired within a building or on a single parcel of land; except where contiguous lots of R-2 property are combined by vacating common lot lines with the intent to create one (1) single parcel, the number of units allowed under one (1) roof (not to exceed [12] units) will be limited to the number of units that were allowed to the original individual lots immediately before the common boundary lines were vacated. Timeshare and interval ownership type dwelling units are not allowed in this District.

(3) Accessory uses to residential uses.

(4) Private schools, nurseries and day schools.

(b) The minimum lot area for each principal use shall be as follows:

(1) On unsubdivided land, two (2) acres with a minimum lot width of two hundred (200) feet.

(2) On subdivided land served by both public water and public sewer facilities, and unsubdivided land served by both public water and public sewer facilities and abutting on at least

one (1) public street, six thousand (6,000) square feet or three (3) times the building area, whichever is greater, with a minimum lot width of fifty (50) feet.

(c) The minimum yard shall be as follows:

- (1) Minimum front yard, twenty (20) feet.
- (2) Minimum side yard, seven (7) feet.
- (3) Minimum rear yard, ten (10) feet.

(d) The maximum and minimum building heights shall be as follows:

- (1) Maximum height of buildings, thirty-five (35) feet.
- (2) Minimum height of buildings, eight (8) feet.

(e) The minimum area of a building on the ground floor shall be five hundred (500) square feet. (Prior code 13-3-4)

Sec. 16-3-130. R-3 – High Density Residence District.

(a) In the R-3 – High Density Residence District, no building or land shall be used and no building shall be hereafter erected, converted or structurally altered, unless otherwise provided for herein, except for one (1) or more of the following uses:

- (1) Multifamily dwelling units within a building or on a single parcel of land; timeshare and interval ownership type dwelling units are allowed in this District. A maximum of sixteen (16) shares or intervals are permitted.
- (2) Multifamily dwelling units within a building or on a single parcel of land.
- (3) Accessory uses to residential uses.
- (4) Private schools, nurseries and day schools.

(b) The minimum lot area for each principal use shall be as follows:

- (1) On unsubdivided land, two (2) acres with a minimum lot width of two hundred (200) feet.
- (2) On subdivided land served by both public water and public sewer facilities, and unsubdivided land served by both public water and public sewer facilities and abutting on at least one (1) public street, six thousand (6,000) square feet or three (3) times the building area, whichever is greater, with a minimum lot width of fifty (50) feet.

(c) The minimum yard shall be as follows:

- (1) Minimum front yard, twenty (20) feet.

- (2) Minimum side yard, seven (7) feet.
- (3) Minimum rear yard, ten (10) feet.
- (d) The maximum and minimum building heights shall be as follows:
 - (1) Maximum height of buildings, thirty-five (35) feet.
 - (2) Minimum height of buildings, eight (8) feet.
- (e) The minimum area of a building on the ground floor shall be five hundred (500) square feet.
(Prior code 13-3-5)

Sec. 16-3-140. R-4 – Low Density Multifamily Residence District.

(a) In the R-4 – Low Density Multifamily Residence District, no building or land shall be used, and no building shall hereafter be erected, converted or structurally altered, unless otherwise provided for herein, except for one (1) or more of the following uses:

- (1) All uses provided for in the R-1 District.
- (2) Multifamily dwellings, not to exceed four (4) dwelling units within a building or on a single parcel of land. Timeshare and interval ownership type dwelling units are not allowed in this District.
- (3) Accessory uses to residential uses.
- (4) Private schools, nurseries and day schools.

(b) The minimum lot area for each principal use shall be as follows:

- (1) On unsubdivided land, two (2) acres with a minimum lot width of two hundred (200) feet.
- (2) On subdivided land served by both public water and public sewer facilities, and unsubdivided land served by both public water and public sewer facilities and abutting on at least one (1) public street, six thousand (6,000) square feet or three (3) times the building area, whichever is greater, with a minimum lot width of fifty (50) feet.

(c) The minimum yard shall be as follows:

- (1) Minimum front yard, twenty (20) feet.
- (2) Minimum side yard, seven (7) feet.
- (3) Minimum rear yard, ten (10) feet.
- (d) The maximum and minimum building heights shall be as follows:
 - (1) Maximum height of buildings, thirty-five (35) feet.

(2) Minimum height of buildings, eight (8) feet.

(e) The minimum area of a building on the ground floor shall be five hundred (500) square feet. (Prior code 13-3-3)

Sec. 16-3-150. M-1 – Low Density Mobile Home District.

(a) In the M-1 – Low Density Mobile Home District, no building or land shall be used, and no building shall be hereafter erected, converted or structurally altered, unless otherwise provided for herein, except for one (1) or more of the following uses:

(1) All uses provided for in the R-1 and the R-2 Districts. Timeshare and interval ownership type dwelling units are not allowed in this District.

(2) Mobile homes subject to the following provisions:

a. The mobile home is located on a base made of Class C gravel or some other suitable base material such as a concrete foundation or basement adequate to provide sufficient support to prevent shifting of the mobile home after its location on the site.

b. The mobile home shall be skirted with material matching the exterior of the mobile home, within ninety (90) days of being placed on any lot or parcel of land.

c. Adequate storage buildings shall be provided to eliminate unsightly storage of personal property.

(b) The minimum lot area for each principal use shall be as follows:

(1) On unsubdivided land, two (2) acres, with a minimum lot width of two hundred (200) feet.

(2) On subdivided land served by both public water and sewage facilities, and on unsubdivided land served by both public water and sewage facilities and abutting at least one (1) public street, five thousand (5,000) square feet or three (3) times the mobile home area, whichever is greater, with a minimum lot width of fifty (50) feet.

(c) The minimum yard shall be as follows:

(1) Minimum front yard, twenty (20) feet.

(2) Minimum side yard, five (5) feet.

(3) Minimum rear yard, ten (10) feet.

(d) The maximum and minimum heights of the structure shall be as follows:

(1) Maximum height of structure, thirty-five (35) feet.

(2) Minimum height of structure, eight (8) feet.

(e) The minimum area of a building on the ground floor shall be six hundred fifty (650) square feet. (Prior code 13-3-6)

Sec. 16-3-160. M-2 – Medium Density Mobile Home District.

(a) In the M-2 – Medium Density Mobile Home District, no building or land shall be used, and no building shall be hereafter erected, converted or structurally altered, unless otherwise provided for herein, except for one (1) or more of the following uses:

(1) All uses provided for in the R-1 District and the R-2 District. Timeshare and interval ownership type dwelling units are not allowed in this District.

(2) Mobile homes subject to the following provisions:

a. The mobile home is located on a base made of Class C gravel or some other suitable base material such as a foundation or basement adequate to provide proper support and prevent shifting of the mobile home after location on the site.

b. The mobile home shall be skirted with material matching the exterior of the mobile home, within ninety (90) days of being placed on any lot or parcel of land.

c. Adequate storage buildings shall be provided to eliminate unsightly storage of personal property.

(3) Mobile home parks, unless in existence at the time of the adoption of the initial ordinance codified herein, subject to the following additional provisions:

a. A complete engineering design of the proposed mobile home park shall be submitted to and approved by the Board of Trustees.

b. Structures shall be separated from each other by at least ten (10) feet, except individual storage buildings.

c. All structures shall be located at least fifteen (15) feet from any park area boundary line.

d. In all parks accommodating or designed to accommodate twenty-five (25) or more mobile homes, there shall be one (1) or more recreation areas per twenty-five (25) mobile homes or fraction thereof, which shall be easily accessible to the residents of the twenty-five (25) mobile homes or fraction thereof for whom it is intended.

e. All parks shall be furnished with adequate lighting.

f. All streets shall be surfaced with a hard and dense material which shall be at least twenty-four (24) feet in width.

g. All parks shall be provided with safe, convenient, all-season pedestrian access of adequate width for intended uses.

h. A public supply of water of satisfactory quantity, quality and pressure shall be provided for each mobile home.

i. An adequate and safe public sewage system shall be provided in all mobile home parks for conveying and disposing of all sewage.

j. Every park shall contain an electric wiring system consisting of wires, fixtures, equipment and appurtenances which shall be installed and maintained in accordance with applicable codes and regulations governing such systems.

k. For every ten (10) dependent mobile homes, two (2) toilets for each sex and a service sink shall be provided in a service building.

l. All refuse shall be stored in approved containers, which shall be located not more than one hundred fifty (150) feet from each mobile home space. Containers shall be provided in sufficient number and capacity to properly store all refuse.

m. Grounds, buildings and structures shall be maintained free of insect and rodent harborage and infestation.

n. A piping system shall be installed and maintained in accordance with applicable code and regulations governing such systems if natural gas and/or liquefied petroleum gas is provided.

(b) The minimum lot area for each principal use shall be as follows:

(1) On unsubdivided land, two (2) acres, with a minimum lot width of two hundred (200) feet.

(2) On subdivided land served by both public water and sewage facilities, and on unsubdivided land served by both public water and sewage facilities and abutting on at least one (1) public street, two thousand five hundred (2,500) square feet or three (3) times the mobile home area, whichever is greater, with a minimum lot width of fifty (50) feet.

(c) The minimum yard shall be as follows:

(1) Minimum front yard, twenty (20) feet.

(2) Minimum side yard, five (5) feet.

(3) Minimum rear yard, ten (10) feet.

(d) The maximum and minimum height of the structure shall be:

(1) Maximum height of structure, thirty-five (35) feet.

(2) Minimum height of structure, eight (8) feet.

(e) The minimum area of a building on the ground floor shall be five hundred (500) square feet.
(Prior code 13-3-7)

Sec. 16-3-170. MD – Minimum Density District.

(a) In the MD – Minimum Density District, no building or land shall be used, and no building shall be hereafter erected, converted or structurally altered, unless otherwise provided for herein, except for one (1) or more of the following uses:

- (1) Single-family dwellings.
- (2) Parks, playgrounds and golf courses.
- (3) Ranching and farming facilities.
- (4) Reservoirs, dams and water diversion structures.
- (5) Accessory buildings and uses.

(6) Conditional uses, by conditional use permit only, within the park, playground and golf course uses:

- a. Recreational equipment repair, rental and accessory sales shops (no more than one [1] per principal use).
- b. Public or private clubhouses (no more than one [1] per principal use).
- c. Eating and drinking establishment which may require a liquor license.

(b) The minimum lot area for each principal use shall be as follows: On subdivided or unsubdivided land, two (2) acres with a minimum lot width of two hundred (200) feet.

(c) The minimum yard shall be as follows:

- (1) Minimum front yard, thirty (30) feet.
- (2) Minimum side yard, ten (10) feet.
- (3) Minimum rear yard, twenty (20) feet.

(d) The maximum and minimum building heights shall be as follows:

- (1) Maximum height of building, thirty-five (35) feet.
- (2) Minimum height of building, eight (8) feet.

(e) The minimum area of a building on the ground floor shall be five hundred (500) square feet. (Prior code 13-3-9)

Sec. 16-3-180. A – Accommodations District.

(a) District intent. The A – Accommodations District is intended to provide a transitional area between business, commercial and high density residential areas housing multifamily owner-occupied residences and second homes in the Town. This District shall provide sites for lodges, hotels and other high density residential accommodations uses with such public and semi-public facilities, private recreation and related visitor-oriented uses as may appropriately be located in this District. All accessory and conditional uses are to be associated with residential uses as either attached or detached structures and are intended for the primary use and benefit of residents and guests residing or staying within the A District. Public use of accessory and conditional uses is not excluded.

(b) Uses permitted. In the A District, no building or land shall be used, and no building shall hereafter be erected, converted or structurally altered, unless otherwise provided for herein, except for one (1) or more of the following uses:

- (1) Hotels.
- (2) Motels.
- (3) Timeshare or interval ownership residential facilities.
- (4) Condominium hotels/motels.
- (5) Lodges.
- (6) Boarding houses.

(7) Those uses allowed in the R-1, R-2, R-3 and R-4 Districts. Notwithstanding uses made, the development standards of the A District shall apply.

(c) Conditional uses. Conditional uses shall be allowed only by permit in the A District. Conditional uses must be associated with accommodations residential uses, must be sized to serve the needs of the associated development and may occupy up to ten percent (10%) of any zone lot or of the gross floor area of each principal use on a zone lot, whichever is lesser. The amount of conditional use floor space desired must be approved by the Planning Commission and included in its recommendation to the Board of Trustees. The conditional use permit will specify the approved amount. Conditional use floor areas pertaining to separate residential principal uses may be aggregated together and combined in a separate structure on the same zone lot where deemed appropriate. If the maximum of ten percent (10%) of the zone lot or gross floor area of a residential principal use is not used to comprise the conditional uses on a zone lot, the difference may not be transferred to another zone lot unless the zone lots involved are subject to a Planned Development Plan. The conditional uses are as follows:

- (1) Eating and drinking establishments which may or may not require a liquor license. Additional accessory food and beverage serving areas may be located on an uncovered and unenclosed outdoor deck, porch, terrace or patio.
- (2) Professional and business offices.

- (3) Medical and dental clinics and medical centers.
 - (4) Private clubs, private dining areas and civic, cultural and fraternal organizations.
 - (5) Meeting rooms and convention facilities.
 - (6) Public transportation terminals.
 - (7) Barber or beauty shops (no more than one [1] per principal residential use or separate structures housing conditional uses).
 - (8) Laundry facilities and Laundromats (no more than one [1] per principal residential use or separate structures housing conditional uses).
 - (9) Gift or sundry shops (no more than one [1] per principal residential use or separate structures housing conditional uses).
 - (10) Recreational equipment repair, rental and accessory sales shops (no more than one [1] per principal residential use or separate structures housing conditional uses).
- (d) Development standards (all principal uses are to be served with public sewer and water and have access to at least one [1] public street):
- (1) On unsubdivided land, two (2) acres for each principal use, with a minimum width of two hundred (200) feet.
 - (2) Minimum lot area, ten thousand (10,000) square feet.
 - (3) Minimum frontage width, fifty (50) feet.
 - (4) Yard setbacks:
 - a. Front, ten (10) feet.
 - b. Side, ten (10) feet.
 - c. Rear, ten (10) feet.
 - (5) Building separation: The minimum distance between buildings, including attached architectural features on the same development site, shall be fifteen (15) feet.
 - (6) Density: Facilities containing dwelling units, twenty (20) units per acre maximum gross density.
 - (7) Open space: A minimum of forty percent (40%) of the development site shall be planned landscaping or general open area.
 - (8) Maximum building height, forty (40) feet.

(9) Site boundaries: Fences, walls and similar constructed enclosures at the perimeter of any A District development shall not exceed a maximum height of three (3) feet.

(10) Parking and loading: Requirements are contained in Article 8 of this Chapter.

(11) The minimum area of a building on the ground floor shall be five hundred (500) square feet. (Prior code 13-3-10)

Sec. 16-3-190. ZLL – Zero Lot Line District.

(a) In the ZLL – Zero Lot Line District, no building or land shall be used, and no building shall be hereafter erected, converted or structurally altered, unless otherwise provided for herein, except for one (1) or more of the following uses:

(1) Single-family dwellings (see Paragraph (c)(1) below).

(2) Single-family dwellings connected with one (1) party wall.

(3) Schools, churches, hospitals and day care centers (see Paragraph (c)(1) below).

(4) Parks and playgrounds.

(5) Garden buildings.

(6) Public utilities and public service facilities, excluding business offices and excluding repair and storage facilities.

(7) Accessory building and uses.

(b) Timeshare and interval ownership type dwelling units are not allowed in this District.

(c) Minimum lot area for each principal use:

(1) Whenever the principal use is a single-family dwelling structure, school, church, hospital and day care center, all requirements of Section 16-3-110 of this Article will supersede Subsections (c) and (d) herein.

(2) On subdivided lands served by public sewer and water facilities and where each lot abuts and has access to one (1) public street, four thousand (4,000) square feet, the minimum lot frontage is thirty (30) feet.

(3) On unsubdivided land, one (1) acre with a minimum lot width of one hundred (100) feet.

(d) Lot and building requirements shall be:

(1) Minimum front yard setback, twenty-five (25) feet.

(2) Minimum side yard, one (1) side setback must be zero (0) and the other a minimum of ten (10) feet.

- (3) Minimum rear yard, ten (10) feet.
 - (4) Maximum height of structure, thirty-five (35) feet.
 - (5) Minimum height of structure, eight (8) feet.
 - (6) Minimum area of building on ground floor, five hundred (500) square feet.
 - (7) Maximum lot coverage (buildings, drives, parking areas), forty-five percent (45%).
 - (8) Each unit must have its own deeded and platted lot.
 - (9) No more than two (2) living units under one (1) roof.
 - (10) Structures straddling a common lot line must have separate walls for each unit next to the line. A party wall maintenance agreement must accompany all ZLL applications. No opening of any kind may be made in any party wall.
- (e) Review requirements.
- (1) All ZLL structures must have site plan approval from the Planning Commission before building permits may be issued. Site plan drawings are to be of appropriate scale to show placements of structures, parking, drives, drainage and accessory buildings, with dimensions.
 - (2) Should a resubdivision of lots be desired of existing subdivided land, appropriate procedures of the subdivision regulations are to be followed. (Prior code 13-3-11)

ARTICLE 4

B – Business District

*Division 1
General Provisions*

Sec. 16-4-10. Permits required for development.

Preservation and enhancement of the B – Business District and all mixed use, accommodation, lodging and commercial zoned planning areas in all PD Districts are critical to the community. It shall be unlawful for any person to undertake, conduct or use, or cause to be undertaken, conducted or used, any development within the B District or within any mixed use, accommodation, lodging and commercial zoned planning areas in all PD Districts without complying with the provisions of these regulations and obtaining a development permit. (Prior code 13-3-8; Ord. 330 §1, 2007)

Sec. 16-4-20. Basis for permit.

(a) Development permits shall be granted or denied on the basis of the policies contained in this Article. Policies are classified as either absolute or relative. Absolute policies are those which are critical to the community and must be complied with. Relative policies are those which have a

varying degree of importance to the community. Compliance with relative policies is encouraged, and points will be assigned by the Town based on how well a proposal implements each policy. A negative score indicates that a relative policy is not implemented and that the proposed development will have a negative impact on the community on the basis of that particular policy. A score of zero indicates either that the policy is irrelevant to the proposed development or that a negative impact on the basis of the policy is completely mitigated. A positive score indicates that the proposed development implements the policy in such a way that there will be a positive impact on the community. A point analysis shall be conducted for all relative policies.

(b) No development permit shall be issued by the Town unless a project is in compliance with all applicable absolute policies and is allocated zero or a net positive score in a point analysis for how well it implements all relative policies. (Prior code 13-3-8)

Sec. 16-4-30. Relationship to other provisions of this Code.

A permit issued pursuant to these regulations does not release the applicant from compliance with the provisions of the building, fire, electrical, solar, mechanical, plumbing, energy and sign codes or any other ordinances and regulations adopted by the Town and amended from time to time. (Prior code 13-3-8)

Sec. 16-4-40. Conditions.

The Town may place conditions upon issuance of a development permit which it deems necessary and proper to ensure that a policy will be implemented in the manner indicated in the application. Said conditions shall be listed on the development permit. Conditions may include, but not be limited to, the following:

(1) Use. The condition may restrict the future use of the proposed development to that indicated in the application.

(2) Homeowners' association. The conditions may require that, if a homeowners' association or merchants' association is necessary or desirable to hold and maintain common property, it be created prior to the issuance of a permit.

(3) Dedications. The conditions may require conveyances of title or easements to the Town, or public utilities for purposes related to the community's public health, safety and welfare, which may include land and/or easements for utilities, roads, snow storage or other similar public uses. Conditions may require construction to public standards and dedication of those public facilities necessary to serve the development and the public.

(4) Construction guarantees. The conditions may require the depositing of certified funds with the Town Clerk, the establishment of an escrow fund, the depositing of an irrevocable letter of credit, the posting of a bond or other surety or collateral (which may provide for partial releases), to ensure that all construction features required to meet specific policies are provided as represented and approved. When a building permit is issued, the Town may also require a monetary guarantee ensuring that the site will be revegetated to its original condition if the project is abandoned after construction has commenced.

(5) Indemnification and covenants. The conditions may require the recording of covenants and/or deed restrictions on the subject property, or the indemnification of the Town in certain instances.

(6) Public improvements. The conditions may require the installation of public improvements or participation in a special assessment district for the installation of public improvements within, adjacent to or contributing to the project.

(7) Additional and/or revised plans. The conditions may require that additional plans or engineered revisions to site, drainage or utility plans be submitted to the Town and approved prior to issuance of a building permit or occupancy of the structure, whichever is applicable. (Prior code 13-3-8)

Division 2
Development Permits

Sec. 16-4-110. Development permit process.

All applications for development permits within the B District and within any mixed use, accommodation, lodging and commercial zoned planning areas in all PD Districts shall be reviewed and action taken in accordance with the provisions of these regulations. (Prior code 13-3-8)

Sec. 16-4-120. Staff and/or Planning Commission review and action.

Most proposals must be reviewed at least one (1) time by the Planning Commission before final approval is granted. In some instances when the impact of a project will be minimal, Town staff will be able to grant approval without Planning Commission review. New development proposals have been classified depending upon their potential impact to the community.

(1) Minor proposals:

- a. Modifications to existing development permits.
- b. Single-family structures.
- c. Duplex and triplex residential structures.
- d. Additions to single-family and duplex structures.
- e. Changes of use.
- f. Temporary structures, events or uses.
- g. Additions to commercial, office or industrial structures.
- h. Major site work, landscaping, grading and utility installations, or any of these activities located within environmentally sensitive areas.

(2) Major proposals:

- a. Residential uses which include four (4) units or more.
- b. Lodging and hotel uses.
- c. Bed and breakfasts and boarding houses.
- d. New commercial, office and industrial structures. (Prior code 13-3-8)

Sec. 16-4-130. Process.

(a) Work session. Prior to submittal of any application for a development permit, the applicant shall meet with Town staff in order to acquaint the Town with the applicant's intentions and to acquaint the applicant with the requirements of the Town. Discussing a proposal with Town staff is critical to a successful project and to expedite the review process.

(b) Application. At least thirty (30) days prior to the Planning Commission hearing, the applicant shall submit an application and specified fee to the Town for review and consideration. The fee schedule is contained in Appendix A to this Code. Applications not drawn to scale, incomplete or submitted after the appropriate deadlines will cause delays in the review process. Ten (10) copies of all submitted materials are required. All applications for a development permit shall include the following:

(1) Site plan, preferred scale of 1" = 20', indicating the general site design of the proposal, including all existing and proposed improvements and building footprints. The site plan shall provide adequate details to evaluate the traffic circulation, parking, snow storage, building footprints, fences, loading points, refuse container locations, public rights-of-way and all existing and proposed easements.

(2) Building elevations, preferred scale of 1/4" = 1', of the proposed structures, showing: existing ground surfaces, top of foundation, floor elevations, roof line and any rooftop mechanical units proposed.

(3) Building floor plan, preferred scale of 1/4" = 1'.

(4) Drainage plan, (preferred scale of 1" = 20', optional scale of 1" = 50') shall include the following: existing and proposed improvements, existing and proposed contours, existing and proposed easements, snow storage areas, utility lines, spot elevations and flow direction arrows, as needed to clearly portray the proposed drainage layout and detail, and any drainage facilities needed to mitigate the anticipated impacts. If swales are proposed, include a cross-section detail of the proposed swale with dimensions. Silt fences, sediment traps, catch basins and/or detention ponds may be required at the discretion of the Town. The drainage plan shall also indicate temporary and permanent methods to be used to stabilize and prevent the erosion of soils. Revisions to a submitted drainage plan may be required at the discretion of the Town.

(5) Grading plan with existing and proposed topography.

(6) Utility plan, preferred scale of 1/4" = 1', including off-site connections.

(7) Landscaping plan, preferred scale of 1" = 20', including: property lines, existing and proposed structures, existing natural features, location, species, quantity and size of landscape materials to be planted and method of irrigation.

(8) Proof of ownership.

(9) Color and building samples of all exterior materials (one [1] set).

The applicant may also submit any supplemental materials that he or she feels will accurately depict the proposed project. Additional materials may also be required at the discretion of the Town. (Prior code 13-3-8; Ord. 330 §1, 2007)

Sec. 16-4-140. Project review and compliance.

Town staff shall determine whether the application submitted is complete. If the application is complete, a final hearing shall be scheduled. If the application is not complete, the applicant shall be advised of the deficiencies. (Prior code 13-3-8)

Sec. 16-4-150. Final hearing.

Not more than sixty (60) days after a complete application has been submitted, the Planning Commission shall hold a hearing and review the application for compliance with the development policies established in these regulations. (Prior code 13-3-8)

Sec. 16-4-160. Decision.

(a) The Planning Commission shall have thirty (30) days after the conclusion of the hearing to make a decision.

(b) The Planning Commission may continue a hearing to allow a more comprehensive review of the project for a period not to exceed thirty (30) days.

(c) If the proposed development complies with all applicable absolute policies (subject to a variance) and is allocated zero or a net positive score in a point analysis for the relative policies, the Planning Commission shall approve, or approve with conditions, the proposed development.

(d) If the proposed development does not comply with all applicable absolute policies or is allocated a net negative number of points for the relative policies, or if the applicant will not agree to comply with the specified conditions, the Planning Commission shall deny the application.

(e) If the original application is denied by the Planning Commission, the Town shall allow the applicant to modify the plan and return for an additional hearing. If, after a second hearing, the project still does not comply with all applicable absolute policies and receives a net negative number of points for the relative policies, then the Planning Commission shall deny the development permit. No project previously denied shall be resubmitted within six (6) months of denial unless it has been modified to meet the requirements of these regulations.

(f) Once a project is approved, any changes must be reviewed by Town staff, and may require Planning Commission approval. (Prior code 13-3-8)

Sec. 16-4-170. Development permit issuance and duration.

Once the decision of the Town has been finalized, the Town shall transmit by regular mail the final decision to the applicant and, if the application is approved, shall issue a development permit with or without conditions. The development permit will not be valid until the applicant has signed it indicating his or her agreement with any and all conditions, and returned it to the Town. Applicants shall have three (3) years from the date of approval of a development permit to acquire all necessary additional permits and begin construction or use of the property in accordance with the provisions of the development permit. Failure to obtain a building permit (where required) or use the property in the manner authorized by the development permit within three (3) years of issuance of the permit shall operate as a waiver of any vested rights with respect to the development, and the development permit shall be deemed to expire. (Prior code 13-3-8)

Sec. 16-4-180. Other permits.

After approval and prior to construction, the applicant shall be responsible for obtaining all necessary permits and approvals. In addition, it shall be unlawful for anyone to occupy a new development prior to the issuance of a certificate of occupancy, which will not be issued until the conditions of the development permit have been met or adequately guaranteed to the satisfaction of the Town. (Prior code 13-3-8)

*Division 3
Development Policies*

Sec. 16-4-210. Uses.

(a) Absolute. It is the policy of the Town to prohibit uses within the B District and within any mixed use, accommodation, lodging and commercial zoned planning areas in all PD Districts that, due to the nature of their operation, have been determined to be incompatible with existing uses in the Districts. Uses permitted by special review, including mechanical wastewater treatment facilities, are governed by Division 4 of this Article. Uses prohibited are:

- (1) Mineral extraction and processing operations.
- (2) Salvage yards of any variety.
- (3) Rendering plants and operations.
- (4) Livestock operations, excluding small horse or cattle boarding lots, or pastures currently located within the Town.
- (5) Dumping or processing of waste holding tanks from mobile sources, including but not limited to recreational vehicles, buses and trucks.
- (6) Chemical manufacturing or storage.
- (7) Hazardous waste operations.

(b) Relative. Possible points 4 x (-4 to +2). It is the policy of the Town to promote year-round and seasonal commercial developments that are compatible with existing retail and service commercial uses. Accessory residential units within commercial structures are strongly encouraged. (Prior code 13-3-8)

Sec. 16-4-220. Design guidelines (relative).

Possible points are 5 x (-2 to +2). It is the policy of the Town to encourage building designs and materials to be architecturally compatible with the historic and natural characteristics of the Town. To accomplish this goal, new development is encouraged to meet a majority of the following design guidelines:

(1) Building elements and materials.

a. False front facades capped by the use of a cornice element are desirable.

b. Porches with wooden posts, columns or functional awnings should be incorporated into the building design. All porches and awnings should have an eight-foot minimum clearance.

c. Building materials shall be compatible and in harmony with the natural setting of the Town. The use of natural stone masonry, exposed wood structural beams, logs, heavy timbers, stucco and masonry are all acceptable materials. The use of natural stone masonry as a foundation up to a height of at least thirty-six (36) inches is encouraged.

d. The back of a building must have the same overall design as the front of a building.

(2) Mass. The mass of the building should be compatible to adjacent buildings.

(3) Roof elements and design.

a. Pitched roofs with false front facades are desirable.

b. Where pitched roofs are used, they shall be designed in a manner that provides variation in roof lines to break up large expanses of roof, and to add architectural interest to the roof. Long uninterrupted exterior walls and/or roof lines should be avoided.

(4) Colors. Colors of buildings should predominately be natural colors and stains. Bright colors should be reserved for trim, etc.

(5) Windows. Display windows on the first floor should face the primary street frontage and provide visual interest. (Prior code 13-3-8)

Sec. 16-4-230. Site design (relative).

Possible points are 4 x (-2 to +2). The Town hereby finds that it is in the public interest for all development sites to be designed and developed in a safe, efficient and aesthetically pleasing manner. The arrangement of all functions, uses and improvements should reflect the natural characteristics and limitations of the site and adjacent property. Specific site design elements that should be considered include:

(1) Building orientation. Buildings should be oriented parallel to the primary street front. A skewed building orientation should be avoided.

(2) Pedestrian orientation and amenities.

a. The site should be laid out in a manner that reinforces the pedestrian orientation of the neighborhood.

b. Benches and other pedestrian elements are encouraged.

(3) Natural features. It is necessary to preserve as much of the existing natural features and vegetation on the site as possible. The proposed development shall minimize the visual destruction of natural land forms caused by cutting, filling, grading or vegetation removal. (Prior code 13-3-8)

Sec. 16-4-240. Height (absolute).

It is the policy of the Town that no buildings within the B District and within any mixed use, accommodation, lodging and commercial zoned planning areas in all PD Districts shall exceed thirty-five (35) feet in height. (Prior code 13-3-8)

Sec. 16-4-250. Placement of structures (absolute).

All residential structures shall have a minimum front yard of twenty (20) feet, a minimum side yard of seven (7) feet and a minimum rear yard of ten (10) feet. (Prior code 13-3-8)

Sec. 16-4-260. Stream setbacks (absolute).

A minimum thirty-foot-wide strip of land measured horizontally from the mean identifiable high water mark on each side of a watercourse shall be preserved for use as open space, landscaping, etc. A greater setback of up to a total of one hundred fifty (150) feet may be required at the discretion of the Planning Commission. (Prior code 13-3-8)

Sec. 16-4-270. Snow management (absolute).

(a) Snow management is critical in the Town's mountain climate. Roofs should be designed to either hold snow or shed snow in appropriate areas. Buildings must be set back from the property line to accommodate snow shedding, or a snow storage easement from the adjacent property owner must be provided. Use of snow guards and protected entries in high risk areas is encouraged.

(b) Adequate space shall be provided within the development for the storage of snow. It is required that a functional snow storage area be provided which is equal to at least thirty-three percent (33%) of the area to be cleared of snow. Specific areas to be cleared shall include the full dimensions of roadways, walkways and parking areas.

(c) Snow storage areas shall be designed so that snow is not stored in a manner where, when melting, it directly discharges into any watercourses, streets, pedestrian pathways and/or bicycle pathways. Silt catch and/or detention basins may be required at the discretion of the Planning Commission. (Prior code 13-3-8)

Sec. 16-4-280. Storage (relative).

Possible points are 2 x (-2 to +2). All developments are encouraged to provide ample storage areas. Storage areas shall include storage space for vehicles, equipment and goods. (Prior code 13-3-8)

Sec. 16-4-290. Refuse and service areas (absolute).

All trash areas shall be easily accessible by trash collection vehicles and screened from public view by either landscaping or a fence that is architecturally compatible with the development. Unsightly mechanical and electrical equipment and all service areas shall also be screened from public view. (Prior code 13-3-8)

Sec. 16-4-300. External circulation (absolute).

(a) Vehicular circulation. The type, arrangement, location and size of all roadways shall be in compliance with the standards found in Chapter 17 of this Code. Where new developments abut a right-of-way that does not meet the existing Town street standards, it shall be the responsibility of the developer to improve the public right-of-way in compliance with Town standards, including but not limited to the dedication of additional rights-of-way and easements, paving of streets, installation of curbs, gutters, drainage, lighting, signage, sidewalks, pedestrian pathways and bicycle pathways. When a change of use is proposed contiguous to an existing street, street improvements may be required at the discretion of the Planning Commission. If street improvements are not required, the project must meet all other provisions of this Article.

(b) Ingress/egress. Access into commercial projects shall be limited in order to reduce conflicts between pedestrians and automobiles. The provision of two (2) vehicular access/egress points may be required at the discretion of the Planning Commission. Access onto the state highway is controlled by the Colorado Department of Transportation and requires a permit from this agency.

(c) Pedestrian and bicycle circulation. Development and installation of pedestrian and bicycle pathways are required. This will include the provision of sidewalks and pedestrian or bicycle pathways adjacent to the site necessary to tie into existing and proposed trail systems. Pedestrian and bicycle pathways shall be in compliance with the standards found in Chapter 17 of this Code. (Prior code 13-3-8)

Sec. 16-4-310. Parking.

(a) Absolute.

(1) Number of spaces. The number of parking spaces shall be provided as required by Section 16-8-50 of this Chapter, with the exception that the Planning Commission may reduce the number of required spaces by up to twenty percent (20%) when parking is provided in common for more than one (1) business.

(2) Size. For parking lots with less than ten (10) parking spaces, the parking spaces shall be ten (10) feet by twenty (20) feet, except for handicapped spaces which shall be fourteen (14) feet by twenty (20) feet. For parking lots with ten (10) or more parking spaces, eighty percent (80%)

of the required spaces shall be ten (10) feet by twenty (20) feet, while the remainder of the spaces may be reduced to nine (9) feet by eighteen (18) feet.

(3) Landscaping. For parking lots with ten (10) or more parking spaces, the use of fences, hedges, earthen berms or other appropriate landscaping features approved by the Planning Commission is required to minimize the visual impact of large paved surfaces.

(4) Paving. All parking areas and driveways shall be paved with either asphalt, concrete or other acceptable hard surface material meeting Town standards.

(5) Lighting. All parking areas shall provide lighting. All lighting shall be designed, located, placed and shielded to be architecturally and aesthetically in keeping with buildings and surroundings, shall create minimum light pollution and shall not directly illuminate adjoining property. If the Town deems necessary, a lighting or illumination engineer shall review the proposed type of lighting. All costs associated with the review shall be paid by the applicant. Lighting specifications are as follows:

a. There shall be no single-bulb intensity which exceeds two hundred fifty (250) watts.

b. The maximum height of fixtures shall not exceed twenty-five (25) feet.

c. Light intensity at ground level shall not exceed two (2) foot-candles average within a maximum to minimum ratio of fifteen (15) to one (1).

d. Lighting shall be designed and installed to direct the light inward and downward onto the site and away from the adjoining properties. The source of light shall not be visible above a horizontal plane and shall fall within the property line. This can be accomplished by installing lighting fixtures designed to direct the light down or by installing shields in combination with angled lighting directing the light downward.

e. Fixtures located on buildings shall not be located above the eave line or above the top of the parapet wall.

f. Light fixtures on buildings shall not exceed a twenty-five-foot mounting height.

g. Flood lights shall be shielded so as to direct the light away from adjoining properties, have motion detectors and illuminate functional areas only, such as garage doors, storage areas, walks and drives. Motion detectors may allow the light to stay lit up to ten (10) minutes after the last motion detection.

h. All exterior lighting, except those required for security, shall be extinguished by 10:00 p.m. or within one (1) hour after the end of business hours of the business served, whichever is later, and shall remain extinguished until one (1) hour prior to the commencement of business hours.

i. All sports arena exterior lighting used for the purpose of illumination of the playing area shall be extinguished by 10:00 p.m. or immediately after the conclusion of the final event of the day. The remainder of the facility lighting, except for reasons of security, shall be

extinguished at 10:00 p.m. or within one (1) hour after the event, whichever is later, and remain extinguished until one (1) hour prior to the commencement of the next event.

j. No person shall install, illuminate or maintain any beacon or search light. Architectural spotlights are not permitted, for they add to light pollution and draw undue attention to a structure. Low-voltage landscape lighting may be permitted along sidewalks at the discretion of the Town.

(6) Maintenance. All improvements made to the parking lot, driveways and access roads, including signage, lighting and all other improvements approved as a component of the project, shall be maintained in a safe manner that meets the intent of the original permit. Maintenance shall include repairing potholes and resurfacing the parking lot.

(b) Relative. Possible points are 4 x (-2 to +2). It is encouraged that each development design its parking in a manner that exceeds the minimum requirements of the Town. The Town will evaluate the implementation of this policy based on how well the application meets the following criteria:

(1) Orientation and location. Parking lots should be located behind buildings, or on the side of buildings and screened from public view by the use of fences, hedges, earthen berms or other appropriate landscaping features approved by the Planning Commission. Large parking lots should be broken up through the use of landscaped islands which can also be used for snow storage in winter.

(2) Joint parking facilities. The utilization of joint parking facilities to minimize the proliferation of parking areas is encouraged. (Prior code 13-3-8)

Sec. 16-4-320. Landscaping.

(a) Absolute.

(1) The Town finds that it is in the public interest for all developments to provide landscape improvements for the purpose of complementing the natural environment and improving the aesthetic appearance of the community.

(2) All plantings shall be maintained in a healthy and attractive condition. Maintenance shall include watering, weeding, cleaning, pruning, trimming and cultivating. Landscaping structural features such as fencing, planter boxes, etc., shall be maintained in a sound structural and attractive condition.

(3) All parking lots and commercial storage and service areas shall be screened from adjacent residential property by the use of landscaping, berming, fences or a combination of landscaping and other structural features approved by the Planning Commission.

(4) All surface areas that will not be a hard surface shall be revegetated with adequate ground cover approved by the Planning Commission.

(b) Relative. Possible points are 4 x (-2 to +2). All developments are strongly encouraged to make landscaping improvements which contribute to the objective of providing a more attractive community. (Prior code 13-3-8)

Sec. 16-4-330. Transit (relative).

Possible points are 3 x (-1 to +2). The inclusion of or the contribution to a permanent non-auto-oriented transit system, designed to facilitate the movement of persons to and from the Town or within the Town, is strongly encouraged. Encouraged improvements include the provision of additional bus stops, improvements to bus stops including benches, signage, lighting, landscaping, shelters or other appropriate improvements. (Prior code 13-3-8)

Sec. 16-4-340. Loading (relative).

Possible points are 2 x (-2 to +2). Loading areas shall be constructed that provide adequate space for the loading and unloading of persons, materials and goods in relationship to the needs and requirements of the project. (Prior code 13-3-8)

Sec. 16-4-350. Utilities and construction activities (absolute).

(a) Water. If water service is required, it shall be provided in conformance with Paragraph 16-3-10(5) of this Article.

(b) Sewer. All developments shall be served by adequately sized and constructed sewer systems.

(c) Underground utilities. All utility lines, on- and off-site, shall be placed underground. Transformers or connection boxes may be located above ground when adequately screened with planting material.

(d) Surface disruptions and rehabilitation. All roadway surface disruptions shall be restored to original, or an improved, condition. (Prior code 13-3-8)

Sec. 16-4-360. Drainage (absolute).

It shall be the responsibility of the applicant to provide drainage improvements. The applicant shall provide engineered data sufficient to indicate that the drainage from the proposed development will not adversely affect any downstream properties or the community as a whole, and shall design and install all drainage improvements in compliance with Chapter 17 of this Code. Silt catch and/or detention basins may be required at the discretion of the Planning Commission. (Prior code 13-3-8)

Sec. 16-4-370. Water quality (absolute).

The developer shall show evidence and plans to ensure that the proposed development will not result in the degradation of any watercourse. This condition shall apply to both the proposed construction activities and the ultimate use of the land. Items such as percolation pits, settling ponds, infiltration galleries, sand traps, grassed waterways and the maintenance of these items shall be addressed and resolved prior to issuance of a building permit. Direct discharge into any watercourse is prohibited. (Prior code 13-3-8)

Sec. 16-4-380. Erosion control (absolute).

Erosion control plans are required for all developments on sensitive sites. All drainage from the site during construction must go through an erosion control device. (Prior code 13-3-8)

Sec. 16-4-390. Floodplains (absolute).

For any developments located within the one-hundred-year floodplain, a plan of on-site flood prevention, control and hazard mitigation shall be prepared and implemented according to the provisions of the Town. (Prior code 13-3-8)

Sec. 16-4-400. Geological hazards (relative).

Possible points are 2 x (0 to +2). Developments proposed for suspected geological hazard areas should be designed or reviewed by a qualified professional geologist, and all negative impacts should be mitigated. (Prior code 13-3-8)

Sec. 16-4-410. Energy conservation (relative).

Possible points are 2 x (0 to +2). The implementation and operation of systems or devices which provide an effective means of renewable energy are encouraged. (Prior code 13-3-8)

Sec. 16-4-420. Barrier-free standards (relative).

Possible points are 2 x (0 to +2). It is encouraged that all structures and circulation systems be designed in a manner that provides access for individuals with physical disabilities over and above those required by the Uniform Building Code and the Americans With Disabilities Act. (Prior code 13-3-8)

Sec. 16-4-430. Informational signage (absolute).

It shall be the responsibility of the developer to install all necessary informational signage, including directional signs, emergency signs, signs relating to safety, signs designating handicapped parking spaces and all other signs necessary to meet the needs of the Town. (Prior code 13-3-8)

Sec. 16-4-440. Public telephones (relative).

Possible points are 2 x (0 to +1). It is encouraged that all commercial and lodging developments install a pay phone. (Prior code 13-3-8)

Sec. 16-4-450. Minimum lot size (absolute).

No development shall be placed on a lot containing less than five thousand (5,000) square feet, except in those instances where the lot was an existing lot as of the date of adoption of Ordinance 210. (Prior code 13-3-8)

Sec. 16-4-460. Air quality (absolute).

The installation of wood-burning appliances must meet the regulations established in Chapter 7, Article 6 of this Code. The installation of coal-burning appliances is prohibited. (Prior code 13-3-8)

Sec. 16-4-470. Resident housing (relative).

Possible points are 4 x (-2 to +2). It is the policy of the Town to encourage the construction of resident housing. The creation of resident housing is critical to the health, safety and welfare of the community. In commercial or office projects, it is encouraged that resident housing be provided on the second floor. (Prior code 13-3-8)

*Division 4
Special Review Uses*

Sec. 16-4-510. Mechanical wastewater treatment facilities.

Mechanical wastewater treatment facilities are permitted within the B District, only upon special review and approval as provided in this Division. (Prior code 13-3-8; Ord. 330 §1, 2007)

Sec. 16-4-520. Relationship to B District regulations.

The requirements of this Division generally govern the procedure for application for uses permitted by special review within the B District. This Division also imposes site and design guidelines applicable to certain special uses. The requirements of Divisions 2 and 3 above also apply to uses permitted by special review within that district to the degree such requirements are not displaced by a specific provision of this Division. In the event of conflict between the requirements of Divisions 2 and 3 generally, and the requirements of this Division, the more restrictive requirement shall govern. All uses by special review in the B District shall be considered "major proposals," and all site and design guidelines applicable to such proposals shall be considered "absolute," rather than "relative." Upon issuance of a permit under this Division, and compliance with all applicable regulations of the B District, such permit shall also constitute a development permit under the B District regulations. (Prior code 13-3-8)

Sec. 16-4-530. Application and review procedure.

Applications for uses permitted by special review shall be submitted and reviewed pursuant to the following process:

(1) Preapplication conference.

a. Prior to the formal submittal of any request for approval of a use permitted by special review in the B District, an informal preapplication conference shall be held between the applicant and Town staff. This conference will serve to acquaint the applicant with the requirements of the B District and to allow the Town staff to become familiar with the applicant's development intent and design philosophy.

b. A schematic site plan and building concept drawings will aid in discussion at this conference; however, the applicant is encouraged not to prepare detailed designs which might require extensive revision as a result of the preapplication conference. The applicant should bring the following information to the conference:

1. General project concept.
2. Specific uses proposed, including building size, location and parking.
3. Site plan concepts including landscaping, irrigation, grading, lighting and signs.
4. An exterior materials package including roof material and color, wall material and color, etc.
5. Proposed construction time line.

(2) Review and decision.

a. Subsequent to the preapplication conference, an application with the required materials shall be filed with the Town. Only complete submittals will be accepted.

b. The application will be reviewed pursuant to the B District development permit process set forth in Division 2 of this Article with the exception that the application must be submitted thirty (30) days preceding the Planning Commission hearing. The application shall be considered a "major proposal" within the meaning of Sections 16-4-120 and 16-4-130 of this Article; provided, however, that the decision of the Planning Commission under Section 16-4-160 shall be in the form of a recommendation to approve, approve with conditions or deny the application.

c. Subsequent to receipt of the Planning Commission's recommendation, the Board of Trustees shall hold a public hearing on the application, notice of which shall be given by publication in the same manner as required by Section 16-13-10 of this Chapter for amendments to the zoning ordinance, such published notice to be the responsibility of the Town. At least fourteen (14) days prior to the hearing date, notice of the hearing shall be sent to all owners of property within two hundred (200) feet of the property in question by certified mail, return receipt requested, such mailed notice to be the responsibility of the applicant. Within thirty (30) days of completion of the hearing, the Board of Trustees shall act to approve, approve with conditions or deny the application. The decision of the Board is final, subject to judicial review.

(3) Permits; duration and conditions; amendments; variances.

a. A use permitted by special review is valid so long as the conditions of approval are maintained by the applicant, unless a specific time limit for the use is set forth as part of the permit approval. If an approved use ceases operation for any reason for a period of one (1) year, the use permitted by special review shall be deemed expired, unless otherwise provided in the permit itself.

b. If the conditions of a use permitted by special review become the responsibility of a person or entity other than the applicant, the Town staff shall be notified in writing, identifying the new person or entity responsible for maintaining the conditions of the permit. Until such notice is received, the applicant shall remain responsible for maintaining the permit conditions. The notice shall be attached to the permit on file with the Town staff. However, it is the intention of this Subparagraph b. that the property owner remain responsible for compliance with permit conditions.

c. Failure to maintain the permit conditions shall be considered a violation of this Division and, in addition to the penalties provided for violations of this Code, shall subject the permit holder to revocation.

d. No approved use permitted by special review may be modified, structurally enlarged or expanded in ground area, unless such modification, enlargement or expansion receives the prior approval of the Town, which shall be obtained by submitting a new application for review under the procedures provided by this Division. Such application shall be submitted to and processed by the Town in the same manner as applications for the original permit itself; provided, however, that, at the preapplication conference, the applicant and Town staff shall agree upon the extent of submission requirements pertinent to the application. In the event that the applicant disagrees with the Town staff's decision with respect to the extent of the submission requirements, such disagreement may be preserved by the applicant as a part of its application for amendment, and the Planning Commission and Board of Trustees shall recommend and decide upon that appeal as a part of their decision on the amendment application itself.

e. The applicant may request a variance from or modification of the requirements applicable to the particular use by special review. Any such request shall be made as part of the application documents required for the application itself or after approval of such application. The request shall be considered by the Planning Commission as a part of its recommendation to the Board of Trustees. The Board of Trustees, in its sole discretion, shall determine whether and to what extent such variance request shall be approved. The request for a variance must describe, and the Board of Trustees in granting such a variance must find, that all of the following conditions exist:

1. That satisfactory proof has been presented to show that the request is reasonably necessary for the convenience or welfare of the public;

2. That the variance would not authorize any use other than the use permitted by special review as described in the permit;

3. That unnecessary hardship to the applicant would be shown to occur if the variance were not granted; or that the application seeks a more cost-effective or technologically superior approach to some aspect of the use permitted by special review;

4. That the variance would not injure the value, use of or proper access to light and air of adjacent properties;

5. That the variance is the minimum variance necessary to accomplish the intended purposes; and

6. That the variance would not be out of harmony with the intent and purpose of this Division, this Chapter and all other ordinances and regulations of the Town.

The procedure for consideration of variances generally at Article 12 of this Chapter shall not apply to variances and amendments of uses permitted by special review. (Prior code 13-3-8)

Sec. 16-4-540. Submission requirements.

The applicant for a permit to conduct a use permitted by special review shall submit to the Town staff any or all of the following materials which are, in the opinion of the Town staff, relevant to the proposal being requested. Except as otherwise provided herein, Town staff shall identify the list of required submittals at the time of the preapplication conference. Only complete submittals will be accepted:

- (1) A complete use by special review permit application.
- (2) The required fee, as set forth in Appendix A to this Code.
- (3) A legal description of the property.
- (4) Proof of legal access to the property.
- (5) A site plan showing existing uses and structures on the property, including all utility infrastructure, easements and watercourses.
- (6) A site plan showing proposed uses and structures on the property, including all utility infrastructure, easements and watercourses.
- (7) Scaled elevations and/or perspective drawings of any proposed structures.
- (8) A proposed development schedule indicating:
 - a. Date of the beginning of the use and/or construction.
 - b. Phases in which the project may be developed and the anticipated rate of development.
- (9) Anticipated date of completion of the project.
- (10) Any agreements, provisions or covenants to be recorded.
- (11) Restoration or reclamation plans, required for all special uses requiring extensive grading and extractive (mining) uses.
- (12) A statement regarding any provisions for proper ongoing maintenance of the use and site.
- (13) Landscaping plan in the form described in Section 16-4-580 below.

(14) Water quality plan, including drainage, erosion control, floodplain mapping and snow storage.

(15) Any additional materials which, in the opinion of the Town staff, are necessary to adequately review the application, which shall be identified within two (2) weeks of the preapplication conference. (Prior code 13-3-8)

Sec. 16-4-550. Criteria for review.

The Town staff, Planning Commission and Board of Trustees shall consider the following criteria when evaluating an application for a use permitted by special review permit:

(1) Whether the proposed use complies with all requirements imposed by this Code and all other ordinances and regulations of the Town.

(2) Whether the proposed use is in conformance with the Town's Comprehensive Plan.

(3) Whether the proposed use is compatible with adjacent uses. Such compatibility may be expressed in appearance, architectural scale and features, site design and the control of any adverse impacts, including noise, dust, odor, lighting, traffic, safety and impact on property values of the surrounding area.

(4) Apparent community need for the use.

(5) Suitability of location for the use.

(6) Whether the proposed use is in compliance with the other requirements of this Article. (Prior code 13-3-8)

Sec. 16-4-560. Site guidelines.

The following site guidelines must be satisfied in connection with the approval, construction and continued operation of mechanical wastewater treatment plants as a use permitted by special review under this Division:

(1) Maximum building footprint: For administrative, electrical, blower room, sludge processing and headwork uses: seven thousand five hundred (7,500) square feet total; for associated wastewater treatment facility, including but not limited to settling tanks, aeration tanks and pump stations: two thousand (2,000) square feet per one hundred thousand (100,000) gallons treatment capacity. To the greatest extent possible, consistent with sound engineering principles, the building footprint shall be minimized.

(2) Parking: All on-site parking lots shall be paved. Parking lots shall be screened from public view by the use of hedges, earth berms or other appropriate landscaping features approved by the Planning Commission and Board of Trustees.

(3) Access roads: Access and maintenance roads within the property are not required to be paved. Access roadways may be surfaced with other materials, as permitted by the Board of

Trustees. Lignin, a natural dust-controlling substance, shall be applied to all gravel road surfaces in the summer. At least two (2) applications per summer season are required.

(4) Required setback from any watercourse: One hundred fifty (150) feet from any watercourse to any structure.

(5) External storage of materials and equipment: None permitted without an approved fencing and landscaping screening plan approved as part of the permit application.

(6) Fencing: All fencing shall be approved by the Planning Commission and Board of Trustees, as part of the permit application. Chain-link fencing is prohibited.

(7) Refuse and service areas: All trash areas shall be easily accessible by trash collection vehicles and screened from public view by either landscaping or a fence that is architecturally compatible with the development. Unsightly mechanical and electrical equipment and all service areas shall also be screened from public view.

(8) Open space: Not less than sixty-six percent (66%) and not more than seventy-five percent (75%) of the total site area per single mechanical wastewater treatment plant shall be designated as open space. Town staff and the Planning Commission shall recommend, and the Board of Trustees shall determine, the appropriate portion of the site to be designated as open space. Such reservation shall be of lands not suitable or necessary for mechanical wastewater treatment plant purposes and shall not exceed eighteen (18) acres per plant site. The Board of Trustees hereby finds and declares that such open space designation is required for adequate protection of the public health, safety and welfare by ensuring proper separation between mechanical wastewater treatment plants and other uses. The following additional regulations shall apply:

a. *Designated open space*, as used herein, shall mean open space as defined by Section 16-1-40 of this Chapter, lands dedicated and conveyed to the Town as public open space, or a combination thereof. If retained by the applicant, designated open space shall be subject to deed restrictions preserving its open space status (which deed restrictions may be modified only pursuant to an agreement between the Town and the applicant) or, alternatively, may be dedicated and conveyed to the Town as publicly owned open space.

b. Within the range established herein, the exact acreage and location thereof to be designated for open space purposes, and that to be reserved for mechanical wastewater treatment plant purposes, shall be jointly determined by the Town and the applicant, and shall take into consideration the technological and engineering requirements to construct a plant that will serve the applicant's wastewater treatment requirements at build-out (including without limitation soil testing and setback requirements from any watercourse), reasonably foreseeable regulatory requirements imposed by federal, state or local governments, a buffer area between the plant facilities and the areas of public access, and an amount of land that represents a reasonable contingency for unforeseen circumstances.

c. The applicant shall not use any part of its property located within the boundaries of the B District within the Town for any purpose other than for mechanical wastewater treatment plant purposes, except as authorized by the Town pursuant to an application submitted under applicable portions of this Code.

d. The obligation to designate land for open space purposes shall arise on the date that an application hereunder has received final approval by the Board of Trustees and has become effective by operation of law. It is the intent that, if land formerly used as wastewater lagoons is to be designated as open space, such land must be reclaimed and converted to wetlands, or a Recreational Class 2 facility (a pond) pursuant to the classification of the Colorado Department of Public Health and the Environment. Such ponds may be dedicated as public open space but may be used by the applicant in whole or in part for water augmentation purposes.

e. The applicant shall complete reclamation of ponds formerly used as wastewater lagoons within four (4) years of the date they are taken out of service in connection with the start-up of the new mechanical wastewater treatment plant. Progress of reclamation of ponds shall be reported annually to the Board of Trustees.

f. Notwithstanding any other provisions of this Paragraph, during the period of the applicant's ownership, there shall be no public access to property owned by the applicant (including both property to be designated by the applicant for open space purposes and property retained by the applicant for mechanical wastewater treatment purposes). (Prior code 13-3-8)

Sec. 16-4-570. Design guidelines.

The following design guidelines must be satisfied in connection with the approval, construction and continued operation of mechanical wastewater treatment plants as a use permitted by special review under this Division:

(1) Maximum height: Thirty (30) feet above treated sludge conveyor and loading areas; twenty (20) feet above all other plant components; measured pursuant to the definition of height of building set forth in Section 16-1-40 of this Chapter.

(2) Color: A color palette for all proposed structures and features shall be submitted to and approved by the Planning Commission and Board of Trustees at the time of permit application. The color palette shall be designed to permit flexibility to the applicant in designing the facility, while at the same time rendering the facility as visually unobtrusive as possible. The same or similar building materials and colors shall be used on main structures and any accessory structures upon the site. Exterior wall colors should be compatible with the site and complementary to the materials used, the surrounding environment and the context of the neighborhood.

(3) Exterior building materials: Exterior materials and architectural forms shall include two (2) or more materials in addition to roofing and structure materials. The principal materials used on building facades should be wood (including siding), stone, brick, stucco, pre-cast concrete with an architectural finish, split face block or other material or facade acceptable to the Town. The facades of buildings must be broken up. Long, blank walls and roof lines must be avoided. All exterior wall materials must be continued down to finished grade, thereby eliminating unfinished foundation walls. The back of a building must have the same overall design as the front of a building. Exterior materials shall be approved by the Planning Commission and Board of Trustees.

(4) Prohibited external building materials: Metal.

(5) Roofs: Flat roofs are prohibited. All roofs must have a pitch of not less than two and one-half (2½) inches to twelve (12) inches.

(6) Noise and odor:

a. It is the intent of the Board of Trustees to regulate activities contributing or potentially contributing to the degradation of usage of property and of air quality within the Town limits in order to preserve public health, safety and welfare. Accordingly, no noise or odor shall emanate beyond the portion of the property used for wastewater treatment which interferes with the reasonable and comfortable use and enjoyment of property.

b. The applicant shall submit, as part of its application, a plan for controlling and containing noise and odor on the site, and for measuring compliance with that plan. The plan, if and when approved by the Board of Trustees, shall become a permit condition and a condition of permit approval.

c. Determination of a violation. A violation of either the noise or odor requirements of this Paragraph shall be determined only in the event that the Town has received complaints from a resident, a visitor or Town staff. The Town or its designated representative shall investigate the complaint and make a determination of whether the standards set forth herein have been violated. If a violation is found, the permit holder, at the Town's direction, shall forthwith take action to remedy or remove the condition causing the violation. The permit holder shall have fifteen (15) days, or such other period of time as may be determined by the Town, in which to cure the violation in a manner acceptable to the Town. Failure to so cure the violation may result in assessment, in the sole discretion of the Town, of reasonable civil fines and penalties, or the filing of a complaint in Municipal Court.

(7) Storage and removal of treated sludge: No treated sludge shall be stored on site except in the plant's primary structure. The removal of treated sludge shall occur at times mutually agreed upon by the applicant, the Planning Commission and the Board of Trustees.

(8) Wastewater treatment facility: All components of the wastewater treatment facility, with the exception of the treatment basins, shall be enclosed within a permanent structure. Treatment basins may be uncovered, covered by a permanent structure or beneath a suitable floating cover, the design and color of which shall be permitted as a part of the use permitted by special review permit. (Prior code 13-3-8)

Sec. 16-4-580. Landscape requirements applicable to uses permitted by special review.

(a) Landscaping plan. The landscape plan shall include, as a minimum, the following:

- (1) North-indicating arrow.
- (2) Property lines.
- (3) Locations of the existing and proposed structures on the site.
- (4) Locations of all existing and proposed hard surface areas.

(5) Table listing of botanical names, the common names and the planting sizes and quantities of all plantings.

(6) Identify which existing trees will remain and which trees will be removed.

(7) Location and description of landscaping improvements, such as earth berms, walls, fences, screens, lights, ground cover, planter boxes, water elements and other natural materials.

(8) Irrigation plans.

(9) A statement providing that the owner and his or her heirs, successors and assigns will provide adequate maintenance for all site elements.

(10) Minimum size for all deciduous trees shall be two (2) inches in caliper. Minimum size for evergreen trees shall be six (6) feet in height.

(11) Minimum size for all shrubs shall be five (5) gallons and at least one and one-half (1½) feet tall.

(b) Landscaping requirements.

(1) Landscaping required: Fifteen percent (15%) of lot area.

(2) Tree requirement: Seventy-five percent (75%) of landscaping area.

(3) Shrub requirement: Twenty-five percent (25%) of landscaping area.

As part of review and approval of a use permitted by special review, the Planning Commission may recommend and the Board of Trustees may approve, in its sole discretion, a landscaping plan which provides for landscaping in amounts, location and composition different from the requirement set forth in this Section if, in the opinion of the Planning Commission and the Board of Trustees, such alternate landscaping plan meets or exceeds the goals sought to be attained by the numeric landscaping requirements of this Section, by obscuring, to the full extent possible, the facility or facilities permitted by special review.

(c) Landscaping maintenance.

(1) Landscaping maintenance shall include irrigation, fertilization, pruning and weed control. Nonliving elements in landscaping also need maintenance to avoid being in violation of this Article.

(2) Prior to issuance of a certificate of occupancy, the applicant shall also submit a guaranty or performance bond, in a form acceptable to the Town, of twenty-five percent (25%) of the estimated cost of the plant material provided as part of the landscaping requirement. This amount shall be retained by the Town until the plant materials have been maintained in a satisfactory condition for two (2) years after installation. The Town may during that time draw upon the twenty-five-percent guaranty to replace plant materials which have died. The remainder of the guaranty, if any, shall be returned to the owner of record upon the expiration of the two-year period. (Prior code 13-3-8)

ARTICLE 5

PD – Planned Development District

Division 1 General Provisions

Sec. 16-5-10. Purpose.

(a) This Article is authorized by and adopted pursuant to state statutes.

(b) It is the intent of this Article to promote the health, safety and general welfare of the inhabitants of the Town by providing for Planned Development Districts within the Town which allows a development technique which is in the best interest of the Town and will promote good design, enhancement of environmental amenities and increased efficiency of public and private services. Furthermore, the standards and procedures provided in this Article for the PD District are intended to ensure integrated planning goals and objectives of the Master Plan or Comprehensive Plan for the Town, while allowing greater flexibility and innovations in development and site designs than is typically possible under the conventional zone district regulations. The regulations herein are intended to provide the developer reasonable assurance of ultimate approval prior to the expenditure of complete structure design costs, while providing the Town with assurances that the project will retain the character envisioned at the time of concurrence. (Prior code 13-3-12; Ord. 330 §1, 2007)

Sec. 16-5-20. Additional considerations.

In addition to the detailed standards for planned developments set forth in this Article, consideration shall also be given to the following general criteria which are intended to qualify for review and approval any planned development such that it:

(1) Constitutes a unique and truly innovative project which is represented by the developer to be constructed within a reasonable period of time in relation to the project's size and scope and which will be of economic benefit to the Town, thereby qualifying the project under this and other criteria for review under these PD regulations;

(2) Provides for and improves existing commercial, residential, industrial and education facilities within the community;

(3) Ensures that the provisions of the zoning laws which direct the uniform treatment of dwelling type, bulk, density and open space within other zoning districts will not be applied in a manner which would distort the objectives of this Chapter;

(4) Allows innovations in residential, commercial and industrial development and renewal so that the growing demands of the population may be met by greater variety and types, design and layout of buildings and the conservation and more efficient use of open space ancillary to said buildings;

(5) Allows an efficient use of land and of public and private services to reflect changes in the technology of land development so that resulting economies may inure to the benefit of the community as a whole;

(6) Reduces energy consumption and demand;

(7) Lessens the burden of traffic on streets and highways by encouraging land uses which decrease trip length and encourage the use of public transit;

(8) Conserves the value of the land and preserves environmental quality;

(9) Provides a technique of development which can relate the type, design and layout of residential, commercial and industrial development to the particular site, thereby encouraging preservation of the site's natural characteristics;

(10) Encourages integrated community planning and development in order to achieve the above purposes. (Prior code 13-3-12)

Sec. 16-5-30. Prior permits.

These regulations shall not abrogate, annul, modify or amend any previous permit, special use permit, license or approval, or any modification thereof or amendment thereto, issued or authorized by the Board of Trustees. (Prior code 13-3-12)

Sec. 16-5-40. Applicability and interpretation.

This Article shall apply to and govern all PD District applications submitted after the effective date of the initial ordinance codified herein which relate to and include lands located within the legal boundaries of the Town. The provisions of this Article may also be applied to PD District applications for lands which are located outside of the Town but which are proposed to be annexed to the Town, as permitted by Section 31-12-116, C.R.S. This Article shall not apply to PD District applications submitted prior to the effective date and regulated by Ordinance 101 and where a preannexation agreement has been signed by the Town and an applicant and found to be valid prior to the effective date of the initial ordinance codified herein. (Prior code 13-3-12)

Sec. 16-5-50. Definitions.

As used in this Article, unless the context otherwise requires, the following words and phrases shall have the meanings as defined herein. Definitions contained elsewhere in this Chapter also apply where not in conflict with the following definitions.

Access means the place, means or way by which pedestrians or vehicles shall have safe, adequate and usable ingress and egress to a property, use or parking space.

Buffer means a horizontal distance designed to provide attractive space or distance, obstruct undesirable views, serve as an acoustic barrier or generally reduce the impact of adjacent development.

Cluster development means a subdivision, planned development or grouping of lots, dwellings or buildings arranged in such a way that open space is maintained throughout the area, that sensitive lands such as wetland and steep slopes remain undeveloped and that site design reduces the amount of street, utility placement and individual lot sizes.

Comprehensive Plan means the adopted Comprehensive Community Plan of the Town and any amendments.

Density, gross means the average number of dwelling units or gross commercial building floor area per acre for the entire development area or site (property boundaries).

Density, net means the average number of dwelling units or gross commercial building floor area per acre except (less) all land areas dedicated for public or private joint use for the entire development area such as streets, parking, buildings, recreation facilities (covered and/or impervious surfaces), etc.

Density, parcel means the average number of dwelling units or commercial building floor area per gross acre of land of a development parcel or specific land area within a total PD site, be it an actual land subdivision parcel or special development area.

Density transfer means to permit (up to some specified maximum) unused and allowable densities in one (1) area of a PD to be used in another area of the same PD.

Design standards means specific requirements of this Article regulating land use, generally quantitative in nature.

Floor area means the sum of the gross horizontal area of the several floors of a building, measured from the exterior faces at the exterior walls, or from the center line of walls separating two (2) buildings.

Greenbelt means an area of native vegetation left substantially intact or supplemented by additional plant materials, as well as walkways, rest areas, horse trails, cross-country ski trails, snowshoe trails and other similar uses.

Intensity of uses means the qualitative and quantitative levels of activity anticipated for any use of the given parcel of land.

Landowner or owner means any person, association, corporation or other legal entity owning a fee simple interest of record in the real property referred to.

Lot, parcel or area coverage means the portion of a lot, parcel or area of land which is covered with buildings, parking and maneuvering area, patios, decks, covered or paved storage area or other impervious surfaces.

Mixed use means a PD that integrates two (2) or more uses such as residential, commercial, office or industry uses in the same development area, building or group of buildings.

Open space means a parcel of land, an area of water or a combination of land and water within the site designated for a planned development designed and intended primarily for the use or

enjoyment of residents, occupants and owners of the PD and/or in the general public for uses, including but not limited to recreation areas and facilities, gardens, parks, walkways, paths and trails, and areas of native vegetation left substantially in their natural state or supplemented by additional plant material. The term shall not include space devoted to buildings, streets, roads and other ways and parking and loading areas.

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

b. *Private open space* means open space designed and intended for the exclusive use of the owners of a portion of the property included in the PD and which is appurtenant to such property and maintained by the owners thereof.

c. *Public open space* means an open area developed, designed and dedicated for use by the occupants of the development and by the general public.

Planned Development District or PD District means an area of land controlled by one (1) or more landowners, to be developed under unified control or unified plan of development (planned development or PD) for a number of dwelling units, commercial, educational, recreational or industrial uses, or any combination of the foregoing, the plan for which may not correspond in lot size, bulk or type of use, density, lot coverage, open space or other restrictions of the conventional land use regulations of this Chapter.

Planned Development (PD) Plan means the provisions for the general development of a planned development (PD) in a Planned Development District (PD District) which may include and need not be limited to easements, covenants and restrictions relating to use, location and bulk of buildings and other structures, intensity of use or density of development, utilities, private and public streets, ways, roads, pedestrian areas and parking facilities, common open space and other public and private facilities. *Provisions of the Plan* means the written and graphic materials referred to in this definition.

Planning Commission means the Planning Commission of the Town.

Plat means a final map, diagram, drawing or replat containing all the descriptions, locations, specifications, dedications, improvements, provisions and information concerning any subdivision contained in a PD. (Prior code 13-3-12; Ord. 330 §1, 2007)

*Division 2
Coordination With Regulations*

Sec. 16-5-110. Zoning regulations.

(a) Approval of a PD District plan by the Board of Trustees as per the requirements of these regulations shall constitute a zone district subject to the contents of said plan as Planned Development District No. ____ (PD #_____) and its geographical area outlined on the Official Zoning Map of the

Town. The PD District designation (PD #) shall also be written on the Official Zoning Map. This zone designation shall stand for as long as zoning regulations are effective in the Town unless a rezoning has been approved pursuant to these zoning regulations.

(b) Land use and development within any PD approved pursuant to these regulations shall be controlled by the provisions of the approved PD District plan and final development plan. Specific maps and documents detailing negotiated items and other matters related to these approved plans shall be recorded with the County Clerk and Recorder and duplicate files of said plans and documents kept on file for ready reference in the administrative offices of the Town. (Prior code 13-3-12)

Sec. 16-5-120. Subdivision regulations.

The provisions of this Article concerning planned developments are not intended to eliminate or replace the requirements applicable to the subdivision of land or airspace, as defined in the state statutes and the ordinances and regulations of the Town. If the land included within a proposed PD District is to be subdivided, the landowner must comply with Chapter 17 of this Code concerning platting in the Town before development may occur. It is the intent of this Division that any subdivision review under Chapter 17 be carried out either:

- (1) Simultaneously with the review of a final planned development plan under this Division;
or
- (2) Within the time frame specified in the development schedule included in the approved final planned development plan. (Prior code 13-3-12)

Sec. 16-5-130. Conformity with Master Plan or Comprehensive Plan.

No PD District shall be approved by the Planning Commission or the Board of Trustees unless the PD plan is found to be in substantial conformance with the Master Plan or Comprehensive Plan as amended for the Town. (Prior code 13-3-12)

Sec. 16-5-140. Reviewing authority.

The administrative staff of the Town, the Planning Commission and the Board of Trustees are hereby designated as the official entities authorized to review PD District and final planned development plan applications pursuant to this Division. Final approval of the PD District and the final planned development plan is the responsibility of the Board of Trustees as required by its invested legislative authority. (Prior code 13-3-12)

Sec. 16-5-150. Consent of landowner and lien holders.

No planned development applications shall be approved without the written consent of each landowner whose properties are included within the planned development. The planned development application shall be made by a person or entity having an interest in the property to be included in the PD and shall include the consent of all owners of or corporate interests in such property to the PD application. Lien holder consent will consist of a written acknowledgement that the mortgage title holders are pursuing planning of a planned development in the Town. Joint applications are to be under single or corporate ownership, and proof of title must be demonstrated. (Prior code 13-3-12)

Sec. 16-5-160. Permitted uses.

(a) Property involving previously zoned land in the Town. Any use permitted in any of the zoning districts may be negotiated and agreed to and specified in the PD District and final plan documents with the Board of Trustees approval with the following exceptions:

(1) PD applications where the subject property is being requested to be rezoned from and subsequently surrounded by MD, M-1, M-2, R-1, R-2 or R-4 District property to PD are confined to the uses specified in these surrounding zone districts and/or the original district being rezoned from.

(2) PD applications where the subject property is being requested to be rezoned from MD, M-1, M-2, R-1, R-2 or R-4 zoned property to PD must be contiguous on at least a portion of its border to a different zone district in order to incorporate the use of this different zone district.

(3) All negotiated industrial uses must be buffered by suitable open space from commercial, office and residential uses in those PDs where such industrial uses are approved.

(b) Property being annexed into the Town desiring PD District designation (zoning). During annexation and the PD approval process, uses and their locations are to be itemized and generally located on the site plan. All industrial uses must be buffered by suitable open space from commercial, office and residential uses.

(c) Additional uses. Additional uses may be permitted subject to site plan review by the Planning Commission and Board of Trustees, provided that the Planning Commission and Board of Trustees find that such uses are designed and/or intended for the use of residents and/or property owners and/or the general public of the subject planned development, and such uses are compatible with the Town Master Plan and uses on surrounding properties. No uses shall be permitted except in conformance with a specific and precise final development plan pursuant to the procedural and regulatory provisions hereinafter set forth. (Prior code 13-3-12)

Sec. 16-5-170. Processing fees.

Processing fees will be established and subject to change from time to time upon approval of the Board of Trustees. The current fee schedule appears in Appendix A to this Code and may be obtained from the Town Clerk. (Prior code 13-3-12; Ord. 330 §1, 2007)

Sec. 16-5-180. Development plan review.

The application for a planned development in the Town shall be subject to a three-faceted review process composed of the following: (1) a general preapplication conference; (2) a PD District plan; and (3) a final planned development plan. These regulations are intended to be applicable to large as well as small project sites. Applicants are encouraged to combine subdivision with the PD process where appropriate and after conferring with the Town staff and/or the Planning Commission. (Prior code 13-3-12)

Sec. 16-5-190. General preapplication conference.

Prior to actual submission of the PD District plan application, development of any site improvements and in order to obtain an exchange of information, each applicant shall confer at the Town's direction with either the administrative staff of the Town and/or the Planning Commission (at a regular meeting) and other appropriate Town departments and agencies in connection with the preparation of said application. Other appropriate governmental representatives may be notified and requested to attend the preapplication conference at the discretion of either the Town staff or the Planning Commission. The general outlines of the proposal evidenced schematically by sketch plans and appropriate design standards are to be considered at this conference. Thereafter, either staff or the Planning Commission may furnish the applicant with written comments regarding said conference, to inform and assist the applicant prior to the preparation of the PD District plan application. Any materials prepared by the applicant to be used in discussions with the Planning Commission shall be submitted to the Town Clerk fifteen (15) days in advance of the meeting date at which the discussion is to take place. Eight (8) copies of all materials need to be submitted for this conference and appropriate fees paid before discussions can take place. (Prior code 13-3-12)

*Division 3
Preliminary Development Plan*

Sec. 16-5-310. Intent.

The PD District plan (PD plan) application is intended to generate enough site plan information in the form of written statements and schematic plans in order to provide adequate information for review by decision-making bodies and the general public in regards to the proposed PD District zoning. The completed application shall be known as the Planned Development District plan. (Prior code 13-3-12)

Sec. 16-5-320. Submission requirements.

The preliminary general development plan shall embrace all properties which are to be included in the proposed development and shall be sufficiently detailed to allow for an effective review. At the conclusion of the PD District review process, pertinent written and graphic documents will need to be recorded with the County Clerk and Recorder. The Town will determine during the review process which documents shall be so recorded and cause the developer to have appropriate signature blocks placed on the documents. Submission requirement omissions are cause to continue or table the review process. (Prior code 13-3-12)

Sec. 16-5-330. Written documents.

The applicant shall submit a written statement which shall include, at a minimum, the following information:

- (1) A legal description of the total site including any recorded easements proposed for development, including a statement of present and proposed ownership. This statement shall include the address of the applicant, all the property owners, development signers and any lien holders.

(2) Evidence of the present ownership or agents thereof of all lands included within the planned development in the form of a current commitment for title insurance or title insurance policy.

(3) Names and addresses of adjoining property owners within two hundred (200) feet of the property perimeter.

(4) A description of the character of the proposed development, the goals and objectives of the project, an explanation of the rationale behind the assumptions and choices made by the applicant, and an explanation of the manner in which it has been planned to conform or deviate from the Town Comprehensive Plan.

(5) Statements clearly outlining the proposed maximum (up to and including) limits or amounts of all design standards in Division 6 of this Article to be negotiated if not covered in this Section or in Section 16-5-340 below for the total site and portions thereof.

(6) A general description of the proposed open space for the development and an explanation of how said open space shall be integrated with surrounding developments both existing and proposed in the final PD.

(7) A statement of the applicant's intentions with respect to the nature of future sales and/or leases and subdivision of all portions of the planned development.

(8) Quantitative data for the following: total number and type of dwelling units; approximate parcel size; proposed lot coverage ratios of buildings and structures; proposed gross and net residential, commercial and industrial densities; anticipated amount of open space; and total amount of nonresidential construction (including a separate figure for commercial, institutional or industrial facilities and the amount of open space associated with these developments).

(9) Any general physiographic and environmental studies of the proposed site.

(10) The proposed maximum height of buildings within the planned development.

(11) A generalized trip generation study for the entire development and its subparts. Also, a statement of the general intent of the applicant regarding the use of public versus private roads.

(12) A statement of the proposed method for controlling architectural design throughout the development.

(13) A letter from the appropriate utility districts, boards, etc., stating their intentions relating to their future ability to serve the development with water, sewer, electricity, natural gas and telephone service. (Prior code 13-3-12)

Sec. 16-5-340. Graphic documents.

A site plan and supporting maps and drawings shall be at an appropriate scale so that Town staff and officials may understand the basic concepts proposed by the applicant. The plan shall include, at a minimum, the following information:

(1) The location and name of the proposed development shown on a vicinity locator map at a legible scale.

(2) The existing site conditions, including topographic contours and water courses, floodplains (i.e., one-hundred-year), unique natural features and vegetation cover.

(3) Proposed subdivision boundary lines and site designs in specific or prototypical form.

(4) The general location at all existing and proposed buildings, structures and other improvements, including maximum heights, types of dwelling units, density per type and nonresidential structures, including nonresidential facilities. For larger scale projects, this information may be shown in prototype form.

(5) The general location and size in acres or square feet of areas to be conveyed, dedicated or reserved as common and private open spaces, public open spaces or parks, recreational areas, school sites and similar public and quasi-public uses.

(6) The existing and proposed circulation system of arterial and collector type roads and major points of access to public rights-of-way (including major points of ingress and egress to the development). Notations of proposed ownership, public or private, should be included where appropriate. The locations of local roads may also be required at the discretion of the Planning Commission.

(7) Information on land areas adjacent to the proposed planned development to indicate known or proposed development, including land uses, zoning classifications, road networks, public facilities and open spaces.

(8) The existing and proposed generalized pedestrian and bicycle circulation system for the entire development.

(9) The proposed concept and general off-site connection methods for utility service, including sanitary sewers, storm sewers, water, electric, gas and telephone lines.

(10) A generalized grading plan.

(11) A generalized drainage plan indicating proposed on-site facilities and treatment and abatement of drainage to adjoining properties. (Prior code 13-3-12)

Sec. 16-5-350. Additional information.

The Planning Commission may require additional information from the applicant to evaluate the character and impact of the proposed planned development on the Town. In particular and regarding large developments, the Planning Commission may need to assess the fiscal impact of the proposed development on the Town over the period of the generalized development schedule. Evaluations of this nature may require submittal of additional information by the applicant. Studies of this nature may require the levying of additional processing fees to the applicant, to be determined by the Planning Commission. (Prior code 13-3-12; Ord. 330 §1, 2007)

Sec. 16-5-360. Graphic plan format.

The site plan map will need to be recorded as part of the approval of the PD District plan. These maps shall be drawn up using the following format unless otherwise determined by the Town staff or Planning Commission. The general format to be used is included in Section 16-5-450 of this Article. (Prior code 13-3-12)

Sec. 16-5-370. Approval procedure.

(a) The applicant shall file a minimum of ten (10) copies of the PD District plan documents with the Town Clerk or administrative staff of the Town and pay the required fees. Additional copies may be required at the discretion of the Town Clerk or administrative staff.

(b) Filing of documents are to be made thirty (30) days in advance at the regular meeting date of the Planning Commission at which the PD District plan will be discussed. Responsible administrative staff of the Town shall make written comments to the Planning Commission seven (7) days in advance of this meeting. Upon receipt of the completed application and fees for Planning Commission approval, the Town Clerk shall schedule the proposed PD District plan at the next Planning Commission meeting, but no sooner than thirty (30) days prior to it. Public notice of such meetings shall be duly given by the Town Clerk at least seven (7) days prior to the meeting date in the local newspaper designated as the official publishing vehicle for the Town.

(c) The Planning Commission shall consider the application at the meeting and, after weighing all evidence presented to it, shall, in writing, either approve said application as presented, approve it subject to clearly specified conditions, maximum design standard limits, etc., or disapprove it. The Planning Commission may continue the review for another thirty (30) days if necessary but not beyond thirty (30) days without the consent of the PD applicant. Lack of consent to continue or failure to reach agreement on negotiated items shall be cause for a recommendation for denial.

(d) If the application is recommended to be approved as presented, approved subject to conditions or denied by the Planning Commission, said application shall be submitted to the Board of Trustees for review and public hearings. Upon submittal of the PD application to the Board of Trustees, the Town Clerk shall schedule a public hearing before the Board of Trustees and require that the property be posted pursuant to Sections 16-13-10 and 16-13-20 of this Chapter regarding amendments to the Official Zoning Map and this Chapter.

(e) If the application is approved as presented, preconditioned or denied, the Board of Trustees shall, by ordinance, either grant the necessary PD zoning or disapprove said application. When the application is approved, the Board of Trustees shall cause the Official Zoning Map of the Town to be amended. The Board of Trustees shall direct the Town Clerk to record the pertinent site plan drawings described in Section 16-5-360 of this Article for the PD with the County Clerk and Recorder. All recording costs shall be paid by the applicant. Copies of all records shall also be kept in the Town Hall. Upon filing and recording of the PD District plan, the terms and provisions of the approved plan incorporated therein shall govern and control the use and development of the property. No building permits shall be issued on land within the PD District until the final planned development plans for all or a portion of the project area have been approved by the Planning Commission and Board of Trustees.

(f) Within a maximum of five (5) years following the approval of the PD District plan, the applicant shall file with the Town Clerk and Planning Commission a final development plan. At its discretion, and for good cause, the Planning Commission may extend for up to five (5) years the period for filing the final planned development plan. Where large developments are concerned, it is recognized that such developments may require multi-year construction phasing. Therefore, work on any portion of the final PD plan shall be regarded as work on the total final PD plan, and the expiration periods set forth above shall apply accordingly for any subsequent phases of the development.

(g) If the applicant fails to apply for review or the extensions described above for all or a portion of the planned development through the final PD plan review process, the development plan for the PD District shall be deemed to be null and void upon the expiration of the time periods as provided in Subsection (f) above. The PD District zone designation shall stand unless rezoned through the amendment procedures of this Chapter. Subsequent action by the developer or his or her assignees to revive the PD plan after it has been allowed to expire will require the preparation of a reapplication submittal package and review and public hearing according to the process for review and submittal requirements outlined in this Division. (Prior code 13-3-12)

Sec. 16-5-380. Amendments to PD District plan.

(a) Minor changes in the approved PD District plan and its conditions of approval shall be subject to review and consideration by the Planning Commission. Upon consideration of said changes, the Planning Commission shall take formal action in writing, either approving or disapproving the changes. This Division shall serve as the mechanism for reviewing and approving changes and a substitute for the variance procedures provided elsewhere in this Chapter.

(b) When substantial changes in the PD District plan involve a reduction of or an addition to its land area or increases in the original negotiated design standards amounting to greater than thirty percent (30%), as calculated by the Planning Commission or staff, of the agreed upon amounts, or a change in permitted land uses, then the PD District plan must be formally amended, and an amendment application shall be submitted for consideration and review according to the process outlined in Section 16-5-370 above. (Prior code 13-3-12; Ord. 290 Part 1, 2004)

*Division 4
Final Development Plan*

Sec. 16-5-410. Intent.

The final planned development plan application is intended to specify design components of the PD District plan or portions thereof and provide for the review of additional items not required by the PD District plan. A final PD plan application may be made for an entire district, including planned structures or an entire district when accompanied by a land subdivision plan which may or may not include the locations of structures or for portions of a PD District be they planned development phases, specific plans with building locations for development parcels or combinations thereof. In any PD District an approved final PD plan for all or portions of a district must be in effect before any building permits may be issued for the construction of structures in the approved portions of the District. In the case where a land subdivision, without building locations specified, is to serve as a

final PD plan for all or a portion of a PD District, approval of said plan is insufficient to trigger the right to apply for a building permit until a final development plan is submitted for any of the newly subdivided parcels. The completed application shall be known as the final planned development plan. Applicants who anticipate construction of the project upon approval, may discuss with Town administrative staff and the Planning Commission the feasibility and method of combining the processes outlined in Division 3 of this Article. (Prior code 13-3-12)

Sec. 16-5-420. Submission requirements.

The final development plan shall include all of the information required in the preliminary development plan in its finalized, detailed form plus any additional items included below. Submission requirement omissions are cause to continue or table the review process. (Prior code 13-3-12)

Sec. 16-5-430. Written documents.

The applicant shall submit a written statement, which shall include the following additional information:

- (1) A development schedule indicating the approximate date when construction of the planned development or phases of said development can be expected to begin and to be completed.
- (2) A description of the proposed open space to be provided at each stage of development; an explanation of how said open space shall be coordinated with surrounding developments; total amount of open space (including a separate figure for usable open space); a statement explaining anticipated legal treatment of ownership and maintenance of common open space areas and the amounts and location of dedicated public open spaces.
- (3) Copies of proposed covenants, architectural design standards, grants of easements or other restrictions to be imposed upon the use of the land, including common open spaces, buildings and other structures within the development.
- (4) Physiographic and environmental studies of the proposed site prepared and attested to by qualified professional authorities in the following fields: soil quality, slope and topography, geology, water rights and availability, ground water conditions and impact on wildlife.
- (5) Any required dedication documentation and/or improvement agreements and bonds.
- (6) Any new items not submitted with the preliminary development plan.
- (7) The applicant shall submit the required fees.
- (8) Quantitative data for the following: final number of dwelling units, number of bedrooms in each unit, final figures for previously agreed upon design standard negotiable items and footprint sizes of all proposed buildings.
- (9) A statement that integrates pertinent elements of any preannexation and development agreements, contracts, etc., previously negotiated with the Town.

(10) A plan which estimates the number of employees needed to serve all or portions of the development and how they will be provided housing.

(11) Summaries of any market studies done for the development containing information that can be shared with the general public.

(12) A detailed study of the traffic impact of the PD on the Town and regional street system. (Prior code 13-3-12)

Sec. 16-5-440. Graphic documents.

The applicant shall submit finalized site plan graphics, which shall include the following information:

- (1) Any plan maps that have been revised since the PD District approval.
- (2) A landscape plan indicating the treatment and materials used for public and common open spaces, and a revegetation plan showing treatment of disturbed areas.
- (3) Information on land areas adjacent to the proposed planned development to indicate integration of circulation systems, public facilities and utility systems and open space.
- (4) The planned pedestrian, bicycle and vehicular circulation system, including their interrelationships with the vehicular parking and unloading system, indicating proposed detailed treatments of points of conflict.
- (5) A soil erosion and prevention plan.
- (6) A snow removal and/or storage plan.
- (7) The proposed treatment of the perimeter of the planned development, including materials and techniques used, such as screens, fences, walls and landscape plan.
- (8) A detailed and engineered drainage plan indicating general on-site and required off-site facilities and proposed treatment and abatement of runoff drainage to adjoining properties and the Fraser River and its tributaries.
- (9) A plan showing how the development's residents will be afforded access to public transit and how the transit system will be integrated into the development.
- (10) Any preliminary or final subdivision plats required and prepared as per the requirements of Chapter 17 of this Code if the development is planned to begin within one (1) year.
- (11) Final engineering plans for public roads within the development, points of access and designs for intersections with and modifications of existing public rights-of-way and designs for any off-site road improvements to connect the PD to the existing street system. Final plans for private roads are to be included for any portions of the site undergoing final review.

(12) A site map that depicts the development, phases thereof, sites and building footprint sizes and locations outlined in the development schedule.

(13) Engineering schematic plans that depict general line sizes and proposed points of connection to existing utility systems, both on-site and off-site. Final engineered plans and specifications will be required by the respective utility districts at their discretion.

(14) Such additional information as may be required by the Planning Commission or Board of Trustees necessary to evaluate the character and impact of the proposed Planned Development. (Prior code 13-3-12)

Sec. 16-5-450. Graphic plan format.

Various maps will need to be recorded with the County Clerk and Recorder as part of the approval of the final PD plan. These maps shall be drawn up using the following format unless determined otherwise by the Town staff or Planning Commission in coordination with the developer.

(1) Said maps shall be in the form of a black India-inked Mylar or linen cloth that is capable of reproducing clear and sharp reproductions of all details, signature and seals.

(2) No plans using sepia ink or pencil or containing stick-ons will be accepted.

(3) All signatures on the plan are to be in black permanent ink.

(4) The plan sheet shall have outer dimensions of twenty-four (24) inches by thirty-six (36) inches. The plan drawing will be contained within a space defined by a one-and-one-half-inch margin from the left sheet and a one-half-inch margin from the other three (3) sheet edges.

(5) Applicants are encouraged to use more than one (1) sheet in order to avoid crowding of information on the sheet. Sheets are to be designated as sheet x of y sheets.

(6) The scale of the plan drawing shall be, at a minimum, fifty (50) feet equals one (1) inch. Other scales may be used with the permission of the Planning Commission.

(7) A two-and-one-half-inch by three-inch vertical box in the lower right-hand corner shall be provided for the use of the County Clerk and Recorder.

(8) Formats for plan drafter's, owner's, Planning Commission Chairperson's and Board of Trustees Chairperson's signature blocks and dedication blocks can be obtained from Chapter 17 of this Code. (Prior code 13-3-12)

Sec. 16-5-460. Approval procedure.

(a) The applicant shall file a minimum of ten (10) copies of the final PD plan documents with the Town Clerk or administrative staff of the Town and pay the required fees. Additional copies may be required at the discretion of the Town Clerk or administrative staff.

(b) Filing of documents is to be made thirty (30) days in advance at the regular meeting date of the Planning Commission at which the final PD plan will be discussed. Responsible administrative

staff of the Town shall make any written comments they have to the Planning Commission five (5) days in advance of this meeting. Upon receipt of the documents for Planning Commission approval, the Town Clerk shall schedule the project on the next Planning Commission agenda as a public hearing and give due notice to the public of said hearing in a newspaper of local circulation.

(c) The final PD plan must be in conformance with the PD District plan as approved or amended. Should any unapproved modifications to the PD plan be presented for review at this final development plan stage, then these changes must be approved before the final development plan can be approved as a whole. Should this be the case, these modifications may not involve one (1) or more of the following unless formal public hearings are conducted on each change:

- (1) Violation of any provision of this Article.
- (2) Varying the original lot area requirement by more than ten percent (10%).
- (3) A reduction of more than ten percent (10%) of the original areas reserved for the open space.
- (4) Increasing the original floor areas proposed for nonresidential use by more than ten percent (10%).
- (5) Increasing the original total ground area covered by buildings by more than ten percent (10%).
- (6) Changes in density of up to and including a thirty-percent increase over the originally negotiated amount are allowed through the density transfer mechanism as provided in Subsection 16-3-470(b) below.
- (7) Any other items where changes amount to greater than ten percent (10%) of originally negotiated items.

(d) The Planning Commission shall determine said application's compliance with the provisions of this Division and the PD District plan. After consideration of the application, the Planning Commission shall, in writing and by resolution, either approve said application as presented, approve it subject to specified conditions or disapprove it.

(e) The Planning Commission shall forward said resolution, together with the reasons for the recommendation, to the Board of Trustees. The application and accompanying resolution shall be submitted for review at the next regularly scheduled Board of Trustees meeting no sooner than twenty (20) days after the Planning Commission's decision.

(f) Upon receipt of the final PD development plan, the Board of Trustees may approve it. The Board of Trustees shall not approve any new major change or addition in the final planned development plan recommended by the applicant until the proposed major change or addition has been referred to the Planning Commission for recommendations and a copy of said recommendations has been filed with the Board of Trustees. Failure of the Planning Commission to file said recommendations to the Board of Trustees within forty-five (45) days after the reference shall be

deemed to be approval of the proposed changes or additions. It shall be necessary for the Planning Commission to hold a public hearing on any major such change or addition.

(g) If the final PD plan is approved subject to conditions, the formal acceptance and recording of such approval shall not be made until the applicant has obtained the signature of the Mayor on the plan face. All conditions must be satisfied before any official Town signatures are affixed thereto.

(h) The Board of Trustees shall direct the Town Clerk to record the pertinent written and graphic documents of the final PD plan with the County Clerk and Recorder. All recording costs are to be paid by the applicant. Copies of all records are to be kept in the Town Hall. (Prior code 13-3-12; Ord. 290 Part 1, 2004)

Sec. 16-5-470. Amendments to final planned development plan.

(a) This Division shall serve as the mechanism for reviewing and approving changes and a substitute for the variance procedures provided elsewhere in this Chapter. Minor changes in the location, siting and height of buildings and structures may be authorized by the Planning Commission without additional public hearings if required by engineering or other circumstances not foreseen at the time the final PD development plan was approved. No change authorized by this Section may cause any of the following:

- (1) A change in the use or character of the development.
- (2) An increase in overall land coverage of structures.
- (3) An increase in the intensity and density of use.
- (4) A reduction in approved open space.
- (5) A reduction of off-street parking and loading space.
- (6) A reduction in required pavement widths.

(b) All other changes in use, rearrangement of lots, blocks and building tracts or any changes in the provision of common open spaces must be made by the Board of Trustees after report of the responsible administrative staff and recommendation by the Planning Commission after conducting a hearing on the proposed changes. Such amendments may be made only if they are shown to be required by changes in conditions that have occurred since the final PD plan was approved or by changes in community policy. Density transfers are only allowed through the density transfer mechanism as provided in Section 16-3-470(b) of this Chapter.

(c) Any changes which are approved in the final PD plan must be recorded as amendments in accordance with the procedure established for the recording of the initial final PD plan documents with the exception that, prior to making its recommendation to the Board of Trustees, the Planning Commission shall hold at least one (1) public hearing with the applicant being responsible for publishing notice of said hearing in the official publication of the Town at least fifteen (15) days in advance of the hearing. (Prior code 13-3-12; Ord. 290 Part 1, 2004)

Division 5
Reviews and Improvements

Sec. 16-5-510. Failure to begin development or show substantial progress.

PD special review. Each PD within an approved PD District must contain a detailed development schedule of public and private improvements. The Town staff shall monitor this schedule, and failure of the developer to substantially adhere to it shall be cause for a final PD plan special review by the Planning Commission. The Planning Commission special review shall be commenced if one (1) or more of the following situations exist:

- (1) Failure to begin subdivision platting and/or draw building permits for construction, as detailed in the approved development schedule, within twenty-four (24) months of the scheduled starting date or extensions thereto.
- (2) Inactivity or documented "no progress" as determined by either the Town staff or Planning Commission on any stage of the project for more than four (4) years from the last completed benchmark in the approved development schedule.
- (3) Request for extensions to the start-up dates by the developer. The Planning Commission may extend, for not more than three (3) periods of twelve (12) months each, the time for beginning the project. (Prior code 13-3-12)

Sec. 16-5-520. General purpose.

The PD special review will be undertaken by the Planning Commission to determine if the developer can verify to the Planning Commission that the original assumptions and plans of the planned development are still appropriate. At this review, the development schedule shall be recommended to be formally amended or the final PD plan be declared null and void. Proceedings of this review shall be forwarded to the Board of Trustees for its review and approval of the amended development schedule or voiding of the plan. No development may proceed until these formal amendments and approvals are made. (Prior code 13-3-12)

Sec. 16-5-530. Review fees.

In order to cover Town expenses for conducting the final PD plan special review (Section 16-5-510 above), the developer shall pay on demand a fee equivalent to eighty percent (80%) of the original final PD plan review fee. In addition to direct collection, failure to pay fees will trigger other methods of securing payment. (Prior code 13-3-12)

Sec. 16-5-540. Periodic reviews of all PDDs.

The Planning Commission will conduct, at least every two (2) years, a review of each project on or about the anniversary date of the final PD plan approval. No fees will be charged to the developer for these reviews. Developers of PD projects may be asked by the Planning Commission or Town staff to appear at this review and make a progress report. The Planning Commission will make a determination and so note in the minutes as to whether adequate or no progress has been made by the developer. (Prior code 13-3-12)

Sec. 16-5-550. Improvements agreements.

(a) The Planning Commission and Board of Trustees will require adequate improvements agreements for public improvements both on- and off-site to be signed and secured by an acceptable financial guarantee as a supplement to any final PD plan if these agreements have not already been developed through the subdivision process. Liabilities and responsibilities between multiple owners need to be clearly spelled out in these agreements. Once these agreements are consummated, default by any party will trigger the use of the financial guarantees assigned to the defaulter in order to complete the improvements of the defaulter so as not to transfer liabilities to nondefaulting partners to the agreements.

(b) Furthermore, mistakes in plan, plat or survey drawings by the developer which, when discovered, reveal that additional land needs to be acquired or additional costs incurred by the Town in order to construct the public improvements of the development as planned and which were not covered by an improvements agreement will become the financial responsibility of the PD developer or owner. Depending upon the severity of the mistake, building permits or certificates of occupancy may be withheld for buildings either being contemplated or in progress at the time of discovery of the mistake until the problems are resolved to the satisfaction of the Board of Trustees.

(c) No building permits will be issued on a total PD site or portions thereof unless a final planned development plan has been approved as per Division 4 above and any associated improvements agreement has been negotiated and signed. On large PDs, it behooves developers to sequence final PD plan approvals and construction phasing in order to keep improvement agreement collateral amounts reasonable. (Prior code 13-3-12)

*Division 6
Design Standards*

Sec. 16-5-610. Purpose.

Basic design standards which are largely quantitative in nature are outlined in this Division and are either negotiable or are specified. Except where otherwise noted, these standards are to be defined at the PD District review stage. (Prior code 13-3-12)

Sec. 16-5-620. Density.

(a) Density is a negotiable item and is to be expressed in terms of residential or commercial residential units per acre (gross) on an entire site and/or on individual development parcels or as floor to area ratios for commercial, office and industrial uses. Densities shall be calculated for land areas comprising the property boundaries for entire sites and/or to the midpoint of adjacent streets for development parcels making up an entire site. Each site or parcel shall have the negotiated density numbers with the words "up to and including" on the plan to be recorded. All density figures represent maximum numbers only; they are not guarantees of actual densities which can only be determined after detailed planning and site analysis and review at the final planned development plan stage.

(b) The term *commercial residential* shall apply to hotel and lodge type airspace ownerships or rental rooms where kitchens are not necessarily a part of the accommodations units. Condominium units (with kitchens) with or without "lock-out" sleeping rooms that are part of a structure or a series of structures in an identifiable "hotel" type complex which are rented from a central reservations desk within the structure or attached structures are considered to be commercial residential uses.

(c) Density negotiations are to be carried out in relation to the following criteria:

- (1) Reasonable compatibility with the densities of the surrounding developments.
- (2) Concern for the general criteria that the densities negotiated will allow the development to "work" from the following standpoints:
 - a. Marketability, present and future;
 - b. Preservation of a quality life that reflects successful communities;
 - c. Site-carrying capacity in relation to topography, vegetation and other natural physical attributes or constraints;
 - d. Avoidance of "crowding" or site packing and tight building spacing.
- (3) Concern for the interrelationship between density, height, open space and vehicle accommodation which promote quality development for the benefits of residents and visitors alike.
- (4) The relationship of density to the general theme of the proposed development.
- (5) The relationship of the proposed density to the support or maintenance of a pedestrian-oriented community. (Prior code 13-3-12)

Sec. 16-5-630. Density transfer.

- (a) Density may not be transferred between different PD Districts.
- (b) Densities may be transferred from one (1) area within a PD District to another area within the PD District only subject to the following:
 - (1) Density increases of up to thirty percent (30%) within any area beyond densities provided in the approved PD plan may be transferred upon application (subject to FPDP approval) and/or approved at the time of the final PD District plan if the following conditions are satisfied:
 - a. Overall densities of the PD may not be increased unless an amendment to the PD has been approved.
 - b. An accounting of unused and/or untransferred densities shall be provided at the time of application.

c. The area receiving a density transfer must have sufficient roadway, water and sewer infrastructure to serve the development.

(2) Density increases above thirty (30%) beyond densities provided in the approved PD plan may be approved only as provided by the PD District amendment process as provided in Section 16-5-380 of this Article.

(3) Density may not be transferred from one (1) area to another that already has an approved final PD plan without a formal final PD plan amendment as provided in Section 16-5-380 of this Article. (Prior code 13-3-12; Ord. 290 Part 1, 2004)

Sec. 16-5-640. PD District size.

A PD District shall consist of a minimum of one-half (½) acre. (Prior code 13-3-12)

Sec. 16-5-650. Open space.

(a) General. The amount of open space in a PD is a negotiable item and is to be expressed in terms of acres and percentages on the entire PD site and any of its subparts or development parcels. Open space shall be land areas not occupied by buildings or structures and attachments thereto, parking areas, driveways, streets or alleys. Said open space shall be devoted to landscaping, planting, patios, walkways, recreational areas and facilities and preservation of natural features.

(b) Open space negotiations are to be carried out in relation to the following criteria:

(1) Avoidance of concentrating open space into large areas with the subsequent "packing" of residential areas.

(2) Open space and/or landscaping accompanies all types of developments.

(3) Larger open space areas are logically connected to each other and to external open spaces via linear path systems.

(4) Enhancement of the natural features of a development site.

(5) Degree of maintenance of the "pastoral" character of the large open spaces in the region.

(6) Degree of maintenance and/or development of waterways and bodies in the development as a recreation amenity.

(7) Degree of public access to open spaces and recreational amenities.

(8) Maintenance of a "balance" between planned open spaces and fees-in-lieu buyouts for public parks as outlined in Chapter 17 of this Code.

(c) Landscape plan. All industrial, commercial, commercial residential or mixed use PDs or portions of PDs that are commercial in nature or industrial shall submit a landscape plan for these areas at the final planned development plan review stage.

(d) Recreation improvements. Recreation facilities or structures and their accessory uses located in common recreation areas shall be considered open space as long as total impervious surfaces, including courts and roofs, constitute no more than ten percent (10%) of the total open space negotiated for the development.

(e) Natural physical characteristics.

(1) Streams, lakes, other bodies of water, slopes in excess of twenty percent (20%) and floodplains may be included as open space. Land areas containing identified geologic hazards may not be included in the negotiated open space amounts.

(2) Where natural streams or creeks traverse the planned development, the maintenance at a nondisturbance zone of a minimum of thirty (30) feet measured landward from the mean identifiable high water mark on the stream banks shall be dedicated as open space. The Planning Commission may require an increase in this setback distance based on the following criteria:

a. Degree of slope adjacent to the stream equals or exceeds thirty percent (30%).

b. Highly erodable soils are present.

c. The proposed use of the property presents a special hazard to water quality (i.e., the storage or handling of hazardous or toxic materials).

(3) Any amount of common or public open space may be left in its natural state except where landscaping plans are required, as long as the recreational needs of the residents of the PD District and the general public are being met in the opinion of the Planning Commission.

(f) Administration and maintenance. The following provisions shall govern the administration of the common improvements and open space in all planned developments approved pursuant to these regulations:

(1) The final planned development plan shall be approved subject to the submission of legal instruments setting forth a plan or manner of permanent care and maintenance of all common improvements, open space and other facilities provided by the final planned development plan. No such instrument shall be accepted until approved by the Town Attorney as to legal form and effect, and the Planning Commission as to suitability for the proposed use of the common facilities, open space and subject recreational facilities. Such documentation shall conform to Section 24-67-105(6), C.R.S.

(2) The common open space and other facilities provided may be conveyed to a public agency or private association. If the common improvements, open space or recreational facilities are conveyed to a private association, the developer shall file as a part of the aforementioned instruments, a declaration of covenants and restrictions that will govern the association. Developers unfamiliar with these legal instruments should consult Chapter 17 of this Code or an attorney familiar with them. (Prior code 13-3-12)

Sec. 16-5-660. Circulation.

(a) Streets and ways.

(1) Development of streets and ways in a planned development area shall be designed as per requirements of Chapter 17 of this Code and street development policies of the Town, and shall reflect the nature and function of streets. No two-way street driving surface shall be less than twenty-four (24) feet wide. No cul-de-sacs shall be longer than five hundred (500) feet. A general street plan showing, at a minimum, the public arterial and collector roads will be required at the PD District review stage. A detailed and engineered public and private street plan is required for any final PD plan approval.

(2) There shall be a minimum of two (2) accesses to any planned development over two (2) acres in size from the rest of the Town. These access points shall be designed to provide smooth traffic flow with controlled turning movements and minimum hazards to vehicular, pedestrian and bicycle traffic. All access drives are not to exceed a five-percent grade within fifty (50) feet of their entrance onto a public or private right-of-way.

(3) Where appropriate, the internal circulation system shall provide pedestrian and bicycle paths that are physically separated from vehicular traffic to serve residential, nonresidential and recreational facilities provided in or adjacent to the planned development. Where designated bicycle paths or trails exist adjacent to the planned development, safe, convenient access shall be provided. The Planning Commission may require, when necessary, pedestrian and/or bicycle overpasses, underpasses or traffic signalization in the vicinity of parks, shopping areas or other uses that may generate considerable pedestrian and/or bicycle traffic and vehicular traffic conflicts.

(4) All public and private streets are to be paved. Private streets shall be dedicated to the Town as utility easements where said easements are necessary. All streets are to be completed and paved before a certificate of occupancy is issued on a structure. The paving requirements may be waived should weather conditions necessitate it or where a separate paving schedule has been agreed to as part of the final PD plan. All improvement bonds, escrow funds, etc., are to be held by the Town until paving is complete. A fugitive dust control plan is to be included in the final PD documents and implemented during construction.

(5) All private streets shall be conveyed to a private home or property owners' association. If the private association or person owning the private streets in the planned development should in the future request that any private streets be changed to public streets, the private association or owner will bear the full costs of reconstruction or any other action necessary to make the streets conform to the applicable standards for public streets. The private association or owner shall also agree that these streets shall be made to conform and be dedicated to public use without any form of public compensation to the private association or owner.

(b) Public transit. All final planned development plan site designs shall include, where appropriate, an emphasis on public transit access by providing convenient and covered loading and unloading points.

(c) Parking and loading.

(1) Parking is a negotiable item in terms of space size and amounts but in general shall be provided as per the off-street parking requirements found in this Chapter. A detailed parking plan is to accompany all final planned development plan applications. In addition, the Planning Commission may determine that storage areas for boats, trailers, campers and other recreational vehicles shall be required where the necessity for such facilities has been demonstrated and where such facilities will preserve the required off-street parking for the use of automobiles.

(2) Parking lots or structures in commercial, industrial and mixed use developments shall be a minimum of ten (10) feet from public or private road rights-of-way.

(3) Parking areas shall be designed using architectural and engineering standards.

(4) Landscaping is required in commercial, industrial and mixed use developments on the perimeters of parking areas to screen them from public view, and large parking areas are to be broken up with landscaped islands that provide a measure of aesthetics to the parking areas without seriously inhibiting snow plowing and storage.

(5) Parking is to be allocated and located in proportion and in relation to the activity generated.

(6) Parking for residential units is to be located no farther than two hundred (200) feet from those units.

(7) All parking areas are to be adequately lighted for security reasons in commercial, industrial and mixed use developments.

(8) No parking is to be allowed on through public roads unless an additional minimum surface width of twelve (12) feet is provided for this purpose for parallel parking; greater distances for angled parking.

(9) All parking lots are to be provided with a minimum of two (2) accesses of double-lane driveways.

(10) Parking and loading areas are to be completed and paved before a certificate of occupancy is issued on any structure. The paving requirement may be waived in some residential areas at the discretion of the Planning Commission or should weather conditions necessitate it or a separate paving schedule is agreed to as part of the final PD plan. All improvement bonds, escrow funds, etc., shall be held by the Town until paving is complete. Underground or structured parking is encouraged.

(11) Loading areas in commercial, industrial and mixed use developments are to be designed to adequately accommodate both goods and people unloading at all residential and commercial buildings; the minimum loading area size is ten (10) feet wide by twenty (20) feet long by sixteen (16) feet high.

(12) Parking and loading areas are not to be used for the sale, repair or dismantling of any vehicle or equipment or the sale of any materials, supplies, food or other goods except by special permit from the Town.

(13) Parking areas may not double as snow or general storage areas; all storage areas are to be adequate for the use attached thereto and screened from public view. Generally, an extra one-third ($\frac{1}{3}$) of the total area of a parking lot is to be utilized for snow storage.

(d) Bridges. If any bridges are to be constructed within the planned development on public or private ways (roads, streets, paths, etc.), these are to be built at the developer's expense to Town standards and in full compliance with the dredge and fill laws of local, state and federal jurisdictions. (Prior code 13-3-12)

Sec. 16-5-670. Buildings.

(a) Height. Height measurements shall be defined as per Chapter 18 of this Code. Proposed height limits shall be negotiated at the PD District stage. Final height of buildings may be negotiated by the Planning Commission at the final PD plan stage and subject to further negotiation and/or the approval of the Board of Trustees. Height negotiations are to be carried out in relation to the following characteristics of the proposed buildings or other improvements:

- (1) Its geographical location.
- (2) The probable effect on slopes, soils and other hazardous terrain.
- (3) Adverse visual effect to the adjacent public and private property, rights-of-way or other areas in the immediate vicinity.
- (4) Potential problems for adjacent public and private sites caused by shadows, loss of air circulation or closing of view.
- (5) Influence on the general vicinity, with regard to contrasts, vistas and open space.
- (6) The extent to which potential adverse effects are eliminated or reduced by such factors as spacing between buildings and limitation of the ground areas occupied by such buildings.
- (7) The extent to which building height will contribute to the environmental amenities and increased efficiency of the development by allowing for more open space, the more efficient provision of utilities and other services, and other desirable effects.
- (8) Its potential for improving the level of privacy in adjacent residential areas.
- (9) Its potential for being compatible with the scale of the surrounding natural environmental and built areas.
- (10) Public safety considerations.

(b) Spacing.

(1) Each planned development shall provide reasonable visual and acoustical privacy for buildings. Fences, insulation, walls, barriers, landscaping and sound-reducing construction techniques shall be used as appropriate for the aesthetic enhancement of property and the privacy of its occupants, the screening of objectionable views or uses and the reduction of noise.

(2) No specific yard, building or setback lot size requirements shall be imposed, other than those provided herein, in the planned development, provided that the spirit and intent of this Article are complied with in the final PD plan. The Planning Commission may determine that certain setbacks and spacing be required within all or a portion of a planned development for safety reasons.

(3) All buildings will be located so as to take advantage of any passive or active solar gain as deemed appropriate by the developer in the interest of energy conservation.

(c) Public phones. All commercial and multifamily residential buildings between five thousand (5,000) and fifteen thousand (15,000) square feet of gross floor area shall be provided with a minimum of one (1) public phone; all other buildings are to provide public phones in adequate number to serve residents, customers and/or employees. Public phones are to be detailed on the final PD plan. (Prior code 13-3-12)

Sec. 16-5-680. Signs.

All signs shall conform to the this Chapter, with the following exceptions:

(1) No signs are allowed on roofs of buildings.

(2) PDs intending to have internal sign covenants for the entire development may negotiate these covenants as part of the PD review process should there be differences with the sign requirements of this Chapter. (Prior code 13-3-12)

Sec. 16-5-690. PD District perimeters and major rights-of-way.

(a) Definition of the perimeters of a PD utilizing opaque barriers or fences are a negotiable item should they be desired by the applicant. Negotiations are to be carried out in relation to the following general criteria:

(1) Promotion of community cohesiveness.

(2) Reduction of noise or adverse visual impacts of adjacent properties.

(3) The interests of public safety.

(4) Visual impact of the barrier itself in relation to the surrounding developments and environment.

(5) Relationship of barrier height to the surrounding development.

(6) The use of landscaping to offset the visual impact opaque barriers.

(7) The appropriateness of the degree of privacy and exclusivity desired by the applicant in relation to the community as a whole.

(b) Where a planned development is adjacent to a railroad or a state or federal highway right-of-way, a permanent open space at least twenty-five (25) feet in width shall be required as a setback

from these right-of-way lines. This area shall be kept free of buildings, structures and parking and contain permanently maintained landscaping, unless screened or protected by natural features, fences or other types of barriers. Fences or barriers on the highway rights-of-way shall be negotiated using the criteria of Subsection (a) above. (Prior code 13-3-12)

Sec. 16-5-700. Drainage and utilities.

General drainage and utility off-site connection concepts are to be discussed at the PD District plan stage.

(1) The final PD plan shall include a drainage plan with contours drawn at a minimum of two-foot intervals.

(2) The drainage plan shall avoid point source drains from the development without design of catchment basins or other suitable means to reduce pollution and sedimentation of the Fraser River and its tributaries.

(3) The drainage system shall be designed for the planned development by a registered professional engineer and shall be constructed in accordance with such design.

(4) The drainage plan shall include techniques and measures to prevent erosion on the site, as well as into the Fraser River or any of its tributaries during and after construction.

(5) The storm drainage and run-off system shall be designed for sufficient capacity to accommodate historical flows from a one-hundred-year design storm onto and from the PD plus the increased run-off from all areas of the PD in its developed state. All drainage construction areas shall be relandscaped. The planned development may not divert historical incoming flows to adjacent properties during and after construction.

(6) Final locations of connection points to existing utility systems both on or off the site and line layouts and sizes are to be provided at the final PD plan stage. (Prior code 13-3-12)

Sec. 16-5-710. Other provisions and standards.

The final PD plan may include other provisions deemed necessary or desirable by the landowner for the efficient development and preservation of PD District subject to the approval of the Planning Commission and the Board of Trustees. In addition, the Planning Commission and Board of Trustees may, in the review of each planned development, require that additional provisions, unless previously accepted, be incorporated into the PD District or final plan or that conditions be imposed in the public interest to ensure that the PD District will be developed in accordance with good design standards and practices and can exist compatibly with the neighboring land uses and the community as a whole. Such requirements and conditions may include, but shall not necessarily be limited to, any of the land use requirements or controls not mentioned in the previous sections which would otherwise be applicable by reason of this Chapter, or modifications thereof, including without limitation requirements relating to building design, location and construction, minimum yards, setbacks, lot widths, building spacing and floor areas, and requirements regarding the availability and provision of streets, roads, utilities and other public or quasi-public facilities. Any such requirements and

conditions imposed by the Planning Commission or Board of Trustees shall be specifically set forth in the final PD plan, as finally approved. (Prior code 13-3-12)

Sec. 16-5-720. Enforcement.

The provisions of the approved final PD plan may be enforced by the Town and/or by the occupants, residents and owners of the planned development to the extent and in the manner provided by Section 24-67-106, C.R.S. In addition to and without limitation on such powers of enforcement, the approved PD District plan or the final PD plan for the development may provide for additional rights and remedies as between the Town and the landowner in the event of any violation of the provisions of the plan. (Prior code 13-3-12)

ARTICLE 6

Permitted Accessory Buildings and Uses and Conditional Uses

Sec. 16-6-10. Definition.

An *accessory building and use* is a subordinated use of a building or other structure or tract of land which:

- (1) Is clearly incidental to the use of the principal building, other structure or use of land;
- (2) Is customary in connection with the principal building, other structure or use of land; and
- (3) Is ordinarily located in the same lot with the principal building or other structure or use of land. (Prior code 13-4-1)

Sec. 16-6-20. Accessory buildings and uses.

Permitted or conditional accessory buildings and uses may include the following:

- (1) Home occupations; as specified in Section 16-6-40 below.
- (2) Accessory dwelling units, if approved as a conditional use in the R-1, R-2, R-3, R-4, M-1, M-2 or B District as provided in Section 16-6-30 below.
- (3) Household pets;
- (4) Signs;
- (5) Off-street parking areas;
- (6) Fences;
- (7) Storage and sale of crops, vegetables, plants and flowers produced on the premises;

(8) Recreation centers and areas, swimming pools, tennis courts, patios or other recreation facilities customarily incidental to permitted accommodation uses in the A District;

(9) Reservation and business offices and counters essential to the operation of permitted accommodation uses in the A District;

(10) Bed and breakfast operations of no more than five (5) rental rooms, as specified in Section 16-6-50 below. (Prior code 13-4-2; Ord 290 Part 1.2.2, 2004)

Sec. 16-6-30. Accessory dwelling units.

Accessory dwelling units may be approved as conditional uses in the R-1, R-2, R-3 and R-4, M-1, M-2 or B Districts, in accordance with the procedures provided in Section 16-6-60 of this Chapter, provided that each proposed use complies with the following criteria:

(1) The size of the accessory dwelling unit shall be subject to the following limitations:

a. The unit shall contain at least two hundred (200) square feet of habitable floor area;

b. The unit shall be no larger than fifty percent (50%) of the square footage of the principal dwelling unit or five hundred (500) square feet, whichever is greater.

c. The Board of Trustees may approve an increase in the size of an accessory dwelling unit, if the unit is located over a detached garage, and the Board of Trustees makes a finding that the size limitations of Subparagraph b. above constitute an unnecessary hardship.

(2) The accessory dwelling unit shall be attached to either the principal dwelling unit or to an accessory detached garage structure;

(3) The accessory dwelling unit shall contain, at a minimum, the following:

a. A kitchen.

b. A bathroom.

c. A separate and independent entry. The Board of Trustees may approve an interior entry through the procedures provided in Section 16-6-60 below.

(4) The accessory dwelling unit shall have direct access to utilities and utility shutoffs and controls for the unit as required by local and state building and electrical codes.

(5) The accessory dwelling unit shall have provisions for parking in accordance with the minimum parking requirements as established by this Chapter.

(6) The accessory dwelling unit shall include firewall provisions as required by the local building codes. (Prior code 13-4-3.2; Ord. 290 Part 1.2.2, 2004)

Sec. 16-6-40. Home occupations.

A home occupation shall be allowed as a permitted accessory use, provided that all the following conditions are met:

- (1) Such use shall be carried on by the inhabitants living on the premises and not others.
- (2) Such use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes and shall not change the character thereof.
- (3) There shall be no exterior advertising, other than identification of the home occupation.
- (4) There shall be no offensive noise, vibration, smoke, dust, odor, heat or glare noticeable at or beyond the property line, to be determined by the Colorado Health and Welfare Regulations. (Prior code 13-4-3)

Sec. 16-6-50. Bed and breakfast.

A bed and breakfast shall be allowed as a permitted accessory use, provided that all the following conditions are met:

- (1) Such use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes and shall not change the character thereof.
- (2) There shall be no exterior advertising of the business, other than identification of the establishment which shall comply with the regulations of a site identification sign in Section 16-10-30 of this Chapter.
- (3) The structure shall contain no more than seven (7) bedrooms of which only five (5) bedrooms can be for rent in any bed and breakfast.
- (4) An owner or manager responsible for the day-to-day operation of the establishment must reside within the bed and breakfast establishment or in a structure adjacent to and on the same property as the bed and breakfast structure.
- (5) All parking for guests and employees must be off-street type parking in a maintained parking area. Said area shall be hard surface of gravel, concrete or asphalt, shall be kept free of snow and shall in some manner delineate the parking spaces. One (1) additional parking space per rental room is required in addition to any parking required for the principal use.
- (6) Operators of said establishment shall avoid any illegal, unreasonably dangerous or harmful practices or conditions which are detrimental to the safety of those staying in said establishment.
- (7) Said establishment shall comply with all regulations and ordinances of the Town, including but not limited to Chapter 6, Article 1 of this Code and all laws and regulations of the State. If complaints are lodged against the establishment for noise or other impacts to the neighborhood, the Board of Trustees reserves the right to review such complaints and to take whatever action is deemed necessary, including but not limited to the revocation of the business license of the bed and breakfast, in order to eliminate the impact to the neighborhood.

(8) Said establishment shall provide for adequate trash removal and shall screen trash removal receptacles from public view. (Prior code 13-4-3.1)

Sec. 16-6-60. Requirements for conditional uses.

Conditional uses are those uses which are allowed in those districts where so authorized by the district regulations only when and if a conditional use permit is granted therefor in accordance with the procedures and requirements of this Article.

(1) Purpose. Because of their special or unusual characteristics, conditional uses require review and evaluation so that they may be located properly with respect to their effects on surrounding properties. The review process prescribed herein is intended to assure compatibility and harmonious development between conditional uses and surrounding properties and the Town at large.

(2) All business and commercial use shall adhere to the development permit process in Article 4, Division 2 of this Chapter. Where standards may conflict, the more restrictive shall apply.

(3) Application and required information. Application for a conditional use permit shall be to the Town Clerk. The application shall be supported by documents, maps, plans and other material containing the following information:

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

b. Legal description, street address and other identifying data concerning the site.

c. A description of the precise nature of the proposed use and its operating characteristics, and other measures proposed to make the use compatible with other properties in the vicinity.

d. A site plan showing proposed development of the site, including topography, building sizes, dimensions and locations, parking, traffic circulation, open space, landscaped area and utilities and drainage features.

e. Calculation of the ten-percent allowed usage with regard to the gross lot area and gross floor area of the development.

f. Such material as the Planning Commission may prescribe or the applicant may submit pertinent to the application and to the findings prerequisite to the issuance of a conditional use permit.

(4) Conditional use permit fee. A conditional use permit fee, in such amount as is established from time to time by ordinance or resolution adopted by the Board of Trustees, and as set forth in Appendix A to this Code, shall be paid at the time of application and shall not be refundable.

(5) Procedure. Upon receipt of a properly completed application for a conditional use permit, the Town Clerk shall set a date for a public hearing on the application before the Planning Commission. At least fourteen (14) days prior to the public hearing, the Town Clerk shall cause public notice to be made of the conditional use hearing in the legal newspaper of the Town.

(6) Planning Commission recommendation and Board of Trustees action.

a. The Planning Commission may recommend approval of the conditional use application subject to such modifications or conditions as it deems necessary to accomplish the purposes of this Chapter, or the Planning Commission may recommend denial. The recommendation of the Planning Commission shall be promptly forwarded to the Board of Trustees. The Board of Trustees may approve, approve with conditions or deny the application. A conditional use permit may be revocable, may be granted for a limited time period and may be granted subject to other conditions as the Planning Commission and/or Board of Trustees may prescribe. Conditions may include, but shall not be limited to, requiring special setbacks, open spaces, fences or walls, landscaping or screening, on-street dedication and improvement, regulation of vehicular access and parking, signs, illumination, hours and methods of operation, control for maintenance of buildings and grounds and prescription of development schedules.

b. A conditional use permit shall not grant variances, but action on a variance may be considered concurrently with a conditional use permit application on the same site. Variances shall be processed in accordance with the procedures prescribed in Article 10 of this Chapter.

c. Before taking action on a conditional use permit, the Planning Commission and Board of Trustees shall consider the following factors in regard to the proposed use:

1. Relationship and impact of the use on development objectives of the Town.

2. Effect of the use on light and air, distribution of population, transportation facilities, utilities, schools, parks and recreation facilities and other public facilities and public facilities needs.

3. Effect upon traffic, with particular reference to congestion, automotive and pedestrian safety and convenience, traffic flow and control, access, maneuverability and removal of snow from the streets and parking areas.

4. Effect upon the character of the area in which the proposed use is to be located, including the scale and bulk of the proposed use in relation to surrounding uses and neighborhoods.

5. Such other factors and criteria as the Planning Commission deems applicable to the proposed use. (Prior code 13-4-4; Ord. 290 Part 1.2.3, 2004; Ord. 296 Part 1.2, 2004)

ARTICLE 7

Use Permitted by Special Review

Sec. 16-7-10. Special use permit review process.

The use listed below is subject to a special permit review process in the M-1, M-2 and MD Districts. This use has been determined to have on-site and off-site impacts that are extraordinary; and, therefore, in the interests of the public health, safety and welfare, it must be reviewed and

considered on a case-by-case basis before a decision is made to allow, allow with conditions or disallow such use, and only after receiving favorable approval of the Board of Trustees.

(1) The special use permit review is a two-part process: Step 1, Planning Commission review and recommendation; and Step 2, Board of Trustees review and decision.

(2) Applicants for a special use permit shall complete a written application for such use which shall be obtained from the Town Clerk.

(3) The completed application and supplementary submittal materials shall be filed with the Town Clerk, together with the required filing fee as set forth in Appendix A to this Code.

(4) The Town staff shall review each application submitted and schedule it for review by the Planning Commission at its next regularly scheduled meeting.

(5) The Planning Commission shall review all the submitted documents and make a recommendation for approval, approval with conditions or denial to the Board of Trustees. The Planning Commission review shall concern itself with the completeness of the application submittal documents, the relative compatibility of the proposed use in relation to surrounding uses, the degree of conformance to the intent of the Comprehensive Plan for the area, the proposed on-site and off-site mitigation measures used to temper any visual, health, noise or other impacts of the use on surrounding properties, and other factors deemed appropriate by the Planning Commission.

(6) Review by the Board of Trustees shall be conducted in a public hearing format from ten (10) days to forty-five (45) days after the completion of the Planning Commission's review. The applicant shall have notified those property owners identified by the applicant and verified by the Town within one hundred (100) feet of the application parcel boundary, and have caused a public hearing notice to be published in the official newspaper of the Town. Mailings to property owners informing them of the hearing and subject matter must be made ten (10) days in advance of the hearing and notice publication at least seven (7) days in advance of the hearing. The applicant shall, at the hearing, submit proof of mailing, by return receipts or affidavit of applicant.

(7) The Board of Trustees shall conduct the hearing and make findings in regard to the application. Upon weighing all the evidence presented, a decision for approval, approval with conditions or denial must be made on the application. Findings are to be made utilizing the following criteria:

a. Preservation of the interests of the health, safety and welfare of the community as a whole.

b. Mitigation measures used to alleviate on-site and off-site impacts such as noise, chemical contamination, visual and any other impacts, due to the development and operation of the use.

c. Public reaction to the proposal.

d. Any other criteria deemed appropriate by the Board of Trustees.

Conditions imposed on any approved application shall include time limits, future review and renewal of the permit, and may include limits to quantities of material allowed on the site, pollution control measures, additions to screening plans, etc. The Board of Trustees may continue any special use permit review hearing for as long as necessary before rendering a decision. In addition, the Board of Trustees may require the applicant to enter into a written contract or other assurance which the Board of Trustees may, in its discretion, deem advisable as a condition for the granting of such special use permit pursuant to the application. These contracts could include guarantees for any improvements made to mitigate impacts.

(8) Upon approval and settling of accounts, the permit application with attached conditions and plans shall be signed by the Mayor and filed with the Town Clerk. Duplicate copies shall be returned to the applicant. (Prior code 13-5-1)

Sec. 16-7-20. Submittal documents.

- (a) Application cover sheet and description of the special use.
- (b) Site plan drawing at appropriate and legible scale showing legal parcel dimensions, structure and use locations and the like.
- (c) Landscape and impact buffering plans.
- (d) Descriptions of impact mitigation methods.
- (e) List of property owners within one hundred (100) feet of the application parcel boundary.
- (f) Development schedules.
- (g) Complete engineering plan of all utilities and accesses.
- (h) Any other information required by the Town to review the application. (Prior code 13-5-1)

Sec. 16-7-30. Use requiring permit.

Overnight or short-term camping areas subject to the following additional conditions:

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

(5) Camping and parking spaces shall not be constructed in areas subject to flooding, unless adequate precautions are made to prevent loss (i.e., dikes to confine flood flow, fill to above flow line or straighten and widen drainage system).

(6) No dependent mobile home, travel trailer, truck camper or tent shall be located more than two hundred (200) feet from a service building.

(7) Such other terms and conditions as may be reasonably required by the Planning Commission or Board of Trustees due to special circumstances necessitated by the location of the proposed camping areas. (Prior code 13-5-1)

ARTICLE 8

Supplementary Regulations

Sec. 16-8-10. Area of lot and lot width regulations.

The following additional regulations shall apply to each zoning district:

(1) Where an individual lot was held in separate ownership from adjoining properties, is narrower than fifty (50) feet wide and was platted in a recorded subdivision prior to the effective date of the initial ordinance codified herein or any amendment thereto applicable to such lot, such lot may be occupied according to the permitted use provided for in the district in which said lot is located without regard to "minimum area of lot," and "minimum lot width" requirements otherwise specified in this Chapter. On those lots which were existing before January 9, 1974, the minimum side yard, rear yard and front yard requirements in all zoning districts shall be limited to five (5) feet in order to allow a reasonable use of lots which existed before the foregoing date.

(2) No part of a lot area or width required of a lot for purposes of complying with the provisions of this Chapter shall be included as a lot area or width required for another lot. Minimum side yards on lots less than fifty (50) feet wide in subdivisions recorded before January 9, 1974, may use side yards in adjacent lots for purposes of providing the minimum five (5) feet required above. (Prior code 13-6-1)

Sec. 16-8-20. Yard regulations.

The following supplementary regulations shall apply to all yards in the district:

(1) In any district where lots comprising fifty percent (50%) or more of the frontage on one (1) side of a street between intersecting streets are developed with buildings having an average front yard with a variation of not more than ten (10) feet, the average front yard of such buildings shall be the minimum required.

(2) Cornices, canopies, eaves, tongues and hitches for mobile homes, or similar architectural features, may extend into a required yard not more than three (3) feet.

(3) Fire escapes may extend into a required rear yard not more than six (6) feet.

(4) No part of a yard required for a building for the purpose of complying with the provisions of this Chapter shall be included as a yard for another building, unless provided to the contrary by this regulation. (Prior code 13-6-2)

Sec. 16-8-30. Flood channels.

Buildings or other structures, except flood control dams or irrigation structures, shall not be constructed in areas subject to inundation, unless and until the plans for such building or structure are first approved by the Board of Trustees, subject to the following special conditions:

(1) Any building or structure which is approved shall be located so as to offer minimum obstruction to the flow of flood water and shall not cause lands outside the natural flood channel to be flooded.

(2) No dwelling, building or structure shall be built within fifteen (15) feet of a river bank.

(3) No schools, churches or other places of public assembly shall be permitted in a flood channel.

(4) No storage of materials which could be moved by flood waters shall be permitted within a flood channel. (Prior code 13-6-3)

Sec. 16-8-40. Vehicles and junk equipment.

(a) No house car, camper, mobile home or trailer shall be used as living or sleeping quarters in any right-of-way or public parking area within the Town limits.

(b) For each principal use, a maximum of one (1) expired license, unregistered or inoperative vehicle or inoperative heavy equipment vehicle, or parts thereof, are allowed in residential and mobile home districts. Vehicles in excess of this number are not allowed unless they are in a private garage. Any existing use that is a violation of this Section as of the effective date of the initial ordinance adopting this Section shall be considered a nonconforming use. Notwithstanding any provision to the contrary contained in this Chapter or any other zoning ordinance or zoning regulation, such nonconforming use may continue until the earlier of:

(1) Two (2) years after the effective date of the initial ordinance codified herein;

(2) Discontinuance of such use; or

(3) Fire, theft, vandalism or other removal or destruction of at least fifty percent (50%) of the then-existing nonconforming use.

Removal of any part of the nonconforming use or vehicles, even though other such nonconforming uses or vehicles still remain on the property, shall not entitle the user to replace or substitute nonconforming uses or vehicles for those removed.

(c) In districts other than residential and mobile home districts, where inoperative vehicles and/or parted or inoperative heavy equipment or parts thereof may be allowed, they shall be fully screened so as to prevent such vehicles from being viewed from a public street or area. Vehicles that have

been repaired at gasoline stations or auto repair shops shall not be stored on the property longer than ten (10) days after repairs are completed, except where such storage is done pursuant to enforcement of lien rights.

(d) Storage of vehicles or parts thereof from towing operations, used car lots, rental car operations and the like where frequent moving and/or long-term storage of vehicles is necessary as part of the operation of the principal use are allowed only in districts specifying such uses and only by special permit. Notwithstanding the above, new car dealerships shall be allowed to store no more than ten (10) new vehicles for sale outside the showroom structure. The storage area, in addition to the stated number of vehicles, is subject to a special use permit review. (Prior code 13-6-4)

Sec. 16-8-50. Off-street parking.

(a) All uses in the Town shall be required to provide for off-street parking as set forth in this Chapter.

(b) For parking lots with less than ten (10) parking spaces, all spaces shall measure at least ten (10) feet by twenty (20) feet except for required handicapped spaces, which shall be fourteen (14) feet by twenty (20) feet in size.

(c) For parking lots with ten (10) or more parking spaces, eighty percent (80%) of the required spaces shall be at least ten (10) feet by twenty (20) feet, while the remainder of the spaces may be reduced in size to nine (9) feet by eighteen (18) feet, except for required handicapped spaces which shall be fourteen (14) feet by twenty (20) feet in size.

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

(e) Maintenance. All improvements made to the parking lot, driveways and access roads, including signage, lighting, striping and all other improvements, shall be maintained in a safe manner. Maintenance shall include repairing of potholes and resurfacing the parking lot, and the removal of snow to keep in compliance with Town standards.

(f) Number of spaces required.

<i>Use</i>	<i>No. Spaces Required</i>
Dwellings (owner-occupied or rented)	
Single or multifamily (2 bedrooms or less) spaces per unit	2.0
Single or multifamily (3 bedrooms or more) spaces per unit	3.0
Motels, hotels, tourist court, rooming houses	
Per rental unit	1.0
Owner or manager's unit	1.0
Auditoriums, churches, stadiums, theatres or other places of assembly	
With fixed seats, per 8 seats	1.0
Without fixed seats, per 100 square feet	1.0
Offices, per 200 square feet	1.0

Business complexes: groceries, restaurants, eating and drinking establishments and retail sales, per 230 square feet	1.0
Groceries, restaurants, eating and drinking places, per 200 square feet	1.0
Retail sales establishments, including dry goods, etc., per 200 square feet of area devoted to sales and display	1.0
Hospitals, nursing homes, sanitariums	
Per 3 beds	1.0
Per staff	1.0
Schools: Elementary, junior high	
Per classroom	1.0
Per 300 square feet of office	1.0
Plus, as required for places of assembly.	
Business complexes incorporating any of the above categories shall be computed individually and then all categories totaled for the complex's total parking requirements.	
At least 80% of the spaces required shall measure no less than 9' x 20'. 20% of the required spaces may be compact car size, no less than 8' x 15'.	

(Prior code 13-8-11)

ARTICLE 9

Nonconforming Uses and Nonconforming Buildings

Sec. 16-9-10. Definitions.

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

A nonconforming building shall include any legally existing building which does not conform to the location and bulk regulations of this Chapter for the district in which such nonconforming building is located, either at the effective date of the initial ordinance codified herein or as a result of subsequent amendments which may be incorporated into this Chapter.

A nonconforming use shall include any legally existing use, whether within any building or structure or on a tract of land, which does not conform to the use regulations of this Chapter for the district in which said nonconforming use is located, either at the effective date of the initial ordinance codified herein or as a result of subsequent amendments which may be incorporated into this Chapter. (Prior code 13-7-1; Ord. 330 §1, 2007)

Sec. 16-9-20. Continuation of use.

A nonconforming use may be continued, and a nonconforming building may continue to be occupied, except as both of the foregoing are otherwise provided for in this Article. (Prior code 13-7-2)

Sec. 16-9-30. Change of use.

A nonconforming use may be changed to any conforming use. (Prior code 13-7-3)

Sec. 16-9-40. Abandonment of use.

If active and continuous operations are not carried on in a nonconforming use during a continuous period of nine (9) months, the building, other structure or tract of land where such nonconforming use previously existed shall thereafter be occupied and used only for a conforming use. Intent to resume active operation shall not affect the foregoing. (Prior code 13-7-4)

Sec. 16-9-50. Restoration.

A nonconforming building or a building containing a nonconforming use which has been damaged by fire or other causes may be restored to its original condition, provided that actual reconstruction is started within six (6) months of such calamity and completed within twelve (12) months of the time the restoration is commenced, unless application for and approval of an extension is granted by the Board of Adjustment prior to the termination of the period provided for above. (Prior code 13-7-5)

Sec. 16-9-60. Enlargement of building containing a nonconforming use.

A building containing a nonconforming use shall not be enlarged. (Prior code 13-7-6)

Sec. 16-9-70. Alteration of a nonconforming building.

A nonconforming building may be structurally altered and repaired in any way permitted by these regulations, provided that no alterations or repairs shall be made in a nonconforming building which would increase the degree of nonconformity with the location and bulk regulations of this Chapter. (Prior code 13-7-7)

Sec. 16-9-80. Mobile homes.

A nonconforming mobile home may be occupied until it is removed from the location. Thereafter, neither that nor any other mobile home shall be moved back into the location, and that location shall then and thereafter be used only in conformance with the applicable zoning regulations, unless a special use permit is granted by the Board of Adjustment. (Prior code 13-7-8)

Sec. 16-9-90. Registration of nonconforming uses.

A certificate of occupancy may be applied for by all land and buildings that are made nonconforming by the passage of this Chapter. Such certificate shall be applied for and issued within one (1) year after the effective date of the initial ordinance codified herein. (Prior code 13-7-9)

ARTICLE 10

Signs and Outdoor Advertising Devices

Division 1

General Provisions

Sec. 16-10-10. Purpose and authority.

(a) The regulations in this Article are intended to coordinate the use, placement, physical dimensions and design of all signs within the Town. The purpose of these regulations is to:

(1) Define the types of signs that are permitted in various zoning districts, outline the allowable dimensions, denote prohibited signage and discuss the exemption of certain types of signs from this Code, all in the best interest of public health, safety and welfare.

(2) Recognize that signs are a necessary means of visual communication for the convenience of the public and provide flexibility within the sign review and approval process to allow for unique circumstances.

(3) Recognize the value of commercial signs as a necessary means of useful communication to maximize economic well-being for the business sector.

(4) Recognize and ensure the right of those concerned to identify businesses, services and other activities by the use of signs, and limit signs to those which are accessory and incidental to the use on the premises where such signs are located.

(5) Provide a reasonable balance between the right of an individual to identify his or her business and the right of the public to be protected against the visual discord resulting from the unrestricted proliferation of signs and similar devices.

(6) Protect the public from damage or injury caused by signs that are poorly designed or maintained and from distractions or hazards to pedestrians or motorists caused by the indiscriminate placement or use of signs.

(7) Ensure that signs are well-designed and contribute in a positive way to the Town's visual environment, express local character and help develop a distinctive image for the Town.

(8) Encourage signs that are responsive to the aesthetics and character of their particular location, adjacent buildings and uses and the surrounding neighborhood. Ensure that signs are compatible and integrated with the building's architectural design and with other signs on the property.

(9) Bring nonconforming signs into compliance with these regulations.

(b) The regulations herein are authorized by Article 31, Title 23, C.R.S., and are hereby declared to be in accordance with all provisions of these statutes. (Prior code 13-8-1)

Sec. 16-10-20. Definitions.

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

Awning sign means a wall sign which is painted, stitched, sewn or stained onto the exterior of an awning. An *awning* is a movable shelter supported entirely from the exterior wall of a building and composed of nonrigid materials except for the supporting framework. No awning shall block the view of other signs or extend over a public right-of-way without Town approval. Signs may be placed only on awnings that are located on first-story and second-story building frontages. No awning sign shall project beyond, above or below the face of an awning. There shall be a minimum clearance of at least eight (8) feet between the bottom of the awning and the ground at grade. No awning, with or without signage, shall extend above the roof line of any building. Awnings shall be regularly cleaned and kept free of visible defects.

Banner means any temporary sign made of fabric or any nonrigid material with no enclosing framework.

Big box developments means large-scale, stand-alone retail establishments.

Canopy sign means a wall sign that is permanently affixed to a roofed shelter attached to and supported by a building, by columns extending from the ground or a combination of a building and columns. No canopy sign shall project above the top of the canopy upon which it is mounted. There shall be a minimum clearance of at least eight (8) feet between the bottom of the canopy and the ground at grade. Canopies shall be regularly cleaned and kept free of visible defects.

Electronic message center sign means a variable-message sign that utilizes computer-generated messages or some other electronic means of changing copy.

Freestanding sign means any sign which is supported by one (1) or more columns, posts or braces extended from the ground. No freestanding sign shall extend over or into a public right-of-way. There shall be no more than one (1) freestanding sign for each lot.

Mixed use development means any project which contains more than one (1) of the following types of uses; commercial, residential, industrial or institutional.

Monument sign means a permanent sign where the entire bottom of the sign is affixed to the ground. The location of the sign shall not obstruct traffic safety sight distance areas. Project monument signs shall contain only the name and address of the project which it identifies.

Projecting sign means any sign which is attached to a building, projecting at a ninety-degree angle from the outside wall or walls of any building, which is supported by only one (1) rigid support. A projecting sign shall be placed only on a ground floor facade, except for businesses located above the ground level with direct exterior pedestrian access. A projecting sign shall be mounted so it generally aligns with others in the block. A projecting sign shall not be higher than the wall from which the sign projects if attached to a single-story building, or the height of the bottom of any second story window if attached to a multi-story building. A projecting sign must

have eight (8) feet clearance and may not extend more than six (6) feet from the building wall, except where the sign is an integral part of an approved canopy or awning.

Rooftop sign means any sign painted, placed or affixed to any portion of a roof or which projects above the fascia or parapet wall.

Sandwich board may have two (2) faces attached at the top and open at the bottom so that the structure forms a wedge and is self-supporting. Sandwich boards are considered a form of temporary signage.

Sign means any device, fixture, placard or structure that uses any form, graphic, illumination, symbol or writing to advertise, announce the purpose of, identify the purpose of a person or entity or communicate information of any kind to the public.

Sign area. A sign shall be measured by the sum total of all sign faces, including logos, marks, icons, emblems and/or other types of symbols used to identify an individual business. If a sign is attached to a wall without a backing surface, the total sign area shall be the sum of the area created from the outside edge of the first letter to the outside edge of the last letter as measured in a straight line and the area from the top of the highest letter to the bottom of the lowest letter as measured in a straight line. Supporting and/or ornamental framework or bracing that is clearly incidental to the sign itself shall not be computed as *sign area*. A back-to-back or double-faced sign shall be regarded as a single sign only if mounted on a single supporting structure and both sides of the sign are identical.

Sign copy means any words, symbols, logos, figures, numbers or symbolic representations incorporated into a sign with the purpose of attracting attention to the subject matter.

Temporary sign means a sign that is used in connection with a circumstance, situation or event that is expected to take place or be completed within a reasonably short or definite period after the erection of the sign; or is intended to remain on the location where it is erected for a period of not more than thirty (30) days. If a sign display area is permanent but the message displayed is subject to periodic changes, that sign shall not be regarded as temporary.

Wall sign means any sign painted on, incorporated in or affixed to the building wall, or any sign consisting of cut-out letters or devices (including logos, marks, icons, emblems and/or other types of symbols used to identify an individual business) affixed to the building wall with no background defined on the building wall. A wall sign shall not be higher than the eave line. No sign part, including cut-out letters, may project from the surface upon which it is attached more than required for construction purposes. (Prior code 13-8-7; Ord. 330 §1, 2007)

Sec. 16-10-30. Sign permit required.

To ensure compliance with the regulations of this Article, a sign permit shall be required in order to erect, move, alter, reconstruct or repair any permanent or temporary sign, except signs that are exempt from permits in compliance with Section 16-10-230 of this Article. Changing or replacing the copy on an existing lawful sign shall not require a permit, provided that the copy change does not change the nature of the sign or render the sign in violation of this Article. A separate sign permit

shall be required for each sign. Each person applying for a sign permit shall obtain or present a current Fraser business license. (Prior code 13-8-2)

Sec. 16-10-40. Application for sign permit.

Applications for sign permits shall be made in writing on forms furnished by the Town staff. A complete application shall be submitted to the Town by the owner or his or her authorized agent and shall include, at a minimum, the following information:

- (1) The name and address of the owner or other person in control of the real property upon which the sign is to be erected, posted or displayed, and proof of ownership or interest in the property.
- (2) The name of the person erecting the sign.
- (3) The address and legal description of the property upon which the proposed sign is to be located.
- (4) The type of sign.
- (5) The proposed location of the sign on the property identified; and the location and total surface area of all other permitted signs existing on the property or buildings.
- (6) Detailed drawings, drawn to scale, containing complete plans and specifications which indicate the method of construction and anchoring to the building or ground, the total area of the proposed sign in square feet and the height of the proposed sign from the ground level.
- (7) A detailed site plan, drawn to scale, which shall indicate all existing and proposed signs for the site, including dimensions, colors, materials and/or illumination, if applicable, for each sign.
- (8) Building elevations with signs depicted.
- (9) Any other information deemed necessary by the Town.
- (10) Sign permit fee as established by the current fee schedule set forth in Appendix A to this Code. (Prior code 13-8-2; Ord. 330 §1, 2007)

Sec. 16-10-50. Permit review and issuance.

Within ten (10) business days of filing a completed application, the Town staff shall review the sign application in accordance with the established review criteria. The Town shall approve, approve with conditions or deny the sign permit. Upon the Town staff's approval of the sign permit, the sign permit shall be issued to the applicant. (Prior code 13-8-2)

Sec. 16-10-60. Sign permit review criteria.

The following review criteria will be used by the Town staff to evaluate all sign permit applications:

- (1) That the sign meets the requirements of this Article and other applicable codes;
- (2) That the sign conforms to the size, height and location requirements of this Chapter for the zoning district in which it is located; and
- (3) That the sign will not interfere with pedestrian or vehicular safety. (Prior code 13-8-2)

Sec. 16-10-70. Appeal of sign permit denial or approval with conditions.

Any appeal of the Town staff's interpretation of this Article resulting in denial of a sign permit or approval with conditions shall be made to the Board of Trustees. The Board of Trustees shall review the application at the next regularly scheduled meeting. The decision by the Board of Trustees to either approve or deny the application shall be final. (Prior code 13-8-2)

Sec. 16-10-80. Variances.

Any request for an increase in the maximum allowable area for a sign or a variance from any of the requirements of this Article must be approved through a variance granted by the Board of Adjustment in accordance with the provisions of this Chapter. (Prior code 13-8-2)

Division 2
Sign Regulations

Sec. 16-10-210. Discontinued establishments and removal of signs.

Whenever a business, service or other use is discontinued, the signs pertaining to the use shall be removed or obscured by the person or entity owning or having possession over the property within thirty (30) days after the discontinuance of such use. This provision shall not apply to signs officially designated as landmarks, or to permanent signs accessory to businesses which are open only on a seasonal basis, provided that there is clear intent to continue operation of the business. (Prior code 13-8-3)

Sec. 16-10-220. Illegal signs.

(a) Penalties. Anyone who violates any of the sign regulations provided in this Article shall be subject to the same penalties as provided in this Chapter for zoning violations generally.

(b) Removal of illegal signs in the public right-of-way. The Town may cause the removal of any sign within the public right-of-way or on property that is otherwise abandoned that has been placed there without first complying with the requirements of this Article.

(c) Storage of removed signs. Signs removed in compliance with this Division shall be stored by the Town for thirty (30) days, during which time they may be recovered by the permit holder and/or owner only upon payment to the Town for costs of removal and storage. If not recovered within the thirty-day period, the sign and supporting structure shall be declared abandoned and title shall vest with the Town. The costs of removal and storage, up to thirty (30) days, may be billed to the owner. (Prior code 13-8-3)

Sec. 16-10-230. Exempt signs.

The following signs are exempt from the permit requirements of this Article and may be placed in any zoning district subject to the provisions of this Article. All such signs (except government signs) shall be located outside a public right-of-way, unless otherwise granted permission for such location by the Town or the Colorado Department of Transportation (CDOT). Signs shall not interfere with traffic signs or the sight distance triangle at intersections. The following exempt signs shall be unlit unless specified below.

(1) Banners. Banners applied to paper, plastic or fabric used to decorate or attract attention to a business establishment, provided that:

a. Banners are displayed in conjunction with a grand opening celebration or a special event or sale. As a general rule, banners cannot be displayed for more than thirty (30) consecutive days.

b. Businesses may display a maximum of two (2) banners with a combined total area of not more than fifty (50) square feet. If a business is situated on a corner lot with two (2) street frontages, the owner may be permitted to display up to fifty (50) square feet per street frontage.

c. Banners shall be securely attached to the wall of the establishment, freestanding signs or light poles on private property. Banners must be removed immediately if damaged or in disrepair.

d. A business can display a banner as its main identification for up to a three-month period of time while permanent signage is being made. Banners shall not be used in lieu of permanent signage.

(2) Bulletin board/notice boards/menu boards/display case. On-site bulletin boards, notice boards, menu boards or display boards not exceeding six (6) square feet in gross surface area. Such signs, or portions thereof, may be portable and may have characters, letters or illustrations that can be manually changed or rearranged for the purpose of advertising restaurant menus or special sales (i.e., dry-erase boards). Such portable signs may only be displayed during business hours.

(3) Construction. On-site construction signs, provided that:

a. Signs in conjunction with any residential use shall not exceed six (6) square feet each.

b. Signs in conjunction with all other uses shall not exceed twenty (20) square feet each.

c. Only one (1) such sign permitted per lot.

d. Such signs shall identify an architect, contractor, subcontractor, material supplier and/or financial lender only.

e. Such signs shall be removed within thirty (30) days after completion of the project.

(4) Directional. If the Board of Trustees elects to erect standardized business directory signs, such signs shall be exempt from all provisions and regulations of this Article, except that these signs shall comply with Section 16-10-250 of this Article.

(5) Flags.

a. Flags, crests or banners of nations, organizations of nations, states and cities, or professional fraternal, religious or civic organizations, except when displayed in connection with commercial promotion or as an advertising device. All flags shall be displayed in a proper manner.

b. Decorative flags, banners or pennants or a combination of the same, constituting an architectural feature which is integral to the design of a project, shall be reviewed by the Town staff on a case-by-case basis. Any appeal of the Town staff's decision resulting in denial or approval with conditions shall be made to the Board of Trustees. The Board of Trustees shall review the application at the next regularly scheduled meeting. The decision by the Board of Trustees to either approve or deny the application shall be final.

(6) Garage, estate or yard sale. Signs which advertise a garage, estate or yard sale on the lot on which the sign is located; such signs may be erected no sooner than two (2) days prior to the date of the sale and must be removed within (1) one day after the date of sale.

(7) Hazards. Any lit or unlit sign erected by the Town, public utility companies, oil and gas companies or construction companies to warn of danger or hazardous conditions, including signs indicating the presence of underground cables, gas lines and similar devices.

(8) Highway banners. If the Board of Trustees elects to erect temporary highway banners, such signs shall be exempt from all provisions and regulations of this Article.

(9) Historical markers. Such signs shall not exceed eight (8) square feet in size and be permanently affixed to buildings or structures for the purpose of identifying the name of a building, date of erection or other historical information.

(10) Informational signs. Signs (i.e., arrows for drive-in/fast-food restaurant) shall not exceed two (2) square feet in size.

(11) Merchandise and window signs. Merchandise, pictures or models of products or services which are incorporated as an integral part of a window display or signs located or painted on the interior side of the window, such as "open" and "closed" signs, or signage indicating the acceptance of credit cards. Electronic message center signs may be permitted on the interior side of the window only. Merchandise/window signs shall cover not more than fifty percent (50%) of the display windows on any business or building and must comply with Section 16-10-250 of this Article.

(12) Murals/art. Murals and works of fine art which in no way identify a product or business and which are not displayed in conjunction with a commercial enterprise, which enterprise may benefit or realize direct commercial gain from such a display. These signs shall not contain letters, trademarks or moving parts. Murals/art shall comply with Section 16-10-250 and must be

reviewed and approved by the Town staff on a case-by-case basis. Any appeal of the Town staff's decision resulting in denial or approval with conditions shall be made to the Board of Trustees. The Board of Trustees shall review the application at the next regularly scheduled meeting. The decision by the Board of Trustees to either approve or deny the application shall be final.

(13) Political signs. Signs, posters and banners indicating support for or opposition to a political candidate or question. Such signs, posters or banners shall not be erected or placed prior to sixty (60) days before an election, and shall be removed within seven (7) days following the election. No such signs, posters or banners shall be placed upon or shall extend into any public property or right-of-way.

(14) Public information signs. Signs which identify restrooms or public telephones or provide instructions as required by law or necessity, provided that the sign does not exceed four (4) square feet in area. These signs shall comply with Section 16-10-250.

(15) Regulatory signs. Regulatory signs erected on private property, such as "no trespassing" signs, which do not exceed two (2) square feet per face.

(16) Residential building identification signs. Such signs shall not exceed four (4) square feet in size, shall be used to identify individual residences and shall be limited in content to the name of the resident and the address of the premises.

(17) Religious symbols. Religious symbols located on a building or lot used for organized religious services. These symbols shall comply with Section 16-10-250.

(18) Sale, lease, rent. Signs used to offer for sale, lease or rent the land or buildings upon which the sign is located, provided that:

a. One (1) sign per lot advertising real estate ("For Sale," "For Rent" or "For Lease") not to exceed six (6) square feet in area.

b. All such temporary signs shall be removed within seven (7) days after the real estate closing or lease transaction.

(19) Sandwich boards. Sandwich boards used to attract attention to a business establishment, provided that:

a. Businesses may display a maximum of one (1) sandwich board, and the total square footage cannot exceed sixteen (16) square feet in area per side.

b. Sandwich boards shall be placed in a location which will not cause unreasonable annoyance or inconvenience to adjoining property owners and/or the public. During winter months, the location of each sandwich board must not interfere with snow removal.

c. Sandwich boards may be displayed only during business hours.

d. Sandwich boards must be removed immediately if damaged or in disrepair.

(20) Scoreboards. Scoreboards for athletic fields, provided that such scoreboards shall comply with Section 16-10-250.

(21) Seasonal decorations. Noncommercial decorations or displays (including strings of lights), when such are clearly incidental to and are customarily and commonly associated with any national, state, local or religious holiday or celebration; provided that such decorations or displays are maintained and do not constitute a fire hazard.

(22) Traffic control. Signs for the control of traffic or other regulatory purposes, including signs for the control of parking on private property, and official messages erected by, or on the authority of, a public officer in the performance of his or her duty.

(23) Vacancy and no vacancy. Establishments for overnight lodging shall be permitted to use "vacancy" and "no vacancy" signs, provided that such signs shall not exceed six (6) square feet and such signs shall comply with Section 16-10-250.

(24) Vehicular signs. Unlit signs displayed on motor vehicles which are being operated or stored in the normal course of a business, such as signs indicating the name of the owner or business which are located on moving vans, delivery trucks, rental trucks and trailers and the like, shall be exempt from the provisions of this Article, provided that the primary purpose of such vehicles is not for the display of signs, and provided that they are parked or stored in areas appropriate to their use as vehicles. (Prior code 13-8-2)

Sec. 16-10-240. Prohibited signs.

The following signs are inconsistent with the purposes and standards in this Article and are prohibited in all zoning districts within the Town:

- (1) Signs which produce audible noise or sounds.
- (2) Signs which emit visible smoke, vapor, particles or odors.
- (3) Flashing, rotating, blinking or moving signs, animated signs, signs with moving, rotating or flashing lights, noisemaking signs, signs with mechanical or electrical appurtenances, such as "revolving beacons," or signs that create the illusion of movement and are designed to compel attention except for time and temperature devices and electronic message center signs.
- (4) Any sign that is erected in such a location as to cause visual obstruction or interference with motor vehicle traffic, or traffic-control devices, including any sign that obstructs clear vision in any direction from any street intersection or driveway.
- (5) Any sign painted, erected, constructed and maintained wholly upon, above or over the roof of any building.
- (6) Any sign, other than traffic control signs, erected, constructed or maintained within, over or upon the right-of-way of any road or highway, except in the case of a sign for which a permit has been issued in accordance with the requirements of this Article.

(7) Off-premises advertising signs or any other sign not pertinent and clearly incidental to the permitted use on the property where located, except for signs permitted in Section 16-10-330 of this Article. An off-premises sign in existence at the time of the adoption of the initial ordinance codified herein may be used in conjunction with the same business or activity with which it was associated and which was in existence on the date of adoption of said ordinance. Any off-premises sign which has been damaged or has not been maintained shall be removed.

(8) Any sign which interferes with free passage from or obstructs any fire escape, downspout, window, door, stairway, ladder or opening intended as a means of ingress or egress.

(9) Vehicle-mounted signs, including but not limited to signs painted on or attached to semi-trailers or cargo containers when exhibited on private property adjacent to public right-of-way for the purpose of advertising the business or services offered on the property.

(10) Inflatable freestanding signs, tethered balloons and searchlights, except as allowed in Division 3 below.

(11) Any sign, including its supporting structure, in existence thirty (30) days or more after the premises have been vacated or advertises an activity, business, product or service no longer produced or conducted upon the premises upon which such sign is located. If the sign or sign structure is covered or the identifying symbols or letters removed, an extension of time may be granted by the Town staff upon good cause for such extension being shown. (This provision shall not apply to permanent signs accessory to businesses which are open only on a seasonal basis, provided that there is clear intent to continue operation of the business).

(12) Any sign or sign structure which is structurally unsafe, constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation or obsolescence and/or is not kept in good repair. (Prior code 13-8-4)

Sec. 16-10-250. Lighting requirements.

(a) Direction of lighting. Sign lighting fixtures shall be shielded, shaded or hooded to direct the light inward and downward onto the sign and away from adjoining properties and adjacent public rights-of-way.

(b) Subdued lighting. The intensity of sign lighting shall not exceed that necessary to illuminate and make legible a sign from the adjacent right-of-way, and the illumination of a sign shall not be noticeably brighter than other lighting in the vicinity or objectionable to surrounding areas.

(c) Electrical supply to freestanding illuminated signs must be underground.

(d) An electrical permit may be required per the electrical code for illuminated signs. (Prior code 13-8-5)

Sec. 16-10-260. Maintenance.

(a) Every sign and sign structure, including those signs and sign structures for which no permit or permit fees are required, shall be maintained in good repair at all times and shall not constitute a

hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation or obsolescence. The display surfaces of all signs shall be kept neatly painted at all times.

(b) The owner of any sign regulated by this Article shall be required to keep signs and supporting hardware structurally safe, clean, free of visible defects, including graffiti, and functioning properly at all times. Repairs to signs shall be equal to or better in quality of materials and design than the original sign.

(c) The Town may inspect any sign governed by this Article and shall have the authority to order the painting, repair, alteration or removal of a sign which constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation or obsolescence. All associated costs shall be the responsibility of the property owner or permit holder.

(d) Required landscaping must be properly maintained as to not allow the foliage to die or allow the proliferation of weeds or disrepair of any part integral to the landscaping. (Prior code 13-8-6)

*Division 3
Sign Standards*

Sec. 16-10-310. Residential signs.

Unless specified in another section of this Article, signs in the R-1, R-2, R-3, R-4, M-1, M-2 and ZLL Districts shall be permitted as follows:

(1) Residential developments shall be permitted one (1) identification sign per primary street access. Such identification sign shall be limited to twelve (12) square feet.

(2) Freestanding, monument, projecting and wall signs are allowed. The maximum height shall be determined on a case-by-case basis during review by the Town staff, not to exceed twelve (12) feet. Height, color and lighting shall be consistent with the character of the neighborhood and not conflict with any other part of these regulations. (Prior code 13-8-8)

Sec. 16-10-320. Nonresidential/business signs.

Signs identifying other activities which are authorized in the R-1, R-2, R-3, R-4, M-1, M-2 and ZLL Districts shall be limited to six (6) square feet. (Prior code 13-8-8)

Sec. 16-10-330. Business, commercial and accommodation signs.

(a) Sign types. All types of signs shall be permitted in these districts. Each business (which is enclosed by permanent walls and has its own entrance) shall be allowed a total sign area of fifty (50) square feet for all signs.

(b) Big box (stand-alone) developments. In addition to the square footage outlined above, fifty (50) square feet, big box developments be permitted additional square footage of signage calculated by the linear feet of store front x 66% x 50%.

(c) Mixed use developments. In addition to the square footage outlined above, fifty (50) square feet, mixed use developments shall be permitted one (1) combination identification sign per primary street access. Such sign may include and shall be limited to one (1) freestanding sign per primary street access not to exceed thirty-two (32) square feet in size (for all tenants within the complex) and twenty (20) feet in height from the ground, or one (1) monument sign per primary street access not to exceed thirty-two (32) square feet in size (for all tenants within the complex) and twelve (12) feet in height from the ground.

(d) Off-premises signs may be permitted if the business street frontage is not on U.S. 40. Property owner permission is required and off-premises signs must be approved by the Board of Trustees on a case-by-case basis. (Prior code 13-8-8)

Sec. 16-10-340. Temporary signage.

(a) Site advertising signs shall require a permit and must meet the following criteria:

(1) One (1) on-site, unlit informational sign is allowed per lot in the business zone, and such sign shall not exceed twenty (20) square feet. One (1) on-site, unlit informational sign, not to exceed twelve (12) square feet, is allowed per subdivision.

(2) Such sign shall identify the name and map of the subdivision, developer and real estate agency name, logo and phone number, and/or other pertinent information such as lease, tenant finish, etc.

(3) No additional for sale, lease or rent signs are allowed on the premises as long as the site sign remains.

(4) Such sign shall be removed within thirty (30) days after completion of the project.

(b) Special event signs shall require a permit and must meet the following criteria:

(1) Inflatable freestanding signs, tethered balloons and search lights shall be erected no sooner than two (2) days prior to and removed no later than one (1) day after the event.

(2) All other special event signs shall be erected no sooner than seven (7) days prior and removed no later than one (1) days after the event.

(3) No such sign shall exceed thirty-two (32) square feet.

(4) All such signs shall be located off the public right-of-way, unless otherwise granted permission for such location by the Town or the Colorado Department of Transportation (CDOT). In no case may any such sign impede the view or travel of any motorists or pedestrians or be attached to any structure within the right-of-way (government signs, telephone poles, etc.). (Prior code 13-8-8)

Sec. 16-10-350. Signs in Planned Development District.

(a) Signs in a PD District shall be in accordance with the provisions in this Article governing the type of land use most similar to that within the PD District, unless otherwise provided for by the

conditions and parameters of the PD District. Each PD District larger than one hundred (100) acres is encouraged to submit a Master Sign Plan (MSP) for the overall development.

(b) The purpose of a MSP is to establish design compatibility for a coordinated program of common signage, to provide for flexible signage opportunities that are greater than the signage otherwise allowed under this Article and to communicate to the public the planned land uses and their locations within the PD District. An application for approval of a MSP shall include, at a minimum, the following:

(1) A complete set of design standards that establishes a unified theme for all signs, including architecture, materials, colors, letter and logo sizes, letter styles, lighting, mapping and other graphics;

(2) Identification of locations and sign sizes that relate to major decision points and destinations;

(3) A statement of the intended use of the sign (i.e., permanent or temporary);

(4) A maintenance plan; and

(5) Any other information deemed necessary by the Town.

(c) The types of signs approved as part of a MSP may include the following:

(1) Signs used to identify an approved future development or a project that is under construction;

(2) Identification signs stating the name of the project, developer and contact information;

(3) Project information center directional signs;

(4) Signs identifying approved PD District land uses; and

(5) Any other sign, map or graphic designed to communicate to the public the general layout of the development project.

(d) The Planning Commission shall review the MSP and make a recommendation to the Board of Trustees. The MSP shall then be reviewed at a public hearing by the Board of Trustees. The form of application shall be at the discretion of the applicant but shall include, at a minimum, the information set forth in Subsection (b) above.

(e) The fee for the review of the MSP shall be as established by the current fee schedule set forth in Appendix A to this Code. Upon approval of the MSP, additional signs substantially conforming to the MSP shall require an additional sign permit and applicable fee.

(f) Upon approval of an MSP, all signage within the limits of the PD District shall comply with the established design standards. (Prior code 13-8-8; Ord. 330 §1, 2007)

Sec. 16-10-360. Miscellaneous.

Any sign type not specified herein shall be reviewed by Town staff on a case-by-case basis. Any appeal of the Town staff's decision resulting in denial of a sign permit or approval with conditions shall be made to the Board of Trustees. The Board of Trustees shall review the application at its next regularly scheduled meeting. The decision by the Board of Trustees to either approve or deny the application shall be final. (Prior code 13-8-8)

Sec. 16-10-370. Nonconforming signs.

Any sign located within the boundaries of the Town on the date of adoption of the initial ordinance codified herein, or located in an area annexed to the Town thereafter, which does not conform with the provisions of this Article but which was in compliance with applicable law on the date of adoption of the initial ordinance codified herein or the date of annexation, whichever is applicable, shall qualify as a legal nonconforming sign. Legal nonconforming signs may be continued to be maintained, provided that such signs are kept in good repair and so long as such signs are not relocated, replaced or structurally altered. Changing light bulbs or ballasts, replacing/repainting sign faces or repainting the sign frame that represents no change in the use of the facility or overall size of the sign shall not be considered *replaced or structurally altered*, but shall be considered *maintenance* as required to be performed by Section 16-10-260 of this Article. (Prior code 13-8-9)

Sec. 16-10-380. Other restrictions.

Property owners may be restricted by covenants, deed restrictions, lease agreements or other means on the size, number, erection and location of signs on their property. Such restrictions shall be deemed valid as long as they do not conflict with the provisions set forth in this Article. (Prior code 13-8-10)

ARTICLE 11

Designated Open Space

Sec. 16-11-10. Definition and character of designated open space.

(a) Definition. As used in this Article, *designated open space* shall mean any interest in real property owned by the Town which, whether acquired by purchase, donation, condemnation or any other means, has been dedicated by ordinance as designated open space.

(b) Characteristics of designated open space. To qualify for dedication as designated open space, the designated parcel must be owned by the Town and be either:

(1) Environmentally sensitive lands, including but not limited to wetlands, riparian areas or critical habitat identified by the U.S. Corps of Engineers, the Division of Wildlife or the Natural Heritage Program;

(2) High natural hazard areas, including but not limited to the 100-year floodplain, red avalanche hazard area, high rock fall hazard area and high debris flow hazard area; or

(3) Town park land that provides aesthetic values or outdoor recreation opportunities. (Ord. 291 Part 1, 2004; Ord. 330 §1, 2007)

Sec. 16-11-20. Dedication of existing open space parcels.

The following parcels currently owned by the Town meet the criteria provided in Subsection 16-11-10(b) above and are hereby dedicated as designated open space:

(1) Cozens Ranch open space, which includes: (i) Lot 5, Safeway-Fraser Marketplace; and (ii) the property formerly known as Maryvale linear park, consisting of a portion of Sections 20, 21, 28 and 29, Township 1 South, Range 75 West of the 6th p.m., as more particularly described in the Special Warranty Deed recorded April 3, 2001, at Reception No. 2001-003017 of the records in the office of the Clerk and Recorder of the County.

(2) Fraser River Park, which includes: (i) the parcel designated as "Private Park" on the plat of Victoria Village Subdivision; (ii) Parcel B, Amended Clayton's Subdivision Exemption; (iii) Park A, Fraser River Outright Exemption; (iv) Park Clayton Subdivision, referred to as the "Park Parcel" as described in Book 491 at Page 656 and Book 491 at Page 659; (v) Amended Park B, a Resubdivision of Tract B of a Resubdivision of Tracts B & C of Clayton Subdivision; and (vi) Amended Lots B2 and B4, a Resubdivision of Tract B of a Resubdivision of Tracts B & C of Clayton Subdivision.

(3) Snowy Owl Park, which includes Lots 10, 11 and 14, Block 1, Winter Park Ranch, Second Filing. (Ord. 291 Part 1, 2004)

Sec. 16-11-30. Use of designated open space.

(a) The dedication of designated open space is intended generally to preserve such lands for park or recreational purposes and for the preservation or creation of scenic areas and vistas and areas of scientific, historic, aesthetic or other public interest. The Board of Trustees may authorize any of the following uses on all or any portion of designated open space:

(1) Any permitted use of public or private open space allowed by this Chapter or Chapter 17, as amended from time to time;

(2) Public utility installations;

(3) Construction, maintenance and improvement of park and recreation structures and improvements;

(4) Preservation, maintenance and improvement of historic or cultural facilities; and

(5) Uses pursuant to such easements and licenses as may be granted by the Board of Trustees.

(b) The Board of Trustees may adopt rules and regulations consistent with the provisions of this Article to regulate the use of designated open space by the public, to protect and preserve such lands and to promote the public health, safety and general welfare of those persons utilizing designated open space.

(c) The Town Manager shall have the authority to issue written permits reserving park lands or structures included in designated open space for temporary use by individuals or groups. When no permit has been issued, the use of such areas that are open to the public shall follow generally the rules of first-come, first-served, except as otherwise provided in any rules and regulations adopted pursuant to this Article.

(d) Any section, part or the whole of any land or structures included in designated open space may be declared closed to the public by the Town Manager at an time and for any interval of time, whether temporarily or at regular and stated intervals, daily or otherwise, and whether entirely or merely to certain uses, as the Town Manager shall find reasonable and necessary. (Ord. 291 Part 1, 2004)

Sec. 16-11-40. Disposal of designated open space.

(a) No designated open space may be sold, leased, traded or otherwise conveyed, nor may the designation as open space be revoked, until such disposal has been approved as provided in this Section.

(b) Any proposed sale, lease, trade, alienation, partition or revocation of open space designation of any one (1) or more parcels of designated open space shall be submitted to a vote of the registered electors for their acceptance or rejection at a regular or special Town election, in accordance with the provisions of Section 31-15-713(1)(a), C.R.S., or any successor statute governing the disposal of municipal real property held for a governmental purpose. The Board of Trustees may refer such a proposal to the electors by adopting an ordinance setting forth the question to be referred, which shall include a description of the designated open space affected, the proposed disposition and the terms and consideration therefor. Every such ordinance shall require the affirmative vote of three-fourths ($\frac{3}{4}$) of the entire Board of Trustees for passage. Copies of the proposed ordinance to dispose of designated open space shall be made available to the public within a reasonable time before the election and also at the polls at the time of the election. (Ord. 291 Part 1, 2004)

Sec. 16-11-50. Unlawful acts.

It shall be unlawful for any person to perform any of the following acts within or upon designated open space:

- (1) To cut, mark, remove, break or climb upon or in any way injure, damage or deface the trees, shrubs, plants, turf or any of the building, fences, bridges or other structures;
- (2) To pick or take away any vegetation;
- (3) To build or place any tent, building, booth, stand or other structure without first having obtained a permit to do so from the Town Manager;
- (4) To build, light, make or use any fires, except in fireplaces and grills constructed for such purpose and under such rules and regulations as may be prescribed in this Article, or to leave any area without first having completely extinguished fires;

(5) To bring in or deposit any fill or other materials on designated open space, except upon the express written consent of the Town Manager;

(6) To deposit, throw or leave any litter, except in a receptacle or container provided for such purpose. If no receptacles are available, litter shall be carried away from the area to be properly disposed of elsewhere. For purposes of this Subsection, *litter* is defined to include all rubbish, waste material, refuse, garbage, trash, debris or other foreign substance, solid or liquid, of every form, size, kind and description;

(7) To fail to observe or respect written permits issued by the Town Manager;

(8) To violate any rule or regulation promulgated pursuant to this Article. (Ord. 291 Part 1, 2004)

Sec. 16-11-60. Violation and penalty.

Every person convicted of a violation of any provision of this Article shall be punished as set forth in Section 1-4-10 of this Code. (Ord. 291 Part 1, 2004; Ord. 330 §1, 2007)

ARTICLE 12

Board of Adjustment

Sec. 16-12-10. Jurisdiction.

The Board of Adjustment is hereby granted jurisdiction over the granting of variances pursuant to the provisions of Sections 31-23-301 and 31-23-307, C.R.S. (Prior code 13-10-4)

Sec. 16-12-20. Grant of variances.

The Board of Adjustment shall have the power to grant variances from the provisions of this Chapter, but only after consideration of the following provisions:

(1) That satisfactory proof has been presented to the Board of Adjustment showing that the present or proposed situation of a requested building, structure or use is reasonably necessary for the convenience or welfare of the public.

(2) That the variance which is requested would not authorize any use other than uses enumerated as a use by right of the district.

(3) That an unnecessary hardship to the owner would be shown to occur if the provisions of this Chapter were literally followed.

(4) That the circumstances found to constitute a hardship either were not created by the owner, or were in existence at the time of the passage of the initial ordinance codified herein, and cannot be reasonably corrected.

(5) That the variance would not injure the value, use of or prevent the proper access of lighted air to the adjacent properties.

(6) That the variance would not be out of harmony with the intent and purpose of this Chapter. (Prior code 13-10-4)

Sec. 16-12-30. Procedure.

(a) The Board of Adjustment shall act in strict accordance with all of the applicable laws of the State, County and Town.

(b) The procedure shall be as follows:

(1) All appeals to the Board of Adjustment shall be in writing.

(2) Every appeal shall indicate what provisions of this Chapter are involved and what relief is sought by the applicant.

(3) The applicant shall set forth the grounds upon which an appeal is being sought.

(4) The Chairman of the Board of Adjustment shall, within seven (7) days after the filing of an appeal, call a meeting of the Board of Adjustment for the purpose of reviewing the appeal.

(5) The Chairman of the Board of Adjustment shall furnish a copy of the application to the Board of Trustees for an opinion, which opinion shall be returned to the Board of Adjustment before the date set for the hearing on the appeal.

(6) The Board of Adjustment shall hold a public hearing on all applications and appeals with the following conditions required:

a. A notice of said hearing shall be published once in a newspaper of general circulation within that part of the County where the property is located at least fourteen (14) days prior to the hearing date.

b. A written notice of said hearing shall be mailed by certified mail, return receipt requested, at least fourteen (14) days prior to the hearing date to the owners of the property within one hundred (100) feet of the property in question.

c. Preparation of and payment of all notices shall be the responsibility of the applicant.

(7) Before any variance is granted, the Board of Adjustment shall include a written finding in its minutes as part of the record in each case, stating specifically the exceptional conditions, the practical difficulties or unnecessary hardships involved.

(8) Unless otherwise stated in the minutes of the Board of Adjustment, all variance permits shall be issued within six (6) months from the time such variance is granted by the Board of Adjustment, after which time, if the variance permit has not been obtained, it shall become null and void. (Prior code 13-10-5)

Sec. 16-12-40. Appeals from the Board of Adjustment.

Every decision of the Board of Adjustment shall be subject to review by certiorari by the District Court, and as provided by law. Such appeal shall be filed not later than thirty (30) days from the final action taken by the Board of Adjustment. Such appeal may be taken by any person aggrieved or by an officer, department, board or bureau of the Town. (Prior code 13-10-6)

Sec. 16-12-50. Fees.

All appeals to the Board of Adjustment shall be accompanied by payment of a fee as set forth in Appendix A to this Code for each separate decision or ruling from which a variance request is being made. Said fee shall not be refunded, notwithstanding that the applicant has withdrawn such appeal or that such appeal is denied by the Board of Adjustment. (Prior code 13-10-7; Ord. 330 §1, 2007)

ARTICLE 13

Amendments

Sec. 16-13-10. General procedure.

Amendments to this Chapter shall be in accordance with the laws of the State which require the following action before adoption of any such amendments:

- (1) Study and recommendation regarding each proposed amendment by the Board of Trustees.
- (2) Completion of a public hearing before the Board of Trustees after at least thirty (30) days' notice of the time and place of such hearing has been given by at least one (1) publication in a newspaper of general circulation within that part of the County where the proposed amendment is located. (Prior code 13-11-1)

Sec. 16-13-20. Special procedure.

After receiving a report and recommendations on any proposed amendment to this Chapter, as required in Section 16-13-10 above, the Board of Trustees shall hold a public hearing on the proposed amendment with the following special conditions required:

- (1) That notice of said hearing to be published in a newspaper of general circulation within the County shall be the responsibility of the applicant.
- (2) For proposed amendments to the Zoning District Map, the applicant shall mail a written notice of said hearing by certified mail, return receipt requested, at least fourteen (14) days prior to the hearing date to owners of property within two hundred (200) feet of the area in question.
- (3) Within thirty (30) days of the public hearing on the requested rezoning, the Board of Trustees shall approve or disapprove the rezoning request, stating its reasons for such action. If the Board of Trustees fails to act within thirty (30) days, the requested rezoning shall be assumed to have been granted. (Prior code 13-11-2)

Sec. 16-13-30. Fees.

Any application or request for an amendment to the Zoning Map, as described in Section 16-13-20 above, shall be accompanied by payment of a fee as set forth in Appendix A to this Code. (Prior code 13-11-3; Ord. 330 §1, 2007)