

CHAPTER 16

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ARTICLE I

Purpose

Sec. 16-1-10. Declaration of purpose.

The regulations contained in this Chapter shall be held to be minimum requirements enacted to promote the health, safety and general welfare of the Town. To these ends such regulations have been prepared in accordance with the Comprehensive Development Plan for the Town and are designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land and undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to conserve the value of buildings; to encourage the most appropriate use of land; and to otherwise provide for the growth of an orderly and viable community. (Prior code 16-1; Ord. 2006-1236 §1)

ARTICLE II

Definitions and Usage

Sec. 16-2-10. Rules of construction of language.

For the purposes of this Chapter, words used herein shall be interpreted in accordance with the following rules:

(1) The particular controls the general.

(2) In case of any difference of meaning or implication between the text of this Chapter and the heading of a section or subsection thereof, the text shall control.

(3) The word "shall" is mandatory unless the context clearly indicates the contrary. The word "may" is permissive.

(4) Words used in the present tense include the future unless the context clearly indicates the future tense.

(5) Words used in the singular number include the plural and words used in the plural number include the singular, unless the context clearly indicates the contrary. (Prior code 16-11; Ord. 2006-1236 §1)

Sec. 16-2-20. Definitions.

As used in this Chapter, the following terms shall have the meanings indicated:

Basement means that portion of a building between floor and ceiling which is partly below and partly above grade but so located that the vertical distance from grade to the floor is more than the vertical distance from normal grade to ceiling.

Building means any structure used, designed or intended for the roofed shelter, enclosure or protection of persons, animals or property.

Building, accessory means a detached subordinate building, the use of which is customarily incidental to that of the main building or to the main use of the land and which is located on the same lot with the main building or use and which is not intended for human habitation.

Building elevation means the building wall, face or facade as measured to the predominant roofline. For the purpose of sign calculations, the building elevation shall be considered a two-dimensional flat surface as depicted in a site plan drawing, with each building typically having four (4) elevations, regardless of architectural features. The predominant roofline shall not include architectural elements or appurtenances such as clock towers or cupolas.

Building height means the vertical distance from ground level to the highest point of the roof surface. Ground level shall be a reference plane representing the average of the finished ground level adjoining the building at all exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest point within the area between the building and the lot line, or where the lot line is more than six (6) feet from the building, between the structure and a point six (6) feet from the building. The highest point of roof surface shall not include structures such as:

- a. Chimneys, smokestacks or flues that cover no more than five percent (5%) of the horizontal surface area of the roof;
- b. Cooling towers, ventilators and other similar equipment that cover no more than five percent (5%) of the horizontal surface area of the roof;
- c. Elevator bulkheads and stairway enclosures;
- d. Fire towers;
- e. Utility poles and support structures;
- f. Belfries, spires, and steeples;
- g. Monuments, ornamental towers and similar decorative architectural features; and
- h. Solar energy systems.

Business, freestanding means a business occupying a single-tenant building.

Clinic, medical or dental means a group of medical or dental offices organized as a unified facility to provide medical or dental treatment as contrasted with an unrelated group of such offices but not including bed-patient care.

Complete application means an application wherein all of the required information and submittal materials in the particulars required by this Code have been submitted to and received by the Town department or official specified in this Code, and the zoning officer of the Town or his or her designee has certified the application as complete.

Convenience center means a small group of retail stores and service establishments which serves a local neighborhood, including, by way of example but not of limitation, a food store, drug store, hardware store, barber shop, restaurant, shoe repair shop, gas station or Laundromat.

Dwelling, multifamily means a structure or portion thereof designed to house two (2) or more families, with each dwelling unit having a separate entrance.

Dwelling, single-family attached means a residential structure designed to house a single-family unit from lowest level to roof, with private outside entrance but not necessarily occupying a private lot, and sharing a common wall between adjoining dwelling units.

Dwelling, single-family detached means a residential structure designed to house a single-family unit with private outside entrance but without common walls between the dwelling units.

Dwelling unit means a housekeeping unit designed and used for occupancy by a single individual or a family containing cooking, living, sleeping and sanitary facilities and having a separate entrance.

Equivalent performance engineering basis means that, by using engineering calculations or testing, following commonly accepted engineering practices, all components and subsystems will perform to meet health, safety and functional requirements to the same extent as required single-family housing units.

Family means an individual living alone, or either of the following groups living together in a single dwelling unit and sharing common living, sleeping, cooking and eating facilities:

- a. Any number of persons related by blood, marriage, adoption, guardianship or other duly authorized custodial relationship, unless such number is otherwise specifically limited in this Code; or
- b. Any unrelated group of persons consisting of (i) not more than four (4) persons; or (ii) not more than two (2) unrelated adults and their related children, if any.
- c. This definition shall not include individuals living in small group living facilities as defined in this Code.

Front building corner of a principal structure means each of the two (2) corners of the widest portion of the foundation of the principal structure that face and are parallel to the right-of-way line which defines the front yard (see *front yard*).

Front yard means the horizontal space between the nearest foundation of a building to the right-of-way line and that right-of-way line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the right-of-way line. The *front yard* of a corner lot shall be that yard which contains the front lot line marking the boundary between the lot and the shorter of the two (2) abutting street segments, except as otherwise specified by deed restrictions, and usually, but not always, that portion of the yard which is situated in front of the building elevation that contains the building address.

Gasoline service station means a place where gasoline, kerosene or any other motor fuel or lubricating oil or grease for operating motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles, and including facilities for greasing, oiling, washing and minor repair of vehicles on the premises but not including major automatic car washing or any body repair facilities.

Gross leasable area (G.L.A.) means the total floor area of commercial buildings, which floor area is designed for tenant occupancy and exclusive use including basements, mezzanines and upper floors, if any, expressed in square feet and measured from the center line of joint partitions and from outside wall faces.

Home occupation means a gainful occupation conducted by members of a household within its place of residence and incidental to the residential use of the premises.

Hospital means an institution intended primarily for the medical diagnosis, treatment and care of patients being given medical treatment. A *hospital* shall be distinguished from a clinic by virtue of providing for bed-patient care.

Hotel means a building in which lodging with or without meals is offered for compensation but not including kitchen facilities in individual rooms.

Individual sewage disposal system means any sewage disposal system not connected to the public sewer system serving no more than one (1) lot and approved and authorized by the Town, the State Department of Health, and any other appropriate state or local agency.

Kennel means any establishment wherein or whereon the business of boarding, training, selling or breeding dogs for sale is carried on, not, however, including veterinary hospitals, veterinary clinics, veterinary offices or pet shops. If the occupants of any dwelling unit harbor more than four (4) dogs over the age of six (6) months, such occupants shall be deemed to be operating a kennel.

Lot means a single parcel of contiguous land occupied or intended to be occupied by such structures and uses as permitted under this Chapter, together with the open spaces required by this Chapter and abutting on a public street or officially approved way.

Lot area means the area of contiguous land bounded by lot lines, exclusive of land provided for public thoroughfare.

Lot lines means the lines bounding a lot as defined herein.

Major tenant means any use that (1) exceeds 5,000 square feet of gross leasable area (GLA) and (2) if part of a multiple tenant building, the use is the largest tenant, in terms of GLA, in the building that it occupies.

Manufactured home means a single-family dwelling which:

- a. Is partially or entirely manufactured in a factory;
- b. Is not less than twenty-four (24) feet in width and thirty-six (36) feet in length;

- c. Is installed on an engineered permanent foundation:
- d. Has brick, wood, masonite or a cosmetically equivalent exterior siding and a pitched roof;
- e. Meets or exceeds on an equivalent performance engineering basis standards established by the Building Code of the Town.
- f. Is certified pursuant to the "National Manufactured Housing Construction and Safety Standards Act of 1974", 42 U.S.C. § 5401, et seq., as amended.

Minor tenant means any use that (1) contains gross leasable area (GLA) equal to or less than five thousand (5,000) square feet and (2) if part of a multiple tenant building, the use is not the largest tenant, in terms of GLA, in the building that it occupies.

Mobile home means a single-family dwelling which:

- a. Is partially or entirely manufactured in a factory;
- b. Is designed for longer-term residential use;
- c. Is not less than eight (8) feet in width and thirty-six (36) feet in length;
- d. Meets or exceeds on an equivalent performance engineering basis standards established by the Building Code of the Town.
- e. Is certified pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. § 5401, et seq., as amended.

Motel means a building or series of buildings in which lodging is offered for compensation and which is distinguished from a hotel primarily by reason of providing direct independent access to and adjoining parking for each rental unit.

Nonconforming lot means a lot which does not conform to the lot size regulations of the district in which it is located.

Nonconforming structure means a structure which does not conform to the building location regulations of the district in which it is located.

Nonconforming use of land means a use of any land in a way which does not conform to the use, density or open space regulations of the district in which it is located.

Nonconforming use of structure means a use carried on within any building which does not conform to the use or density regulations of the district in which it is located.

Offset means the horizontal distance between any structure and a lot line, other than a street right-of-way line.

Off-street parking space means the area on a lot designed to accommodate a parked motor vehicle as an accessory service to the use of said lot and with adequate access thereto from the public street.

Oil and gas facility shall include an oil or gas well, a hole drilled for the purpose of producing oil or gas, a well into which fluids are injected, or storage, separation, treating, dehydration, artificial lift, power supply, compression, pumping, metering, monitoring, flow lines and other equipment directly associated with oil wells, gas wells or injection wells.

On-site temporary mineral extraction means the extraction of construction materials, such as rock, clay, silt, sand, gravel, limestone, dimension stone, marble or shale, to be used on-site as construction materials for the proposed subdivision development. The following criteria shall apply:

- a. All mineral extraction shall remain contained within the property from which it is being mined.
- b. None of the material may be taken off-site, sold or used for commercial purposes.
- c. An administrative site plan shall be required prior to any mineral activity occurring.
- d. All equipment, structures and appurtenances that were associated with the mineral extraction activities must be removed from the subject property within thirty (30) days of the termination of the mineral extraction activities.

These activities and criteria shall be memorialized in the subdivision development agreement.

Open house means a temporary event intended to market or advertise the sale of the property at which the open house is located.

Open space, livable means open space on a building site, exclusive of space devoted to vehicular streets, drives and parking areas and including pedestrian ways, space for active and passive recreation and landscaping.

Other similar uses means land uses that are determined by the Director of Planning (Director) to be similar in nature, characteristic and impact to those uses that are specifically enumerated under the use regulations within specific zoning districts. If, in the opinion of the Director, any such other similar use as defined herein has the potential of causing imminent harm to the health, safety and welfare of the public, public hearings shall be advertised and scheduled before the Planning Commission and the Town Board. The purpose of such public hearings shall be consideration of any reasonable conditions necessary to mitigate any potential imminent harm to the health, safety and welfare of the public implicated by such use.

Outdoor recreational facilities means land and structures, along with accessory equipment, designed and utilized for leisure-time activities of a predominantly outdoor nature and of more specific purposes than passive park-like open areas and further classified as follows:

a. *Public* - Facilities owned and operated by a governmental agency for limited or general public use.

b. *Private commercial* - Facilities owned and operated by an individual or group for profit as a business, whether or not open to general public use.

c. *Private group* - Facilities owned and operated by a group for the exclusive use of the members of such group and their guests and not for profit as a business.

d. *Private residential* - Facilities owned by an individual, located on the same lot as or an adjoining lot to his or her residence and intended solely for the use of his or her family and guests.

Parapet means an extended wall or false building front above a roofline.

Parking lot means a group of off-street parking spaces which is designed to be used for the temporary parking of motor vehicles. As used in this Section, any such group of off-street parking spaces shall not include any part of any street or alley and shall not include any off-street storage areas for industrial uses which are (a) authorized by the Town through the site-planning process, and (b) shown on the site plan for the respective industrial development.

Planning Procedures Manual is the manual approved by the Town Board.

Private lodge or club means a structure or grounds used for regular or periodical meetings or gatherings of a group of persons organized for a nonprofit purpose but not groups organized to render a service customarily carried on as a business.

Professional office means the office of a doctor, dentist, architect, engineer, lawyer or other similar recognized profession.

Retail store means a commercial establishment for the sale of material goods or commodities in relatively small quantities directly to the consumer.

Setback means the horizontal distance between any structure and the established street right-of-way line.

Sign means any structure or part thereof or any device attached to a structure or any other form of visual communication applied by paint, illumination, embossing or other technique to a structure for the purpose of directing advertising, informing, warning or otherwise conveying information visually to the viewer.

Sign, directional means a sign intended solely for the purpose of guiding or directing pedestrian or vehicular traffic within an establishment and not including promotional advertising unnecessary to such directional purpose. Examples of directional signs include "entrance," "exit," "no parking" or "loading only" and other similar directives. *Directional signs* shall not count toward the overall total number of signs on the site due to their informational nature as opposed to signs used for promotion or advertising.

Sign, individual letter means signs which consist of individual letters that are mounted to a wall, or individual letters mounted to a "raceway" base to be mounted to a wall, which utilize the building wall as the background, or freestanding individual letters that are mounted to a monument base.

Sign, off-premises means a sign not directly related to the use of the premises on which such off-premises sign is located.

Sign, regulatory traffic means traffic control and informational signage typically erected or required to be erected by government agencies such as the Town or the Colorado Department of Transportation.

Sign, teardrop means a lightweight, vertically oriented, freestanding, tapered banner-type sign not exceeding fifteen (15) feet in height from the base to the top of the sign.

Small group living facilities means state-licensed group homes for the developmentally disabled or mentally ill, nonprofit or owner-occupied group homes for the aged as defined in Section 31-23-303(2), C.R.S., wherein not more than eight (8) unrelated individuals are living together in a single dwelling unit with common access to and common use of all living and eating areas and all facilities for the preparation and serving of food within the dwelling unit. None of the residents of small group living facilities shall receive on-site medical or psychological treatment, therapy or counseling, but some or all of the residents may receive physical assistance with day-to-day living activities.

Street means a public or private right-of-way usually affording primary access to abutting property.

Street frontage means that portion of a legal lot which abuts a designated public or private street. For the purpose of overall development identification sign calculations, the street frontage shall be calculated as the street frontage that abuts a street classified as an arterial or collector adjacent to the property upon which the overall development is located.

Structure means a combination of materials other than natural terrain or plant growth, erected or constructed to form a shelter, enclosure, retainer, container, support, base, pavement or decoration. The word *structure* includes buildings.

Structure, principal means the structure on a lot in which the principal use is conducted (see use, principal).

Telecommuting means the conduct of business-like activities in a residential dwelling unit that:

- a. Is clearly incidental to and is associated with a specific employment activity which has its primary address elsewhere;
- b. Does not include business activities such as visits to the dwelling unit by vendors, customers or clients; and
- c. Does not entail any commercial shipping and/or receiving activities being conducted at the dwelling unit.

Use, accessory means a use subordinate to and customarily incidental to the permitted principal use of the property or buildings and located upon the same lot as the principal use.

Use, legal nonconforming means a building or premises lawfully used or occupied at the time of the passage of this Chapter or amendments thereto, which use or occupancy does not conform to the regulations of this Chapter or the amendments thereto.

Use, permitted means the utilization of land by occupancy, activity, building or other structure which is specifically enumerated as permissible by the regulations of the zoning district in which said land is located.

Use, principal means the main or primary use of property or structures as permitted on such lot by the regulations of the district in which it is located. (Prior code 16-12; Ord. 2004-1193 §1; Ord. 2006-1232 §1; Ord. 2006-1233 §1; Ord. 2006-1236 §1; Ord. 2008-1321 §A; Ord. 2008-1336 §1)

ARTICLE III

Establishment of Districts

Sec. 16-3-10. Official Zoning District Map.

(a) The Town is hereby divided into zoning districts as shown on the Official Zoning District Map of the Town, which, together with all explanatory material thereon, is hereby adopted by reference and declared to be a part of this Chapter.

(b) The Official Zoning District Map, which shall be located in the office of the Town Clerk, shall be identified by the signature of the Mayor and attested by the Town Clerk, and shall bear the seal of the Town under the following words: "This is to certify that this is the Official Zoning District Map referred to in Section 16-3-10 of the Zoning Ordinance of the Town," together with the date of adoption of this Chapter. (Prior code 16-21; Ord. 2006-1236 §1)

Sec. 16-3-20. Changes in Official Zoning District Map.

(a) If, in accordance with the amendment provisions of this Chapter, changes are made in district boundaries or other matters shown on the Official Zoning District Map, such changes shall be made promptly after the amendment has been approved by the Town Board, together with an entry on the Official Zoning District Map noting the date of the change and a brief description of the nature of the change, which entry shall be signed by the Mayor and attested by the Town Clerk. The amending ordinance shall provide that such changes or amendments shall not become effective until they have been duly entered upon the Official Zoning District Map. No amendment to this Chapter which involves matter shown on the Official Zoning District map shall become effective until after such change and entry have been made on said map.

(b) No changes of any nature shall be made on the Official Zoning District Map or matters shown thereon except in conformity with the procedures set forth in this Chapter. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Chapter and punishable as provided in this Code. (Prior code 16-22; Ord. 2004-1193 §1; Ord. 2006-1236 §1)

Sec. 16-3-30. Replacement of official map.

In the event that the Official Zoning District Map becomes damaged, destroyed, lost or difficult to interpret because of nature or number of changes and additions, the Town Board may, by resolution, adopt a new Official Zoning District Map which shall supersede the prior Official Zoning District Map. The new Official Zoning District Map may correct drafting or other errors or omissions in the prior Official Zoning District Map but no such correction shall have the effect of amending the original Zoning Ordinance or any subsequent amendment thereto. (Prior code 16-23; Ord. 2006-1236 §1)

Sec. 16-3-40. Interpretation of district boundaries.

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning District Map, the following rules shall apply:

(1) Boundaries indicated as approximately following the center lines of streets or highways shall be construed as following such center lines.

(2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

(3) Boundaries indicated as approximately following Town limits shall be construed as following such Town limits.

(4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

(5) Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line, shall be construed as moving with the actual shore line.

(6) Boundaries indicated as approximately following the center line of streams, rivers or canals shall be construed to follow such center lines.

(7) Boundaries indicated as parallel to or extensions of features indicated in Paragraphs (1) through (6) above shall be so construed. Distances not specifically indicated on the Official Zoning District Map shall be determined by the scale of the map.

(8) Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning District Map or in circumstances not covered by Paragraphs (1) through (7) above, the Board of Adjustment shall interpret the district boundaries. (Prior code 16-24; Ord. 2006-1236 §1)

ARTICLE IV

Administration and Enforcement

Sec. 16-4-10. Zoning Officer.

(a) The Zoning Officer designated by the Town Board shall administer and enforce this Chapter. The Zoning Officer may be provided with the assistance of such other persons as the Town Board may direct.

(b) If the Zoning Officer shall find that any of the provisions of this Chapter are being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. The Zoning Officer shall order discontinuance of illegal use of land, buildings or structures, removal of illegal buildings or structures or of additions, alterations or structural changes thereto, or discontinuance of any illegal work being done; or take any other action authorized by this Code to ensure compliance with or prevent violation of its provisions. (Prior code 16-31; Ord. 2006-1236 §1)

Sec. 16-4-20. Building permits.

No building or other structure shall be erected, moved, added to, remodeled, repaired, structurally altered or any work accomplished or undertaken subject to the requirements of Chapter 18 without obtaining a permit therefor, issued by the Zoning Officer. No building permit shall be issued except in conformity with the provisions of this Code, except after written order from the Board of Adjustment. (Prior code 16-32; Ord. 2006-1236 §1)

Sec. 16-4-30. Application for building permit.

(a) All applications for building permits shall be accompanied by plans in duplicate, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any, and the location and dimensions of the proposed building or alterations. The application shall include such other information as lawfully may be required by the Zoning Officer, including existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families or dwelling units the building is designed to accommodate; conditions existing on the lot; and such matters as may be necessary to determine conformance with and provide for the enforcement of this Chapter.

(b) One (1) copy of the plans shall be returned to the applicant by the Zoning Officer after he or she shall have marked such copy either as approved or disapproved and attested to same by his or her signature on such copy. The second copy of the plans, similarly marked, shall be retained by the Zoning Officer.

(c) An application for a building permit shall be deemed complete as defined by this Code when all of the required information and submittal materials, as required by this Code, have been submitted to and received by the zoning officer of the Town, and the zoning office has certified the application as complete. (Prior code 16-33; Ord. 2006-1236 §1)

Sec. 16-4-40. Expiration of building permit.

(a) If the work described in any building permit has not begun within ninety (90) days from the date of issuance thereof, said permit shall expire.

(b) If the work described in any building permit has not been substantially completed within two (2) years of the date of issuance thereof, said permit shall expire. (Prior code 16-34; Ord. 2006-1236 §1)

Sec. 16-4-50. Compliance with approved plans and applications.

Building permits issued on the basis of plans and applications approved by the Zoning Officer authorize only the use, arrangement and construction set forth in such approved plans and applications and no other use, arrangement or construction. Use, arrangement or construction at variance with that authorized shall be deemed a violation of this Code. (Prior code 16-35; Ord. 2006-1236 §1)

Sec. 16-4-60. Public hearings.

(a) No regulation, restriction or boundary of this Chapter shall become effective, nor shall any such regulation, restriction or boundary be amended until after a public hearing thereon, at which parties in interest and citizens shall have an opportunity to be heard.

(b) Upon the filing of an application, petition or other document, the designated hearing authority shall set a date for a public hearing for the purpose of affording the public an opportunity to be heard on the subject matter of the application, petition or document seeking regulation restriction or amendment under the provisions of this Chapter.

(c) Except as otherwise provided in Subsection 16-7-80(b) of this Chapter with respect to the procedure for conditional use grants, the hearing authority shall cause a notice stating the time, place and purpose of such hearing to be published once in a newspaper of general circulation in Weld County not less than fifteen (15) days prior to the date set for the hearing. When the hearing involves a proposed change in the zoning district classification of any property, a notice stating the time, place and purpose of such hearing shall be posted in the vicinity of such proposed change. (Prior code 16-36; Ord. 2006-1236 §1; Ord. 2006-1271 §1; Ord. 2008-1321 §G)

Sec. 16-4-70. Neighborhood meetings.

Neighborhood meetings shall be held in accordance with the provisions of Chapter 15, Article III of this Code. (Ord. 2007-1298)

ARTICLE V

Amendments

Sec. 16-5-10. Authority to amend.

The Town Board may amend, supplement, change or repeal the regulations, restrictions and district boundaries set forth in this Chapter, after public notice and hearing as provided in Section 16-4-60 and

after first submitting the proposal to the Planning Commission for report and recommendation. The Planning Commission shall submit a written recommendation to the Town Board within forty-five (45) days after receipt of such submittal. Upon failure of the Planning Commission to submit a recommendation within forty-five (45) days, the Town Board may amend, supplement, change or repeal the regulations, restrictions and district boundaries set forth in this Chapter, after public notice and hearing as provided in Section 16-4-60. (Prior code 16-51; Ord. 2004-1193 §1; Ord. 2006-1236 §1)

Sec. 16-5-20. Rezoning applications.

(a) Purpose. The purpose of this Section is to provide a procedure for changing the existing zone classification of a parcel of land within the Town.

(b) Responsibilities of applicant.

(1) The applicant is responsible for having a representative at all meetings when the request is reviewed. Failure to have a representative present will be cause to have the item withdrawn from the agenda of that meeting.

(2) The applicant shall meet with the Planning Department to obtain a rezoning petition and to discuss the requirements of rezoning.

(c) Preliminary submission to Planning Commission.

(1) Procedure. The applicant shall submit to the Planning Department the rezoning petition, the review fee as established by resolution of the Town Board, a minimum of twenty (20) folded copies of the preliminary rezoning map and the required supportive information. Such submission shall allow the Planning Department to schedule consideration of the rezoning proposal by the Planning Commission.

a. Upon the filing of the preliminary rezoning map, the applicant or the applicant's representative shall distribute copies of the preliminary rezoning map to the appropriate agencies and offices listed in Paragraph 17-7-40(a)(1). The map shall be accompanied by written notice to the agencies and offices that any comments or objections must be received by the Planning Department within ten (10) days of receipt of the notice. It shall be the responsibility of the applicant or the applicant's representative to provide evidence in a form sufficient to the Planning Department that the rezoning map and accompanying notice were properly distributed.

b. The Planning Department shall submit the rezoning petition, rezoning map and the required supportive information to the Planning Commission. The Planning Commission shall give notice and hold a public hearing on the request as provided in Section 16-4-60. The Planning Commission shall submit a written recommendation to the Town Board within the time limit fixed by Section 16-5-10.

(2) Preliminary rezoning map and data. All rezoning maps shall be made with an engineer's scale, minimum scales to be one (1) inch represents two hundred (200) feet, shall be on one (1) or more sheets with outer dimensions of twenty-four by thirty-six (24 x 36) inches and shall contain the following information:

- a. The date of preparation, the scale and a symbol designating true north.
- b. A legal description of the area proposed for rezoning, including total acreage.
- c. Each ownership within and adjacent to the property.
- d. Existing and proposed zone classification.
- e. The location and dimensions of all existing and proposed easements and rights-of-way.
- f. A description of all developed on-site property, including its use and total acreage.
- g. Vicinity map.

(3) Supportive information. The following supportive information shall be submitted with the rezoning map:

- a. Complete rezoning petition.
- b. List of names and mailing addresses of owners of all property within three hundred (300) feet of the area for which rezoning is requested.
- c. A statement regarding the justification for rezoning.

(d) Final submission to Town Board.

(1) Procedure. The applicant shall submit to the Planning Department a minimum of fifteen (15) folded copies of the final rezoning map a minimum of fifteen (15) days prior to a regularly scheduled meeting of the Town Board.

- a. The Town Board shall give notice and hold a public hearing on the rezoning request as provided in Section 16-4-60.
- b. If the rezoning request is approved, the ordinance affecting the rezoning shall become effective thirty (30) days after publication. The Official Zoning Map of the Town shall be changed only upon the approval of the Town Board, in accordance with Section 16-3-20 of this Chapter.

(2) Final rezoning map. The final rezoning map shall conform to the preliminary rezoning map as approved. Appropriate certification blocks, as provided in the Planning Procedures Manual, shall appear on the final rezoning map.

(3) Upon final approval of the Town Board, the applicant shall submit to the Planning Department a certified copy of a compact disc (CD) containing all drawings that have been approved by the Town, plus either two (2) translucent original Mylars of final rezoning maps to be recorded in the office of the Weld County Clerk and Recorder or three (3) translucent original Mylars of final rezoning maps to be recorded in the office of the Larimer County Clerk and Recorder within ten (10) days of the effective date of the ordinance. Incomplete or inaccurate CDs

and CDs that are not certified, reproduction Mylars, dark-colored or tinted Mylars and sepias will not be accepted. (Prior code 16-52; Ord. 2004-1193 §1; Ord. 2006-1236 §1; Ord. 2006-1251)

Sec. 16-5-30. Protest of amendments.

In case of a protest against a proposed change, signed by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change or of those immediately adjacent in the rear thereof extending one hundred (100) feet therefrom or of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fourths ($\frac{3}{4}$) of the members of the Town Board. (Prior code 16-53; Ord. 2004-1193 §1; Ord. 2006-1236 §1)

ARTICLE VI

Board of Adjustment and Variances

Sec. 16-6-10. Membership.

(a) The Board of Adjustment shall consist of five (5) regular members and two (2) alternate members, to be appointed by the Town Board. Appointments to the Board of Adjustment shall be for terms of four (4) years. Members of the Board of Adjustment shall be residents of the Town and shall serve without pay. If any member ceases to reside in the Town, his or her membership shall immediately terminate. The initial appointment of alternate members to the Board of Adjustment shall be for staggered terms, the first appointment being for two (2) years, and the second appointment for four (4) years, with the terms of the alternate members being four (4) years thereafter. Alternate members of the Board of Adjustment shall serve in the absence of regular members.

(b) No member of the Board of Adjustment shall be eligible to serve on any other board or commission of the Town during that member's tenure on the Board of Adjustment.

(c) Members of the Board of Adjustment may be removed from office by the Town Board for inefficiency, neglect of duty or malfeasance, upon written notice and after public hearing.

(d) The Town Board shall make such appointments as necessary to fill the unexpired terms of vacancies which may occur on the Board of Adjustment, giving preference to alternate members when filling regular member vacancies. (Prior code 16-61; Ord. 2004-1193 §1; Ord. 2006-1236 §1)

Sec. 16-6-20. Proceedings.

The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Chapter. Meetings shall be held at the call of the Chair and at such other times as the Board may determine. The Chair may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. (Prior code 16-62; Ord. 2006-1236 §1)

Sec. 16-6-30. Decisions of the Board of Adjustment.

(a) The concurring vote of four (4) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of the Zoning Officer of the Town or to

grant a variance or otherwise decide in favor of an applicant on any matter considered by the Board of Adjustment under the provisions of this Chapter.

(b) The Board of Adjustment shall set forth all decisions in writing, including grounds therefor, within fifteen (15) days after the decision has been made at the public meeting where the matter was considered. (Prior code 16-63; Ord. 2006-1236 §1)

Sec. 16-6-40. Appellate power.

The Board of Adjustment is empowered to hear and decide appeals when an error is alleged in any order, requirement, decision or determination made by the Zoning Officer of the Town in the enforcement of the provisions of this Chapter. (Prior code 16-64; Ord. 2006-1236 §1)

Sec. 16-6-50. Appellate procedure.

(a) Filing.

(1) Appeals to the Board of Adjustment may be taken by any person aggrieved, or by any officer, department or board of the Town affected by any decision of the Zoning Officer of the Town.

(2) Such appeals shall be taken within forty-five (45) days of the decision of the Zoning Officer and shall be filed with the Town Clerk in writing, together with the required application fee, to be set by resolution of the Town Board. The Town Clerk shall forthwith transmit to the Board of Adjustment the application, any materials submitted with the application and all papers constituting the record upon which the action appealed was taken.

(b) Stay of proceedings. An appeal stays all proceedings in furtherance of the action appealed from unless the Zoning Officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed with him or her that, by reason of facts stated in the certificate, to stay would, in his or her opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.

(c) Hearing. The Board of Adjustment shall give notice and hold a public hearing on the appeal as provided in Section 16-4-60. At the hearing any party may appear in person or by attorney at law representing him or her. (Prior code 16-65; Ord. 2004-1193 §1; Ord. 2006-1236 §1)

Sec. 16-6-60. Variances.

(a) The Board of Adjustment is empowered to grant variances from the regulations and provisions of this Chapter.

(b) A variance, if granted, will constitute a change in the zoning provisions of this Chapter as distinct from a conditional use grant which allows for inclusion within the zones established by this Chapter certain anticipated uses of a unique nature or character justified by temporary conditions. Variances may be considered where, due to special conditions, a literal enforcement of the provisions

of this Chapter would result in unnecessary hardship. Variances will not be granted contrary to the public interest and will only be considered when the spirit of this Chapter can be observed and public safety and welfare secured.

(c) For the purposes of this Article, *unnecessary hardship* shall be defined as a situation where the property cannot be reasonably used under the conditions allowed by this Code. The situation shall result from circumstances unique to the property and shall not be created by the landowner. The variance, if granted, will not alter the essential character of the surrounding neighborhood. Economic considerations alone shall not constitute an unnecessary hardship if a reasonable use for the property exists under the provisions of this Code. It is the responsibility of the landowner to prove that an unnecessary hardship exists. (Prior code 16-66; Ord. 2006-1236 §1; Ord. 2006-1241 §1)

Sec. 16-6-70. Variance procedure.

(a) Application. An application for a variance shall be submitted to the Town Clerk in writing, together with the required application fee.

(b) Determination by Board of Adjustment. The Board of Adjustment shall give notice and hold a public hearing on all variance applications in accordance with Section 16-4-60 of this Code. The Board of Adjustment shall consider the application for variance at a public meeting. (Prior code 16-67; Ord. 2006-1236 §1)

Sec. 16-6-80. Conditions on granting variances.

In granting any variance, the Board of Adjustment may impose such conditions and requirements with respect to location, construction, maintenance and operation in addition to any which may be stipulated by this Chapter as deemed necessary for the protection of the adjacent properties and the public interest and welfare. Violation of such conditions and requirements, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Code. Any variance approval with conditions requiring affirmative action by the applicant prior to the variance becoming effective shall remain valid for a period of eighteen (18) months from the date the Board of Adjustment approves the variance and imposes the conditions requiring affirmative action. It shall be the sole responsibility of the applicant to satisfy all such conditions of approval within the eighteen-month period, or the grant of variance shall be deemed null and void. (Prior code 16-68; Ord. 2006-1236 §1; Ord. 2006-1252 §1)

Sec. 16-6-90. Zoning officer authorized to approve minor modifications.

(a) Purpose and intent. The purpose and intent of this Section is to allow the zoning officer to grant minor modifications up to a maximum of ten percent (10%) from zoning district standards in cases where a deviation therefrom exists relative to existing structures. Relief under this Section shall not be available for the following:

- (1) Any application for a new development or proposed construction.
- (2) A building permit application.
- (3) A plot plan application.

- (4) An improvement location certificate.
- (5) Any minor modification that would result in any of the following:
 - a. An increase in permitted maximum development density or intensity.
 - b. A change in permitted uses or mix of uses.
 - c. An increase in the building height of principal structures.
 - d. A decrease in the amount of required open space or landscaping.

(b) Application. The applicant shall submit to the zoning officer a variance application, together with such supporting documentation as the zoning officer may require, and a review fee, the amount of which shall be set by the Town Board and modified by the Town Board from time to time.

(c) Appeal. The zoning officer shall review the application and initially determine whether or not the application qualifies the applicant for relief under this Section. In the event the zoning officer determines that the application should be denied, appeal of the zoning officer's decision to the Board of Adjustment shall be in accordance with the provisions of this Code.

(d) Approval criteria. Upon complete submission of the application as aforesaid and approval thereof by the zoning officer, the zoning officer shall grant the modification unless it is in conflict with either the goals of the Comprehensive Plan or the purposes of the zoning code.

(e) Effect of approval. The zoning officer shall state on the zoning certificate, and on all affected plans or plats, the nature of any minor modification and reason for approval thereof. The zoning officer shall also sign, date and, if applicable, record all such documentation. (Prior code 16-76; Ord. 2004-1193 §1; Ord. 2006-1236 §1)

ARTICLE VII

Conditional Use Grants

Sec. 16-7-10. Intent of conditional use grants.

The conditional use classification is intended to allow consideration of uses such as oil and gas wells, small group living facilities, etc., which are unique in nature or character, although not specifically included as uses by right in any specific zoning districts. Such types of uses may be appropriate to allow under the conditional uses section of specific zoning districts with conditions upon approval by the Town Board subsequent to a recommendation from the Planning Commission. (Ord. 2008-1321 §C)

Sec. 16-7-20. Approval of conditional use grants.

Subject to final approval and acceptance by the Town Board, uses listed as conditional uses may be permitted upon a petition to the Planning Commission for a conditional use grant and subject to approval by the Commission. The Planning Commission shall base its determination on general

considerations as to the effect of such permit on the health, safety, welfare and economic prosperity of the Town and specifically on the effect of such use upon the immediate neighborhood in which it would be located, including the considerations listed in Section 16-7-50 below. (Ord. 2006-1232 §2; Ord. 2006-1236 §1)

Sec. 16-7-30. Application to existing uses.

A use which existed lawfully on a lot at the time said lot was placed in a district where such use would be permitted only upon approval of a conditional use grant shall automatically be granted conditional use status. In such cases, the grant of conditional use status shall be based upon the existing conditions at that time, and any expansion or change in use shall require changing of the conditional use grant. Petition may be made at any time for expansion or other change of the conditional use grant, and such petition shall not prejudice the existing grant as herein authorized. (Ord. 2006-1232 §2; Ord. 2006-1236 §1)

Sec. 16-7-40. Termination of conditional uses.

Where a permitted conditional use does not continue in conformity with the conditions of the original approval or where a use is no longer compatible with the surrounding area, the conditional use grant may be terminated by the Town Board upon referral to the Planning Commission and public hearing thereon. Such use shall thereafter be classified as a legal nonconforming use; except that, where the action is due to failure to comply with the conditions of the conditional use grant, the Town Board may require complete termination of the use. (Ord. 2006-1232 §2; Ord. 2006-1236 §1)

Sec. 16-7-50. Standards and requirements for conditional use grants.

(a) Approval of a conditional use grant shall be based on the evaluation of such factors as the following:

- (1) The character and quality of the area in which the use will be located.
- (2) The physical appearance of the use, including suitability of architectural and landscaping treatment.
- (3) Appropriate location of the building or buildings on the lot.
- (4) Adequate provision of parking, loading and circulation facilities.
- (5) Potential effect of the use upon off-site vehicular and pedestrian traffic circulation, with particular reference to potential traffic congestion.
- (6) Potential effect of the use on storm drainage in the area.
- (7) Adequacy of planting screens where necessary.
- (8) Provision of operational controls where necessary to avoid hazardous conditions or eliminate potential air or water pollutants or other noxious influences.
- (9) The general compatibility of the proposed use with the area in which it is to be located.

(b) Conformity with regulations. Except as may be specifically otherwise provided, any conditional use shall conform to the lot size, building location, building size, open space and height limitation regulations of the district in which it is located.

(c) Accessory uses. Uses and structures accessory to a principal conditional use shall be subject to appropriate regulations in the same manner as herein set forth for the principal conditional use. (Ord. 2006-1232 §2; Ord. 2006-1236 §1)

Sec. 16-7-60. Oil and gas facilities.

(a) Oil and gas facilities, as defined in this Chapter, shall be permitted as a conditional use in all zoning districts.

(b) Oil and gas facilities as conditional uses shall be subject to approval by the Town Board of the conditions hereinafter specifically set forth in lieu of those conditions applicable to conditional uses generally, as set forth in Section 16-7-50 of this Article.

(c) Based upon specific site characteristics, which shall include but shall not be limited to: nature and proximity of adjacent development; prevailing weather patterns, including wind direction; vegetative cover on or adjacent to the site; and topography of the site, the Town Board may, as a condition of approval of any conditional use grant, require any or all of the following methods to mitigate adverse impacts on surrounding properties:

(1) Visual requirements. To the maximum extent practical, abatement of negative visual impacts of oil and gas facilities shall be addressed through one (1) or more of the following methods:

a. Use structures of minimal size to satisfy present and future functional requirements.

b. The facilities shall be kept clean and otherwise properly maintained.

c. Construction of buildings or other enclosures may be required where facilities create visual impacts that cannot be mitigated because of proximity, density and/or intensity of adjacent residential land use.

(2) Landscape requirements. Groundcover, shrubs and trees shall be established and maintained in order to adequately buffer the facility.

(3) Floodplain requirements. The oil and gas facilities shall comply with all applicable federal, state and local laws and regulations when located in a floodway or a one-hundred-year floodplain area. All equipment at oil and gas facilities located within a one-hundred-year floodplain area shall be anchored as necessary to prevent flotation, lateral movement or collapse or shall be surrounded by a berm with a top elevation at least one (1) foot above the level of a one-hundred-year flood. Any activity or equipment at any oil and gas facility within a one-hundred-year floodplain shall comply with the Federal Emergency Management Act and shall not endanger the eligibility of residents of the Town to obtain federal flood insurance. (Ord. 2006-1232 §2; Ord. 2006-1236 §1)

Sec. 16-7-70. Small group living facilities.

Small group living facilities, as defined in this Chapter, shall be permitted as a conditional use in all residential zoning districts. Such conditional use shall be subject to approval by the Town Board of the conditions hereinafter specifically set forth, rather than those conditions applicable to conditional uses generally as set forth in Section 16-7-50 of this Article.

(1) Such conditional use shall conform to the lot size, building location, building size, open space, height limitations, setback limitations, lot coverage limitations and exterior signage requirements applicable to this District. Such conditional use shall be architecturally compatible with the character of the surrounding neighborhood.

(2) Such conditional use shall not permit the conducting of ministerial activities of any private or public organization or agency, or the rendering of services in a manner substantially inconsistent with the activities otherwise permitted in this District.

(3) Appropriate consideration shall be given to the specific location of the small group home facility and the availability and proximity of commercial services, transportation and public recreation facilities.

(4) Such conditional use shall comply with all applicable regulations of the Colorado Department of Public Health and Environment or other state or local regulations pertaining to the proposed conditional use.

(5) Adequate provision for parking, loading and circulation facilities.

(6) Evaluation of the operator of the proposed small group living facility for the purposes of ensuring the cleanliness and safety of the residents of the facility and a minimum level of comfort for such residents. (Ord. 2006-1232 §2; Ord. 2006-1236 §1)

Sec. 16-7-80. Procedure for conditional use grants.

(a) Filing. A petition for a conditional use grant shall be submitted in writing and filed with the Town Clerk, who shall promptly refer such petition to the Planning Commission. Such petition shall be accompanied by building site and operational plans and by such other data and information as necessary for proper evaluation of the request.

(b) Hearing. No less than fifteen (15) days prior to the date of any public hearing required under this Article or scheduled by the Planning Commission or Town Board under this Article:

(1) The hearing authority shall cause a notice stating the time, place and purpose of such hearing to be published once in a newspaper of general circulation in Weld County; and

(2) The applicants shall, at their sole expense, send a notice stating the time, place and purpose of such hearing by certified mail, return receipt requested, to all surrounding property owners within one hundred (100) feet of the subject property.

No less than ten (10) days prior to the date of the public hearing, the applicants shall provide the Planning Department with a list of the names, addresses and certified mail receipt numbers for all of

the property owners who were notified and a notarized letter stating that all of these property owners were sent proper notices at least fifteen (15) days prior to the date of the public hearing.

(c) Decision. Following the public hearing, the Planning Commission shall make a determination and set forth its decision in writing, indicating conditions of approval or, if the petition is disapproved, indicating the reasons for disapproval. The determination of the Planning Commission shall be transmitted forthwith in writing to the Town Board, which shall, at the next regular meeting, finally approve or disapprove the decision of the Planning Commission.

(d) Recording. When a conditional use grant is approved, such approval shall be appropriately noted on building permits and zoning certificates. (Ord. 2006-1232 §2; Ord. 2006-1236 §1; Ord. 2008-1321 §H)

ARTICLE VIII

General Application of Regulations

Sec. 16-8-10. Compliance with regulations.

Within the Town, the use of any land, the size and placement of lots, the use, location and type of structure thereon and the provision of open spaces shall be in compliance with the regulations established herein and made applicable to the district or districts in which such land or structure is located. (Prior code 16-101; Ord. 2006-1236 §1)

Sec. 16-8-20. Structures other than buildings.

(a) Structures less than six (6) inches in height. Structures not classified as buildings and less than six (6) inches in height from the surface of the ground shall not be subject to the setback, offset, building size or open space requirements of this Chapter, except as may be specifically otherwise provided.

(b) Structures six (6) inches or more in height. Structures not classified as buildings and six (6) inches or more in height from the surface of the ground shall be subject to the setback, offset, height limitation and open space requirements of this Chapter, except as may be specifically otherwise provided. (Prior code 16-102; Ord. 2006-1236 §1)

Sec. 16-8-30. Accessory uses and structures.

(a) General. Any accessory use or structure shall conform to the applicable regulations of the district in which it is located, except as specifically provided in this Code.

(b) Permanent structures.

(1) Outdoor lighting installations shall not be permitted closer than three (3) feet from an abutting property line and, where not specifically otherwise regulated, shall not exceed fifteen (15) feet in height. Outdoor lighting shall be adequately shielded or hooded so that no excessive glare or illumination is cast upon the adjoining properties.

(2) With the exception of the following restrictions, limitations and additional provisions applicable to nonindustrially zoned property, fences, walls and other architectural screening devices shall be permitted within the Town. For the purposes of this Article, all references to fences, walls or architectural or other screening devices shall be deemed to include all such fences, walls and devices.

a. Unless specifically authorized by the provisions of this Code, no fence, wall or other architectural screening device shall exceed six (6) feet in height.

b. Where applicable, all fences, walls and other architectural screening devices shall conform to all setback, offset and height requirements of the zoning district wherein such devices are located.

c. No solid fences, walls or other solid architectural screening devices, including but not limited to solid wooden or vinyl fences, solid and continuous hedgerows and other natural or artificial barriers in excess of four (4) feet in height shall be permitted in the front yard of properties.

d. Screening devices may be erected and extended from each of the front building corners of the principal structure into the front yard for a maximum distance of eight (8) feet. From that point forward, no such screening devices shall exceed four (4) feet in height.

e. Chain-link fences shall not be permitted in the front yard of properties.

f. All permitted screening devices of whatever kind or nature shall conform to the visibility requirements of Section 16-10-10 of this Code.

(3) The following additional provisions, restrictions and limitations shall apply to fences, walls and other architectural screening devices in limited industrial zones in the Town.

a. No fences in excess of six (6) feet in height shall be permitted in the front yard of properties.

b. Except as approved through the conditional use process as set forth in this Code, no screening devices in excess of eight (8) feet in height shall be permitted in the side or rear yard of any property.

c. Where applicable, all fences, walls and architectural screening devices shall conform to all setback, offset and height requirements of the zoning district where such devices are located.

d. All permitted screening devices of whatever kind or nature shall conform to the visibility requirements of Section 16-10-10 of this Chapter.

e. All chain-link fencing materials shall be vinyl clad, or the equivalent, with the color scheme of the fabric and any slats to be contained within the fabric, shown on the site plan for the property.

f. No more than three (3) strands of smooth wire or barbed wire shall be added to the height of a chain-link security fence. Such strands of wire shall not be less than six and one-half (6½)

feet above the ground and shall not extend more than eighteen (18) inches above the maximum height permitted herein. Such strands shall also be subject to the following requirements:

1. Wire strands shall not project beyond any property line.
2. Use of razor wire, concertina wire, constantine wire or similar wiring materials is prohibited, unless approved through the conditional use process as set forth in this Code.
3. All materials shall conform with the applicable federal or state regulations, if any.

(4) The following additional provisions, restrictions and limitations shall apply to fences, walls or other architectural screening devices in heavy industrial zones in the Town.

a. No fences in excess of six (6) feet in height shall be permitted in the front yard of properties.

b. Where applicable, all fences, walls and architectural screening devices shall conform to all setback, offset and height requirements of the zoning district where such devices are located.

c. All permitted screening devices, of whatever kind or nature, shall conform to the visibility requirements of Section 16-10-10 of this Chapter.

d. Except as approved through the conditional use process as set forth in this Code, no fences, walls or other architectural screening devices in excess of ten (10) feet in height shall be permitted in the rear or side yard of any property.

e. All chain-link fencing materials along public rights-of-way or within front yards shall be vinyl clad, or the equivalent, with the color scheme of the fabric and any slats to be contained within the fabric shown on the site plan for the property.

f. No more than three (3) strands of smooth wire or barbed wire shall be added to the height of a chain-link security fence. Such strands of wire shall not be less than six and one-half (6½) feet above the ground and shall not extend more than eighteen (18) inches above the maximum height permitted herein. Such strands shall also be subject to the following requirements:

1. Wire strands shall not project beyond any property line.
2. Use of razor wire, concertina wire, constantine wire or similar wiring materials are prohibited, unless approved through the conditional use process as set forth in this Code.
3. All materials shall conform with the applicable federal or state regulations, if any.

(c) It shall be unlawful to erect or maintain any fence, wall or architectural screening device equipped with or having an electric charge sufficient to cause shock.

(d) Accessory buildings which are not any larger than one hundred twenty (120) square feet in area, as measured around the perimeter of the building, and do not exceed eight (8) feet in height, as measured as the vertical distance from the ground level adjacent to the structure to the highest point of the roof surface, shall be permitted without a building permit. Accessory buildings which have

dimensions in excess of either or both of these requirements shall conform to the location requirements of the zoning district in which the building is located and shall be required to have a building permit. However, no accessory building, regardless of its size, shall be located any closer to the front property line than the rear corners of the principal building; that is, accessory buildings are only allowed in rear yards. Additionally, all accessory buildings shall also conform to the visibility requirements of Section 16-10-10 of this Chapter and the open space requirements of the zoning district in which the building is located. (Prior code 16-103; Ord. 2006-1236 §1; Ord. 2007-1297 §1)

Sec. 16-8-40. Basic location regulations.

(a) Building must be on a lot. Every building hereafter erected, structurally altered or relocated shall be placed on a lot as herein defined.

(b) One (1) building per lot. Except as otherwise provided for multifamily dwellings and planned unit developments, only one (1) principal residence structure shall be permitted on a lot.

(c) Street access. No lot shall hereafter be created nor any building placed on a lot which does not abut on a public street or approved way, except as hereinafter provided for planned unit developments. (Prior code 16-104; Ord. 2006-1236 §1)

Sec. 16-8-50. Legal nonconformity.

The existing lawful use of a building or premises at the time of the enactment of this Chapter or any amendment applicable thereto which is not in conformity with the provisions established by this Chapter may be continued in the manner and for the purposes then existent, subject to the conditions hereinafter stated. For the purpose of administration, such nonconformity shall be classified and regulated as follows:

(1) Nonconforming structure.

a. No such structure shall be expanded or enlarged except in conformity with the regulations of the district in which it is located.

b. When such structure is damaged to the extent of more than fifty percent (50%) of its current local assessed value, it shall not be restored except in conformity with the regulations of the district in which it is located.

(2) Nonconforming use of structures.

a. No such use shall be expanded or enlarged.

b. Upon petition to and approval by the Planning Commission, such use may be changed to another use, provided that the Planning Commission determines that the new use would result in greater or no less degree of conformity, and provided further that such new use shall thereafter determine the degree of legal nonconformity.

c. Where any such use is discontinued for a period of twelve (12) consecutive or eighteen (18) accumulative months during any three-year period, any future use of the structure shall conform to the regulations of the district in which it is located.

d. Where the structure in which such use is carried on is damaged to the extent of more than fifty percent (50%) of its current local assessed value, it shall not be restored for use except in conformity with the regulations of the district in which it is located.

e. Structural repairs and alterations to a structure housing such use shall not, as long as such use continues, exceed fifty percent (50%) of the local assessed value of the structure at the time the use became nonconforming.

(3) Nonconforming lots.

a. No building permit shall be issued except in conformity with Article IV of this Chapter.

b. The size and shape of such lot shall not be altered in any way so as to increase the degree of nonconformity, except with the approval of the Planning Commission.

(4) Nonconforming use of land.

a. No such use shall be expanded or enlarged.

b. Upon petition to and approval by the Planning Commission, such use may be changed to another use, provided that the Planning Commission determines that the new use would result in greater or no less degree of conformity, and provided further that such new use shall thereafter determine the degree of legal nonconformity.

c. Where any such use is discontinued for a period of twelve (12) consecutive or eighteen (18) accumulative months during any three (3) year period, any future use of the land shall conform to the regulations of the district in which it is located. (Prior code 16-105; Ord. 2006-1236 §1)

ARTICLE IX

Sign Regulations

Sec. 16-9-10. Intent.

The regulations contained in this Article are intended to protect property values, create a more attractive business climate, enhance and protect the physical appearance of commercial and industrial areas, prevent the deterioration of areas of scenic and natural beauty and, in general, promote a desirable community environment through the regulation of existing and proposed outdoor signs. These regulations are further intended to reduce potential traffic hazards from distracting and obstructing signs and to reduce hazards that may be caused by signs projecting over public rights-of-way. (Prior code 16-126; Ord. 2004-1193 §1; Ord. 2006-1236 §1)

Sec. 16-9-20. Application of regulations.

The general regulations contained in this Article shall apply to all signs in all zoning districts, regardless of zoning designation, of the Town. (Prior code 16-126; Ord. 2004-1193 §1; Ord. 2006-1236 §1)

Sec. 16-9-30. Sign area.

(a) The sign area of any sign, including building-mounted and freestanding signs, shall be considered to be the entire advertising area of the sign containing text, decorative artwork, logos or other displayed information, including the space within and between such text and information. Only one (1) side of freestanding signs with back-to-back sign areas shall be considered in calculating the sign area, with such signs being limited to a maximum of two (2) sides per any one (1) sign. The sign area of building-mounted signs shall not include structural elements used to attach or support the sign that do not contribute to the display. The sign area of freestanding signs shall not include the monument base.

(b) Calculation of sign area. The following methods shall be used to calculate the total square footage of the sign area of any sign:

(1) Cabinet signs and signs other than individual letter signs. Sign area shall be determined by the outer edge of the sign background, frame or cabinet that encompasses all text, decorative artwork, logos or other information displayed. In instances where the background, frame or cabinet is an irregular shape, the sign area shall be calculated as the entire area within a continuous rectangular box drawn with straight lines at perpendicular angles to encompass the entire perimeter of the extreme limits of the background, frame or cabinet encompassing the background material.

(2) Individual letter signs. Signs which consist of individual letters that are mounted to a wall, or "raceway-type" signs that consist of individual letters that are mounted to a base that is mounted to a wall, which utilize the building wall as the background, and freestanding individual letters that are mounted to a monument base shall be considered individual letter signs. The sign area of such signs shall be calculated as the entire area contained within a continuous rectangular box drawn with straight lines at perpendicular angles to encompass the entire perimeter of the extreme limits of each line of text, decorative artwork, logos or other displayed information, calculated cumulatively as the total square footage of all of the aforementioned elements, including the space within and between letters, text and other displayed information in each respective line. (Prior code 16-126; Ord. 2004-1193 §1; Ord. 2006-1236 §1)

Sec. 16-9-40. Sign height.

(a) Calculation of sign height. The methods in this Section shall be used to calculate the height of any sign:

(b) Freestanding signs. The height of a freestanding sign shall be measured as the vertical distance from the average finished grade of the ground below the sign excluding any filling, berming, mounding or excavating solely for the purposes of increasing the height of the sign, to the top edge of the highest portion of the sign. For the purposes of this Section, *average finished grade* shall be considered the lower of:

(1) The lowest elevation where the base of the sign meets ground level; or

(2) The top of the curb of the nearest public street adjoining the property upon which the sign is erected or the grade of the land at the principal entrance to the lot on which the sign is located.

The height of freestanding signs shall include the monument base.

(c) Building-mounted signs. The height of any sign attached to or painted on a wall or parapet of a building that is mounted flush or parallel to the building wall shall be measured as the lowest point at the bottom of individual letters, the sign background, frame or cabinet that encompasses all text, decorative artwork, logos or other information displayed to the top of the highest point on the sign. In cases involving multiple sign elements on any one (1) building elevation, the cumulative height of all sign elements located directly above or below (vertically) any portion of another sign element on the same building elevation shall be used to calculate the total sign height. Sign elements not located directly above or below any portion of another sign element shall be calculated individually. (Prior code 16-126; Ord. 2004-1193 §1; Ord. 2006-1236 §1)

Sec. 16-9-50. Sign setbacks and offsets.

(a) Any freestanding sign that is located adjacent to an arterial street shall be set back and offset a minimum distance of fifteen (15) feet from the property line.

(b) Any freestanding sign that is located adjacent to a collector or local street shall be set back and offset a minimum distance of ten (10) feet from the property line.

(c) Freestanding signs within the Central Business (CB) Zoning District shall maintain a minimum setback distance of two (2) feet from the back of the sidewalk which, for the purposes of this Section, shall be defined as the edge of the sidewalk that is farthest away from the curb, gutter and street. In no event shall any sign be located within the public right-of-way or outside of the property boundary.

(d) Commercial and industrial freestanding directional signs as allowed by this Section shall be set back and offset a minimum distance of five (5) feet from all property lines.

(e) Distance separation. Distance separation between freestanding signs shall be measured along the street frontages adjacent to the subject monument signs. Distance between freestanding monument signs located on different street frontages shall be measured along the street frontage to the point of intersection of both street frontages. Freestanding signs shall be separated by at least one hundred (100) feet.

(f) All freestanding signs shall be located in accordance with the sight visibility requirements of Section 16-10-10 of this Chapter. (Prior code 16-126; Ord. 2004-1193 §1; Ord. 2006-1236 §1)

Sec. 16-9-60. Design criteria.

(a) Freestanding, ground-mounted signs shall be constructed with a monument-type base consisting of materials that are complementary and compatible with the architectural elements of the project. The height of the monument base of any sign shall not exceed fifty percent (50%) of the overall height of the sign. The width and length of such base shall be at least as wide and long as the bottom edge of the sign area.

(b) Freestanding signs shall be incorporated into a landscape planting bed with low landscape elements placed in front of signage to soften the sign and taller landscape placed behind single-sided signs to offer a backdrop.

(c) All freestanding signs which incorporate lighting shall be served by underground utility service.

(d) Vertical clearance. Any projecting sign or awning mounted sign which projects over the public right-of-way, sidewalk or pedestrian area shall maintain a minimum of eight (8) feet of unobstructed vertical clearance.

(e) Building-mounted signs shall be sensitively designed to be integrated with the architecture and scale of the building on which they are mounted. (Prior code 16-126; Ord. 2004-1193 §1; Ord. 2006-1236 §1)

Sec. 16-9-70. Prohibited signs.

(a) No sign shall be erected on the roof of any building.

(b) No sign shall be illuminated by or contain flashing, intermittent rotating or moving light or lights. The only exception shall be signs which provide a legitimate public service, such as the giving of time and temperature.

(c) Except as outlined in Section 16-9-135 of this Article, no sign or part thereof shall contain or consist of strings of lights, ribbons, streamers, spinners, pennants or similar moving, fluttering or revolving devices.

(d) Except as outlined in Section 16-9-135 of this Article, searchlights (whether stationary or revolving), beacons or other similar illuminating devices used for the purpose of advertising or attracting attention shall be prohibited.

(e) Unpainted signs, broken signs and signs on vacated buildings shall be removed from the premises or repaired or renovated by the owners of the premises on order of the Zoning Officer.

(f) No sign shall obscure vision or views of the natural landscape or the larger urban area along arterial and collector streets and roads, nor shall any such sign be distracting to motorists.

(g) No sign shall be erected at the intersection of any street or road in such manner as to obstruct clear vision, nor shall any sign be erected at a location where, by reason of its position, shape or color, it may interfere with, obstruct the view of or be confused with any traffic sign, signal or control device.

(h) Off-premises signs. No outdoor advertising sign, billboard or other advertising media not directly related to the use of the premises on which it is located shall be permitted in any district except as a conditional use in such districts as are hereinafter provided. Any off-premises sign permitted as a conditional use shall be in harmony with the spirit and intent of these regulations. Temporary signs advertising open houses shall be allowed in accordance with Paragraph 16-9-130(10) below.

(i) Signs pertaining to special events which refer to particular periods or points of time, such as garage sales, shall not be erected any sooner than the day before the event and shall be completely removed no later than two (2) hours after the end of the event.

(j) Pole-mounted signs are prohibited.

(k) No sign shall be mounted to or otherwise applied to trees or other landscaping, regulatory traffic signage, utility and light poles or other similar structures, and shall not be located within road rights-of-way or private street easements.

(l) Mobile signs are prohibited.

(1) *Mobile sign* is defined as any sign painted or otherwise mounted on a vehicle, trailer or boat; fixed or attached to a device for the purpose of transporting from site to site. This definition includes vehicles placed or parked for the purpose of drawing attention to a service, product, object, person, organization, institution, business, event, location or message, but not signs or lettering installed on vehicles such as buses, taxicabs or other commercial vehicles operating during the normal course of business. On-premises signs mounted to construction trailers directly related to construction on a site shall be allowed to be located on the site for the duration of construction, and shall be removed immediately upon the receipt of the last certificate of occupancy for the site. Trailers that are unrelated to the construction activities on the site shall not be allowed to be located on any site solely for the purpose of mounting signage.

(2) Any sign attached to, painted on or mounted on any construction trailers that are permitted in Subparagraph a. above shall be allowed if such signs meet the following conditions: the signs are magnetic, decals or painted in a professional manner on an integral part of the construction trailer as originally designed by the manufacturer and do not extend beyond the profile of the construction trailer.

(3) Banners are prohibited on construction trailers.

(m) No sign or other advertising device shall consist of any air- and/or wind-dancing configurations. (Prior code 16-126; Ord. 2004-1193 §1; Ord. 2006-1236 §1; Ord. 2008-1336 §§2—4)

Sec. 16-9-80. Residential district signs.

No sign shall be erected or maintained in the Single-Family Residential SF-1, Single-Family Attached Residential SF-2, Estate E-1 or E-2, Multifamily Residential MF-1, High-Density Multifamily Residential MF-2, Recreation and Open Space zoning district or a residential component of a Residential Mixed Use RMU zoning district (Commercial and industrial uses within a Residential Mixed Use RMU zoning district as approved by the Town shall comply with the applicable commercial and industrial district sign regulations) except in conformity with the following regulations:

(1) A sign identifying the property or the name of the owner or occupant of property, provided that such sign is not in excess of two (2) square feet in area and provided further that not more than one (1) such sign is erected on any single lot or parcel.

(2) Signs pertaining to the lease or sale of the property on which they are located or of any building thereon, provided that such signs do not exceed six (6) square feet in area per side and further provided that no more than two (2) such signs are located on any single lot or parcel.

(3) Signs identifying any of the following uses in a residential district shall be allowed, subject to a maximum sign area of twenty-four (24) square feet and, further, not more than one (1) such sign per street frontage shall be erected on any single lot or parcel, not to exceed a total of two (2) such signs. Such freestanding signs identifying the following uses shall not exceed six (6) feet in height and shall be located in accordance with the offset and setback requirements of this Section:

- a. Public or private school.
- b. Church.
- c. Nursing or rest home.
- d. Public park or recreation area.
- e. Conditional use grants and home occupations which have obtained all appropriate approvals from the Town.
- f. Any entry feature signage identifying a platted residential subdivision within a Residential Mixed Use (RMU) zoning district. All such developments shall be allowed to erect such entry feature signs at separate entrances to the development. In the event that such signs are proposed for both sides of the street at any one (1) entrance, this "set" of signs shall be considered as one (1) development entrance sign. (Prior code 16-126; Ord. 2004-1193 §1; Ord. 2006-1236 §1)

Sec. 16-9-90. Commercial and industrial district signs.

No sign shall be erected or maintained in the Neighborhood Commercial (NC), Central Business (CB), General Commercial (GC), Limited Industrial (I-L) or Heavy Industrial (I-H) zoning districts, except to identify only the name of the owner, trade name, trademark or product symbol, products sold and/or the business activity conducted on the premises upon which the sign is located, in conformity with the following general regulations, unless otherwise specified in the subarea requirements of this Article. (Prior code 16-126; Ord. 2004-1193 §1; Ord. 2006-1236 §1)

Sec. 16-9-100. Building-mounted signs.

- (a) Maximum number of building-mounted signs allowable.

(1) Minor tenant. One (1) building-mounted sign per building elevation shall be allowed for any one (1) minor tenant in a multiple tenant building, not to exceed a maximum of two (2) building elevations. Freestanding minor tenants shall be allowed to erect multiple building-mounted signs, subject to the cumulative maximum sign area limitation of ten percent (10%) of the total area of the building elevation on which the signs are mounted and all other requirements contained in this Section.

(2) Major tenant. Major tenants shall be allowed to erect multiple building-mounted signs, subject to the cumulative maximum sign area limitation of ten percent (10%) of the total area of the building elevation on which the signs are mounted and all other requirements contained in this Section.

(3) In no event shall any illuminated building-mounted sign be allowed within one hundred fifty (150) feet of the nearest residential district or development, with this distance being measured from the nearest portion of the sign to the nearest property line contained within any such residential district or development.

(b) Maximum sign area. Building-mounted signs shall not exceed ten percent (10%) of the total area of the building elevation on which they are mounted. In cases of multiple signs on a single building elevation, the cumulative total of all signs on any one (1) building elevation shall not exceed ten percent (10%) of the total area of the building elevation on which the signs are mounted.

(c) Maximum sign height.

(1) Minor tenant. The height of building-mounted signs for minor tenants shall not exceed either twenty-five percent (25%) of the height of the building elevation upon which the sign is mounted or five (5) feet in height, whichever is less. The height of the building elevation shall be measured as the vertical distance between the finished floor elevation of the building and the predominant roofline of the building elevation upon which the sign is mounted, not including architectural elements or appurtenances such as clock towers or cupolas.

(2) Major tenant. The height of building-mounted signs for major tenants shall not exceed twenty-five percent (25%) of the height of the building elevation upon which the sign is mounted. However, in no event shall such sign exceed eight (8) feet in height. The height of the building elevation shall be measured as the vertical distance between the finished floor elevation of the building and the predominant roofline of the building elevation upon which the sign is mounted, not including architectural elements or appurtenances such as clock towers or cupolas.

(d) Awning-mounted signs.

(1) Sign bands shall be allowed on a free-hanging valance attached to canvas or soft vinyl awnings. Such signs shall be limited to a sign area no greater than six (6) inches in height and not to exceed twelve (12) square feet in area.

(2) Additional advertising shall be permitted on each canvas and soft vinyl awning elevation not to exceed ten percent (10%) of the area of the respective awning elevation.

(3) Awning signs that meet the criteria outlined in this Subsection shall be permitted to have interior illumination, provided that said lighting source is:

a. Mounted parallel to the elevation of the building upon which the awning is located;

b. Concealed within the interior portion of the awning so as not be seen except from directly below the awning; and

c. Directed downward so as much as practical to prevent the emitted light from spilling beyond the extended planes of the sides of the awning.

(4) Acrylic and plastic awning signs are prohibited.

(e) No building-mounted sign shall project higher than the eave or parapet line of the wall upon which the sign is mounted. (Prior code 16-126; Ord. 2004-1193 §1; Ord. 2006-1236 §1; Ord. 2006-1270 §1)

Sec. 16-9-110. Freestanding signs.

(a) Shopping center development identification signs. Shopping centers, typically containing multiple tenants such as retail or other commercial centers which meet the following square footage requirements, shall be eligible for one (1) freestanding development identification sign per street frontage classified as an arterial or collector adjacent to the property upon which the shopping center development is located. The street frontage for a shopping center development which is designed to have individual freestanding tenants on platted lots or tracts that are included within the shopping center shall be calculated based upon the cumulative arterial or collector street frontage of such lots or tracts which are part of the respective shopping center development. Multiple buildings planned as part of the same shopping center development may use the cumulative total square footage of such buildings, however, any building used in such total shall then be ineligible for any additional freestanding signage.

(1) Maximum sign area.

a. Shopping center developments exceeding a total of seventy-five thousand (75,000) square feet of total gross leasable area shall be eligible for a development identification sign. Such sign shall not exceed fifty (50) square feet in area per side of sign for each one hundred (100) feet of street frontage of the lot upon which the development is located, not to exceed one hundred (100) square feet per side of sign.

b. Shopping center developments exceeding a total of fifty thousand (50,000) square feet of total gross leasable area shall be eligible for a development identification sign. Such sign shall not exceed fifty (50) square feet in area per side of sign for each one hundred (100) feet of street frontage of the lot upon which the development is located, not to exceed seventy-two (72) square feet per side of sign.

(2) Maximum sign height.

a. A shopping center development identification sign for multiple tenant developments exceeding a total of seventy-five thousand (75,000) square feet of total gross leasable area shall not exceed sixteen (16) feet in height.

b. A shopping center development identification sign for multiple tenant developments exceeding a total of fifty thousand (50,000) square feet of total gross leasable area shall not exceed ten (10) feet in height.

(3) Identification signs for shopping center developments containing multiple tenants shall be required to be designed to accommodate space for a minimum of two (2) secondary tenants in addition to the primary major tenant in the development.

(b) Major tenants shall be eligible for one (1) freestanding sign per street frontage adjacent to the lot upon which the use is located, up to a maximum number of two (2) freestanding signs for any single commercial or industrial use. In the event that a major tenant is included on a shopping center development identification sign, such sign shall count towards the total number of major tenant freestanding signs allowed.

(1) Maximum sign area.

a. The maximum sign area of any freestanding sign that is located adjacent to an arterial street shall be forty-eight (48) square feet per side of sign if the street frontage along the lot upon which the use is located does not exceed one hundred (100) feet. If the street frontage along the lot upon which the use is located exceeds one hundred (100) feet, the maximum advertising area of any such sign shall be sixty (60) square feet per side of sign.

b. The maximum sign area of any freestanding sign that is located adjacent to a collector street shall be thirty-six (36) square feet per side of sign if the street frontage along the lot upon which the use is located does not exceed one hundred (100) feet. If the street frontage along the lot upon which the use is located exceeds one hundred (100) feet, the maximum advertising area of any such sign shall be forty-eight (48) square feet per side of sign.

c. The maximum sign area of any freestanding sign that is located adjacent to a local street shall be twenty-four (24) square feet per side of sign if the street frontage along the lot upon which the use is located does not exceed one hundred (100) feet. If the street frontage along the lot upon which the use is located exceeds one hundred (100) feet, the maximum advertising area of any such sign shall be thirty-six (36) square feet per side of sign.

(2) Maximum sign height.

a. The maximum height of any freestanding sign that is located adjacent to an arterial street shall be eight (8) feet.

b. The maximum height of any freestanding sign that is located adjacent to a collector or local street shall be six (6) feet.

c. In any multiple tenant development, a major tenant sign shall be required to be designed to accommodate space for a minimum of two (2) minor tenants in addition to the major tenant.

d. In addition to the aforementioned major tenant freestanding sign criteria, industrial major tenants which exceed twenty thousand (20,000) square feet in gross leasable area (GLA) shall be allowed to erect a freestanding major tenant sign in accordance with the requirements of this Section even if the industrial major tenant is not the largest tenant, in terms of GLA, in the multiple tenant building that it occupies.

(c) Minor tenant freestanding signs.

(1) Minor tenants in multiple tenant shopping center developments shall be limited to a portion of the shopping center development identification sign, not to exceed fifty percent (50%) of the total sign area.

(2) Minor tenants, including individual single-use minor tenant buildings and multiple tenant buildings which are freestanding on their own lot, shall be allowed to erect one (1) freestanding monument sign to accommodate all tenants subject to the following limitations unless otherwise specified in the subarea standards contained in this Section.

a. No such sign shall exceed six (6) feet in height.

b. No such sign shall exceed twenty-four (24) square feet in sign area per side of sign, exclusive of monument base.

(d) Development entrance signs shall be considered to be any freestanding, wall-mounted sign or sign which is constructed on a monument base intended to identify a large-scale residential subdivision or a large-scale commercial or industrial corporate campus-type development, not to be confused with shopping center development identification signs for retail or other commercial shopping centers. For the purposes of this Section, *large-scale residential subdivisions or developments* shall be defined as any subdivision which contains at least fifty (50) lots or contains a land mass of at least twenty-five (25) acres, and *large-scale industrial subdivisions or developments* shall be defined as any industrial development which contains at least two (2) lots and five (5) acres. Such development entrance signs shall be subject to the following criteria:

(1) Maximum number of development entrance signs. All large-scale developments shall be allowed to erect development entrance signs at separate entrances to the development. In the event that development entrance signs are proposed for both sides of the street at any one (1) entrance, this "set" of signs shall be considered as one (1) development entrance sign.

(2) Maximum heights of walls and monument bases. The height of any wall or monument base upon which a development entrance sign is mounted shall not exceed six (6) feet in height.

(3) Maximum heights of signs, letters, numerals and characters. The height of any development entrance sign shall not exceed ten (10) feet. Additionally, this maximum height shall include the wall or the monument base upon which the sign is mounted and shall also include any logos associated with the development entrance sign. The maximum heights of letters, numerals and characters contained within the sign area of development entrance signs shall not exceed twelve (12) inches in height.

(4) Maximum sign area. The maximum sign area of development entrance signs which are located adjacent to arterial or major collector streets shall not exceed fifty (50) square feet in area for each one hundred (100) feet of street frontage of the development, but in no event shall the total sign area of any development entrance sign exceed two hundred (200) square feet in area. Development entrance signs shall not be permitted along minor collector or local streets.

(5) Construction materials. All walls or monument bases shall be constructed of masonry or similar materials, and all sign components shall be constructed of steel, aluminum, alucabond or similar materials.

(6) Setbacks and visibility restrictions. Development entrance signs shall be located in accordance with the sign setback and offset requirements and sight visibility at intersections requirements contained in this Section.

(e) Directional signs. Directional signs shall be allowed as necessary. Such signs shall be constructed of materials and colors that are consistent with the materials, colors and architectural elements of the project. The sign area of such signs shall not exceed four (4) square feet in area per side of sign, not to exceed two (2) sides per any one (1) sign and shall not exceed four (4) feet in height. Such signs shall be set back and offset a minimum distance of five (5) feet from all property lines. (Prior code 16-126; Ord. 2004-1193 §1; Ord. 2006-1236 §1)

Sec. 16-9-120. Subarea requirements.

In addition to the general sign requirements for commercial and industrial signs which apply to all commercial and industrial signs, any sign located within one (1) of the following subareas shall be subject to the following subarea requirements. In cases where a subarea requirement conflicts with a general requirement, the subarea requirement shall control.

(1) Interstate 25 (I-25) Corridor subarea requirements. In addition to all other sign criteria contained in this Section, the I-25 Corridor, defined as that one-mile area east of I-25 to Larimer County Road 5, shall also be subject to the following subarea requirements:

a. Maximum sign area. The maximum sign area of any freestanding sign that is located adjacent to an arterial street within the I-25 Corridor subarea shall be forty-eight (48) square feet per side if the street frontage along the lot upon which the use is located does not exceed one hundred (100) feet. If the street frontage along the lot upon which the use is located exceeds one hundred (100) feet, the maximum advertising area of any such sign shall be sixty (60) square feet per side.

b. Maximum sign height.

1. The maximum height of any freestanding sign that is located adjacent to an arterial street within the I-25 subarea shall be ten (10) feet.

2. The maximum height of any freestanding sign that is located adjacent to a collector or local street within the I-25 subarea shall be eight (8) feet.

(2) Downtown Corridor subarea requirements. In addition to all other sign criteria contained in this Section, signs within the downtown corridor, as defined in the Town's Downtown Corridor Plan, shall also be subject to the following requirements:

a. East Town Center, Northwest Commercial and West Town Center subareas.

1. Building-mounted signs. Each tenant shall be allowed building-mounted signs in accordance with the general sign requirements for commercial and industrial signs contained in this Section.

2. Freestanding signs.

a) Multiple tenant development identification signs. Each multiple tenant development or complex of multiple buildings shall be permitted to have one (1) freestanding project identification sign. Such sign shall primarily identify the name of the development. Secondly, such sign shall contain smaller signage for individual tenants which are located within the development or complex.

b) Individual tenant freestanding sign. Individual tenants which are not part of a multiple tenant development are allowed one (1) individual tenant freestanding sign or one (1) freestanding hanging sign constructed of a single post and perpendicular bracket design.

b. Old Town Windsor and Windsor Lake subareas.

1. Building-mounted signs.

a) Each tenant shall be allowed one (1) building-mounted sign for each building elevation (not including window signs). Building signs shall be subordinate in size to the other elements of the building elevation and shall be positioned so as not to obscure existing architectural details. Signs mounted to building elevations shall fit within existing features of the building elevation and shall be designed to integrate with the building architecture.

b) A building-mounted projecting sign. In addition to the building-mounted signs, each business shall also be allowed one (1) building-mounted projecting sign. Such signs shall not exceed four (4) feet in height and twelve (12) square feet in sign area per side of sign, not to exceed two (2) sides. In the downtown area where buildings are constructed on the property line, such projecting signs may extend above the sidewalk, provided that a minimum of eight (8) feet of unobstructed vertical clearance is maintained in accordance with the requirements of this Section.

2. Freestanding signs. Individual tenants shall be allowed one (1) individual tenant freestanding sign, or one (1) freestanding hanging sign constructed of a single post and perpendicular bracket design.

c. General criteria. In addition to all other sign criteria contained in this Section, the following criteria shall apply to the entire Downtown Corridor subarea:

1. Lettering shall be legible and well-proportioned for clear communication.

2. Sign colors shall be compatible with the colors of the building.

3. Illumination. In the event illumination is proposed, the level of illumination of a sign shall not overpower other signs on the street or the facades of nearby buildings. Signs shall be illuminated with discreetly placed spotlights from the front, top or sides or internally illuminated. The following sign lighting types are allowed:

a) Internal illumination of signs if letters are individually illuminated using routed or push-through type letters.

b) Ground-mounted lighting if the light source is concealed through planting, screening or a light shield.

c) Indirect lighting if the light source is concealed or is compatible with the building architecture.

d) Neon lighting.

d. Freestanding sign criteria. In addition to all of the freestanding monument sign criteria contained in this Section, the following criteria shall apply to the entire Downtown Corridor subarea:

1. Sign height. Multiple tenant development identification signs shall not exceed ten (10) feet in height, including the monument base. Individual tenant freestanding signs shall not exceed six (6) feet in height including the monument base.

2. Sign area. The maximum sign area of a multiple tenant development identification sign shall be forty-eight (48) square feet per side. The maximum sign area of an individual tenant freestanding sign shall be twenty-four (24) square feet per side. Such area is exclusive of the sign base.

3. Freestanding hanging signs. Such signs shall be constructed of a single post and perpendicular bracket design. The height of the sign post shall not exceed six (6) feet. The sign area of such signs shall not exceed three (3) feet in height and six (6) square feet in sign area per side of sign, not to exceed two (2) sides. All such hanging signs shall incorporate a landscape planting bed with low landscape elements placed in front of signage to soften the sign and taller landscape placed behind single-sided signs to offer a backdrop.

4. Setbacks. Freestanding signs shall be located in accordance with the setback and "sight visibility at intersections" requirements of this Chapter. (Prior code 16-126; Ord. 2004-1193 §1; Ord. 2006-1236 §1)

Sec. 16-9-130. Temporary signs.

Temporary signs shall include banners, H-frame real estate-type signs that advertise special events and any other signs that are not of a permanent nature, not including those signs advertising the sale or lease of the property. The use of temporary signs shall be limited to the promotion of special events associated with particular periods or points in time, including but not limited to meetings, sales, exhibitions and vacancy announcements. Such temporary signs shall require permit approval to be obtained from the Planning Department. Temporary signs shall be subject to the following minimum requirements:

(1) Sixty-day limit. Except as provided in Subparagraph (5)c. below, with respect to signs for daily specials, no temporary sign shall be erected or displayed for longer than sixty (60) days per calendar year. Such sixty (60) days may be utilized consecutively or on intermittent dates as specified in the approved sign permit. The applicant shall remove any temporary signs on or before the expiration date specified in the approved permit.

(2) Temporary signs shall be directly related to the use of the lot on which the sign is located.

(3) Signs constructed of nondurable materials such as cardboard, paper or the like are prohibited. Furthermore, all signs shall be maintained so as not to deteriorate in wind and bad weather conditions.

(4) Temporary signs shall not be mounted to trees or other landscaping, regulatory traffic signage, utility or light poles, fences or other similar structures and shall not be located within road rights-of-way or easements.

(5) Except as provided in Section 16-9-135 of this Article, each freestanding business shall be limited to the following types of temporary signs per business:

a. Temporary banner-type signs.

1. No more than two (2) banner-type signs mounted flush to either a building wall or the building facade. In the case of a banner being mounted flush to a building facade, no portion of any such banner shall extend beyond the leading edge of the building facade.

2. Banner-type signs shall not be mounted between building columns, latticework or other architectural features of the building.

3. Banner-type signs shall be limited to a maximum of forty-five (45) square feet and shall not exceed three (3) feet tall by fifteen (15) feet wide. If the building elevation on which the sign is mounted is less than fifteen (15) feet wide, the sign shall not exceed the width of such elevation.

4. Banner-type signs shall be made of high-quality material.

5. Freestanding banner signs tied between stakes, trees, regulatory traffic signage, utility or light poles or other structures in landscape areas or elsewhere on the property are prohibited.

b. Temporary freestanding H-frame real estate-type signs that advertise special events, not including those signs advertising the sale or lease of the property.

1. Freestanding real estate-type signs shall be limited to a maximum of six (6) square feet in area per side, up to a maximum of two (2) sides per any one (1) sign.

2. Freestanding real estate-type signs shall be constructed of high-quality materials.

c. Temporary signs for daily specials.

1. Signs for daily specials, such as menu boards, sandwich boards or A-frame-type signs, shall be allowed for the purpose of advertising nonrecurring daily specials.

2. Signs for daily specials shall not be limited to any fixed number of days per calendar year, nor shall signs for daily specials require a temporary sign permit. However, such signs for daily specials shall be removed from display each day at the close of business.

3. Signs for daily specials shall be limited to a maximum of six (6) square feet in area per side, up to a maximum of two (2) sides per any one (1) sign.

4. Signs for daily specials shall be limited to an area within fifteen (15) feet of the entrance to the subject business and shall not impede pedestrian sidewalk circulation. Such signs are prohibited from being located within landscape buffer areas.

d. Teardrop signs.

1. Teardrop signs may be displayed in commercial zoning districts by the following types of businesses:

a) Individual, freestanding businesses.

b) The principal anchor tenant(s) of a shopping center, as depicted on the site plan for any such shopping center development.

c) A tenant located within a multiple-tenant building who occupies more than fifty percent (50%) of the total square footage of the entire building.

2. Any business meeting the criteria set forth in Subparagraphs d.1.a), b) and c) above shall be entitled to display the following number of teardrop signs during the sixty-day advertising period for temporary signs described in Paragraph (1) above:

a) Major tenants exceeding seventy-five thousand (75,000) square feet in area and which are located along arterial or collector streets: five (5).

b) Major tenants exceeding fifty thousand (50,000) square feet in area but less than seventy-five thousand (75,000) square feet in area and which are located along arterial or collector streets: four (4).

c) Major tenants exceeding five thousand (5,000) square feet in area but less than fifty thousand (50,000) square feet in area and which are located along arterial or collector streets: three (3).

d) Minor tenants which are located along arterial, collector or local streets: two (2).

e. Inflatable devices.

1. Small inflatable devices. A *small inflatable device* is an inflatable device not greater than two (2) feet in diameter. Businesses shall be allowed to display small inflatable devices subject to the following criteria:

a) Such devices are limited only to the property upon which the displaying business is located.

b) Such devices are securely attached to the principal building on the property.

c) Such devices are not tethered any farther than twenty (20) feet from the building upon which the devices are being displayed.

d) Any small inflatable device attached to vehicles for sale at locations zoned for automobile dealerships shall be tethered to vehicles no higher than two (2) feet above the roof lines of vehicles.

2. Large inflatable devices. A *large inflatable device* is an inflatable device which exceeds two (2) feet in diameter. Businesses shall be allowed to display large inflatable devices, subject to the following criteria: One (1) large inflatable device shall be permitted for any single business for a period of seven (7) days within any six-month period of time, so long as:

a) Any such display is limited only to the property upon which the business is located;

b) Any such display is securely attached only to a building associated with the respective business;

c) The business meets all federal, state, local and International Fire Code rules and regulations pertaining to the use and display of all such devices; and

d) The business has obtained a temporary sign permit.

3. No inflatable devices described in Subparagraphs 1. and 2. above, nor any rigging for such devices, shall be placed across any street, sidewalk, alley or avenue or on any utility pole, traffic device or in a public or private right-of-way.

f. Multiple tenants on a single property.

1. Except as otherwise permitted in this Chapter, each tenant or business located within a building containing multiple tenants on a single property shall be allowed to display one (1) of the following types of temporary signs in accordance with the advertising periods set forth in this Chapter for the respective type of temporary signs: a banner-type sign; a freestanding H-frame real-estate type sign; or a temporary sign for daily specials.

2. All such temporary signs shall be made of high-quality materials and shall meet all size, location and display criteria set forth in this Chapter for each respective type of temporary sign.

(6) Real estate signs that advertise the sale or lease of the commercial or industrial property upon which the sign is located. Subject to all of the temporary sign requirements regarding required sign materials, mounting and location contained in this Section, such real estate signs shall adhere to the following requirements:

a. Notwithstanding any other requirements of this Section, no sign pertaining to the sale or lease of any commercial or industrial property or building shall exceed thirty-two (32) square feet in sign area and a maximum of six (6) feet in height.

b. Downtown subarea requirements. Each property or building shall be allowed one (1) of the following options:

1. One (1) building-mounted sign per building elevation, not to exceed twelve (12) square feet in sign area.

2. One (1) freestanding sign per street frontage, not to exceed twelve (12) square feet in sign area and a maximum of six (6) feet in height, provided that no such sign shall be located on any sidewalk or other pedestrian way.

(7) Temporary signs advertising a construction company utilized during construction of a new business shall be exempt from Paragraphs (1) and (5) above of the temporary sign requirements. Such signs shall be limited to a maximum of thirty-two (32) square feet (four [4] feet high by eight [8] feet wide) and shall include a lattice or similar base material to give the appearance of a monument base. Such signs shall be limited to one (1) sign per street frontage, not to exceed two (2) such signs, for the general contractor, including all subcontractors. Such signs shall be removed immediately upon the receipt of any certificate of occupancy for the new business.

(8) Temporary signs advertising a new business "coming soon" utilized during construction of the new business shall be exempt from Paragraphs (1) and (5) above of the temporary sign requirements. Such signs shall be limited to a maximum of thirty-two (32) square feet (four [4] feet high by eight [8] feet wide) and shall include a lattice or similar base material to give the appearance of a monument base. Such signs shall be limited to one (1) sign per street frontage, not to exceed two (2) such signs, for the new business, including all tenants. Such signs shall be removed immediately upon the receipt of any certificate of occupancy for the new business.

(9) Temporary signs exempt from this Section. The provisions of this Subsection (g) shall not apply to the following signs, provided that such signs conform to all other sign regulations contained in this Section:

a. Traffic control and informational signs erected by national, state, county or municipal government agencies, specifically including school districts and fire protection districts.

b. Community event signs as authorized by the Town.

c. Window signs and other signs erected within the interior of the business.

d. Open house signs, subject to the requirements of Paragraph (10) below.

(10) Open house signs shall be allowed to be located off-premises subject to the following minimum requirements:

a. Open house signs shall be limited to a maximum of six (6) square feet in area per side, up to a maximum of two (2) sides per any one (1) sign.

b. Open house signs shall not be erected any sooner than the day before the event and shall be completely removed no later than two (2) hours after the end of the open house. For the

purposes of this Section, open houses shall be considered a temporary event, for example during a weekend, rather than taking place for an extended, continuous period of time.

c. Open house signs shall be either freestanding A-frame type signs or mounted in a freestanding manner on either a single stake or on two (2) stakes, with the top of such sign not exceeding four (4) feet in height and placed so as not to obstruct traffic or create an impediment to visibility at street intersections. Such signs shall not be mounted to trees or other landscaping, regulatory traffic signage, utility or light poles or other similar structures. (Ord. 2008-1336 §5; Ord. 2009-1341 §1)

Sec. 16-9-135. Grand opening signs.

(a) Upon receipt of either a temporary certificate of occupancy or a permanent certificate of occupancy, whichever occurs first, temporary signs shall be allowed for grand openings, subject to all of the following criteria:

- (1) The business owner has satisfied all requirements for sales tax licensing from the Town; and
- (2) The business owner has received a temporary sign permit.

(b) Upon satisfaction of the criteria set forth in Subsection (a) above, the business owner may use, install and display any two (2) of the following types of temporary signs to advertise a grand opening:

(1) Two (2) building-mounted banner signs, each of which must meet all of the criteria for temporary banner-type signs set forth in Subparagraph 16-9-130(5)a. above.

(2) Teardrop signs, all of which must meet all of the criteria set forth for teardrop signs in Subparagraph 16-9-130(5)d. above.

(3) No more than two (2) strings of one (1) of the following: strings of lights, ribbons, streamers, spinners, pennants or similar moving, fluttering or revolving devices, provided that:

- a. All such strings shall be mounted only from the principal building on the property;
- b. All strings shall be securely fastened at both ends at all times; and

c. No portion of any such fluttering or revolving devices shall encroach into any public or private street right-of-way or obstruct passage along any public sidewalk, private walkway, pedestrian route or vehicular thoroughfare.

(4) Small inflatable devices, all of which must meet all of the criteria for and limitations upon small inflatable devices set forth in Subparagraphs 16-9-130(5)e.1. and 3. above.

(5) One (1) large inflatable device which must meet all of the criteria for and limitations upon large inflatable devices set forth in Subparagraph 16-9-130(5)e.2., subparts a), b), c) and d) only and Subparagraph 16-9-130(5)e.3.

(6) One (1) searchlight unit (whether stationary or revolving, and whether it contains a single or multiple beacons), beacon or other similar illuminating device used for the purpose of advertising or attracting attention to a business, provided that the following limitations on any such device shall apply:

a. Any such device shall, notwithstanding the fourteen-day display period set forth in Subsection (c) below, be displayed no more than three (3) consecutive days;

b. No such device shall be illuminated after scheduled business closing hours, or after 10:00 p.m., whichever is earlier; and

c. No such device shall be placed or directed in such a manner as to encroach into any public or private street right-of-way, or obstruct passage along any public sidewalk, private walkway, pedestrian route or vehicular thoroughfare.

(c) Except as set forth in Paragraph (b)(6) above with respect to searchlights, beacons and similar illuminating devices, the foregoing types of temporary signs for grand openings may be displayed for a period of fourteen (14) consecutive days. The applicable grand opening advertising period shall not be included in the sixty-day advertising period for temporary signs set forth in Paragraph 16-9-130(1) of this Article. (Ord. 2008-1336 §6)

Sec. 16-9-140. Public agency signs.

The provisions of this Article shall not apply to any regulatory signs erected by national, state, county or municipal government agencies. (Prior code 16-126; Ord. 2004-1193 §1; Ord. 2006-1236 §1)

Sec. 16-9-150. Nonconforming signs.

Signs erected prior to the date of enactment of this Chapter, which signs do not conform to the sign regulations contained in this Chapter, shall not be expanded, enlarged, modified or changed in any way except in conformity with these sign regulations. (Prior code 16-126; Ord. 2004-1193 §1; Ord. 2006-1236 §1)

Sec. 16-9-160. Removal of signs.

Any signs existing on or after the date of enactment of this Chapter, which signs identify a business or activity which no longer exists or a product which is no longer sold on the premises, shall be removed by the owner of the premises upon written notice of the Zoning Officer. The Zoning Officer, upon determining that such sign exists, shall notify the owner of the premises in writing to remove such sign within thirty (30) days of the date of the notice. (Prior code 16-126; Ord. 2004-1193 §1; Ord. 2006-1236 §1)

Sec. 16-9-170. Sign criteria plan.

All new site plan applications shall submit a sign criteria plan for review as part of the site plan submittal. Such sign criteria plan shall ensure a consistent sign theme, design and material palate for the entire development. Sign criteria plans may specify standards more restrictive or specific than this

Section, but shall not contain standards less restrictive or less specific. Sign criteria plans shall contain the following information for all signs, including on-site directional and informational signs:

- (1) The design materials of construction, colors (graphically depicted), lighting and dimensions shall be clearly depicted.
- (2) A plot plan depicting all improved areas, including landscaping and signs drawn to scale to depict the location of each sign.
- (3) Elevations. All signs are to be illustrated and dimensioned in elevation drawings. When a sign is attached to a building, the illustration shall be a composite of the sign and the building, rendered to scale.
- (4) Side view and any other illustrations required for clarity.
- (5) Size standards, if more restrictive than the size standards contained in this Section.
- (6) Types of signs and materials allowed. (Prior code 16-126; Ord. 2004-1193 §1; Ord. 2006-1236 §1)

Sec. 16-9-180. Sign permits.

(a) No sign, as signs are defined in Section 16-12, shall be erected, enlarged, modified or changed within the Town without a sign permit first being obtained.

(b) Any person, business, association or corporation desiring to erect, modify, enlarge or change a sign shall first submit an application for a sign permit setting out, in such detail as may be reasonably established or requested by the Town, a description of the sign, the nature of the change, enlargement or modification, if applicable, and a drawing of said sign as proposed.

(c) The petition for permit shall be accompanied by a fee to defray the costs of processing the petition and issuing the permit, said fee to be set by resolution by the Town Board from time to time. (Prior code 16-126; Ord. 2004-1193 §1; Ord. 2006-1236 §1)

ARTICLE X

Supplementary District Regulations

Sec. 16-10-10. Visibility at intersections.

No substantial impediment to visibility between the heights of three (3) and eight (8) feet shall be created or maintained at street intersections within a triangular area described as follows: beginning at the point of intersection of the edges of the driving surface, then to points forty (40) feet along both intersecting edges and then along a transverse line connecting these points. (Prior code 16-121; Ord. 2006-1236 §1)

Sec. 16-10-20. Home occupations.

Intent. The intent of this Section is to provide for limited business uses within dwellings when such uses will clearly not alter the character or appearance of the residential neighborhood. Telecommuting, as defined in this Chapter, is exempt from home occupation registrations.

(1) Home occupations shall be permitted as an accessory use of any dwelling unit in any Single-Family Residential Zoning District, whether or not authorized as a named accessory use by this Code, if the following conditions are met and continuously exist:

a. Home occupations shall be incidental and secondary to the residential purpose of the dwelling unit, and occupational activity shall be harmonious with the residential use.

b. The exterior appearance of the dwelling and lot shall not be altered, nor shall any home occupation within the dwelling be conducted in a manner which would cause the premises to differ from its residential character.

c. Home occupations shall not alter the exterior appearance by the use of colors, materials, construction or lighting, or by the emission of sounds, noises, dust, odors, fumes, smoke or vibrations detectable outside the dwelling.

d. There shall be no advertising display or signage or other indications of a home occupation on the premises.

e. All persons carrying on the home occupation must be regular inhabitants of the dwelling unit, with not more than one (1) additional noninhabitant employee or co-worker per home occupation.

f. The total square footage devoted to home occupations shall not exceed either twenty-five percent (25%) of the total floor area of the dwelling unit or five hundred (500) square feet, whichever is less, and in no event shall more than fifty percent (50%) of the total square footage of any building on the property be used for storage of materials, inventory or equipment related to the home occupation.

g. There shall be no sale, display or distribution of merchandise which requires customers to visit the property to transact business. On-site retail or wholesale transactions cannot be the primary activity of the home occupation. All such sales must remain incidental and secondary to the home occupation.

h. Home occupations may be conducted within the dwelling which shall be the principal building and use on the lot, as long as the home occupation is in compliance with the square footage requirement identified in Subparagraph f. above.

i. In the event a home occupation involves tutoring or instruction, no more than two (2) students may be present at the dwelling unit at any one (1) time.

j. In the event a home occupation involves child care, the number of children cared for at the dwelling unit at any one (1) time shall be limited to the lawful number permitted by the rules

and regulations for the day care homes then in effect and issued by the Department of Social Services of the State. The home occupation of child care shall be exempt from the square footage conditions as set forth in paragraph f. above.

k. Vehicular traffic flow associated with the home occupation shall not adversely affect traffic flow and parking in the surrounding residential area.

l. There shall be no exterior storage of material and/or equipment used as part of the home occupation on the property.

m. The use of utilities shall be limited to that normally associated with the use of the property for residential purposes. Electrical or mechanical equipment that creates audible interference in radio receivers or visual or audible interference in television receivers or causes fluctuations in line voltage outside the dwelling unit shall be prohibited.

n. Home occupations shall not be transferable to alternate locations or persons.

o. Activities conducted and buildings, equipment and material used or stored in coordination with the home occupation shall comply with all building and fire codes, as adopted by the Town.

(2) Prior to the establishment of any home occupation, an application for such home occupation shall be registered with the Planning Department. Such application shall include the name and address of the persons conducting the home occupation and a description of said occupation. Upon completion of an application and verification by the Town that said home occupation meets the provisions identified in this Section, staff shall issue to the property a copy of the approved home occupation registration. There shall be no fee for the registration of the home occupation set forth herein.

(3) If the Town determines that the use does not meet all of the requirements of a home occupation, then the home occupation application shall be refused, and the use shall either be brought into full compliance with the provisions of this Chapter for home occupation registrations, or the use shall be abandoned and all operations ceased.

(4) Revocation. In the event any activities associated with a home occupation registration no longer meet the provisions of this Chapter for home occupation registrations, this noncompliance may result in revocation of the Town's approval of the home occupation, denial of building permits and/or certificates of occupancy, injunctive relief prohibiting use of the property and other remedies available to the Town under this Code and other applicable laws of the State.

(5) All home occupations lawfully in existence at the time of the adoption of this Section shall be allowed to continue at their present levels of activity and in their present form, and, if hereafter changed, those home occupations must conform to the requirements of this Section. (Ord. 2008-1321 §B)

Sec. 16-10-30. Off-street parking requirements.

Off-street parking space shall be provided for buildings and uses as hereinafter specified:

(1) Application to existing uses. Provision of parking space shall not be required for uses in existence as of the date of enactment of this Chapter but shall be required for any expansion of such use by the addition of primary floor area or other special expansion of building or use generating new parking demand.

(2) Location. Parking areas shall be provided upon the same lot containing the use for which they are required or on separate lots within a five-hundred-foot radius of the lot containing the use for which they are required. Such separate lots and the lot containing the use for which they are required shall be held under unified ownership or control, or the owner of the lot containing the use for which the off-street parking is required shall hold a parking easement in such separate lot.

(3) Surfacing. All parking lots which are designed to be used for employee parking, visitor parking, customer parking and tenant parking, and all interior drives connecting such parking lots, which are designated for multifamily uses, business uses, commercial uses, industrial uses, offices and places of assembly shall be paved with asphalt or concrete. In addition, all parking lots must also conform to all of the following requirements:

- a. Be striped so as to identify each parking space;
- b. Conform to all of the Town's landscaping guidelines and requirements;
- c. Be constructed to allow for proper drainage;
- d. Be designed so as to prevent vehicles from having to back into a public or private street; and
- e. No point of ingress or egress shall be allowed to be any closer than twenty-five (25) feet of any right-of-way line of any intersecting street or alley.

(4) Screening. Any off-street parking area, other than that provided for a single-family residence, shall provide a planting screen, landscaped fence or wall at least four (4) feet in height along any side abutting or fronting on a residential district. Plans for such screen shall be submitted to the Planning Commission for approval before installation.

(5) Standard dimension. An individual parking space shall be at least nine (9) feet wide by twenty (20) feet long and, if covered, shall have a minimum height clearance of seven (7) feet.

(6) Determination of need. The number of parking spaces required shall be based upon the anticipated parking demand of individual uses and shall be as designated for specific uses and situations as follows:

<i>Use</i>	<i>Parking Requirements</i>
Single-family residence	2 spaces per dwelling unit
Multifamily dwelling residence	1.5 spaces per unit
Public assembly facilities, provided for seated audiences (churches, theaters,	1 space for every three seats

auditoriums, etc.	
Elementary schools (If the school includes an auditorium, the auditorium requirement shall govern if it is greater.)	2 spaces for every classroom
Junior and senior high schools	Auditorium requirement or 1 space for every 5 students of maximum capacity
Hospitals	1 space for every 2 beds
Clinics	5 spaces for every practitioner on the staff
Industrial uses	1 space for every 2 employees
Commercial office	1 space for every 300 square buildings feet of G.L.A.
Retail stores, customer service establishments, shopping centers and other similar uses	1 space for every 250 square feet of G.L.A.
Eating and drinking establishments	1 space for every 200 square feet of G.L.A., plus 1 space for every 2 employees, computed on the maximum service capacity
Hotel or motel	1 space for every room to be rented, plus 1 space for every 2 employees, computed on the maximum service capacity

(7) Uses not enumerated. In any case where there is a question as to the parking requirements for a use or where such requirements are not specifically enumerated, the Planning Commission shall determine the appropriate application of the parking requirements to the specific situation. (Prior code 16-123; Ord. 2006-1236 §1)

Sec. 16-10-40. Off-street loading requirements.

(a) Space required. In any commercial or industrial district, off-street loading and unloading space shall be provided, in addition to the required off-street parking area, for every building used for commercial or industrial purposes, which building is in excess of three thousand (3,000) square feet in area exclusive of storage areas.

(b) Standard dimension. An individual loading space shall be at least twelve (12) feet wide by forty-five (45) feet long and have a minimum height clearance of fourteen (14) feet.

(c) Determination of need. The number of such spaces provided shall be based upon the operating characteristics of the individual use and shall be subject to approval by the Planning Commission upon submittal of site and operational plans.

(d) Street servicing prohibited. No building for commercial or industrial purposes shall hereafter be erected or placed on a lot in a manner requiring servicing directly from the abutting public street. (Prior code 16-124; Ord. 2006-1236 §1)

Sec. 16-10-50. Building height regulations.

(a) Intent. The following regulations are intended to preserve the comprehensive development plan of the Town, create a desirable architectural effect, contribute to fire safety and, generally, to promote a desirable community environment.

(b) General regulations. The following regulations shall apply to all buildings and structures within the boundaries of the Town:

(1) In zones classified as Residential and Estate Residential, no building or structure shall exceed a maximum height of thirty-five (35) feet.

(2) In zones classified as High-Density Multi-family Residential MF-2 District, Neighborhood Commercial NC District and General Commercial GC District, no building or structure shall exceed a maximum height of fifty-five (55) feet.

(3) In zones classified as Central Business CB District or Industrial I-H and I-L Districts, no building or structure shall exceed a maximum height of seventy-five (75) feet.

(4) In zones classified as Residential Mixed Use RMU District, the maximum height requirements as established by this Code for such zones shall apply.

(c) Modification of building height regulations.

(1) Purpose.

a. The purpose of this Section is to establish a process to review proposals for buildings or structures exceeding the maximum building height allowed by the provisions of this Section or other ordinances, rules or regulations of the Town. The intent of this Section is to encourage creativity and diversity of architecture and site design within a context of harmonious neighborhood planning and coherent environmental design, to protect access to sunlight and to preserve desirable views.

b. Any building or structure proposed to exceed the maximum building height allowed in the respective zoning district pursuant to this Section, or by other ordinances, rules or regulations of the Town, shall be subject to review and recommendation by the Planning Commission, and thereafter to approval or disapproval by the Town Board pursuant to the provisions of this Section.

(2) Standards for review. Any building or structure proposed to be greater than the maximum building height allowed in the respective zoning district pursuant to this Section, or by other ordinances, rules or regulations of the Town, must meet the following review criteria:

a. Views. A building or structure shall not substantially alter the opportunity for, and quality of, desirable views from public places, streets and parks within the community. Techniques to preserve views may include, but are not limited to, reducing building or structure mass, changing the orientation of buildings or other structures and increasing open space setbacks.

b. Light and shadow. Any building or structure proposed to be greater than the maximum building height allowed in the respective zoning district pursuant to this Section, or by other ordinances, rules or regulations of the Town, shall be designed so as not to have a substantial adverse impact on the distribution of natural and artificial light on adjacent public and private property. Adverse impacts include, but are not limited to, casting of shadows on adjacent

property sufficient to preclude the functional use of solar energy technology; creating glare, such as reflecting sunlight or artificial lighting at night, that contributes to the accumulation of snow and ice during the winter on adjacent property; and shading of windows or gardens for more than three (3) months of the year. Techniques to reduce the shadow impacts of a building may include, but are not limited to, repositioning of a structure on the lot, increasing the setbacks, reducing building or structure mass, or redesigning a building or structure's shape.

c. Privacy. Any building or structure proposed to be greater than the maximum building height allowed in the respective zoning district pursuant to this Section, or by other ordinances, rules or regulations of the Town, shall be designed to avoid infringing on the privacy of adjacent public and private property, particularly adjacent residential areas and public parks. Techniques to improve the level of privacy in a neighborhood may include, but are not limited to, providing landscaping, fencing and open space, and changing building or structure orientation away from adjacent residential development.

d. Neighborhood scale. Any building or structure proposed to be greater than the maximum building height allowed in the respective zoning district pursuant to this Section, or by other ordinances, rules or regulations of the Town, shall be compatible with the scale of the neighborhoods in which it is situated in terms of relative height, height to mass, length to mass and building or structure scale to human scale.

(3) Submittal requirements. All development plans proposing building or structure heights proposed to exceed the maximum building height allowed in the respective zoning district pursuant to this Section or by other ordinances, rules or regulations of the Town shall, at a minimum, include the following information, unless such information is waived by the Town:

a. A shadow analysis that indicates on the project development site plan the location of all shadows cast by the building or structure (with associated dates of the year).

b. A visual analysis that:

1. Identifies the extent to which existing views may be blocked;

2. Depicts in graphic form views before and after the project, utilizing photographs of the area and neutral drawings derived from at least two (2) points from which the proposal will be commonly viewed; and

3. Indicates the points of observation on an inset map or plan of the area.

c. A summary of the key conclusions of the shadow and visual analysis, as well as steps to be taken to comply with the review standards set forth above.

d. A complete list of the names and addresses of all owners of real property located within three hundred (300) feet of the property lines of the property upon which the modification of height restrictions is proposed. Said list shall be in a form approved by the Town. The Town shall thereafter provide notice of the request for modification to said property owners, which notice shall include the dates and times of the public hearings required by the provisions of this Section.

(4) Notice and public hearing. Prior to consideration of any proposal for modification under this Section, public hearings shall be held before both the Planning Commission and the Town Board in accordance with the provisions of Section 16-4-60 of this Chapter. (Prior code 16-125; Ord. 2005-1221 §1; Ord. 2006-1233 §2; Ord. 2006-1236 §1)

Sec. 16-10-60. Industrial areas; performance standards.

(a) As a condition precedent to the approval of any site plan or the issuance of any building permit for a use in any new or existing industrial area of the Town, the user must establish continuing compliance with the performance standards hereinafter set forth.

(b) The performance standards are as follows:

(1) Glare and heat. Any operation producing intense glare or heat shall be conducted within an enclosed building or with other effective screening in such a manner as to make such glare or heat completely imperceptible from any point along the property line.

(2) Vibration. Industrial operations shall cause no inherent and recurring generated vibration perceptible without instruments at any point along the property line. Transportation facilities or temporary construction are excluded from this restriction.

(3) Light. Exterior lighting, except for overhead street lighting and warning, emergency or traffic signals, shall be installed in such a manner that the light source will be sufficiently obscured to prevent glare on public streets and walkways or into any residential area. The installation or erection of any lighting which may be confused with warning signals, emergency signals or traffic signals shall be unlawful.

(4) Smoke emissions.

a. No person shall emit or cause to be emitted into the atmosphere from any contamination source of emission whatsoever any air contaminant which is of such a shade or density as to obscure an observer's vision to a degree in excess of twenty percent (20%) opacity.

b. Exceptions.

1. No person shall emit or cause to be emitted into the atmosphere from any pilot plant and experimental operations any air contaminant for a period or periods aggregating more than three (3) minutes in any sixty (60) consecutive minutes which is of such a shade or density as to obscure an observer's vision to a degree in excess of forty percent (40%) opacity. This emission standard for pilot plants and experimental operations shall be in effect for a period not to exceed one hundred eighty (180) operating days, cumulative total, from the date such operations commence; thereafter, the twenty percent (20%) opacity limitations provided in Subparagraph (4)a above shall apply to emissions from pilot plants and experimental operations.

2. Emissions from fireplaces used for noncommercial or recreative purposes shall be exempt from Subparagraph (4)a above.

3. Subparagraph (4)a above shall not apply to emissions during the building of a new fire, cleaning of fires, soot blowing, start-up, any process modification or adjustment or occasional cleaning of control equipment, the shade or appearance of which is not darker than and equivalent opacity so as to obscure an observer's view to a degree not greater than forty percent (40%) for a period or periods aggregating no more than three (3) minutes in any one (1) hour.

4. Subparagraph (4)a herein shall not apply to fugitive dust.

(5) Odor emissions. No person, wherever located, shall cause or allow the emission of odorous air contaminants from any single source such as to result in detectable odors which are measured in excess of the following limits:

a. For areas used predominantly for residential or commercial purposes, it is a violation if odors are detected after the odorous air has been diluted with seven (7) or more volumes of odor-free air.

b. In all other land use area, it is a violation if odors are detected after the odorous air has been diluted within fifteen (15) or more volumes of odor-free air.

c. When the source is a manufacturing process or agricultural operation, no violation of Subparagraphs a. and b. above shall be cited by the Town, provided that the best practical treatment, maintenance and control currently available shall be utilized in order to maintain the lowest possible emission of odorous gases, and, where applicable, in determining the best practical control methods, the Town shall not require any method which would result in an arbitrary and unreasonable taking of property or in the practical closing of any lawful business or activity if such would be without corresponding public benefit.

d. For all areas, it is a violation when odors are detected after the odorous air has been diluted with one hundred twenty-seven (127) or more volumes of odor-free air, in which case provisions of Subparagraph c. above shall not be applicable.

(6) Particle emission. No particles of fly ash shall exceed two-tenths (0.2) grain per cubic foot of flue gas at a stack temperature of five hundred (500) degrees Fahrenheit. (Prior code 16-127; Ord. 2006-1236 §1)

ARTICLE XI

Application of Individual Lot Regulations

Sec. 16-11-10. General.

The regulations set by this Chapter within each district shall be held to be minimum requirements and shall apply to each class or kind of structure or land, except as hereinafter provided. (Prior code 16-141; Ord. 2006-1236 §1)

Sec. 16-11-20. Use regulations.

No structure or land shall be used and no structure shall be hereafter erected, structurally altered or relocated except for a use as permitted in compliance with the regulations hereinafter established for the district in which it is located. (Prior code 16-142; Ord. 2006-1236 §1)

Sec. 16-11-30. Minimum lot size.

No building shall be erected on a lot of less size than hereinafter specified by the regulations of the district in which such building is located. (Prior code 16-143; Ord. 2006-1236 §1)

Sec. 16-11-40. Density.

(a) Purpose. The regulatory techniques controlling the distribution of population throughout the community are intended to achieve the desired environmental character as set forth in the Comprehensive Development Plan and to achieve a practical, economic and functional relationship between the residential use of land and its consequent impact upon traffic circulation, public utilities, community facilities and other service demands.

(b) Method. In single-family residential development, the density is established by the minimum required lot size. In multifamily residential development, the determination of the number of allowable dwelling units on a given property being developed shall be made by dividing the net area of the parcel to be developed by the number of square feet required per dwelling unit. (Prior code 16-144; Ord. 2006-1236 §1)

Sec. 16-11-50. Building location.

(a) Setback.

(1) No building shall hereafter be erected, structurally altered or relocated so that any portion thereof is closer to the base setback line than the minimum setback distance hereinafter specified by the regulations of the district in which it is located.

(2) The only structures permitted within such setback area shall be necessary highway and traffic signs, public utility lines, fences, screens and mailboxes.

(b) Offsets. No building shall hereafter be erected, structurally altered or relocated so that any portion thereof is closer to any lot line than the offset distance hereinafter specified by the regulations for the district in which it is located, except as follows:

(1) In any case of multifamily, commercial or industrial use structures, two (2) or more buildings on adjoining lots may be erected with common or directly adjoining walls, provided that the requirements of building codes relative to such construction are complied with and provided that, at both ends of such row-type buildings, the applicable offset requirements shall be complied with.

(2) Roof structures, including eaves, cornices, canopies and similar architectural features, may extend to within two (2) feet of the lot line.

(c) Maintenance and use of setback and offset areas.

(1) All setback and offset areas which are not fully contained within and concealed by a solid fence, wall or other similar screening device shall be landscaped and kept clean and free from the accumulation of debris and refuse and shall not be used for the storage or display of equipment, products, vehicles or any other material, except as may be specifically otherwise permitted under this Chapter; and

(2) In addition to the requirements outlined in Paragraph (1) above and regardless of whether or not any such setback or offset area is fully contained within and concealed by a solid fence, wall or other similar screening device, a clear, open passageway *no less than* ten (10) feet wide shall be maintained in all setback and offset areas in order to provide for ingress and egress of emergency vehicles. (Prior code 16-145; Ord. 2006-1236 §1)

Sec. 16-11-60. Open space.

(a) Minimum open space per dwelling unit. No building used in whole or in part for residential purposes shall be hereafter erected, structurally altered or relocated on a lot so as to reduce the usable livable open space of such lot to less than that thereafter specified by the regulations of the district in which such building is located.

(b) Usability of required open space. To be considered usable, livable open space shall be readily accessible and of a size and shape which can be reasonably considered to provide for amenities and the necessities of light, air, play space, yard area, garden, etc., but shall not include parking area and drives. (Prior code 16-146; Ord. 2006-1236 §1)

Sec. 16-11-70. Minimum exterior and interior standards.

All single-family detached dwellings shall meet the following minimum exterior and interior standards:

(1) All dwellings shall be set on and attached to a permanent recessed foundation and shall include a crawl space.

(2) The pitch of the roof shall be not less than three (3) inches of rise for each one (1) foot of horizontal run.

(3) Roofing materials shall be asphalt shingles or the equivalent.

(4) All dwellings shall face the public street.

(5) The exterior finish of all dwellings shall be of brick, wood, masonite or a cosmetically equivalent finish and shall be of acceptable similarity to the surrounding residential dwellings.

(6) All dwellings shall have a minimum usable living area of one thousand (1,000) square feet excluding garages.

(7) All newly constructed dwellings shall require an enclosed garage with a minimum usable area of two hundred (200) square feet. Building additions, decks, remodeling and similar

improvements to existing nonconforming dwellings as defined in this Chapter shall be exempt from this requirement.

(8) All dwelling sites shall provide a minimum of two (2) off-street parking spaces. All parking surfaces shall be hard surfaced. (Prior code 16-147; Ord. 2006-1236 §1; Ord. 2007-1296 §1)

Sec. 16-11-80. Minimum setback requirements from existing oil and gas wells for low-density development.

The minimum setback distance between property included in any new land use proposal for low-density surface development and existing oil and gas wells shall be one hundred fifty (150) feet, measured from the nearest exterior property line of any proposed lot. For purposes of this Article, *low-density areas* shall include those areas zoned Estate Residential (E-1) and Limited and Heavy Industrial (I-L and I-H), and *new land use proposal* shall be defined as any proposal that has not yet received preliminary plat approval. (Prior code 16-148; Ord. 2006-1236 §1)

Sec. 16-11-90. Minimum setback requirements from existing oil and gas wells for high-density development.

The minimum setback distance between property included in any new land use proposal for high-density surface development and existing oil and gas wells shall be three hundred fifty (350) feet, measured from the nearest exterior property line of any proposed lot. For purposes of this Article, *high-density areas* shall include all zoning districts, with the specific exception of those areas identified as low-density in this Article, and *new land use proposal* shall be defined as any proposal that has not yet received preliminary plat approval. (Prior code 16-149; Ord. 2006-1236 §1)

Sec. 16-11-100. Landscaping and buffering requirements for new land use proposals for surface development of property adjacent to existing oil and gas wells.

As a condition of approval for any new land use proposal for the surface development of any property adjacent to existing oil and gas wells, the Town Board, after consideration by the Planning Commission, may impose reasonable landscaping and other buffering requirements for such proposals to ensure the safety of the citizens of the Town and to mitigate any noise or visual impacts created thereby. (Prior code 16-150; Ord. 2004-1193 §1; Ord. 2006-1236 §1)

ARTICLE XII

Single-Family Residential SF-1 District

Sec. 16-12-10. Intent.

The Single-Family Residential SF-1 District is intended to provide for the development of single-family dwellings with a full complement of accessory uses. It is intended that such development be served by institutional uses and community facilities compatible with the character of the district. (Prior code 16-161; Ord. 2006-1236 §1)

Sec. 16-12-20. Use regulations.

A building or lot may be used for the following uses and no other:

(1) Principal uses permitted by right.

a. All single-family detached dwellings including manufactured homes which otherwise meet the minimum standards set forth in Section 16-11-70.

b. Public parks and recreation areas.

c. Public and private schools.

(2) Permitted accessory uses.

a. Private garages, carports and paved parking areas.

b. Private residential and private group outdoor recreational facilities, including, by way of example but not of limitation, swimming pools and tennis courts.

c. Home occupations, subject to the provisions of Section 16-10-20.

d. Service buildings and facilities normally incidental to the use of a public park or recreation area.

e. Any other structure or use clearly incidental to and commonly associated with the operation of a principal use permitted by right.

(3) Conditional uses. The following uses shall be permitted in this District upon approval of a conditional use grant as provided in Article VII:

a. Child care centers.

b. Nursing and rest homes.

c. Churches.

d. Private commercial outdoor recreational facilities.

e. Public administrative offices and service buildings.

f. Public utility installations, including transmission lines and substations.

g. Oil and gas facilities pursuant to the conditional use regulations contained in Article VII of this Chapter pertaining thereto.

h. Small group living facilities pursuant to the conditional use regulations contained in Article VII of this Chapter pertaining thereto

i. Any use which is compatible for inclusion within this District and which meets the standards and requirements of conditional use grants as set forth in Article VII of this Chapter. (Prior code 16-162; Ord. 2006-1232 §§3, 4; Ord. 2006-1236 §1)

Sec. 16-12-30. Density.

Minimum lot area per dwelling unit shall be six thousand (6,000) square feet. (Prior code 16-163; Ord. 2006-1236 §1)

Sec. 16-12-40. Building location.

Minimum setback shall be twenty (20) feet. Minimum offset shall be five (5) feet. (Prior code 16-164; Ord. 2006-1236 §1)

Sec. 16-12-50. Open space.

As a part of the minimum lot area of six thousand (6,000) square feet per dwelling unit, a minimum of three thousand (3,000) square feet thereof shall be livable open space. (Prior code 16-165; Ord. 2006-1236 §1)

Sec. 16-12-60. Off-street parking requirements.

See the provisions of Section 16-10-30. (Prior code 16-166; Ord. 2006-1236 §1)

ARTICLE XIII

Single-Family Attached Residential SF-2 District

Sec. 16-13-10. Intent.

The Single-Family Attached Residential SF-2 District is intended to provide for residential development of single-family attached dwellings of the duplex or townhouse type where all dwelling units have ground level occupancy and private entrances at relatively low density and where such development would be compatible with surrounding residential uses. (Prior code 16-181; Ord. 2006-1236 §1)

Sec. 16-13-20. Use regulations.

A building or lot may be used for the following purposes and no other:

- (1) Principal uses permitted by right.
 - a. Single-family attached dwellings of two (2) or more units but not more than six (6) dwelling units per structure.
 - b. Public parks and recreation areas.
 - c. Public and private schools.

(2) Permitted accessory uses. Any accessory use permitted in the Single-Family Residential District.

(3) Conditional uses. The following uses shall be permitted in this District upon approval of a conditional use grant as provided in Article VII:

a. Any conditional use permitted in the Single-Family Residential District.

b. Oil and gas facilities pursuant to the conditional use regulations contained in Article VII of this Chapter pertaining thereto.

c. Small group living facilities pursuant to the conditional use regulations contained in Article VII of this Chapter pertaining thereto.

d. On-site temporary mineral extraction as defined in Section 16-2-20 of this Chapter. (Prior code 16-182; Ord. 2006-1232 §5; Ord. 2006-1236 §1; Ord. 2008-1321 §D)

Sec. 16-13-30. Density.

Minimum lot area per dwelling unit shall be four thousand five hundred (4,500) square feet. (Prior code 16-183; Ord. 2006-1236 §1)

Sec. 16-13-40. Building location.

Minimum setback shall be twenty (20) feet. Minimum offset shall be five (5) feet. (Prior code 16-184; Ord. 2006-1236 §1)

Sec. 16-13-50. Open space.

As a part of the minimum lot area of four thousand five hundred (4,500) square feet per dwelling unit, a minimum of two thousand (2,000) square feet thereof shall be livable open space. (Prior code 16-185; Ord. 2006-1236 §1)

Sec. 16-13-60. Off-street parking requirements.

See the provisions of Section 16-10-30. (Prior code 16-186; Ord. 2006-1236 §1)

ARTICLE XIV

Estate Residential Districts

Division 1

Estate Residential E-1 District

Sec. 16-14-10. Intent.

The Estate Residential E-1 District (E-1 District) is intended to provide for large lot residential subdivisions permitting the keeping of certain large domestic animals as accessory uses and providing

for the maximum usage of topographic features to promote a balance of residential zoning by creating a semi-rural environment. (Prior code 16-201; Ord. 2006-1236 §1)

Sec. 16-14-20. Uses permitted by right.

The following uses shall be permitted by right in the Estate Residential E-1 District:

- (1) Single-family detached dwellings.
- (2) Public parks and recreation areas.
- (3) Public and private schools.
- (4) Golf courses. (Prior code 16-202; Ord. 2006-1236 §1)

Sec. 16-14-30. Permitted accessory uses.

As defined by this Code, all of the following accessory uses shall be permitted in the Estate Residential E-1 District:

- (1) All permitted accessory uses set forth in Article XII of this Chapter as outlined in the Single-Family Residential SF-1 District.
- (2) Keeping of animals. Contrary provisions of this Code notwithstanding, large domestic animals shall be permitted as an accessory use in the Estate Residential E-1 District.
- (3) For the purpose of this Section only, *large domestic animals* are defined as and shall be limited to horses, ponies, mules, donkeys and llamas. For each permitted animal, one (1) acre of lot area inclusive of improvements shall be required. Offspring shall be allowed until the weaning process is complete. (Prior code 16-203; Ord. 2006-1236 §1)

Sec. 16-14-40. Conditional uses.

The following shall be permitted conditional uses in the Estate Residential E-1 District, subject to the approval of a conditional use grant as provided in Article VII of this Chapter:

- (1) Churches.
- (2) Public utility installations, including transmission lines and substations.
- (3) Private commercial outdoor recreation facilities.
- (4) Oil and gas facilities pursuant to the conditional use regulations contained in Article VII of this Chapter pertaining thereto.
- (5) Small group living facilities pursuant to the conditional use regulations contained in Article VII of this Chapter pertaining thereto.

(6) On-site temporary mineral extraction as defined in Section 16-2-20 of this Chapter. (Prior code 16-204; Ord. 2004-1193 §1; Ord. 2006-1232 §§6, 7; Ord. 2006-1236 §1; Ord. 2008-1321 §D)

Sec. 16-14-50. Density.

Minimum lot area per dwelling unit in the E-1 District shall be one (1) acre, except where individual sewage disposal systems have been authorized and approved by the Town. Where individual disposal systems have been approved and authorized by the Town, all lots within any subdivision containing individual sewage disposal systems shall contain a minimum lot size of two and one-half (2½) acres. Common areas and public parks or facilities are excluded from the minimum lot size requirement set forth herein. (Prior code 16-205; Ord. 2006-1236 §1)

Sec. 16-14-60. Building location.

No building or structure may be located within twenty-five (25) feet of any property line. The foregoing notwithstanding, no accessory building housing domestic animals may be located within thirty-five (35) feet of any property line, and such accessory buildings may not be located closer than seventy-five (75) feet from any residential dwelling. (Prior code 16-206; Ord. 2006-1236 §1)

Sec. 16-14-70. Minimum exterior and interior standards.

All single-family detached dwellings in the Estate Residential E-1 District shall meet the following minimum exterior and interior standards:

- (1) All dwellings shall be set on and attached to a permanent recessed foundation and shall include a crawl space.
- (2) The pitch of the roof shall not be less than three (3) inches of rise for each one (1) foot of horizontal run.
- (3) Roofing materials shall be asphalt shingles or the equivalent.
- (4) All dwellings shall face the public street.
- (5) The exterior finish of all dwellings shall be of brick, wood, masonite or a cosmetically equivalent finish, and shall be of acceptable similarity to the surrounding residential dwellings.
- (6) All dwellings shall have a minimum useable living area of two thousand five hundred (2,500) square feet, excluding garages.
- (7) All dwellings shall have an enclosed two-car garage. (Prior code 16-207; Ord. 2006-1236 §1)

Sec. 16-14-80. Curb, gutter and sidewalk.

The Town may, in its sole discretion, approve the construction of public streets in the Estate Residential E-1 District without accompanying curbs, gutters or sidewalks. All streets constructed in the Estate Residential E-1 District, regardless of whether or not curbs, gutters and sidewalks are

constructed in conjunction therewith, shall meet all specifications of construction as set forth in this Code. (Prior code 16-208; Ord. 2006-1236 §1)

Sec. 16-14-90. Off-street parking requirements.

See the provisions of Section 16-10-30. (Prior code 16-209; Ord. 2006-1236 §1)

Sec. 16-14-100. Individual sewage disposal systems.

(a) The Town may, in its sole discretion, approve individual sewage disposal systems in the Estate Residential E-1 District subject to approval of such systems by the State Department of Health and such other state or local agencies whose approval may be required for the installation of such systems. The Town may consider the following criteria in approving individual sewage disposal systems:

- (1) Proximity of public sewer.
- (2) The topography, size and location of the property.
- (3) Practicality and economic feasibility of connecting to public sewer.
- (4) Engineering and technological issues which may impact the use and safety of individual sewage disposal systems.

(b) Approval of individual sewage disposal systems by the State Department of Health or other appropriate state or local agencies shall be a condition precedent to the approval of such systems by the Town, but shall not require the Town to approve the use of such systems in the Town. No building permit shall be issued by the Town until an individual sewage disposal system permit is obtained from the State Department of Health or other appropriate state or local agency; and no certificate of occupancy shall be issued by the Town until a final inspection and approval of the system by the State Department of Health or other appropriate state or local agency has been obtained. (Prior code 16-210; Ord. 2006-1236 §1)

Division 2
Estate Residential E-2 District

Sec. 16-14-210. Intent.

(a) The Estate Residential E-2 District (E-2 District) is intended to provide for single-family residential subdivision development which utilizes public water and sewer services and provides for such development to be served by community facilities which are compatible with the District, while at the same time providing for the maximum usage of topographic features to promote a balance of residential zoning, open space features and a semi-rural environment which will utilize urban-level services and improvements which are required in the Single-Family Residential District.

(b) The use of the E-2 District is also intended to encourage the clustering of homes on lots which may be smaller than one (1) acre in size to encourage both open space areas and active and passive

recreational uses, provided that any such lots meet all of the density requirements outlined in Section 16-14-250 herein. (Prior code 16-211; Ord. 2006-1236 §1)

Sec. 16-14-220. Uses permitted by right.

The following uses shall be permitted by right in the Estate Residential E-2 District:

(1) All single-family dwellings permitted as uses by right in the SF-1, SF-2 and E-1 zoning districts set forth in Articles XII, XIII and XIV of this Chapter.

(2) Public parks and recreation areas.

(3) Public and private schools.

(4) Golf courses. (Prior code 16-212; Ord. 2006-1236 §1)

Sec. 16-14-230. Permitted accessory uses.

As defined by this Code, all permitted accessory uses set forth in Article XII of this Chapter as outlined in the Single-Family Residential SF-1 District shall be permitted accessory uses in the Estate Residential E-2 District. (Prior code 16-213; Ord. 2006-1236 §1)

Sec. 16-14-240. Conditional uses.

The following shall be permitted conditional uses in the Estate Residential E-2 District, subject to the approval of a conditional use grant as provided in Article VII of this Chapter:

(1) Churches.

(2) Public utility installations, including transmission lines and substations.

(3) Private commercial outdoor recreation facilities.

(4) Oil and gas facilities pursuant to the conditional use regulations contained in Article VII of this Chapter pertaining thereto.

(5) Small group living facilities pursuant to the conditional use regulations contained in Article VII of this Chapter pertaining thereto.

(6) On-site temporary mineral extraction as defined in Section 16-2-20 of this Chapter. (Prior code 16-214; Ord. 2004-1193 §1; Ord. 2006-1232 §§8, 9; Ord. 2006-1236 §1; Ord. 2008-1321 §D)

Sec. 16-14-250. Density.

The following uses shall be permitted by right in the Estate Residential E-2 District:

(1) The minimum net lot area per dwelling unit in the E-2 District shall be one (1) acre, with this minimum net lot area only including the land mass situated entirely within the boundary of the subject lot. This minimum net lot area shall not include any tracts, easements or rights-of-way

which are shown on the master plan or subdivision plat for any public or private streets, alleys, detention areas, etc., which are required and earmarked to serve the entire development. However, the area of any drainage and/or utility easements which are situated entirely within the boundary of any individual dwelling lot shall be included in the calculation of the minimum net lot area for any such individual dwelling lot.

To encourage the clustering of homes along with open space and/or passive and active recreational uses within the E-2 District, bonus units may be granted which will allow more than one (1) dwelling unit per acre. For the purposes of this Section, the term *open space and/or passive and active recreational uses* shall only include common open space and/or passive and recreational use areas not included within individual building lots. The criteria for granting the bonus units within a master plan or a preliminary plat are as follows:

<i>Amount of Open Space and/or Recreational Uses</i>	<i>Amount of Bonus Units Granted</i>
Less than 10%	0
Equal to or greater than 10%	5%
Equal to or greater than 20%	10%
Equal to or greater than 30%	15%
Equal to or greater than 40%	20%
Equal to 50%	25%
Greater than 50%*	
* In the event more than 50% of the land mass of any development is earmarked for open space and/or recreational uses, the amount of bonus units which may be granted will be determined by the Planning Commission.	

(2) In no event shall the minimum net lot area for any single-family detached dwelling be less than seven thousand five hundred (7,500) square feet, with this minimum net lot area only including the land mass situated entirely within the boundary of the subject lot. This minimum net lot area shall not include any tracts, easements or rights-of-way which are shown on the master plan or subdivision plat for any public or private streets, alleys, detention areas, etc., which are required and earmarked to serve the entire development.

(3) In no event shall the minimum net lot area for any single-family attached dwelling be less than six thousand (6,000) square feet, with this minimum net lot area only including the land mass situated entirely within the boundary of the subject lot. This minimum net lot area shall not include any tracts, easements or rights-of-way which are shown on the master plan or subdivision plat for any public or private streets, alleys, detention areas, etc., which are required and earmarked to serve the entire development.

(4) Common areas and public parks or facilities are excluded from the minimum lot size requirement set forth herein. (Prior code 16-215; Ord. 2006-1236 §1)

Sec. 16-14-260. Building location.

(a) For single-family detached dwelling units: minimum setback shall be twenty (20) feet; minimum offset shall be five (5) feet.

(b) For single-family attached dwelling units: minimum setback shall be twenty (20) feet; minimum offset for any wall not adjoining another dwelling unit wall shall be five (5) feet; and there shall not be any minimum offset requirement for any walls which adjoin any other dwelling unit wall. (Prior code 16-216; Ord. 2006-1236 §1)

Sec. 16-14-270. Open space.

Minimum livable open space as defined in Article II of this Chapter per dwelling unit shall be three thousand (3,000) square feet. (Prior code 16-217; Ord. 2006-1236 §1)

Sec. 16-14-280. Minimum exterior and interior standards.

(a) All single-family detached dwellings in the Estate Residential E-2 District shall meet the following minimum exterior and interior standards:

(1) All dwellings shall be set on and attached to a permanent recessed foundation and shall include a crawl space.

(2) The pitch of the roof shall not be less than three (3) inches of rise for each one (1) foot of horizontal run.

(3) Roofing materials shall be asphalt shingles or the equivalent.

(4) All dwellings shall face, abut and have access to a public or private street approved by the Town.

(5) The exterior finish of all dwellings shall be of brick, wood, masonite or a cosmetically equivalent finish, and shall be of acceptable similarity to the surrounding residential dwellings.

(6) All dwellings shall have a minimum usable living area of one thousand five hundred (1,500) square feet, excluding garages.

(7) All dwellings shall have an attached enclosed garage with a minimum usable area of two hundred (200) square feet.

(b) All single-family attached dwellings in the Estate Residential E-2 District shall meet the following minimum exterior and interior standards:

(1) All dwellings shall be set on and attached to a permanent recessed foundation and shall include a crawl space.

(2) The pitch of the roof shall not be less than three (3) inches of rise for each one (1) foot of horizontal run.

(3) Roofing materials shall be asphalt shingles or the equivalent.

(4) All dwellings shall face, abut and have access to a public or private street approved by the Town.

(5) The exterior finish of all dwellings shall be of brick, wood, masonite or a cosmetically equivalent finish, and shall be of acceptable similarity to the surrounding residential dwellings.

(6) All dwellings shall have a minimum usable living area of one thousand (1,000) square feet, excluding garages.

(7) All dwellings shall have an attached enclosed garage with a minimum usable area of two hundred (200) square feet. (Prior code 16-218; Ord. 2006-1236 §1)

Sec. 16-14-290. Off-street parking requirements.

All dwelling units shall have a minimum of two (2) off-street parking spaces. (Prior code 16-219; Ord. 2006-1236 §1)

ARTICLE XV

Multifamily Residential MF-1 District

Sec. 16-15-10. Intent.

The Multifamily Residential MF-1 District is intended to provide for residential development of multifamily dwellings in areas where such development would be compatible with surrounding uses and where such intensive use would not create service problems. (Prior code 16-221; Ord. 2006-1236 §1)

Sec. 16-15-20. Use regulations.

A building or lot may be used for the following purposes and no other:

- (1) Principal uses permitted by right.
 - a. Multifamily dwellings of two (2) or more units.
 - b. Public parks and recreation areas.
- (2) Permitted accessory uses.
 - a. Private garages, carports and paved parking areas.
 - b. Signs, subject to the provisions of Article IX of this Chapter.
 - c. Private residential and private group outdoor recreational facilities.

d. Service buildings and facilities normally incidental to the use of a public park or recreation area.

e. Any other structures or use clearly incidental to and commonly associated with the operation of a principal use permitted by right.

(3) Conditional uses. The following uses shall be permitted in this District upon approval of a conditional use grant as provided in Article VII of this Chapter:

a. Private commercial outdoor recreational facilities.

b. Private lodges or clubs.

c. Oil and gas facilities pursuant to the conditional use regulations contained in Article VII of this Chapter pertaining thereto.

d. Small group living facilities pursuant to the conditional use regulations contained in Article VII of this Chapter pertaining thereto.

e. On-site temporary mineral extraction as defined in Section 16-2-20 of this Chapter. (Prior code 16-222; Ord. 2004-1183 §1; Ord. 2006-1232 §§10, 11; Ord. 2006-1236 §1; Ord. 2008-1321 §D)

Sec. 16-15-30. Density.

Minimum lot area per dwelling unit shall be two thousand four hundred (2,400) square feet. (Prior code 16-223; Ord. 2006-1236 §1)

Sec. 16-15-40. Building location.

Minimum setback shall be twenty (20) feet. Minimum offset shall be six (6) inches for every foot of building height. (Prior code 16-224; Ord. 2006-1236 §1)

Sec. 16-15-50. Open space.

Minimum livable open space per dwelling unit shall be nine hundred (900) square feet. (Prior code 16-225; Ord. 2006-1236 §1)

Sec. 16-15-60. Off-street parking requirements.

See the provisions of Section 16-10-30. (Prior code 16-226; Ord. 2006-1236 §1)

ARTICLE XVI

High-Density Multifamily Residential MF-2 District

Sec. 16-16-10. Intent.

The High-Density Multifamily Residential MF-2 District is intended to provide for more intensive development of multifamily residential district in areas where such development would be compatible with surrounding areas and where such intensive use would not create service problems. (Prior code 16-241; Ord. 2006-1236 §1)

Sec. 16-16-20. Use regulations.

A building or lot may be used for the following purposes and no other:

(1) Principal uses permitted by right.

- a. Multifamily dwelling of four (4) or more units.
- b. Public parks and recreation areas.

(2) Permitted accessory uses. Any accessory use permitted in the Multifamily Residential District.

(3) Conditional uses. The following uses shall be permitted in this District upon approval of a conditional use grant as provided in Article VII of this Chapter:

- a. Any conditional use permitted in the Multifamily Residential District.
- b. Oil and gas facilities pursuant to the conditional use regulations contained in Article VII of this Chapter pertaining thereto.
- c. Small group living facilities pursuant to the conditional use regulations contained in Article VII of this Chapter pertaining thereto.
- d. On-site temporary mineral extraction as defined in Section 16-2-20 of this Chapter. (Prior code 16-242; Ord. 2006-1232 §12; Ord. 2006-1236 §1; Ord. 2008-1321 §D)

Sec. 16-16-30. Density.

Minimum lot area per dwelling unit shall be one thousand four hundred (1,400) square feet. (Prior code 16-243; Ord. 2006-1236 §1)

Sec. 16-16-40. Building location.

Minimum setback shall be twenty (20) feet. Minimum offset shall be six (6) inches for every foot of building height. (Prior code 16-244; Ord. 2006-1236 §1)

Sec. 16-16-50. Open space.

Minimum livable open space per dwelling unit shall be four hundred fifty (450) square feet. (Prior code 16-245; Ord. 2006-1236 §1)

Sec. 16-16-60. Off-street parking requirements.

See the provisions of Section 16-10-30. (Prior code 16-246; Ord. 2006-1236 §1)

ARTICLE XVII

Neighborhood Commercial NC District

Sec. 16-17-10. Intent.

The Neighborhood Commercial NC District is intended to provide for appropriately located groups of retail stores and service establishments serving the daily needs of a local neighborhood and of such character, scale, appearance and operation as to be compatible with the character of the surrounding residential areas. (Prior code 16-261; Ord. 2006-1236 §1)

Sec. 16-17-20. Use regulations.

A building or lot may be used for the following purposes and no other:

(1) Principal uses permitted by right. The following uses shall be permitted:

a. Retail stores, including but not limited to the following:

1. Food store, supermarket.
2. Food store, convenience.
3. Delicatessen.
4. Bakery goods store.
5. Liquor store.
6. Hardware store.
7. Drug stores.

b. Customer service establishments, including but not limited to the following:

1. Barber and beauty shops.
2. Restaurant and bar.

3. Laundromat and coin-operated dry-cleaning establishment.
 4. Laundry and dry-cleaning pickup station.
 5. Fine art studio.
- c. Business, professional or public service offices, not in excess of one thousand five hundred (1,500) square feet per establishment.
 - d. Other similar uses as defined in Section 16-2-20 of this Chapter.

(2) Permitted accessory uses.

- a. Garages for storage of vehicles used in conjunction with the operation of a business.
- b. Off-street parking and loading areas.
- c. Signs, subject to the provisions of Article IX of this Chapter.
- d. Residential quarters for the owner, proprietor, commercial tenant, employee or caretaker, located in the same building as the business.
- e. Any other structure or use clearly incidental to and commonly associated with the operation of a principal use permitted by right.

(3) Conditional uses. The following uses shall be permitted in this District upon approval of a conditional use grant as provided in Article VII of this Chapter:

- a. Gasoline service stations.
- b. Public utility installations.
- c. Oil and gas facilities pursuant to the conditional use regulations contained in Article VII of this Chapter pertaining thereto.
- d. On-site temporary mineral extraction as defined in Section 16-2-20 of this Chapter. (Prior code 16-262; Ord. 2006-1232 §13; Ord. 2006-1236 §1; Ord. 2008-1321 §§D, F)

Sec. 16-17-30. Size and location criteria.

The size and location of Neighborhood Commercial NC Districts shall be based on the following criteria:

- (1) Evidence of justifiable community need.
- (2) Adequate customer potential.
- (3) Satisfactory relationship to the pedestrian and vehicular circulation system.

(4) Potential contribution to the economic welfare of the community. (Prior code 16-263; Ord. 2006-1236 §1)

Sec. 16-17-40. Lot size.

Minimum lot area shall be twenty thousand (20,000) square feet. (Prior code 16-264; Ord. 2006-1236 §1)

Sec. 16-17-50. Building location.

Minimum setback shall be twenty-five (25) feet. Minimum offset shall be twenty-five (25) feet. (Prior code 16-265; Ord. 2006-1236 §1)

Sec. 16-17-60. Off-street parking requirements.

See the provisions of Section 16-10-30. (Prior code 16-266; Ord. 2006-1236 §1)

Sec. 16-17-70. Off-street loading requirements.

See the provisions of Section 16-10-40. (Prior code 16-267; Ord. 2006-1236 §1)

ARTICLE XVIII

Central Business CB District

Sec. 16-18-10. Intent.

The Central Business CB District is intended to provide for the development of a concentration of commercial, office, recreational, cultural, entertainment and governmental facilities serving as a center of community activity. It is the further intent of this District to conserve and enhance the existing central business area for the benefit of the community as a whole. (Prior code 16-281; Ord. 2006-1236 §1)

Sec. 16-18-20. Use regulations.

A building or lot may be used for the following purposes and no other:

- (1) Principal uses permitted by right.
 - a. Any principal use permitted by right in the Neighborhood Commercial District.
 - b. Retail stores.
 - c. Customer service establishments.
 - d. Business and professional offices.
 - e. Banks and saving and loan offices.

- f. Medical and dental clinics.
- g. Public administrative offices and service buildings.
- h. Public utility offices and installations.
- i. Public library.
- j. Private club or lodge.
- k. Commercial lodging.
- l. Theater.
- m. Minor repair, rental and servicing establishments.
- n. Passenger transportation terminals, not including truck terminals.
- o. One-family residential dwellings subject to the regulations set forth in Sections 16-11-70, 16-12-20(2), 16-12-30, 16-12-40, 16-12-50 and 16-12-60.
- p. Automobile sales.
- q. Plumbing and heating contractors.
- r. Other similar uses as defined in Section 16-2-20 of this Chapter.

(2) Permitted accessory uses.

- a. Any accessory uses permitted in the Neighborhood Commercial District.
- b. Signs, subject to the provisions of Article IX of this Chapter.

(3) Conditional uses. The following uses shall be permitted in this District upon approval of a conditional use grant as provided in Article VII of this Chapter:

- a. Commercial parking facilities.
- b. Gasoline service stations.
- c. Oil and gas facilities pursuant to the conditional use regulations contained in Article VII of this Chapter pertaining thereto.
- d. On-site temporary mineral extraction as defined in Section 16-2-20 of this Chapter. (Prior code 16-282; Ord. 2006-1232 §14; Ord. 2006-1236 §1; Ord. 2008-1321 §§D, F)

Sec. 16-18-30. Off-street parking requirements.

See the provisions of Section 16-10-30. (Prior code 16-283; Ord. 2006-1236 §1)

Sec. 16-18-40. Off-street loading requirements.

See the provisions of Section 16-10-40. (Prior code 16-284; Ord. 2006-1236 §1)

ARTICLE XIX

General Commercial GC District

Sec. 16-19-10. Use regulations.

(a) Principal uses permitted by right. The following principal uses shall be permitted in the General Commercial GC District:

- (1) Drive-in restaurants.
- (2) Grocery stores and supermarkets.
- (3) Gasoline service stations.
- (4) Car washes.
- (5) Commercial lodging.
- (6) Restaurants and bars.
- (7) Outdoor sales areas, such as garden shops.
- (8) Automobile sales and service establishments, including used car lots.
- (9) Lumber and building supply yards.
- (10) Public, private, commercial and private group outdoor recreational facilities.
- (11) Bowling alleys.
- (12) Business and professional offices.
- (13) Other similar uses as defined in Section 16-2-20 of this Chapter.

(b) Permitted accessory uses. Any accessory use permitted in the Central Business CB District.

(c) Conditional uses. The following uses shall be permitted in this District upon approval of a conditional use grant as provided in Article VII of this Chapter:

- (1) Outdoor theater.
- (2) Nonaccessory signs.

(3) Oil and gas facilities pursuant to the conditional use regulations contained in Article VII of this Chapter pertaining thereto.

(4) On-site temporary mineral extraction as defined in Section 16-2-20 of this Chapter. (Prior code 16-301; Ord. 2005-1213 §1; Ord. 2006-1232 §15; Ord. 2006-1236 §1; Ord. 2008-1321 §§D, F)

Sec. 16-19-20. Lot size.

Minimum lot area shall be twenty thousand (20,000) square feet. (Prior code 16-302; Ord. 2006-1236 §1)

Sec. 16-19-30. Building location.

Minimum setback shall be twenty-five (25) feet. Minimum offset shall be twenty (20) feet unless a lesser offset distance is approved by the Planning Commission. With the exception of approved common or directly adjoining walls in accordance with Paragraph 16-11-50(b)(1) of this Chapter, the minimum offset distance shall not be less than ten (10) feet. (Prior code 16-303; Ord. 2005-1213 §2; Ord. 2006-1236 §1)

Sec. 16-19-40. Off-street parking requirements.

See the provisions of Section 16-10-30. (Prior code 16-304; Ord. 2006-1236 §1)

Sec. 16-19-50. Off-street loading requirements.

See the provisions of Section 16-10-40. (Prior code 16-305; Ord. 2006-1236 §1)

ARTICLE XX

Heavy Industrial I-H District

Sec. 16-20-10. Intent.

The Heavy Industrial I-H District is intended to identify and preserve land suitable for heavy industrial use and to provide for the orderly grouping of such uses in an appropriate setting. The further intent of this District to establish such regulatory controls as are deemed necessary to promote a harmonious relationship between heavy industrial uses and the community at large. (Prior code 16-321; Ord. 2006-1236 §1)

Sec. 16-20-20. Use regulations.

(a) All uses in this zone are conditioned upon the Town's approval of appropriate plans pursuant to the Site Plan Regulations of the Town as set forth elsewhere in this Code. In addition to the site plan requirement, proposed users shall submit evidence satisfactory to the Town that the proposed use will comply in all respects with the Performance Standards for Industrial Zones as set forth in this Chapter. The proposed user shall be responsible for all costs incurred by the Town in the evaluation and analysis of the evidence presented by the user of compliance with the Performance Standards for

Industrial Zones. This shall include, but shall not be limited to, costs incurred for services rendered by the Weld County Health Department or similar public or private agencies.

(b) Uses by right. Subject to the requirements set forth in Subsection (a) above, the following uses shall be permitted in the Heavy Industrial I-H District:

- (1) Open or surface mining operations for the development or extraction of solid materials.
- (2) Petrochemical industries.
- (3) Rubber refining industries.
- (4) Primary metal and related industries.
- (5) Trucking operations.
- (6) Slaughter houses.
- (7) Foundries.
- (8) Automobile, farm equipment and machinery sales.
- (9) Any use otherwise permitted in Limited Industrial I-L Zoning District.
- (10) Any use otherwise permitted in a General Commercial GC Zoning District.
- (11) Other similar uses as defined in Section 16-2-20 of this Chapter.

(c) Accessory uses. Assuming approval of designated uses by right as aforesaid, the following shall be permitted accessory uses in the Heavy Industrial I-H District:

- (1) Office, storage, power supply and other such uses normally auxiliary to the principal industrial use.
- (2) Parking and service areas.
- (3) Accessory signs as otherwise regulated by this Code or state laws.
- (4) Residential quarters for guards or caretakers.
- (5) Any other structure or use clearly incidental to and commonly associated with the operation of a principal use permitted by right, conditioned upon the approval of such accessory use pursuant to the site plan requirements set forth herein.

(d) Conditional uses.

- (1) Kennels.

(2) Oil and gas facilities pursuant to the conditional use regulations contained in Article VII of this Chapter pertaining thereto. (Prior code 16-322; Ord. 2006-1232 §16; Ord. 2006-1236 §1; Ord. 2008-1321 §§E, F)

Sec. 16-20-30. Lot size.

Minimum lot area shall be sixty thousand (60,000) square feet. (Prior code 16-323; Ord. 2006-1236 §1)

Sec. 16-20-40. Building location.

Except as otherwise specified in this Section, minimum setback shall be thirty (30) feet, and minimum offset shall be twenty (20) feet. Should a Heavy Industrial I-H District adjoin any residential district, all structures located in the Heavy Industrial I-H District shall be set back or offset a minimum distance of two hundred (200) feet and shall be permanently screened with a planting screen at least six (6) feet wide and fifteen (15) feet high. (Prior code 16-324; Ord. 2006-1236 §1)

Sec. 16-20-50. Off-street parking requirements.

Uses in the Heavy Industrial I-H District shall comply in all respects with the off-street parking requirements as set forth in Section 16-10-30 of this Chapter. (Prior code 16-325; Ord. 2006-1236 §1)

Sec. 16-20-60. Off-street loading requirements.

Uses in the Heavy Industrial I-H District shall comply in all respects with the off-street loading requirements as set forth in Section 16-10-40 of this Chapter. (Prior code 16-326; Ord. 2006-1236 §1)

Sec. 16-20-70. Landscaping requirements.

Appropriate landscaping shall be required in accordance with this Code and any regulations adopted by the Town. All landscaping plans shall be submitted as part of the site plan herein required and shall be subject to approval by the Town. (Prior code 16-327; Ord. 2006-1236 §1)

ARTICLE XXI

Limited Industrial I-L District

Sec. 16-21-10. Intent.

The Limited Industrial I-L District is intended to identify and preserve land suitable for limited industrial use and to provide for the orderly grouping of such uses in an appropriate setting. The intent of this District is to establish such regulatory controls as are deemed necessary to promote a harmonious relationship between limited industrial uses and the community at large. (Prior code 16-341; Ord. 2006-1236 §1)

Sec. 16-21-20. Use regulations.

(a) All uses in this zone are conditioned upon the Town's approval of appropriate plans pursuant to the Site Plan Regulations of the Town as set forth elsewhere in this Code. In addition to the site plan requirement, proposed users shall submit evidence satisfactory to the Town that the proposed use will comply in all respects with the Performance Standards for Industrial Zones as set forth in this Chapter.

(b) Uses by right. Subject to the requirements set forth in Subsection (a) above, the following uses shall be permitted in the Limited Industrial I-L District:

- (1) Manufacture of electronic instruments.
- (2) Preparation of food products.
- (3) Pharmaceutical manufacturing.
- (4) Research and scientific laboratories.
- (5) Manufacturing, assembly, processing and fabrication plants.
- (6) Transportation terminals.
- (7) General warehousing.
- (8) Enclosed storage facilities.
- (9) Printing and publishing houses.
- (10) Automobile body repair shops.
- (11) Plumbing and heating contractors.
- (12) Painting and decorating contractors.
- (13) Electrical contractors.
- (14) Glazing, insulation, carpentry and masonry contractors.
- (15) Public utility offices and installations.
- (16) Any use otherwise permitted in the General Commercial GC District.
- (17) Other similar uses as defined in Section 16-2-20 of this Chapter.

(c) Accessory uses. Assuming approval of designated uses by right as aforesaid, the following shall be permitted accessory uses in the Limited Industrial I-L District:

(1) Office, storage, power supply and other such uses normally auxiliary to the principal industrial use.

(2) Parking and service areas.

(3) Accessory signs as otherwise regulated by this Code or the laws of the State.

(4) Residential quarters for guards and caretakers.

(5) Any other structure or use clearly incidental to and commonly associated with the operation of a principal use permitted by right, conditioned upon the approval of such accessory use pursuant to the site plan requirements set forth herein.

(d) Conditional uses:

(1) Oil and gas facilities pursuant to the conditional use regulations contained in Article VII of this Chapter pertaining thereto.

(2) On-site temporary mineral extraction as defined in Section 16-2-20 of this Chapter. (Prior code 16-342; Ord. 2006-1232 §17; Ord. 2006-1236 §1; Ord. 2008-1321 §§D, F)

Sec. 16-21-30. Lot size.

Minimum lot area shall be the equivalent of two (2) times the total floor area of constructed improvements, but in no event shall such area be less than twenty thousand (20,000) square feet. (Prior code 16-343; Ord. 2006-1236 §1)

Sec. 16-21-40. Building location.

Except as otherwise specified in this Section, minimum setback shall be thirty (30) feet and minimum offset shall be twenty (20) feet. Should a Limited Industrial I-L Zoning District adjoin any residential zoning district or residential property, all of the following requirements shall be met for all such lots which adjoin any such residential zoning district or residential property:

(1) Any property line abutting a residential zoning district or residential property shall maintain a minimum setback and offset distance of thirty (30) feet, with said thirty-foot setback or offset distance being used for a substantial landscape buffer that adequately protects the adjoining residential properties from any negative impacts associated with the limited industrial use;

(2) The maximum height of any structure located within two hundred (200) feet of the respective residential zoning district boundary shall not exceed either the maximum height permitted for structures in the adjoining residential zoning district or, where applicable, the maximum height permitted for structures in any applicable Corridor Plan of the Town, whichever height is less;

(3) Gravel surfaces shall be allowed, subject to all of the following conditions being met: a) no such surface shall be permitted to be used in lieu of the paving requirements for parking and circulation areas on the site or within the subdivision which are currently required by this Code; b) no such surface shall be permitted to be any closer than two hundred (200) feet from the nearest

residential zoning district boundary; c) in accordance with all county health department regulations and approvals, all such surfaces will be required to be treated on an ongoing basis for dust control and abatement; and d) decorative rocks and stones that are fully contained within landscaping islands and that are permitted by the Town's landscaping requirements will not be defined as gravel surfaces;

(4) With the exception of vehicles entering or exiting through open overhead doorways and the respective overhead doors being closed immediately following each such event of ingress and egress, all overhead doors which face the respective residential zoning district shall remain closed at all other times;

(5) To allow for landscape buffers and tree lawns, all paved areas for parking lots, interior drives which connect parking lots and any paved storage areas shall be set back a minimum distance of thirty-five (35) feet from any property lines which abut state highways, and shall be set back a minimum of thirty (30) feet from all other property lines;

(6) As part of the landscaping requirements of Section 16-21-70 of this Article, the applicant shall provide a detailed drawing of a landscaping buffer strip, which shall include all associated specifications, that will be planted along the entire length of any property line which adjoins any residential zoning district. Said landscaping buffer strip shall be approved by the Town as part of the site plan review process and shall also: a) be planted entirely within the property lines of the limited industrial zoning district lot; b) be required to be planted regardless of any fencing that may be installed on the lot; and c) be supplemental to, and not in lieu of, all other landscaping requirements associated with the limited industrial zoning district lot; and

(7) Any such use located on any such limited industrial zoning district lot shall also be required to adhere to all of the industrial performance standards relative to glare and heat, vibration, light, smoke emissions, odor emissions and particle emissions as outlined in Section 16-10-60 of this Chapter. (Prior code 16-344; Ord. 2006-1236 §1)

Sec. 16-21-50. Off-street parking requirements.

Uses in the Limited Industrial I-L District shall comply in all respects with the off-street parking requirements as set forth in Section 16-10-30 of this Chapter. (Prior code 16-345; Ord. 2006-1236 §1)

Sec. 16-21-60. Off-street loading requirements.

Uses in the Limited Industrial I-L District shall comply in all respects with the off-street loading requirements as set forth in Section 16-10-40 of this Chapter. (Prior code 16-346; Ord. 2006-1236 §1)

Sec. 16-21-70. Landscaping requirements.

Appropriate landscaping shall be required in accordance with this Code and any regulations adopted by the Town. All landscaping plans shall be submitted as part of the site plan herein required and shall be subject to approval by the Town. (Prior code 16-347; Ord. 2006-1236 §1)

ARTICLE XXII

Recreation and Open Space O District

Sec. 16-22-10. Intent.

The Recreation and Open Space O District is intended to preserve land for recreational uses and public and private open space. Residential development of such areas would be subject to rezoning. However, residential subdivisions could encompass open space areas if the open space within such developments was planned to overlay the previous Recreation and Open Space O District area. (Prior code 16-361; Ord. 2006-1236 §1)

Sec. 16-22-20. Use regulations.

(a) Principal uses permitted by right.

- (1) Public parks and recreation areas.
- (2) Public schools.
- (3) Public, private, commercial and private group outdoor recreational facilities.
- (4) Other similar uses as defined in Section 16-2-20 of this Chapter.

(b) Permitted accessory uses.

(1) Service buildings and facilities normally incidental to the use of a public park and recreation area.

(2) Any other structure or use clearly incidental to and commonly associated with the operation of a principal use permitted by right.

(c) Conditional uses. The following uses shall be permitted in this District upon approval of a conditional use grant as provided in Article VII of this Chapter:

- (1) Public administrative offices and services buildings.
- (2) Public utility installations, including transmission lines and substations.
- (3) Oil and gas facilities pursuant to the conditional use regulations contained in Article VII of this Chapter pertaining thereto.
- (4) On-site temporary mineral extraction as defined in Section 16-2-20 of this Chapter. (Prior code 16-362; Ord. 2006-1232 §18; Ord. 2006-1236 §1; Ord. 2008-1321 §§D, F)

Sec. 16-22-30. Lot size.

Minimum lot area shall be one hundred twenty thousand (120,000) square feet. (Prior code 16-363; Ord. 2006-1236 §1)

Sec. 16-22-40. Off-street parking requirements.

See the provisions of Section 16-10-30. (Prior code 16-364; Ord. 2006-1236 §1)

ARTICLE XXIII

Planned Unit Development Regulations

Sec. 16-23-10. Intent.

(a) The planned unit development (hereinafter called PUD) provisions contained herein are intended to provide for the planning and development of substantial tracts of land, suitable in location and character for the uses proposed, as unified and integrated entities in accordance with detailed development plans.

(b) Such planned unit developments are to be permitted as amendments to the Official Zoning District Map upon approval of a specific development proposal which complies with the requirements and standards set forth in this Chapter.

(c) The regulations contained herein, which are based on sound comprehensive planning principles, are adapted to unified planning and development and are intended to accomplish the purposes of public control to the same extent as do zoning and other regulations applicable to conventional lot-by-lot development, while simplifying, integrating and coordinating land development controls and providing necessary flexibility to encourage design innovation and creative community development.

(d) Specifically, the PUD provisions are intended to further the following objectives:

(1) To provide flexibility in land planning and development, resulting in amenable relationships between buildings and ancillary uses and permitting more intensive use of land where well-related open space and recreational facilities are integrated into the overall design.

(2) To encourage unity and diversity in land development, resulting in convenient and harmonious groupings of uses, structures and common facilities, varied type, design and layout of housing and other buildings and appropriate relationships of open spaces to intended uses and structures.

(3) To encourage unified and planned development of a site without customary subdivision into single lots and without specific application of the district regulations as provided for individual lots, subject to the regulations set forth herein.

(4) To provide for and encourage the preservation and enhancement of desirable natural landscape and other features unique to a development site.

(5) To provide reasonable standards and criteria by which the specific proposals for a PUD can be evaluated.

(6) To provide a procedure which can relate the design and layout of unified residential, commercial or industrial developments to the particular site and demand for such development in a manner consistent with the preservation of property values within established residential areas. (Prior code 16-381; Ord. 2006-1236 §1)

Sec. 16-23-20. General location and planning requirements.

(a) Relation to major transportation system. Planned development districts shall be so located with respect to major streets and highways or other transportation facilities as to be directly accessible without creating traffic on minor streets in residential areas outside such districts.

(b) Relation to public utilities and community facilities. Planned development districts shall be so located in relation to public utilities and community facilities and services, either existing or to be available by the time development reaches the stage where they will be required, that such facilities can be provided at reasonable public cost.

(c) Relation to general pattern of urban development. Planned development districts shall be planned and located in general compliance with the Comprehensive Development Plan and shall relate the major elements of the urban pattern, including housing, commercial facilities and principal places of employment, by physical proximity of major streets so as to provide for the convenience and amenity of residents of the community and reduce general traffic congestion by a close relationship between origins and destinations. (Prior code 16-382; Ord. 2006-1236 §1)

Sec. 16-23-30. Physical character of site.

The site shall be suitable for the development proposed without hazards to structures, occupants or any property from probability of flooding on the site or on adjacent lands, erosion or deposition of eroded material on adjacent lands, subsidence of the soil or other dangerous conditions. Soil, groundwater level, drainage and topography shall be appropriate to both kind and pattern of use intended. (Prior code 16-383; Ord. 2006-1236 §1)

Sec. 16-23-40. Site planning; external relationships.

(a) Vehicular access. Entrances and exits for vehicles shall be designed to encourage smooth traffic flow with minimum hazards to passing traffic or to traffic entering or leaving the development. Merging or turnout lanes may be required where anticipated traffic flows from or to the planned development indicate the need for such lanes. In no case shall streets within a planned development district connect to streets outside the district in such a way as to encourage use of any minor streets for through traffic.

(b) Perimeter setback and screening. If topographical or other barriers do not provide adequate buffer between the planned development and adjacent uses, structures on the perimeter of the planned development shall be set back a distance equal to the minimum setback requirement of the adjoining district or shall be permanently screened by fences, walls or plantings as required to sufficiently protect the privacy and amenity of adjacent uses, to protect the planned development from potentially adverse external influences, such as a major street or highway and as necessary to make transition from adjoining districts. (Prior code 16-384; Ord. 2006-1236 §1)

Sec. 16-23-50. Modifications of subdivision regulations.

(a) The improvements required under Article X of Chapter 17, including streets, storm drainage, sanitary sewerage and potable water systems, shall be provided in each type of planned unit development.

(b) The requirements and standards for the construction of streets and utilities set forth in the subdivision regulations shall be subject to modification where the plan and program for a PUD make adequate provision for vehicular and pedestrian access and circulation, recreation, utility and service needs of the tract when fully developed and occupied and which also provide such covenants, easements or other legal documents and provisions as will assume conformity to and successful implementation of the plan. (Prior code 16-385; Ord. 2006-1236 §1)

ARTICLE XXIV

Residential Mixed Use Development Regulations

Sec. 16-24-10. Intent.

The intent of the residential mixed use zoning district (hereinafter referred to as the "RMU Zoning District") is to (1) provide for the development of mixed land uses in areas designated as such on the Land Use Plan Map of the Windsor Comprehensive Plan; (2) encourage the creation of a desirable mix of residential dwelling classifications which are compatible with, complimentary to and located on the same parcel as common recreational uses, open spaces and commercial and light industrial uses which are similar to those outlined below in Section 16-24-30; (3) provide for improved vehicular and pedestrian traffic circulation and access; and (4) facilitate land use arrangements which preserve desirable natural landscape features. (Prior code 16-401; Ord. 2006-1236 §1)

Sec. 16-24-20. Where permitted.

Subject to the general requirements set forth in this Code as well as the specific requirements set forth herein, an RMU zoning district may be established either in any area designated as such on the Land Use Plan Map of the Windsor Comprehensive Plan or in any area zoned or rezoned as such by the Town Board. (Prior code 16-402; Ord. 2006-1236 §1)

Sec. 16-24-30. Use regulations.

The following uses shall be permitted in the RMU zoning district:

(1) Any principal, accessory or conditional use permitted in any residential district, provided that such use, as proposed to be located, scaled and operated, meets the intent of the RMU zoning district as defined in Section 16-24-10 above;

(2) Recreational and open space uses;

(3) Office buildings and facilities required for the operation, administration and maintenance of the RMU development;

(4) Fully enclosed light industrial uses such as research and development facilities; light manufacturing and assembly facilities; electronics manufacturing facilities; printing and publishing firms; public and semipublic utility offices and installations, etc.; and

(5) Convenience centers, including retail stores and customer service establishments, subject to the following conditions:

a. Convenience centers shall be designed to serve as integral parts of the development plans of RMU zoning districts, with the principal functions of convenience centers being to serve the residents of the development;

b. By reason of their location, construction, method of operation, signs, lighting, parking arrangements or other characteristics, convenience centers shall not cause adverse effects to the residential uses which are located either within or adjacent to the RMU zoning district, and, likewise, the convenience centers shall not create traffic congestion problems or traffic hazards for either vehicular traffic or pedestrians; and

c. Convenience stores and shops may be located within multiple-use buildings or a multiple-use building complex which contains residential dwelling units, administrative offices, recreational uses or common facilities which are designed to be used primarily by the residents of the development. (Prior code 16-403; Ord. 2006-1236 §1)

Sec. 16-24-40. Lot, area and height requirements.

The lot, area and height requirements in the RMU zoning district shall be as follows:

(1) Residential uses. All residential uses shall meet all of the density, setback and offset requirements set forth in this Code for each respective type of dwelling unit. For example, all single-family dwelling units in an RMU zoning district shall have a minimum lot size of six thousand (6,000) square feet, a minimum setback requirement of twenty (20) feet and a minimum offset requirement of five (5) feet. Likewise, all other residential uses shall meet all of these similar types of requirements for the respective types of dwelling units.

(2) Commercial and light industrial uses. All commercial and light industrial uses in an RMU zoning district shall be required to be set back a minimum of twenty-five (25) feet, and shall meet all of the offset requirements set forth in this Code for each respective type of commercial or light industrial land use. The density requirements for all commercial and light industrial uses shall meet all of the building coverage requirements outlined in Paragraph 16-24-60(a)(1) of this Chapter.

(3) Maximum lot area for commercial and light industrial uses. No more than twenty-five percent (25%) of the total lot area in an RMU zoning district may be used for any commercial and/or light industrial uses.

(4) Maximum height requirements. Except as otherwise provided for in any of the corridor plans, etc., of the Town, the maximum height of any building in an RMU zoning district shall not exceed thirty-five (35) feet in height. Additionally, ornamental architectural elements or appurtenances such as clock towers or cupolas which are an integral part of any principal structure shall not exceed forty-five (45) feet in height.

(5) Minimum parcel size. The minimum parcel size required for an RMU development site shall be any size parcel which will accommodate all of the density, setback, offset, open space and building coverage requirements outlined herein for residential mixed use developments. (Prior code 16-404; Ord. 2006-1236 §1)

Sec. 16-24-50. Site planning; internal relationships.

(a) Vehicular access.

(1) The design and layout of the street system within an RMU zoning district shall provide for an efficient, cost-effective and safe transportation system that will meet the Town's needs for convenient movement of people, goods and services.

(2) Single-family detached and attached dwelling units may have direct access from accessory off-street parking areas to a street. Vehicular access to off-street parking and loading areas accessory to multiple-family dwelling units shall be so designed, limited, combined and located so as to minimize traffic congestion on streets and promote safe and efficient traffic flow without excessive interruptions from driveways and entrances to parking areas.

(b) Pedestrian access.

(1) Pedestrian walkways shall be provided and shall form a logical, safe and convenient system for pedestrian access to all dwelling units and principal pedestrian destinations, such as churches and schools. Intersections of pedestrian walkways and street intersections shall be held to a minimum, and such walkways shall be otherwise located and designed so as to minimize contact with vehicular traffic.

(2) A building or lot shall not be required to have frontage on a public street, provided that every structure containing dwelling units which does not have frontage on a public street shall have access to a pedestrian walkway, court or other area designated as and guaranteed for general public use.

(3) Trails. See Paragraph 16-24-60(b)(4) below.

(c) Off-street parking and loading.

(1) The off-street parking requirements in the RMU zoning district shall be in compliance with the provisions outlined in Section 16-10-30 herein.

(2) The off-street loading area requirements in the RMU zoning district shall be in compliance with the provisions outlined in Section 16-10-40.

(d) Yards, courts and open spaces between buildings. Yards, courts and open spaces between buildings shall be designed and arranged in such a manner so as to ensure that all of the following requirements are met: adequate privacy and ventilation; access to and around buildings, off-street parking areas and loading areas; adequate space for landscaping; adequate spacing between buildings for security and visibility; and adequate space for recreational purposes and other functions being provided in the residential areas of the development site. (Prior code 16-405; Ord. 2006-1236 §1)

Sec. 16-24-60. Open space and landscaping.

(a) Open space requirement. The minimum livable open space and landscaping requirements in the RMU zoning district shall be as follows:

(1) The total building coverage for all principal and accessory uses on any given RMU development site shall not exceed forty percent (40%) of the site area and shall preferably cover no more than thirty-three percent (33%) of the site area.

(2) In order to allow for landscape buffers in all multifamily, commercial and light industrial uses, the minimum setback distances for all paving in an RMU zoning district shall be as follows: twenty-five (25) feet from arterial streets; twenty (20) feet from major collector streets; fifteen (15) feet from minor collector streets; ten (10) feet from local streets; and five (5) feet from all other property lines.

(3) Open landscape areas on any given RMU development site shall be at least twenty percent (20%) of the site area. In appropriate circumstances, however, the open landscape area may be reduced to a minimum of fifteen percent (15%) of the site area if the landscaping is of adequate density.

(b) Use and location.

(1) Open space required under this provision shall be located in a manner that will be convenient for use by the residents of the RMU development, with the location and purpose of such open space being consistent with both the character of the site and the location and use of other established open spaces in adjoining neighborhoods.

(2) Access to open space. Insofar as is reasonably practical, common livable open spaces for pedestrian use shall be located so as to be accessible from dwelling units with a minimum of street crossings. Pedestrian walkways and open spaces shall form an interconnected system, serving also as accessways to major pedestrian destinations, such as schools. The open space and walkway system shall be located in block interiors, and, except for all of the standards and requirements for parks which are outlined in the Windsor Parks and Recreation Master Plan and are referred to below in Paragraph (3), said open space and walkways shall be oriented away from exposure to automobile traffic.

(3) Parks. Upon review and recommendation by the Windsor Parks and Recreation Advisory Board, any development within an RMU zoning district shall provide for parks and/or park land dedications in accordance with all of the standards and requirements outlined in the Windsor Parks and Recreation Master Plan.

(4) Trails. Pedestrian and bicycle trails shall be: (a) encouraged in all RMU zoning districts, and (b) required in any RMU zoning district in which trails are depicted in the Windsor Parks and Recreation Master Plan.

(5) Legal maintenance. Provision shall be made through covenants, easements, homeowners' associations or other means for the continuing maintenance of any common open spaces and

private pedestrian ways not intended to be dedicated to the Town. (Prior code 16-406; Ord. 2006-1236 §1)

Sec. 16-24-70. Submittal requirements.

In addition to all other subdivision and site planning requirements required by the Town, including, but not limited to, all corridor site planning requirements, the developer shall also be responsible for submitting all relevant plats, plans, documentation, calculations, etc., to address all of the development requirements of the RMU zoning district outlined in Sections 16-24-10 through 16-24-60 herein. (Prior code 16-407; Ord. 2006-1236 §1)

ARTICLE XXV

Planned Mobile Home Park Development Regulations

Sec. 16-25-10. Intent.

The planned mobile home park development (hereinafter called "PD-MHP") provision is intended to encourage the unified planning and development of permanent mobile home parks providing all facilities and amenities appropriate to the need of residents. It is the further intent to provide for the orderly grouping of mobile homes, accessory uses and common facilities within the park and to provide such regulatory controls as will assure a harmonious relationship between the mobile home park and adjoining residential uses. (Prior code 16-421; Ord. 2006-1236 §1)

Sec. 16-25-20. Where permitted.

Subject to the general requirements set forth in Article XXIII of this Chapter and additional requirements set forth herein, a PD-MHP may be established in any area indicated as a single-family residential area on the Proposed Land Use Plan. (Prior code 16-422; Ord. 2006-1236 §1)

Sec. 16-25-30. Location restrictions.

(a) Any mobile home parked on any lot, parcel or tract in the Town but not included within an approved PD-MHP shall, after a period of forty-five (45) days, have the wheels removed and be placed on a suitable permanent foundation and be subject to all requirements of the district of its location.

(b) A mobile home may be parked within a PD-MHP, provided that within nine (9) months from the initial date of locating the mobile home, the wheels thereof shall be removed and the mobile home shall be placed on a suitable permanent foundation and shall be subject to all ordinances affecting real property improvements thereto. (Prior code 16-423; Ord. 2006-1236 §1)

Sec. 16-25-40. Use regulations.

The following uses will be permitted in the PD-MHP District.

- (1) Mobile home dwelling units as defined in Section 16-2-20 of this Chapter.

(2) Single-family dwellings for occupancy by the mobile home park owner, manager or caretaker.

(3) Common uses and uses accessory to mobile home dwelling units, including recreation facilities for the use of residents of the park only, management offices, laundry rooms, tenant storage lockers, parking areas and garbage and trash disposal facilities. (Prior code 16-424; Ord. 2006-1236 §1)

Sec. 16-25-50. Minimum area.

The minimum required land area for a PD-MHP shall be five (5) contiguous acres. (Prior code 16-425; Ord. 2006-1236 §1)

Sec. 16-25-60. Site planning; internal relationships.

(a) General requirements. The site, including mobile home stands, structures and all site improvements, shall be harmoniously and effectively organized in relation to topography, the shape of the tract and the shape, size and position of structures, with consideration for usability of space, appearance and livability. An informal park type of arrangement, with grouping or clustering of mobile home dwelling units and which conforms to the terrain and natural landscape features, is preferable to a rigid, stylized pattern.

(b) Streets and accessways.

(1) Paved streets at least twenty-two (22) feet in width shall extend from the existing street system as necessary to provide convenient access to each mobile home stand and to common facilities and uses. Private streets shall be permitted in a PD-MHP.

(2) Convenient access shall be provided to each mobile home stand by an accessway at least fifteen (15) feet in width. Such accessway shall be reserved for maneuvering mobile homes into position and shall be kept free of trees and other immovable obstructions, but need not be paved. Temporary planks or steel mats may be used during the placement of a mobile home.

(c) Pedestrian access.

(1) Pedestrian walkways at least two (2) feet in width and having an all-weather surface shall be provided for access to each mobile home from a paved street or from a paved driveway or parking area connected to a public street.

(2) Common walkways at least three (3) feet in width and having an all-weather surface shall be provided for access to common facilities and uses from each mobile home group or cluster. Walkways through the interiors of blocks are preferable to walkways adjacent to streets.

(d) Parking.

(1) Parking areas shall be located off-street and shall have an all weather surface. One (1) parking space may be located on each lot or on the space immediately adjacent to the mobile home stand, and the remainder shall be located in parking bays adjacent to the street or adjacent to a vehicular accessway connected to a street.

(2) Parking spaces shall be provided at the rate of at least one (1) car space for each mobile home, plus one (1) additional car space for each four (4) mobile home lots or spaces to provide for guest parking and delivery and service vehicles.

(e) Mobile home spaces and stands.

(1) Each mobile home shall be contained within a space or lot having a minimum area of three thousand (3,000) square feet for single-wide mobile homes and a minimum area of four thousand (4,000) square feet for double-wide or expandable mobile homes.

(2) The maximum density of mobile homes within the PD-MHP shall be eight (8) single-wide mobile homes per acre and six (6) double-wide mobile homes per acre.

(3) Within each space or lot allocated to a mobile home, there shall be provided a mobile home stand for the purposes of satisfactory placement of the mobile home and retention of the mobile home in the allocated space in satisfactory relationship to its surroundings.

(4) Mobile home stands shall have minimum dimensions equal to those of the mobile home to be placed on them.

(5) Mobile home stands shall be constructed of appropriate material on properly graded and compacted areas so as to be durable for the support of maximum anticipated loads under all weather conditions.

(6) The space between the lower edge of the mobile home unit and the mobile home stand shall be completely enclosed with suitable and uniform material.

(f) Distances between stands, structures and uses.

(1) The minimum distance from the line or corner of any mobile home stand to a street pavement, common parking bay or common walk shall be eight (8) feet.

(2) The minimum distance from the line or corner of any mobile home stand to a boundary line of the PD-MHP shall be twenty (20) feet.

(3) The minimum distance from the line or corner of any mobile home stand to any permanent building or structure for common use shall be twenty (20) feet.

(4) Permanent buildings and structures for common facilities and dwelling units other than mobile ones shall be set back and offset from the PD-MHP boundaries a minimum distance of twenty (20) feet.

(g) Common facilities and uses.

(1) Not less than eight percent (8%) of the total land area of the PD-MHP shall be devoted to space for common facilities and uses, such as a laundry, swimming pool or recreation and play areas.

(2) Laundry, recreation rooms, management offices and other common facilities may be consolidated in a single building if the single location will adequately serve all mobile home units.

(h) Storage.

(1) Tenant storage facilities shall be provided for materials which cannot be conveniently stored in a mobile home. A minimum of thirty-two (32) square feet shall be provided for each mobile home unit.

(2) Storage facilities may be located adjacent to the mobile homes or in common compounds within a reasonable distance from the mobile homes. Storage facilities shall be designed in a manner that will enhance the park and shall be constructed of suitable weather-resistant materials appropriate under the use and maintenance contemplated.

(i) Landscaping.

(1) Lawn and ground cover, which may include aggregates, shall be provided on all common ground areas except those undisturbed areas, such as watercourses, left in their natural state.

(2) Screen planting and/or fencing at least six (6) feet in height shall be provided where necessary for screening purposes, such as around the PD-MHP boundary lines, refuse collection points, common recreation areas and playgrounds and at such other points as necessary for screening of objectionable views. (Prior Code 16-426; Ord. 2006-1236 §1)

ARTICLE XXVI

Vested Property Rights

Sec. 16-26-10. Purpose.

The purpose of this Article is to provide the procedures necessary to implement Article 68 of Title 24, C.R.S. (Prior code 16-441; Ord. 2006-1236 §1)

Sec. 16-26-20. Definitions.

As used in this Article, the following terms shall have the meanings ascribed to each of them below except where the context of this Article clearly indicates a different meaning.

Site specific development plan means, for those developments for which the landowner wishes the creation of vested rights:

a. The approval by the Town of the project at a hearing conducted at the request of the landowner, which hearing follows the successful approval of the development at all other required stages of the development review process; or

b. The conditional approval by the Town of the project at a hearing conducted at the request of the landowner, which hearing follows approval of the development at all other required stages of the development review process, except for the submission of: a) a final architectural

plan; b) public utility filings; and/or c) final construction drawings and related documents specifying materials and methods for construction of improvements. Approval of such a site specific development plan shall be expressly conditioned upon the approval of all further submissions ordinarily required in the development review process. Such conditional approval shall result in a vested property right; however, the landowner's or developer's failure to abide by such terms and conditions shall result in a forfeiture of the vested property rights.

Vested property right means the right to undertake and complete the development and use of property under the terms and conditions of a site specific development plan. (Prior code 16-442; Ord. 2006-1236 §1)

Sec. 16-26-30. Notice of hearing.

No site specific development plan shall be approved until after a public hearing, preceded by written notice of such hearing. Such notice may, at the Town's option, be combined with the notice required by state law for zoning regulations or with any other required notice. At such hearing, interested persons shall have an opportunity to be heard. (Prior code 16-443; Ord. 2006-1236 §1)

Sec. 16-26-40. Approval - effective date - amendments.

A site specific development plan shall be deemed approved upon the effective date of the Town Board approval action relating thereto, as set forth at Section 16-26-20. In the event amendments to a site specific development are proposed and approved, the effective date of such amendments for purposes of duration of a vested property right shall be the date of the approval of the original site specific development plan, unless the Town Board specifically finds to the contrary and incorporates such findings in its approval of the amendment. If a site specific development plan is conditionally approved, the effective date of the site specific development plan shall be the date of the conditional approval action by the Town Board, unless the vested property rights are thereafter forfeited by the landowner's or developer's failure to abide by the terms and conditions of the approval of the site specific development plan. (Prior code 16-444; Ord. 2004-1193 §1; Ord. 2006-1236 §1)

Sec. 16-26-50. Notice of approval.

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

"Approval of this plan may create a vested property right pursuant to Article 68 of Title 24, C.R.S."

(b) Failure to contain this statement shall invalidate the creation of the vested property right. In addition, a notice describing generally the type and intensity of use approved, the specific parcel or parcel of property affected and stating that a vested property right has been created shall be published once, but not more than fourteen (14) days after approval of the site specific development plan, in a newspaper of general circulation with the Town. (Prior code 16-445; Ord. 2006-1236 §1)

Sec. 16-26-60. Payment of costs.

In addition to any and all other fees and charges imposed by this Code, the applicant for approval of a site specific development plan shall pay all costs occasioned to the Town as a result of the site specific development plan review, including publication of notices, public hearing and review costs. (Prior code 16-446; Ord. 2006-1236 §1)

Sec. 16-26-70. Other provisions unaffected.

Approval of a site specific development plan shall not constitute an exemption from or waiver of any other provisions of this Code pertaining to the development and use of property. (Prior code 16-447; Ord. 2006-1236 §1)

Sec. 16-26-80. Limitations.

Nothing in this Chapter is intended to create any vested property right, but only to implement the provisions of Article 68 of Title 24, C.R.S. In the event of the repeal of said article or a judicial determination that said article is invalid or unconstitutional, this Chapter shall be deemed to be repealed and the provisions hereof no longer effective. (Prior code 16-448; Ord. 2006-1236 §1)

ARTICLE XXVII

Flood Damage Prevention

Sec. 16-27-10. Statutory authorization.

The Legislature of the State, pursuant to Title 31, C.R.S., has delegated the responsibility to local government units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. (Prior code 16-461; Ord. 2006-1236 §1)

Sec. 16-27-20. Findings of fact.

(a) The flood hazard areas of the Town are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(b) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss. (Prior code 16-462; Ord. 2006-1236 §1)

Sec. 16-27-30. Statement of purpose.

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

- (1) To protect human life and health;

- (2) To minimize expenditure of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- (6) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) To ensure that potential buyers are notified that property is in an area of special flood hazard; and
- (8) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions. (Prior code 16-463; Ord. 2006-1236 §1)

Sec. 16-27-40. Methods of reducing flood losses.

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

- (1) Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging and other development which may increase flood damage; and
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas. (16-464; Ord. 2006-1236 §1)

Sec. 16-27-50. Definitions.

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

Appeal means a request for a review of the Town Manager's interpretation of any provisions of this Article or a request for a variance.

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

Base flood means the flood having a one percent (1%) chance of being equaled or exceeded in any given year.

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

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

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

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

Flood Insurance Study means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Boundary-Floodway Map and the water surface elevation of the base flood.

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

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this Article.

Manufactured home means a structure as defined in Section 16-2-20 of this Chapter.

Mobile home means a structure as defined in Section 16-2-20 of this Chapter.

New construction means structures for which the *start of construction* commenced on or after the effective date of the original ordinance codified in this Article, and includes any subsequent improvements to such structures.

Planned mobile home park means a development as is defined in Section 16-2-20 of this Chapter.

Recreational vehicle means a vehicle which is (a) built on a single chassis; (b) four hundred (400) square feet or less when measured at the largest horizontal projections; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use

as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

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

Structure means a walled and roofed building or manufactured home that is principally above ground.

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

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

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

Variance means a grant of relief from the requirements of this Article which permits construction in a manner that would otherwise be prohibited by this Article. (Prior code 16-465; Ord. 2004-1193 §1; Ord. 2006-1236 §1)

Sec. 16-27-60. Applicability of Article.

This Article shall apply to all areas of special flood hazard within the jurisdiction of the Town. (Prior code 16-466; Ord. 2006-1236 §1)

Sec. 16-27-70. Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for the Town of Windsor" dated September 27, 1991, with an accompanying Flood Insurance Rate Map (FIRM), is hereby adopted by reference and declared to be a part of this Article. The Flood Insurance Study and FIRM are on file at the Town Hall, 301 Walnut Street, Windsor, Colorado 80550. (Prior code 16-467; Ord. 2006-1236 §1)

Sec. 16-27-80. Compliance.

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this Article and other applicable regulations. (Prior code 16-468; Ord. 2006-1236 §1)

Sec. 16-27-90. Abrogation and greater restrictions.

This Article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Article and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Prior code 16-469; Ord. 2006-1236 §1)

Sec. 16-27-100. Interpretation.

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

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes. (Prior code 16-470; Ord. 2006-1236 §1)

Sec. 16-27-110. Warning and disclaimer of liability.

The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This Article does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This Article shall not create liability on the part of the Town, any officer or employee thereof or the Federal Emergency Management Agency for any flood damages that result from reliance on this Article or any administrative decision lawfully made thereunder. (Prior code 16-471; Ord. 2006-1236 §1)

Sec. 16-27-120. Establishment of development permit.

- (a) A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 16-27-70.

(b) Application for a development permit shall be made on forms furnished by the Town Manager and may include, but shall not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing. Specifically, the following information is required:

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

(2) Elevation in relation to mean sea level to which any structure has been floodproofed;

(3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Paragraph 16-27-170(2); and

(4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. (Prior code 16-472; Ord. 2004-1193 §1; Ord. 2006-1236 §1)

Sec. 16-27-130. Designation of the Town Manager.

The Town Manager is hereby appointed to administer and implement this Article by granting or denying development permit applications in accordance with its provisions. (Prior code 16-473; Ord. 2004-1193 §1; Ord. 2006-1236 §1)

Sec. 16-27-140. Duties and responsibilities of the Town Manager.

Duties of the Town Manager shall include, but shall not be limited to:

(1) Permit review.

a. Review all development permits to determine that the permit requirements of this Article have been satisfied;

b. Review all development permits to determine that all necessary permits have been obtained from federal, state or local governmental agencies from which prior approval is required;

c. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Paragraph 16-27-180(1) are met.

(2) Use of other base flood data. When base flood elevation data has not been provided in accordance with Section 16-27-70, the Town Manager shall obtain, review and reasonably utilize any base flood elevation and floodway data available from any federal, state or other source as criteria for requiring that new construction, substantial improvements or other development in Zone A are administered in accordance with Section 16-27-170.

(3) Information to be obtained and maintained.

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

b. For all new or substantially improved floodproofed structures:

1. Verify and record the actual elevation (in relation to mean sea level) to which the structure has been floodproofed.

2. Maintain the floodproofing certifications required in Paragraph 16-27-120(3).

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

(4) Alteration of watercourses.

a. Notify adjacent communities and the State prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

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

(5) Interpretation of FIRM boundaries. Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 16-27-150. (Prior code 16-474; Ord. 2004-1193 §1; Ord. 2006-1236 §1)

Sec. 16-27-150. Variance procedure.

(a) Appeal Board.

(1) The Board of Adjustment, as established by the Town, shall hear and decide appeals and requests for variances from the requirements of this Article.

(2) The Board of Adjustment shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Town Manager in the enforcement or administration of this Article.

(3) Those aggrieved by the decision of the Board of Adjustment, or any taxpayer, may appeal such decisions to the County District Court, as provided by state law.

(4) In passing upon such appeals, the Board of Adjustment shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Article and:

a. The danger that materials may be swept onto other lands to the injury of others;

b. The danger to life and property due to flooding or erosion damage;

- c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;
- d. The importance of the services provided by the proposed facility to the community;
- e. The necessity to the facility of a waterfront location, where applicable;
- f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- g. The compatibility of the proposed use with the existing and anticipated development;
- h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

(5) Upon consideration of the facts of Paragraph (4) above and the purposes of this Article, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Article.

(6) The Town Manager shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency.

(b) Conditions for variances.

(1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (½) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that Subparagraphs a. through k. in Paragraph (a)(4) above have been fully considered. As the lot size increases beyond the one-half (½) acre, the technical justification required for issuing the variance increases.

(2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this Section.

(3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(5) Variances shall only be issued upon:

a. A showing of good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

c. A determination that the granting of a variance would not result in increased flood heights, additional threats to public safety, extraordinary public expenses, create nuisances, cause fraud on or victimization of the public as identified in Paragraph (a)(4) above, or conflict with existing local laws or ordinances.

(6) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk from the reduced lowest floor elevation. (Prior code 16-475; Ord. 2004-1193 §1; Ord. 2006-1236 §1)

Sec. 16-27-160. General standards.

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

(1) Anchoring.

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

b. All manufactured homes and mobile homes must be elevated and anchored to resist flotation, collapse or lateral movement and must be capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces. Specific requirements may be:

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

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

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

4. That any additions to the manufactured home or mobile home be similarly anchored.

(2) Construction materials and methods.

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

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

c. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(3) Utilities.

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

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

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

(4) Subdivision proposals.

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

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

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

d. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres (whichever is less). (Prior code 16-476; Ord. 2006-1236 §1)

Sec. 16-27-170. Specific standards.

In all areas of special flood hazard where base flood elevation data has been provided as set forth in Section 16-27-70 or 16-27-140, the following provisions are required:

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

(2) Nonresidential construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

a. Be floodproofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water.

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this Paragraph. Such certifications shall be provided to the official as set forth in Subparagraph 16-27-140(3)b.

(3) Manufactured homes and mobile homes.

a. Manufactured homes and mobile homes shall be anchored in accordance with Subparagraph 16-27-160(1)b.

b. All manufactured homes placed or substantially improved on a site shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

c. All mobile homes placed or substantially improved on a site shall be elevated so that either: (1) the lowest floor of the mobile home is at or above the base flood elevation; or (2) the mobile home chassis is supported by reinforced piers or other foundation elements that are no less than thirty-six (36) inches in height above grade. All mobile homes shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(4) Recreational vehicles. Recreational vehicles shall: (1) be on the site for fewer than one hundred eighty (180) consecutive days; (2) be fully licensed and ready for highway use; or (3) meet the permit requirements and elevation and anchoring requirements for resisting wind forces. (Prior code 16-477; Ord. 2006-1236 §1)

Sec. 16-27-180. Floodways.

Located within areas of special flood hazard established in Section 16-27-70 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions apply:

(1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) If Paragraph (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Sections 16-27-160 through 16-27-180. (Prior code 16-478; Ord. 2006-1236 §1)

ARTICLE XXVIII

Historic Preservation

Sec. 16-28-10. Purpose and intent.

It is the purpose and intent of this Article to provide for the protection and preservation of the Town's historic and cultural heritage through the designation of historic landmarks and districts. Such protection and preservation will enhance property values through the stabilization of historic neighborhoods and commercial areas and will create economic and financial benefits to the Town by making it attractive to tourists, visitors, homebuyers, businesses and developers. This Article is designed to create a method to draw a reasonable balance between private property rights and the public interest in preserving the Town's historic character by ensuring that the demolition of, moving of or alterations to properties of historic value shall be carefully considered for the impact to the property's contribution to the Town's heritage. (Ord. 2004-1194 §1; Ord. 2006-1236 §1)

Sec. 16-28-20. Commission established.

There is hereby created an Historic Preservation Commission, hereinafter referred to as the "Commission," which shall have the principal responsibility for matters of historic preservation as more fully set forth hereafter.

(1) Membership. The Commission shall consist of five (5) members providing a balanced, community-wide representation. The Commission shall be composed of both professional and lay members, all of whom have demonstrated interest, knowledge or training in fields closely related to historic preservation. Three (3) members shall be professionals or shall have extensive expertise in a preservation-related discipline, including but not limited to history, architecture, planning or archaeology. If the required number of professional members cannot be found to serve on the Commission, this requirement may be waived until the next vacancy occurs, at which time the Town shall again diligently seek professional representation. In the case of a lack of professional appointees, the Commission may, with Town Board approval, be allowed to retain professional consultants to advise the Commission as necessary to fulfill its duties. The Windsor-Severance Historical Society and the Windsor Chamber of Commerce are encouraged to submit nominees for Town Board consideration.

(2) Appointments and terms of office.

a. Members of the Commission shall be appointed by the Town Board and shall serve four-year staggered terms from the date of appointment. For the purpose of establishing staggered terms, initial appointments shall be two (2) years for one (1) member, three (3) years for two (2) members and four (4) years for two (2) members. Thereafter, all appointments shall be for four-year terms.

b. Members may continue to serve until their successors have been appointed. Members may be reappointed by the Town Board to serve successive terms without limitation. Appointment to fill vacancies on the Commission shall be made to fill out the remainder of the vacated term only. Members of the Commission shall serve at the pleasure of the Town Board and may be removed with or without cause by a majority vote of the Town Board.

(3) Residency. Pursuant to the provisions of the Home Rule Charter, all members of the Commission shall be residents of the Town, and if any member ceases to reside in the Town, his or her membership on the Commission shall immediately terminate.

(4) Exclusive service. No voting member of the Commission shall be eligible to serve on any other board or commission of the Town during that member's tenure on the Commission.

(5) Removal from Commission. In accordance with the provisions of the Home Rule Charter, Commission members may be removed by the Town Board for inefficiency, neglect of duty or malfeasance upon written notice and after public hearing.

(6) Vacancies. The Town Board shall make such appointments as necessary to fill the unexpired terms of vacancies that may occur on the Commission.

(7) Quorum and voting. A quorum for the Commission shall consist of a majority of the regular membership. A quorum is necessary for the Commission to hold a public hearing or take official actions, except that a public hearing may be continued by a majority vote of the members present when a quorum is not present. A tie vote shall be deemed a denial of the motion or recommended motion.

(8) Officers. At the Commission's first meeting of the calendar year, the Commission shall, by majority vote, elect one (1) of its members to serve as Chair to preside over the meetings of the Commission and one (1) member to serve as Vice-Chair. The members so designated shall serve in these capacities for one (1) year and may serve successive terms.

(9) Meetings. The Commission shall hold meetings at regularly scheduled intervals but shall meet a minimum four (4) times a year. Minutes shall be kept of all proceedings.

(10) Powers and duties. The Commission shall:

a. Adopt criteria for review of historic properties and for review of proposals to alter, demolish or move designated resources.

b. Review properties nominated for designation as an historical landmark and recommend that the Town Board designate by ordinance those properties qualifying for such designation.

c. Review and make decisions on any application for alterations to a designated historic landmark.

d. Review and make decisions on any application for moving or demolishing an historic landmark.

e. Maintain a list of significant historic properties in the Town.

f. Advise and assist owners of historical properties on physical and financial aspects of preservation, renovation, rehabilitation and rescue, including nomination to the National Register of Historic Places.

g. In conjunction with the Windsor-Severance Historical Society, develop and assist in public education programs, including but not limited to walking tours, brochures, a marker program for historic properties, lectures and conferences.

h. Conduct surveys of historic areas for the purpose of defining those of historic significance, and prioritizing the importance of identified historic areas and structures.

i. Advise the Planning Commission and Town Board on matters related to preserving the historic character of the Town.

j. In conjunction with other entities and private individuals, actively pursue financial assistance for preservation-related programs through grants and other means.

(11) Bylaws and rules. The Commission shall adopt bylaws and rules for the transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record. (Ord. 2004-1194 §2; Ord. 2005-1211 §1; Ord. 2006-1236 §1)

Sec. 16-28-30. Designation of landmarks and historic districts.

(a) Pursuant to the procedures hereinafter set forth, the Town Board may by ordinance make the following designations of landmarks and historic districts:

(1) Designate as a landmark an individual structure or other feature or an integrated group of structures and features on a single lot or site having a special historical or architectural value, and designate a landmark site for each landmark;

(2) Designate as an historic district an area containing a number of structures having a special historical or architectural value.

(b) Each such designating ordinance shall include a description of the characteristics of the landmark or historic district that justifies its designation, a description of the particular features that should be preserved, and a legal description of the location and boundaries of the landmark site or historic district. Any such designation shall be in furtherance of and in conformance with the purposes and standards of this Article. The property included in any such designation shall be subject to the controls and standards set forth in this Article. (Ord. 2004-1194 §3; Ord. 2006-1236 §1)

Sec. 16-28-40. Procedures for designating structures and districts for preservation.

A nomination for designation may be made by any member of the Commission or by any citizen by filing an application with the Town. Upon such nomination, the Planning Department and at least one (1) member of the Commission shall contact the owner of record of the nominated property and outline the reasons and effects of the designation as a landmark and, if possible, shall secure the consent of the owner to such designation before the nomination is accepted as complete for review.

(1) Commission review with owner's consent. No more than sixty (60) days after the filing of an application for designation, the Commission shall hold a public hearing on any proposal. The Commission shall review the application for conformance with the established criteria for designation. Within thirty (30) days of the conclusion of the public hearing, the Commission shall

approve, modify and improve or disapprove the nomination. The Commission shall forward its recommendation by written report to the Town Board for consideration and final action.

(2) Commission review without owner's consent. If the owner of the property nominated for designation does not consent to the review, the Commission shall hold a public hearing on the proposal no more than sixty (60) days after the filing of the application. Notice of time, date and place of such hearing and a brief summary or explanation of the subject matter of the hearing shall be given by at least one (1) publication in a newspaper of general circulation within the Town no less than fifteen (15) days prior to the date of the hearing. In addition, at least fifteen (15) days prior to the hearing date, the Town shall:

a. Post the property so as to indicate that a landmark or historic district designation has been applied for; and

b. Mail written notice of the hearing to record owners, as reflected by the records of the County Assessor, of all property included in the proposed designation. Failure to send notice by mail to any such property owner where the address of such owner is unknown and not a matter of public record shall not invalidate any proceedings in connection with the proposed designation.

The Commission shall review the application for conformance with the established criteria for designation. Within thirty (30) days of the conclusion of the public hearing, the Commission shall either approve, modify and approve or disapprove the proposal. The Commission shall forward its recommendation by written report to the Town Board for consideration and final action. (Ord. 2004-1194 §4; Ord. 2006-1236 §1)

Sec. 16-28-50. Proceedings by the Town Board.

(a) Within thirty (30) days after the Commission has taken action, the Town Board shall hold a public hearing on the proposed designation. Notice of time, date and place of such hearing and a brief summary of explanation of the subject matter of the hearing shall be posted on the property in a manner visible from all adjacent public rights-of-way at least fifteen (15) days prior to the hearing. Where the property owner does not consent to the proposed designation, written notice of the hearing shall also be provided to the record owner at least fifteen (15) days prior to the hearing. The Town shall be responsible for accomplishing the public notice.

(b) Within thirty (30) days of the conclusion of the public hearing, the Town Board shall approve, modify and approve or disapprove the proposed designation.

(1) If the owner of the property does not consent to the review, approval shall require the affirmative vote of three-fourths ($\frac{3}{4}$) of all members of the Town Board in office at the time. In such cases, the Town Board shall use the following criteria in addition to the designation criteria listed in this Article:

(2) The property has overwhelming historic importance to the entire community. The term *overwhelming* significance shall, for purposes of this Article, encompass:

a. Possessing such unusual or uncommon significance that the structure's potential demolition or major alteration would diminish the character and sense of place in the Town community.

b. Demonstrating superior or outstanding historical characteristics. The term *superior* shall mean excellence of its kind, and the term *outstanding* shall mean marked by eminence and distinction.

(3) The Town Board may exempt a property from meeting the above criteria if the Town Board finds that the property owner has shown that the historic designation creates an undue hardship. The following criteria shall be used in assessing the potential for hardship:

a. Economic hardship:

1. For investment or income-producing properties, the owner's inability to obtain a reasonable rate of return in its present condition or, if rehabilitated, under the alterations criteria.

2. For non-income-producing properties consisting of owner-occupied single-family dwelling and/or institutional properties not solely operating for profit, the owner's inability to convert the property to institutional use in its present condition or, if rehabilitated, under the alterations criteria.

b. Noneconomic hardship:

1. Designation creates a situation substantially inadequate to meet the applicant's needs because of specific health and/or safety issues.

2. The Commission and the Town Board may adopt additional guidelines and criteria for the submittal and review of information pertaining to economic and other kinds of hardship, which shall be made available to the public.

3. When a landmark has been designated by the Town Board as provided above, the Planning Department shall promptly notify the owner of the property included therein and shall cause a copy of the designating ordinance to be recorded, together with a summary description of the penalties and sanctions for violation of this Article. (Ord. 2004-1194 §5; Ord. 2006-1236 §1)

Sec. 16-28-60. Criteria for designation.

The Commission and the Town Board shall consider the following criteria in reviewing nominations of properties for designation:

(1) Landmarks. Landmarks must be at least fifty (50) years old and meet one (1) or more of the criteria for architectural, social or geographic/environmental significance hereinafter described. A landmark could be exempt from the age standard if it is found to be exceptionally important in other significant criteria.

a. Historic sites shall meet one (1) or more of the following:

1. Architectural.

- a) Exemplifies specific elements of an architectural style or period.
- b) Example of the work of an architect or builder who is recognized for expertise nationally, statewide, regionally or locally.
- c) Demonstrates superior craftsmanship or high artistic value.
- d) Represents an innovation in construction, materials or design.
- e) Style is particularly associated with the Windsor/Northern Colorado area.
- f) Represents a built environment of a group of people in an era of history.
- g) Pattern or grouping of elements representing at least one (1) of the above criteria.
- h) Significant historic remodel.

2. Social.

- a) Site of historic event that had an effect upon society.
- b) Exemplifies cultural, political, economic or social heritage of the community.
- c) An association with a notable person or the work of a notable person.

3. Geographic/environmental.

- a) Enhances the sense of identity of the community.
- b) An established and familiar natural setting or visual feature of the community.

b. Prehistoric and historic archaeological sites shall meet one (1) or more of the following:

1. Architectural.

- a) Exhibits distinctive characteristics of a type, period or manner of construction.
- b) A unique example of structure.

2. Social.

- a) Potential to make an important contribution to the knowledge of the area's history or prehistory.
- b) An association with an important event in the area's development.
- c) An association with a notable person or work of a notable person.

d) A typical example/ association with a particular ethnic group.

e) A unique example of an event in Windsor/Northern Colorado's history.

3. Geographic/environmental.

a) Geographically or regionally important.

b) Buried human remains will be handled in as culturally sensitive and appropriate manner as possible.

c. All properties will be evaluated for their physical integrity using the following criteria (a property need not meet all of the following criteria):

1. Shows character, interest or value as part of the development, heritage or cultural characteristics of the community, region, State or nation.

2. Retains original design features, materials and/or character.

3. Original location or same historic context after having been moved.

4. Has been accurately reconstructed or restored based on documentation.

(2) Districts.

a. For the purposes of this Section, a *district* is a geographically definable area including a concentration, linkage or continuity of subsurface sites, buildings, structures and/or objects. A district is related by a pattern of either physical elements or social activities. Significance is determined by applying criteria to the patterns and unifying elements. Nominations will not be considered unless the application contains written approval of sixty percent (60%) of the property owners within the district boundaries. Properties that do not contribute to the significance of the historic district may be included within the boundaries, as long as the noncontributing elements do not noticeably detract from the district's sense of time, place and historical development. Noncontributing elements will be evaluated for their magnitude of impact by considering their size, scale, design, location and/or information potential.

b. District boundaries will be defined by visual changes, historical documentation of different associations or patterns of development, or evidence of changes in site type or site density as established through testing or survey.

c. In addition to meeting at least one (1) of the criteria outlined in Subparagraphs d.1. through d.4. below, the district must be at least fifty (50) years old. The district could be exempt from the age standard if the resources are found to be exceptionally important in other significant criteria.

d. Historic districts shall meet one (1) or more of the following criteria:

1. Architectural.

- a) Exemplifies specific elements of an architectural style or period.
- b) Example of the work of an architect or builder who is recognized for expertise nationally, statewide, regionally or locally.
- c) Demonstrates superior craftsmanship or high artistic value.
- d) Represents an innovation in construction, materials or design.
- e) Style particularly associated with the Windsor/Northern Colorado area.
- f) Represents a built environment of a group of people in an era of history.
- g) Pattern or grouping of elements representing at least one (1) of the above criteria.
- h) Significant historic remodel.

2. Social.

- a) Site of historic event that had an effect upon society.
- b) Exemplifies cultural, political, economic or social heritage of the community.
- c) An association with a notable person or the work of a notable person.

3. Geographic/environmental.

- a) Enhances sense of identity of the community.
- b) An established and familiar natural setting or visual feature of the community.

4. Archaeology/subsurface.

- a) Potential to make an important contribution to the area's history or prehistory.
- b) An association with an important event in the area's development.
- c) An association with a notable person or work of a notable person.
- d) Distinctive characteristics of a type, period or manner of construction.
- e) Geographical importance.
- f) A typical example or association with a particular ethnic group.
- g) A typical example or association with a local cultural or economic activity.
- h) A unique example of an event or structure. (Ord. 2004-1194 §6; Ord. 2006-1236 §1)

Sec. 16-28-70. Revocation of designation.

If a building or special feature on a designated landmark site was lawfully removed or demolished, the owner may apply to the Commission for a revocation of the designation. The Commission shall review the application and make a recommendation to the Town Board, and the Town Board shall thereafter make a final determination. The Town Board shall revoke a landmark designation upon determination that without the demolished building or feature, the site as a whole no longer meets the purposes and standards for designation. (Ord. 2004-1194 §7; Ord. 2006-1236 §1)

Sec. 16-28-80. Amendment of designation.

Designation of a landmark or historic district may be amended to add features or property to the site or district under the procedures set forth in this Article for initial designations. Whenever a designation has been amended, the Town shall promptly notify the owners of the property included therein and shall record a copy of the amending ordinance with the Weld or Larimer County Clerk and Recorder. (Ord. 2004-1194 §8; Ord. 2006-1236 §1)

Sec. 16-28-90. Landmark alteration certificate required.

(a) No person shall carry out or permit to be carried out on a designated landmark site or in a designated historic district any new construction, alteration, removal or demolition of a building or other designated feature without first obtaining a landmark alteration certificate for the proposed work under this Section, as well as any other permits required by this Code or other ordinances of the Town.

(b) The Town shall maintain a current record of all designated landmark sites and historic districts and pending designations. If the Building Department receives an application for a permit to carry out any new construction, alteration, removal or demolition of a building or other designated feature on a landmark site or in an historic district or in an area for which designation proceedings are pending, the Building Department shall promptly forward such application to the Town Manager and the Town Board. (Ord. 2004-1194 §9; Ord. 2006-1236 §1)

Sec. 16-28-100. Construction on proposed landmark sites or in proposed districts.

No person shall receive a permit to construct, alter, remove or demolish any structure or other feature on a proposed landmark site or in a proposed historic district after the date an application has been filed to initiate the designation of such landmark site or district. (Ord. 2004-1194 §10; Ord. 2006-1236 §1)

Sec. 16-28-110. Landmark alteration application and review.

(a) An owner of property designated as a landmark or located in an historic district may apply for a landmark alteration certificate, such application to include all information which the Planning Department determines is necessary to consider the application, including without limitation, plans and specifications showing the proposed exterior appearance, with texture, materials and architectural design and detail, and the names and addresses of the abutting property owners.

(b) Upon receipt of an application for an alteration certificate, the Planning Department shall submit that application, together with a recommendation thereon, to the Commission for final approval. (Ord. 2004-1194 §11; Ord. 2006-1236 §1)

Sec. 16-28-120. Unsafe or dangerous conditions exempted.

Nothing in this Article shall be construed to prevent any measures of construction, alteration, removal or demolition necessary to correct the unsafe or dangerous condition of any structure, other feature or parts thereof where such condition is declared unsafe or dangerous by the Town and where the proposed measures have been declared necessary by the Town Manager to correct the condition. (Ord. 2004-1194 §12; Ord. 2006-1236 §1)

Sec. 16-28-130. Criteria for review of alteration certificate.

(a) The Commission shall issue an alteration certificate for any proposed work on a designated historical site or district only if the Commission determines that the proposed work would not detrimentally alter, destroy or adversely affect any architectural or landscape feature which contributes to the original historical designation. The Commission must find that a proposed development is visually compatible with designated historic structures located on the property in terms of design, finish, material, scale, mass and height. When the subject site is an historic district, the Commission must also find that the proposed development is visually compatible with the development on adjacent properties. For purposes of this Section, the term *compatible* shall mean consistent with, harmonious with and/or enhances the mixture of complementary architectural styles, either of the architecture of an individual structure or the character of the surrounding structures.

(b) The Commission will use the following criteria to determine compatibility:

(1) The effect upon the general historical and architectural character of the structure and property.

(2) The architectural style, arrangement, texture and material used on the existing and proposed structures and their relation and compatibility with other structures.

(3) The size of the structure, its setbacks, its site, location and the appropriateness thereof, when compared to existing structures and the site.

(4) The compatibility of accessory structures and fences with the main structure on the site, and with other structures.

(5) The effects of the proposed work in creating, changing, destroying or otherwise impacting the exterior architectural features of the structure upon which such work is done.

(6) The condition of existing improvements and whether they are a hazard to public health and safety.

(7) The effects of the proposed work upon the protection, enhancement, perpetuation and use of the property.

(8) Compliance with the Secretary of the Interior's Standards for Rehabilitation as listed below:

a. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

b. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

c. Each property shall be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

d. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

e. Distinctive features, finishes and construction techniques or examples of craftsmanship that characterize a property shall be preserved.

f. Deteriorated historic features shall be repaired rather than replaced. When the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical or pictorial evidence.

g. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

h. Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

1. New additions, exterior alterations or related new construction shall not destroy historic materials that characterize the property. To protect the historic integrity of the property and its environment, the new work shall be differentiated from the old and shall be compatible with the massing, size, scale and architectural features.

2. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired. (Ord. 2004-1194 §13; Ord. 2006-1236 §1)

Sec. 16-28-140. Relocation criteria.

The Commission shall use the following criteria in considering alteration certificate applications for relocating a landmark, a structure on an historic site, a building or structure within an historic district, a structure onto a landmark site or a structure to property in an historic district:

(1) For consideration of the original site, the Commission will review for compliance with all of the following criteria:

a. Documentation showing that the structure cannot be rehabilitated or reused on its original site to provide for any reasonable beneficial use of the property;

- b. The contribution the structure makes to its present setting;
- c. Whether plans are specifically defined for the site to be vacated, and have been approved by the Town staff;
- d. If the structure can be moved without significant damage to its physical integrity and the applicant can show the relocation activity is the best preservation method for the character and integrity of the structure;
- e. Whether the structure has been demonstrated to be capable of withstanding the physical impacts of the relocation and re-siting; and
- f. Whether a structural report submitted by a licensed structural engineer adequately demonstrates the soundness of the structure proposed for relocation.

(2) For consideration of the new location, the Commission will review for compliance with all of the following criteria:

- a. Whether the building or structure is compatible with its proposed site and adjacent properties, and if the receiving site is compatible in nature with the structure or structures proposed to be moved;
- b. The structure's architectural integrity and its consistency with the character of the neighborhood;
- c. Whether the relocation of the historic structure would diminish the integrity or character of the neighborhood of the receiving site; and
- d. If a relocation plan has been submitted and approved by the Town staff, including posting a bond, to ensure the safe relocation, preservation and repair (if required) of the structure, site preparation and infrastructure connections as described in this Code. (Ord. 2004-1194 §14; Ord. 2006-1236 §1)

Sec. 16-28-150. Exemptions from alteration certificate requirements.

An applicant may request an exemption from the alteration certificate requirements set forth herein. The applicant must provide adequate documentation to establish qualification for one (1) of the following exemptions:

- (1) Economic hardship exemption. Exemptions are granted only to the specific owner and use and are not transferable.
 - a. For investment or income-producing properties: the owner's inability to obtain a reasonable rate of return in the property's present condition or if rehabilitated.
 - b. For non-income-producing properties consisting of owner-occupied single-family dwellings and/or non-income-producing institutional properties not solely operating for profit: the owner's inability to convert the property to institutional use in its present condition or if rehabilitated.

c. The consideration for economic hardship shall not include willful or negligent acts by the owner, purchase of the property for substantially more than the market value, failure to perform normal maintenance and repairs, failure to diligently solicit and retain tenants or failure to provide normal tenant improvements.

(2) Undue hardship. An applicant requesting an exemption based on undue hardship must show that the application of the criteria creates a situation substantially inadequate to meet the applicant's needs because of specific health and/or safety issues. (Ord. 2004-1194 §15; Ord. 2006-1236 §1)

Sec. 16-28-160. Appeal or call-up disapproved proposals.

(a) A decision of the Commission approving or disapproving an application for alteration or extending the review period on the application is final unless appealed to or called up by the Town Board as provided below:

(1) Appeal. An applicant may appeal any decision of the Commission to the Town Board by filing a written notice of appeal with the Planning Department within seven (7) days of the Commission's decision.

(2) Review. The Town Board may call up for review any decision of the Commission to disapprove, modify or suspend action on an alteration application by serving written notice on the Commission within twenty-one (21) days of the Commission's decision.

(3) Town Board meeting and decision. Within thirty (30) days of the date of any decision of the Town Board to disapprove or modify an alteration certificate application, the Town Board shall hold a public meeting on the matter. Where a decision to move or demolish a landmarked structure is involved, public notice shall be required in accordance with this Article. The Town Board shall consider the written findings and conclusions of the Commission and the proposal's conformance to adopted alteration certificate criteria and shall approve, modify and approve, or disapprove the proposed application.

(4) Undue hardship appeals. The Town Board may consider claims of economic or undue hardship in cases where the Commission denied an applicant an alteration certificate. The applicant must provide adequate documentation and/or testimony at the Town Board meeting to justify such claims. The following includes the type of information, plus any other information the applicant feels is necessary, that must be submitted in order for the Town Board to consider a hardship appeal:

a. Estimate of the cost of the alteration proposed under the denied alteration certificate, and an estimate of any additional costs that would be incurred with the alterations recommended by the Commission.

b. Estimate of the value of the property in its current state, with the denied alterations, and with the alterations proposed by the Commission.

c. Information regarding the soundness of the structure or structures, and the feasibility for rehabilitation that would preserve the character and qualities of the designation.

d. In the case of the income-producing properties, the annual gross income from the property, the operating and maintenance expenses associated with the property, and the effect of the proposed and Commission-recommended alterations on these figures.

e. Any information concerning the mortgage of other financial obligations on the property, which are affected by the denial of the proposed alterations.

f. The appraised value of the property.

g. Any past listing of the property for sale or lease, the price asked and any offers received on that property.

h. Information relating to any nonfinancial hardship resulting from the denial of an alteration certificate.

(b) The Town Board may refer the information for review by the Commission prior to rendering its final decision on any hardship-related appeal. If it is determined that the denial of the certificate of alteration would pose an undue hardship on the applicant, then a certificate of alteration noting the hardship relief shall be issued, and the property owner may make the alterations outlined in the alteration certificate application. (Ord. 2004-1194 §16; Ord. 2006-1236 §1)

Sec. 16-28-170. Enforcement and penalties.

(a) No person shall violate or permit to be violated any of the requirements of this Article or the terms of a landmark certificate.

(b) Violations of this Article are punishable as is otherwise provided in this Code and, in addition, are subject to the following penalties:

(1) Alterations to a designated landmark or district without an approved landmark alteration certificate will result in a one-year moratorium on all building permits for the subject property; and

(2) Moving or demolishing a designated structure without an approved landmark alteration certificate will result in a five-year moratorium on all moving, demolition or building permits for the structure and for the property at the structure's original location. (Ord. 2004-1194 §17; Ord. 2006-1236 §1)

ARTICLE XXIX

Adult Businesses

Sec. 16-29-10. Definitions.

As used in this Article, the following terms shall have the meanings ascribed to each of them below except where the context of this Article clearly indicates a different meaning.

Adult bookstore means a commercial establishment which devotes a significant or substantial portion of its stock in trade, or interior floor space, to the sale, rental or viewing of books,

magazines, periodicals, or other printed matters, or photographs, films, motion pictures, video cassettes, slides or other visual representations which are characterized by the depiction or description of *specified sexual activities* or *specified anatomical areas*. Regardless of the stock in trade or interior floor space devoted to the activities described herein, an *adult bookstore* shall also include a commercial establishment wherein a significant or substantial portion of the revenues earned or a significant or substantial portion of its advertising expenditures are used for the promotion of the activities described herein.

Adult business includes, but shall not be limited to, adult motion picture theaters, nude entertainment, adult book stores and other similar businesses.

Adult motion picture theater means an enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting or describing *specified sexual activities* or "specified anatomical areas" for observation by patrons therein.

Appearing in a state of nudity. A person appears in a state of nudity when such person is unclothed or in such attire, costume or clothing as to expose any portion of the female breasts below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.

Nude entertainment includes any type of entertainment where a person appears in a "state of nudity."

Specified anatomical areas include any of the following:

- a. Less than completely or opaquely covered human genitals, pubic region or female breast below a point immediately above the top of the areola.
- b. Human male genitals in a discernible turgid state even if completely and opaquely covered.

Specified sexual activities include any of the following:

- a. Human genitals in a state of sexual stimulation or arousal.
- b. Acts of human masturbation, sexual intercourse or sodomy. (Prior code 16-521; Ord. 2006-1236 §1)

Sec. 16-29-20. Location restrictions.

(a) The operation of adult businesses shall be limited to those areas of the Town zoned Heavy Industrial (I-H) and Limited Industrial (I-L).

(b) No adult business, service or entertainment establishment shall be operated or maintained within seven hundred fifty (750) feet of any school certified or licensed by the State, any church property, any residentially zoned property, public park, cemetery or an existing adult business. For purposes of this Section, distance shall be measured in a straight line without regard to intervening structures and shall be measured from the closest property line of the adult business to the property of the uses identified in this Section. (Prior code 16-522; Ord. 2006-1236 §1)

Sec. 16-29-30. Times of operation.

(a) With the specific exception of adult book stores, all other adult businesses as defined by this Article shall be open for business only during the hours of 7:00 a.m. and 12:00 midnight Monday through Saturday of each week.

(b) There shall be no restrictions on the hours of adult book stores. (Prior code 16-523; Ord. 2006-1236 §1)

Sec. 16-29-40. Age restrictions.

(a) With the exception of adult book stores, no one under twenty-one (21) years of age shall be admitted to any adult business, nor shall any employee, agent, servant or independent contractor working on the premises be under the age of twenty-one (21) years.

(b) No one under the age of eighteen (18) years shall be admitted to any adult book store, nor shall any employee, agent, servant or independent contractor working on the premises be under the age of eighteen (18) years. (Prior code 16-524; Ord. 2006-1236 §1)

Sec. 16-29-50. Buffering.

Adult businesses shall be adequately buffered through the use of facade treatment, landscaping and fencing to minimize negative secondary impact on other commercial uses, residential uses, public parks, churches or public or private schools certified or licensed by the State which are present in the vicinity. Buffering requirements shall be determined for the perimeter of adult businesses on a case-by-case basis by reviewing the intensity of the establishment and comparing it to the type and location of surrounding land uses. (Prior code 16-525; Ord. 2006-1236 §1)

Sec. 16-29-60. Lighting and signage.

The lighting and signage for adult businesses shall be arranged, shielded and restricted so as to prevent negative secondary impacts on adjacent streets, other commercial uses, residential uses, public parks, churches or public or private schools certified or licensed by the State which are present in the vicinity. Lighting and signage requirements shall be determined on a case-by-case basis by reviewing the intensity of the establishment and comparing it to the type and location of surrounding land uses. The lighting and signage requirements set forth herein shall be in addition to those requirements otherwise set forth in this Code. (Prior code 16-526; Ord. 2006-1236 §1)

Sec. 16-29-70. Form of expression.

Nothing in this Article shall be construed so as to apply to the presentation, showing or performance of any play, drama, ballet or motion picture in any theater, concert hall, museum, school or similar establishment, as a form of expression of opinion or communication of ideas or information, as differentiated from the promotion or exploitation of a state of nudity for the purposes of advancing the economic welfare of a commercial or business establishment. (Prior code 16-527; Ord. 2006-1236 §1)

ARTICLE XXX

Wireless Telecommunications Facilities

Sec. 16-30-10. Statement of purpose, intent and applicability.

The within Town of Windsor Telecommunications Land Use Code (hereinafter "Code") is established with the purpose and intent of accommodating the communications needs of the Town's residents and businesses, while protecting the public health, safety and general welfare of the community. The Town finds these regulations are necessary in order to:

- (1) Facilitate the provision of telecommunications services to the residents and businesses within the Town.
- (2) Minimize the adverse visual effects of towers through careful design and siting standards.
- (3) Avoid potential damage to adjacent properties from tower failure through structural standards, radio frequency emissions standards and setback requirements.
- (4) Encourage and maximize the use of existing and approved towers, buildings and other structures to accommodate new telecommunication antennae in order to reduce the number of towers needed to serve the community.

This Code shall not govern any tower or wireless communication facilities owned or operated by a federally licensed amateur radio station operator or used exclusively for received-only antennae, provided that all other zoning district requirements are met. (Ord. 2007-1307 §1)

Sec. 16-30-20. Definitions.

As used in this Code, the following terms shall have the following meanings:

Director means the Director of Planning for the Town or authorized designee.

Owner means an individual or entity holding an ownership interest in property that is subject to this Code, as well as any other applicant for approval under this Code who is acting with authority of a record owner. Once any approvals are granted pursuant to this Code, any references to *owner* shall also mean operators, managers or any other person or entity authorized by an owner with the responsibility for the approved facilities. Any other such person or entity shall be jointly and severally liable with an owner for any violations of this Code associated with the approved facilities.

Telecommunications site means the site or lot utilized for an unmanned telecommunications facility that uses radio signals to transmit conversation, visual imagery or data to a user.

Wireless communication facilities means facilities that transmit and/or receive electromagnetic wireless communications signals. It includes antennae, nodes, microwave dishes, horns and other types of equipment for the transmission or receipt of such signals, communications towers or similar structures supporting said equipment, equipment buildings, equipment cabinets, equipment

closets, parking areas and other accessory development. The following types of facilities are included within this definition:

a. *Alternative communication facility* means a communication facility with an alternative design that camouflages or conceals the presence of antennae or towers such as, but not limited to, artificial trees, clock and bell towers and steeples.

b. *Antenna* shall mean, but shall not be limited to), any exterior transmitting or receiving devices mounted on a pole, tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals;

c. *Freestanding communication facility* means a communication facility that is mounted and supported on the roof or any rooftop appurtenance of a legally existing building or structure.

d. *Tower* means any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennae, including self-supporting towers, guy towers or monopole towers. The term includes, but is not limited to, radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers and alternative telecommunication facilities.

e. *Wall-mounted communication facility* means a communication facility that is mounted and supported entirely on the wall of a legally existing building, including the walls of architectural features such as parapets, chimneys and similar appurtenances. (Ord. 2007-1307 §2)

Sec. 16-30-30. General requirements, location and design criteria.

In addition to the applicable zoning requirements for the telecommunications site (including, where required, any variance approved by the Board of Adjustment pursuant to Section 16-6-60 of this Chapter), all wireless communication facilities and telecommunications sites shall be designed and located in compliance with the criteria set forth in this Section. The Director or, where Town Board action is required under this Chapter or any other provisions of this Code or Home Rule Charter, the Town Board may withhold approval of any facility that does not meet any of these criteria:

(1) Applications must contain an applicant's name, address, telephone number and an emergency telephone number at which a representative of the applicant may be reached twenty-four (24) hours per day, seven (7) days per week. Should any information found within an application change, the applicant must provide updated information in writing to the Town within a reasonable period following the change. The application shall include a clear map, photographic rendering or other reliable depiction of the location of all facilities for which approval is sought by the applicant. Such map, photographic rendering or other depiction shall be to scale and shall identify with specificity the location, size, appearance and height of all wireless communication facilities proposed by the applicant.

(2) Wireless communication facilities shall be co-located with other wireless communication facilities or public utilities whenever possible and to the extent consistent with the scale and appearance of surrounding structures.

(3) The applicant shall:

a. Demonstrate how the proposed communication site fits into the overall communication network for the community, confirming the necessity for the site.

b. To the extent that it seeks approval to address gaps in coverage, demonstrate by a preponderance of the evidence that there are no viable alternatives to remedy gaps in the applicant's existing network.

c. To the extent that the applicant provides services under a license granted by a governmental authority, that a failure to approve the application will result in the applicant's inability to provide the minimum coverage it is required to provide pursuant to its license and any applicable law.

(4) The location and development of wireless communication facilities should, to the maximum extent possible, preserve the existing character of the site's topography and vegetation.

(5) Wireless communication facilities should be designed and located to avoid dominant silhouettes and to preserve view corridors of surrounding areas to the maximum extent possible.

(6) The visual impact of wireless communication facilities shall be mitigated through the use of alternative communication facilities and compatible architectural elements such as colors, textures, surfaces, scale and character. The facilities shall be screened with vegetation, structures or topographical features. The facility should be integrated to the maximum extent possible through its location and design, into the natural setting and the structural environment of the area. Accessory equipment in areas of high visibility shall, where possible, be sited below the ridgeline or designed (e.g., placed underground, depressed or located behind earth berms or structures) to minimize its profile.

(7) Where possible, wireless communication facilities should be concealed in accessory structures consistent with the architectural scale and character of the area.

(8) Roof-mounted and wall-mounted facilities shall be architecturally compatible with and colored to match the building or structure to which they are attached. Wall-mounted facilities shall be mounted as flush to the building wall as possible. A wall-mounted facility may encroach a maximum of thirty (30) inches into the required setback for the building to which it is attached, but shall not extend across any property line.

(9) Freestanding wireless communication facilities shall not be artificially lighted, unless required by the Federal Aviation Administration or other applicable governmental authority. If lighting is required, the Town may review available lighting alternatives and approve the design that will cause the least disturbance to surrounding views. Lighting must be shielded or directed to the greatest extent possible so as to minimize the amount of light falling onto nearby properties, particularly in and near residential areas.

(10) Towers shall be designed to allow for co-location to the maximum extent possible.

(11) No portion of any antenna array may extend beyond any property line.

(12) Wireless communication facilities should be screened to mitigate visual impacts to the maximum extent practicable.

(13) The use of any portion of a wireless communication facility for promotional or advertising purposes, including but not limited to company name, phone numbers, banners, streamers and balloons is prohibited. The Town may require the installation of informational signage, including safety and owner contact information.

(14) Fencing should not be used extensively and shall be supplemented with vegetation and other barriers to screen a wireless communication facility. Security fencing shall be designed in such a fashion as to blend into the character of the existing environment.

(15) The wireless communication facility shall be designed, maintained and operated as required by applicable Federal Communication Commission licenses and regulations.

(16) Every application for approval of any wireless communication facility shall be accompanied by the owner's good-faith projection of anticipated technological advances for all antennae contemplated within the application, together with the owner's good-faith plan addressing anticipated technological advances to assure that the wireless communication facility does not experience functional obsolescence over time. In the event the owner cannot provide the projection or commitment required in this Paragraph, the agreement shall require the owner to submit to periodic review of wireless communication facility obsolescence by the Town as a condition of continued approval.

(17) Lattice towers shall not be approved under any circumstances within the Town. (Ord. 2007-1307 §3)

Sec. 16-30-40. Compliance with setback requirements.

All wireless facilities shall comply with the setback requirements within the zone district in which the telecommunications site is located. (Ord. 2007-1307 §4)

Sec. 16-30-50. Towers.

Towers shall not exceed fifty (50) feet in height, as measured from the natural grade. (Ord. 2007-1307 §5)

Sec. 16-30-60. Radio frequency emissions (RFEs).

All owners and operators of wireless communication facilities shall comply with federal regulations for radio frequency emissions (RFEs). At the time of application for a wireless communication facility, and thereafter at the request of the Town upon complaint (but not more than annually), the owner or operator shall submit a report that provides cumulative field measurements of RFEs of all antennae installed at the subject site and that compares the results with established federal standards. If, upon review, or at any time any wireless communication facility with the Town is operational, the Town finds that the facility does not meet federal regulations, the Town may require corrective action within a reasonable period of time and, if not corrected, may require removal of the wireless communication facilities at the owner's expense. Any reasonable costs incurred by the Town,

including reasonable consulting costs to verify compliance with these requirements for removal of wireless communication facilities, shall be borne by the owner. (Ord. 2007-1307 §6)

Sec. 16-30-70. Structural integrity of towers, freestanding communications facilities.

To ensure the structural integrity of towers, freestanding communication facilities and wall-mounted communication facilities upon which other wireless communication facilities may be mounted, the owner of such structures shall ensure that they are of sufficient structural strength to accommodate reasonable co-location and are maintained in compliance with the following standards: any standards contained in applicable Town building codes; the applicable standards for towers published by the Electronic Industries Alliance, as amended from time to time (presently TIA/EIA-222-G as of January 1, 2006); and all other applicable codes of the Town. In addition to any other applicable standards and requirements, the following shall apply to all structures upon which wireless communication facilities are located:

(1) Sufficient anti-climbing measures must be incorporated into each facility to reduce potential for trespass and injury.

(2) No guy wires employed may be anchored within the area in front of any principal buildings or structures on a parcel.

(3) All wireless communication facilities shall comply with the power line clearance standards set forth by the Colorado Public Utilities Commission.

(4) All wireless communication facilities must be structurally designed and physically sited so that they do not pose a potential hazard to nearby residences or surrounding properties or improvements. Any tower or freestanding communication facility shall be designed and maintained to withstand, without failure, maximum forces expected from wind, tornadoes, hurricanes and other natural occurrences, when the facility is fully loaded with antennae, transmitters, other wireless communications facilities and camouflaging. Initial demonstration of compliance with this requirement shall be provided via submission of a report included in the application to the Director of Planning, prepared by a structural engineer licensed in the State, describing the structure, specifying the number and type of antennae it is designed to accommodate, providing the basis for the calculations done and documenting the actual calculations performed. Proof of ongoing compliance shall be provided upon request. If, upon inspection, the Town concludes that a wireless communication facility fails to comply with such codes and standards and constitutes a danger to persons or property, then, upon notice being provided to the owner of a wireless communication facility, the owner shall have thirty (30) days to bring such facility into compliance with such standards. Upon good cause shown by the owner, the Director of Planning may extend such compliance period, not to exceed ninety (90) days from the date of said notice. If the owner fails to bring such facility into compliance within said time limit, the Town may remove such facility at the owner's expense. (Ord. 2007-1307 §7)

Sec. 16-30-80. Application fees.

The fee and any additional application-related financial requirements for wireless communication facilities shall be fixed and published by resolution of the Town Board on or before February 1 of each calendar year. (Ord. 2007-1307 §8)

Sec. 16-30-90. Wireless communication facilities in public rights-of-way.

(a) Subject to the Town's applicable right-of-way permitting process administered by the Director of Engineering, wireless communication facilities located solely within public rights-of-way shall be permitted based upon the following criteria:

(1) The facilities must be placed on existing poles, upon replacement poles of the same dimensions or upon replacement poles of a dimension that would otherwise be permitted under existing regulations for any utility operating within the Town.

(2) Any necessary wiring or cabling shall be located within the pole or camouflaged to blend with the color and texture of the pole.

(3) The area of the facilities on any pole shall be designed to minimize the visual impact of such facilities. The facilities shall add no more than five (5) feet of additional height to any pole and shall not project outward in any direction a distance of more than eighteen (18) inches.

(4) Any ground equipment shall be buried or screened by landscaping approved by the Town. The owner of such facilities shall irrigate and maintain such landscaping.

(5) Notwithstanding the administrative approval contemplated in this Section, if an applicant is proposing to add to the total number of poles located in the area impacted by its application, the request shall require a separate application and approval, unless otherwise agreed in writing between the Town and the applicant/owner.

(6) The applicant shall provide confirmation that it has the written consent of any owner of poles or other structures upon or to which the applicant intends to fasten wireless communication facilities.

(b) Any permit customarily required for the location of facilities within public rights-of-way may be waived by the Director of Engineering, following review of the applicant's proposed facilities. (Ord. 2007-1307 §9)

Sec. 16-30-100. Co-location.

(a) The shared use of existing towers or other freestanding communication facilities upon which wireless communications facilities can be mounted shall be preferred to the construction of new facilities. As a condition of approval of any tower or other freestanding communications facilities, the applicant shall be required to allow co-location on such facilities in the future if: (1) the facility is capable of supporting co-location, (2) the entity wishing to co-locate is willing to pay fair market value for the space; and (3) the Town requests such co-location.

(b) The application for any wireless communication facility involving a new tower or other freestanding communication facility shall include evidence that reasonable efforts have been made to co-locate within or upon an existing wireless communication facility within a reasonable distance of the proposed site, regardless of municipal boundaries. The applicant must demonstrate that the proposed wireless communication facility cannot be accommodated on existing facilities due to one (1) or more of the following reasons:

(1) The planned equipment would exceed the structural capacity of the existing and approved wireless telecommunications facilities, considering existing and planned use for those facilities.

(2) The planned equipment, if co-located, would cause radio frequency interference with other existing or planned equipment or exceed radio frequency emission standards which cannot be reasonably prevented.

(3) Existing or approved wireless communications facilities do not have space on which proposed equipment can be placed so it can function effectively and reasonably.

(4) Other technical reasons make it impracticable to place the equipment proposed by the applicant on existing facilities or structures.

(5) The landowner or owner of the existing wireless communication facility refuses to allow such co-location or requests an unreasonably high fee for such co-location compared to current industry rates.

(6) No existing wireless communication facilities upon which the applicant's facilities can be mounted are located within the geographic area required to meet the applicant's engineering requirements.

(7) Existing wireless communication facilities are not of sufficient height to meet the applicant's engineering requirements.

(8) Existing wireless communication facilities upon which the applicant's facilities can be mounted do not have sufficient structural strength to support the applicant's proposed antennae and related equipment.

(9) Any other reason, in the reasonable discretion of the Director of Planning. (Ord. 2007-1307 §10)

Sec. 16-30-110. Town action on applications.

(a) The Director may, in his or her discretion, refer any application for wireless communication facilities for review by the Planning Commission and Town Board consistent with the requirements of this Code for conditional use

grants or tower applications. If not so referred or not otherwise required by this Code, the Director shall review and determine any application for siting of wireless communication facilities within the Town in accordance with the standards set forth in this Code. If approved, the Director shall issue a written statement of approval containing any conditions for such approval. If denied, the Director shall likewise issue a written statement of denial to the applicant.

(b) Conditional use grants. Wireless communication facilities may be allowed as conditional uses on private property or public property owned by an entity other than the Town within all zone districts, if approved as a conditional use in compliance with the Town's standards and procedures for approval of conditional use grants as set forth in Article VII of this Chapter. Wireless communication facilities may be allowed as conditional uses on property owned by the Town in any zone district if approved as

a conditional use in compliance with the Town's standards and procedures for approval of conditional use grants as set forth in Article VII.

(c) Tower approvals. All applications for siting of any tower shall first be reviewed by the Director and then referred to the Planning Commission for review and recommendation. After the Planning Commission has completed its review of a tower application, the matter shall be referred to the Town Board for determination of the application with due regard to the Planning Commission's recommendation. The Town Board shall conduct a public hearing before considering any application for the construction of a tower. Notice of the Town Board public hearing shall be conspicuously posted upon the telecommunications site, shall be published in a newspaper of general circulation within the Town and shall be mailed by first-class mail to all property owners within a radius of three hundred (300) feet from the proposed tower site. The applicant shall provide the Director with written verification that all mailings required by this Section have been issued no less than thirty (30) days prior to the Town Board hearing. The Town Board may continue any public hearing to assure a full and fair presentation of evidence. The Town Board's decision on whether to approve or deny an application for construction of a tower shall be issued within thirty (30) days of the conclusion of the Town Board public hearing. The Town Board's decision on whether to approve or deny an application for construction of a tower shall be in writing, based upon evidence presented to the Town Board at the public hearing and shall take into account a recommendation of the Planning Commission. Nothing in this Section shall be deemed to prohibit the Planning Commission from conducting a public hearing upon any tower application referred to it, provided that the Planning Commission hearing complies in all respects with the notice requirements of this Section. (Ord. 2007-1307 §11)

Sec. 16-30-120. Telecommunications provider agreement.

Any approval for the installation, erection or construction of wireless communication facilities within the Town shall be conditioned upon the applicant entering into a telecommunications provider agreement with the Town under which, at a minimum, the following provisions shall be addressed:

(1) The removal of all antennae, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, gates and accessory equipment or structures, as well as any tower or freestanding communication facility used as a wireless communication facility if such facility is deemed abandoned, becomes technologically obsolete or ceases to perform its originally intended function for more than one hundred eighty (180) days. Upon removal, the owner shall restore the telecommunication site, including but not limited to the landscaping of exposed areas.

(2) Removal of wireless communication facilities where, upon inspection, the Town concludes that a wireless communication facility fails to comply with any applicable conditions of approval or constitutes a danger to person or property. Under such circumstances, upon written notice, the owner shall have thirty (30) days to bring such facility into compliance. If the owner fails to bring such facility into compliance within said thirty (30) days, the Town may remove the facility at the owner's expense.

(3) Removal of any wireless communication facility that is not operated for a continuous period of one hundred eighty (180) days and which has been declared abandoned by the Town. The Town, in its sole discretion, may require any abandoned wireless communication facility to be removed within ninety (90) days of receipt of notice from the Town notifying the owner of such abandonment. Upon removal, the site shall be restored and revegetated to blend with the

surrounding environment. If such removal is not completed within said ninety (90) days, the Town may consider the facility a nuisance under this Code, and the Town may remove and dispose of the same at the owner's expense. If there are two (2) or more users of a structure upon which wireless communication facilities are mounted, then this provision shall not become effective until all users cease using the structure.

(4) Every applicant shall post security for the discharge of duties undertaken by the applicant and owner of each wireless communication facility. Such security shall be in any form approved by and in an amount deemed sufficient by the Director to cover the anticipated cost of the owner obligations established under this Code and/or any agreements between the Town and the owner/applicant.

(5) Every telecommunications provider agreement shall require that the applicant's wireless telecommunication facilities be upgraded as technology advances and as may be accomplished at reasonable cost upon such timetable as is feasible.

(6) Every telecommunications provider agreement shall require that, as co-location occurs on the telecommunication site, each owner within such telecommunication site shall utilize alternative communications facilities to assure that the visual impacts of multiple wireless communication facilities are minimized.

(7) If the owner contemplates phasing of wireless communication facilities within a single application approval, such phasing shall be set forth in the telecommunications provider agreement. Phasing of wireless communication facilities pursuant to an existing telecommunications provider agreement shall not require a new application. To the extent phasing is not clearly set forth in an existing telecommunications provider agreement, a new application and approval pursuant to this Code shall be required for such phasing. (Ord. 2007-1307 §13)

Sec. 16-30-130. Existing wireless communication facilities.

Any wireless communication facilities approved before the effective date of the ordinance codified herein shall comply only with the applicable sections herein with respect to modifications of such facilities. (Ord. 2007-1307 §14)