

ORDINANCE NO.

NO. 10-08  
Series of 2010

**TITLE: A BILL FOR AN ORDINANCE REPEALING AND REENACTING CHAPTER 16 OF THE TOWN OF HUDSON MUNICIPAL CODE ENTITLED THE "HUDSON LAND DEVELOPMENT CODE."**

BE IT ORDAINED BY THE BOARD OF TRUSTEES FOR THE TOWN OF HUDSON, COLORADO, THAT:

Section 1. Findings of Fact.

- A. Pursuant to Sections 16-68(c), 16-112, and 17-11, the Town of Hudson Planning Commission considered the enactment of the "Hudson Land Development Code" at a public hearing conducted on September 8, 2010, following at least fifteen (15) days notice of the time and place of such hearing published in a newspaper of general circulation within the Town of Hudson.
- B. Pursuant to Sections 16-68(c), the Town of Hudson Board of Trustees considered the enactment of the "Hudson Land Development Code" at a public hearing conducted on September 15, 2010, following at least fifteen (15) days notice of the time and place of such hearing published in a newspaper of general circulation within the Town of Hudson

Section 2. Chapter 16 of Town of Hudson Municipal Code, entitled "The Hudson Land Development Code," is hereby repealed and reenacted as more particularly set forth in Exhibit A, attached hereto and incorporated herein by this reference.

Section 3. Safety Clause. The Town Board of Trustees hereby finds, determines, and declares that this ordinance is promulgated under the general police power of the Town of Hudson, that it is promulgated for the health, safety, and welfare of the public, and that this ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Trustees further determines that the ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 4. Severability. If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 5. Effective Date. This Ordinance shall become effective thirty (30) days after final publication.

INTRODUCED, READ IN FULL, AND ADOPTED this 15<sup>th</sup> day of September, 2010.



ATTEST:

*Linnette Barker*

Linnette Barker, CMC, Town Clerk

TOWN OF HUDSON, COLORADO

*Neal Pontius*  
Neal Pontius, Mayor *Pro Tem*

PASSED ON SECOND AND FINAL READING this 15<sup>th</sup> day of September, 2010, AND ORDERED PUBLISHED ONCE IN FULL.



ATTEST:

*Linnette Barker*

Linnette Barker, CMC, Town Clerk

TOWN OF HUDSON, COLORADO

*Neal Pontius*  
Neal Pontius, Mayor

APPROVED AS TO FORM:

*Corey Y. Hoffmann*  
Corey Y. Hoffmann, Town Attorney

**CHAPTER 16**

**LAND DEVELOPMENT CODE**

<b>Article 1</b>	<b>General Provisions</b>
	Sec. 16-1 Short title
	Sec. 16-2 Authority
	Sec. 16-3 Purpose
	Sec. 16-4 Jurisdiction
	Sec. 16-5 Relationship to existing zoning and subdivision ordinances
	Sec. 16-6 Relationship to comprehensive plan
	Sec. 16-7 No use or sale of land or building except in conformity with ordinance provisions
	Sec. 16-8 Fees
	Sec. 16-9 Basic use, location and bulk
	Sec. 16-10 Waivers and amendments
	Sec. 16-11 Severability
	Sec. 16-12 Interpretation
<b>Article 2</b>	<b>Definitions</b>
	Sec. 16-20 Definitions
<b>Article 3</b>	<b>Administration</b>
	Sec. 16-30 Planning commission
	Sec. 16-31 Board of adjustment; variances
	Sec. 16-32 Building inspector – requirements
	Sec. 16-33 Enforcement
<b>Article 4</b>	<b>Zoning Districts</b>
	Sec. 16-40 Establishment of districts
	Sec. 16-41 Adoption of official zoning map
	Sec. 16-42 Incorporation of plans and development guides
	Sec. 16-43 Residential one district (R-1)
	Sec. 16-44 Residential two district (R-2)
	Sec. 16-45 Residential trailer district (R-T)
	Sec. 16-46 Business district (B)
	Sec. 16-47 Commercial one district (C-1)
	Sec. 16-48 Commercial two district (C-2)
	Sec. 16-49 Floodplain overlay district (F)
	Sec. 16-50 Agriculture one district (A-1)
	Sec. 16-51 Historical overlay district (H)
	Sec. 16-52 Parks district (P)
	Sec. 16-53 Planned development district (PD)
	Sec. 16-54 Agriculture two district (A-2)
	Sec. 16-55 Industrial districts generally
	Sec. 16-56 Reserved
	Sec. 16-57 Industrial one district (I-1)
	Sec. 16-58 Reserved
	Sec. 16-59 Industrial two district (I-2)
	Sec. 16-60 Industrial three district (I-3)
	Sec. 16-61 Open space district (O)
	Sec. 16-62 Agriculture three district (A-3)
	Sec. 16-63 Uses permitted by Special Review (USR)
	Sec. 16-64 Accessory uses and buildings
	Sec. 16-65 Permit for temporary housing incidental to construction of a single-family dwelling
	Sec. 16-65.5 Temporary uses.

	Sec. 16-66	Uses not itemized
	Sec. 16-67	Exceptions, nonconforming uses and area requirements
	Sec. 16-68	Amendments to land use ordinance or zoning map
	Sec. 16-69	Concurrent zoning and annexation
<b>Article 5</b>	<b>Site Plan Standards and Procedures</b>	
	Sec. 16-75	Intent
	Sec. 16-76	General requirements
	Sec. 16-77	Application submittal requirements
	Sec. 16-78	Review procedures and requirements for approval
<b>Article 6</b>	<b>Procedures and Requirements for Subdivisions</b>	
	Sec. 16-85	Authority and purpose
	Sec. 16-86	Control over platting
	Sec. 16-87	General requirements
	Sec. 16-88	Preapplication requirements
	Sec. 16-89	Sketch plan
	Sec. 16-90	Preliminary plat
	Sec. 16-91	Final plat
	Sec. 16-92	Minor developments
	Sec. 16-93	Reserved
	Sec. 16-94	Replat, vacation or plat amendment
	Sec. 16-95	Information and format for plans and plats
<b>Article 7</b>	<b>Public Notice Requirements</b>	
	Sec. 16-100	Purpose
	Sec. 16-101	General provisions
	Sec. 16-102	Public notice procedures
	Sec. 16-103	Notice requirements to mineral estate owner
<b>Article 8</b>	<b>Sign Code</b>	
	Sec. 16-110	Intent
	Sec. 16-111	Definitions
	Sec. 16-112	General requirements
	Sec. 16-113	Sign permit
	Sec. 16-114	Sign setbacks
	Sec. 16-115	Maximum height of sign
	Sec. 16-116	Prohibited signs
	Sec. 16-117	On-site signs — R-1, R-2, R-T, A-1, A-2, A-3 districts
	Sec. 16-118	On-site signs — B, C-1, C-2, I-O, I-1, I-2, I-3 districts
	Sec. 16-119	Off-premise signs
	Sec. 16-120	Median island signs
	Sec. 16-121	Sign area measurements
	Sec. 16-122	Nonconforming signs
<b>Article 9</b>	<b>Development Standards and Practices</b>	
	Sec. 16-140	Improvements in unapproved streets
	Sec. 16-141	Erection of buildings; construction of streets
	Sec. 16-142	Parking requirements
	Sec. 16-143	Manufactured housing
	Sec. 16-144	Fences, walls and obstructions to view
	Sec. 16-145	Location of entrance to residence
	Sec. 16-146	Floodplain regulations
	Sec. 16-147	Dumpsters prohibited; limitations; screening required; exceptions
	Sec. 16-148	Access to Public Streets; Permit Required; Exceptions
<b>Article 10</b>	<b>Commercial Mobile Radio Service Facilities</b>	
	Sec. 16-151	Purpose
	Sec. 16-152	Definitions
	Sec. 16-153	Standards for all CMRS facilities
	Sec. 16-154	Freestanding CMRS facilities
	Sec. 16-155	Building roof or wall-mounted CMRS facilities

**Article 11**

- Sec. 16-156 Pole-mounted CMRS facilities
- Sec. 16-157 Application and approval procedures

**Oil and Gas Operations**

- Sec. 16-170 Purpose
- Sec. 16-171 Definitions
- Sec. 16-172 Requirements and procedures
- Sec. 16-173 Application elements
- Sec. 16-174 Review criteria
- Sec. 16-175 Notice to proceed
- Sec. 16-176 Building permit
- Sec. 16-177 Development setbacks from wells and facilities
- Sec. 16-178 Compliance with state environmental requirements
- Sec. 16-179 Geologic hazard, floodplain, floodway location restrictions
- Sec. 16-180 Access roads
- Sec. 16-181 Wildlife impact mitigation
- Sec. 16-182 Emergency response costs
- Sec. 16-183 Violation and enforcement

## **Article 1**

### **GENERAL PROVISIONS**

#### **Sec. 16-1. Short title.**

This chapter shall be known and may be cited as the Hudson Land Development Code.

#### **Sec. 16-2. Authority.**

This chapter is adopted pursuant to the authority granted to the town as a statutory municipality by Title 31, C.R.S., and other pertinent statutory provisions of the state, and is hereby declared to be in accordance with all provisions of these statutes, for the purpose of promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of the town.

#### **Sec. 16-3. Purpose.**

This chapter is enacted to preserve and promote the public health, safety and welfare of the inhabitants of the town and of the public generally and to encourage and facilitate the orderly growth and expansion of the town. The intent of this chapter is to:

- (1) Address the way land development now occurs, that is, in a manner which combines traditional distinctions between zoning and subdivision and in a manner which typically contains a variety of residential and nonresidential uses in a single development.
- (2) Provide for a more efficient regulatory control system by including the review processes for all types and stages of development in one (1) chapter.
- (3) Avoid the overlapping, conflicting or inconsistent ordinance provisions that frequently occur as a result of numerous individual ordinances.

#### **Sec. 16-4. Jurisdiction.**

(a) This chapter shall apply to all properties within the legal boundaries of the town.

(b) With respect to major arterial and collector roadways, this chapter is applicable within a three-mile radius of the corporate limits of the town, except roadways located in another municipality.

(c) A copy of a map showing the boundaries of the town shall be available for public inspection at Town Hall.

#### **Sec. 16-5. Relationship to existing zoning and subdivision ordinances.**

To the extent that the provisions of this chapter are the same in substance as the previously adopted provisions that they replace in the town's zoning and subdivision ordinances, they shall be considered as continuations thereof and not as new enactments unless otherwise specifically provided. In particular, a situation that did not constitute a legal, nonconforming situation under the previously adopted zoning ordinance does not achieve legal nonconforming status under this chapter merely by the repeal of the zoning ordinance.

#### **Sec. 16-6. Relationship to comprehensive plan.**

It is the intent of the board of trustees that this chapter implement the planning policies adopted by the board of trustees for the town and its comprehensive plan area, as reflected in the town comprehensive plan, and other plans that may be adopted from time to time. While the board of trustees reaffirms its commitment that this chapter and any amendment to it be in conformity with adopted comprehensive plans, the board of trustees hereby expresses its intent that neither this chapter nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document.

#### **Sec. 16-7. No use or sale of land or building except in conformity with ordinance provisions.**

(a) Subject to Section 16-67 of this chapter, no person may use, occupy or sell any land or buildings or authorize or permit the use, occupancy or sale of land or buildings under his

or her control except in accordance with all of the applicable provisions of this chapter.

(b) For purposes of this section, the *use* or *occupancy* of a building or land relates to anything and everything that is done to, on or in that building or land.

#### **Sec. 16-8. Fees.**

(a) Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for zoning permits, Use by Special Review permits, subdivision plat approval, zoning amendments, and variances and other administrative relief. Once review of any application has been commenced by the town, these fees are nonrefundable. In the event the town administrator determines that because of the nature of the application technical review consultants will be necessary, a deposit in an amount of the estimated cost of review shall be required to be submitted with the application. In the event the deposited funds are expended on review, the town administrator may require an additional deposit for further estimated costs of review.

(b) The town will bill developers for any and all costs of professional or consulting services, plus administrative costs as specified in this chapter, which the town incurs as a result of a developer or his or her project. Professional or consulting services include but are not limited to: legal, planning, engineering or hydrological services.

(c) Fees established in accordance with Subsection (a) shall be paid upon submittal of a completed land use application or notice of appeal. All applications for which there is a fee shall be accompanied by the appropriate fee. Applications which are not accompanied by the appropriate fee shall be considered incomplete and shall not be processed nor shall any permit be issued unless the appropriate fee accompanies the application. The applicant shall pay the town the actual cost to the town for engineering, planning, surveying, inspection and legal services rendered in connection with the review of the proposed development applica-

tion plus fifteen percent (15%) to cover administrative costs.

(1) The town will send the applicant a statement for the actual and administrative costs incurred by the town for the services rendered by the town. The applicant shall pay the town the amount due on the statement within fifteen (15) days of the date of the issuance of such statement, unless the amount is covered by a deposit. In the event the applicant fails to pay the amount due on the statement within the time period specified above, the town may immediately stop the review process for the proposed development. The application may be deemed withdrawn if the statement is not paid in full within thirty (30) days of the date of the issuance of the statement.

(2) If the statement is not paid in full within thirty (30) days after issuance of the statement, in addition to the application being withdrawn, the town shall impose interest on the amount due and outstanding at the rate of one and one-half percent (1.5%) per month from the date when due.

(3) In addition to the town's remedies to stop the review process upon nonpayment of such statement and to impose penalty interest, the town shall possess the right to file a lien on property within the application or to otherwise initiate an enforcement action against the applicant for nonpayment of such fees. Such enforcement action may be initiated either in the Weld County Court, the Weld County District Court, or in the Hudson Municipal Court. In the event such collection action is determined in favor of the town, the town shall be awarded its attorneys' fees and court costs in addition to the unpaid fees as part of any judgment.

(4) The payment of fees of the costs of professional and consulting services under this section shall be due and payable as set forth within this section, regardless of whether the project is completed, approved and/or regardless of whether the owner/developer chooses to complete the

town's land review process under the town's Land Development Code.

(d) The applicant shall pay any impact fees as established by town ordinances in effect at the time the development application is approved by the board of trustees. The impact fees shall be paid at the time specified by such ordinance.

**Sec. 16-9. Basic use, location and bulk.**

(a) The permitted uses, basic location and bulk regulations for the various zoning districts are hereby adopted and declared to be parts of this chapter, and may be amended in the same manner as any other part of this chapter.

(b) Control over location and bulk. Subject to the provisions of this chapter dealing with nonconforming uses and buildings, the location and bulk of all buildings and other structures that are currently existing or hereafter constructed shall after the effective date of the ordinance codified herein be in conformity with:

(1) All regulations set forth or referred to in the regulations for the district in which such buildings and other structures are located; and

(2) Any other applicable regulations of this chapter.

**Sec. 16-10. Waivers and amendments.**

(a) The board of trustees may authorize waivers from the provisions of this chapter. Waivers may be granted for the purpose of encouraging flexibility and variety in land development. The board of trustees will not look favorably on waiver requests for self-inflicted hardships. Waivers may be granted if it is deemed by the board of trustees to be in the public interest and does not impair the intent and purposes of this chapter. The conditions of any waiver authorized shall be stated in writing by the board of trustees with the justifications set forth.

(b) The board of trustees, upon its own motion and following the recommendation of the planning commission, may consider revisions or amendments to this chapter after giving public notice of any proposed revision or amendment and after holding a public hearing concerning the proposal. Public hearings before the planning commission and board of trustees shall be noticed as set forth in Section 16-102 of this chapter. The board of trustees shall adopt any revisions or amendments by ordinance.

**Sec. 16-11. Severability.**

It is hereby declared to be the expressed intent that the provisions of this chapter shall be severable, in accordance with provisions set forth below.

(1) If any provision of this chapter is declared to be invalid by a decision of any court of competent jurisdiction, it is hereby declared to be the intent that:

a. The effect of such decision shall be limited to the clause, sentence, paragraph or part of this chapter that is expressly stated in the decision to be invalid; and

b. Such decision shall not affect, impair or nullify this chapter as a whole or any other part thereof, and the rest of this chapter shall continue in full force and effect.

(2) If the application of any provision of this chapter to any use, lot, building, other structure or tract of land is declared to be invalid by a decision of any court of competent jurisdiction, it is hereby declared to be the intent that:

a. The effect of such decision shall be limited to that use, lot, building, other structure or tract of land immediately involved in the controversy, action or proceeding in which the judgment or decree of invalidity was rendered; and

b. Such decision shall not affect,

impair or nullify this chapter as a whole or the application of any provision thereof, to any other use, lot, building, other structure or tract of land.

**Sec. 16-12. Interpretation.**

(a) In the interpretation and application of the provisions of this chapter, the following regulations shall govern:

(1) Provisions are minimum requirements. In their interpretation and application, the provisions of this chapter shall be regarded as the minimum requirements for the protection of the public health, safety, comfort, convenience, prosperity and welfare of the residents of the town. These regulations shall be liberally construed to further their underlying purposes.

(2) Application of overlapping regulations. Whenever both a provision of this chapter, and any other provisions of this chapter or any provision in any law, ordinance, resolution, rule or regulation of any kind, contain any restrictions covering any of the same subject matter, whichever regulations are more restrictive or impose higher standards or requirements shall govern.

(3) Existing permits and private agreements. This chapter shall not abrogate or annul:

a. Any permits issued before the effective date of the ordinance codified herein;

b. Any easement; or

c. Any previously approved subdivisions except as provided herein.

**Secs. 16-13—16-19. Reserved.**

## Article 2

### DEFINITIONS

#### Sec. 16-20. Definitions.

For the purpose of this chapter, certain words and terms are defined as follows:

(1) *Accessory* shall mean subordinate or incidental to and on the same lot or on a contiguous lot in the same ownership and zone as the building or use being identified or advertised.

(2) *Adjacent property* shall mean any property abutting upon or tangent to any lot line of the subject property, disregarding intervening public streets and alleys.

(2.1) *Adult arcade* means an establishment where, for any form of consideration, one (1) or more still or motion picture projectors, slide projectors or similar machines, or other image-producing machines, for viewing by five (5) or fewer persons each, are used to show films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of *specified sexual activities* or *specified anatomical areas*.

(2.2) *Adult bookstore, adult novelty store* or *adult video store* means:

a. A commercial establishment which: (1) devotes a significant or substantial portion of its stock-in-trade or interior floor space to; (2) receives a significant or substantial portion of its revenues from; or (3) devotes a significant or substantial portion of its advertising expenditures to the promotion of the sale, rental or viewing (for any form of consideration) of books, magazines, periodicals or other printed matter, 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 ana-*

*tomical areas*;

b. An establishment may have other principal business purposes that do not involve the offering for sale, rental or viewing of materials depicting or describing *specified sexual activities* or *specified anatomical areas*, and still be categorized as an *adult bookstore, adult novelty store* or *adult video store*. Such other business purposes will not serve to exempt such establishment from being categorized as an *adult bookstore, adult novelty store* or *adult video store* so long as the provisions of subsection a above are otherwise met.

(2.3) *Adult cabaret* means a nightclub, bar, restaurant or other commercial establishment which regularly features:

a. Persons who appear nude or in a state of nudity; or

b. Live performances which are characterized by the exposure of *specified anatomical areas* or by *specified sexual activities*.

(2.4) *Adult motel* means a motel, hotel or similar commercial establishment which:

a. Offers public accommodations, for any form of consideration, and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of *specified sexual activities* or *specified anatomical areas* and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising, including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television;

b. Offers a sleeping room for rent

for a period of time less than ten (10) hours; or

c. Allows a tenant or occupant to subrent a sleeping room for a time period of less than ten (10) hours.

(2.5) *Adult motion picture theater* means a commercial establishment where films, motion pictures, video cassettes, slides or similar photographic reproductions depicting or describing *specified sexual activities* or *specified anatomical areas* are regularly shown for any form of consideration.

(2.6) *Adult theater* means a theater, concert hall, auditorium or similar commercial establishment which, for any form of consideration, regularly features persons who appear in a state of nudity or live performances which are characterized by exposure of *specified anatomical areas* or by *specified sexual activities*.

(3) *Applicant* means any owner of a right or title in real property in the town who formally requests action on a land use proposal submitted in accordance with applicable regulations.

(4) *Architectural projection* shall mean any projection which is not intended for occupancy and which extends beyond the face of an exterior wall of a building, including arcades, roof overhangs, mansards, unenclosed exterior balconies, marquees, canopies, pilasters, fascias and the like, but not including signs.

(5) *Authorized representative* means any individual, partnership or corporation given written authorization by an applicant to process a proposal through the town.

(6) *Awning* shall mean a movable shelter supported entirely from the exterior wall of a building and of a type which can be retracted, folded or collapsed against the face of the supporting building.

(7) *Building* shall mean any structure built for the shelter or enclosure of persons, animals, or property of any kind.

(7.5) *Building Code* shall mean the International Building Code and related building codes as adopted and/or amended by the Town from time to time.

(8) *Building, height of* shall mean the vertical distance measured from the average elevation of the finished grade of the building to the highest point of the roof surface.

(9) *Building inspector* shall mean that person, persons or office designated by the board of trustees to carry out the duties of the building inspection department.

(10) *Church, place of worship* shall mean a church, Sunday school, synagogue, temple, mosque or any other such building or buildings used as a house of worship or religious gathering. Said buildings may include such kitchen and lavatory facilities as may be needed to serve their purpose as a public gathering place. However, places of worship are expressly not to be designated for nor used as sleeping quarters unless by express permission of the board of adjustment.

(11) *Dedicated land* means land area transferred to the town by deed or other legal method approved by the town attorney. Land so transferred shall be utilized for public or community purposes, as approved by the board of trustees.

(12) *Disposition* means a contract of sale resulting in the transfer of equitable title to an interest in subdivided land; a lease or an assignment of an interest in subdivided land; or any other conveyance of an interest in subdivided land.

(12.5) *Dumpster* means a metal container greater than or equal to one (1) cubic yard in size located outside and used to store refuse, garbage, trash, rubbish, yard waste, construction waste or the like. It

does not mean trash cans with thirty-two (32) gallons of capacity or less, plastic trash bags with thirty-two (32) gallons of capacity or less, trash barrels, or wheeled trash barrels with ninety-six (96) gallons of capacity or less.

(13) *Dwelling, multi-family* shall mean a building, including manufactured housing, used by three (3) or more groups of no more than six (6) unrelated persons living independently of each other in separate dwelling units but not to include motels, hotels and resorts.

(14) *Dwelling, single-family* shall mean a detached principal dwelling, designed for or used as a dwelling exclusively by one (1) group of no more than six (6) unrelated persons.

(15) *Dwelling, two-family* shall mean a building, including manufactured housing, used by two (2) groups of no more than six (6) unrelated persons living independently of each other in separate dwellings.

(16) *Dwelling unit* shall mean one (1) room or connected rooms constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease on a monthly or longer basis, physically separated from any other rooms or dwelling units which may be in the same structure. For purposes of computing comparable dwelling unit bulk requirements, every two (2) beds in any boarding and rooming house or dormitory shall be considered to be one (1) dwelling unit. Every eight (8) beds in any orphanage, rest home, convalescent home, nursing home or retirement home shall be considered to be one (1) dwelling unit.

(17) *Evidence* means any map, table, chart, contract or any other document or testimony prepared or certified by a qualified person to attest to a specific claim or condition.

(18) *Family* shall mean a group of persons related by blood, marriage or adop-

tion, living together and normally, but not always consisting of one (1) or two (2) parents and their children, or persons living together in the relationship and for the purpose of guardian, ward or foster family who may not necessarily be related by blood or marriage to the head of the household, or a group of not more than four (4) unrelated persons living together in a dwelling unit, except that a family shall not include more than one (1) individual (or two [2] or more individuals related by blood or marriage) required to register as a sex offender under the provisions of Section 18-3-412.5, C.R.S.

(18.5) *Fire Code* shall mean the International Fire Code as it is adopted and/or amended by the Town from time to time.

(18.6) *Fire district* shall mean the Hudson Fire Protection District.

(19) *Frontage, building* shall mean the horizontal, linear dimension of that side of a building which abuts a street, parking area, mall or other circulation area open to the general public and having either a main window display of the enterprise or a public entrance to the building. In commercial districts, a building side with an entrance open to commercial employees shall also qualify as a building frontage. Where more than one (1) use occupies a building, each such use having a public entrance or main window display for its exclusive use shall be considered to have its own building frontage which shall be the front width of the portion of the building occupied by that use.

(19.5) *Frontage, lot* shall mean the length of the lot line abutting a public street.

(20) *Garage, private* shall mean an accessory building detached or an accessory portion attached to a main building designed for the shelter or storage of motor vehicles.

(21) *Reserved.*

(22) *General advertising device* shall mean any letter, words, symbols, pictures, trademarks, lights (beacon, flashing, rotating, etc.), loudspeaker, noisemaker or other descriptive matter which is placed on any object for the purpose of identifying, promoting, selling or advertising a product or service.

(23) *Group home* shall mean a home in which not more than eight (8) persons reside in accordance with Section 31-23-303, C.R.S., or any other state-licensed housing consisting of group quarters, except that such a home shall not include more than one (1) individual who is required to register as a sex offender under the provisions of Section 18-3-412.5, C.R.S.

(24) *Highway, state* shall mean a road designated, in the manner provided by law, as a state highway or right-of-way or parcel of real property owned by the state, or a governmental subdivision thereof, as a part of a projected road to be constructed and designated as a state highway in the future.

(25) *Home occupation* shall mean a business conducted within a dwelling that is customary and incidental to the residential district and which is approved and used in conformance with the following provisions:

a. The use must be located or operated within the single-unit dwelling, garage or the accessory building used by its occupant for his or her home.

b. The dwelling unit area employed for business shall not exceed twenty-five percent (25%) of its gross floor area. The total area employed for business shall be limited, in any event, to four hundred (400) square feet, including garage or accessory building area.

c. Not more than two (2) persons, not residents of the premises, shall be

employed.

d. The dwelling and premises shall not be rendered objectionable or detrimental to the residential character of the neighborhood due to exterior appearance, the emission of odor, gas, smoke, dust, noise, excessive traffic or similar activity, and the structure shall not include any features by design not customarily found in residential buildings.

e. Such home occupation shall be approved only for the use of the applicants and not subject to transfer between ownerships from property to property.

(26) *Junk* shall mean manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition, such as scrap brass, copper, iron, lead, tin, zinc and all other scrap metals and their alloys, scrap paper products, rags, used cloth, plastic, rope, rubber, tinfoil, bottles, old and used machinery of any type, used tools, appliances, fixtures, utensils, lumber, boxes or crates (fabricated of any material), pipe fittings, conduit or conduit fittings, automobiles in nonoperative condition, tires, etc., and bones.

(27) *Junkyard* shall mean an open area where any waste, junk, used or secondhand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled; including but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles; and also includes an auto wrecking yard for the storage or keeping of one (1) or more inoperative motor vehicles (except where otherwise specifically permitted), but does not include uses established entirely within enclosed buildings.

(28)  *kennel* shall mean any building, structure or open space devoted in its entirety or in part to the raising, boarding or harboring of three (3) or more adult dogs and/or three (3) or more adult cats.

(29) *Kiosk* shall mean a small structure, typically located within a pedestrian walkway or similar circulation area, and intended for use as a key, magazine or similar type of small shop or for use as display space for posters, notices, exhibits, etc.

(30) *Laboratory* shall mean a building or portion of a building devoted to the experimental study in science for the testing and analysis of chemicals, drugs, explosives, minerals, etc.

(31) *Livestock* shall mean domestic animals of types customarily raised or kept on farms or ranches for profit or other productive purposes.

(32) *Lot* shall mean a parcel of land identified on a plat of record or in a deed of record that is of sufficient area and dimensions to meet zoning district requirements for width, area, use and coverage, and to provide such yards and open space as are required. A lot may consist of one (1) lot so identified or combinations of contiguous individual, platted lots and/or portions of lots so recorded and under a single ownership; provided, however, that in no case of division or combination shall any residual lot, portion of lot, combination of platted lots, or parcel be created which does not meet the requirements of this chapter.

(33) *Lot, corner* shall mean a lot of which at least two (2) intersecting sides each abut upon a street.

(34) *Lot, interior* shall mean a lot other than a corner lot.

(35) *Lot, through* shall mean an interior lot abutting on more than one (1) street; or corner lot abutting on more than two (2) streets.

(36) *Lot line, front* shall mean the common boundary line between an interior lot (other than a through lot) and a street, or the common boundary line between a corner lot (other than a through lot) and that

street toward which the principal or usual entrance to the main building situate on such lot more nearly faces, or the common boundary line between a through lot and any adjacent street.

(37) *Lot line, rear* shall mean that boundary line of a lot which is most nearly opposite the front lot line of such lot, other than a through lot.

(38) *Lot line, side* shall mean any boundary line of a lot, other than the front lot line or rear lot line.

(39) *Lot width* shall mean the shortest distance between any two (2) lot lines of a lot which are intersected by the same front lot line.

(40) *Manufactured housing* shall mean a single-family dwelling which meets all of the standards for manufactured housing contained in this chapter and is certified pursuant to the "National Manufactured Housing Construction and Safety Standards Act of 1974," 42 U.S.C. § 5401, et seq.

(40.5) *Mini-Storage*. See Self-Storage.

(41) *Mobile home* shall mean a vehicle or similar portable structure, not including a recreational vehicle and not certified under the National Manufactured Housing Construction and Safety Standards Act of 1974, which is used for temporary or permanent living purposes and is connected to water and sanitation facilities in compliance with the plumbing code and can be used for human occupancy on a continuous basis and does not fall within the definition of *manufactured housing*.

(42) *Mobile home park* shall mean land or property utilized for or intended for the use of renting occupancy spaces for one (1) or more mobile homes.

(43) *Open space* means any unoccupied, unobstructed space open to the sky, except for trees, shrubbery, vegetation or

improvements relating to recreation exclusive of buildings or structures.

(44) *Owner* shall mean a person, firm, corporation or other legal entity recorded as such on the records of the county clerk and recorder, including a duly authorized agent or attorney, purchaser, devisee, fiduciary or person having a vested or contingent interest in the property in question.

(45) *Plat* means the maps and supporting materials of a proposed subdivision, prepared in accordance with the requirements of these subdivision regulations and utilized as an instrument for recording real estate interests with the county clerk and recorder.

(46) *Porch, unenclosed* shall mean a porch which is open to the atmosphere on at least two (2) sides.

(46.5) *Recreational vehicle* shall mean a vehicle which is: built on a single chassis; four hundred (400) square feet or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a light duty truck; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

(46.6) *Replat* shall mean a subdivision that modifies an existing, recorded subdivision.

(47) *Roof* shall mean the cover of any structure, including the eaves and similar projections.

(48) *Roof line* shall mean the highest point on any building where an exterior wall encloses usable floor space, including floor area for housing mechanical equipment. The term *roof line* also includes the highest point on any parapet wall, provided that said parapet wall extends around the entire perimeter of the building.

(48.5) *Self storage* means a fully-enclosed building that is subdivided into self storage spaces which are [rented](#) to tenants, usually on a monthly basis for the purpose of storing customers' personal property. It is not a facility from which active retail sales or commercial warehousing and/or shipping is conducted.

(49) *Setback line* shall mean a line that constitutes one side of a portion of a platted lot within which a structure may be constructed. Setback lines ensure that structures are set back some specified distance from property lines.

(49.5) *Setback line, front* shall mean a line parallel with a front lot line of a lot, tangent to the part of a building situated on such lot (other than an open fire escape, stairway, chimney or one-story unenclosed porch when approved by the board of adjustment as hereinafter provided for) which is closest to such lot line and intersecting two (2) other lot lines of such lot.

(50) *Setback line, rear* shall mean a line parallel with a rear lot line of a lot tangent to that part of a building situated on such lot, which is closest to such rear lot line and intersecting two (2) other lot lines of such lot.

(51) *Setback line, side* shall mean a line parallel with a side lot line of a lot tangent to that part of a building situated on such lot (other than a chimney, stairway or fire escape when approved by the board of adjustment as hereinafter provided for) which is closest to such side lot line and intersecting two (2) other lot lines of such lot.

(51.1) *Sexual encounter establishment* means a business or commercial establishment, that as one (1) of its primary business purposes, offers, for any form of consideration, a place where two (2) or more persons may congregate, associate or consort for the purpose of *specified sexual activities* or the exposure of *specified anatomical areas* or activities when one (1) or

more of the persons is in a state of nudity. An adult motel will not be classified as a *sexual encounter establishment* by virtue of the fact that it offers private rooms for rent.

(51.2) *Sexually oriented business* means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, sexual encounter establishment or nude model studio. The definition of *sexually oriented businesses* shall not include an establishment where a medical practitioner, psychologist, psychiatrist or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

(52) *Signs* are defined in Article 8 of this chapter.

(52.1) *Specified sexual activities* includes any of the following:

- a. The fondling or other intentional touching of human genitals, pubic region, buttocks, anus or female breasts;
- b. Sex acts, normal or perverted, actual or simulated, including, but not limited to, intercourse, oral copulation, sodomy, sadomasochism or bestiality;
- c. Masturbation, actual or simulated;
- d. Human genitals in a state of sexual stimulation, arousal or tumescence;
- e. Excretory functions as part of or in connection with any of the activities set forth in subsections a. through d. above.

(53) *Street* shall mean a public thoroughfare, either existing or proposed in a comprehensive plan or subdivision plat, for vehicular traffic.

(54) *Streets and alleys*. The term *street* means a way for vehicular traffic, whether designated as a street, highway,

thoroughfare, parkway, throughway, road, avenue, boulevard, place or however otherwise designated.

a. *Major arterials* are those streets which are used primarily for fast or heavy traffic.

b. *Collectors* are those streets which carry traffic from local streets to the system or major arterial streets and highways and move traffic to parks, schools and shopping centers serving residential neighborhoods.

c. *Local streets* are those streets which are used primarily for access to abutting properties.

d. *Marginal access streets* are local streets which are parallel to and adjacent to expressways or major arterials, and which provide access to abutting properties and protection from through traffic.

e. The term *alley* means a way which is used primarily for service access to the back or the side of otherwise abutting on a street.

(55) *Subdivision* or *subdivided land* means any parcel of land which is to be used for condominiums, apartments or any other multiple-dwellings units, unless such land was previously subdivided and the filing accompanying such subdivision complied with municipal regulations applicable to subdivisions of substantially the same density, or the division of a lot, tract or parcel of land into two (2) or more lots, plats, sites or other divisions of land for the purpose, whether immediate or future, of sale or of building development. It includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.

a. Unless the method of disposition is adopted for the purpose of evading this subparagraph a, the terms *subdivi-*

*sion* and *subdivided land* as defined in the first paragraph of this subsection shall not apply to any division of land:

i. Which creates parcels of land such that the land area of each of the parcels, when divided by the number of interests in any such parcel, results in thirty-five (35) or more acres per interest;

ii. Which could be created by any court in this state pursuant to the law of eminent domain, or by operation of law, or by order of any court in this state if the board of trustees of the town in which the property is situated is given timely notice of any such pending action by the court and given opportunity to join as a party in interest in such proceeding for the purpose of raising the issue of evasion of this subparagraph a prior to entry of the court order; and, if the board of trustees does not file an appropriate pleading within twenty (20) days after receipt of such notice by the court, then such action may proceed before the court;

iii. Which is created by a lien, mortgage, deed of trust or any other security instrument;

iv. Which is created by a security or unit of interest in any investment trust regulated under the laws of this state or any other interest in an investment entity;

v. Which creates cemetery lots;

vi. Which creates an interest in oil, gas, minerals or water which is severed from the surface ownership of real property;

vii. Which is created by the acquisition of an interest in land in the name of a husband and wife or other persons in joint tenancy or as tenants in common, and any such

interest shall be deemed for purposes of this subsection as only one (1) interest; and

viii. Which is created by the combination of contiguous parcels of land that has not been subdivided into one (1) larger parcel. If the resulting parcel is less than thirty-five (35) acres in land area, only one (1) interest in said land shall be allowed. If the resulting parcel is greater than thirty-five (35) acres in land area, such land area, divided by the number of interests in the resulting parcel, must result in thirty-five (35) or more acres per interest. Easements and rights-of-way shall not be considered interests for purposes of this subparagraph.

b. The board of trustees may, pursuant to rules and regulations or resolution, exempt from this definition of the terms *subdivision* and *subdivided land* any division of land if the board of trustees determines that such division is not within the purposes of this chapter.

(55.1) *Subdivision, minor.* A minor subdivision is a subdivision four (4) or fewer lots that does not require dedication of public right-of-way nor construction of public improvements.

(56) *Subdivision improvements agreement* means one (1) or more security agreements which the town shall accept to secure the actual cost of construction of such public improvements as are required by these subdivision regulations. The *subdivision improvements agreement* may include any one (1) or a combination of the types of security for public improvements listed below, as approved by the town attorney. The types of security for public improvements which may be used as security under the *subdivision improvements agreement* are as follows: private or public escrow agreements, irrevocable letters of credit, deposits of

certified funds or other similar surety agreements as approved by the town attorney. Security required under the *subdivision improvements agreement* shall be sufficient in the judgment of the board of trustees to make reasonable provision for the completion of said improvements in accordance with design and time specifications. The amount of security may be incrementally reduced as subdivision improvements are completed and accepted by the town.

(56.5) *Temporary use* means a use of land, as permitted in this chapter, that is seasonal or is established for a fixed period of time, typically less than one year, after which time the use is discontinued, and does not involve construction of any permanent structure.

(56.6) *Utility Service Plan* means a plan prepared by a qualified professional, estimating the demand for water and sanitary sewer services for each proposed building. The Utility Service Plan shall include the following analyses:

- a. Peak hour, peak day and peak year water demand.
- b. Hydraulic wastewater demand.
- c. Wastewater average biochemical oxygen demand (BOD) and total suspended solids (TSS).

(57) *Yard* means that portion of a platted lot located between a lot line and a parallel line intersecting a point on a foundation of a primary building that is closest to said lot line. A yard may be larger than the required setback area if the primary building is located farther from a lot line than the required setback line. In the case of irregularly shaped lots or other unusual circumstances, the Town Administrator may determine the location of a yard.

(58) *Yard – front* shall mean the yard located between a primary building and an

adjoining public street, not including alleys. Lots adjoining more than one public street will be deemed to have more than one front yard.

(59) *Yard – rear* shall mean the yard that is on the opposite side of a primary building from the front yard. Corner lots shall have one rear yard, the rear yard on the opposite side of a primary building from a front yard and consistent with the orientation of rear yards of adjoining lots in a block.

(60) *Yard – side* shall mean a yard between a primary building and a lot line that is common with another platted lot.

**Secs. 16-21—16-29. Reserved.**

### Article 3

#### ADMINISTRATION

##### Sec. 16-30. Planning commission.

(a) General powers. The planning commission shall have the powers and duties of a municipal planning commission, a municipal zoning commission and all of the powers and duties provided by the authority conferred by Section 31-23-201, et seq., C.R.S., and applicable ordinances of the town.

(b) Membership—terms—qualifications.

(1) The planning commission shall consist of no less than five (5) nor more than seven (7) members, at least three (3) of whom shall be citizen members and no more than two (2) of whom shall be ex-officio members.

(2) Citizen members of the commission shall be appointed by the mayor pursuant to ratification by resolution of the board of trustees, from among the persons nominated by members of the board of trustees. The term of each citizen member shall be four (4) years or until his or her successor takes office.

(3) Ex-officio members of the commission shall be appointed by the board of trustees, from among the membership of the board of trustees, including the mayor, and the administrative officers of the town. The term of each ex-officio member shall be until his or her successor takes office, or until the termination of his or her official tenure as such trustee, mayor or administrative officer.

(4) All members of the commission shall be bona fide residents of the town, and if any member ceases to reside in the town, his or her membership on the commission shall immediately terminate.

(5) Citizen members shall hold no other municipal office, except that no more

than two (2) citizen members may be members of the board of adjustment. The term of any citizen member shall terminate upon his or her election or appointment to other municipal office, except as herein provided.

(6) The board of trustees shall also appoint one (1) alternate member who shall have the qualifications provided by ordinance for citizen members. The term of each alternate member shall be four (4) years or until his or her successor takes office.

a. In case of the absence from any meeting of a citizen member or ex-officio member, the alternate member selected shall be called to serve in lieu of the absent member, with all of the powers, duties and responsibilities of the regular member for whom the alternate member acts.

b. The alternate member shall be appointed for a term of three (3) years.

(7) The commission may provide rules, consistent with this chapter, for the seating of alternate members.

(7.5) Members, including the alternate member called to serve in lieu of an absent member, may be paid twenty-five dollars (\$25.00) in compensation for each planning commission meeting attended. Current ex-officio members of the planning commission may continue to be paid at the current rate of twenty-five dollars (\$25.00) for each planning commission meeting attended.

(8) An absent ex officio member shall not be counted in determining the presence of a quorum of the commission.

(c) Vacancies.

(1) A vacancy on the commission shall exist upon the resignation, death or

removal of any member, or upon the termination of the term of any member otherwise than by expiration of his or her term.

(2) Any vacancy on the commission shall be filled, for the balance of the unexpired term, in the manner provided by this section.

(d) Removal.

(1) Citizen members of the commission may be removed by the board of trustees, after public hearing, for inefficiency, neglect of duty or malfeasance of office. Such public hearing shall be held only after the filing by the mayor or trustee of written charges and upon proper notice.

(2) Ex officio members of the commission may be removed by the board of trustees by resolution.

(e) Investigation and recommendation.

(1) The commission may interview and investigate the qualifications of applicants for appointment as citizen members of the commission, and make reports and recommendations to the board of trustees thereof.

(2) The commission shall make such investigation and report as may be required to enable the board of trustees to consider and act upon any charges filed under the provisions of subsection (d) of this section.(f) Voting—quorum.

(1) Each member of the commission shall have one (1) vote.

(2) Except when the vote of a larger number is required under the provisions of this section or by law, a quorum for the transaction of business by the commission shall be a majority of the number of members currently sitting on the commission.

(g) Organization and rules.

(1) The commission shall elect its chairman from among the citizen members

for a term of one (1) year, with eligibility for reelection. The commission shall also elect a vice chairman from among the citizen members for a term of one (1) year, with eligibility for reelection and such vice chairman shall preside as chairman in the chairman's absence or inability to serve.

(2) The commission shall hold at least one (1) regular meeting in each month.

(3) The commission shall keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record.

(4) The commission shall adopt rules for the transaction of business. Except as otherwise provided by ordinance, the proceedings and meetings of the commission shall be governed by such rules.

(h) Staff—consultants—finances.

(1) The town clerk, subject to the approval of the board of trustees, shall furnish to the commission such equipment and accommodations and such administrative and staff services as may be required for the accomplishment of the purposes and functions of the commission.

(2) The commission may negotiate contracts, subject to approval by the board of trustees, with planners, engineers, architects and other consultants for such services as it may require.

(3) The expenditures of the commission shall be within the amounts appropriated for the purpose by the board of trustees.

(i) Comprehensive plan.

(1) Function of plan. It shall be the function and duty of the commission to make and adopt a comprehensive plan for the physical development of the town, including any areas outside its boundaries, subject to the approval of the board of trustees, which in the commission's

judgment bear relation to the planning of the town. Such plan with accompanying maps, plats, charts and descriptive matter, shall show the commission's recommendations for the development of said territory, including among other things the general location, character and extent of streets, viaducts, subways, bridges, waterways, waterfronts, boulevards, parkways, playgrounds, squares, parks, aviation fields and other public ways, grounds and open spaces, the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, sight, sanitation, transportation, communication, power and other purposes, also the removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any of the foregoing ways, grounds, open spaces, buildings, property, utilities or terminals; as well as a zoning plan for the control of height, area, bulk, location and use of buildings and premises. As the work of making the whole comprehensive plan progresses, the commission may from time to time adopt and publish the part or parts thereof, any such part to cover one (1) or more major sections or divisions of the town or one (1) or more of the foregoing or other functional matters to be included in the plan. The commission may amend, extend or add to the plan from time to time.

(2) Survey by commission. In the preparation of such plan, the commission shall make careful and comprehensive surveys and studies of present conditions and future growth of the town and with due regard to its relation to neighboring territory. The plans shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the town and its environs which will, in accordance with present and future needs, best promote health, safety, morals, order, convenience, prosperity and general welfare, as well as efficiency and economy in the process of development, including among other things

adequate provisions for traffic, the promotion of safety from fire, floodwaters and other dangers, adequate provision for light and air, the promotion of healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds and the adequate provision of public utilities and other public requirements.

(3) Procedure of commission. The commission may recommend adoption by the board of trustees of the plan as a whole by a single resolution or may, by successive resolutions, recommend adoption of successive parts of the plan, said parts corresponding with major geographic sections or divisions of the subject matter of the plan, and may recommend adoption of any amendments or extensions thereof or addition thereto. Before the adoption of the plan or any part, amendment, extension or addition, the commission shall hold at least one (1) public hearing thereon, notice of the time and place of which shall be given by one (1) publication in a newspaper of general circulation in the town and in an official newspaper of the county at least fifteen (15) days prior to said hearing. The adoption of the plan, or any part, amendment, extension or addition shall be by resolution of the board of trustees, carried by affirmative votes of not less than two-thirds ( $\frac{2}{3}$ ) of the entire membership of the board of trustees. The commission's recommendation for adoption shall refer expressly to the maps and descriptive and other matter intended by the commission to form the whole or part of the plan, and the action taken shall be recorded on the map and plan and descriptive matter by the identifying signature of the chairman or secretary of the commission. An attested copy of the proposed plan or part thereof shall be certified to the board of trustees and to the legislative or governing body of any territory affected and after the approval by said body shall be filed with the county clerk and recorder.

(4) Legal status of official plan. Whenever the board of trustees shall have adopted one (1) or more major sections or districts thereof, no street, square, park or other public way, ground or open space, or public building or structure, publicly or privately owned public building or structure shall be constructed or authorized in the town or in such planned section and district until the location, character and extent thereof shall have been submitted for approval by the commission. In the case of disapproval, the commission shall communicate its reasons to the board of trustees, which shall have the power to overrule such disapproval by a recorded vote of not less than two-thirds ( $\frac{2}{3}$ ) of its entire membership.

(5) Publicity—travel—information—entry. The commission shall have the power to promote public interest in and understanding of the plan or any report and to that end may publish and distribute copies of the plan or any report and may employ such other means of publicity and education as it may determine. Members of the commission may attend city planning conferences or meetings of city planning institutes or hearings upon pending town planning legislation, and the commission may incur expenses incidental to such attendance in an amount not to exceed the total funds approved in the current fiscal year budget. The commission shall recommend, from time to time, to the board of trustees and other appropriate public officials, programs for public structures and improvements and for the financing thereof. It shall be part of its duties to consult and advise with public officials and advisors, public utilities companies, civic, educational, professional and other organizations, and with citizens with relation to the protecting and carrying out of the plan. All public officials shall furnish to the commission, upon request, within a reasonable length of time, such available information as it may require for its work. The commission, its members, officers, employees or designated contrac-

tors, in the performance of their functions may enter upon any land and make examinations and service and place and maintain necessary marks and monuments thereon. In general, the commission shall have such powers as may be necessary to enable it to fulfill its functions, promote municipal planning or carry out the purposes of this chapter. The planning commission shall constitute the zoning commission and shall have all powers of the zoning commission as herein provided.

(6) Jurisdiction. The territorial jurisdiction of the commission over the subdivision of land shall include all land located within the legal boundaries of the town; and limited only to control with reference to a major street plan, and not otherwise, shall also include all land lying within three (3) miles of the corporate limits of the town and not located in any other municipality, except that in the case of any such non-municipal land lying within five (5) miles of more than one (1) municipality, the jurisdiction of the commission shall terminate at a boundary line equidistant from the respective corporate limits of the town and such other municipality.

(7) Scope of control. Whenever the commission shall recommend adoption of a major street plan of the territory within the subdivision control or part thereof and the board of trustees has approved and adopted the same, the town clerk shall have filed a certified copy of such plan in the office of the county clerk and recorder, then no plat of a subdivision of land within such territory or part shall be filed or recorded until it shall have been approved by the commission and such approval entered in writing on the plat by the president, chairman or secretary of the commission.

**Sec. 16-31. Board of adjustment; variances.**

(a) Establishment.

(1) A board of adjustment is hereby established, the members of which shall be

appointed by the board of trustees. The board of adjustment shall consist of five (5) members, not more than two (2) of whom at any time may be members of the planning commission. Members of the board of adjustment as constituted at the time of enactment of this chapter shall be continued in office for the duration of their appointed terms. The board of adjustment members shall be appointed for a three-year term, with the initial terms to be staggered so that the term of at least one (1) member shall expire each year.

(2) The board of trustees may also appoint one (1) alternate member who shall have the qualifications provided by ordinance for citizen members.

a. In case of the absence from any meeting of a citizen member or ex officio member, the alternate member elected shall be called to serve in lieu of the absent member, with all of the powers, duties and responsibilities of the regular member for whom the alternate member acts.

b. The alternate member shall be appointed for a term of three (3) years.

(3) In the event that the board of trustees is unable to appoint a necessary number of persons to act as a board of adjustment, or in the event that the board of adjustment is unable to obtain a quorum to hear its calendar of cases, the board of trustees is hereby authorized to act as the board of adjustment as follows:

a.

In the event that a hearing is scheduled to be heard in front of the board of adjustment, and a quorum is not obtained on the hearing date, the secretary of the board shall cause the hearing to be continued until the next regular board of trustees meeting, and the board of trustees shall then act as the board of adjustment on the application. The secretary of the board shall

verbally notify those in attendance at any meeting of the board of adjustment at which a quorum is not obtained of the continuance until the next regular board of trustees meeting.

b. The board of trustees, acting as the board of adjustment, shall have all of the power and authority of the board of adjustment as set forth in this section, except that the concurring vote of five (5) members of the board of trustees shall be necessary to reverse any order, requirement, decision or determination of the building inspector or to decide in favor of an applicant upon any matter which it is required to pass under the zoning ordinance, or to effect any variance herein.

(b) Officers. The board of adjustment shall, at its first regular meeting of each year, select a chairman, a vice chairman and a secretary. The secretary may or may not be a member of such board of adjustment. The chairman shall preside at meetings and shall perform all duties usual and ordinary for the presiding officer of any board or group. The vice chairman shall perform the duties of the chairman in the absence of the chairman. The secretary shall keep full and complete minutes and records of all meetings, shall have the custody of all the records of all meetings, shall generally supervise all of the clerical work of the board of adjustment and shall perform the duties usually performed by the secretary of a board or group.

(c) Powers. The board of adjustment shall have the following powers:

(1) To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, decision or determination made by an administrative official or agency based on or made in the enforcement of this chapter. The board shall, by this grant of authority, be specifically authorized to hear and decide appeals of the building inspector, and to hear and decide appeals of the fire district under this chapter, to the extent that the fire district is

enforcing the Fire Code, as adopted by the town.

(2) To hear and decide requests for special exemptions or for interpretations of the district maps or other provisions of this chapter or for decisions upon other special questions upon which the board of adjustment is expressly authorized by this chapter to pass.

(3) To interpret the provisions of this chapter in such a way as to carry out the intent and purpose of the plan where the street or highway layout on the ground varies from the street or highway layout as shown on the district map.

(4) Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property, by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation herein adopted would result in peculiar, exceptional and undue hardship on the owner of such property, to authorize a variance from such strict application so as to relieve such difficulties of hardship, provided that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zoning plan as embodied in the chapter and district maps, and as more particularly set forth in Section 16-67 of this chapter.

(5) Reserved. (6) To allow or disallow the reconstruction, within one (1) year, of a nonconforming building which has been destroyed by fire or other cause to the extent of more than fifty percent (50%) of its replacement value at the time of destruction.

(7) Where the boundary line of any district divides property which was in a single ownership as of the effective date hereof and continued in single ownership to the time of the appeal, the board of adjustment may permit the use authorized

by this chapter on the less restricted portion of such property to an extent to be determined by the board of adjustment.

(8) Appeals to the board of adjustment may be made by an aggrieved person or by any officer, department, board or bureau of the town affected by the decision of the zoning authority in administering these regulations. Such appeal shall be filed within ten (10) days after the date of the decision by filing with the zoning officer and with the board of adjustment a written notice of appeal specifying the grounds thereof and by paying a filing fee at the time the notice is filed. An appeal stays all proceedings in furtherance of the action appealed unless the officer from whom the appeal is taken certifies to the board of adjustment, after the notice of appeal, that by reason of the facts stated in the certificate of stay, in his or her opinion, such stay would cause imminent peril to life or property.

(d) Vacancies. The board of trustees shall appoint members to fill vacancies on the board of adjustments.

(e) Removal from office. Members of the board of adjustments may be removed by the board of trustees.

(f) Meetings.

(1) Regular meetings of the board of adjustment shall be held at least once each calendar year or more frequently as required.

(2) Special meetings shall be held at the call of the chairman and at such other times as the board of adjustment may determine.

(3) All meetings shall be open to the public.

(4) A quorum of the board of adjustment shall consist of four (4) members.

(5) The members of the board shall attend meetings of the board in person.

(6) The chairman, or in his or her absence, the vice chairman or acting chairman, may administer oaths and compel the attendance of witnesses.

(7) The board of adjustment shall keep minutes of its proceedings showing the vote of each member on each question, or if absent or failing to vote, indicating such fact. It shall also keep records of its examinations and other official actions, all of which shall be filed immediately in the offices of the board and shall be a public record.

(8) The concurring vote of four (4) members of the board shall be necessary to reverse any order, requirement, decision or determination of the building inspector or to decide in favor of an applicant, any matter upon which it is required to pass under the zoning ordinance or to effect any variance herein. An appeal may be taken from any final action of the building inspector to the board of adjustment by any aggrieved person, or by an officer, department or board of the town. Such appeal shall be taken within fifteen (15) days after the date of the final decision of the building inspector by filing with the building inspector and the board of adjustment a notice of appeal specifying the grounds thereof.

(g) Board of adjustment appeals, variances, and interpretations of activities administered by staff related to zoning.

#### (1) Appeals

a. Any aggrieved person may appeal a final order or decision of the administrator with the board of adjustment where there is an alleged error in the resulting requirement, decision or approval determination appropriate for board of adjustment review. An appeal is made by filing with the administrator a written notice of appeal

specifying the reasons for the appeal and the appropriate fee for review. A notice of appeal shall be considered filed with the administrator and the board of adjustment when delivered to the town, and the date and time of filing shall be entered on the notice by the town staff.

b. An appeal must be made within ten (10) days after the date of the decision or order appealed from.

c. Whenever an appeal is filed, the administrator shall forthwith transmit to the board of adjustment all records relating to the action appealed from.

d. An appeal stays all actions by the administrator seeking enforcement of or compliance with the order or decision appealed from, unless the administrator certifies to the board of adjustment the belief that due to the facts contained in the certification, a stay would cause imminent peril to life or property. In that case, proceedings shall not be stayed except by order of the board of adjustment or a court, issued on application of the party seeking the stay, for due cause shown, and after notice to the administrator.

e. The board of adjustment by a concurring vote of at least four (4) members may reverse or modify the order, requirement, decision or determination appealed from and shall make any order, requirement, decision or determination that in its opinion ought to be made in the case before it. To this end, the board of adjustment shall have all the powers of the officer from whom the appeal is taken.

#### (2) Variances

a. An application for a variance shall be submitted to the board of adjustment by filing a copy of the application with the administrator meeting the requirements of Subsection

(j) of this section. Use variances, changes and additions are not subject to review by the board of adjustment.

Notice of the public hearing shall be made in accordance with Section 16-102.

c. A variance may be granted by the board of adjustment by a concurring vote of at least four (4) members if it concludes that strict enforcement of this chapter would result in practical difficulties or unnecessary hardships for the applicant and that, by granting the variance, the spirit of this chapter will be observed, public safety and welfare secured and substantial justice done. It may reach these conclusions if it finds that:

i. If the applicant complies strictly with the provisions of this chapter, the result is that there is no reasonable use of the property;

ii. The hardship of which the applicant complains is one (1) suffered by the applicant alone and not by neighbors or the general public;

iii. The hardship relates to the applicant's land, rather than personal circumstances;

iv. The hardship is unique and unusual, or nearly so, rather than one (1) shared by many surrounding properties;

v. The hardship is not the result of the applicant's own actions;

vi. The variance requested is the minimum that will afford relief and the least possible modification of the requirements of this chapter;

vii. The variance will neither result in the extension of a nonconforming situation in violation of Section 16-67, nor authorize the ini-

tiation of a nonconforming use of land, nor conflict with the goals and policies of the comprehensive plan and the Land Development Code;

viii. For variances relating to floodplains and floodways, the requirements of Sections 16-49 and 16-146 and FEMA must be met.

d. The board of adjustment may allow or disallow the reconstruction, within one (1) year, of a nonconforming building which has been destroyed by fire or other cause to the extent of more than fifty percent (50%) of its replacement value at the time of destruction upon review of an application for reconstruction.

e. In granting variances, the board of adjustment may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties.

f. A variance may be issued for an indefinite duration or for a specified duration.

g. The nature of the variance and any conditions attached to it shall be entered on the face of the application. It may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirement of this review process.

h. Variances shall be limited to the following items:

i. Minimum area of lot;

ii. Minimum width of lot;

iii. Maximum height of structures and fences;

- iv. Minimum front yard setback;
- v. Minimum side yard setback;
- vi. Minimum rear yard setback;
- vii. Minimum off-street parking requirements; and
- viii. Sign setbacks, height, placement of a sign on a lot or building, and the maximum size of a sign.

i. No appeal to the board of adjustment shall be allowed for building use violations; nor shall the board of adjustment consider any variance request for a use not permitted within a zone district. The findings and decisions of the board of adjustment shall be final, subject only to judicial review.

(3) Map interpretations

a. The administrator shall be the preliminary interpreter of the zoning ordinance and map. The board of adjustment is authorized to hear variances and appeals from such preliminary interpretations. The board of adjustment is also authorized to hear appeals on questions of district boundary lines and similar questions. If such questions arise in the context of an appeal from a decision of the administrator, they shall be handled as provided in Section 16-31(g)(1)a.

b. An application for a zoning map interpretation shall be submitted to the board of adjustment by filing a copy of the application with the administrator. The application shall contain sufficient information to enable the board of adjustment to make the necessary interpretation.

c. Interpretations of the location of floodway and floodplain boundary lines may be made by the administrator as provided in Section 16-146 and FEMA,

and may be appealed to the board of adjustment.

(4) Burden of proof in appeals and variances.

a. When an appeal is taken to the board of adjustment in accordance with this section, the administrator shall have the initial burden of presenting to the board of adjustment sufficient evidence and argument to justify the order or decision under appeal. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.

b. The burden of presenting evidence sufficient to allow the board of adjustment to reach any conclusions authorized by this section, as well as the burden of persuasion on relevant issues, remains with the applicant seeking the variance.

(5) Board of adjustment action on appeals and variances.

a. The board of adjustment, before deciding requests for appeals or variances, shall hold a public hearing following the applicable procedures of Section 16-102.

b. All motions to reverse, or modify the order, requirement, decision or determination appealed from shall include, to the extent practicable, a statement of the specific reasons or findings of facts that support the motion.

c. Insofar as practicable, a motion to make an affirmative finding on each of the requirements set forth above shall include a statement of the specific reasons or findings of fact supporting such motion. A motion granting a variance must have the concurrence of at least four (4) members of the board of adjustment to pass.

d. A motion to deny a variance may be made on the basis that any one (1) or more of the criteria set forth in this section are not satisfied or that the application is incomplete. Insofar as practicable, such a motion shall include a statement of the specific reasons or findings of fact that support it. This motion is adopted as the board of adjustment's decision if supported by a majority of the board's membership present.

(h) Calendar of cases.

(1) Each case filed in the proper form with the required data shall be numbered serially, regardless of whether it is an application, appeal or petition, and shall be placed on the secretary's calendar. The calendar numbers shall begin anew on January 1 of each year. (e.g., 89-1, 89-2, etc.)

(2) As soon as a case receives a calendar number, it shall be put on the secretary's calendar and the applicant or appellant shall be notified of the date when his or her case will be heard, such notice to be by first class mail, sent to the address given on the application, appeal or petition.

(3) Any applicant, petitioner or appellant, and any resident or taxpayer of the town who desires to oppose the application, petition or appeal and to be heard at such hearing, may appear in person, by agent or by attorney.

(i) Final disposition of cases.

(1) Every decision of the board of adjustment on any case shall be by recorded resolution indicating the findings of the board of adjustment therefor.

(2) The final disposition of any appeal from the building inspector before the board of adjustment shall be in the form of a resolution, either affirming, reversing or modifying the order, requirement, decision or determination appealed. If a resolution

fails to receive four (4) votes in favor of the appellant upon appeal or of the applicant for a variation from the zoning regulations, the action will be deemed equivalent to denial, and a resolution denying such application or appeal shall be formally entered upon the record.

(3) No application, petition or appeal dismissed or denied can be considered again except (i) on a motion to reconsider the vote; or (ii) on a request for a rehearing. No request to grant a rehearing will be entertained unless new evidence is submitted which could not have been, with due diligence, presented at the previous hearing or if the action to deny was made at a meeting of less than all eligible members of the board of adjustment.

(4) The board of adjustment may, on a motion by any member, review any decision that it has made and may reverse or modify such decision, but no such review shall prejudice the right of any person who has, in good faith, acted thereon before said ruling is reversed or modified.

(j) Variance application.

(1) No application for a variance from the course prescribed by the zoning ordinance shall be heard by the board of adjustment except in a specific case or appeal from an order, requirement, decision or determination made by the building inspector upon the grounds that the proposed plan or use is contrary to the provisions of the zoning ordinance.

(2) No application, appeal or petition previously denied and pertaining to the same requests will be accepted for consideration by the board of adjustment within one (1) year from the date of denial of the prior application.

(3) The application shall include the following information, and other information that may be requested by the board of adjustment:

a. A completed application form along with the appropriate fee;

b. An acceptable sketch map indicating the nature of the variance sought and/or where on the property it will be located;

c. Adequate proof of ownership; and

d. A list of property owners to be notified as provided in Sections 16-101 and 16-102 of this chapter taken from the current property ownership records at the county assessor's office.

**Sec. 16-32. Building inspector — requirements.**

(a) There is hereby established the requirement for building inspection services. It shall be the duty of the building inspector to enforce the provisions of this chapter. Hereafter, it shall be unlawful to erect, construct, reconstruct, structurally alter or modify any building or other structure or to make electrical or plumbing improvements to a structure other than simple repairs without first obtaining from the building inspector a written permit. The building inspector shall not issue any permit unless the plans for the proposed erection, construction, reconstruction, alteration or use fully conform to all zoning regulations then in effect.

(b) No oversight or dereliction on the part of the building inspector or his or her authorized assistants or on the part of any official or employee of the town or any board shall legalize, authorize or excuse the violation of any of the provisions of this chapter.

(c) The building inspector shall enforce such regulations as are necessary to maintain the premises and condition of operations to ensure against unnecessary odors, smoke or noise of any permitted use.

(d) The application for each permit shall give the legal descriptions of the lot or land involved, location and intended use of the

proposed building or buildings, the number of housekeeping units the building is designed to accommodate, if any, and such other information as may be required for the enforcement of this chapter. All applications for permits and copies of permits issued shall be kept for ready public reference by the building inspector. The board of trustees shall establish by resolution a reasonable schedule of fees for the issuance of such building permits.

(e) For all new buildings, before footing inspections and approval thereof, it shall be required that the owner, lessee, builder or contractor locate the property boundaries by placing at the property corners of the building site stakes or other monuments to establish said boundaries. Where uncertainty exists with respect to the boundaries of the various districts as shown on the zoning map, the following rules shall apply:

(1) In subdivided areas, unless otherwise shown on the maps, the district boundaries are either centerlines of streets, alleys or record lot lines, and where a district boundary line is approximately along a street, alley or record lot line, it shall be construed to be the boundary.

(2) In unsubdivided areas, the district boundaries, unless otherwise shown on the maps, are street, highway or land survey lines. Where a portion of any district is indicated upon the district map as a strip paralleling a street or highway, the width of the strip, unless given in figures, shall be determined by the use of the scale of the map.

In the event of controversy regarding the location of a district boundary line, the matter shall be referred for decision to the board of adjustment.

**Sec. 16-33. Enforcement.**

(a) Violations. No land in the town shall be used, or any building or structure erected, constructed, enlarged, altered, maintained, moved or used in violation of this chapter or amendments thereto. The board of trustees,

through the town attorney and court of appropriate jurisdiction (which includes the municipal court), may initiate legal action to prevent, abate or remove such unlawful use, maintenance, erection, construction, reconstruction or alteration, in addition to any other remedies provided by law.

(b) Penalties.

(1) Any person, firm or corporation, whether as principal, agent, employee or otherwise, who violates any of the provisions of this chapter shall be fined an amount not to exceed four hundred ninety-nine dollars (\$499.00) for each such violation, such fine to inure to the town. Each day of the documented existence of any situation held to be a violation shall be deemed an equal and separate offense.

(2) Any person, firm or corporation who, with respect to any land located within a subdivision, transfers or agrees to sell any land by references to or exhibition of or by use of a plat of a subdivision, before such plat has been approved by the board of trustees and recorded or filed in the office of the county clerk, shall forfeit and pay a penalty not to exceed four hundred ninety-nine dollars (\$499.00) for each lot or parcel so transferred or sold or agreed to be sold. The description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transactions from such penalties or from the remedies provided in this chapter. The board of trustees may enjoin such transfer, sale or agreement by action for injunction brought in any court of competent jurisdiction or may recover the penalty in any court of competent jurisdiction, including the municipal court. These remedies shall be additional and cumulative to any remedies provided by the Colorado Revised Statutes.

(c) Enforcement.

(1) This chapter shall be enforced by the town as set forth herein in order to address issues including, but not limited to, the unlawful erection, construction, altering, occupancy or use of any building or structure, or land in the incorporated area of the town.

(2) Inspections. The town, through its authorized representatives, after consultation with the town attorney and authority from the court, is hereby empowered to enter and/or inspect any building, structure or tract of land in the town. When a violation is alleged, the town shall compile or cause to be compiled relevant evidence of the alleged violation and take any action authorized by law to correct violations of federal, state or local law.

(3) Building permits. It shall be unlawful to erect, construct, reconstruct, alter, add to or change the use of any building or other structure, including surface and subsurface structures, or to move a structure from one (1) property to another within the town without first obtaining a building permit from the building inspector or his or her authorized representative.

The building inspector shall not issue any building permit unless the plans for the proposed erection, construction, reconstruction, alteration or use fully conform to all applicable provisions of this chapter and such other ordinances as may be adopted by the board of trustees.

The foregoing paragraphs shall not apply to those agricultural improvements such as fences, corrals, pens, silos, soil erosion dams or other such structures directly connected with a farming or ranching operation, but shall apply to any structure or building intended for temporary use or permanent human habitation and accessory uses related directly thereto.

All building permits shall be issued in conformance with the provisions of this chapter and shall be valid for a period of time not exceeding twelve (12) months from the date issued and the building codes as adopted by the town.

**Secs. 16-34—16-39. Reserved.**

## Article 4

### ZONING DISTRICTS

#### Sec. 16-40. Establishment of districts.

In order to regulate the location, height, bulk and size of buildings and other structures; the percentage of lot which may be occupied; the size of lots, courts and other open spaces; the density and distribution of population; the location and uses of land, buildings and structures for trade, industry, residence, recreation, public activities or other purposes, the incorporated area of the town is hereby divided into the following districts:

- R-1 Residential one district. (16-43)
- R-2 Residential two district. (16-44)
- R-T Residential trailer district. (16-45)
- B Business district. (16-46)
- C-1 Commercial one district. (16-47)
- C-2 Commercial two district. (16-48)
- F Floodplain overlay district. (16-49)
- A-1 Agriculture one district. (16-50)
- A-2 Agriculture two district. (16-54)
- A-3 Agriculture three district. (16-62)
- H Historical district. (16-51)
- P Parks district. (16-52)
- O Open space district. (16-61)
- PD Planned development district. (16-53)
- I-O Office/warehouse district. (16-56)
- I-1 Industrial one district. (16-57)
- I-2 Industrial two district. (16-59)
- I-3 Industrial three district. (16-60)

#### Sec. 16-41. Adoption of official zoning map.

(a) The location and boundaries of the districts set forth herein are as shown on the

Hudson zoning map, as it is revised by the board of trustees from time to time.. This zoning map, together with everything shown thereon and all amendments thereof, shall be as much a part of this chapter as if fully set forth and described herein. Official zoning maps shall be filed in the office of the town clerk and may be examined during office hours at the town hall.

(b) Zoning district boundaries are intended to be property ownership lines or lot lines; centerline of streets, alleys or extensions thereof, channelized waterways or similar right-of-way; the centerline of blocks; section or township lines; municipal corporate boundaries; the centerline of stream beds; or other lines drawn approximately to scale on this official Hudson Zoning Map. In the event that a zoning district boundary is unclear or is disputed, it shall be the responsibility of the town administrator to determine the intent and actual location of the district boundary.

#### Sec. 16-42. Incorporation of plans and development guides.

For areas zoned PD – Planned Development, the Development Guides and Development Plans incorporated into the ordinance establishing the zoning are hereby incorporated into and made a part of this chapter. Whenever such guides or plans do not address a particular topic, situation or issue, the provisions of this chapter shall apply.

#### Sec. 16-43. Residential one district (R-1).

- (a) Uses by right.
  - (1) Single-family dwellings.
  - (2) Schools for elementary through high school education.
  - (3) Public parks, playgrounds and playfields for daytime use.
  - (4) Churches, public libraries, community centers.

(5) Manufactured housing, in accordance with section 16-143 of this chapter.

(6) Home occupations, provided that the requirements and conditions of this chapter are met.

(b) Accessory uses.

(1) Private garages.

(2) Storage sheds not to exceed four hundred (400) square feet total floor area.

(bb) Uses by Special Review (USR). The following buildings, structures and uses may be constructed, occupied or maintained in this district upon approval of a permit in accordance with the requirements and procedures set forth in section 16-63 of this chapter.

(1) Oil and gas production facilities, reviewed pursuant to Article 11 of this Chapter.

(2) Microwave, radio, television or other CMRS facility, reviewed pursuant to Article 10 of this chapter.

(c) Uses requiring planning commission approval. The following uses shall be permitted only upon the approval of the planning commission, subject to appeal to the board of trustees:

(1) Governmental buildings, fire stations, but not including warehouses, storage or repair.

(2) Telephone exchanges, cable TV equipment sites, electric or electronic substations, including transmission and distribution lines or gas regulator stations where no repair or storage facilities are maintained.

(3) Reserved.

(4) State-licensed group homes for the exclusive use of developmentally disabled persons.

(5) Owner-occupied or nonprofit group homes for the exclusive use of not more than eight (8) persons sixty (60) years of age or older per home.

(6) Outdoor recreational areas and golf courses.

(7) Temporary housing incidental to construction of a single-family dwelling, reviewed, pursuant to Section 16-65 of this Chapter.

(d) Lot minimum requirements.

(1) Minimum lot area -- five thousand eight hundred (5,800) square feet.

(2) Minimum lot width -- fifty (50) feet, except on lots fronting the curved portion of cul-de-sacs -- thirty (30) feet.

(3) Minimum lot frontage -- fifty (50) feet (minimum front lot line), except on lots fronting the curved portion of cul-de-sacs -- thirty (30) feet.

(4) Minimum front setback -- twenty (20) feet (minimum distance of any building from the front lot line).

(5) Minimum side setback -- five (5) feet (minimum distance of any building from the side lot line) except the minimum width of the side yard adjacent to a street, road or highway shall be fifteen (15) feet.

(6) Minimum rear setback -- ten (10) feet (minimum distance of any building from the rear lot line).

(7) Accessory buildings other than garages shall be set back at least fifty (50) feet from the front lot line.

(8) Lot coverage by building -- not more than sixty percent (60%) of the area of a lot shall be covered by the main building and all accessory buildings.

(e) Maximum building height. No building shall exceed thirty (30) feet in height. (See definitions.)

(f) Minimum floor space. All structures used for dwelling purposes shall contain at least seven hundred (700) square feet of finished floor area.

**Sec. 16-44. Residential two district (R-2).**

(a) Uses by right.

(1) Any use by right in R-1 (residential one) district.

(2) Multiple-family dwellings.

(3) Reserved.

(4) Two-family dwellings.

(b) Accessory use.

(1) Any accessory use permitted in the R-1 (residential one) district.

(2) Management or rental office for use in multiple-family dwellings.

(bb) Uses by Special Review (USR). The following buildings, structures and uses may be constructed, occupied or maintained in this district upon approval of a permit in accordance with the requirements and procedures set forth in Section 16-63 of this chapter.

(1) Oil and gas production facilities, reviewed pursuant to Article 11 of this Chapter.

(2) Microwave, radio, television or other CMRS facility, reviewed pursuant to Article 10 of this Chapter.

(c) Uses requiring planning commission approval. Any use requiring planning commission approval in the R-1 (residential one) district.

(d) Lot minimum requirements.

(1) Minimum lot area -- five thousand eight hundred (5,800) square feet, and the minimum lot area for a two-family house shall be nine thousand (9,000) square feet. The minimum lot area for any other building shall be nine thousand (9,000) square feet; provided, however, that the minimum lot area for a multiple-family dwelling shall be not less than an additional two thousand (2,000) square feet for each additional unit over two (2).

(2) Minimum lot width -- the minimum width of lot shall be fifty (50) feet or a minimum width of twenty-five (25) feet for each dwelling unit on the lot, whichever is greater.

(3) Minimum lot frontage -- fifty (50) feet (minimum front lot line).

(4) Minimum front setback -- twenty (20) feet (minimum distance of any building from front lot line). (5) Minimum side setback -- five (5) feet (minimum distance of any building from the side lot line) except the minimum width of the side yard adjacent to a street, road or highway shall be fifteen (15) feet.

(6) Minimum rear setback -- ten (10) feet (minimum distance of any building from rear lot line).

(7) Accessory buildings other than garages shall be set back at least fifty (50) feet from the front lot line.

(8) Maximum lot coverage by buildings -- not more than sixty percent (60%) of the area of a lot shall be covered by the main building and all accessory buildings.

(e) Maximum building height. Building height must be specifically applied for and approved by the planning commission if the proposed building is to exceed thirty (30) feet in height.

(f) Minimum floor space.

(1) All one- and two-family dwelling units shall contain a minimum finished floor area per dwelling unit .

(2) All attached multi-family dwelling units shall each contain a minimum finished floor area per unit, not including lounge, common rooms or storage areas within the structure.

(3) Public libraries.

(4) Public parks, playgrounds and playfields for daytime use.

(5) Recreational areas and golf courses.

**Sec. 16-45. Residential trailer district (R-T).**

(a) Uses by right. Permanent mobile home park.

(b) Accessory uses.

(1) Private garages.

(2) Office for rental of mobile home spaces within the area.

(3) Recreation building for use of occupants within the area.

(4) Utility building for use of occupants within the area.

(bb) Uses by Special Review (USR). The following buildings, structures and uses may be constructed, occupied or maintained in this district upon approval of a permit in accordance with the requirements and procedures set forth in Section 16-63 of this chapter.

(1) Oil and gas production facilities, reviewed pursuant to Article 11 of this Chapter.

(2) Microwave, radio, television or other CMRS facility, reviewed pursuant to Article 10 of this Chapter.

(c) Uses requiring planning commission approval.

(1) Schools for elementary through high school education.

(2) Churches.

(6) Recreational vehicles within mobile home parks, temporary occupancy only as provided in subsection (h) below.

(d) Lot requirements.

(1) Minimum lot area – two thousand nine hundred (2,900) square feet per mobile home.

(2) Minimum lot width – thirty-two (32) feet per mobile home.

(3) Minimum front setback – twenty (20) feet.

(4) Minimum side setback – twenty (20) feet between mobile homes.

(5) Minimum rear setback – twenty (20) feet between mobile homes.

(e) Maximum building height. No building or structure, including signs, shall exceed a height of thirty (30) feet. (See definitions.)

(f) Mobile home park plan.

(1) Every mobile home park shall be located on a well drained area, and the premises shall be properly graded so as to prevent the accumulation of storm or other waters except in approved drainage facilities. No mobile home or mobile home park shall be located in any area that is situated so the surface drainage from any barnyard, outdoor toilet or other source of contamination can be deposited in its location.

(2) Mobile home spaces shall be clearly defined and shall consist of a minimum of two thousand nine hundred (2,900) square feet and width of not less than thirty-two (32) feet.

(3) The park shall be arranged so that all spaces shall face or abut on a street of not less than thirty (30) feet in width. Such streets shall have a twenty-foot graveled or

paved driving surface which is maintained in good condition.

(4) Requests for new R-T districts shall be accompanied by a comprehensive sketch plan and shall follow normal rezoning procedures, said sketch plan to consist of the following:

a. Plot plan of total area to be used as a mobile home park.

b. Description of land to be developed.

c. Location of each existing and proposed structure.

d. Location, area and dimensions of each trailer space and defined use of each space.

e. Location and dimensions of all roads and/or driveways.

(5) Prior to construction of any new mobile home park, a final plan shall be submitted for approval in accordance with procedures in Section 16-34. Said plan shall be drawn to scale and shall consist of the information required for the comprehensive sketch plan plus the following:

a. Location and specifications of all existing and proposed utilities.

b. Detailed drainage plan.

c. All plans shall be drawn to a minimum scale of one (1) inch equals one hundred (100) feet.

(g) Existing parks.

(1) The land occupied by all mobile home parks which were in existence as of August 1, 1989, and were in conformity with prior ordinances, shall not be determined Residential Trailer (R-T) by this chapter, but shall become a nonconforming use.

(2) Mobile home parks in existence as of August 1, 1989, which have trailer

spaces, buildings, signs or other installations which have a width, area, setback or height not in conformity with that herein prescribed, may continue to operate within existing trailer spaces, buildings, signs and other installations and shall be permitted to operate as such and in such condition of nonconformity until such time as alteration, repair, remodeling or renewal is accomplished on any nonconforming item, at which time that item will be brought into conformity with this regulation.

(h) Uses requiring Planning Commission approval. Residency in recreational vehicles within permanent mobile home parks shall be permitted only upon approval of the planning commission:

(1) Intent. This section is intended to provide a process to allow up to twenty-five percent (25%) of the spaces within a permanent mobile home park to be used on a temporary basis by recreational vehicles, with one (1) recreational vehicle permitted per space.

(2) Criteria for approval. The planning commission may approve a permit for the use of a space within a permanent mobile home park for a period of not less than three (3) nor more than six (6) months, subject to reasonable conditions which include, but are not limited to the following:

a. The recreational vehicle will not have any adverse impact on the health, safety or welfare of the town;

b. The permit will not result in more than twenty-five percent (25%) of the spaces in a mobile home park being occupied by recreational vehicles, with no more than one (1) such vehicle occupying a space; and

c. Any recreational vehicle using a mobile home park space shall be required to connect to the mobile home park's water and sewer system.

(3) Limitations. The permit authorized pursuant to this section shall be for a duration of time specified by the planning commission, but in no event shall the duration of time of the permit be more than six (6) months, and each permit approved by the planning commission shall be apply only to one specific recreational vehicle

(4) Application. The property owner seeking a permit pursuant to this section shall submit an application to be provided by the town to the town clerk for referral to the planning commission. The application shall include the following:

a. Name and contact information for the owner of the mobile home park.

b. A narrative description of the proposed recreational vehicle use, including the proposed number of recreational vehicles and dates of occupancy.

c. A map of the mobile home park, clearly identifying the spaces proposed for temporary occupancy by recreational vehicles.

d. A fee deposit as determined by the town.

(5) Planning commission action. The planning commission shall review the proposal as soon as practical at a public meeting with the applicant and determine whether the issuance of a permit is in the best interests of the health, safety and welfare of the town, based on the criteria set forth in this subsection. The planning commission shall then make a written determination of whether to issue a permit and shall specify the duration thereof. In the event the planning commission denies the request for a permit, the applicant may appeal the determination to the board of trustees. Such an appeal must be filed within five (5) working days of receipt of the written determination by the planning commission.

(6) Expiration; revocation. A permit issued pursuant to this section may be revoked by the planning commission or the board of trustees in the event it determines at a public meeting after notice to the property owner that the property owner is not in compliance with the criteria for approval of the permit, or is otherwise a detriment to the public health, safety and welfare of the town.

(7) Penalty. It shall be unlawful for a recreational vehicle to be placed overnight on a space within a mobile home park other than as provided herein. A violation of this subsection (h) shall be subject to the penalties set forth in Sections 1-51 and 1-53 of this code.

**Sec. 16-46. Business district (B).**

(a) Uses by right.

(1) Business and professional offices, medical and dental clinics.

(2) Post offices, banks, newspaper and printing businesses, assembly or convention halls, bowling alleys, dance halls, pool or billiard parlors, exposition halls, tennis courts, swimming pools, miniature golf courses and health studios.

(3) Laboratories, except those which involve any hazardous process or materials, or emit noise, dust and/or odor.

(4) Service establishments, such as barber shops, beauty shops, watch and jewelry repairing, pharmacies, pick-up stations for laundry or dry cleaning, package liquor store, 3.2% fermented malt beverage stores or outlets, taverns, lounges, night clubs, private clubs and bars, restaurants, drive-through restaurants and cafes.

(5) Public, parochial and private schools (including private, vocational, trade and professional schools), colleges, universities, preschools and day nurseries (including those uses commonly accepted as accessory thereto when located on the same premises).

(6) Community buildings, recreational buildings, churches, libraries, parks, museums, aquariums and art galleries.

(7) Retail stores, provided that all merchandise is enclosed within a building.

(8) Mortuaries, homes for the aged, nursing homes and hospitals.

(9) Art, photographic, dance, radio and television studios.

(10) Parking of automobiles of clients, patients, patrons or customers of the adjacent business and commercial districts.

(11) Motels, licensed tourist courts and hotels.

(12) Car washes automobile and truck repair businesses, and/or motor fuel service stations in existence as of the date of adoption of Ordinance No. 89-3 and physically located on the premises.

(12.5) Small engine, motorcycle, snowmobile, and other such small recreational vehicle sales and repair.

(13) Living quarters for a single family only of an owner/operator/caretaker of business in a business building.

(14) Other such similar business uses as listed in Subsections (1) through (13) above which are determined by the planning commission to be not more detrimental uses in said district than the uses by right hereinbefore enumerated. Such planning commission determination may be appealed to the board of trustees.

(15) Building mounted or pole mounted CMRS facility, with administrative approval.  
(aa) Uses by Special Review (USR). The following buildings, structures and uses may be constructed, occupied or maintained in this district upon approval of a permit in accordance with the requirements and procedures set forth in Section 16-63 of this chapter.

(1) Oil and gas production facilities, reviewed pursuant to Article 11 of this Chapter.

(2) Freestanding microwave, radio, television or other CMRS facility, reviewed pursuant to Article 10 of this Chapter.

(3) Multiple-family dwellings located on second or higher stories in buildings containing permitted business uses on the ground floor.

(b) Lot minimum requirements.

(1) Minimum lot area -- no minimum requirement.

(2) Minimum lot width -- twenty-five (25) feet.

(3) Minimum lot frontage -- twenty-five (25) feet minimum (minimum front lot line).

(4) Front setback -- no minimum requirement.

(5) Side setback -- if a building is constructed of masonry or fireproof material (refer to Building Code Standards for fireproofing), no side yard shall be required except when located on a corner lot. If a building is constructed of nonmasonry or nonfireproof materials, there shall be a side yard of not less than ten (10) feet on each side. On corner lots there shall be a side yard of not less than five (5) feet on the side adjoining the street.

(6) Rear setback -- the minimum depth of rear yard shall be ten (10) feet from the rear lot line.

(c) Historical district. If areas of the business district should fall within the historical district, zoning requirements of the historical district shall apply in such instances, except that these lot area and yard minimum requirements will be adhered to.

(d) Temporary uses. Temporary uses shall be allowed as follows, subject to the provisions of section 16-65.5 of this chapter:

(1) Retail sales.

(2) Farmers markets.

(3) Auctions.

(e) Uses requiring Planning Commission approval. The following uses shall be permitted only upon approval of the planning commission:

(1) Single-family dwellings.

(2) Two-family dwellings.

(3) Multi-family dwellings.

(4) Governmental buildings, fire stations, but not including warehouses, storage or repair.

#### **Sec. 16-47. Commercial one district (C-1).**

(a) Uses by right.

(1) Any use by right in the business (B) district.

(2) Building supplies, provided that any outdoor storage is screened from public view.

(3) Cold storage lockers and meat processing (but not including slaughtering on the premises).

(4) Mobile home, travel trailer, boat, motorcycle, tractor, trailer, camper and motor vehicle display and sales.

(5) Car washes, automobile and truck repair businesses and/or motor fuel service stations. (For permitted aboveground storage of flammable liquids, see Section 18-17.)

(6) Rental agencies, including those for automobiles, campers, trailers and light

equipment (but not including heavy equipment).

(7) Ambulance services.

(8) Auction houses (no live animals).

(9) Lapidary shops, taxidermists.

(10) Veterinary hospital (small animal -- enclosed).

(11) Reserved.

(12) Other such similar commercial uses as listed in Subsections (1) through (11) above which are determined by the planning commission to be not more detrimental uses in said district than the uses by right hereinafter enumerated.

(13) Building mounted or pole mounted CMRS facility, with administrative approval.

(b) Accessory uses. Any accessory use permitted in business district (B).

(c) Uses by Special Review (USR). The following buildings, structures and uses may be constructed, occupied or maintained in this district upon approval of a permit in accordance with the requirements and procedures set forth in Section 16-63 of this chapter.

(1) Oil and gas production facilities, reviewed pursuant to Article 11 of this Chapter.

(2) Freestanding microwave, radio, television or other CMRS facility, reviewed pursuant to Article 10 of this Chapter.

(d) Temporary uses. Temporary uses shall be allowed as follows, subject to the provisions of section 16-65.5 of this chapter:

(1) Any temporary use allowed in the B zoning district.

(e) Uses requiring Planning Commission approval.

(1) Any use requiring Planning Commission approval in the business (B) district.

(2) Small scale manufacturing of items primarily for sale on the premises, construction, repairing, processing, fabrication, packaging, warehousing, storage and/or industrial operation or other such related activities of any kind not heretofore listed. Such planning commission determination may be appealed to the board of trustees.

(f) Maximum building height. Building height must be specifically applied for and approved by the planning commission if the proposed building is to exceed thirty (30) feet in height.

(g) Lot minimum requirements.

(1) Minimum width of lot -- twenty-five (25) feet.

(2) Front setback -- except as hereinafter provided, the minimum depth of any front yard for any building, measured from the front lot line to the front setback line, shall be twenty-five (25) feet. Motor fuel pumps may be erected not less than eighteen (18) feet from such front lot line. A canopy may be erected over motor fuel pumps not less than five (5) feet from such front lot line.

(3) Side setback -- if a building is constructed of masonry or fireproof materials (subject to Building Code Standards for fireproofing), no side yard shall be required on an interior lot or on that side of a corner lot which is not adjacent to the street. If a building is constructed of materials other than masonry or fireproof materials, the minimum depth of any side yard of an interior lot or of a side yard of a corner lot on that side which is not adjacent to a street, measured from the side lot line to the side setback line, shall be ten (10) feet.

Motor fuel pumps may be erected not less than eighteen (18) feet from any side lot line. A canopy may be erected over motor fuel pumps not less than five (5) feet from side lot line.

(4) Rear setback -- ten (10) feet (minimum depth of rear yard shall be ten [10] feet from the rear lot line).

(5) The planning commission may grant variances to lot area and yard minimum requirements in certain areas and circumstances.

**Sec. 16-48. Commercial two district (C-2).**

(a) Uses by right.

(1) Any use by right in the commercial one (C-1) district.

(2) Amusement parks and go-cart tracks.

(3) Veterinary hospitals, kennels and hospital pens.

(4) Shops for custom work or for making articles to be sold at retail on the premises.

(5) Wholesale businesses.

(6) Cold storage plants and meat processing (but not including slaughtering on the premises).

(7) Storage in bulk of and/or warehousing of such items as building materials, coal, wood and construction equipment.

(8) Auction houses.

(9) Reserved.

(10) Rental agencies for heavy equipment.

(11) Lumber yards.

(12) Reserved.

(13) Other such similar commercial uses as listed in Subsections (1) through (12) above which are determined by the planning commission to be not more detrimental uses in said district than the uses by right hereinbefore enumerated. Such planning commission determination may be appealed to the board of trustees.

(14) Building mounted or pole mounted CMRS facility, with administrative approval.(b) Accessory uses. Any accessory use permitted in commercial one (C-1) district.

(c) Uses by Special Review (USR). The following buildings, structures and uses may be constructed, occupied or maintained in this district upon approval of a permit in accordance with the requirements and procedures set forth in Section 16-63 of this chapter.

(1) Oil and gas production facilities, reviewed pursuant to Article 11 of this Chapter.

(2) Freestanding microwave, radio, television or other CMRS facility, reviewed pursuant to Article 10 of this Chapter.

(d) Temporary uses. Temporary uses shall be allowed as follows, subject to the provisions of section 16-65.5 of this chapter:

(1) Any temporary use allowed in the C-1 district.

(e) Uses requiring Planning Commission approval.

(1) Any use requiring Planning Commission approval in the commercial one (C-1) district.

(2) Bulk storage of oil and petroleum products. (For permitted aboveground storage of flammable liquids, see Section 18-17.)

(3) Storage of any quantity of hazardous substances.

(4) Small scale manufacturing of items primarily for sale on the premises, construction, repairing, processing, fabrication, packaging, warehousing, storage and/or industrial operation or other such related activities of any kind not heretofore listed. Planning commission determination may be appealed to the board of trustees.

(f) Maximum building height. Building height in excess of thirty (30) feet must be specified on an approved site plan .

(g) Lot minimum requirements.

(1) Width of lot -- fifty (50) feet.

(2) Front setback -- except as hereinafter provided, the minimum depth of any front yard for any building, measured from the front lot line to the front setback line, shall be twenty-five (25) feet. Motor fuel pumps may be erected not less than eighteen (18) feet from such front lot line.

(3) Side setback -- if a building is constructed of masonry or fireproof material (subject to the Building Code Standards for fireproofing), no side yard shall be required on an interior lot or on the side of a corner lot which is not adjacent to a street. If a building is constructed of materials other than masonry or fireproof materials, the minimum depth of any side yard of any interior lot or of a side yard of a corner lot on that side which is not adjacent to a street, measured from the side lot line to the side setback line, shall be ten (10) feet. On corner lots, the minimum depth of the side yard on the side adjacent to a street, measured from the side lot line to the side setback line, shall be fifteen (15) feet. Motor fuel pumps may be erected not less than eighteen (18) feet from any side lot line.

(4) Rear setback -- ten (10) feet (minimum distance of any building from rear lot line).

## **Sec. 16-49. Floodplain overlay district (F).**

(a) Boundary map. This floodplain overlay district shall apply to all areas of special flood hazard within the jurisdiction of the town as identified by the Federal Emergency Management Agency's scientific and engineering reports, with an accompanying flood insurance rate map. Flood insurance studies will be on file at the town Hall.

(b) Definitions.

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

(2) An *AO zone* means an area of special flood hazard having shallow water depths and/or unpredictable flow paths between one (1) and three (3) feet;

(3) An *AH zone* means an area of special flood hazards having shallow water depths and/or unpredictable flow paths between one (1) and three (3) feet, and with water surface elevations determined.

(c) Administration. When base flood elevation data has not been provided in the application for a development permit, the building official shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from the federal, state or other source, as criteria for administering and implementing this district for new construction, substantial improvements or other development in the zone.

(d) Uses allowed in the floodplain. No person shall use land in a floodplain except for the following:

(1) The following are only allowed in an area of special flood hazard as designated on the boundary map described in Section 16-49(a):

a. Dwellings or substantial improvements or additions thereto, provided that the lowest floor, including the basement, is located at or above the regulatory flood protection elevation.

b. Commercial, manufacturing, industrial, detached buildings accessory to residential buildings and other similar structures or any substantial improvements or additions thereto, provided that:

i. The lowest floor is located at an elevation equal to or above the regulatory flood protection elevation, or

ii. The structure is floodproofed to an elevation equal to or above the regulatory flood protection elevation and special circumstances exist which, in the opinion of the building official, make compliance with paragraph (1)bi above impractical.

c. Alterations, additions or repairs to an existing structure that change its structural integrity, but are less in extent than substantial improvement, provided that such changes are protected, where possible, by floodproofing measures.

d. Earthfills or deposits of soil materials may be permitted, provided that such fills or deposits are adequately protected against erosion by the use of riprap, vegetative cover or other suitable means.

e. All residential and nonresidential structures located within areas of special flood hazard designated as AO or AH zones shall:

i. Have the lowest floor, including the basement, elevated above the highest adjacent grade or at least as high as the depth number specified in feet on the FIRM (at least two [2] feet if no depth number is specified); and

ii. Provide drainage paths around structures on slopes to guide floodwater around and away from those structures; or

iii. For nonresidential structures, be floodproofed consistent with Subsection (1)bii of this Subsection.

(2) Other uses similar in nature to permitted uses may be allowed, provided that they are consistent with the provisions of this section.

(e) Construction and design requirements for new construction, substantial improvements and manufactured homes.

(1) New construction and substantial improvements to existing structures shall be anchored to prevent flotation, collapse or lateral movement of the structure and to withstand hydrodynamic loads.

(2) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall require that the lowest floor, including the basement and the utility and sanitary facilities of the structure, be:

a. Floodproofed up to or above the base flood level to make the structure watertight with walls substantially impermeable to the passage of water;

b. Built with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy;

c. Certified by a registered professional engineer or architect that the floodproofing and structural components employed satisfy the standards of this subsection; such certifications shall be provided to the building official; and

d. For new construction and substantial improvements occurring in areas of special flood hazard, comply with the provisions of Subsection 16-

49(d).

(3) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

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

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

(4) Electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(5) Subdivision proposals shall be consistent with the need to minimize flood damage.

a. Subdivision proposals shall have public utilities and facilities such as sewer, gas, electricity and water systems located and constructed to minimize flood damage.

b. Subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

(6) Base flood elevation data shall be provided for subdivision proposals and other proposed developments which contain at least fifty (50) lots or five (5) acres (whichever is smaller in size).

(7) New or replacement manufactured homes placed within existing manufactured home parks or subdivisions after August 1, 1989, shall be anchored to resist flotation, collapse or lateral movement by providing

over-the-top or frame ties as specified below or by other measures verified by a document or plan certified by a registered professional engineer to meet or exceed the anchorage requirements as follows:

a. Manufactured homes less than fifty (50) feet in length:

i. Over-the-top ties: three (3) per side (one [1] at each of the four [4] corners plus one [1] additional tie per side); or

ii. Frame ties: six (6) per side (one [1] at each corner plus four [4] additional ties per side).

b. Manufactured homes greater than fifty (50) feet in length:

i. Over-the-top ties: four (4) per side (one [1] at each of the four [4] corners plus two (2) additional ties at intermediate locations); or

ii. Frame ties: seven (7) per side (one [1] at each corner plus five [5] additional ties per side at intermediate locations).

c. All components of the anchoring system shall be capable of carrying a force of four thousand eight hundred (4,800) pounds, and manufacturer's specifications of the components to be used in the anchoring system shall be submitted to the building official to demonstrate compliance with this requirement.

d. Any structural additions to the manufactured home shall be similarly anchored.

(8) New or substantially improved manufactured homes within manufactured home parks or subdivisions constructed after August 1, 1989, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or

above the base flood elevation and is anchored in accordance with paragraph (7) above.

(9) For those areas lying within the area of special flood hazard which are also designated as floodways, because of the potential for high velocity floodwater, the potential for debris carried by such floodwater becoming dangerous projectiles and the potential for substantial erosion, no uses will be permitted therein unless the provisions of Subsection (f) below are satisfied.

(f) Uses prohibited in the floodway. The following uses are specifically prohibited in the floodway: any obstruction which will cause any increase in the base flood elevation of a designated floodway so as to cause foreseeable damage to others, wherever located, as determined by the building official.

#### **Sec. 16-50. Agriculture one district (A-1).**

(a) Uses by right.

(1) Single-family dwellings.

(2) General farming, including grains, fruit, vegetables, grasses, hay, stock raising and the keeping and boarding of horses.

(3) Poultry hatcheries and farms, fish hatcheries, beekeeping operations and dairy farms.

(4) Greenhouses and nurseries, including both wholesale and retail, provided that products sold are raised on the premises.

(5) Forestry farming, including raising of trees for any purpose.

(6) Roadside stands for operation during not more than six (6) months in each

year for the sale of farm products raised or produced on the premises, provided that such stands are located not less than thirty (30) feet distance from any street, highway or right-of-way line.

(7) Private building for housing dogs, cats or similar domesticated pets. On legal nonconforming lots or parcels of one (1) acre or less in size, the maximum total number of dogs, cats and similar domesticated pets allowed is two (2), as well as the offspring of the allowed number of domesticated animals up until the time that they are weaned.

(8) Public parks, noncommercial playgrounds or other public recreational uses, provided that each occupies more than ten (10) acres of land, and public and private golf courses and associated clubhouse facilities located on the golf course property.

(9) Riding academies.

(10) Camps, campgrounds, picnic grounds, lodges or other similar facilities, provided that the total building coverage does not exceed two thousand five hundred (2,500) square feet gross floor area, and the total number of vehicle-accessed campsites does not exceed fifty (50); however, open-sided roofed picnic shelters are excluded from the gross floor area limit specified above.

(11) Manufactured housing.

(12) Home occupations, provided that the requirements and conditions of this chapter are met.

(b) Accessory uses.

(1) Barns, sheds and shelters necessary to the operation of principal uses.

(2) Living quarters for hired personnel.

(3) Water wells, pump houses or tanks.

(bb) Uses by Special Review (USR). The following buildings, structures and uses may be constructed, occupied or maintained in this district upon approval of a permit in accordance with the requirements and procedures set forth in Section 16-63 of this chapter.

(1) Oil and gas production facilities, reviewed pursuant to Article 11 of this Chapter.

(2) Microwave, radio, television or other CMRS facility, reviewed pursuant to Article 10 of this Chapter.

(c) Uses requiring planning commission approval. The following uses shall be permitted only upon the approval of the planning commission, subject to appeal to the board of trustees.

(1) Governmental buildings, fire stations, but not including warehouses, storage or repair.

(2) Telephone exchanges, cable TV equipment site, electric or electronic substations, including electric or electronic transmission and distribution lines, gas lines or regulator stations where no repair or storage facilities are maintained.

(3) Reserved.

(4) Petroleum products, wells and stations.

(d) Minimum lot area and setback requirements.

(1) Minimum lot area -- eleven (11) acres.

(2) Setback requirements -- buildings and/or corrals shall be set back fifty (50) feet from all property lines.

(e) Maximum building height. No building shall exceed thirty (30) feet in height. (See definitions.)

(f) Minimum floor space. All structures used for permanent dwelling purposes shall contain a minimum square footage of finished floor area per dwelling unit.

(g) Water and sewer.

(1) Private wells will be allowed where town water is not available in this district.

(2) Private septic systems will be allowed where public sewage collection and treatment is not available in this district.

(3) Private water and sewage treatment systems shall meet all county and state health requirements and all other applicable laws governing their construction and use.

#### **Sec. 16-51. Historical overlay district (H).**

(a) Purpose. The Historical district is intended to be an overlay district that is adopted as a means of providing additional protection to the character of areas of the town with identified historical importance. As an overlay district, the Historical district can be adopted by the board of trustees and can co-exist with other zoning districts within specified geographic areas of the town.

(aa) Areas for all residential and business uses which can be developed to be compatible with established historical areas.

(b) Uses by right. All residential, business, public and semi-public uses and structures required to serve the immediate area, provided that all new principal buildings and their accessory uses and structures are first recommended for approval by the planning commission, following a public notice and hearing, and subject to the following special conditions:

(1) Before approving any new residential, business, public or semi-public principal building and its accessory uses and structures in this district, the planning commission shall find that the character of the proposed construction is in harmony

with the established exterior architectural appeal of structures already located in the surrounding area so that existing and future land values within the historical area will not be depreciated.

(2) The planning commission and the board of trustees shall restrict their respective reviews in each case to the effect of the proposed construction on the health, safety, morals and general welfare of the town, keeping particularly in mind the unique characteristics of certain existing structures in this district and the fact that the prosperity of the entire town is involved in the preservation of established historical sections of the town.

(3) Ordinarily, as a minimum, the following specific criteria shall be considered by the planning commission and the board of trustees: architectural compatibility, proposed density of occupancy, relation to existing and future open space, vehicular and pedestrian access and bulk of the proposed building or structure in relation to surrounding building and land.

(4) Areas zoned as historical (H) district shall be shown on the town zoning map.

(5) Prior to recommending for approval the construction of any new principal building and its accessory uses and structures in this district, the planning commission shall request comments from the owners of the properties abutting and from any representative homeowners or business association formed within this district. Although final recommendation and final action by the board of trustees shall not be bound by such comments, the opinion of such persons and ideas expressed on the official plans for this district shall be given careful attention by the planning commission and the board of trustees.

(bb) Uses by Special Review (USR). The following buildings, structures and uses may be constructed, occupied or maintained in this

district upon approval of a permit in accordance with the requirements and procedures set forth in Section 16-63 of this chapter.

(1) Oil and gas production facilities, reviewed pursuant to Article 11 of this Chapter.

(2) Microwave, radio, television or other CMRS facility, reviewed pursuant to Article 10 of this Chapter.

(c) Maximum building height. Building height must be specifically applied for and approved by the planning commission if the proposed building is to exceed thirty (30) feet in height. Such planning commission determinations may be appealed to the board of trustees.

(d) Lot minimum requirement.

(1) Width of lot -- no minimum.

(2) Front setback -- no minimum.

(3) Side setback -- no minimum.

(4) Rear setback -- ten (10) feet.

(5) In cases where this district overlays other zoning districts, the more restrictive lot area and yard minimum requirements shall apply.

(e) In addition to the provisions contained in Section 16-112, signs must be in conformity with the historic nature of the zone and must be approved by the planning commission.

#### **Sec. 16-52. Parks district (P).**

(a) Uses by right.

(1) An open area for public use and benefit including play and picnic areas, tables, shelters and other incidental park uses.

(2) Public utility mains, underground lines and facilities.

(b) Uses by Special Review (USR). The following buildings, structures and uses may be constructed, occupied or maintained in this district upon approval of a permit in accordance with the requirements and procedures set forth in Section 16-63 of this chapter.

(1) Oil and gas production facilities, reviewed pursuant to Article 11 of this Chapter.

(2) Microwave, radio, television or other CMRS facility, reviewed pursuant to Article 10 of this Chapter.

(3) Public recreation centers or other public buildings intended to provide for recreation services.

(c) Building height and setback.

(1) No building shall exceed fifteen (15) feet in height; or up to thirty (30) feet with approval of the board of adjustment.

(2) All buildings shall be at least twenty-five (25) feet from any exterior lot line.

**Sec. 16-53. Planned development district (PD).**

(a) Authority. This section is adopted pursuant to the Planned Unit Development Act of 1972, Article 67 of Chapter 24, C.R.S.

(b) Definitions.

(1) *Common open space* means a parcel of land, an area of water or a combination of land and water within the site designated for a planned development designed and intended primarily for the use or enjoyment of residents, occupants and owners of the planned development. This is distinguished from public open space which is dedicated to and maintained by the town. Public open space and private open space that is open to the public may be used to satisfy public land dedication requirement imposed upon a PD.

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

(3) *Planned development* means an area of land controlled by one (1) or more landowners to be developed under unified control or unified plan of development for a number of dwelling units, commercial, educational, recreational or industrial uses or any combination of the foregoing, the plan for which does not correspond in lot size, bulk or type of use, density, lot coverage, open space or other restriction to other provisions of this chapter.

(c) Objectives. The town's objectives in providing for planned development are as follows:

(1) To provide for necessary commercial, recreational and educational facilities conveniently located to housing of all types and design.

(2) To provide for well-located, clean, safe and pleasant industrial sites involving a minimum of congestion on the streets and highways.

(3) To ensure that the provisions of this chapter which direct the uniform treatment of dwelling type, bulk, density and open space with each zoning district will not be applied to the improvement of land by other than lot-by-lot development in a manner which would distort the objective of this chapter.

(4) To encourage innovations in residential, commercial and industrial development and renewal so that the growing

demands of the population may be met by greater variety in type, design and layout of buildings, and by the conservation and more efficient use of open space ancillary to such buildings.

(5) To encourage a more efficient use of land and of public services, or private services in lieu thereof, and to reflect changes in the technology of land development so that resulting economies may inure to the benefit of those who need homes.

(6) To lessen the burden of traffic on streets and highways.

(7) To provide a procedure which can relate the type, design and layout of residential, commercial and industrial development to the particular site, thereby encouraging preservation of the site's natural characteristics.

(8) To ensure that planned developments are properly connected to and integrated with the rest of the Hudson community.

(9) To encourage integrated planning in order to achieve the above purposes.

(d) Pre-application conference. A pre-application conference shall be held by the applicant with the town's technical review staff so that the applicant may become acquainted with planned development procedures and related town requirements. The applicant shall submit a conceptual plan to the town administrator to review prior to this conference.

(e) Sketch plan.

(1) The applicant shall submit a sketch plan to the town administrator for review and consideration. The sketch plan shall delineate the following:

a. The existing topographic character of the site.

b. Proposed land use or uses, differentiating areas to be developed from areas to remain natural or open.

c. The location of all existing buildings, structures and improvements.

d. The location of all proposed buildings, structures and improvements.

e. The internal traffic and circulation system and points of access to public rights-of-way.

f. A concept drainage scheme.

g. The location of existing water and sewer utilities, or the location of the last point of said facilities if they do not exist on the site.

h. A statement that sufficient water and sewer capacity exists for the site.

(2) After review by the town technical review staff, the application will be forwarded to the planning commission. The planning commission shall review the sketch plan in light of the foregoing objectives, the town comprehensive plan and the impact of the proposed development on existing or future public facilities and upon neighboring properties. The planning commission may also review the application in light of the additional information required by this section and recommend the waiver of some requirements because they are unnecessary or inapplicable, or the addition of required information not set forth in this section. (3) Upon the request of the applicant, the planning commission may continue the discussion on the planned development to a later regularly scheduled meeting of the planning commission to permit the applicant an opportunity to revise the sketch plan in light of the comments and recommendations made by the planning commission.

(4) Upon conclusion of the discussion of the sketch plan, the planning

commission shall render a decision on whether to accept said sketch plan, with or without conditions, and if said sketch plan is not accepted by the planning commission, then the applicant may appeal such decision to the board of trustees. If so appealed, the board of trustees shall indicate approval, disapproval or conditional approval, and shall state definitely what additional information is to be submitted with the PD zone district plan and any preliminary plat, and what additional information not otherwise required by this section will be required to be filed with said application. Such a statement shall not preclude the board of trustees from requiring further information to be filed with the final plat or final PD plan.

(f) Formal application -- preliminary subdivision plat/PD zone district plan. The procedure for the submittal of the formal application and preliminary plat and PD zone district plan shall be identical to the procedure for submittal and re-review of the sketch plan by the planning commission except as set forth in this paragraph. These applications shall be complete, including any information required by this section or by the board of trustees after review of the sketch plan. Except as otherwise provided herein, approval of the PD zone district plan shall be by ordinance pursuant to the procedures set forth in this section, and notice shall be given as set forth in Section 16-102 of this chapter.

(g) Final PD plan approval. No property within a PD zone district may be developed until a final subdivision plat and a final PD plan have been approved and recorded with the county clerk and recorder. Final PD plans must be submitted and considered for approval according to the provisions of section 16-68.e. of this chapter. Except as otherwise provided herein, a final PD plan of any planned development ("FDP"), accompanied by a final plat, shall be by ordinance of the board of trustees, adopted according to the procedures for an amendment to the zoning map. No planned development may be submitted for

consideration by the town without the written consent of each landowner whose properties are included within the planned development. Approval of a planned development under this section shall not relieve the applicant of any duty to comply with any appropriate subdivision regulations promulgated by the planning commission pursuant to Part I of Article 23 of Chapter 31, C.R.S.

(h) Allowable uses. A planned development may provide for any one (1) or more of the uses allowed in any zoning district in the town. If the Preliminary PD Plan does not specify lot size, setbacks, or other dimensional requirements for a particular use within the planned development, such requirements shall be those dimensional requirements otherwise required for the most restrictive zoning district allowing such particular use under this chapter.

(i) Required additional information to be filed with PD zone district application. The following additional information shall be filed with a preliminary PD Plan application:

(1) A written statement and exhibits containing as a minimum the following information:

a. A statement of the present ownership and a legal description of all land included in the planned development.

b. An explanation of the objectives to be achieved by the planned development.

c. A development schedule indicating the approximate date when construction of the planned development, or stages of the planned development, can be expected to begin and be completed.

d. Copies of any special agreements, advances, restrictions, covenants, property owners' agreements or dedications which will govern the use of, maintenance and continued protec-

tion of the planned development and its common areas.

e. A list of property owners of record and their addresses within five hundred (500) feet of the proposed planned development.

(2) A written statement and exhibits describing the uses and activities to be permitted within each area or areas including the following:

a. The types and locations of dwelling units, if any.

b. The approximate acreage or square footage of each use, including any nonresidential uses, parking, roadways, recreational areas and facilities, etc.

c. The area occupied by buildings.

d. Improved off-street parking requirements, e.g., spaces per unit or square feet along with a parking plan.

e. Any other applicable restrictions such as building setbacks, height limits, access, grades or widths of roads, etc.

(3) The overall density proposed for the land as well as the maximum density to occur in each area.

(4) The proportion of land to be left in a natural condition as a major open space, stated in terms of acreage or square footage, as well as the ratio of open space in areas to be developed, stated on a square foot per unit basis.

(5) A description of snow removal methods or techniques to be utilized.

(6) A description of the proposed method of providing permanent maintenance of all nonprivate buildings, facilities and areas, and private streets, if any.

(7) A written statement which shall describe and provide evidence of:

a. A water source with adequate and dependable capacity to service the proposed development.

b. The proposed method or methods of sewage treatment and the location of planned outfall line if the town sanitation district sewer system is not to be used.

c. The soil, geological and groundwater conditions of the site.

d. Traffic capacity of existing and proposed streets and whether these are sufficient to accommodate the planned development.

(8) The maximum height of buildings shall be determined by review of each planned development.

(9) Reserved.

(10) The manner in which storm drainage shall be handled.

(11) The limits of the one-hundred-year floodplain for the area.

(12) Adequate fire and emergency equipment access.

(13) Other materials as may be required by the town administrator.

(j) Common parks and open space.

(1) Common parks and open space will be required in all planned developments. Ownership, public access and maintenance responsibilities for parks and open space within a planned development shall be addressed in the subdivision improvements agreement or in other agreements between the Town and the landowner. This amount or the amounts of required open space listed below shall be understood to be the *minimum* amount from which to start open

space negotiations. The following minimum\* land area percentages shall apply:

Single-family residential and attached, including duplex:	25%
Multi-family (triplex and greater-condominiums, townhomes, apartments):	35%
Retail commercial:	20%
General office -- campus office complexes:	25%
Light manufacturing -- campus office complexes:	25%

\*Percentages of land area are based on the total land area of a PD or its individual land use subareas inclusive of rights-of-way, both public and private. This land area does not include preexisting public rights-of-way bordering the PD property.

(2) The planned development shall not be permitted unless provisions for ownership and maintenance of open space, streams, stream banks, wooded cover and other desirable landscape features and needs for public facilities are made or are protected by easements, covenants, property owners' agreements or dedications to ensure their continuity and conservation.

(3) In the event that the organization established to own and maintain common open space, or any successor organization, fails at any time after establishment of the planned development to maintain the common open space in reasonable order and condition in accordance with the plan, the town may serve written notice upon such organization or upon the residents of the planned development setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition. Such notice shall include a demand that such deficiencies of maintenance be cured within thirty (30) days thereof and shall state the date and place of the hearing thereon which shall be held within fourteen (14) days of notice. At such hearing, the town may modify the terms of the original notice as to deficiencies and may give an extension of time

within which they shall be cured. If the deficiencies set forth in the original notice or in any modified notice are not cured within thirty (30) days or any extension thereof, the town, in order to preserve the taxable value of the property within the planned development and to prevent the common open space from becoming a public nuisance, may enter upon the common open space and maintain the same for a period of one (1) year. Before the expiration of the one-year period, the town shall, upon its own initiative or upon the written request of the organization theretofore responsible for the maintenance of the common open space, call a public hearing upon notice to such organization or to the residents of the planned development to show cause why such maintenance by the town shall not, at the election of the town, continue for a succeeding year. If the board of trustees determines that such organization is not ready and able to maintain the common open space in a reasonable condition, the town may, in its discretion, continue to maintain the common open space during the next succeeding year and, subject to a similar hearing and determination, in each year thereafter.

(4) The cost of such maintenance by the town shall be paid by the owners of properties within the planned development who have a right of enjoyment of the common open space, and any unpaid assessments shall become a tax lien on the properties. The town shall file a notice of such lien in the office of the county clerk and recorder upon the properties affected by such lien within the planned development and shall certify such unpaid assessments to the board of county commissioners and the county treasurer for collection, enforcement and remittance in the manner provided by law for the collection, enforcement and remittance of general property taxes.

(k) Enforcement and modification of provisions of the plan.

(1) To further the mutual interest of the residents, occupants and owners of a planned development and of the public and the preservation of the integrity of the plan, the provisions of the plan relating to the use of the land, the location of common open space shall run in favor of the town and shall be enforceable at law or in equity by the town without limitation on any power or regulation otherwise granted by law.

(2) All provisions of the plan shall run in favor of the residents, occupants and owners of the planned development, but only to the extent expressly provided in the plan and in accordance with the terms of the plan, and, to the extent such provisions, whether recorded by plat, covenant, easement or otherwise, or by contract or agreement, may be enforced at law or in equity by residents, occupants or owners acting individually, jointly or through an organization designated in the plan to act on their behalf; provided that no provisions of the plan shall be implied to exist in favor of residents, occupants or owners except as to those portions of the plan which have been fully approved.

(3) All those provisions of the plan authorized to be enforced by the town may be modified, removed or released by the town, subject to the following:

a. Any modification, removal or release of the provisions of the plan by the town shall preserve the rights of the residents, occupants or owners of the planned development to maintain and enforce those provisions at law or in equity as provided in this section.

b. Any substantial modification, removal or release of the provisions of the plan by the town shall be permitted only upon a finding by the town, following a public hearing called and held in accordance with the provisions of the section regarding final approval, that the modification, removal or release is consistent with the efficient

development and preservation of the entire planned development, does not affect in a substantially adverse manner either the enjoyment of land adjacent to the planned development or the public interest, and is not granted solely to confer a special benefit upon any person.

c. Residents and owners of property within a planned development may, to the extent and in the manner expressly authorized by the provisions of the plan, modify, remove or release their rights to enforce the provisions of the plan, but no such action shall affect the right of the town to enforce the provisions of the plan.

(1) Final PD Plan (FDP) requirements.

(1) Final development plans shall be drawn and submitted to the town in a form matching the requirements for final plats, including number of copies and drafting medium.

(2) Final development plans, upon approval, shall be signed by the owner(s) and by the town, and shall be recorded promptly in the records of the county clerk and recorder.

**Sec. 16-54. Agriculture two district (A-2).**

(a) Uses by right.

(1) Single-family dwellings.

(2) General farming, including grains, fruit, vegetables, grasses, hay and the keeping and boarding of horses, with a limit of one (1) horse per acre.

(3) Public parks.

(4) Riding academies.

(5) Home occupations, provided that the requirements and conditions of this chapter are met.

(b) Accessory uses.

(1) Barns, sheds and shelters necessary to the operation of principal uses.

(2) Water wells, pump houses or tanks.

(bb) Uses by Special Review (USR). The following buildings, structures and uses may be constructed, occupied or maintained in this district upon approval of a permit in accordance with the requirements and procedures set forth in Section 16-63 of this chapter.

(1) Oil and gas production facilities, reviewed pursuant to Article 11 of this Chapter.

(2) Microwave, radio, television or other CMRS facility, reviewed pursuant to Article 10 of this Chapter.

(c) Uses requiring planning commission approval. The following uses shall be permitted only upon the approval of the planning commission, subject to appeal to the board of trustees.

(1) Governmental buildings, fire stations, but not including warehouses, storage or repair.

(2) Telephone exchanges, cable TV equipment site, electric or electronic substations, including electric or electronic transmission and distribution lines, gas lines or regulator stations where no repair or storage facilities are maintained.

(3) Reserved.

(4) Manufactured housing.

(d) Minimum lot requirements.

(1) Minimum lot area -- forty thousand (40,000) square feet.

(2) Setback requirements -- buildings and/or corrals shall be set back twenty-five (25) feet from all property lines.

(e) Maximum building height. No building shall exceed thirty (30) feet in height (see definitions).

(f) Minimum floor space. All structures used for permanent dwelling purposes shall contain a minimum square footage of finished floor area per dwelling unit.

(g) Water and sewer. Private septic systems will be allowed where public sewage collection and treatment is not available in this district, provided that the septic system is in conformance with county health department recommendations.

(h) Variances. Any variance in Subsections (d), (e) and (f) shall be considered by the board of adjustment.

#### **Sec. 16-55. Industrial districts generally.**

(a) General. No building, structure or land shall be used, and no building or structure shall be erected, structurally altered or enlarged except as provided herein. Every use, unless expressly exempted by these regulations, shall be so operated as to comply with the following standards.

(b) Performance standards. It is the intent of this section to prevent land or buildings within industrial districts, including land or buildings authorized by right or permit, from being used or occupied in any manner which will or may create any dangerous, injurious, noxious or otherwise objectionable or hazardous condition, including such conditions caused by fire, explosives or radioactivity, noise or vibration, smoke, dust, odor or other forms of air pollution, electrical or other disturbance, glare or heat, liquid or solid refuse or wastes, conditions conducive to the breeding of rodents or insects, or other dangerous or objectionable substances, conditions or elements (all such conditions or substances referred to herein shall be referred to as dangerous or objectionable elements). Any use permitted may be undertaken and maintained only if it conforms to all requirements of these performance standards. All terminology used in this section and not defined below shall be

in conformance with such applicable publications of the American National Standards Institute (ANSI) or its successor body.

(c) Vibration.

(1) Ground-transmitted vibration is measured with a complement of instruments capable of recording vibration displacement and frequency, particle velocity or acceleration simultaneously in three (3) mutually perpendicular directions. The instruments used to measure vibration in industrial zone districts shall conform to the applicable ANSI standard for such equipment used to measure community vibrations.

(2) Maximum permitted vibration levels. The table below designates the maximum peak particle velocities that apply on or beyond adjacent lot lines within all industrial zones, and on or beyond appropriate use boundaries. Vibration shall not exceed the maximum permitted particle velocities in the table below. When a vibration source can be identified and its effects are on more than one (1) land use category, the limits of the most restrictive use shall apply at the boundaries between different land use categories. Readings may be made at points of maximum vibration intensity.

Zoning	Steady-state vibration	Pact vibration
Residential	0.02	0.04
Commercial	0.05	0.10
Light Industrial	0.10	0.20
Industrial	0.15	0.30

(3) The maximum particle velocity shall be the maximum vector sum of three (3) mutually perpendicular components recorded simultaneously. Particle velocity shall be measured in inches multiplied by the frequency in cycles per second. For purposes of these standards, *steady-state*

*vibrations* are vibrations which are continuous, or vibrations in discrete impulses more frequent than sixty (60) per minute, shall be considered impact vibrations. Between the hours of 9:00 p.m. and 7:00 a.m. all the permissible vibration levels indicated in the previous table for residential district boundaries shall be reduced to one-half (1/2) the indicated levels.

(d) Noise. All noise shall be attenuated so as not to be objectionable due to intermittence, beat frequency or shrillness.

(e) Air pollution. Activities in all industrial districts shall conform with applicable federal and state air pollution standards. Emission of pollutants into the atmosphere must comply with acceptable limits as prescribed in the Federal Clean Air Act, as amended, which is enforced by the United States Environmental Protection Agency. Emission of air pollutants must also comply with the Colorado Air Pollution Control Act of 1970, and any amendments henceforth.

(f) Odors. Any condition or operation which results in the creation of odors of such intensity and character either on or off property as to be detrimental to the health and welfare of the public or which interferes unreasonably with the comfort of the public shall be removed, stopped or so modified as to remove the odor. Odorous emissions shall comply with those regulations of the Colorado Air Pollution Control Act of 1970 as stipulated in Regulation No. 2 (Odor Control Regulations) of the Act and any future amendments thereto.

(g) Electromagnetic radiation. The following standards shall apply generally: it shall be unlawful to operate, or cause to be operated, any planned or intentional source of electromagnetic radiation for such purposes as communications, experimentation, entertainment, broadcasting, heating, navigation, therapy, vehicle velocity measurement, weather survey, aircraft detection, topographical survey, personal pleasure or any other use directly or indirectly associated with these purposes which does not comply with the then-current regulations of the Federal Com-

munications Commission regarding such sources of electromagnetic radiation. Recognizing the special nature, or many of the operations which will be conducted because of the research and educational activities, it shall be unlawful for any person, firm or corporation to operate or cause to be operated, or to maintain or cause to be maintained any planned or intentional sources of electromagnetic energy, the radiated power from which exceeds one thousand (1,000) watts, without expressed approval of the planning commission.

(h) Fire and explosion.

(1) All activities and all storage of flammable materials within industrial zone districts shall be provided with adequate safety and fire-fighting devices in accordance with the Fire Code as adopted by the town.

(2) Containers for the aboveground storage of flammable or combustible liquids of amounts not exceeding ten thousand (10,000) gallons capacity per container and forty thousand (40,000) gallons per single property parcel are allowed in all industrial zone districts. Containers for the aboveground storage of flammable gases of amounts not exceeding two thousand (2,000) gallons capacity per single property are allowed in all industrial zone districts. There shall be a minimum of a fifty-foot setback between containers and any structure or property line. All containers shall be as specified in the Fire Code as adopted by the town.

(3) There shall be no refueling of motorized vehicles from tank vehicles except as authorized by the Fire Code as adopted by the town.

(i) Radioactive materials. The handling of radioactive materials, the discharge of such materials into air and water and the disposal of radioactive wastes shall be in conformance with all applicable regulations of the state and federal governments.

(j) Glare and heat. No direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion, welding or otherwise, so as to be visible at the lot line, shall be permitted. These regulations shall not apply to signs or floodlighting of parking areas otherwise permitted by this code. There shall be no emission or transmission of heat or heated air so as to be discernible at the lot line.

(k) Nonradioactive liquid or solid wastes. There shall be no discharge at any point into any public or private sewage disposal system or stream, or into the ground, of any liquid or solid materials except in accordance with the regulations of the county health department and the town.

(l) Deposit of materials or wastes. No materials or wastes shall be deposited upon an industrially zoned lot by such a manner or form that they may be transferred off the industrially zoned lot by natural causes or forces.

(m) All materials or wastes which might cause fumes or dust which, as determined by the fire marshal, constitute a fire hazard or which may be edible by or otherwise be attractive to rodents or insects shall be stored indoors only, in enclosed containers.

(n) All vehicle docking, loading and unloading activities within industrial zoned districts shall be conducted entirely within the boundaries of the site where the business for which such docking, loading and unloading activities are being conducted. Vehicles parked for the purpose of loading/unloading shall not extend beyond the boundaries of the subject site onto the public right-of-way.

(o) Trash containers shall be stored behind the front line (or side lines where adjacent to streets) of the primary structure and shall be concealed from view by a solid fence. Other locations may be approved where adherence to these standards is not practical.

(p) Site plan requirements for industrially zoned properties: buffering adjacent to residentially zoned areas. Where industrially zoned property abuts residentially zoned property, buffering shall be included on the site plan and installed on the industrially zoned property. Said buffering shall consist, at a minimum, of screened fencing and landscaping and, where possible, berming shall be installed. Screened fencing shall be constructed of appropriate commercial quality materials and shall be a minimum of six (6) feet in height but shall not exceed eight (8) feet in height. Landscaping shall consist, at a minimum, of trees, the location, species and number of which shall be subject to site plan approval. Buffer areas shall be required in addition to the open space standards of the industrial zone district. All buffer areas shall be a minimum of ten (10) feet in width and, where such buffer areas are adjacent to industrial parking or ingress/egress/drive areas, the buffer areas shall be protected by curbing. All buffer areas shall be maintained and kept free of weeds, trash, debris, outside storage or vehicle parking. Where the industrial zone district is separated from the residential zone district by a public right-of-way, or where differences in elevation, or building setbacks or other major restrictions between the two (2) zone districts render such buffering ineffective, the minimum requirements for buffering may be modified, as approved by the town.

(1) When required. Buffering shall be installed and/or implemented on industrially zoned properties adjacent to residentially zoned properties when:

a. Any development, improvement, construction or use is undertaken on a vacant or unused property; or

b. Improvements or additions are made to existing structures where the

actual cost of such improvements as calculated by the Building Code exceeds twenty-five percent (25%) of the ad valorem actual value of existing improvements as such ad valorem value is determined by the county assessor, or

c. Any other development requiring submittal of a site plan.

(2) Buffering preparation and maintenance.

a. Prior to the installation of the required buffering, all proposed buffer areas shall be properly graded to allow for proper site drainage.

b. Upon approval of a completed buffer plan, the owner of the property, his or her successors, heirs and assigns shall be responsible for the proper maintenance of the buffer areas, including continued watering, weeding, fertilizing, pruning, pest control and replacement of dead or diseased plant materials or fencing materials.

c. All replaced plant or fence material shall be of the same or equal type and size as the original material that was installed according to the approved site plan.

d. All replacement installations shall be completed no later than the next succeeding planting season.

(q) Reserved.

(r) Reserved.

(s) Reserved.

(3) Reserved.

(t) Kennels or catteries. Kennels or catteries must meet all standards of the State of Colorado.

**Sec. 16-56. Reserved.**

**Sec. 16-57. Industrial one district (I-1).**

(a) Intent. The I-1 district is comprised of areas which are primarily developed for nonoffensive types of industrial activity.

(b) Uses by right. The following uses are allowed by right in the I-1 district:

- (1) General offices.
- (2) Medical and dental offices.
- (3) Warehousing and wholesaling establishments, excluding explosives.
- (4) The manufacture, assembly and/or production of components and parts for:
  - a. Electronics.
  - b. Instruments.
  - c. Optics.
  - d. Watches.
- (5) The assembly of components and parts for computers.
- (6) Machinery sales, excluding truck trailers and heavy equipment.
- (7) Testing laboratories, except as limited by exclusions.
- (8) Schools for industrial or business training.
- (9) Automobile sales and service.
- (10) Greenhouses.
- (11) The repair, rental and service of any commodity, except heavy equipment, trucks or trailers.
- (12) Flea markets, indoor and outdoor.

(13) Transportation terminals for freight or passengers (need not be enclosed).

(13.5) Building mounted or pole mounted CMRS facility, with administrative approval.

(13.6) Governmental buildings, including fire stations.

(14) Sexually oriented businesses.

a. Sexually oriented businesses shall be located a minimum of three hundred (300) feet from any:

1. Area zoned for residential use;
2. Single-family, two-family or multi-family dwelling;
3. Church;
4. Licensed day-care facility;
5. School or educational facility, serving persons age eighteen (18) or younger.

b. Sexually oriented businesses shall also be located a minimum of one hundred (100) feet from any other sexually oriented business.

c. Distance between any two (2) sexually oriented businesses shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each business. Distance between any sexually oriented business and any church, school, day-care facility, dwelling unit or residential district shall be measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where the sexually oriented business is conducted to the nearest property line of the premises of a church, school, day-care facility or

dwelling unit, or the nearest boundary of a residential district.

(15) Uses determined by the planning commission to be similar in nature and impact as any of the listed uses by right.

(bb) Uses by Special Review (USR). The following buildings, structures and uses may be constructed, occupied or maintained in this district upon approval of a permit in accordance with the requirements and procedures set forth in Section 16-63 of this chapter.

(1) Oil and gas production facilities, reviewed pursuant to Article 11 of this Chapter.

(2) Freestanding microwave, radio, television or other CMRS facility, reviewed pursuant to Article 10 of this Chapter.

(3) Outdoor storage, subject to the provisions of Section 16-57 (f) of this chapter.

(4) Extrusion of plastics.

(5) Airstrips when they are accessory to the use allowed by right.

(6) Structures in excess of fifty (50) feet in height.

(c) Exclusions. The basic production, manufacturing, processing, shipping, handling or storing of any of the following products or materials and the following specifically identified uses are excluded in I-1 districts:

(1) Animal by-products.

(2) Cement.

(3) Charcoal.

(4) Coal and coke.

(5) Concrete.

(6) Explosives.

(7) Fertilizer (chemical or organic).

(8) Fiberglass.

(9) Fungicides.

(10) Glue and sizing.

(11) Gypsum.

(12) Herbicides.

(13) Insecticides.

(14) Junkyards, scrap yards, salvage yards.

(15) Extraction or smelting of metals.

(16) Milling or smelting of ores.

(17) Outdoor storage, unless specifically permitted as a conditional use under the provisions of Subsection (f) of this section.

(18) Paints and like products.

(19) Paper pulp and cellulose.

(20) Petroleum and petroleum products.

(21) Plastics other than extrusion.

(22) Preserving by crusading and other pressure impregnation of wood.

(23) Rubber, including reclaiming, or tire recapping.

(24) Sawmill or planing mill.

(25) Slaughterhouse, packinghouse.

(26) Stockyards and feedlots.

(27) Sugars and starches.

(28) Tannery.

(29) Truck repair, where the repair is a primary use of the property in such zone district or building located on such property.

(30) Turpentine.

(31) The manufacturing, processing, use, sale or long-term storage of any highly flammable, corrosive or explosive liquids, solids or gases or highly toxic substances. In interpreting this restriction, the Building Code and Fire Code shall be consulted. If, upon such consultation of said codes, the intensity of use or the duration of storage exceeds the occupancy standards as set forth in the Building Code and/or Fire Code, the use shall be excluded.

(32) Aboveground storage of flammable or combustible liquids or gases as provided in Section 18-17.

(33) Transportation terminals where the vehicles are used to carry flammable, explosive, hazardous or highly toxic materials.

(34) The parking and/or storage of any toxic or hazardous materials as defined by the currently adopted Fire Code.

(35) Uses determined by the planning commission to be similar in nature and impact as any of the listed uses by right.

(d) Temporary uses. Temporary uses shall be allowed as follows, subject to the provisions of section 16-65.5 of this chapter:

(1) Reserved.

(2) Reserved.

(3) Mobile office structure.

(4) Auctions.

(5) Bazaars.

(e) Reserved.

(f) Outdoor storage. Outdoor storage shall be permitted as a Use by Special Review, subject to the following standards:

(1) Outdoor storage may be permitted as a Use by Special Review in the I-1 industrial one zone district, upon a showing that such use in a specific location will comply with all conditions and standards for the location or operation of such use as specified in this section and authorized at a public hearing by the board of trustees, after review and recommendation, at a public hearing by the planning commission.

(2) Use by Special Review criteria. No application for outdoor storage as a Use by Special Review in the I-1 zone district shall be approved unless the board of trustees specifically finds that outdoor storage is appropriate in the location for which it is proposed. This finding shall be based on the following criteria:

a. Outdoor storage at the proposed location shall not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or rights-of-way, or other matters affecting the public health, safety or general welfare, either as they presently exist or as they may in the future be developed as a result of the implementation of provisions and policies of the comprehensive plan, this chapter or any other plan, program, map or ordinance adopted by the town or another governmental agency having jurisdiction to guide the growth and development of the town.

b. The characteristics of the site are suitable for outdoor storage as a Use by Special Review considering the size, shape, location, topography, existence of improvements and natural features.

c. Sufficient landscaping and

screening will be utilized to ensure harmony with adjacent uses and public rights-of-way. Where adjacent uses consist of residential, commercial, public zones or uses or are otherwise incompatible, more extensive landscaping and/or berms may serve as buffers at the discretion of the board of trustees. In any event, all outdoor storage shall meet the minimum screening, fencing and landscaping requirements set forth in this section.

d. No parking or outdoor storage for a continuous period of twelve (12) hours or longer of vehicles greater than one and one-half (1½) tons in gross vehicle weight shall be allowed in the front setback of principal buildings.

e. No outdoor storage shall occur on a lot that does not contain a building, unless said outdoor storage is used by an adjacent property owner for outdoor storage for his or her business.

f. All outdoor storage shall be storage that is directly related to the business conducted on that property, unless a vacant property is used for outside storage by an adjacent business for its outdoor storage.

g. The area of outdoor storage shall be limited based upon the characteristics of the site. Those relevant limiting characteristics include but are not limited to the following:

- i. Size of buildings;
- ii. Type of material being stored;
- iii. Vehicle circulation patterns;
- iv. Loading docks; and
- v. Emergency vehicle access.

h. Outdoor storage shall not be visible to a pedestrian at ground level looking at the storage area from a public

right-of-way.

i. Minimum screening standards. All permits for outdoor storage as a Use by Special Review in the I-1 zone district shall require screening which shall meet the following minimum standards:

i. The entire area used for outdoor storage shall be completely screened by a fence or by evergreen trees pursuant to a landscaping or fencing plan approved by the board of trustees or as delegated to the planning commission.

ii. Screen fencing shall be consistent throughout the property in terms of design and materials. Screen fencing shall be compatible with fencing on adjoining property, where appropriate. Materials used in the construction of screen fencing shall include masonry, brick, decorative rock, stone, textured concrete or stucco and wood. Fencing material may consist entirely of masonry or stucco, stone or textured concrete or a combination of these materials. Wood fencing shall in no event make up more than eighty percent (80%) of the screen fence. That is, when wood fencing is used as the primary material, at least twenty percent (20%) of the fence shall consist of another appropriate and approved material. Screen fencing shall be not less than six (6) feet nor more than eight (8) feet in height.

iii. Gates may be constructed of wood or chain link material. In either case, wooden material shall be attached to the gate in order to provide a visual obstruction of the outdoor storage; however, slats inserted into chain link fencing material are expressly prohibited. Gates shall be no higher than eight (8) feet in height, and be of no greater length than forty (40) feet.

j. Additional standards. In addition to the screening standards, all permits for outdoor storage in the I-1 zone district shall include the following requirements:

i. Outdoor storage may be stacked no higher than the height of the screen fence. Aisles shall be provided and maintained where necessary to allow for the unobstructed passage of firefighting vehicles, as approved by the fire marshal.

ii. No materials shall be deposited upon a lot in such form or manner that they may be transferred off the lot by natural causes or forces.

iii. All materials or waste which might cause fumes or dust, which constitute a fire hazard or which may be edible by or otherwise be attractive to rodents or insects shall be stored outdoors only in closed containers.

iv. The maximum time to come into compliance with all conditions and standards set forth in this section shall be one hundred eighty (180) days from the date of the issuance of the permit by the board of trustees. The board of trustees may set a shorter time period upon a finding that compliance within such shorter time period is reasonable under the circumstances.

v. All fences required to be erected in order to meet the standards contained in this section shall require a building permit from the town.

vi. Required landscaping shall be located outside the fencing for the screened/enclosed area of outdoor storage. Ten percent (10%) of the total lot area shall be landscaped; however, the board of trustees may require that the area landscaped be

greater or less than ten percent (10%) of the total lot size based upon specific site needs. All landscaping plans shall be approved by the town unless the same are specifically approved by the board of trustees.

k. No grandfathering. Nothing contained in this chapter shall be construed to expand any right or privilege of outdoor storage in the I-1 zone district unless and until the owner and user of the property involved shall have obtained Use by Special Review approval as provided herein. Any and all outdoor storage existing in the I-1 zone district which is not expressly permitted as a Use by Special Review, whether or not said outdoor storage in said I-1 zone district existed prior to the passage of this chapter, is hereby declared to be illegal and in violation of the zoning ordinances of the town. No outdoor storage in the I-1 zone district shall be "grandfathered;" that is, unless expressly permitted as a Use by Special Review, all outdoor storage, regardless of the date when said outdoor storage commenced, is prohibited.

(g) Accessory uses. The following buildings, structures and uses may be allowed in the I-1 district so long as they are incidental and accessory to the uses allowed by right.

(1) Offices for use by operators of the uses allowed by right.

(2) Loading areas or structures only when screened from the adjacent public rights-of-way or adjacent properties.

(3) Parking areas or structures for passenger vehicles with a gross weight less than six thousand (6,000) pounds only when the vehicles are screened from the adjacent public rights-of-way or adjacent properties.

(4) One (1) single-family dwelling unit or one (1) mobile home when used as

living quarters for caretakers or security personnel responsible for maintaining or guarding the property, if:

a. The mobile home or accessory dwelling unit is necessary for the effective and economic operation of the business, commercial or industrial activity.

b. The mobile home or accessory dwelling unit will not be used for residential purposes other than for the purpose of the protection or control of the principal use.

c. Adequate water and sewage disposal facilities are available to the mobile home or accessory dwelling unit.

d. The mobile home as an accessory use is temporary and will be removed from the property upon the cessation of the use of a mobile home as an accessory use to the business, commercial or industrial activity.

(5) Recreational facilities for the use of persons employed in the conduct or maintenance of the uses allowed on the property.

(6) Retail sales, when accessory to uses of manufacturing, fabricating or assembling.

(h) Reserved. (i) Site plan required. No land, building or structure shall be used, changed in use or type of occupancy, developed, erected, constructed, reconstructed, moved or structurally altered or operated in the I-1 district until a site plan has been approved by the town.

(j) Setback. No use or accessory use may be located closer than twenty-five (25) feet to the existing or proposed (whichever represents the greater right-of-way width) highway or street right-of-way. Off-street parking areas may be permitted in the required setback area when the area is screened from direct view of persons on the public rights-of-way.

(k) Lot requirements: minimum frontage, fifty (50) feet.

(l) Floor area: no minimum.

(m) Building height, maximum: fifty (50) feet.

(n) Building location.

(1) Front setback minimum: thirty (30) feet.

(2) Side setback, minimum:

a. Twenty-five (25) feet on one (1) side.

b. None on the other side, subject to approval by the fire marshal and chief building official.

c. Side setbacks shall be so applied and interpreted to maintain minimum structure separations across side property lines of twenty-five (25) feet.

d. A twenty-five-foot side setback from streets or other public rights-of-way.

(3) Rear setback: no minimum.

(o) Open space. Shall be ten percent (10%) of gross lot area.

(p) Parking. Off-street parking requirements shall be as indicated in section 16-142 of this chapter unless otherwise shown on an approved site plan.

**Sec. 16-58. Reserved.**

**Sec. 16-59. Industrial two district (I-2).**

(a) Intent. I-2 industrial two district shall be as follows:

(1) The I-2 industrial two district is comprised of areas primarily developed for light manufacturing and production.

(2) All outdoor storage areas shall be enclosed by a fence or wall adequate to conceal such facilities from adjacent property where adjacent property is commercial, residential or industrial districts. Where the outdoor storage is adjacent to public right-of-way, it shall be concealed from the public right-of-way with a concealing type fence or wall. Upon written agreement with the town, the concealing fence regulations may be modified to solve security problems.

(b) Uses by right. Uses by right shall be as follows:

- (1) All uses by right in the I-1 district.
- (2) Lumber and building supply yards.
- (3) Contractor shops and storage (except junk).
- (4) Firewood; commercial storage and sales.
- (5) Outside storage for heavy equipment sales and repair (except junk).
- (6) Truck trailer sales, repair and maintenance.
- (7) Shipping, storage or handling of fiberglass or plastics.
- (8) Light repairs using fiberglass or plastics, so long as no more than twenty (20) gallons of liquid polymers or two hundred (200) pounds of solid thermoplastic material are used on the property each day of operation.
- (9) Uses determined by the planning commission to be similar in nature and impact as any of the listed uses by right.

(10) Building mounted or pole mounted CMRS facility, with administrative approval.

(bb) Uses by special review (USR). The following buildings, structures and uses may be constructed, occupied or maintained in this district upon approval of a permit in accordance with the requirements and procedures set forth in Section 16-63 of this chapter.

(1) Oil and gas production facilities, reviewed pursuant to Article 11 of this Chapter.

(2) Freestanding microwave, radio, television or other CMRS facility, reviewed pursuant to Article 10 of this Chapter.

(c) Exclusions. The basic production, basic manufacturing or basic processing, shipping, handling or storing of any of the following products or materials and the following specifically identified uses are excluded from I-2 districts: Same as I-1 with the following additions:

(1) Fiberglass.

a. Fiberglass spray-up operations.

b. Contact molding of fiberglass to the extent more than twenty (20) gallons of liquid polymer are used on the property each day.

(2) Insulation materials.

(d) Temporary uses. Temporary uses shall be allowed as follows, subject to the provisions of section 16-65.5 of this chapter:

(1)

Same as I-1.

(e) Uses requiring planning commission approval. The following uses shall be permitted only upon the approval of the planning commission, subject to appeal to the

board of trustees: The basic production, manufacturing or processing of the following:

- (1) Abrasives.
  - (2) Lightweight aggregate blocks.
  - (3) Concrete products (excluding central mixing plant).
  - (4) Glass.
  - (5) Serum and like products.
  - (6) Plastics and fiberglass, to the extent not excluded by Subsection (c) above.
  - (7) Buildings over fifty (50) feet in height.
  - (8) Dwellings, provided that such dwellings are in conjunction with and supplementary to the principal use, such as caretaker's home, night watchman's home or key maintenance employee's home.
  - (9) Extrusion of plastics.
  - (10) Uses determined by the planning commission to be similar in nature and impact as any of the listed uses by right.
- (f) Accessory uses: none.
- (g) Lot requirements: minimum frontage, fifty (50) feet.
- (h) Floor area: none.
- (i) Building height, maximum: fifty (50) feet.
- (j) Building location. Building location shall be regulated as follows:
- (1) Front setback, minimum: fifty (50) feet.
  - (2) Side setback, minimum: twenty-five (25) feet.

(3) Rear setback: twenty-five (25) feet.

(k) Open space. Open space shall be ten percent (10%) of gross lot area.

(l) Parking. Off-street parking requirements shall be as indicated in section 16-142 of this chapter unless otherwise shown on an approved site plan.

(m) Site plan required. No land, building or structure shall be used, changed in use or type of occupancy, developed, erected, constructed, reconstructed, moved or structurally altered or operated in the I-2 district until a site plan has been approved by the town.

### **Sec. 16-60. Industrial three district (I-3).**

(a) Intent. The I-3 industrial three district is for industrial uses which are authorized either as uses by right or temporary uses or are specifically found by the board of trustees to meet Use by Special Review approval criteria.

(b) Uses by right. All uses by right in commercial, I-1 and I-2 zone districts subject to all rules and regulations established with the standards of said zone districts, except that I-3 setbacks and height limitations shall apply: Same as I-1 with the following additions:

- (1) Machinery sales, truck, truck trailer, heavy equipment sales, repair and maintenance.
- (2) Automobile sales and service.
- (3) Dry cleaning plants.
- (4) Flour mills.
- (5) Glass or glass products manufacture.
- (6) Grain elevators.
- (7) Insulation material storage and sales.

(8) Metal sheets or bearings processing.

(9) Forging or rolling mills.

(10) Noncommercial radio and TV towers up to ninety (90) feet in height.

(11) Public utility storage yards and service installments.

(12) Adult entertainment uses, subject to the provisions of this chapter.

(13) The basic production, manufacturing, processing, storage, shipping or handling of any of the following:

- a. Pipe;
- b. Paint;
- c. Insulation;
- d. Fiberglass;
- e. Plastics;
- f. Serums and like products;
- g. Cement or cinder block.

(10) Building mounted or pole mounted CMRS facility, with administrative approval.

(11) Uses determined by the planning commission to be similar in nature and impact as any of the listed uses by right.

(bb) Uses by special review (USR). The following buildings, structures and uses may be constructed, occupied or maintained in this district upon approval of a permit in accordance with the requirements and procedures set forth in Section 16-63 of this chapter.

(1) Oil and gas production facilities, reviewed pursuant to Article 11 of this Chapter.

(2) Freestanding microwave, radio, television or other CMRS facility, reviewed pursuant to Article 10 of this Chapter.

(3) Foundries;

(4) Power plants;

(5) Railroad yards, together with buildings, structures and facilities related thereto;

(6) Refineries and aboveground petroleum storage;

(7) Animal packing or slaughter;

(8) Boiler or tank works;

(9) Cement, cinder block, concrete, lime or plaster manufacture;

(10) Concrete mixing plants;

(11) Creosote manufacture or plants;

(12) Fat rendering production of edible fats and oils from animal or vegetable products;

(13) Noncommercial radio and TV towers over ninety (90) feet in height;

(14) Feedlots, fur farming or other commercial production of animals or poultry;

(15) Fertilizer manufacture or processing or sale thereof;

(16) Forging plants and foundries;

(17) Gas or liquefied petroleum gases in approved container for storage above ground;

(18) Livestock and sale rings or rodeos;

(19) Meat processing, packing and slaughter;

- (20) Metal ingots or casting;
- (21) Stockyards;
- (22) Explosive manufacture or storage;
- (23) Junkyards, scrap yards, salvage yards;
- (24) Sand and gravel operations;
- (25) Landfill operations;

(26) The manufacture, processing, use, sale or long-term storage of any highly flammable, corrosive or explosive liquids, solids or gases or highly toxic substances consistent with the requirements of the Building Code and Fire Code as adopted and in effect in the town;

(27) Containers for the aboveground storage of flammable or combustible liquids and flammable gases in excess of forty-thousand-gallon capacity per single property in containers specified by the Fire Code as adopted by the town;

(28) Transportation terminals where the vehicles are used to carry flammable, explosive, hazardous or highly toxic materials;

(29) The parking and storage of toxic or hazardous materials as defined by the Fire Code as adopted and in effect in the town;

(30) The basic production, manufacture, shipping, handling or storage of any of the following:

- a. Animal by-products.
- b. Charcoal.
- c. Fungicides.
- d. Glue and sizing.
- e. Gypsum.

- f. Herbicides.
- g. Insecticides.
- h. Metal extraction or smelting.
- i. Milling or smelting of ores.
- j. Paper pulp and cellulose.
- k. Petroleum and petroleum products.
- l. Rubber, including reclaiming and recapping.
- m. Sugars and starches.
- n. Tannery.
- o. Turpentine.

(31) All other uses not otherwise authorized by this chapter in any zone district in the town.

(d) Exclusions. Exclusions shall be as may be determined by the board of trustees based upon examination of Use by Special Review criteria.

(e) Temporary uses. Temporary uses shall be allowed as follows, subject to the provisions of section 16-65.5 of this chapter:

(1) Any temporary use allowed in commercial districts.

(2) Any temporary use allowed in the agricultural district subject to the same requirements.

(3) Mobile office structures.

(4) Auctions.

(5) Bazaars.

(f) Reserved.

(g) Reserved.

- (h) Accessory uses: none.
- (i) Lot requirements: none.
- (j) Floor area: none.
- (k) Building height, maximum: fifty (50) feet.
- (l) Building location. Building location shall be regulated as follows:
  - (1) Front setback, minimum: fifty (50) feet.
  - (2) Side setback, minimum: twenty-five (25) feet.
  - (3) Rear setback, minimum: twenty-five (25) feet.
- (m) Open space. Open space shall be a minimum of five percent (5%) of the gross lot area.
- (n) Reserved.
- (o) Site plan required. No land, building or structure shall be used, changed in use or type of occupancy, developed, erected, constructed, reconstructed, moved or structurally altered or operated in the I-3 district until a site plan has been approved by the town.

Sec. 16-61. Open space district (O).

- (a) Intent. This district is intended to provide for and preserve open areas within the town.
- (b) Uses by right. The uses by right in the O district shall be as follows:
  - (1) Parks.
  - (bb) Uses by special review (USR). The following buildings, structures and uses may be constructed, occupied or maintained in this district upon approval of a permit in accordance with the requirements and procedures set forth in Section 16-63 of this chapter.

(1) Oil and gas production facilities, reviewed pursuant to Article 11 of this Chapter.

(2) Microwave, radio, television or other CMRS facility, reviewed pursuant to Article 10 of this Chapter.

(3) Country club.

(4) Golf course.

(5) Swimming facility.

(6) School.

(f) Height regulations.

(1) Maximum building height shall be thirty (30) feet.

(2) Accessory buildings shall not exceed eighteen (18) feet in height.

**Sec. 16-62. Agriculture three district (A-3).**

(a) Intent. The A-3 agriculture three district shall be as follows:

(1) The A-3 agriculture three district is comprised of larger lots suitable for a mixture of animal units.

(b) Definitions. As used in this section, the following definitions apply.

(1) *Animal unit*. A term used to establish an equivalency for various species of livestock. The number of livestock allowed by right is dependent upon bulk requirements of the agriculture three (A-3) district. Livestock in excess of the bulk requirement for the agriculture three (A-3) district shall require a use by special review permit.

(2) *Poultry*. As used in this section, poultry is limited to chickens, ducks, pigeons and turkeys.

(c) Uses by right. Uses by right in the A-3 district shall be as follows:

(1) All uses by right in the A-2 district.

(2) Any combination of the following livestock and their equivalents as a use by right shall not exceed the maximum of one (1) animal unit per acre.

	<i>Animal Unit Equivalents</i>	<i>Maximum Number Per Acre</i>
Cattle	1	1
Horse	1	1
Swine	1	1
Llama	1	1
Sheep	1	1
Goat	1	1
Poultry	.1	10
Rabbit	.1	10

(cc) Uses by special review (USR). The following buildings, structures and uses may be constructed, occupied or maintained in this district upon approval of a permit in accordance with the requirements and procedures set forth in Section 16-63 of this chapter.

(1) Oil and gas production facilities, reviewed pursuant to Article 11 of this Chapter.

(2) Microwave, radio, television or other CMRS facility, reviewed pursuant to Article 10 of this Chapter.

(d) Uses requiring planning commission approval. All Uses requiring planning commission approval in the A-2 district.

(e) Minimum lot requirements.

(1) Minimum lot area: five (5) acres.

(2) Setback requirements. Buildings and/or corrals shall be set back twenty-five (25) feet from all property lines.

(3) Maximum building height. No building shall exceed thirty (30) feet in height.

(f) Water and sewer. Private septic systems will be allowed where public sewage collection and treatment is not available in this district, provided that the septic system is in conformance with county health department recommendations.

**Sec. 16-63. Uses permitted by Special Review (USR).**

(a) Intent. The uses within the zone districts established by this chapter as Uses by Special Review (USR) may be permitted in the designated districts upon approval by the board of trustees following a public notice and hearing as described in this section and subject to such conditions and safeguards as may be imposed by the board of trustees.

(b) Criteria for approval. The board of trustees may approve a Use by Special Review by resolution, specifying reasonable conditions which include, but are not limited to, the requirements that the proposed use:

(1) Will be in harmony and compatible with the character of the surrounding areas and neighborhood;

(2) Will be consistent with the town comprehensive plan this article or any other plan, program, map or ordinance adopted or under consideration pursuant to official notice by the town;

(2.5) There shall be proven a community need for the proposed use at the proposed location given existing and proposed uses of a similar nature in the area and of the need to provide or maintain a proper mix of uses both within the town and also within the immediate area of the proposed use.

a. The proposed use in the proposed location shall not result in either a detrimental over-concentration of a particular use within the town or within the

immediate area of the proposed use; and

b. The area for which the use is proposed is not better suited for or likely to be needed for uses which are permitted as a matter of right within that district, given policies or provisions of the comprehensive plan, this chapter or other plans or programs of the town.

(3) Will not result in an over-intensive use of land and shall meet the dimensional standards of this zoned district unless otherwise approved by the board of trustees;

(4) Will not have a material adverse effect on community capital improvement programs;

(5) The proposed use in the proposed area will be adequately served by and will not impose an undue burden on any of the improvements, facilities, utilities and services of the town or its residents. Where any such improvements, facilities, utilities or services are not available or adequate to service the proposed use in the proposed locations, the applicant shall, as part of the application and as a condition to approval of the USR, be responsible for establishing ability, willingness and binding commitment to provide such improvements, facilities, utilities and services in sufficient time and in a manner consistent with the comprehensive plan, this chapter and other plans, programs, maps and ordinances adopted by the town to guide its growth and development. The approval of the USR shall be predicated upon such improvements, facilities, utilities and services being provided and guaranteed by the applicant.

;

(6) Will not result in undue traffic congestion or traffic hazards;

(7) Will not cause significant air, water or noise pollution;

(8) Will be adequately landscaped, buffered and screened; and

(9) Will not otherwise be detrimental to the health, safety or welfare of adjacent properties, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or rights-of-way, or other matters affecting the public health, safety and general welfare, either as they presently exist or as they may in the future be developed as a result of the implementation of provisions and policies of the comprehensive plan, this chapter or any other plan, program, map or ordinance adopted or under consideration pursuant to official notice, by the town or other governmental agency having jurisdiction to guide growth and development of the community.

(c) Limitations. Uses by Special Review shall be permitted for a duration of time specified by the board of trustees or until the land use changes or is terminated, whichever occurs first. Approval of a USR by the board of trustees may stipulate restrictions or conditions which may include, but are not limited to, a definite time limit to meet such conditions, provisions for front, side or rear yard setbacks greater than the minimum dimensional standards as provided in this chapter, suitable landscaping, off-street parking and any other reasonable restriction, condition or safeguard that would uphold the spirit and intent of this chapter, and mitigate adverse effects upon the neighborhood properties by reason of the use, extension, construction or alteration allowed as set forth in the findings of the board of trustees.

Each use is subject to review by the planning commission as often as the board of trustees deems appropriate to ensure compliance with the criteria above and any other stated conditions of approval. The performance criteria upon which the USR shall be conditioned shall prohibit noise, dust, vibration, odor or other nuisance

problems beyond the interior buffer yard line of the use. Data demonstrating this shall constitute a part of the application for the USR. Failure of a property owner or occupant of any property subject to a USR permit to comply with any USR conditions shall constitute a violation of this chapter.

(d) Procedure.

(1) The applicant should meet with representatives of the town informally to discuss the request to be submitted and determine the requirements for such application and the size and nature of the proposal.

(2) Once the applicant determines to proceed, the following information shall be submitted to the town clerk for referral to the planning commission:

a. A completed development application form and a USR application form.

b. Graphic materials as needed to describe the proposal, printed on 11" x 17" paper..

c. A narrative outlining the proposal as described below.

d. Reserved.

e. An alphabetical list of all property owners adjacent to the affected property.

f. Any other information that the town may require.

g. The appropriate fee or deposit.

h. Proof of ownership, or consent of the owner.

(3) The planning commission shall review the proposal as soon as practical and determine the completeness of the application.

(4) Public hearings shall be scheduled before the planning commission in accordance with this chapter.

(5) The planning commission shall, following the public hearing, make its recommendation in writing to the board of trustees which shall make the final determination. The board of trustees may hold additional public hearings prior to making a final decision if it determines it is in the public interest to do so.

(6) In approving a USR, the board of trustees may impose additional reasonable conditions necessary to protect the public interest and welfare of the community.

(e) Revocation. A conditional use may be revoked or modified, after notice and hearing, for either of the following reasons:

(1) The conditional use was obtained or extended by fraud or deception; or

(2) One (1) or more of the conditions imposed by the conditional use has not been met or has been violated.

**Sec. 16-64. Standards for accessory uses and buildings.**

(a) Definition. An accessory use is a use or detached structure subordinate to the principal use or structure and located on the same lot or parcel, serving a purpose that is customarily incidental to the principal use or the principal structure.

(b) Business and commercial. In a business or commercial district, a use accessory to an authorized use shall be permitted as specified in district regulations. The parking of automobiles of clients, patients, patrons or customers within a front, side or rear yard of a building within a commercial or business district, without charge and in connection with any use permitted in such, shall be deemed an accessory use.

(c) Above-ground storage of flammable liquids and gases. In the event the above-

ground storage of flammable liquids and gases is a valid accessory use as defined in this section, such storage shall meet federal, state and local laws, regulations and safety standards.

(d) All setbacks for accessory uses shall conform to the setbacks as outlined in the underlying zoning district.

**Sec. 16-65. Permit for temporary housing incidental to construction of a single-family dwelling.**

(a) Intent. This section is intended to provide a permit process for a property owner constructing a single-family dwelling for the owner's own use to allow the use of a temporary structure to serve as a dwelling during the period of construction not to exceed six (6) months; provided, however, that such temporary structure must be placed on the same lot upon which the single-family dwelling is being constructed.

(b) Definitions. For purposes of this section, the following terms have the following meanings:

(1) *Recreational vehicle* shall mean a vehicle which is: built on a single chassis; four hundred (400) square feet or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a light duty truck; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use. Included as recreational vehicles are trailers, trailer coaches, camping trailers, motor homes, pickup (slide-in) campers, chassis mounts, converted vans, chopped vans, mini-motor homes and fifth wheel trailers of recreational vehicle construction (as opposed to commercial fifth wheel trailers).

a. *Trailers, trailer coaches and fifth wheel trailers of recreational vehicle construction* are defined as recreational vehicles constructed with integral wheels to make them mobile and

intended to be towed by passenger cars, station wagons or pickup trucks, but not including truck tractors or commercial vehicles of any type.

b. A *camping trailer* as set forth herein is a type of trailer or trailer coach, the walls of which are so constructed as to be collapsible and made out of either canvas or similar cloth, or some form of rigid material such as fiberglass, plastic or metal. The walls of such trailer are collapsed while being towed, and are raised or unfolded when the vehicle becomes temporary living quarters and is not being moved.

c. *Pickup (slide-in) campers* are recreational structures designed to be mounted temporarily or permanently in the beds of light trucks with the trucks having either single or double rear wheels and with or without an assisting, extra tag axle and wheels mounted on either the camper chassis or the truck chassis behind the truck's rear wheels. Such campers can be readily dismounted from the truck beds, but must remain mounted on a truck bed to be used as a recreational vehicle as a temporary structure pursuant to this section.

d. *Chassis mounts, motor homes and mini-motor homes* are recreational structures constructed integrally with a truck or motor van chassis and incapable of being separated therefrom. The truck or motor van chassis may have single or double rear wheels.

e. *Converted and chopped vans* are recreational structures which are created by altering or changing an existing auto van to make it into a recreational vehicle meeting the requirements hereof.

(2) *Temporary structure* shall mean a recreational vehicle as defined in this chapter.

(c) Criteria for approval. The planning commission may approve a permit for

temporary housing incident to the construction of a single-family dwelling by a property owner for the owner's own use, subject to reasonable conditions which include, but are not limited to, the following:

(1) The property owner must be constructing a single-family dwelling in a zone district in which such a single-family dwelling is permitted, and the dwelling must be in the process of being constructed for occupancy by the owner occupying the temporary structure;

(2) The temporary structure will not require a level of community facilities and services greater than the single-family dwelling in the process of being constructed;

(3) The temporary structure will not have any adverse impact on the health, safety or welfare of the town, including, but not limited to, any health or safety issues related to the manner by which the temporary structure contains and disposes of water, sewage and litter;

(4) The applicant must, prior to receipt of any permit for a temporary structure, have obtained a water tap and sewer tap or other lawful sanitary connection, and must lawfully hook up the same to the temporary structure prior to occupying the temporary structure. The hookup must contain adequate weatherproofing, including, at a minimum, a backflow preventer, and any other weatherproofing device determined to be necessary by the town's building inspector;

(5) The applicant provides proof to the planning commission that all adjacent landowners have been notified by first class mail of the public meeting regarding the special permit for the use of a temporary structure as temporary housing; and

(6) The temporary structure will not otherwise be detrimental to the health, safety or welfare of the present or future

inhabitants of the town, and the applicant has executed a release of liability determined to be necessary by the planning commission.

(d) Limitations. The permit authorized to be issued by the town pursuant to this section shall be permitted for a duration of time specified by the planning commission, but in no event shall the duration of time of the permit exceed six (6) months. A property owner that has obtained a permit pursuant to this section may apply for one (1) three-month extension in the event the construction of the single-family dwelling has not been completed. Such extension shall be considered by the planning commission based on the same criteria set forth above.

(e) Application procedure. The property owner seeking a permit pursuant to this section shall submit the following information to the town clerk for referral to the planning commission:

(1) A narrative indicating that the property owner shall be constructing a single-family dwelling for his/her own use and occupancy;

(2) A copy of the recorded warranty deed indicating that the applicant is the owner of the property;

(3) Information sufficient to allow the planning commission to determine whether the applicant has satisfied the criteria for approval set forth in Subsection (b) of this section;

(4) A list of all adjacent landowners to be notified by the applicant by first class mail of the proposed permit for the use of temporary housing; and

(5) A deposit sufficient to reimburse the town for all actual costs associated with the processing and inspecting of the temporary structure. Any unused portion of the deposit shall be returned to the applicant at the expiration of the permit provided herein.

(f) Planning commission action. The planning commission shall review the proposal as soon as practical at a public meeting with the applicant and determine whether the issuance of a permit is in the best interests of the health, safety and welfare of the town, based on the criteria set forth in Subsection (b) of this section. The planning commission shall then make a written determination of whether to issue a permit for a temporary structure, and if it deems it appropriate to issue such a permit, shall specify the duration thereof. In the event the planning commission denies the request for a special permit, the applicant may appeal the determination to the board of trustees. Such an appeal must be filed within five (5) working days of receipt of the written determination by the planning commission.

(g) Expiration; revocation. A permit issued pursuant to this section shall expire under any of the following circumstances:

(1) The permit shall expire automatically upon the issuance of a temporary or permanent certificate of occupancy for the single-family dwelling being constructed by the owner of the lot upon which the temporary structure is located.

(2) The permit shall expire automatically at the end of six (6) months from the date of issuance, unless said special permit has been extended for a three-month period pursuant to Subsection (d) of this section, in which case said special permit shall expire automatically at the end of the three-month extension.

(3) The planning commission or the board of trustees may revoke a permit issued pursuant to this section in the event it determines at a public meeting after notice to the property owner that the property owner is not in compliance with the criteria for approval of the permit.

#### **Sec. 16-65.5. Temporary uses.**

(a) Intent. This section provides standards for the regulation of temporary land uses such

as auctions, Christmas tree lots, farmers' markets, and seasonal sale of retail merchandise, in zoning districts where they are specifically permitted. It does not regulate licensed peddlers that are not occupying specific parcels of land.

(b) Temporary uses. The location and operation of temporary uses within the town is prohibited except as provided in this section. Temporary uses shall be allowed subject to the following conditions:

(1) Temporary uses not listed for a zoning district in this chapter and not reasonably similar to listed temporary uses within the zoning districts shall not be allowed unless and until the use is interpreted by the town in the manner provided for in this section.

(2) Temporary business uses must obtain all required town business and sales tax licenses.

(3) Temporary uses must obtain a temporary use permit, approved by the town administrator.

(4) Off-street parking associated with temporary uses permitted for a term in excess of five (5) days within any calendar year must be on a hard improved surface that is intended or customarily used for the parking of motor vehicles.

(5) Temporary uses requiring electrical service or that include temporary structures or tents that require anchoring must obtain any required building permits and inspections.

(6) Signs. Temporary uses shall be allowed only one (1) sign per use. Signs shall only be permitted during the term of the temporary use as specified in the temporary use permit. Such sign shall comply with the provisions of Article 8 of this chapter.

(7) Term. Permits for temporary uses may be issued for the minimum time

necessary for operation of the temporary use, and such term shall be not longer than ninety (90) consecutive days. Extensions for time periods not to exceed ninety (90) consecutive days may be considered with a new permit application.

(c) Submittal requirements. Requests for temporary use permits shall be accompanied by the following:

(1) A completed temporary use permit application.

(2) A drawing showing the layout of the property on which the temporary use is to be located, indicating: dimensions and setbacks; location of all parking and loading areas; tents or other temporary structures; access to public rights-of-way.

(3) A description of provisions for sanitation and utility service.

(4) Authorization to occupy the property for the proposed temporary use, signed by the property owner, with contact information for the owner.

(d) Approval criteria. Requests for temporary use permits shall be considered on the basis of aesthetics, site design, and other impacts such as noise, odor, or traffic. Proposed temporary uses that are determined by the town administrator to be of significant impact may be referred to the planning commission for consideration.

(e) Appeal. Any denial of a temporary use permit by the town administrator or by the planning commission may be appealed to the board of trustees.

(f) Revocation. A permit for a temporary use may be revoked by the town administrator for violation of any of the terms and conditions of the permit. Revocation of a temporary use permit may be appealed to the board of trustees.

## **Sec. 16-66. Uses not itemized.**

(a) Intent.

(1) Uses not listed for a zoning district in this chapter and not reasonably similar to listed uses in the appropriate zoning districts shall not be allowed unless and until the use is interpreted by the town in the manner provided for in this section.

(2) The board of trustees, after review and recommendation by the planning commission, may add to the uses listed for a zoning district by amendment to this chapter according to the process described in section 16-68 of this chapter, which uses conform to the conditions set forth in the following special findings:

a. Such use is not listed or similar to any other use;

b. Reserved.

c. Such use conforms to the basic requirements and characteristics of the use category to which it may be added; and

d. Such use does not create more offensive noise, vibration, dust, heat, smoke, odor, glare or other objectionable influences or more traffic hazards than the minimum amount normally resulting from the other uses listed in the use category to which it is to be added.

## **Sec. 16-67. Exceptions, nonconforming uses and area requirements.**

(a) Use regulation.

(1) The lawful use of land or buildings which existed as of August 1, 1989, which does not conform with the regulations prescribed in this chapter shall be deemed a legal nonconforming use, except as set forth herein regarding residential lots.

a. As to uses on residential lots that

were a lawful and conforming use prior to August 1, 1989, which lots are deficient in either area or frontage under this chapter, such lots shall be deemed to be a conforming use, and shall not be subject to the limitations regarding nonconforming uses contained in this section. Such residential use may be continued subject to such regulations as to the maintenance of the premises and conditions of operation as may, in the judgment of the board of trustees, be reasonably required for the protection of adjacent or neighboring property.

b. As to legal nonconforming uses, if such nonconforming uses are discontinued for a period of six (6) months or more in the use of unimproved land, improved land or a building, any future use of said land or building must be in conformity with the provisions of this chapter.

(2) A nonconforming use shall not be expanded or changed to another nonconforming use. The extension of a continuing use to any portion of a building which was arranged or designed for such nonconforming use at the time of the passage of this chapter shall not be deemed an expansion of a nonconforming use within the meaning of this section. No building may be structurally altered to an extent exceeding fifty percent (50%) of the replacement value of the building at the time of alteration, unless the use of said building is changed to a conforming use. A nonconforming use, if changed to a conforming use, may not thereafter be changed back to any nonconforming use. If a building is damaged by fire or other cause to the extent of more than fifty percent (50%) of the replacement value, such nonconforming use shall thereafter be terminated.

(b) Height regulation. The height limits established herein for any district shall not apply to chimneys, stacks, water towers, wind generators, grain elevators, windmills, silos, elevators, monuments, domes, spires, belfries,

hangars and accessory mechanical appurtenances.

(c) Area regulation.

(1) Area and minimum width of lot: the board of adjustment may allow variances to area and width requirements, provided that such variances can be permitted without substantial detriment to the public good and without substantially impairing the intent and the purpose of the zoning plan as embodied in this chapter and district map.

(2) Front yard:

a. On a through lot, the front setback requirements of a district or districts in which such lot is located shall apply to each street frontage.

b. Every part of a required front yard shall be open and unobstructed from its lowest point to the sky, except as hereinabove provided, except for landscaping and fencing not prohibited by this chapter and except for open fire escapes and stairways, chimneys and one-story unenclosed porches which extend not more than eight (8) feet into the required front setback.

c. The board of adjustment may permit variances to the front setback requirements, provided that such variances can be permitted without substantial detriment to the public good and without substantially impairing the intent and the purposes of the zoning plan.

(3) Side yard:

a. Every part of a required side yard shall be open and unobstructed from its lowest point to the sky, except as hereinabove provided and hereinafter provided, and except for landscaping and fencing not prohibited by this chapter.

b. The board of adjustment may

permit variances to the side setback requirements, provided that such variances can be permitted without substantial detriment to the public good and without substantially impairing the intent and the purposes of the zoning plan.

**Sec. 16-68. Amendments to land use ordinance or zoning map.**

(a) Intent.

(1) The purpose of this section is to for requested amendments to this chapter or the establish the procedure and requirements official zoning map.

(2) Any amendments to this chapter proposed by a property owner or the town shall be processed according to the procedures and requirements of Subsection (c) of this section.

(3) Any amendments to the official zoning map (rezoning) shall be processed according to the procedures and requirements of Subsection (b) of this section.

(b) Procedure for zoning map amendment (rezoning).

(1) Submittal of rezoning application. The applicant will submit to the town the materials necessary for the rezoning request to be heard by the planning commission. The town shall review the submittal for completeness.

(2) The town will send the application out for referrals to various agencies for comment. These agencies will have twenty-five (25) days to respond.

(3) A hearing is scheduled before the planning commission, and a fifteen-day public notice is required as outlined in Section 16-102 of this chapter.

(4) Planning commission hearings. The planning commission conducts a public hearing for the purpose of providing a

recommendation to the board of trustees on the rezoning issue. The planning commission may take any action as outlined in Section 16-30 of this chapter. Scheduling of the hearing will depend on other development applications to be heard by the commission.

(5) Board of trustees hearings. The board of trustees conducts a public hearing to consider the rezoning. Notice of the hearing shall be given as provided in Section 16-102 of this chapter. The board of trustees, at the public hearing and after review and discussion of the proposal, shall make one (1) of the following actions:

a. Approval of the request, without conditions.

b. Reserved. c. Disapproval of the request, indicating for the record the reasons for the recommendation of denial.

d. With the consent of the applicant, continuing the request until the next available meeting in order to obtain more information to help clarify or support the request before them.

If the board of trustees decides to rezone the property, the board of trustees adopts an ordinance rezoning the property. To this ordinance will be attached the development plan and guide, if planned development zoning is proposed.

(6) Submittal requirements.

a. The applicant shall submit the following information to the town. Additional information may be requested after the formal application is received:

i. A completed development application form and appropriate rezoning fees.

ii. Narrative outlining the pro-

posal.

iii. A copy of the recorded warranty deed and title commitment current within thirty (30) days.

iv. An alphabetical list of all property owners within five hundred (500) feet of the affected property.

v. Copies of the rezoning map, including a written legal description (folded to 9" x 12") and area to be rezoned and prepared in accordance with this section.

vi. If planned development zoning is proposed, copies of the development plan (folded to 9" x 12") and guide prepared in accordance with this section.

vii. A disclosure letter, explaining whether the applicant is the property owner, or by what authority the applicant is representing the owner, if the applicant is different from the landowner.

viii. Any additional information as may be determined to be necessary by the town.

b. Rezoning request narrative. The applicant shall submit a narrative which includes the following information:

i. Applicant's name.

ii. Description of the general proposal.

iii. Present zoning and land use on and surrounding the site.

iv. General development schedule and phasing plan when the project is not constructed at one (1) time.

v. Statement of consistency with the town master plan.

vi. Description of water and sewer systems proposed to serve the site.

c. Rezoning map exhibit. A rezoning map is required for land that is not subdivided. The rezoning map for a proposed site shall be prepared in a clear and legible manner. The town may reject and return any formal submittal which, in its opinion, does not display the required information or is done in an unacceptable manner (i.e. poor drafting, etc.). The plan shall be prepared at a scale of one inch equals one hundred feet (1" = 100'), two hundred feet (1" = 200') or another scale approved by the town which allows for maximum clarity of the proposal. Each rezoning map shall contain the following information:

i. All adjacent land owned by the applicant; land not part of the proposed request shall be noted as an exception and/or indicate intended current/future use of the land.

ii. Graphically define all natural and manmade watercourses, retention areas, streams and lakes. Any known one-hundred-year floodplain affecting the property shall also be delineated.

iii. Show topography on the site at twenty-foot contours. Other significant topographical conditions should be shown at more defined contours.

iv. Show public access to the proposed development/site.

v. Show all existing structures on the site, their uses and whether they are to remain on the site.

vi. Delineate to appropriate scale existing easements on the site, their uses and who holds or owns the right to that easement.

vii. North arrow with written and graphic scale, and indicate the preparation date of the plan.

viii. Vicinity map showing the relationship of the site to the surrounding area within one (1) mile.

ix. Indicate the name, address and telephone number of the property owner, applicant (if different) and the persons who prepared the submittal.

x. Show all existing and proposed streets, drives and roads on or affecting the site, and the names of existing streets on or adjoining the site.

xi. Note existing land uses on adjoining properties and said property's zoning.

xii. Note existing zoning of the site, the proposed zoning of the site or the portion in the request, average lot size, proposed density and all public/private sources of utility services/facilities.

xiii. Provide an accurate legal description of the property being shown in the proposal.

xiv. Indicate the name of the proposal.

d. Additional information. Depending upon the size and proposed land uses, the town may require:

i. A traffic impact study.

ii. A fiscal impact study demonstrating the revenues and expenditures attributable to the proposed development.

iii. Development plan and guide,

if PD zoning is proposed. (See below.)

e. Planned development plan (PD Plan) and guide. The planned development plan and guide shall reflect the variations in lot size, bulk, type of use or activity, density, lot coverage, open space or other regulations modified and approved by the board of trustees upon the recommendation of the planning commission. The general requirements of the PD plan are as follows:

i. The PD plan shall be prepared at a suitable scale to clearly show the land uses proposed.

ii. The plan shall illustrate land use areas, floodplains, parks, sites to be dedicated for public facilities, adjacent roadways and their classifications, internal arterial and collector roadways along with dimensioned rights-of-way, existing easements and other information as may be required to fully illustrate the proposal.

iii. On the map will be included a land use schedule listing the various land use categories, acreages and number of units.

iv. The development plan shall include the information noted under "Rezoning Map."

v. Any planned development shall submit a development guide which establishes the standards, variations and requirements for the development which are divergent from the zoning regulations of the town. Those conditions established by a development guide and approved by the board of trustees shall be recorded and utilized for development and review of the project.

vi. The uses permitted in a planned development shall be those permitted by right or by special review as indicated on the development guide.

vii. Planned developments shall be under single development responsibility in accord with a unified plan for development, even though the property may be under single or multiple ownership. Each owner is responsible for developing his or her portion of the project in accord with the overall plan. The current and/or future owners and their assigns shall be required to develop the proposed project in accordance with the approved development guide.

viii. The development guide may contain sections which propose standards for signs, landscaping or parking. Otherwise, the town zoning ordinance shall establish these regulations.

f. Approval considerations. The planning commission and board of trustees, in review of rezoning requests, shall consider the following factors:

i. A need exists for the proposal;

ii. The particular parcel of ground is indeed the correct site for the proposed development;

iii. There has been an error in the original zoning;

iv. There have been significant changes in the area to warrant a zone change;

v. Adequate circulation exists and traffic movement would not be impeded by development;

vi. Additional municipal service costs will not be incurred which the town is not prepared to meet.

vii. There are minimal environmental impacts or impacts can be mitigated.

viii. The proposal is consistent with the town master plan maps, goals and policies.

ix. There is adequate waste and sewage disposal, water, schools, parks and recreation and other services to the proportional degree necessary due to the impacts created by the proposed land uses.

g. In the event the proposed rezoning is denied by the board of trustees, no new rezoning application for the same or substantially the same request, as determined by the town administrator, shall be submitted or accepted within one (1) year of the date of such denial. The applicant may appeal the decision of the town administrator to the board of trustees within ten (10) working days of such decision.

(c) Procedure for amendments to Land Development Code. Amendments to this chapter may be proposed by property owners or the town in order to reflect trends in development or regulatory practices; expand, modify or add requirements for development in general or to address specific development issues; to add, modify or expand zoning districts; or to clarify or modify procedures for processing development applications. Such requests shall be processed as follows:

(1) Submittal of application. The applicant will submit to the town a completed application form along with the appropriate fees. The application shall be accompanied by the full text of the proposed amendment along with a narrative describing the proposed amendment and why an amendment is necessary. The town shall review the application for completeness and clarity.

(2) The town, at the discretion of the town administrator, may send the proposed

amendment out for referrals to various agencies that may be affected by the proposal. These agencies will have twenty-five (25) days to respond.

(3) The town will schedule a public hearing before the planning commission according to the requirements of section 16-102 of this chapter.

(4) Planning commission hearings. The planning commission conducts a public hearing for the purpose of providing a recommendation to the board of trustees on the amendment. The planning commission may take any action as outlined in section 16-30 of this chapter. Scheduling of the hearing will depend on other development applications to be heard by the commission.

(5) Board of trustees hearings. The board of trustees conducts a public hearing to consider the amendment. Notice of the hearing shall be given as provided in Section 16-102 of this chapter. The board of trustees, at the public hearing and after review and discussion of the proposal, shall take one (1) of the following actions:

- a. Approval of the request, with or without modifications or conditions,
- b. Disapproval of the request, indicating for the record the reasons for the recommendation of denial, or
- c. Continuing the request until the next available meeting in order to obtain more information to help clarify or support the request before it.

If the board of trustees decides to approve the amendment, the board of trustees will adopt an ordinance amending this chapter.

Sec. 16-69. Concurrent zoning and annexation.

(a) Intent. The purpose of this section is to provide a procedure to process annexation and

zoning requests so that they may be heard concurrently by the board of trustees.

(b) Filing of petitions. Petitions for annexation and for annexation elections shall be filed with the town clerk. The town clerk shall refer the petitions to the board of trustees as a communication.

(c) Review of petitions. Upon receipt of the petitions, the board of trustees, without undue delay, may take any of the following actions

(1) Determine that the petitions do not substantially comply with the requirements of Section 31-12-107(1)(a), C.R.S., which will require that no further action be required;

(2) Determine that the petitions do substantially comply with the requirements of Section 31-12-107(1)(a), C.R.S., which will require that the board of trustees establish by resolution the date, time and place that the board of trustees will hold a public hearing not less than thirty (30) nor more than sixty (60) days after the resolution setting the hearing, unless otherwise required by state law; or

(3) Table any action on the annexation petition for a period of time not to exceed one hundred eighty (180) days.

(d) The planning commission shall not review any zoning proposal for real property located outside of the boundaries of the town until the board of trustees has determined that annexation petitions describing the property substantially comply with the requirements of Section 31-12-107(1)(a), C.R.S., or the board of trustees has tabled any action on the annexation petitions for a period of time not to exceed one hundred eighty (180) days.

**Secs. 16-70—16-74. Reserved.**

## Article 5

### SITE PLAN STANDARDS AND PROCEDURES

#### Sec. 16-75. Intent.

It is the intent of this chapter to promote orderly and sound development standards as they apply to the town. These site development standards are intended to enhance and protect the area's natural as well as manmade environments. (Ord. 01-4, 2001)

#### Sec. 16-76. General requirements.

(a) Site development regulations shall apply to all new or changes in uses, buildings or structures or additions thereto or major alterations to exteriors of buildings, including changes to color schemes and materials approved as part of a previous site plan submittal, within the town to which at least one (1) of the following applies:

(1) All uses located within the following zone districts:

- a. Business district (B)
- b. Commercial one district (C-1)
- c. Commercial two district (C-2)
- d. Industrial one district (I-1)
- e. Industrial two district (I-2)
- f. Industrial three district (I-3)
- g. Residential two district (R-2)
- h. Residential trailer district (R-T), except for accessory uses and mobile homes in approved and completed mobile home parks

(2) All uses allowed in the PD – Planned Development zone district, with the exception of those uses relating to single-family detached development.

(3) Uses which are located or to be located within any other zone district which are specifically made subject to this section by the board of trustees.

(4) Uses which are located or to be located on property within any other zone district, and the owner or developer of the property requests an application of these site plan requirements.

(b) No site plan will be approved prior to the platting or, if necessary, replatting of the subject property. A final plat, minor development plat, or replat may be submitted simultaneously with the proposed site plan upon approval of the town administrator. In such cases, approval of the site plan application may be made conditional upon the final approval of the subdivision plat by the board of trustees.

(c) No building permit for any use described in Subsection (a) above shall be issued for the construction of any new building, structure or improvement to the site or any addition or alteration to the structure or site, including exterior materials or colors, without first obtaining the approval of a site plan for the proposed use.

(d) No building construction, parking lot construction or other site improvements will be allowed, unless specifically provided for by the board of trustees, without first obtaining approval of a site plan and appropriate permits for the proposed use.

(e) No certificate of occupancy will be issued until all improvements approved as part of the site plan have been completed.

(f) The site development standards outlined by this section apply throughout the zone districts and uses outlined in Subsection (a) above. These standards are in addition to any other development or design standards which may otherwise be applicable to a particular property or specific area within the town. In the case of any perceived conflict among applicable development standards, the more restrictive standard will apply.

(g) The town may require necessary on-site or off-site public improvements to be constructed and dedicated to the town as a condition of site plan approval. Required public improvements shall be subject to security and warranty requirements as required of improvements associated with subdivision development. Any such improvements shall be reasonably related to the proposed use and may include but not be limited to street widening, acceleration/deceleration lanes, access control devices, traffic signals, water and sewer lines, pedestrian/bicycle trails or other related improvements.

**Sec. 16-77. Application submittal requirements.**

(a) Each application for site plan approval shall be accompanied by a complete set of application documents. Applicants that submit amendments to approved site plans shall be required to submit the same number of properly prepared site plan drawings as required for the application, elevations or landscape plans that clearly depict the proposed amendments.

(b) Submittal requirements: The applicant shall be required to submit to the town the information listed below:

(1) Completed development application form and the appropriate deposits.

(2) Two (2) 24" x 36" paper copies, and one (1) 11" x 17" paper copy of the site plan and all required accompanying plan sheets, prepared in accordance with site plan exhibit requirements listed below.

(3) A narrative, as described below, summarizing the proposal and the contents of the application package.

(4) Proof of ownership in the form of a copy of the warranty deed, and title commitment current within thirty (30) days of submittal.

(5) A disclosure letter, explaining

whether the applicant is the property owner, or by what authority the applicant is representing the owner.

(6) Drainage plan as specified below, if not already approved as part of a subdivision.

(7) Landscape plan as specified below.

(8) Building elevations to include rooftop mechanical structures.

(9) One 24" x 36" colored typical building elevation of all sides, including screening of rooftop mechanical equipment.

(10) One (1) set of color and materials boards, as appropriate of suitable size for presentation to the commission) containing materials, colors, specifications, manufacturers' names and product numbers.

(11) Drawing(s) depicting in plan view and elevations all proposed signage for the site, noting any deviation from the standards contained in Article 8 of this chapter.

(12) A Utility Service Plan, prepared by a qualified professional, estimating the demand for water and sanitary sewer services for each proposed building. The Utility Service Plan shall include the following analyses:

a. Peak hour, peak day and peak year water demand.

b. Hydraulic wastewater demand.

c. Wastewater average biochemical oxygen demand (BOD) and total suspended solids (TSS).

(13) Any additional information as may be determined to be necessary by the town.

Failure to submit all required documentation will result in a delayed application. Addi-

tional information may be requested after the formal application is received.

(c) Submittal standards.

(1) Site plan exhibit. The proposed site plan shall be prepared by qualified professionals (architect, planner, land planner or engineer) and drawn on one (1) or more sheets measuring 24" x 36" with a minimum scale of one inch equals fifty feet (1" = 50'). Each site plan will be signed by the owner and shall contain the following information:

- a. Date of preparation.
- b. North arrow with written and graphic scale.
- c. Vicinity map showing the relationship of the site to the surrounding area within one-half (½) mile radius.
- d. Listings of the gross, lot and net acreage of each proposed use, all existing and proposed buildings, and the total number of dwelling units and/or the number of buildings and gross floor area.
- e. The existing grading and drainage information on the site drawn at five-foot intervals and related to United States Geological Survey (USGS) datum, as well as finished grades and contours proposed by the applicant.
- f. The size and location of all existing and proposed public and private utility and emergency easements or other rights-of-way.
- g. The building envelope, size, setback dimensions and height of all proposed structures and all existing structures which are to be retained on the site.
- h. Location, dimensions and names of adjacent streets, and proposed

internal streets showing center line radii and curb return radii.

i. The location and dimensions of bike/pedestrian paths and walkways shall be shown.

j. The location, dimensions and number of bicycle storage spaces or facilities.

k. Listings of the number of all parking stalls as well as indicating the number of compact car and accessible spaces.

l. The proposed layout of the parking lot, including location and dimensions of parking spaces, curb islands, internal planter strips, maneuvering aisles and access driveways with indication of direction of travel.

m. Location of all exterior lighting, signage and fencing used to divide properties and to screen mechanical equipment and trash receptacles. Specifications on exterior lighting fixtures. All trash receptacles shall be screened by a solid fence surrounding at least three (3) sides of the container.

n. Existing specific physical features on the site, including drainage ways, lakes, buildings and structures with indication as to which are to be retained.

o. Adjacent properties and their physical features within fifty (50) feet of the property line shall be identified, including locations of adjacent structures.

p. The location and dimensions of landscaped areas, location and names of all plant material and groundcover and the location of other pertinent landscape features. Irrigation system plans and specifications.

q. Location of all existing and pro-

posed recreational amenities such as open play areas, swimming pools, tennis courts, tot lots and similar facilities.

r. Location and specifications for all proposed fire hydrants and other fire protection facilities, as approved by the fire district.

s. Location and specifications for all free-standing signs.

(2) Other information which shall be required, but need not be shown on the site plan maps includes:

a. An accompanying subdivision, resubdivision or replat application, or, if the site is located within an existing recorded plat and does not require resubdivision, a legal description referencing lot, block and subdivision name.

b. A copy of the executed covenants (when applicable).

c. A copy of the approved development guide and plan required by the PD – Planned Development zone district (when applicable).

d. Any reasonable information not covered above to aid in the review by the town. Such items include traffic studies, soil information, etc.

(3) Site plan narrative. The applicant shall submit a narrative which includes the following information:

a. Applicant's name.

b. Description of the general proposal.

c. Present zoning.

d. General development schedule and phasing plan when the project is not constructed at one (1) time.

(4) Reserved.

(5) Drainage plan. Each application for site plan approval shall be accompanied by a drainage plan if a final drainage plan as part of a subdivision has not been approved. The two (2) copies of the proposed drainage plan, prepared by a professional engineer, shall be submitted with the site plan submittal and then forwarded to the office of the town engineer. Review of the drainage plan will be simultaneous with that of the site plan.

(6) Each application for a site plan approval shall be accompanied by a landscape plan prepared by a qualified professional and drawn on one (1) sheet measuring 24" x 36" with a minimum scale of one inch equals fifty feet (1" = 50'). Larger scales are encouraged to effectively portray the landscape plan. The landscape plan shall contain the following information:

a. Date of preparation.

b. Scale and north arrow.

c. Building footprint.

d. Parking lots.

e. Location, quantity and size of landscape materials. The location of all landscape materials shall be shown on the plan, accompanied by a chart showing the quantity planted, mature size and years to maturity and common names of the plant materials.

f. A calculation of the percentage of the site that is landscaped.

(7) Architectural renderings (building elevations). Unless waived by the town, each request for site plan approval shall be accompanied by a set of architectural renderings of the proposed buildings or structures sufficient to represent the proposed building architecture. One rendering,

drawn on twenty-four-by-thirty-six-inch paper, must be submitted with the application. These renderings shall include front, rear and side elevations accurately depicting the finished building or structure on the site. Perspective renderings showing the building in one (1) or more oblique angles, scale models, photographs or similar structures, or other similar techniques may be acceptable. In addition to this submittal, the following information shall be specified on the plan sheets:

- a. All exterior surfacing materials and colors.
- b. Outdoor lighting, furnishings and architectural accents.
- c. Any proposed signage for the site and its placement in relationship to the building or structure.

**Sec. 16-78. Review procedures and requirements for approval.**

(a) The site plan submittal, narrative, application form and deposit and accompanying information shall be submitted to the town clerk.

(b) The town will review the submittal package and advise the applicant of any deficiency found in the application. Once the application is found to be complete, the review procedure shall begin.

(c) The town will review complete applications and comment on the technical merits of the submittal. This review includes setbacks, building heights, parking, drainage and landscaping.

(d) Drainage plans will be forwarded by the town to the town engineer for review. (e)

The town will contact the applicant, if necessary, to discuss any modifications that may be required. (f) After town review is completed, staff shall prepare a recommendation to the planning commission. This

recommendation shall be made available to the applicant. (g) After town review is completed, the staff shall schedule a meeting before the planning commission to consider the application and accompanying report during a regularly scheduled meeting. The applicant must post the land on which the site plan is proposed and provide notice to owners of neighboring properties. Posting and notice to neighbors shall be in accordance with Section 16-102, except that the sign shall state "Public Meeting."

(h) The planning commission shall at the public meeting carefully consider the application as presented by the applicant, the town's staff report and any public opinion expressed during the meeting.

(i) The planning commission shall then consider the application and prepare a recommendation to the board of trustees for approval, denial, continuance for additional information or approval subject to specific conditions.

(j) The application shall then be forwarded to the board of trustees for their review and decision. The town clerk shall, without unreasonable delay, schedule the application for consideration by the board of trustees. The board of trustees, after a review of the record created before the planning commission, may approve, approve with conditions or deny the application.

(jj) Within thirty (30) days of approval of the site plan by the board of trustees, the applicant shall submit to the town for recording with the county clerk and recorder two (2) 24" x 36" mylar originals as approved by the board of trustees, signed by the owner, and one electronic copy in a format approved by the town of the entire set of approved site plan sheets and the security for public improvements, if any. Failure to submit such signed originals within thirty (30) days shall void the town's approval, unless stated otherwise in the approval. Without undue delay, the town administrator shall obtain the signatures required of town representatives on the site plan and record the site plan with the

county clerk and recorder. The town administrator may grant no more than one (1) extension of time, of no more than thirty (30) days, upon a written request by the applicant for good cause being shown.

(k) If and when the application is approved or conditions for approval have been met, and the final, signed site plan has been received and recorded with the county clerk and recorder, a building permit may be reviewed and then issued upon the request of the applicant and approval by the building official.

(l) The certificate of occupancy will be issued, provided that:

(1) Landscaping requirements have been met by the applicant.

(2) Grading and drainage improvements have been completed, as approved by the town engineer.

(3) Parking lots are completed according to the approved site plan.

(4) Sufficient fire flows and fire protection facilities are completed and accepted by the fire district.

(5) Any other requirements made by the town's building officials, utilities or other agencies are satisfied.

**Secs. 16-79—16-84. Reserved.**

## Article 6

### PROCEDURES AND REQUIREMENTS FOR SUBDIVISIONS

#### Sec. 16-85. Authority and purpose.

(a) Intent. The regulations are designed and enacted for the purpose of promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of the town.

(b) Authority. The subdivision regulations are authorized by Section 31-23-214, C.R.S., and are hereby declared to be in accordance with all provisions of these statutes.

(c) Subdivisions regulated by this Article include the following:

- (1) Subdivisions.
- (2) Minor subdivisions.
- (3) Replats.
- (4) Correction plats.

#### Sec. 16-86. Control over platting.

(a) No sketch plan, preliminary plat or final plat of a subdivision shall be recommended for approval by the planning commission or approved by the board of trustees unless it conforms to the provisions of this chapter.

(b) The board of trustees shall withhold all public street improvements and public maintenance from all rights-of-way which have not been accepted for maintenance purposes by the board of trustees.

(c) Prior to the issuance of a building permit or construction of any building or structure, the plat thereof shall be approved by the board of trustees or, if subdivided prior to annexation, by the board of county commissioners and recorded with the county clerk and recorder, and access shall be provided in accordance with

the approved subdivision agreement and the Fire Code.

(d) The board of trustees may suspend or withdraw any approval of a plat or may require certain corrective measures be taken following a determination that the information provided by the subdivider upon which such approval was based is substantially false or inaccurate or that new significant information has been brought to its attention. Suspension of approval may occur at any step in the platting process at a public meeting.

(1) A written notice from the town shall be served upon the subdivider, setting out a clear and concise statement of alleged facts and directing the subdivider to appear before the board of trustees no less than ten (10) days nor more than thirty (30) days after the date of notification.

(2) The board of trustees shall determine at the public meeting the nature and extent of alleged false or inaccurate information, shall consider any new significant information that has been brought to its attention, and shall have the power, upon good cause being shown, to suspend or withdraw any approval resulting in a voided plat.

(e) No changes, erasures, modifications or revisions shall be made on the final plat after the approval by the board of trustees, except as required by the approval of the board of trustees.

(f) No plat for subdivided land shall be approved by the board of trustees unless all ad valorem taxes applicable to such subdivided land, for years prior to that year in which approval is granted, have been paid.

(g) It is unlawful to file for recording any such plan or plat as identified above in any public office unless it has been reviewed by the planning commission and bears, by endorsement or otherwise, the approval of the board of trustees.

(h) The board of trustees may, pursuant to rules and regulations or resolution, exempt from the definition of the terms subdivision and subdivided land any division of land if the board of trustees determines that such division is not within the purposes of this chapter.

**Sec. 16-87. General requirements.**

(a) Description of the subdivision process.

(1) The three (3) steps required to obtain approval of a subdivision are: (i) sketch plan -- the review of the feasibility of the project, including conceptual design, legal ability to obtain water and sanitation, location of geologic hazards, identification of environmentally sensitive areas and wildlife habitat areas, locations of parks, schools and open space, source of required services, vehicular and pedestrian circulation and conformance with the town master plan and zoning requirements; (ii) preliminary plat -- a review of preliminary technical engineering; and (iii) final plat -- a review of all final engineering and construction plans, execution of subdivision agreements, provision of a letter of credit or cash to secure the construction of the public improvements described in the subdivision agreement and other legal requirements.

(2) Each step is a distinct process involving the submittal of an application, an application deposit, required plans and reports, referrals of the proposal to other agencies and public hearings/meetings. At each step of the process, the level of design and engineering increases in order to relieve the applicant from major and potentially unnecessary expenses in situations that may require a redesign and therefore, a revision of expensive engineering or planning reports. Approval at any step in the process does not ensure approval at the next step.

(3) The sketch plan shall be reviewed by the planning commission and reviewed and approved by the board of trustees at a public meeting prior to submittal of the

preliminary plat. The preliminary plat and final plat processes may be combined upon the approval of the town administrator based upon, but not limited to the following factors: design, size, public concern, public facilities, services, access and transportation network.

(4) If the proposed plan or plat is denied by the board of trustees, a new subdivision application for the same or substantially the same request, as determined by the town administrator, shall not be accepted within one (1) year of such denial. The applicant may appeal the decision of the town administrator, in writing, to the board of trustees within ten (10) days from the date of the decision.

(b) Applicant's responsibility. The applicant or representative is responsible for understanding the requirements and procedures contained in this chapter, the town master plan, applicable zoning regulations and is responsible for attending all planning commission and board of trustees hearings/meetings at which the request is considered. Failure to attend the hearings/meetings may result in the request being denied or tabled and a new hearing/meeting date scheduled. The applicant is responsible for submitting the information requested by staff, for the review of the proposal and for posting or publishing all public notices as required.

(c) Additional review fees. The applicant shall be responsible for payment of reasonable review deposits as established under Section 16-8 of this chapter.

(d) Withdrawal of application. The applicant may withdraw an application at any phase of the process upon submittal of a written request to the town. Application deposits will be refunded only when the withdrawal request is submitted prior to the mailing of the referral packets.

(e) Expiration of approvals. The approval of any subdivision request shall be subject to the following restrictions and shall apply to all sketch plans, preliminary plats, final plats,

amended plats or minor subdivision final plats approved prior to the effective date of the ordinance codified herein:

(1) The sketch plan shall be effective for a period of one (1) year from the date of approval, unless stated otherwise in such approval. The board of trustees may grant an extension of time, of no more than one (1) year, upon a written request by the applicant prior to the expiration of the one-year period.

(2) The preliminary plat shall be effective for a period of one (1) year from the date of approval, unless stated otherwise in such approval. The board of trustees may grant an extension of time, of no more than one (1) year, upon a written request by the applicant prior to the one-year period. However, when a final plat for a portion of the approved preliminary plat is approved, the remaining area of the preliminary plat shall be effective for the one-year period or as otherwise extended by the board of trustees.

(3) Within fourteen(14) days of approval of the final plat by the board of trustees, the applicant shall submit two (2) 24" x 36" mylar originals, signed by the owner and by a licensed professional engineer or licensed land surveyor, and one electronic copy in a format approved by the town of the approved final plat, and all required documentation to the town clerk for recording with the county clerk and recorder. Failure to submit the signed final plat and required materials within this time period, unless such time period is extended by the town, shall automatically invalidate town approval of the plat unless stated otherwise in such approval. Upon receipt of the signed final plat, fee deposits and all required submittals, the town administrator shall obtain the signatures required of town representatives on the plat along with the required subdivision agreement and security for public improvements, and shall record the final plat and the subdivision agreement with the county

clerk and recorder. The town administrator may grant no more than one (1) extension of time, of no more than thirty (30) days, upon a written request by the applicant for good cause being shown.

(4) An extension request shall include a fee deposit and a narrative stating the reasons for the applicant's inability to comply with the specified deadlines, listing any changes in the character of the neighborhood, any changes in the town master plan or this chapter that have occurred since approval of the plan or plat as these changes affect the plan or plat and the anticipated time schedule for completing the platting process. Additional review of the plan or plat may occur resulting in additional conditions, as applicable.

(5) If the request for an extension of time for an approved plan is denied by the town administrator, the applicant may appeal the denial in writing to the board of trustees within ten (10) days from the date of the denial by the town administrator.

(6) Denial of the extension of time by the town administrator and the board of trustees of a sketch plan, preliminary plat, final plat, minor development, replat or vacation plat shall result in the necessity for the resubmittal of a new application, fee deposits and all required documentation.

(f) Inactive subdivisions. Any subdivision which received approval by the board of trustees, and for which required public improvements have not been constructed or secured for a period of three (3) years after the date of approval of a final plat, shall be required to submit an amended plat which complies with the requirements of this chapter in effect at the time of the amendment, and the required subdivision agreement. No building permits shall be issued until the plat amendment and new subdivision agreement have been approved by the board of trustees.

(g) Plat corrections and street name changes. Due to errors or omissions, changes

may be made to recorded plats according to the following procedure:

(1) A resolution shall be prepared which identifies the error or omission, the specific plat to be corrected and the reception number of the plat, and the necessary corrective action in accordance with the form provided by the town, approved by the town attorney.

(2) The resolution ready for recording shall be presented to the board of trustees, at a public meeting recording. The ordinance shall be recorded with the county clerk and recorder, upon obtaining the signature of the mayor.

(3) When the request is for a road name change, the following shall apply:

a. Where no addresses have been assigned, the request shall be heard at a public meeting before the board of trustees and a resolution shall be adopted officially changing the name of the street. When addresses have been assigned, the applicant shall notify all affected individuals by first class mail and the request shall be heard at a public hearing before the board of trustees. The board of trustees shall adopt a resolution, officially changing the name of the street.

b. Road names and addresses shall coincide with the *Town of Hudson Address System Map*. A road name shall not duplicate any existing road name in the county.

**Sec. 16-88. Subdivision preapplication requirements.**

(a) This stage of review is designed to provide the applicant with a means of understanding regulations, policies and procedures prior to any formal submittal of a proposal being made and to learn who they have to contact and work with in the process.

(b) Procedure.

(1) The applicant should make an appointment with the town planner to discuss the proposal being considered. The town planner should be provided with some information to determine whether or not other agencies need to be involved in the initial discussion.

(2) The applicant may request to be included in an upcoming meeting of the planning commission for an informal presentation of the proposed subdivision prior to formal submittal to the town.

(3) The informal presentation to the planning commission shall be held with the applicant providing a brief presentation of the proposed land use to the commission. The goal is then to have constructive dialogue occur and for the applicant to receive some preliminary comments on the proposed subdivision.

**Sec. 16-89. Sketch plan.**

(a) Intent.

(1) The intent of the sketch plan is to examine in more detail the feasibility of a proposed subdivision, including review of conceptual design, legal ability to obtain water and sewer, location of geologic hazards, identification of environmentally sensitive areas and wildlife habitat areas and conformance with the town master plan, zoning requirements and the requirements of this chapter.

(2) The intent of the sketch plan is also to provide a conceptual layout of the subdivision. Applicants are encouraged to include as large an area as practicable in a sketch plan submittal in order to plan road connections, open space connections, adequate park facilities and utility extensions for a larger area, rather than limiting review of these items to only the area that may be included in a final plat.

(b) Sketch plan processing procedure. The sketch plan shall be processed as follows:

(1) The applicant shall submit the sketch plan and required submittal materials to the town for review in addition to a completed application form, submittal deposit and a disclosure letter, explaining whether the applicant is the property owner, or by what authority the applicant is representing the owner.

(2) After staff review, if the plan and required information are determined by the town staff to be in acceptable form for further processing, the applicant shall provide for distribution by the town sketch plans and related supplemental information for the following referral agencies, as may be determined by the town, for review and comment:

- a. School district serving the area;
- b. Any appropriate utility, local improvement and service district or ditch company;
- c. Appropriate fire protection entity;
- d. Colorado Department of Transportation;
- e. Weld County public works department;
- f. Building inspection department;
- g. Reserved;
- h. Reserved;
- i. Mineral rights owners, ; and
- j. Other agencies or affected parties as may be required or determined necessary by the town.

(3) The agencies named in this section shall have not less than twenty-five (25) days after the mailing of such plans to provide comments to the town unless a necessary extension of not more than thirty (30) days has been granted by the town and agreed to by the applicant. The failure of

any of these agencies to respond within twenty-five (25) days or within the period of an extension shall for the purpose of the hearing on the plan be deemed an approval of such plan. Where such plan involves twenty (20) or more dwelling units, the school district shall be asked to submit specific recommendations with respect to the adequacy of school sites serving the proposed development and area.

(3.5) Upon receipt of any referral comments, the town shall schedule the sketch plan for consideration by the planning commission.

(4) The town shall inform the applicant of referral responses prior to the planning commission meeting. The applicant shall respond to the referral comments to the town during the review process.

(5) The planning commission shall consider the sketch plan and all referral comments and any comments received at a public meeting, and shall recommend to approve, approve with conditions, deny the request or table comment until the next available meeting when additional information is needed and requested by the planning commission. (c) Preparation. The sketch plan shall be prepared as follows:

(1) The sketch plan.

a. The drawing shall be made at a scale of one inch equals one hundred feet (1" = 100'), two hundred feet (1" = 200') or another scale approved by the town which shows the entire proposal clearly. One (1) 24"x36" and one (1) 11" x 17" paper copy of the sketch plan, whether on single or multiple sheets. b. The plan shall be prepared by qualified professionals.

(2) The sketch plan shall be accompanied by the following:

- a. Completed application form;
- b. Appropriate deposit;

c. Disclosure letter, explaining whether the applicant is the property owner, or by what authority the applicant is representing the owner;

d. A written narrative concerning the proposed project describing its general impacts on the adjoining and surrounding land uses;

e. Boundaries of the proposed subdivision;

f. Depiction of all lots, tracts and, when appropriate, building envelopes;

g. Depiction of all easements, including existing and proposed, public or private, on and adjacent to the proposed subdivision.

h. Contour lines depicted at ten-foot intervals;

i. Delineation of all one-hundred-year floodplains, all existing and proposed watercourses, retention and detention areas, wetlands, aquifer recharge areas, streams and lakes of the affected property and within one hundred (100) feet of such property;

j. Depiction of all lands to be dedicated or reserved in deeds or easements for the use of landowners, residents or the general public;

k. Note existing structures on the site;

l. Identify historical or archaeological sites;

m. Depiction of all potential hazard areas, including, but not limited to, 100-year floodplains, geologic hazard areas, expansive soils;

n. Identification of wildlife habitat areas; and

o. Conceptual design of the follow-

ing:

i. Proposed streets, including proposed dimensions;

ii. Trail and open space systems; and

iii. The treatment of potentially conflicting land uses, including all mineral or oil and gas interests.

iv. Such reasonable additional information as may be needed and requested by the planning commission in order to better understand the proposed development or elements of it, zoning of the site, average lot size, proposed density and all public and private sources of utilities.

#### **Sec. 16-90. Preliminary plat.**

(a) Intent.

(1) After approval by the planning commission of a sketch plan, a preliminary plat and required supplemental data may be prepared for formal presentation and review by the town staff and by the planning commission, and action by the board of trustees.

(2) The purpose of this preliminary review is to check a proposed subdivision against the technical requirements, design standards and improvement requirements of the town to be sure the conditions imposed can be met. The town staff, the planning commission and the board of trustees shall review the proposal for site planning characteristics and compatibility with adjoining land uses. The detailed review at this stage will help determine if the plat complies with zoning requirements, circulation patterns, desired open space and other applicable plans, standards and regulations.

(3) Approval of the preliminary plat by the board of trustees is valid for only one (1) year. An extension may be granted

by the board of trustees for valid reasons expressed in writing by the applicant prior to expiration of the initial one- (1) year period of preliminary plat approval.

(b) Processing procedure. The preliminary plat shall be processed as follows:

(1) The applicant shall submit the preliminary plat and required submittal materials to the town for review with a completed application form, and a submittal deposit if required. (2) If the plat and required information are determined by the town staff to be in acceptable form for further processing, it shall be scheduled for hearing before the planning commission. The staff shall notify the applicant by first class mail of the time and place of said hearing at least seven (7) days prior to such hearing. Notice of the hearing shall be provided in accordance with the provisions of Section 16-102 and 16-103 of this Chapter. Upon request by the town planner, the applicant shall provide for distribution a sufficient number of plats and related supplemental information, in a form required by the town, for the following referral agencies, as may be determined by the town, for their review and comment:

- a. School district serving the area;
- b. Any appropriate utility, local improvement and service district or ditch company;
- c. Appropriate fire protection entity;
- d. Colorado Department of Transportation;
- e. Weld County public works department;
- f. Building inspection department;
- g. Mineral rights owners; and

h. Other agencies or affected parties as may be required or determined necessary by the town.

(3) Reserved. (4) The town staff shall inform the applicant of referral responses prior to the planning commission hearing. The applicant shall respond to the referral comments to the town staff and make appropriate modifications to the application.

(5) The planning commission shall conduct a public hearing, evaluate the responses from the referral agencies, the application, and public comments received at the public hearing and shall recommend to the board of trustees approval of the proposal, approval with conditions or denial of the request, or may table comment until the next available meeting when additional information is needed and requested by the planning commission. Recommendations for approval will be based on the evidence presented and the appropriate standards, regulations, policies and other guidelines of the town.

(6) The board of trustees shall act upon the preliminary plat at a regularly scheduled public meeting of the board of trustees after receipt of the planning commission recommendations.

(c) Preparation. The preliminary plat shall be prepared as follows:

(1) The preliminary plat.

a. The drawing shall be made at a scale of one inch equals one hundred feet (1" = 100'), two hundred feet (1" = 200') or another scale approved by the planning commission which shows the entire proposal clearly. Two (2) 24" x 36" paper copies and one 11" x 17" paper copy of the preliminary plat, whether on single or multiple sheets, shall be provided. The plan shall be prepared by qualified professionals.

(2) The preliminary plat shall be ac-

accompanied by the following:

- a. Completed application form;
- b. Appropriate deposit, if required;
- c. A description of how utilities are anticipated to be provided to the proposed subdivision, including sources of water, if known.

d. A written narrative concerning the proposed project describing its general impacts on the adjoining and surrounding land uses.

e. In accordance with the requirements of the town engineer, preliminary drainage plans in accordance with this chapter and preliminary road profile, cross-sections and specifications for all public improvements;

iv. Using the county assessor's records, a set of stamped and addressed business size envelopes of current property owners of record and their complete mailing addresses for properties that are all or in part within five hundred (500) feet of the property being considered for subdivision;

v. A list, including names and mailing addresses, of all mineral owners of record within the affected property;

vi. Evidence that the surface owner has contacted all lessees of mineral, oil and gas rights associated with the site and is working towards resolution. Included in the evidence must be the name of the current contact person for each mineral owner, his or her phone number and mailing address.

vii. A preliminary development schedule for required improvements;

viii. A preliminary phasing plan

if the plat is proposed to be developed in more than one (1) phase;

ix. Maximum number of dwelling units, permitted within the zoning district, and breakdown by type;

x. Lands to be retained in open space or other uses including dedicated land, the purpose for which it is to be used and how it is to be developed and maintained;

xi. Zoning of land and of property adjacent to the parcel or tract proposed for development; description of any anticipated application for rezoning; land uses on and adjacent to the proposed development shall also be shown;

xii. Such reasonable additional information as may be needed and requested by the planning commission in order to better understand the proposed development or elements of it, zoning of the site, average lot size, proposed density and all public and private sources of utilities.

(d) Preliminary plat contents. The preliminary plat shall be in a form as required by the town and shall contain the following:

(1) All the acreage involved in the proposed development with areas not part of the request being noted as exceptions;

(2) Proposed name of the subdivision, filing number, if applicable, labeled preliminary plat;

(3) Location map showing the relationship of the proposed plan to the surrounding area;

(4) Location of the subdivision as a part of a larger subdivision or tract of land with reference to permanent survey monuments with a tie to a section corner or a quarter-section corner; a legal description

of the proposed site shall be placed on the plan;

(5) Names and complete addresses of the applicant/developer and architect/engineer or surveyor who prepared the plan and related information;

(6) Total acreage of the subdivision;

(7) Location and principal dimensions for all existing and proposed streets, alleys, easements, watercourses and other significant features within and adjacent to the proposed development. When the names of the streets and alleys are known, they shall be provided, as well as the use and ownership of easements and watercourses impacting the site;

(8) Areas to be dedicated and/or deeded to the town for public use;

(9) Date of preparation, scale and north sign (designated as true north);

(10) Topography at one-foot intervals, or with approval of the planning commission, different intervals which will adequately reflect the specific site conditions may be allowed;

(11) Shall note geologic characteristics on the site and their impact on/by the proposed development, including existing or potential geologic hazards;

(12) Delineation of one-hundred-year floodplains;

(13) Site data in chart form giving the number of residential lots, net size of average lot, minimum lot size, areas of land proposed for each and types of land use;

(14) Proposed sites, if any, for multiple-family residential use, business areas, industrial areas, churches and other non-public uses exclusive of one-family residential areas shall be labeled appropriately and indicate net acreage of the sites;

(15) Delineation of all existing buildings and structures, easements and major drainage courses within one hundred (100) feet of the subject property;

(16) Provision for certification in accordance with Section 16-95 of this chapter.

#### **Sec. 16-91. Final plat.**

(a) Intent.

(1) This is the last stage of review and action on a proposed subdivision of land in the town prior to recording of the subdivision plan.

(2) The purpose of this review is to verify that the plat of development is in keeping with the preliminary plat approvals and conditions and the legal documentation accurately provided for action and signature.

(b) Processing procedure. The final plat shall be processed as follows:

(1) Not more than twelve (12) months after the date of preliminary plat approval by the board of trustees, unless an extension has been granted by the board of trustees, the final plat application, the subdivision improvements agreement, the required deposit and other required materials shall be submitted to the town for review and processing.

(2) Final plats may be phased in accordance with a general phasing plan described on an approved preliminary plat. Phasing of the final plat for a proposed development will not jeopardize preliminary approval of later phases of the development, unless the actual work being done on the site is not in accord with the approved plans, reviewed yearly by the planning commission.

(3) The final plat and required information will be reviewed by the town planner. When the application is found to

be complete, a meeting before the board of trustees shall be scheduled at the earliest convenient time.

(4) The board of trustees shall then review the final plat and the recommendations on the proposal. The board of trustees shall consider public improvements to be made, town-dedicated land or cash-in-lieu of land, and shall consider concerns addressed at the preliminary stage of review. After discussion of the proposal, the board of trustees may take any of the following actions:

a. Approval of the proposed subdivision without conditions.

b. Conditional approval of the proposed subdivision with the conditions being noted and made part of the motion.

c. Denial of the request with the reasons noted and made part of the motion.

d. Tabling action until additional information is provided or clarification of the proposal is achieved.

(c) Within fourteen (14) days of final approval of the final plat by the board of trustees, the applicant shall submit to the town the following:

(1) Two (2) complete mylar sets of final plat maps with original signatures, ready for town signatures and recording with the county clerk and recorder.

(2) One (1) copy of the final plat maps in electronic format as specified by the town.

(d) Preparation. The final plat shall be prepared as follows:

(1) The design shall conform to the preliminary plat as approved. Should the applicant desire to phase final platting rather than final plat the entire

development, he or she may do so in accordance with a phasing plan as approved on the preliminary plat. In the event that final plats are proposed in phases, each phase, either alone or in combination with earlier phases, must meet the requirement of this chapter.

(2) The drawing shall be done at a scale of one inch equals one hundred feet (1" = 100') or another scale approved by the planning commission which clearly shows the entire proposal. Multiple sheets may be utilized with a cover sheet referencing and indexing all required graphic information. All drawings shall be accurate and legible. Plats found unacceptable shall be returned to the applicant.

(e) Plat contents. The final plat shall contain the following information:

(1) Title, scale, north arrow and preparation date;

(2) Legal description of the proposed development, together with a complete reference to the book and page of records with the county;

(3) Primary control points, or descriptions, and "ties" to such control points, to which all dimensions, angles, bearings and similar data on the plat shall be referred;

(4) Tract boundary lines, right-of-way lines of streets, easements and other rights-of-way, and property lines of residential lots and other sites, with accurate dimensions, bearings or deflection angles, and radii, arcs and central angles of all curves;

(5) Name and right-of-way width of each street or other right-of-way, even if for private maintenance and responsibility;

(6) Location, dimensions, purpose and the owner/holder of any easements;

(7) Number to identify each lot or site, each as lot and block numbers;

(8) Purpose for which sites, other than residential lots, are dedicated or reserved;

(9) Location and description of monuments;

(10) Reserved.

(11) Signed and notarized statement by the owner dedicating streets, rights-of-way and any sites for public use; transfer to the town of dedicated land shall be by appropriate legal instrument prior to or concurrent with final plat review by the board of trustees and prior to recording of the final plat;

(12) Certification of approval of the board of trustees;

(13) Certification by the project surveyor certifying to the accuracy of the survey and plat;

(14) Location or vicinity map to scale;

(15) Reserved. (16) Reserved;

(17) Individual lot acreage calculated to two (2) decimal places (may be provided on a separate sheet for recording);

(18) Designation of lots where special studies are required prior to obtaining a building or access permit. Areas of slope greater than or equal to twenty percent (20%) should be delineated on the affected lots;

(19) Boundary of any identified one-hundred-year and five-hundred-year floodplains within the subdivision; and

(20) General plat notes as required and deemed necessary by the board of trustees.

(21) Designation of all existing or planned oil and gas flow lines and/or easements for mineral or oil and gas pur-

poses, including all public or private access road easements.

(f) Accompanying information. The final plat shall be accompanied by the following:

(1) Two (2) copies of the plans and profiles of all streets to be dedicated to the town; and

(2) A signed subdivision improvements agreement.

(3) Agreements between the surface owner and all lessees of mineral and oil and gas interests satisfactorily resolving the terms of their uses of the property in a manner consistent with the nature of the proposed development, which agreements shall be recorded and noted on the final plat by book and page number.

(g) Guarantee of public improvements. No final plat shall be approved or recorded until the applicant has submitted and the town attorney has reviewed and accepted one (1) or a combination of the following:

(1) Subdivision improvements agreement, signed by the property owner and approved by the board of trustees, agreeing to construct and pay for any required and approved public improvements shown in the final plat documents together with:

a. Security for public improvements which is sufficient, in the judgment of the board of trustees, to make reasonable provision for the completion of said improvements in accordance with design and time specifications; or

b. Other agreements or contracts which, in the judgment of the board of trustees, will make reasonable provision for the completion of said improvements in accordance with the design and time specifications.

(2) As improvements are completed, the subdivider may apply to the board of

trustees for a release of part or all of the security deposited with the town. Upon inspection and approval by the town engineer, the board of trustees may release all or a corresponding portion of the security. If the board of trustees determines that any of such improvements are not constructed in substantial compliance with specifications, it shall furnish the applicant a list of specific deficiencies and shall be entitled to withhold a portion of the security sufficient to ensure substantial compliance. If the board of trustees determines that the applicant will not construct any or all of the improvements in accordance with all of the specifications, upon thirty (30) days' written notice to the subdivider, the board of trustees may withdraw and employ from the security for public improvements twice the amount of funds as may be necessary to construct the improvement or improvements in accordance with the specifications.

(3) A two-year warranty period by the applicant shall be required on all phases of public improvements. The warranty shall be secured for the full term of the warranty by an irrevocable letter of credit or other means approved by the town in the amount of not less than twenty percent (20%) of the actual cost of the improvements.

**Sec. 16-92. Minor subdivisions.**

(a) Intent. The intent of the provisions contained in this section is to allow for flexibility in the subdivision of land for proposed developments which are minor in impact and to adjust the platting process for the scale of the intended development. Projects classified as minor subdivisions shall comply with the following standards.

(b) Defined.

(1) Any proposed subdivision of land which contains four (4) or fewer lots and which lots all abut a public street and where all minimum requirements of these regulations are met and therefore no variance is required may, at the discretion of

the board of trustees, be granted the opportunity to follow the below outlined subdivision submittal and action procedure. Subdivisions meeting these criteria are considered minor in nature and therefore the sketch plan, preliminary plat, and final plat procedures have been combined and simplified in the interest of public convenience. Minor plat procedures shall not be used to plat only a portion of a larger parcel which is owned or controlled by a single owner, partnership or corporation, unless the applicant can show that the area to be platted under minor plat procedures is independent of the remaining property with respect to drainage, utilities and vehicular traffic circulation.

(2) In those instances when the applicant is found to be utilizing the minor subdivision allowance to circumvent the regular process of review, the applicant shall be required to comply with the regular process of review and provide all related submittal requirements. The creation of more than one (1) minor subdivision adjoining another may require compliance with the standards of the subdivision process.

(c) Required submittals. The following information shall be submitted for minor developments:

(1) Proof of ownership;

(2) Statement regarding proposed source of water to serve potential development on the property;

(3) Preliminary engineering of public improvements, if required;

(4) Drainage study, if required;

(5) Subdivision improvements agreement;

(6) Topographic information, if required.;

(7) A final plat submitted in accord with final plat procedures and requirements, except that review by the planning commission shall be at a public hearing, with notice as required in section 16-102 of this chapter; signatures need not be provided until after board of trustees action. Signatures shall be provided prior to recording at the office of the county clerk and recorder;

(8) If taken with rezoning request, that procedure/process and fee for rezoning is not altered;

(9) Dedication of land to town or cash-in-lieu thereof; and

(10) Such other information as may be required by the town.

(d) Procedure. When rezoning is not involved, the following procedure shall be followed:

(1) Optional informal conference with the planning commission to discuss the proposed development and determination of the materials and/or information needed for submittal;

(2) Formal submittal to the planning commission, including the completed application form, appropriate supplemental information and deposits;

(3) Review of the request by the planning commission;

(4) The planning commission shall consider the application at public hearing and make written recommendations to the board of trustees. The public hearing notice shall be in accordance with Sections 16-102 and 16-103 of this chapter. A copy of such recommendations shall be forwarded to the applicant;

(5) Public meeting and action by the board of trustees; and

(6) Filing and/or recording of the plat, the subdivision improvements agreement, and any other related documents with the county clerk and recorder's office.

(e) Rezoning request. A rezoning request made with this request may lengthen the process in accord with zoning regulations and review by the planning commission and board of trustees.

Sec. 16-93. Reserved.

## **recording**

### **Sec. 16-94. Replat, vacation or plat amendment.**

(a) Intent. The intent of this section is to provide a process of review for a change to a recorded plat or a replat of a superblock that ensures that the change is consistent with the zone district requirements, including but not limited to the following:

(1) Replat of a lot or tract, adjustment or vacation of a lot line, vacation of a plat without rights-of-way or easements; or

(2) Vacation of right-of-way, easement or portion thereof.

(b) Prerequisite. The applicant shall meet with staff to discuss the proposal, the proce-

dures and submittal requirements. The submittal process shall vary according to the nature of the proposed amendment based on, but not limited to the following: degree of change, design, size, impact to public facilities, services, roads and overall impacts.

(c) Submittal process and requirements.

(1) The town administrator shall determine if the proposal meets the criteria for a replat. If it does not meet the criteria, it shall be processed as a subdivision.

(2) A replat of a lot or tract, an adjustment or vacation of a lot line, a vacation of a plat (without rights-of-way or easements) or a minor reconfiguration of an easement shall be processed as follows:

a. The replat shall be processed in accordance with the minor plat process.

b. Reserved.

(3) A vacation of a platted easement or right-of-way shall be submitted and processed in accordance with the minor plat process. In addition:

a. For a vacation of a public right-of-way, a public hearing is required by the board of trustees. Public notice shall be required for the board of trustees hearing only in accordance with Section 16-102 of this chapter.

b. For a vacation of a public easement, public notice shall be required for the board of trustees hearing only in accordance with Section 16-102 of this chapter. In addition, the applicant shall send a notice of hearing by first class mail to known easement users, notifying them of the proposed vacation.

(4) A vacation of an unplatted easement or right-of-way shall be processed as follows:

a. An ordinance shall be prepared

that includes the legal description of the right-of-way or easement to be vacated and the book and page numbers.

b. The vacation request shall be heard by the board of trustees at a public hearing. Public notice shall be required in accordance with Section 16-102 of this chapter. The ordinance shall be recorded in the office of the county clerk and recorder upon obtaining the signature of the mayor.

(5) Reserved.

(6) A vacation of lot lines between adjoining lots within the R-1 zoning district where all affected lots are under a single ownership and no new public improvements are required, shall be processed as follows:

a. The planning commission shall, at a public meeting, make a final determination as to whether to approve or deny said application. In the event the planning commission denies said application, the applicant may appeal said denial to the board of trustees.

b. Reserved.

(d) Public notice requirements. All public notice requirements shall be in accordance with Section 16-102 of this chapter.

(e) Plat. A plat for the vacation of lot lines or for the vacation of a platted easement or right-of-way shall be prepared and submitted in the same format as a minor plat. The title shall be the same as the previously recorded plat followed by the amendment number along the first line at the top of the sheet (along the long dimension). The planning area, if applicable, and a brief description of all the changes shall be placed under the title, for example:

COUNTRY ACRES Filing 2,  
1st Amendment

A vacation and replat of lots 1-8,  
block 4, A part of the W½ of Section 9,  
T6S, R66W of the 6th P.M., Town of  
Hudson, County of Weld,  
State of Colorado.

For easement or right-of-way vacation only:

HILLSIDE ESTATES Filing 4,  
1st Amendment

A vacation of the utility easement  
between lots 3 & 4, A part of the W½ of  
Section 9, T6S, R66W of the 6th P.M.,  
Town of Hudson, County of Weld,  
State of Colorado.

(f) Lot numbers. The resulting lots shall  
be numbered consecutively starting with the  
number of the original lots, followed by "A."  
Tracts shall be lettered alphabetically in  
consecutive order, and shall include the acre-  
age within each lot.

**Sec. 16-95. Certifications for plats.**  
The following information and appropriate  
signatures shall be provided on preliminary  
final plats submitted:

(a)

Preliminary plats.

(1) Preparer's statement attesting to  
the accuracy of the plat and that it properly  
shows the development proposed. All plats  
shall be prepared by qualified persons.

(b) Final plats, including replats,  
correction plats, and minor plats.

(1). Plat title, including subtitle  
containing the general location of the  
property being subdivided, for example:

"COUNTRY ACRES

A subdivision located in the W½ of  
Section 9, T6S, R66W of the 6th P.M.,

Town of Hudson, County of Weld, State of  
Colorado."

(2). Legal Description and  
Dedication, as follows:

"LEGAL DESCRIPTION AND  
DEDICATION:

Know all men by these presents that the  
undersigned, being the owners of a parcel  
of land, located [*INSERT GENERAL  
LOCATION, REFERENCING SECTIONS  
OR PORTIONS OF SECTIONS*], more  
particularly described as follows: [*INSERT  
COMPLETE SURVEYOR'S LEGAL  
DESCRIPTION OF THE PROPERTY  
BEING SUBDIVIDED*]. Have laid out,  
platted and subdivided the above-described  
land, under the name and style of [*INSERT  
PLAT TITLE*], and by these presents do  
dedicate to the Town of Hudson in fee  
simple the streets, public ways and  
[*DESCRIBE ANY OTHER LAND BEING  
DEDICATED TO THE TOWN BY THE  
PLAT*] as shown on the plat, and grant to  
the Town of Hudson such easements as are  
created hereby and depicted or, by note,  
referenced hereon, along with the right to  
install, maintain and operate mains,  
transmission lines, service lines, and  
appurtenances, either directly or through  
the various public utilities, as may be  
necessary to provide such utility services  
within this subdivision or other land within  
the Town of Hudson, through, over, under  
and across streets, utility and other  
easements and other public places as shown  
hereon."

(3). Notes, indicating basis of survey  
and other information regarding the plat,  
maintenance of facilities within the  
property being subdivided, or other  
information relevant to the plat.

(4). Surveyor's certificate in the  
following format:

"SURVEYOR'S CERTIFICATE

I, [*INSERT FULL NAME AND*

*REGISTRATION NUMBER OF SURVEYOR*] registered land surveyor in the State of Colorado, do hereby certify that the survey of the [*INSERT SUBDIVISION TITLE*] was made under my supervision and the accompanying plat accurately and properly shows said subdivision.”

(5). Names, titles and notarized signatures of all owners and mortgagees of the property being subdivided.

f. Approval by the Town in the following format:

“APPROVAL BY THE TOWN.

This Plat was approved by the board of trustees of Hudson, Colorado, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, AD, for filing, subject to the conditions set forth by the board which are recorded in Book \_\_\_\_ at Page \_\_\_\_\_, Weld County, Colorado.

\_\_\_\_\_  
Mayor of Town of Hudson”

**Secs. 16-96—16-99. Reserved.**

## Article 7

### PUBLIC NOTICE REQUIREMENTS

#### Sec. 16-100. Purpose.

All land use applications that require public hearings before the board of trustees, the planning commission or the board of adjustment shall be subject to these requirements. Public noticing of hearings is intended to provide for the opportunity for public participation on land use proposals within the town.

#### Sec. 16-101. General provisions.

(a) It is the responsibility of the applicant to meet these requirements prior to the established hearing date.

(b) The board of trustees, the planning commission, or the board of adjustment may continue any hearing to a date certain and may keep the hearing open to take additional information up to the point a final decision is made. No further notice of a continued hearing need be pursued by the applicant unless a period of four (4) weeks or more elapses between hearing dates before the same board. In situations where this time period has passed, the applicant shall be required to publish the "NOTICE OF PUBLIC HEARINGS" provided in Section 16-102(b) and change the date on the signs posted on the property required in Section 16-102(d). All signs shall be removed from the property within five (5) days from the date of the final hearing on the application.

(c) The board of trustees may at its discretion require the applicant to comply with these procedures for land use applications other than those already prescribed for public hearings in the zoning and subdivision ordinances.

(d) These public notice requirements apply to all land within the jurisdiction of the town as well as those parcels subject to the consideration of and petitioning for annexation to the town boundaries.

(e) No public hearing shall commence, nor testimony be taken, until these procedures are met by the applicant.

(f) Upon written request, the town administrator may authorize the concurrent noticing of planning commission and board of trustees hearings.

(g) For notification of adjoining property owners, applicants must use the county assessor's records, and the list submitted to the town must be current within sixty (60) days of the public hearing. A written affidavit indicating the date that the notices were researched at the assessor's office shall be provided to the town.

(h) Proof of all notices must be provided to the town not less than one (1) week prior to the hearing.

#### Sec. 16-102. Public notice procedures.

(a) The following applications shall be subject to the public notice procedures outlined herein:

- (1) Rezoning (amendments to the official zoning map);
- (2) Use by Special Review;
- (3) Major amendments to a development guide or plan;
- (4) Preliminary and minor subdivision plats;
- (5) Vacations and replats; and
- (6) Zoning and sign code variances.

(b) At least fifteen (15) days prior to a public hearing, a notice shall be published at least one (1) time in the legal notice section of a general circulation newspaper within the town. A publisher's affidavit shall be submitted to the town prior to the hearing date to verify the

publication of the required notice. The notice shall read as follows:

#### NOTICE OF PUBLIC HEARINGS

Notice is hereby given that the (name of board: board of trustees, planning commission, or board of adjustment) shall hold public hearings concerning (type of application request), located on property described in Exhibit A and generally located at (distance and direction of nearest major intersections), pursuant to the town of Hudson Municipal Code.

The public hearings are to be held before the (Name of board) on (date), 20 \_\_\_\_, at (time a.m./p.m.), or as soon as possible thereafter. The public hearing shall be held at the Hudson Town Hall, 557 Ash Street, Hudson, Colorado, or at such other time or place in the event this hearing is adjourned. Further information is available through the town clerk's office at (303) 536-9311.

ALL INTERESTED PERSONS  
MAY ATTEND.

#### EXHIBIT A (legal description)

(c) At least fifteen (15) days prior to a public hearing, a written notice shall be sent by regular first class United States mail to all owners of property within five hundred (500) feet of the site for which the land use application is made. The written notice shall contain the following information:

(1) The entire notice of public hearing outlined in Subsection (b) above, including the legal description; and

(2) A narrative outlining the proposed land use application before the planning

commission, board of adjustment and/or board of trustees.

(d)(1) Sign. At least fifteen (15) days prior to a public hearing, a notice shall be posted on the property for which the land use application is made. These notices shall consist of at least one (1) sign facing and clearly legible from each adjacent public right-of-way. In the case of a variance request, only one (1) sign shall be posted on site in the general vicinity the variance is being considered. These notices shall be signs measuring not less than two feet by three feet (2' x 3'), in a form specified by the Town, with the "NOTICE OF PUBLIC HEARING" lettering a minimum of three (3) inches high and on posts no less than four (4) feet above the ground. All remaining lettering shall be clearly legible from the right-of-way. These notices shall read:

#### NOTICE OF PUBLIC HEARING

Notice is hereby given that the property upon which this sign is posted shall be considered at a public hearing for (type of application request) pursuant to the Hudson Municipal Code.

The public hearing is to be held before the (Name of board) on (date), 20 \_\_\_\_, at (time a.m./p.m.), or as soon as possible thereafter. The public hearing shall be held at Hudson Town Hall, 557 Ash Street, Hudson, Colorado. Further information is available through the town clerk's office at (303) 536-9311.

ALL INTERESTED PERSONS  
MAY ATTEND.

(2) Sign affidavit. The applicant shall provide the town clerk with an affidavit to the posting of the sign. The affidavit shall be in substantially the following form:

#### SIGN POSTING AFFIDAVIT

(Attach Photo Here)

\_\_\_\_\_, The above sign was posted on (date) pursuant to the town of Hudson Municipal Code, by (Applicant or Representative).

\_\_\_\_\_  
Signature

STATE OF COLORADO )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 200\_\_, by \_\_\_\_\_.

My commission expires:  
\_\_\_\_\_

(SEAL)

\_\_\_\_\_  
Notary Public

(e) Vacation requests of lot lines, easements, approved plats or rights-of-way shall follow the same public notice procedures found in Subsections (b) through (d) above, except that references to the hearings before the planning commission and the board of trustees may be combined upon approval of the town administrator.

**Sec. 16-103. Notice requirements to mineral estate owner.**

(a) As used in this section, the following terms shall have the following meanings:

*Mineral estate* means an interest in real property that is less than full fee title and that includes mineral rights as shown by the real estate records of the county in which the real property is situated.

*Mineral estate owner* means the owner or lessee of a mineral estate for which

notice is required pursuant to this section, and for which the records of the Weld County Clerk and Recorder allow the applicant to reasonably and in good faith identify the mineral estate owner.

(b) The following applications shall be subject to the notice procedures to mineral estate owners outlined herein.

- (1) Rezoning (amendments to the Official Zoning Map);
- (2) Use by Special Review;
- (3) Any amendment to a development guide or development plan;
- (4) Minor subdivisions; and
- (5) Preliminary plats for subdivisions; ; and
- (6) Replats.

(c) Notice requirements. Where the mineral estate is severed from the surface estate, the applicant shall, at least thirty (30) days prior to the date of the scheduled public hearing on the application for development:

- (1) Send notice by first class mail to the mineral estate owner, which notice includes the time and place of the first public hearing, the nature of the hearing, the location of the property that is the subject of the hearing and the name of the applicant;
- (2) Send notice to the town containing the name and address of the mineral estate owner;
- (3) Certify to the town, prior to or at the first scheduled public hearing on the application, that proper notice has been provided to the mineral estate owner. Such certification shall consist of a statement indicating compliance with this section, as

well as a certificate of mailing, attached to the notice sent to the mineral estate owner, to read as follows:

CERTIFICATE OF MAILING

The undersigned hereby certifies that on the \_\_\_\_day of \_\_\_\_, 20\_\_, a true and correct copy of the within Notice of Public Hearing was deposited in the U.S. mail, postage prepaid, first class, addressed as follows:

\_\_\_\_\_  
Mineral Estate Owner  
[Address]

(4) An applicant's failure to provide a certificate of mailing indicating compliance with the notice requirements will result in automatic denial of the application by the town.

(5) The mineral estate owner may waive the right to notice under this section in writing to the applicant and receipt of this waiver by the town shall satisfy the notice requirements contained herein.

**Secs. 16-104—16-109. Reserved.**

**Article 8 SIGN CODE**

**Sec. 16-110. Intent.**

The intent of this article shall be to provide regulations that allow for the clear identification of business uses and which afford the ability to market land, while protecting the health, safety and welfare of the public, scenic views and preserve the quality of the neighborhood. These regulations are intended to ensure that signs are not overwhelming and do not create a nuisance, distraction or impediment to travelers or adjacent landowners by their brightness, size or height or create a hazard due to collapse, fire, collision, decay or abandonment.

**Section 16-111. Applicability.**

Any sign not expressly permitted under this article shall be prohibited. The following are exempt from this article:

(1) Signs not exceeding three (3) square feet in area that are customarily associated with residential uses such as property identification names and numbers; signs on mailboxes or newspaper tubes; and signs posted on private property warning the public against trespassing or danger from animals;

(2) Signs required or specifically authorized for a public purpose by any law, statute, or ordinance, which may be of any type, number, area, height above grade, location, illumination or animation authorized by the law, statute or ordinance under which the signs are erected;

(3) Official signs erected by state or local governments or their contractors or public utility companies to facilitate the construction, maintenance, or operation of transportation facilities or to warn of danger or hazardous conditions, including signs indicating the presence of underground cables, gas lines and similar devices;

(4) Architectural features of buildings or works of art, if such features or works of art do not contain letters, trademarks, moving parts or lights, and do not display a commercial message;

(5) Any traffic control sign, such as "STOP" or "YIELD," located on public or private property that meets applicable governmental standards pertaining to such signs and does not display a commercial message;

(6) Name plate signs of not more than two (2) square feet in area which are

fastened directly to a building and do not project from the face of the building;

(7) National holiday and community special event decorations that do not display a commercial message;

(8) Signs on athletic fields and scoreboards intended for viewing on the property upon which the scoreboard is located;

(9) Signs located inside buildings which are not placed there for the purpose of being visible to and read from the outside of the building and which are not legible from a distance of more than three feet (3') beyond the building in which such sign is located; and

(10) Instructional signs on Town property erected by the Town.

**Sec. 16-112. Definitions.**

The following words and phrases, whenever used in this article, shall have the following meanings:

(1) *Abandoned sign* means any sign, together with its supporting structure, which, ten (10) days or more after the property have been vacated, advertises an activity, business, product or service no longer produced or conducted upon the property upon which such sign is located; excluding permanent signs accessory to businesses which are open only on a seasonal basis, provided that there is clear intent to continue operation of the business.

(2) *Building sign* shall mean a sign attached to any part of a building, including wall, awning, canopy, and projecting signs.

(4) *Change in use or business* shall mean a change in the type or nature of a business and not a change ownership.

(5) *Commercial* means predominately related to economic interests or commerce, or a transaction for a particular product or service or a group of products or services for profit.

(5.1) *Freestanding Sign*. A freestanding sign is defined as a sign, not attached to any building or structure, supported by one or more upright poles, columns or braces placed in or on the ground.

(6) *Illumination* shall mean lighting by means of a direct or indirect light source, including neon tubing, which is effectively visible as a part of the sign.

(7) *Instructional sign* means a sign that has a purpose secondary to the use on the lot and that is intended to instruct employees, customers, or users as to matters of public safety or necessity such as specific parking requirements, the location or regulations pertaining to specific activities on the site or in the building, and including a sign erected by a public authority, utility, public service organization, or private industry that is intended to control traffic; direct, identify or inform the public, or provide needed public service as determined by the rules and regulations of governmental agencies or through public policy.

(8) *Name plate sign* means a building sign not exceeding two (2) square feet indicating the street number, the name of the person, business, profession or activity occupying the lot, building, or part thereof; or other information pertaining to the use on the lot.

(9) *National holiday* means any of the following days:

- a. New Years Day;
- b. Martin Luther King's Birthday;
- c. President's Day;

- d. Memorial Day;
- e. Independence Day;
- f. Labor Day;
- g. Veterans Day;
- h. Thanksgiving Day; and
- i. Christmas Day.

(9) *Portable sign* means a sign that is not permanently attached to the ground or other permanent structure, or a sign designed to be transported on wheels, skids, a bench, runners, brackets, or has a frame to which wheels, skids, runners, brackets, or similar mechanical devices can be attached to or support the sign, including inflatable devices and vehicle signs, and also including a sign displaying a commercial message held by, attached to, or affixed on an individual who is exhibiting such sign for the predominant purpose of conveying the commercial message on such sign.

(10) *Sign* shall mean any visual communication display, object, device, graphic, structure or part, situated indoors or outdoors, or attached to, painted on or displayed from a building or structure, in order to direct or attract attention to, or to announce or promote, an object, product, place, activity, person, institution, organization, or business or the like, by means of letters, words, model, banner, flag, pennant, insignia, device, designs, colors, symbols, fixtures, images, illuminations or representation used as, or which is in the nature of an announcement, direction, or advertisement.

(11) *Temporary sign* shall mean a sign, banner or similar device or display that is intended for a temporary period of display. A temporary sign does not include a sign display area that is permanent but the

message displayed is subject to periodic changes.

(12) *Vehicle sign* shall mean a sign displayed on a motor vehicle, including trucks, buses or other motor vehicles such as moving vans, delivery trucks, rental trucks, and the like, and trailers whether or not attached to a motor vehicle, but not including motor vehicles or trailers used for commercial transit and licensed by the Public Utilities Commission of the State such as taxis and buses. Examples of vehicle signs are signs indicating the name of the owner or business located on moving vans, delivery trucks, rental trucks, trailers and the like.

**Sec. 16-112. General requirements.**

(a) All signs located in the municipal boundaries of the town shall be required to comply with all applicable requirements for zoning districts in which the sign permit is issued, unless otherwise provided for in this section.

(b) Signs within a PD – Planned Development district shall be governed by this section, except when a separate development guide has been approved by ordinance by the board of trustees which incorporates separate guidelines for signage.

(c) Signs may be erected in a public right-of-way only by the public agency which has control over the right-of-way, and shall be exempt from the provisions herein.

(d) Signs and sign structures shall be maintained at all times in a state of good repair, and free from deterioration, insect infestation, rot, rust or loosening.

(e) Signs shall be constructed such that they are able to withstand the maximum wind pressure for the area in which they are located. The town or its designee shall have the authority to order the repair, alteration or

removal of a sign or structure which constitutes a hazard to life or property.

(f) In the event that such a sign has not been removed, altered or repaired within thirty (30) days after written notification from the town, the town shall have the authority to remove said sign or structure at the expense of the owner of the premises on which the sign is located.

### **Sec. 16-113. Sign permit.**

(a) A sign permit shall be required from the town for all signs exceeding six (6) square feet in area. In addition, a sign permit shall be required at any time the sign area is increased.

(b) All requests for signage shall be accompanied by a drawing, fully dimensioned, showing the sign message and site plan showing the location, setback, height and sign area of all proposed and existing signage.

(c) A sign permit fee shall be established by the board of trustees by resolution. (Ord. 01-4, 2001)

### **Sec. 16-114. Sign setbacks.**

The following setbacks shall be required:

(1) The minimum setback for a sign adjacent to a federal, state or major county arterial highway shall be a minimum of seventy-five (75) feet from the lot line adjacent to the highway right-of-way. This distance may be reduced to the zoning district street setback when adequate right-of-way has been dedicated to the state, county or town, as applicable, for future road widening.

(2) Where this requirement conflicts with a setback otherwise required in a zoning district, the larger setback shall be required.

(3) Temporary "for sale/rent/lease" signs not exceeding six (6) square feet in size, shall not be required to meet the minimum setback; however, such signs shall not impair visibility for traffic movement.

(4) Under no circumstances shall signs be located within a utility easement or within public right-of-way or closer than ten (10) feet from the lot line. Signs within the sight distance area, as determined by the town or its designee at intersections of roads and driveways shall be reviewed and accepted by the town prior to issuance of a permit.

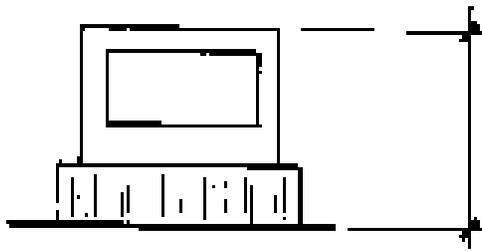
(5) Signs fifteen (15) feet or greater in height shall be set back in accordance with the application setback of the zoning district in which the sign is located, or as required in Subsection (1) of this section. However, signs less than fifteen (15) feet high may be located within the setback as provided for in Section 16-117, Figure A.

### **Sec. 16-115. Maximum height of sign.**

(a) Sign height. Except as provided below, signs are restricted to a maximum height of fifteen (15) feet. A variance may be requested from the board of adjustment, in accordance with Section 16-31 of this chapter.

(b) Sign height measurement.

(1) Freestanding sign: Height shall be the distance from the top of the sign structure to the top of curb or crown of roadway where no curb exists. The height of any monument base or other structure erected to support or ornament the sign shall be measured as part of the sign height.



(2) Wall- or fascia-mounted signs: Height shall be the distance from the top of the sign structure to the top of curb or crown of road where no curb exists.

**Sec. 16-116. Prohibited signs.**

The following signs shall be prohibited in all districts.

- (1) Portable signs, except as expressly permitted in Section 16-120.
- (2) Revolving beacons, flashing signs or signs with any type of animation or intermittent lighting effects.
- (3) Any sign emitting sound.
- (4) Signs in the public right-of-way or on public property, including political signs.
- (5) Signs located so as to conflict with the clear and obvious appearance of public devices controlling public traffic.
- (6) Flags, banners or other devices designed or allowed to wave, flap or rotate with the wind, except for flags displaying a noncommercial message or any
- (7) Roof-mounted signs, or signs which project above the highest point of the roofline or fascia of the building.
- (8) Signs attached to a building which project perpendicularly a distance of more

than eighteen (18) inches from the building.

(9) Signs attached to the wall of the building but more than eighteen (18) inches

(10) Signs announcing a proposed development or proposed zoning prior to approval by the board of trustees.

(11) Signs identifying a home occupation.

(12) Signs located on median islands. (Ord. 01-4, 2001)

**Sec. 16-117. Signs -- R-1, R-2, R-T, A-1, A-2, A-3 districts.**

(a) The following signs shall be permitted in the residential and agricultural districts:

- (1) One (1) sign per dwelling, not exceeding three (3) square feet.
- (2) For vacant land, one (1) temporary, nonilluminated sign identifying vacant land not exceeding one hundred (100) square feet in total surface area. The total surface area of any one (1) side shall not exceed fifty (50) square feet.
- (3) For dwellings under construction, one (1) temporary sign, per street frontage not exceeding forty-eight (48) square feet. Signs shall be removed within two (2) years or when the last dwelling is sold, whichever occurs first.
- (4) For model homes, one (1) sign per model home, not exceeding sixteen (16) square feet.
- (5) For residential subdivisions, one (1) sign per subdivision entrance, not exceeding forty-eight (48) square feet, a maximum of six (6) feet in height.

(6) For multi-family complexes, one (1) sign per driveway access from the public street, not exceeding forty-eight (48) square feet, a maximum of six (6) feet in height; and one (1) building sign, not exceeding thirty-two (32) square feet per street frontage.

(1) One (1) nonilluminated, sign per street frontage, not exceeding fifty (50) square feet. Such sign may be increased at the rate of five (5) square feet of sign area for each additional fifty (50) acres of land, to a maximum of one hundred (100) square feet.

(b) In the A-1 district only, on conforming lots:

**Figure A**

<i>Type of Sign (Ag. /Res.)</i>	<i>Maximum Size</i>	<i>Number</i>
Name Plate per lot	3 sq. ft	1
Temporary per lot with a residence	6 sq. ft.	1
Temporary for vacant land	50 sq. ft/sign 100 sq. ft total	1
Temporary sign for units under construction (2 yr. max. or until last unit sold, whichever occurs first)	48 sq. ft.	1/street frontage
Model home lot sign	16 sq. ft.	1/home
Residential subdivision sign	48 sq. ft.	1/entrance
Multi-family complex sign	48 sq. ft. 32 sq. ft (fascia)	1/entrance 1/street frontage
(A-1 district only on lots 35 + acres) sign	50 sq. ft. plus an additional 5 sq. ft. per each additional 50 acres up to a total of 100 sq. ft.	1/ street frontage (nonilluminated)

**Sec. 16-118. Signs -- B, C-1, C-2, I-O, I-1, I-2, I-3 districts.**

The following signs shall be allowed in business/commercial/industrial districts:

(1) One (1) temporary sign per street frontage, not exceeding one hundred (100) square feet per sign face (maximum of two [2] faces are permitted per sign). Such sign shall not count as part of the total sign area allowed per individual use, or per shopping center or business/commercial/industrial park.

(2) One (1) sign not exceeding a total sign area of fifty (50) square feet per building face. However, the total sign area may be increased to a maximum of one hundred (100) square feet per building face, at the rate of one (1) square foot of sign area per lineal foot of allowable building frontage in excess of fifty (50) lineal feet.

(3) Lease areas greater than one hundred thousand (100,000) square feet shall be permitted a maximum of two hundred (200) square feet of building sign area, for identification, per building face.

(4) One (1) freestanding/monument identification sign per individual use, shopping center or business /commercial/industrial park, not exceeding two hundred (200) square feet at the rate of one (1) square foot of sign area per three (3) lineal feet of street frontage.

(5) One (1) additional sign, within a center/park per entrance, not exceeding seventy-five percent (75%) of the area of the identification sign for the center/park as allowed herein.

(6) Up to four (4) instructional signs, not exceeding eighteen (18) square feet per sign, per individual use or per shopping center, or business/commercial/ industrial park.

(7) Temporary signs, in an amount not twenty-five percent (25%) of the total allowable signage as set forth in this section, provided, however, that the allotment of square footage for temporary signs shall be in addition to the allotment of other signage allowed in this section.

## Figure B

<i>Type of Sign (Bus./Com./Ind.)</i>	<i>Maximum Size</i>	<i>Number</i>
Temporary sign	100 sq. ft./face (maximum of 2 faces) 50 sq. ft., plus 1 sq. ft./lineal foot of building frontage in excess of 50' to a total of 100 sq. ft./bldg. face	1/street frontage
Building sign	*for lease areas 100,000+ sq. ft., 200 sq. ft./bldg. face	1 or more
Freestanding/monument	1 sq. ft./3 lineal feet of frontage to a total of 200 sq. ft.	1/street frontage
Corner lot – freestanding/monument	1 sq. ft. /lineal foot of frontage to a total of 200 sq. ft.	1/street frontage
Additional for shopping center or business/industrial park	75% of the size of the I.D. sign	1/access
Instructional – within office park or shopping center	18 sq. ft.	4/park or center

Sec. 16-120. Vehicle signs.

(a) Vehicle signs on vehicles being operated in the normal course of business shall be allowed without a permit and without reference to the regulations set forth in this Article, subject to the following limitations:

(1) The vehicle shall have any required State licenses, license plates and inspection stickers, and must be operable.

(2) The vehicle shall be regularly operated, which means that the vehicle must leave the property on a regular basis for a business purpose, and shall not be parked in excess of twelve (12) continuous hours at a business location. This subsection shall not be construed to apply to a vehicle used on a regular basis for a business purpose that is taken home during non-business hours and parked or stored on private residential lot during non-business hours.

(3) The primary purpose of such vehicle shall not be for the display of signs. In determining whether the primary purpose of such vehicles is for the display of signs, the Town shall consider the following criteria:

a. Whether the vehicle is regularly operated as set forth in subsection (a)(2) of this Section;

b. The location of the vehicle when it is parked on or near the property of the business for which the sign is provided. The purpose of this subsection shall be to prevent the vehicle from being displayed on or near a major street or public right-of-way, unless no other alternative parking area is available.

c. Whether the vehicle is parked in a location that is not on or near the property of the business for which the sign is provided. The purpose of this subsection shall be to prevent the vehicle from being displayed on or near

a major street or public right-of-way without a valid business purpose, such as deliveries or repair work.

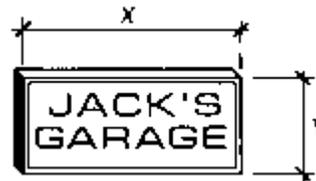
(b) Vehicle signs shall be magnetic, have vinyl graphics or be painted directly on the vehicle.

**Sec. 16-121. Sign area measurements.**

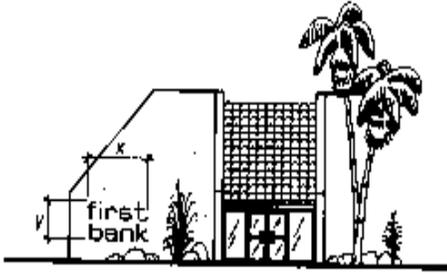
The area of a sign shall be measured as follows:

(1) Sign area will include the areas of all permitted signs. (2) A sign having more than one (1) component; e.g., a service station identification/price sign combination on a monument base, mounted on the same surface, the sign area will be the area of the smallest rectangle that encompasses the several components of the sign.

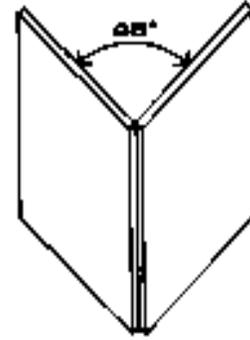
(3) Sign copy mounted or painted on a background panel or area distinctively painted, textured or constructed as a background for the sign copy, shall be measured as the area contained within the outside dimensions of the back ground panel or surface.



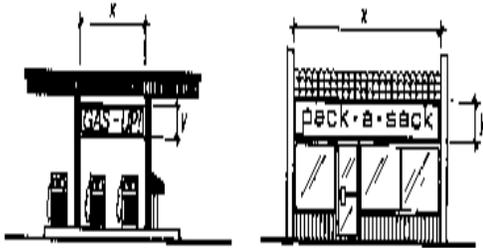
(4) Sign copy mounted as individual letters and/or graphics against a wall or fascia of a building or other structure that has not been painted, textured or otherwise altered to provide a distinctive background for the sign copy, shall be measured as the area enclosed by the smallest single rectangle that will enclose all sign copy.



(5) Sign copy mounted or painted on an illuminated surface or illuminated architectural element of a building, shall be measured as the entire illuminated surface or illuminated architectural element which contains sign copy.



c. Three (3) or more sides -- the sign area will be the sum of the areas of each of the faces.



(6) Where there are a number of sign faces:

a. One (1) -- area of the single face only.

b. Two (2) -- if the interior angle between the two (2) faces is forty-five degrees ( $45^\circ$ ) or less, the area will be the area of one (1) face only; if the angle between the two (2) sign faces is greater than forty-five degrees ( $45^\circ$ ), the sign area will be the sum of the areas of the two (2) faces.



d. Spherical, free-form, sculptural, other non-planar signs--Sign area will be the sum of the areas using only the four (4) vertical sides of the smallest cube that will encompass the sign.

(7) The structure or bracing of a sign shall be omitted from measurement unless such structure or bracing is made part of the message or face of the sign.

(8) The area of a sign with backing or a background, material or otherwise, that is part of the overall sign display shall be measured by determining the sum of the area in each square, rectangle, triangle, portion of a circle or any combination thereof which creates the smallest single continuous perimeter enclosing the extreme limits of the display surface or face of the sign, including all frames, backing, face

plates, nonstructural trim or other component parts not otherwise used for support.

(9) The area of a sign without backing or a background, material or otherwise, that is part of the overall sign display shall be measured by determining the sum of the area of each square, rectangle, triangle, portion of a circle or any combination thereof which creates the smallest single continuous perimeter enclosing the extreme limits of each word, written representation (including any series of letters), emblems or figures of small character, including all frames, face plates, nonstructural trim or other component parts not otherwise used for support.

(10) The area of a sign having parts both with and without backing shall be measured by determining the total area of all squares, rectangles, triangles, portions of a circle or any combination thereof constituting the smallest single continuous perimeter enclosing the extreme limits of either of the following combinations:

- a. The display surface or face of the sign including all frames, backing, face plates, nonstructural trim; or
- b. Other component parts not otherwise used.

**Sec. 16-122. Nonconforming signs.**

Whenever one (1) of the following conditions occurs, a sign which is nonconforming to the regulations of this section shall be brought into conformance or shall terminate:

- (1) Whenever there is a change in the business or use to which the sign pertains.
- (2) Whenever there is a replacement of the reader panels.
- (3) Whenever there is a request made for a permit to change the sign.
- (4) If any such sign or nonconforming portion thereof is destroyed by any means

to an extent of more than fifty percent (50%) of its appraised value for tax purposes at the time of the destruction, it shall not be reconstructed except in conformity with the applicable provisions of this chapter.

(5) Whenever the location of the sign is moved or altered.

**Secs. 16-123—16-139. Reserved.**

**Article 9**

**DEVELOPMENT STANDARDS AND PRACTICES**

**Sec. 16-140. Improvements in unapproved streets.**

The town shall not accept, lay out, open, improve, grade, pave, curb or light any street, or lay or authorize water mains or sewers or connections to be laid in any street, within any portion of a territory for which the planning commission shall have adopted a major street plan unless such street shall have been accepted or opened as, or shall have otherwise received the legal status of, a public street prior to the adoption of such plan or unless such street corresponds with a street shown on the official master plan or with a street on a subdivision plat approved by the planning commission or with a street or a street plat made by and adopted by the planning commission. However, the board of trustees may accept any street not shown on or not corresponding with a street on the official master plan or on any approved subdivision plat or an approved street plat, provided that the ordinance or other measure accepting such street shall first be submitted to the planning commission for its approval, be enacted by no less than a majority of the entire membership of the board of trustees or, if disapproved by the planning commission, be enacted by not less than two-thirds ( $\frac{2}{3}$ ) of the entire membership of the board of trustees. A street approved by the planning commission and the board of trustees or a street accepted by a two-thirds ( $\frac{2}{3}$ ) vote of the board of trustees after

disapproval by the planning commission shall thereupon have the status of an approved street as fully as though it had originally shown on the official master plan or on a subdivision plat approved by the planning commission and board of trustees or had been originally platted by the planning commission. (Ord. 01-4, 2001)

**Sec. 16-141. Erection of buildings; construction of streets.**

(a) At the time when the planning commission shall have adopted a major street plat of the territory within the corporate limits of the town, no building shall be erected on any lot within such territory or part thereof, nor shall a building permit be issued therefor unless the street giving access to the lot upon which such building is proposed to be placed shall have been accepted or opened or otherwise have received the legal status of a public street prior to that time or unless such street corresponds with a street shown on the official master plan or with a street or subdivision plat approved by the planning commission or with a street on a street plat made by and adopted by the planning commission or with a street accepted by the board of trustees, after submittal to the planning commission, by a favorable vote required.

(b) A building permit may only be issued for an otherwise unopened and unaccepted street if, as a condition of the issuance of the building permit, the applicant for the building permit enters into an agreement with the town to construct the street up to town standards and specifications, thus allowing the town to open and accept the street as a public street within the town. A certificate of occupancy will then not be issued by the town until construction of the street is completed and approved by the town as being up to town standards and specifications.

(c) Any building erected in violation of this chapter shall be deemed an unlawful building, and the building inspector or other authorized official may cause it to be vacated and/or have it removed. (Ord. 01-4, 2001)

**Sec. 16-142. Parking requirements.**

(a) Scope of coverage. No land shall be used or occupied, no structures shall be designed, erected or altered and no use shall be operated unless off-street parking space, as herein required, is provided in at least the amount and maintained in the manner herein set forth. The scope of the regulations herein set forth shall apply and govern in all districts. This chapter shall be applicable to buildings hereafter erected and uses as may be required to conform to the regulations hereof, including the extension and enlargement of said buildings and uses, except in cases where it is impossible to provide additional parking space and the strict enforcement of this chapter should create unnecessary hardship (to be determined by the planning commission).

(b) Maintenance of off-street parking spaces. The duty to provide and maintain the off-street parking space herein required shall be the responsibility of the owner and/or operator of the property on which the structures or uses are located and for which off-street parking space is required to be provided and maintained.

(c) Scope of regulations.

(1) All parking spaces, required for any use and provided in compliance with the provisions of this section, shall be considered to be required spaces for the use or uses necessary and shall not be reduced or infringed upon in any manner.

(2) All required parking stalls should be located on the premises to which such requirements apply or within off-street space not distanced more than five hundred (500) feet from such premises, provided that such stalls as are required for employees and proprietors of any premises may be located in an off-street parking space distanced not more than one thousand (1,000) feet from such premises, subject to Paragraph (3) below.

(3) Provision for a parking lot shared jointly by several uses in the same block or

vicinity is permissible, in which case the number of stalls provided shall be the sum total of the individual requirement. Where it is found by the planning commission, upon application thereto, that the parking demand engendered by different uses included in any joint arrangements occurs at definite different times of day, as in the case of a theater generating demand for parking after normal daytime hours and a store generating demand for parking during such daytime hours and in such similar cases, the planning commission may reduce the total number of parking stalls to be jointly provided.

(4) In a case where any public or private off-street parking facility, to be operated for public use (either free of charge or at reasonable rates), is planned or is in the process of development, and where the planning commission has assurance that such development will be carried to completion and will, when completed, relieve the parking demand of an area within five hundred (500) feet thereof, the planning commission may establish a reasonable period of delay within which such area shall be provided.

(5) In cases involving existing structures where it is clearly shown by the applicant, to the satisfaction of the planning commission, that the provision of the amount of the space required herein for parking or loading requirements because of the particular nature of a proposed use would cause an unnecessary hardship, the planning commission may reduce such requirements.

(6) Decisions made by the planning commission are subject to appeal to the board of trustees.

(d) Application for approval. All applications for approval of a parking plan shall be filed with the planning commission by the owner of the land area designated in the plan and shall contain such information and representations as may be deemed necessary by the planning commission. Such application

shall also include plans showing the following details:

(1) The type of structure or use for which off-street parking spaces are required.

(2) The location of the uses or structures for which off-street parking spaces are required and are to be provided.

(3) The size of the structure or use for which off-street parking spaces are required.

(4) The location of the off-street parking spaces.

(5) Impact statement of facility to be constructed in relation to drainage and surface water flow/distribution and method to be implemented to mitigate the impact.

(e) Approval of plans. Upon the approval of the board of trustees of any parking plan hereunder, a copy of such plan shall be filed in the records of the planning commission and with the building inspector.

(f) Parking space requirements.

(1) One (1) parking stall shall be not less than nine (9) feet in width and twenty (20) feet long.

(2) A driveway for access to a parking lot shall be not less than twelve (12) feet in width nor more than thirty (30) feet in width at the property line along the street. It shall be so located as to minimize traffic hazards or congestion. All residential driveway widths shall be not less than ten (10) feet.

(3) Requirements for parking spaces shall be as shown on an approved site plan, or in the absence of a site plan, as determined by the following table:

<i>Use</i>	<i>Parking spaces required</i>	<i>Use</i>	<i>Parking spaces required</i>
Single-family	2.0/dwelling unit	Restaurants:	
Duplex	1.5/dwelling unit	Sit-down	1.0/3½ person capacity
Multi-family:		Drive-in	1.0/100 square feet of gross floor area
Efficiency studio	1.0/dwelling unit		1.0/4 seats; or
One (1) bedroom and up	1.5/dwelling unit		1.0/200 dance halls, skating rinks & square feet of gross similar functions floor area, whichever is greater
Divisible unit	+ .5/each divisible room	Auditoriums, theaters, gymnasiums	
Condominium	See Multi-family	Bowling alleys	5.0/lane
Condominium - hotel	1.5/dwelling unit	Churches	1.0/4 seats
Divisible unit	+ .5/dwelling unit		By site plan review of the planning commission and board of trustees
Lodging, hotel, motel	1.0/guest room	Convention center facilities	
Dormitory	0.5/bed	Libraries & museums	1.0/500 square feet of gross floor area
Elementary & jr. high schools	2.0/classroom	Medical & dental clinics	1.0/400 square feet of gross floor area
High schools	1.0/4 students & faculty		1.0/3 beds plus .5 per employee of largest shift
Colleges	1.0/4 students & faculty	Hospitals	1.0/5 beds plus .5 per employee of largest shift
Retail sales, service businesses	1.0/400 square feet of commercial and offices gross floor area	Nursing homes	
Minimum	2.0/building		By site plan review of the indoor & outdoor planning commission and board of trustees
Construction, contracting	1.0/200 square feet plus one (1) bay per 5,000 square feet	Commercial recreation	
Industrial, manufacturing	1.0/400 square feet plus warehousing one (1) loading bay per 5,000 square feet		By site plan review of the terminals planning commission and board of trustees.
Automotive service station	4.0/service bay	Public transportation	
Laundromat	See Retail sales		

**Sec. 16-143. Manufactured housing.**

(a) Housing. The town declares that manufactured housing offers the citizens of the town an additional opportunity to own and live in safe and affordable housing on a permanent basis.

(b) Use regulation. A manufactured home must be on an engineered permanent foundation as more particularly described in

subsection (e)(6) of this Section in order to be permitted on private lots zoned for residential use.

(c) Eligibility. A building permit shall be granted subject to the following provision: a structure which is certified under the National Manufactured Housing Construction Standards Act of 1974, 42 U.S.C. 5401 et seq., was issued an insignia of approval by the U.S. Department of Housing and Urban Development, has not been altered in violation of applicable codes and was manufactured after June 15, 1976.

(d) Conditions. The town may subject any such manufactured home and the lot on which it is placed to any or all of the same development standards to which any residential dwelling on the same lot would be subject, including but not limited to building setback standards, side and rear yard requirements, standards for enclosures, access, vehicle parking, architectural and aesthetic requirements, excluding any roofing and siding material for additional enclosures and structures.

(e) Criteria.

(1) All manufactured homes that are allowed must have a peaked roof with minimum 3-in-12 pitch.

(2) The manufactured home shall be occupied as a residential use.

(3) The manufactured home shall be subject to all provisions of the zoning ordinance applicable to residential structures.

(4) The manufactured home shall be covered with an exterior material customarily used on other dwellings and approved by the building and zoning inspector. A compatible exterior covering material shall extend to the ground with delivery system removed.

(5) The manufactured home shall be a minimum width of thirty-six (36) feet.

(6) The manufactured home shall be on an engineered permanent foundation consisting of a concrete or concrete block stem wall foundation.

(f) Building permits. Building permits must be obtained before a manufactured home is placed on a site.

(g) Existing nonconforming mobile homes.

(1) Existing mobile homes may not be replaced unless the replacement meets all requirements of this chapter and all existing codes.

(2) Additions and improvements to existing mobile homes are permitted only if the entire mobile home is brought into compliance with all existing codes and regulations.

(h) Manufactured homes. There are three (3) types of manufactured homes:

(1) The first type is a home that is built to a federal code enforced by the Department of Housing and Urban Development (HUD). This home was formerly called a *mobile home* and is now referred to as a *manufactured home*. (see Public Law 96-399)

(2) The second type is called a *modular home* and is built to state code based on the Building Code.

(3) The third type is called a *prefab* or *panelized home* and is built to local building codes enforced by local officials.

#### **Sec. 16-144. Fences, walls and obstructions to view.**

(a) Vision clearance at corners and railroad crossing. No fence, wall, hedge or other structure or obstruction above a height of forty-two (42) inches shall be erected, placed or maintained within fifteen (15) feet of the intersection of the right-of-way lines of two (2) streets or railroads or of a street intersec-

tion with a railroad right-of-way. No type of tree, planting, sign, fence or portion thereof or any type of obstacle shall be planted, placed or retained in such a manner which would obstruct the vision clearance at corners, curb cuts or railroad crossings or cause a traffic hazard.

(b) Barbed wire and electric fence. No barbed wire or electric fence shall be allowed within the corporate limits of the town without the approval of the planning commission or unless planning commission disapproval is overruled by a two-thirds ( $\frac{2}{3}$ ) vote of the entire membership of the board of trustees.

Sec. 16-145. Location of entrance to residence.

(a) The primary entrance to all single-family and multiple-family dwellings shall be located at the front of the residence fronting the street upon which its street address is located.

(b) This section shall not apply to:

(1) Dwellings for which building permits have been issued as of the effective date of the ordinance codified herein.

(2) Lots platted as of the effective date of the ordinance codified herein that have dwellings already existing on the platted property.

(3) Lots located within the residential trailer (R-T) district.

#### **Sec. 16-146. Floodplain regulations.**

(a) Statutory authorization, findings of fact, purpose and objectives.

(1) Statutory authorization. The legislature of the state has in Section 31-15-103, C.R.S., delegated the responsibility to local government units to adopt ordinances containing regulations designed to promote the public health, safety and general welfare of its citizenry. Therefore, the board of trustees does ordain as follows:

(2) 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 of 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.

(3) Statement of purpose. It is the purpose of this section to promote the public health, safety and general welfare, to minimize public and private losses due to flood conditions and to minimize public and private losses due to flood conditions to specific areas by provisions designed:

a. To protect human life and health;

b. To minimize expenditure of public money for costly flood control projects;

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

d. To minimize prolonged business interruptions;

e. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;

f. To help maintain a stable tax

base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

g. To ensure that potential buyers are notified that property is in an area of special flood hazard; and

h. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

(4) Methods of reducing flood losses. In order to accomplish its purposes, this section includes methods and provisions for:

a. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion or in-flood heights or velocities;

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

c. Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel floodwaters;

d. Controlling, filling, grading, dredging and other development which may increase flood damage; and

e. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

(b) 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.

(1) *Base flood* means the flood having a one-percent (1%) chance of being equaled or exceeded in any given year.

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

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

a. The overflow waters; and/or

b. The unusual and rapid accumulation or runoff of surface waters from any source.

(4) *Manufactured home* means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and is attached to the required utilities. The term *manufactured home* does not include a recreational vehicle.

(5) *Structure* means a walled and roofed building or manufactured home that is principally above ground.

(6) *Substantial improvement* means any repair, 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 by the local DOE enforcement official and which are the

minimum necessary to assure safe living conditions; or

b. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(c) General provisions.

(1) Lands to which this section applies. This section shall apply to all areas of special flood hazard within the jurisdiction of the town.

(2) Compliance. No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this section and other applicable regulations.

(3) Abrogation and greater restrictions. This section is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this section and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(4) Interpretation. In the interpretation and application of this section, all provisions shall be:

a. Considered as minimum requirements;

b. Liberally construed in favor of the governing body; and

c. Deemed neither to limit nor repeal any other powers granted under state statutes.

(5) Warning and disclaimer of liability. The degree of flood protection required by this section 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

section 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 section 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 section or any administrative decision lawfully made thereunder.

(d) Administration.

(1) Establishment of development permit.

a. A development permit shall be obtained before construction or development begins within the town.

b. Application for a development permit shall be made on forms furnished by the town administrator and may include, but 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:

i. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;

ii. Elevation in relation to mean sea level to which any structure has been floodproofed;

iii. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria contained in this section; and

iv. Description of the extent to which any watercourse will be altered or relocated as a result of

proposed development.

(2) Designation of the town administrator. The town administrator is hereby appointed to administer and implement this section by granting or denying development permit applications in accordance with its provisions.

(3) Duties and responsibilities of the town administrator. Duties of the town administrator shall include, but not be limited to:

a. Permit review.

i. Review all development permits to determine that the permit requirements of this section have been satisfied.

ii. 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.

iii. Review all development permits to determine if the proposed development adversely affects the flood carrying capacity of the flood-prone area. For the purposes of this section, *adversely affects* means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and adjacent overbank areas.

a) If it is determined that there is no adverse effect and the development is not a building, then the permit shall be granted without further consideration.

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

c) If the proposed development is a building, then the provisions of this section shall apply.

(e) Provisions for flood hazard reduction.

(1) General standards. If a proposed building site is located in a flood-prone area, all new construction and substantial improvements (including the placement of manufactured homes) shall conform to the following standards:

a. Anchoring.

i. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure and be capable of resisting the hydrostatic and hydrodynamic loads.

b. Construction materials and methods.

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

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

iii. 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.

c. Utilities.

i. All new and replacement water supply systems shall be

designed to minimize or eliminate infiltration of floodwaters into the system;

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

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

d. Subdivision proposals.

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

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

iii. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

**Sec. 16-147. Dumpsters prohibited; limitations; screening required; exceptions.**

(a) No Dumpster shall be placed, kept or used for single-family residential uses and two-family dwellings as set forth in this section, except under the circumstances described in subsections (c) and (d) below, and except during the initial construction of a residential dwelling or the construction of additions or improvements to an existing residential dwelling, provided that a valid building permit has been issued for such construction and that the Dumpster shall be removed from the site not more than thirty (30) days after the issuance of a certificate of occupancy for such dwelling, addition or improvement:

(1) No Dumpster shall be placed, kept or used in any R-1 district;

(2) No Dumpster shall be placed, kept or used in any single-family residential use or two-family dwelling located in any R-2 district;

(3) No Dumpster shall be placed, kept or used in any single-family residential use or two-family dwelling located in any zone district, excepting any agriculturally zoned district; and

(4) Dumpsters shall be allowed for multiple-family dwellings and in mobile home parks; provided, however, no more than one (1) Dumpster for every four (4) units in any such multiple-family dwelling or mobile home park shall be allowed.

(b) In all zone districts where Dumpsters are permitted, said Dumpsters shall be subject to the following limitations:

(1) Such Dumpsters shall be located on private property and shall not be placed in the public right-of-way;

(2) Such Dumpsters shall have an attached lid which covers the top of said Dumpster in its entirety; and

(3) It shall specifically be unlawful to have debris or other material overflowing from a Dumpster in such a manner so as to cause a *public nuisance* as defined by subsection 7-21 (8) of this code.

(c) A Dumpster shall be permitted for any single-family or two-family dwelling in any zone district only while persons are actively moving into or out of such dwelling and for a time period not exceeding one (1) month per year.

(d) A Dumpster shall also be permitted for any commercial or other nonresidential use existing as of the date of the adoption of the ordinance codified herein in a residentially zoned district, but such commercial or other nonresidential uses that allow for the use of a

Dumpster shall not include any permitted home occupations.

**Sec. 16-148. Access to Public Streets; Permit Required; Exceptions**

(a) An access permit shall be required from the town for construction, expansion or alteration of any driveway or other point of access onto a public street.

(b) All requests for access permits shall be submitted on forms provided by the town and shall be accompanied by the following:

(1) A dimensioned drawing or drawings, showing: the dimensions of the proposed access; distances from lot lines, other accesses and intersecting streets; dimensions and location of any obstructions that might impede viewing of oncoming traffic; and detailed construction plans.

(2) A drawing of proposed culverts or other drainage facilities.

(3) A description of the existing and/or proposed land uses that will use the proposed access.

(4) If required, a traffic study prepared by a qualified engineer describing existing conditions on the street being accessed, the impacts of the proposed access, and traffic facilities that should be required to mitigate the anticipated impacts.

(5) Other information as might be required by the town to ensure installation of a safe and properly designed access.

(6) An application fee in the amount of fifteen dollars (\$15.00), plus a deposit, if required, sufficient to reimburse the town for a technical review of the application, pursuant to Section 16-8 of this Chapter.

(c) Accesses to public streets shall conform to the requirements of the *Town of Hudson Standards and Specifications for the Construction of Public Improvements*, as it may be revised from time to time.

(d) Exceptions. Accesses to public streets that are depicted on site plans or other land use approvals for which access has specifically been approved pursuant to this Chapter 16.

**Secs. 16-149—16-150. Reserved.**

**Article 10**

**COMMERCIAL MOBILE RADIO SERVICE FACILITIES**

**Sec. 16-151. Purpose.**

The purposes of this article are: to allow the location of commercial mobile radio service facilities ("CMRS facilities") in the town subject to certain standards; to act on applications for the location of CMRS facilities within a reasonable period of time; to encourage co-location of CMRS facilities; and to prevent unreasonable discrimination among providers of functionally equivalent services.

**Sec. 16-152. Definitions.**

(a) *Accessory equipment for a CMRS facility* means equipment, including buildings and structures, used to protect and enable radio switching equipment, backup power and other devices incidental to a CMRS facility, but not including antennae.

(b) *Building roof-mounted CMRS facility* means a CMRS facility that is mounted and supported entirely on the roof of a legally existing building or structure.

(c) *Building wall-mounted CMRS facility* means a CMRS facility that is mounted and supported entirely on the wall of a legally existing building or structure.

(d) *Commercial mobile radio service facility* or *CMRS facility* means an unmanned facility consisting of antennae and accessory equipment, and used for the reception,

switching, transmission or receiving of wireless telecommunications operating at one thousand (1000) watts or less effective radiated power, and using frequencies authorized by the Federal Communications Commission (FCC), including, but not limited to, paging, enhanced specialized mobile radio, personal communication systems, cellular telephone, point-to-point microwave signals and similar technologies.

(e) *Equipment storage shelter* means buildings, storage shelters and cabinets used to house CMRS facility equipment.

(f) *Freestanding CMRS facility* means a CMRS facility that consists of a stand-alone support structure, such as a tower or monopole, and antennae and accessory equipment.

(g) *Microwave antenna* means a disk-type antenna used to link communication sites together by wireless voice or data transmission.

(h) *Pole-mounted CMRS facility* means a CMRS facility that is mounted and supported entirely on a legally existing traffic signal, utility pole, street light, flagpole, CMRS facility, electric transmission line or other similar structure.

(i) *Stealth CMRS facility* means a CMRS facility with an alternative design which camouflages or conceals the presence of antennae or towers, such as, but not limited to, artificial trees, clock and bell towers and steeples.

(j) *Whip antenna* means an array of antennae that is cylindrical in shape.

**Sec. 16-153. Standards for all CMRS facilities.**

(a) *Applicability.* The standards contained in this article apply to all applications for a permitted or conditional use CMRS facility. The applicant shall demonstrate in writing that its proposed CMRS facility meets all applicable standards and provisions of the code.

(b) *Co-location.* The town encourages co-location of CMRS facilities when feasible to minimize the number of CMRS facility sites. To further the goal of co-location:

(1) No CMRS facility owner or operator shall unreasonably exclude a telecommunications competitor from using the same facility or location. Upon request by the town, the owner or operator shall provide evidence explaining why co-location is not possible at a particular facility or site; and

(2) If a telecommunications competitor attempts to co-locate a CMRS facility on an existing or approved CMRS facility or location, and the parties cannot reach an agreement, the town may require a third-party technical study to be completed at the expense of either or both parties to determine the feasibility of co-location.

(c) *Compliance with FCC standards.* Upon a request by the town at any time, CMRS facility owners and operators shall verify that:

(1) The CMRS facility complies with the current FCC regulations prohibiting localized interference with reception of television and radio broadcasts; and

(2) The CMRS facility complies with the current FCC standards for cumulative field measurements of radio frequency power densities and electromagnetic fields.

(3) By adopting this section, the town is not attempting to regulate radio frequency power densities or electromagnetic fields, which regulation is controlled by the FCC.

(d) *Abandonment.* If the CMRS facility ceases operation for any reason for one hundred eighty (180) consecutive days:

(1) The owner or operator shall remove it on or before the 211th day; and

(2) Any conditional use site plan approval or permit shall expire.

**Sec. 16-154. Freestanding CMRS facilities.**

(a) Application for approval of a Use by Special Review pursuant to Section 16-157 shall be required prior to location of a freestanding CMRS facility in any zone district.

(b) Letter of credit. Each applicant who obtains approval for location of a freestanding CMRS facility shall, prior to commencing construction, post a letter of credit, in sufficient amount to cover removal of the CMRS facility if abandoned.

(c) Minimum setbacks for freestanding CMRS facilities:

(1) A freestanding CMRS facility located within two hundred fifty (250) feet of any property zoned for residential use shall be set back from each property line one (1) foot of distance for every foot of facility height; and

(2) A freestanding CMRS facility located more than two hundred fifty (250) feet from property zoned for residential use shall meet the minimum setback requirements for buildings and structures of the underlying zone district.

(d) Maximum height for freestanding CMRS facilities. A freestanding CMRS facility, including antennae, shall not exceed the maximum structure height limit in the underlying zone district unless the excess height is specifically approved by the board of trustees in the special review process. The applicant must demonstrate technical reasons why the excess height is necessary for proper function of the CMRS facility. The excess height requested shall be the minimum necessary for proper function of the facility, and in no case shall a freestanding CMRS facility exceed one hundred fifty (150) feet in height.

(e) Design standards for freestanding CMRS facilities. A freestanding CMRS fac-

ility shall meet the following design standards to minimize impacts:

(1) The facility shall be designed to be compatible with surrounding buildings and structures and existing or planned uses in the area.

(2) Existing land forms, vegetation and structures shall be used to screen the facility from view and blend in the facility with the surrounding environment.

(3) Existing vegetation shall be preserved or enhanced.

(4) The total area of any equipment storage shelters shall not exceed four hundred (400) square feet for each CMRS facility.

(5) Equipment storage shelters shall be grouped as closely together as technically possible.

(6) No equipment storage shelter shall exceed fifteen (15) feet in height.

(7) All CMRS facilities shall accommodate co-location of facilities, unless co-location is technically unfeasible.

(8) All applicable landscape regulations shall be observed.

(9) Any equipment that could be dangerous to persons or wildlife shall be adequately covered or fenced.

**Sec. 16-155. Building roof or wall-mounted CMRS facilities.**

(a) A building wall-mounted CMRS facility shall adhere to the following design standards to minimize impacts:

(1) The facility shall be screened from view and/or colored to match the building or structure to which it is attached.

(2) The mounting of antennae shall be as flush to the building wall as possible,

and in no case shall the antennae extend more than three (3) feet out from the building wall.

(3) If the roof of the building is pitched, the facility shall not extend above the roof line of the building.

(4) If the roof of the building is flat, the facility shall not extend above the highest point of the building, including already existing facilities on the roof.

(b) A building roof-mounted CMRS facility shall adhere to the following design standards to minimize impacts:

(1) A building roof-mounted CMRS facility, including antennae, shall not extend more than twelve (12) feet above the height of the building on which the facility is mounted.

(2) The facility shall be screened from view and/or colored to match the building or structure to which it is attached.

(3) Antennae, support structures, accessory equipment and all other roof-mounted appurtenances shall not exceed an aggregate total to twenty-five percent (25%) of the total surface area of the building roof.

(4) The diameter of a microwave dish antenna shall not exceed four (4) feet.

(c) Accessory equipment for a building roof or wall-mounted CMRS facility shall be placed inside the building if feasible. All equipment storage shelters shall be grouped as closely as technically possible, and the total area of all accessory equipment, including storage shelters, shall not exceed four hundred (400) square feet per CMRS facility.

**Sec. 16-156. Pole-mounted CMRS facilities.**

(a) A pole-mounted CMRS facility shall adhere to the following design standards to minimize impacts:

(1) The facility shall be designed to be compatible with surrounding buildings and structures and existing or planned uses in the area;

(2) The facility shall be colored to match the pole to which it is attached;

(3) The total area of all accessory equipment, including equipment storage shelters, shall not exceed four hundred (400) square feet per facility; and

(4) Equipment storage shelters shall be screened from view by vegetation, fencing or comparable screening.

**Sec. 16-157. Application and approval procedures.**

(a) CMRS facilities shall be permitted as provided in the following table:

A = permitted use, administrative approval required

USR = approval of the Use by Special Review required

	<i>Free-standing</i>	<i>Building-mounted</i>	<i>Pole-mounted</i>
R-1, R-2, R-T, H	USR	USR*	USR*
B	USR	A	A
A-1, A-2, A-3, O, P	USR	USR*	USR*
C-1, C-2	USR	A	A
I-0, I-1, I-2, I-3	USR	A	A

\* If facility is stealth, only administrative approval required

(b) An application for approval of a proposed CMRS facility shall include the following:

(1) A written, narrative statement describing in detail how the proposed CMRS facility will comply with each of the applicable design standards set forth in this article.

(2) A site plan on twenty-four-inch by thirty-six-inch (24" x 36") sheets which includes the following:

- a. The location of all proposed and existing improvements;
- b. A north arrow;
- c. Scale (written and graphic);
- d. Scaled building elevations; and
- e. The legal description of the property.

(3) A title commitment or other proof of ownership of the property, or if the property is leased, a copy of the fully executed lease with the property owner. The lease may be edited to black out or redact portions which the applicant does not want to become a public record, except: the term of the lease; any renewal provisions; provisions relating to termination of the lease; provisions relating to modification or removal of the facility; and the signature page.

(4) Photographic simulations showing the proposed facility and the structure on which it will be attached.

(5) Preliminary structural design drawings and antenna specifications, which drawings shall include the coverage of the facility and the relationship with other existing or proposed facilities.

(6) For freestanding CMRS facilities, drawings and a site plan including the foundation design, method of attachment, location of the facility, elevation drawings and landscape drawings.

(7) For building roof- or wall-mounted CMRS facilities, structural drawings depicting the method of attachment to the building, including wind load calculations.

(8) For pole-mounted CMRS facilities, a copy of the ownership or attachment agreement.

(c) Procedure for administrative approval. Applicant shall submit a completed application to the town administrator, who shall approve or deny the request within seven (7) days of receipt.

(d) Procedure for Use by Special Review. The procedures set forth in Section 16-63 shall be followed.

(e) Criteria for approval or denial of application. In considering an application for approval of a Use by Special Review for a CMRS facility, the board of trustees shall base its decision as to the approval or denial of the application on whether the proposed CMRS facility meets the applicable design standards as outlined in this article.

(f) Application denial. A final decision by the town to deny an application under this article shall be in writing and supported by substantial evidence contained in a written record.

(g) Approval. Conditions of approval. The planning staff may recommend, and the board of trustees may require, as a condition of approval of any approval of a CMRS facility: any reasonable conditions necessary to improve or modify the site plan; any reasonable conditions necessary to ensure that any negative impacts of the proposed use are eliminated or mitigated; and any reasonable conditions necessary to ensure that the proposed development and use will be commenced and fully completed in a timely fashion.

(h) Change in ownership. In the event there is a change in either the owner or operator of a special use permit for a CMRS facility, the issuance of a new special use permit shall not be required. The new owner or operator shall notify the town of the change in identity of the owner or operator within fifteen (15) days after the date the change becomes effective; shall register such change with the

zoning administrator by providing the name and business address of the new owner or operator and by verifying in writing that the new owner or operator has fully reviewed the special use permit and is familiar with its terms; shall cause the letter of credit to be transferred, if applicable; and shall pay to the town an inspection fee to be determined by resolution of the board of trustees. Upon receipt of notification of a change in the owner or operator of a special use CMRS facility, the zoning administrator shall inspect the property to make certain that the new owner or operator is complying with all of the terms and conditions of the special use permit.

**Sec. 16-158—16-169. Reserved.**

## Article 11

### OIL AND GAS OPERATIONS

#### Sec. 16-170. Purpose.

These regulations are enacted to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the present and future residents of the town. It is the town's intent by enacting these regulations to facilitate the development of oil and gas resources within the town, while mitigating potential land use conflicts between such development and existing, as well as planned, land uses. It is recognized that, under Colorado law, the surface and mineral estates are separate and distinct interests in land and that one may be severed from the other. Owners of subsurface mineral interests have certain legal rights and privileges, including the right to use that part of the surface estate reasonably required to extract and develop their subsurface mineral interests, subject to compliance with the provisions of these regulations and any applicable statutory and regulatory requirements. The state has a recognized interest in fostering the efficient development, production and utilization of oil and gas resources, and in the prevention of waste and protection of the correlative rights of common source owners and producers to a fair and equitable share of production profits. Similarly, owners of the surface estate have certain legal rights and privileges, including the right to have the mineral estate developed in a reasonable manner; and municipal governments have a recognized, traditional authority and responsibility to regulate land use within their jurisdiction. These regulations are intended as an exercise of this land use authority.

#### Sec. 16-171. Definitions.

(a) All terms used in this article that are defined in the Act or in Commission regulations and are not otherwise defined in this section are defined as provided in the Act or in such regulations as of the effective date of this article. All other words used in this article are given their usual, customary and accepted

meaning and all words of a technical nature, or peculiar to the oil and gas industry, shall be given that meaning which is generally accepted in said oil and gas industry. When not clearly otherwise indicated by the context, the following words and phrases used in this article have the following meanings:

*Act* means the Oil and Gas Conservation Act of the State.

*Day* means a period of twenty-four (24) consecutive hours.

*Director* means the director of the Oil and Gas Conservation Commission of the state.

*Injection well* means any hole drilled into the earth into which fluids are injected for the purposes of secondary recovery, storage or disposal, pursuant to authorizations granted by the Commission.

*Inspector* means any person designated by the town or by the town's designee, who shall have the authority to inspect well sites to determine compliance with this article and other applicable ordinances of the town.

*OGCC* means the Oil and Gas Conservation Commission of the state.

*Oil and gas well* means any hole drilled into the earth for the purpose of exploring for or extracting oil, gas or other hydrocarbon substances.

*Operating plan* means a general description of a well site or a production site identifying purpose, use, typical staffing, seasonal or periodic considerations, routine hours of operating, source of services/infrastructure, and any other information related to regular functioning of that facility.

*Operator* means the person designated by the working interest owners as operator and named in Commission Form 2 or a subsequently file Commission Form 10.

*Owner* means any person with a working interest ownership in oil and gas or a leasehold interest therein.

*Production site* means the area surrounding proposed or existing production pits or other accessory equipment required for oil and gas production, at which may also be located tanks and tank batteries, exclusive of transmission and gathering pipelines.

*Reentering* means accessing an existing well bore for either the original or amended purpose, provided that such well has not been abandoned.

*Sidetracking* means entering the same wellhead from the surface, but not necessarily following the same well bore, throughout its subsurface to the extent when operations deviation from such well bore is necessary to reach the objective depth because of an engineering problem.

*Twinning* means the drilling of a well within a radius of fifty (50) feet from an existing well bore when the well cannot be drilled to the objective depth or produced because of an engineering problem, such as a collapsed casing or formation damage.

*Use tax* means the tax paid by a consumer for using, storing, distribution or otherwise consuming tangible personal property or taxable services inside the town.

*Well* means an oil and gas well or an injection well.

*Wellhead* means the equipment attaching the surface equipment to the well bore equipment at the well.

*Well site* means that area surrounding a proposed or existing well or wells and accessory structures and equipment necessary for drilling, completion, recompletion, workover, development and production activities.

(b) All terms used herein that are defined in the Act or in Commission rules and regulations and are not otherwise defined in subsection (a) above shall be defined as provided in the Act or in such rules and regulations.

### **Sec. 16-172. Requirements and procedures.**

(a) Proposed new wells, redrilling certain wells and other specific enhancements.

(1) It shall be unlawful for any person to drill a well that has not been previously permitted under this article, reactivate a plugged or abandoned well or perform initial installation of accessory equipment or pumping systems (in cases where a well is not being drilled) unless a Use by Special Review has first been granted by the town in accordance with the procedures defined in this article and in section 16-63 of this chapter.

(2) The granting of such Use by Special Review shall not relieve the operator from otherwise complying with all applicable regulatory requirements of the town, the state and the United States.

(3) When a Use by Special Review has been granted for a well, reentry of such well for purposes of sidetracking, twinning, deepening, recompleting or reworking shall not require a separate Use by Special Review. The Use by Special Review is limited to the current proposed facilities as shown in the approved plan. To the extent the applicant desires, after initial completion of a well, to place additional equipment on a tank battery or wellhead location which was not shown in the approved plan, the applicant must, except in a situation where additional equipment is necessary for a period of fourteen (14) days or less, notify the town of installation of such additional equipment.

(4) Within thirty (30) days after completion of operations, the applicant shall provide to the town "as-built" drawings showing all facilities, pipelines, flow lines

and gathering lines which the applicant has placed on the land subject to this permit.

(b) Inspections. In recognition of the potential impacts associated with oil and gas drilling and well operation in an urban setting, all wells and accessory equipment and structures may be inspected by town inspectors at reasonable times to determine compliance with applicable provisions of this article, the *Fire Code* and the *Building Code* as adopted by the town and all other applicable town health or safety standards. For the purpose of implementing and enforcing the provisions of this article, town personnel have the right to enter upon private property after reasonable notification to the operator, which provides the operator an opportunity to be present.

(c) Inspection fee.

(1) The inspection fee shall be four hundred dollars (\$400.00) per well for each year or part of a year during which such well has not been plugged and abandoned. No inspection fee shall be due for any year following the year in which a well is plugged and abandoned, unless a Use by Special Review is granted with respect to such well. No inspection fee shall be due for any calendar year in which the fee for an application for Use by Special Review, as provided in subsection (e) below, is paid. Any inspection fee which becomes due and payable after January 1 of each year shall be paid by the operator within thirty (30) days after receipt of an invoice from the town. An operator contesting the amount of the invoice may, upon payment of the invoice under protest, appeal directly to the board of trustees.

(2) If the operator fails to pay the inspection fee imposed by this section when due, a penalty of ten percent (10%) shall be added to the amount of the fee due, together with interest on the amount due at the rate of one percent (1%) for each month or portion thereof for which the fee is unpaid. The town clerk may, in his or her

sole discretion, waive the penalty for good cause shown.

(3) The town may recover in an action at law the amount of the inspection or other fees and costs imposed by the provisions of this section and penalty and interest due and unpaid under this section, as well as all costs, including attorney fees, incurred by the town if it prevails in the enforcement of this article.

(d) Use tax. All operators must conform to applicable provisions of this code relating to taxation.

(e) Application deposits. A nonrefundable deposit of one thousand dollars (\$1,000.00) shall accompany the application.

#### **Sec. 16-173. Application elements.**

(a) An application for a Use by Special Review pursuant to this article shall be filed with the town clerk and shall include the following information:

(1) Application requirements — site plan. The site plans for a well site submitted with an application for a Use by Special Review shall be submitted on one (1) or more plats or maps, at a scale of not less than one (1) inch to fifty (50) feet, showing the following information:

a. The proposed location of production site facilities or well site facilities associated with the well in the event production is established, if applicable. Future development of the resource shall be considered in the location of the tank battery. Existing tank batteries and transmission and gathering lines within six hundred sixty (660) feet of the well site shall be shown.

b. The location of layout including, without limitation, the position of the drilling equipment and related facilities and structures, if applicable.

c. True north arrow.

d. Existing improvements, if any, within a radius of six hundred sixty (660) feet of the proposed well.

e. Existing utility easements and other rights-of-way of record, if any, within a radius of six hundred sixty (660) feet of the proposed well.

f. Existing irrigation or drainage ditches within four hundred (400) feet of the well site or production site, if any.

g. The applicant's drainage and erosion control plans for the well site or production site and the area immediately adjacent to such site, if applicable.

h. Location of access roads.

i. Well site or production site and existing lease boundaries.

j. The names of abutting subdivisions or the names of owners of abutting, unplatted property within four hundred (400) feet of the well site or production site.

k. The name and address of the operator and the name of the person preparing the site plan or map.

(2) Application requirements—vicinity maps. The vicinity maps for a well site or production site submitted with an application for a Use by Special Review shall be submitted on one (1) or more plats or maps showing the following information:

a. Location of all existing waterbodies and watercourses, including direction of water flow. This information shall be submitted on USGS 7.5 minute series or assessor base maps which indicate topographic detail and show all existing waterbodies and watercourses with a physically defined channel within a four-hundred-foot radius of the proposed well.

b. Location of existing oil and gas wells as reflected in OGCC records. This information shall be submitted on a map and shall include any and all wells within a one-thousand-foot radius of the proposed location for the well.

c. Location of drill site. The information to be submitted shall be Commission Form 2 and shall include the parcel tax identification number.

(3) Application requirements — narrative. In addition to the site plans and the vicinity maps required in paragraphs (1) and (2) above, the application shall include the following:

a. The operator's and surface owner's names and addresses, copies of any required OGCC Form 2 and designation of agent, if applicable.

b. An operating plan.

c. A list of all permits or approvals obtained or yet to be obtained from local, state or federal agencies other than OGCC.

d. An emergency response plan that is mutually acceptable to the operator and the appropriate fire district that includes a list of local telephone numbers of public and private entities and individuals to be notified in the event of an emergency, the location of the well, and provisions for access by emergency response entities.

e. A plan for weed control at the well site.

f. A fire protection plan that is mutually acceptable to the operator and the appropriate fire district that includes planned actions for possible emergency events and any other pertinent information. Prior to application to the town, a proposed fire protection plan and emergency response plan shall be submitted to and reviewed by the fire district.

g. Sanitary facilities must comply with Section 602(g) of the OGCC regulations.

**Sec. 16-174. Review criteria.**

The board of trustees shall approve an application for a Use by Special Review for a well site if the application submitted by the applicant conforms to the following requirements:

(1) The site plans for a well site application comply with the requirements of paragraph 16-173(a)(1) above.

(2) The vicinity maps for a well site application comply with the requirements of paragraph 16-173(a)(2) above.

(3) The narrative for a well site application complies with the requirements of paragraph 16-173(a)(3) above.

(4) When applicable, compliance with the provisions for geologic hazards, floodplains or floodway required in section 16-179 of this article.

(5) When applicable, compliance with the provisions for wildlife mitigation procedures required in Section 16-181 of this article.

(6) The board of trustees' decision shall be based upon evidence presented in the application and at a public hearing. Following the conclusion of the public hearing, the board of trustees may proceed to render its provisional decision orally on the application, or it may take the matter under advisement until an announced date certain not to exceed fourteen (14) days, at which time it shall orally render its decision. In the event that an application is granted with conditions the applicant may, within fourteen (14) days of the board of trustee's decision, request a rehearing to demonstrate that removal or modification of one (1) or more of the conditions, is necessary to prevent waste or protect owners of correlative rights in a common

source to a fair share of production profits or that the decision is otherwise inconsistent with state laws and regulations. Following the board of trustees' oral announcement of its decision and any subsequent rehearing, a written resolution shall be adopted as its final action or decision on the application. This written resolution shall set forth findings of the board of trustees. The town attorney shall prepare the written resolution for the board of trustees' consideration within fourteen (14) days of the oral decision, or any subsequent rehearing. Such written resolution shall be adopted within twenty-one (21) days of the announcement of the board of trustees' oral decision, unless the applicant requests rehearing, in which case the written resolution shall be adopted within thirty (30) days of the oral decision. For the purposes of judicial review, the board of trustees' final action or decision on an application shall be deemed to have been made as of the date upon which the board of trustees executes the written resolution, which shall constitute the final decision of the board of trustees.

**Sec. 16-175. Notice to proceed.**

Prior to commencement of operations for which a Use by Special Review has been approved, a "Notice to Proceed" shall be obtained from the town clerk. The town clerk shall issue the Notice to Proceed upon receipt of the following:

(1) A copy of the resolution approving a Use by Special Review for a well or wells.

(2) A copy of the approved site plan.

(3) A copy of an approved extra legal vehicle or load permit issued by the town clerk pursuant to this code, if applicable.

(4) Copies of any necessary state or federal permits issued for the operation, if not previously submitted.

**Sec. 16-176. Building permit.**

Building permits must be obtained for all aboveground structures to which the Building Code applies. (Ord. 04-11 Sec. 1, 2004)

**Sec. 16-177. Development setbacks from wells and facilities.**

(a) When wells are existing, buildings shall not be constructed within the following distances:

(1) Buildings not necessary to the operation of the well shall not be constructed within two hundred (200) feet of any such well.

(2) Any building to be used as a place of assembly, institution or school shall not be constructed within three hundred fifty (350) feet of any well.

(b) When wells are existing, lots and roads shall not be platted within the following distances:

(1) Lots shall not be platted within one hundred fifty (150) feet of an existing oil or gas well or its production facilities.

(2) Lots intended to be used as a place of assembly, institution or school shall not be platted to allow a building site within three hundred fifty (350) feet of an existing oil or gas well or its production facilities.

(3) Streets shall not be platted within seventy-five (75) feet of an existing oil or gas well or its production facilities; provided however, that streets may cross collection flowlines at right angles.

(4) Lots and streets may be platted over well and production sites that have been abandoned and reclaimed in accordance with the Act and OGCC rules and regulations. Such platting shall only occur after the completion of the abandonment and reclamation process.

**Sec. 16-178. Compliance with state environmental requirements.**

The approval of an oil and gas Use by Special Review shall not relieve the operators from complying with all current applicable state and federal regulations and standards concerning air quality, water quality and waste disposal. (Ord. 04-11 Sec. 1, 2004)

**Sec. 16-179. Geologic hazard, floodplain, floodway location restrictions.**

All equipment at well sites and production sites in geological hazard and floodplain areas shall be anchored to the extent necessary to resist flotation, collapse, lateral movement or subsidence and to the extent necessary to comply with the Federal Emergency Management Act.

**Sec. 16-180. Access roads.**

All private roads used to maintain access to the tank batteries or the well site shall be improved and maintained according to the following standards:

(1) Tank battery access roads. Access roads to tank batteries shall be subject to review by the town's engineer in accordance with the following minimum standards:

a. A graded gravel roadway having a prepared subgrade and an aggregate base course surface a minimum of six (6) inches thick compacted to a minimum density of ninety-five percent (95%) of the maximum density determined in accordance with generally accepted engineering sampling and testing procedures. The aggregate material, at a minimum, shall meet the requirements for Class 3, Aggregate Base Course as specified for aggregate base course materials in the Colorado Department of Transportation's "*Standard Specifications for Road and Bridge Construction*," latest edition.

b. Graded so as to provide drainage

from the roadway surface and constructed to allow for cross-drainage of waterways (such as roadside swales, gulches, rivers, creeks and the like) by means of an adequate culvert pipe. Adequacy of the pipe is subject to approval of the town engineer.

c. Maintained so as to provide a passable roadway free of ruts at all times.

(2) Wellhead access roads. Access roads to wellheads shall be subject to review by the town engineer in accordance with the following minimum standards:

a. A graded, dirt roadway compacted to a minimum density of ninety-five percent (95%) of the maximum density determined in accordance with generally accepted engineering sampling and testing procedures and approved by the town engineer.

b. Graded so as to provide drainage from the roadway surface and constructed to allow for cross-drainage of waterways by means of an adequate culvert pipe. Adequacy of the pipe shall be subject to approval by the town engineer.

c. Maintained so as to provide a passable roadway generally free of ruts.

(3) Public access roads. An extra-legal vehicle or load permit shall be required for all extra-legal vehicles or loads as defined in Sections 42-4-401 through 42-4-411, C.R.S., which use town streets. Said permit, if required, shall be obtained from the town clerk prior to such use. The applicant shall comply with all town and state regulations regarding weight limitations on streets within the town, and the applicant shall minimize extra-legal truck traffic on streets within the town.

#### **Sec. 16-181. Wildlife impact mitigation.**

(a) Wildlife. When a well site or production site is located within a designated moderate (blue) or high impact zone (red) on the 1987 Cumulative Impact Maps prepared by the Colorado Division of Wildlife, the applicant shall consult with the Colorado Division of Wildlife to obtain recommendations for appropriate site specific and cumulative impact mitigation procedures. The operator shall implement such mitigation procedures as are recommended by the Colorado Division of Wildlife after consultation with the town.

(b) Endangered species. The applicant shall not engage in activities which, in the opinion of the Colorado Division of Wildlife, threaten endangered species.

#### **Sec. 16-182. Emergency response costs.**

The operator shall reimburse the town or the fire district for any emergency response costs incurred by the town or the fire district in connection with activity at the well site or production site, except that the operator shall not be required to pay for emergency response costs where the response was precipitated by the mistake of the town.

#### **Sec. 16-183. Violation and enforcement.**

(a) Unlawful to construct or install unapproved oil and gas facilities. Except as otherwise provided in this article, it is unlawful to construct, install or cause to be constructed or installed any oil and gas facility within the town unless approval has been granted by the board of trustees. The unlawful drilling or redrilling of any well or the production therefrom is a violation of this article.

(b) Penalty. Any person, firm, corporation or legal entity that constructs, installs or uses, or which causes to be constructed, installed or used, any oil, gas or injection well, well site or production site or commits any act or omission in violation of any provision of this article or of the conditions and requirements of the oil and gas Use by Special Review may be punished by a fine of not more

than one thousand dollars (\$1,000.00) or by imprisonment for not more than one (1) year, or by both such fine and imprisonment. Each day of such unlawful operation constitutes a separate violation.

(c) Civil action. In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered or used, or any land is or is proposed to be used, in violation of any provision of this article or the conditions and requirements of the oil and gas Use by Special Review, the town attorney, in addition to the other remedies provided by law, ordinance or resolution, may institute an injunction, mandamus, abatement or other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration or use.

(d) False or inaccurate information. The board of trustees may revoke an oil and gas Use by Special Review if it is determined after an administrative hearing held on at least ten (10) days' notice to the applicant that the applicant provided information and/or documentation upon which approval was based, which the applicant, its agents, servants or employees, knew, or reasonably should have known, was materially false, misleading, deceptive or inaccurate.

(e) Prospective application. Unless specifically provided otherwise, this article shall apply only to wells which are drilled in the town on and after the date that the ordinance codified herein is adopted. The reentering of a well in existence prior to the date of adoption of said ordinance for purposes of deepening, reCompleting or reworking shall not require approval of a Use by Special Review.

(f) Recovery of fees. Should the town prevail in any action for legal or equitable relief for a violation of the provisions of this article, in addition to any other penalties or remedies which may be available, the town shall be entitled to recover any damages, costs of action, expert witness fees and reasonable attorney's fees incurred.