

TOWN OF BLUE RIVER, COLORADO

MEMORANDUM

TO: Mayor & Board of Trustees
THROUGH: Michelle Eddy, Town Manager
FROM: Bob Widner, Town Attorney
DATE: April 14, 2023

SUBJECTS: **CHAPTER 16C – Development & Improvement Applications**
CHAPTER 17 – Subdivision

The Board of Trustees (BOT) was previously provided two different versions of the DRAFT proposed Land Use Code (LUC) for Blue River:

- Multi-colored Version of Chapters 16, 16A, 16B, 16C, and 17
- Clean Version of the Land Use Code

The draft of **Chapter 16C** is appended to the end of this message for the BOT's convenience.

To assist in your review, please note the following:

You have two versions of the same draft LUC:

- A “**REDLINED**” version that contains many different colors and strikeouts. The coding for this version is as follows:
 - If the text is **BLUE**, it is either exact language from the current Blue River Municipal Code or the Architectural Guidelines or the language is very similar and revised to be clearer or more enforceable, so the concept is the same in the new code.
 - If the text is UNMARKED without color, it is new language.
 - If the text is **YELLOW**, it is merely a placeholder to remind me on final editing to ensure that the references are correct.
 - If the text is **GREEN**, it is either a question to be answered by the BOT (such as a distance or a height) OR it is a question for me to later determine if the green text is needed in the final.
- A largely “**CLEAN**” Version that might be easier to review. You will find both **YELLOW** and **GREEN** text that is merely for future drafting reference.

Review Outline for **Chapter 16C** **DEVELOPMENT & IMPROVEMENT APPLICATIONS**

The following is intended to assist the BOT in reading **Chapter 16C**.

Chapter 16C governs the **PROCESS** associated with the review and approval of requests by citizens to develop or improve property.

Very importantly, nearly all of Chapter 16C describes the current processes the Town undertakes to approve development and improvements. However, Chapter 16C presents a significant improvement in the Town's current processes because it describes in writing what the Town has been doing for many, many years in approving applications. As BOT was informed numerous times during the review of the LUC, it is a critical requirement of local government to "put in writing" the standards and processes that the government uses to judge and approve land use applications. If it is not written, the government's actions are often found to be arbitrary or capricious and subject to challenge.

Very generally, there are 3 types of applications under Chapter 16C:

- Type A (major development or improvement applications)
- Type B (more minor development or improvement applications)
- Type C (smaller site improvements or interior improvement applications)

Overriding Provisions:

For all forms of applications, the following are authorized or provided by Chapter 16C:

- Pre-application Meeting – All applicants have the opportunity to have pre-application meeting with the Town Manager and staff. This is an important opportunity for require the LDC and the appropriate application requirements.
- Administrative Meeting & Decision - All applications will require an administrative meeting and a decision by either the P&Z or the Town Manager/Staff. This meeting is not a public hearing but an opportunity (as we currently practice) to allow the decision-maker to review the application with the applicant and make a decision based upon the requirements of the LDC.

Chapter 16 C recognizes different "types" of applications (**Type A, Type B, Type C**).

Type A Applications: Type A applications are the "major" forms of development request. These applications include the construction of new residential dwelling units and garages, significant or major whole lot landscaping projects, and perimeter fence applications. These are the types of applications that could be most controversial within the community and, therefore,

require a greater degree of review and consideration by the P&Z and the Board of Trustees.

Application Requirements: Type A applications require the preparation of more significant documentation – See Section 16C-2-50 which identifies items such as site drawings, granting plans, floor plans, exterior elevation drawings, exterior materials, landscape plans, and erosion control plans.

Process: Type A applications allow for a courtesy notice to neighboring properties. The P&Z will review the application and make a final decision on whether the application meets the requirements of the LUC.

Appeal: The applicant or any other person may appeal a decision of the P&Z regarding a Type A application. The appeal is first made to the BOT. The appeal will be a full public hearing preceded by notice. Further appeal of the BOT decision will be appropriate in the Summit County District Court.

Type B Applications: Type B applications typically involve the installation physical improvements such as berms; sheds; greenhouses; driveways; decks; retaining, screening, and landscape walls; non-perimeter fences (e.g., dog runs); gazebos and pergolas; hot tubs, signs, excavation, and utilities.

Application Requirements: Type B applications require far less for an application than the Type A application. The Town Manager will assist the applicant in deciding what is needed for review. Given the nature of Type B applications, the principal application requirement will be a site plan to show location of the improvement and possibly some exterior elevation drawings.

Process: The Town Manager and Staff will review the application and make a final decision on whether the application meets the requirements of the LUC.

Appeal: Because a Type B application is an administrative process with a final decision rendered by the Town Manager/Staff, any appeal would need to proceed to the Summit County District Court, if an appeal is recognized and allowed by the Colorado Rules of Civil Procedure.

Type C Applications: Type C applications include smaller or relatively minor property improvements such as minor landscape improvement projects (less than 50% of the lot area); windows, doors, balcony and railing, roof replacement and repair; exterior lighting fixture changes; electrical, mechanical, and plumbing improvements, staining and painting; and hot water heaters.

Application Requirements: Type C applications require minimal application submission largely related to explaining the planned

improvement. The Town Manager will assist the applicant in deciding what is needed for review. Given the typical nature of Type C applications, the principal application requirement will be a site plan to show the location of the improvement and possibly some exterior elevation drawings.

Process: The Town Manager and Staff will review the application and make a final decision on whether the application meets the requirements of the LUC.

Appeal: Because a Type C application is an administrative process with a final decision rendered by the Town Manager/Staff, any appeal would need to proceed to the Summit County District Court, if an appeal is recognized and allowed by the Colorado Rules of Civil Procedure.

Development or Design Variance Process

Chapter 16C authorizes the issuance of a Development or Design Variance. The variance allows an owner to receive an exemption or an exception from the standards imposed by Chapter **16B**. This variance process would include asking for an exemption or change to building materials or Buildable Area. A Development or Design Variance does not allow for an exception to the zone district requirements (setbacks or building heights).

Notice: The process for a variance requires public notice mail to the adjacent landowners within 300 feet of the lot as their addresses appear in the public records. Other forms of notice are allowed (but not required) as a courtesy (such as property posting).

Process: P&Z will conduct a public hearing on the variance application. It is the burden of the applicant to prove they satisfy the criteria for a variance. The applicant must show that they have an unreasonable hardship that necessitates the issuance of a variance. The standard is not easy to meet but it will provide a reasonable opportunity for owners who are exceptionally burdened to gain relief from some Chapter B requirements.

Appeal: The applicant or any other person recognized by the court as having standing to challenge may appeal a decision of the P&Z regarding a Development or Design Variance. The appeal will be made to the Summit County District Court.

Review Outline for
Chapter 17
SUBDIVISION

Review of Chapter 17 by the BOT is not requested at this time. The entirety of Chapter 17 is identical to that approved by the BOT several years ago. Future changes to the Subdivision Chapter may be requested but, at this time, there is no need to address any major issue.

Please contact me directly if you have any questions.

CHAPTER 16C

Development and Improvement Applications

ARTICLE I General Provisions

Sec. 16C-1-10.	Title.
Sec. 16C-1-20.	Authority.
Sec. 16C-1-30.	Background and Purpose.
Sec. 16C-1-40.	Applicability of Processes to Type of Application.
Sec. 16C-1-50.	Administrative Exemption.

ARTICLE II Improvement and Site Plan Application Approval Processes

Sec. 16C-2-10.	Applicability.
Sec. 16C-2-20.	General Provisions.
Sec. 16C-2-30.	Optional Pre-Application Review.
Sec. 16C-2-40.	Optional Pre-Application Meeting.
Sec. 16C-2-50.	Type A Application Requirements.
Sec. 16C-2-60.	Application Completeness Required.
Sec. 16C-2-70.	Type A Application Review.
Sec. 16C-2-80.	Type B and Type C Application Explanation.
Sec. 16C-2-90.	Type B and Type C Application Requirements.
Sec. 16C-2-100.	Application Completeness Required.
Sec. 16C-2-110.	Type B and Type C Application Review.
Sec. 16C-2-120.	Reserved.
Sec. 16C-2-130.	Agency Referrals Authorized.
Sec. 16C-2-140.	Development Agreements Authorized.
Sec. 16C-2-150.	Standards for Approval and Final Decisions.

ARTICLE III Appeals

Sec. 16C-3-10.	Appeal for Type A Application Decisions.
Sec. 16C-3-20.	Appeal for Type B and Type C Decisions.

ARTICLE IV Development or Design Variances.

Sec. 16C-4-10.	Development or Design Variance Authorized.
Sec. 16C-4-20.	Process for Development or Design Variance Application.
Sec. 16C-4-30.	Notice of Hearing.
Sec. 16C-4-40.	Criteria for Approval.
Sec. 16C-4-50.	Variance Effectiveness; Termination.

Sec. 16C-1-10. Title.

Chapter 16C of the Blue River Municipal Code shall be referred to as the "Town of Blue River Site Planning Processes."

Sec. 16C-1-20. Authority.

The Town of Blue River Site Planning Processes are enacted in accordance with the authority conferred by Articles 15 and 23 of Title 31, Article 20 of Title 29, and Article 67 of Title 24 of the Colorado Revised Statutes, as amended.

Sec. 16C-1-30. Background and Purpose.

- (a) Once a lot is both zoned and subdivided, the development or improvement of the lot requires Town approval of an *Improvement Application* and/or a *Site Plan* in accordance with this Chapter.
 - (1) An *Improvement Application* will provide information necessary to identify the owner or developer and to describe at a general level the proposed development or improvement.
 - (2) A *Site Plan* describes in detail the proposed development in terms of building locations, building architectural design, street and driveway layout, easement and utility locations, garage size, exterior lighting, and other requirements and standards imposed ensure that the development of the lot will not adversely impact or impair the health, safety, and welfare of the community.
- (b) Purpose. The purpose of this Chapter is to establish a process for review and approval of development or improvement of residential property within the Town. The development and design standards of Chapters 16, 16A, and 16B shall apply to the physical layout and design of all development or improvement, unless exempted by this Chapter. This Chapter is further intended to serve the following specific purposes:
 - (1) To inform a property owner of the information needed to allow the Town to review and consider a proposed development or improvement.
 - (2) To implement the provisions of Chapters 16, 16A, and 16B and the Municipal Code generally.
 - (3) To ensure that the development or improvement of property is in conformance with the Town's zoning ordinances, land development regulations, and to achieve a harmonious, convenient, workable relationship among land uses, consistent with Town development objectives.

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Sec. 16C-1-40. Applicability of Processes to Type of Application.

This Chapter, and the obligation to obtain approval of an Improvement Application and/or a Site Plan from the Town, shall apply to the following proposed development or improvement unless exempt as provided by section 16C-1-. The "application type" (or "type") for a proposed

development or improvement will determine the applicable process for approval pursuant to this Chapter.

Proposed Improvement or development	Application Type
(1) Residential Dwelling Unit: (a) New construction; (b) Any expansion, enlargement, or addition in height, footprint, or square footage of an existing structure. (c) Replacement or reconstruction of all or any portion of an existing structure	A
(2) Garage structure: (a) New construction; (b) Any expansion, enlargement, or addition in height, footprint, or square footage of an existing structure. (c) Replacement or reconstruction of all or any portion of an existing structure	A
(3) Major Landscaping: (a) Disruption, excavation, or de-vegetation/re-vegetation of approximately 50 percent (50%) or more of the existing surface area of the lot as calculated by the Town. (b) The conversion of existing naturally vegetated or unimproved area 400 square feet or greater in surface area to lawn, gravel, rock, pavers, brick, flagstone, asphalt, concrete, mulch, irrigated areas, or other similar materials not naturally existing within a natural treed mountain environment. (c) Landscaping proposal that, in the Town's opinion, will result in a significant difference between the character of existing adjacent properties or the neighborhood, e.g., the applicant proposes creation of an extensive formal garden or irrigated lawn that will be inconsistent with surrounding properties or the neighborhood's natural treed mountain environment.	A
(4) Residential Building or Structure Improvement or Modifications: (a) Window(s) new, replacement of existing (b) Door, new or replacement of existing (c) Balcony or railing, new or replacement of existing (d) Chimney and Roof Penetrations, new only	C

(5)	Roof (a) Installation of new (b) Replacement or repair of existing roof greater than 50 square feet in surface area.	C
(6)	<i>Reserved.</i>	
(7)	Berm. New installation or any modification or replacement of existing.	B
(8)	Shed or greenhouse whether or not on a foundation (a) New construction; (b) Expansion, enlargement, or addition in height, footprint, or square footage of an existing structure. (c) Replacement or reconstruction of all or any portion of an existing structure	B
(9)	Driveway. New installation or any modification or replacement of existing.	B
(10)	Parking area. New installation or any modification or replacement of existing.	B
(11)	Walkway. New installation or any modification or replacement of existing	B
(12)	Deck. New installation or any modification or replacement of existing.	B
(13)	Retaining Wall, Screening Wall, Landscape Wall. New installation or any modification or replacement of existing.	B
(14)	Fence (other than Limited Perimeter) New installation or any modification or replacement of existing.	B

(14A) Fence (Limited Perimeter) See Section 16B-7-140(f). New installation or any modification or replacement of existing.	A
(15) <i>Gazebo, Pergola, or other similar accessory improvement whether or not on a foundation</i> (a) New construction; (b) Expansion, enlargement, or addition in height, footprint, or square footage of an existing structure. (c) Replacement or reconstruction of all or any portion of an existing structure	B
(16) <i>Hot Tub or Sauna Exterior to Dwelling Unit.</i> Installation of new or replacement of existing.	B
(17) Recreational Accessory Improvement that is permanent or affixed to ground, see Section 16B-7-___; includes fire pit, outdoor fireplace, outdoor cooking facilities; chimenea, <i>playground equipment</i>.	B
(18) Sign (see Article ___ of Chapter 16B)	B
(17) Minor Landscaping: (a) New installation of one or more trees regardless of height. (b) Removal of one or more trees measuring 5 feet in height from the ground level at the base of the tree in any one calendar year. (c) The conversion of existing naturally vegetated or unimproved area less than 400 square feet in surface area to asphalt, concrete, pavers, brick, flagstone, rock, or any other form of surface treatment not commonly existing within a natural treed mountain environment.	C
(14) Excavation and/or Grading and Movement of Soil or Rock for any purpose. Greater than 10 cubic feet of material or greater than 400 square feet of surface area.	B

(18) <i>Reserved.</i>	
(18) Exterior lighting fixture. See Section 16B- - Installation of new or replacement of existing.	C
(17) Utilities Installation of new or repair or extension of existing.	B
(19) Hot Water Heater Installation of new or replacement of existing.	C
(21) Electrical, Mechanical, Plumbing Improvements (a) Installation of new (b) Replacement or repair of existing.	C
(22) Siding/Staining (a) Installation of new (b) Replacement, repair, or refinishing of existing.	C

Sec. 16C-2-50. Administrative Exemptions.

- (a) Type A Exemption. For a Type A Application, the Town Manager is authorized to administratively exempt the Applicant from submission of one or more of the application **submittal requirements** set forth in **Section 16C-2**. The Town Manager is not authorized to provide any other administrative exemption for a proposed Type A improvement or development, or an element of a Type A proposed improvement or development. In exempting an Application from a submittal requirement, the Town Manager shall find that the submittal requirement is unnecessary for the proposed improvement or development because it would not be reasonably necessary to enable the Planning and Zoning Commission to determine compliance with Chapter 16A or 16B. For example, a Landscape Plan is not necessary where no new landscaping is proposed and no removal of landscaping is proposed.
- (b) Type B and C Exemptions. The Town Manager is authorized to administratively exempt in writing any proposed improvement or development, or an element of a proposed improvement or development, that would otherwise require a Type B or Type C Application, upon a finding that the proposal is both:

- *De minimis*¹ in its scope and impact on adjacent property and/or the neighborhood as to not warrant the submission of an application and processing pursuant to Section 16C-__ - __; and
- Fully complies with all requirements of Chapter 16A and 16B of the Land Use Code.

In approving an administrative exemption, the Town Manager is authorized to impose reasonable conditions on the exemption necessary or desirable to ensure that the improvement or development meets Chapter 16A and 16B of the Code. The Manager's imposition of conditions is subject to appeal to the Board of Trustees pursuant to Section 16A-__ - __.

¹ De minimis means *lacking significance or importance; so minor as to merit disregard*.

ARTICLE II Development and Improvement Application Procedures

Sec. 16C-2-10.	Applicability.
Sec. 16C-2-20.	General Provisions.
Sec. 16C-2-30.	Optional Pre-Application Review.
Sec. 16C-2-40.	Optional Pre-Application Meeting.
Sec. 16C-2-50.	Type A Application Requirements.
Sec. 16C-2-60.	Application Completeness Required.
Sec. 16C-2-70.	Type A Application Review.
Sec. 16C-2-80.	Type B and Type C Application Requirements.
Sec. 16C-2-90.	Application Completeness Required.
Sec. 16C-2-100.	Type B and Type C Application Review.
Sec. 16C-2-110.	Reserved.
Sec. 16C-2-120.	Agency Referrals Authorized.
Sec. 16C-2-130.	Development Agreements Authorized.
Sec. 16C-2-140.	Standards for Approval and Final Decisions.

Sec. 16C-2-10. Applicability.

This Article applies to any Type A, B, or C application as described in Section 16C-1- of this Chapter.

Sec. 16C-2-20. General Provisions

- (a) It is the responsibility of the ~~owner/architect~~ *Applicant* to become familiar with all regulations and requirements applicable to improvement or development within the Town, and to secure copies of the most up-to-date versions of all applicable regulations.
- (b) All improvement or development within Town shall conform to the Land Use Code and all other applicable local, special district, county, state, and federal governing laws, codes, ordinances, regulations and restrictions.
- (c) Incomplete submittals will ~~be denied~~, will not be scheduled for processing or processed until deemed complete in accordance with this Chapter.
- (d) The processing of a Type A, B, or C Application shall be administrative in nature and no notice or hearing shall be required during the review process.

Sec. 16C-2-30. Optional Pre-Application Review.

- (a) Pre-Application Review Option by Applicant. An *Applicant* for a Type A, B, or C application may request a Pre-Application Review.

- (b) Review Strongly Suggested for Type A Applications. In order to allow the Town to properly address the necessary submittal requirements for a Type A Application, a pre-Application Review (and Pre-Application Meeting) is strongly encouraged.
- (c) Purpose. The purpose of the Pre-Application Review is intended to provide an opportunity for any Applicant who may be uncertain about the application's type or who are unfamiliar with the Town's processes to become acquainted with the process and to avoid delays in processing applications. The review will enable the Town to assess whether or not the proposal should be granted an administrative exemption (see Section 16C-1), and if an exemption is not available, to decide what application submission requirements and plans will be required to enable the Town to process the application. In addition, a Pre-Application Review will enable the Town to potentially reduce the required plans to be submitted for a proposed improvement or development.
- (b) Setting of Pre-Application Review. Prior to submission of an application pursuant to this Chapter, any person seeking a Pre-Application Review in accordance with this Chapter shall:
 - (1) Send an inquiry concerning the Improvement or development to the Town Manager at info@townofblueriver.org, or by regular U.S. Mail sent to, or hand delivery during normal business hours, to:

Town Manager
Town of Blue River
Attention: Pre-Application Inquiry
0110 Whispering Pines Circle
P.O. Box 1784
Breckenridge, CO 80424
 - (2) The inquiry shall include the following information:
 - (a) Name of the *Applicant* and a telephone number and email address to enable the Town to contact the Applicant.
 - (b) Address of the property proposed for improvement or development.
 - (c) A description, in as much detail as may be available, of the improvement or development proposed. Such description could include a sketch or general site drawing illustrating the approximate location of existing buildings, illustration of the location of the proposed improvement or development, and a narrative description of the proposed improvement or development.

Sec. 16C-2-40. Optional Pre-Application Meeting.

- (a) Pre-Application Meeting. The Town Manager may, at the Manager's discretion and based in the contents of the materials submitted for Pre-Application Review, suggest to an

Applicant that an in-person² Pre-Application meeting be held. An Applicant may also request a Pre-Application meeting.

- (b) Notice of Meeting. Should a Pre-Application meeting be mutually agreed upon by the Town and the Applicant, the Town Manager shall informally contact the Applicant regarding a date and time for the meeting. The Manager may include instructions for the applicant to provide additional documentation or information at the meeting.
- (c) Meeting Expectation. At the Pre-Application Meeting, the *applicant* should be prepared to discuss the proposed application and the proposed development with the Town Manager. The applicant shall be encouraged to present such plans, diagrams, illustrations or photographs, color and material samples, or other preliminary information, and is encouraged to have supporting consultants available, to permit the review of the proposed application in as much detail as can be provided.
- (d) Meeting Outcome. Following the Pre-Application Meeting held pursuant to this Section, the Town shall without undue delay:
 - (1) Issue a written determination to the applicant confirming the application type as a Type A, Type B, or Type C Application;
 - (2) Issue a written determination to the applicant of the required contents for a formal application pursuant to Section 16C-2-___; and
 - (3) Issue a written determination that all, a part, or a portion of the proposed improvement or development qualifies for an administrative exemption pursuant to Section 16C-2-___.

Sec. 16C-2-50. Type A Application Requirements.

This Section provides for general application content and requirements for a Type A Application. Unless otherwise granted an administrative exemption for a submittal requirement (see Section 16C-2-___), all of the following submittal requirements shall be mandatory for all Type A Applications:

- (a) Application Form. Each Type A Application shall include a completed application in the form approved by the Town;
- (b) Payment. All Town-required fees, charges, and review deposit shall accompany each Application;
- (c) Record of Ownership. *Documentation of ownership, liens and encumbrances;* (See Section 16-3-20 definition); and

² During periods of declared emergency, such meeting may be held at the Town Manager's discretion through telephone or internet-based communication platforms or applications such as GoToMeeting, Zoom, or Microsoft Teams.

(d) Site Information:

(1) Topographic Survey

A plan drawing which locates the coordinates and height data, depth, and size for the surface features of the entire lot upon which improvements or development is proposed. Shall be prepared and stamped by a Colorado licensed surveyor indicating site contours at 2 foot intervals, easements, and significant natural features such as rock outcroppings, drainages, and mature stands of trees (Scale: minimum of 1"=10')

(2) *Buildable Area Plan*

A plan drawing illustrating the property's *buildable area* as defined and described by **Section 16-B-** of the Land Use Code.

(3) Wetlands Delineation Map

A map and narrative report or map illustrating the location and extent of wetland within the property proposed for improvement or development.

(4) Site Plan

A plan drawing indicating property boundaries, *buildable area*, proposed and existing buildings and structures, driveway and grades, stream crossing structures, transformer and vault locations (if installed by owner), well location, above and below grade utilities, parking areas, snow storage areas, major site improvements, existing and proposed grading and drainage (Scale: minimum of 1"=10')

(5) Grading Plan

A plan drawing indicating proposed shaping of the surface of the lot and any adjacent areas to direct surface runoff away from structures. Grading plan should permit a full understanding of the proposed modification of the lot during improvement or development when compared to the existing conditions illustrated by the Topographic Survey. (Scale: minimum of 1"=10').

(6) Floor Plan

A plan drawing indicating the general layout of all rooms, approximate size, and total square footage of enclosed space for each floor level of all structures accessible to human entry (residence, garages, sheds). (Scale: minimum of 1/8"=1'-0")

(7) Exterior Elevations Drawings

An elevation drawing indicating in sufficient detail to indicate the architectural character of the residence all structures on the lot, including fenestration, siding, facia, stairs, entries, doorways, and exterior beams, posts, and other building elements that are visible from the exterior of the structures. and existing and proposed grades. (Scale: same as floor plan). The Exterior Elevations Drawings shall show elevations as viewed from all four compass points (North, East, South,

and West) or from four vantage points each separated by approximately ninety degrees. When Exterior Finish Samples and Boards (see 6 below) are also required or provided, the Exterior Elevation Drawings shall reference and shall correspond with the samples to enable the Town to understand where on the Elevation Plan each sample color or material is applied.

(8) Exterior Finish Samples Boards

Samples indicating type, color, and texture of all exterior materials (including roofing, siding, paints, masonry, brick, rock, trim, and other visible surfaces). Although planned exterior finish is most often illustrated by sample materials and colors affixed to display boards, applicants shall provide with the application photographic documentation illustrating the proposed materials and colors and shall bring samples and boards to any hearing. The Exterior Finish Samples and Boards requirement shall include specific references to Pantone or other universal color palate and material descriptions or cut sheets by manufacturer, product name, type, or color which will enable the Town to inspect and confirm compliance with any improvement or development approval.

(9) Specifications Details & Cut Sheets

Written specifications and/or cut sheets for the following items: exterior wall materials, windows and exterior doors, exterior trim materials, wall and roof flashing, fireplace and flue caps, and exterior lighting fixtures.

(10) Roof Plan

Indicating proposed roof pitch, overhang lengths, flue locations, roofing materials and elevations of major ridge lines and all eave lines. (Scale: same as floor plans). Roof color and materials shall also be required as part of Exterior Finish Samples and Boards.

(11) Site/Building Sections

A section drawing indicating building walls, floors and roof relative to the site, including existing and proposed grades, retaining walls and proposed site improvements such as patios, decks, driveways and other landscape features (Scale: minimum of 1/8"=1'-0")

(12) Specific Site Details – Plan and Elevation

For any specific element of the proposed improvement or development not otherwise described in another required plan, elevation, or section drawing, provide descriptions and drawings in sufficient detail to demonstrate the architectural character, design, construction technique(s), mass, and view of the improvement or development. For example, where a retaining wall is proposed, a Specific Site Detail – Plan and Elevation submission would illustrate and describe the purpose, location, height, mass, length, footings, construction method (dry stack, mortared, veneered, slipform, tilt-up, etc.), materials, and colors of the proposed wall.

(13) Landscape Plan

A plan drawing and narrative description identifying all existing landscaping to remain and all existing landscaping to be removed, specifically identifying all trees greater than 3" in diameter to be removed; a planting plan with proposed plant materials identified by common and botanical names and size and with plant installation specifications and instructions; type and location of irrigation system; the location and size of all other proposed landscape materials such as retaining walls, patios and decks, walkways, walls and fences, and specifications for seeded areas including seed mix, mulch and fertilizer type, and application method and schedule. The area of land covered by spray irrigation shall be calculated and listed, by square foot, on the landscape plan. (Scale: 1"= 20' minimum). An application proposing landscape improvements designated as a Type A application (see Section 16C-1-) ~~These plans shall be prepared by a professional landscape architect licensed in the state of Colorado.~~

(14) Erosion Control and Revegetation Plan

A plan drawing and narrative description indicating the means and time schedule by which the prevention of soil erosion will be addressed during and after construction, revegetation of cut and fill slopes, methods of controlling surface water, siltation control devices, vehicular access points, and location of soil storage areas and stabilization measures (Scale: minimum of 1"=20')

(15) Proposed Construction Schedule and Construction Management Plan

A narrative description, illustration(s), and plan drawing(s) identifying the approximate time schedule of start-up and completion dates for construction, utility ~~hook-up~~ connection, proposed periods of road closures or right-of-way encroachments, and completion of landscaping, and anticipated occupancy date. The construction management plan shall identify a Limits of Disruption Zone which is an area within which all construction activities will be prohibited. ~~limited~~ In addition to the Limits of Disruption Zone, the plan shall indicate the location of access drives and parking, temporary structures/trailers, chemical toilet, dumpsters, material lay-down and staging areas, and construction ~~sign~~ signage. ~~In addition, the~~ The Construction Management Plan shall indicate all mitigating measures for protecting natural features of the lot during construction. This plan shall be separate from the ~~final landscape and site plans~~ Landscape Plan and Site Plan(s).

(16) Additional Information Required:

(i) A copy of any agreements, conveyances, restrictions, or private covenants that will govern the use and maintenance of the property.

(ii) *Reserved.*

Sec. 16C-2-60. Application Completeness Required.

- (a) All plans, reports, maps and other information required for any application must be complete and legible. A failure of the application to meet the requirements of this Chapter or any applicable deadline shall delay the processing of the application until the application is sufficient and complete. The Town shall not process or schedule the processing of any application which is found to be incomplete.
- (b) In the event that the Town Manager determines that the application complies with the applicable requirements, the Town Manager shall schedule the application for review.
- (c) In the event the Town Manager determines that the application is incomplete, the Town Manager shall inform the applicant in writing of the deficiencies in the application. No further processing of an incomplete application shall be undertaken until the Town Manager determines that the applicant has remedied the application's deficiencies.

Sec. 16C-2-70. Type A Application Review.

- (a) Administrative Review. Type A Applications shall be administratively reviewed by the Planning and Zoning Commission during public meeting held in conformance with the Colorado Open Meetings Law, C.R.S. § 24-6-401 *et seq.*
- (b) Notice and Hearing Not Required. No notice of the administrative review and no formal hearing shall be required. However, the Town may at its discretion provide a courtesy notice of the administrative review meeting to the general public or to property owners within the vicinity of the proposed improvement or development. Errors in a courtesy notice shall not result in invalidation of the administrative action taken.
- (c) Although no specific process for administrative review is required by this Chapter, the Planning and Zoning Commission may generally follow a process that includes in order:
 - (1) Introduction of the Application by the Town staff;
 - (2) Opportunity for comments regarding the application by the *Applicant*;
 - (3) With permission of the meeting chairperson of the Planning and Zoning Commission, other persons in attendance may provide comments to the Commission;
 - (4) Questions of the Town staff or Applicant by the Commissioners; and
 - (5) Deliberation by the Commission regarding the conformance of the proposed improvement or development with the applicable provisions of the Land Use Code.
 - (6) Decision by the Commission to:
 - (i) Approve the Application upon a finding that the proposed improvement or development will be in conformance with Section 16C- - -; or

- (ii) Approval of the Application with the imposition of conditions to ensure conformance of the proposed improvement or development with Section 16C- - - ; or
- (ii) Deny the Application due to the non-conformance the proposed improvement or development with Section 16C- - - ; or
- (iv) Continue the Application to a future meeting of the Planning and Zoning Commission for the purpose of obtaining additional information from the Town staff and/or Applicant that is necessary to fully evaluate the conformance of the proposed improvement or development with Section 16C- - - .

Section 16C-2-80. Type B and Type C Application Explanation.

- (a) Type B Applications. Type B Applications involve the installation, modification, repair, or replacement to a lot, building, structure, or improvement for which a review of the location of the work is relevant to the Town's determination that the work complies with the Land Use Code. For this reason, Type B Applications will oftentimes require the submission of a plat, plan, or other illustration showing the specific location of the work. Type B Applications may also oftentimes require a surveyor or other land professional to certify as to the precise or specific location of the work.
- (b) Type C Applications. Type C Applications involve the installation, modification, repair, or replacement an element or improvement associated with a building, or structure for which the location on the lot is not relevant or does not require review.

Sec. 16C-2-90. Type B and Type C Application Requirements.

This Section provides for general application content and requirements for Type B and Type C Applications. Unless otherwise granted an administrative exemption for a submittal requirement (see Section 16C- - -), all of the following submittal requirements shall be mandatory for all Type B and Type C Applications:

- (a) Application Form. Each Type B or Type C Application shall include a completed application in the form approved by the Town.
- (b) Payment. All Town-required fees, charges, and review deposit shall accompany each Application.
- (c) Submittal Plans. The Town Manager shall promulgate requirements for the submittal of plans necessary to evaluate and decide whether improvements or development complies with Chapter 16A and Chapter 16B. For example, the Manager may set forth different submittal requirement for applications based on the type of improvements or development proposed; a landscape plan may not be reasonable or necessary for an application for a hot tub.

Sec. 16C-2-100. Application Completeness Required.

Consistent with the requirements of Section 16C-2-, no Type B or Type C Application shall be processed unless the application is deemed complete by the Town.

Sec. 16C-2-110. Type B and Type C Application Review.

Type B and Type C Applications shall be administratively reviewed as time permits by the Town's administrative staff. As administrative staff, the Colorado Open Meetings Law, C.R.S. § 24-6-401 *et seq.*, shall not apply to such review. No notice of the administrative review and no hearing or meeting shall be required or undertaken.

Sec. 16C-2-120. Reserved.

Sec. 16C-2-130. Agency referrals authorized.

- (a) The Town Manager is authorized to refer any application to any *local agency* prior to final decision on the application. The purpose of all referrals is to define any conflict that the agencies or individuals may have with the proposal, and to allow for the possible resolution of conflicts through the processing of the application. The requirement of agency referral shall be considered as an optional and discretionary action by the Town.
- (b) Referral agencies shall be expected to make recommendations and comments within twenty-one (21) days from the date of receipt of notification that the preliminary plan is available for review unless a shorter time for response is set by the Town. The lack of response from a referral agency to a request for referral comment shall be interpreted as "no comment" concerning the proposal and shall not be deemed a finding of acceptance or "no conflict." The absence of a agency comment shall not preclude the Planning Commission or Town Board from later seeking agency comment on a specific issue raised during the review process or any hearing or appeal. Recommendations or comments made after the twenty-one-day period may, at the reviewing body's discretion, be considered in the review of the application.

Sec. 16C-2-140. Development Agreements Authorized.

Where determined by the Town Manager after consultation with the Town Attorney, development agreements shall be authorized as a condition of final approval of a Type A, Type B, or Type C application. The terms and conditions of a development agreements shall ensure satisfaction and ongoing compliance with the obligations, requirements, and standards of the Land Use Code and the Town's Municipal Code.

Sec. 16C-2-150. Standards for Approval and Final Decisions.

Following review by the Planning and Zoning Commission or the Town Manager, as applicable, an application shall be approved only upon an administrative determination that the application meets the following standards for approval:

- (a) The application is complete.

- (b) The application and submittal documents establish that the improvement or development described in the application is found to fully meet or satisfy all applicable requirements for the improvement or development set by:
 - (1) Chapter 16B and 16A; and
 - (2) Applicable building and safety codes, to the extent that the improvement of development will not be later subject to additional Town review for compliance with such building or safety codes.

ARTICLE III Appeals

CURRENT BLUE RIVER PROVISIONS:

A. Appeal Process

Appeals of Denial by the Planning And Zoning Commission Of The Town Of Blue River can be made to the Town Board of Trustees per the Towns Ordinances, Article VI, and Sec. 2-6-100.

- Sec. 16C-3-10. Appeal for Type A Application Decisions.
Sec. 16C-3-20. Appeal for Type B and Type C Application Decisions.

Sec. 16C-3-10. Appeal for Type A Application Decisions.

Final decisions of the Planning and Zoning Commission shall be subject to appeal pursuant to Section 2-6-110 of the Municipal Code.

Sec. 16C-3-20. Appeal for Type B and Type C Application Decisions.

Final decisions of the Town Manager shall be subject to appeal pursuant to applicable provisions of the Colorado Rules of Civil Procedure for administrative decisions of the Town of Blue River.

Article 4. Development or Design Variances

Sec. 16C-4-10.	Development or Design Variance Authorized.
Sec. 16C-4-20.	Process for Development or Design Variance Application.
Sec. 16C-4-30.	Notice of Hearing.
Sec. 16C-4-40.	Criteria for Approval.
Sec. 16C-4-50.	Variance Effectiveness; Termination.

Sec. 16C-4-10. Development or Design Variance Authorized.

- (a) Variance Authorized. An owner of property may request a *variance* for any standard or requirement imposed upon the *property* by Chapter 16B (e.g., to allow a berm to exceed the maximum berm height or to allow an otherwise prohibited structure to be located outside of the *buildable area*).
- (b) Variance to Requirements of Chapter 16A (Zoning) Prohibited. The application for a *variance* to any standard or provision established or imposed by Chapter 16A (Zoning) shall be prohibited by this Article and such variance shall be authorized only pursuant to the Zoning Variance provisions of Article 28 of Chapter 16A.

Sec. 16C-4-20. Process for Development or Design Variance Application.

- (a) Application. Owners seeking a variance from a provision of Chapter 16B (a “Development or Design Variance”) shall submit a completed variance application to the Town Manager together with an explanation of justification to support the request.
- (b) Manager Initial Review. The Town Manager shall review the application and supporting materials and provide a written opinion to the *owner* that the request will, or will not, be supported by the Town Manager and the reasons for the Manager’s opinion. The owner may amend or supplement the application and supporting materials within ten (10) days of the Town Manager’s opinion. Following completion of the Manager’s review, the Manager shall forward the variance application to the Planning Commission.
- (c) Planning and Zoning Committee Public Hearing. All applications for a Development or Design Variance shall require a public hearing before the Planning and Zoning Commission. The following process shall apply:
 - (1) The Town Manager shall set the date and time of a public hearing to be held by the Commission.
 - (2) Public notices of the public hearing required by this Article shall be made in conformance with Section 16C-4- .
 - (3) At the public hearing, the Commission shall review the application for conformance with this Article, Chapter 16B and 16C, the Municipal Code, state law, and the applicable review standards for the application.

- (4) Any public hearing or other action of the Commission may be continued or postponed at any time indefinitely or to a specified date and time in order to permit preparation of additional information for further review by the Commission.
- (5) The Commission shall conduct a public hearing and shall, at the conclusion of the hearing, approve, approve with conditions, deny the application, or continue the matter to a date certain.
- (6) Notwithstanding the imposition by the Commission of other express of specific condition of approval, all approvals shall be conditioned upon the payment in full of all fees and charges for the review and processing of the application. Execution and recordation of any final approved ordinance shall not be completed by the Town unless and until all fees and charges are paid in full.
- (7) The Applicant for any Development or Design Variance shall bear the burden of presenting sufficient competent evidence at the public hearing to support the standards for approval set forth by this Article. Any decision by the Commission to approve, conditionally approve, or deny an application shall be based upon a consideration of all evidence presented during the public hearing. Where evidence presented is contradictory, the Commission shall weigh such evidence and judge the credibility and sufficiency of the evidence prior to rendering a decision. A finding by the Commission that the application or evidence fails to meet one or more of the criteria for review shall require denial of the application.
- (8) The Commission may impose reasonable conditions upon any approval of a variance necessary to ensure continued conformance with Chapter 16B, the Land Use Code, the Municipal Code, or necessary to protect the health, safety and welfare of the Town and its residents.
- (9) Development or Design Variances shall be approved only by written resolution of the Commission in a form approved by the Town attorney.

Sec. 16A-28-30. Notice of Hearing.

(a) Notice Publication Requirement.

The Town shall cause a notice to public hearing to be published once in the Summit County Daily Newspaper (or other official newspaper designated for publication of the Town of Blue River) **at least fifteen (15) days** before the date of the hearing. The content of published notice shall include:

- A description of the variance proposal;
- The street address of the property subject to the variance proposal;
- The location of the land which is the subject of the hearing or meeting (e.g., lot number or parcel designation within a subdivision of record with the Summit County Clerk and Recorder's Office or location in relation to known streets and intersections);
- The date, time and location of the hearing or meeting; and

- A recital that public comment will be accepted at the public hearing and written comment will be accepted if sent to a designated electronic mail address.

(b) Notice by Mailing Requirement.

1. The Town Manager shall direct by written letter or electronic mail to the owner or the owner's representative that notice be provided by mailing. Notice by mailing shall be deemed a requirement for a variance proposal. Mailed notice shall comply with the content requirements for notice by publication.
2. Notice by mailing shall be sent by the *owner* or the *applicant* addressed to owners of property *measured*³ to be within 300 feet of the property described in the application as their names appear in the real property records of the Summit County Assessor. For purposes of determining addressees for mailed notice, the *owner* may rely upon the ownership information provided by the Summit County clerk and recorder's office.
3. A mailed notice shall be deposited in the United States Mail first class postage prepaid or shall be delivered by another comparable service, including hand-delivery to the address. The deposit in the U.S. Mail or delivery by another comparable service shall be made at least seven (7) days before the date of the hearing. Failure of the addressee to receive notice shall not be deemed sufficient cause to require a postponement, re-mailing of notice, or invalidation of the hearing.

(c) Courtesy Posting of Notice.

1. The Town Manager may direct by written letter or electronic mail to the owner or the owner's representative that the notice be provided by posting of the property. The posting of notice shall be a courtesy to the public and a supplementary means of advising the public of the pendency of an application but shall not be deemed a legal requirement for the processing of an application or the conduct of a hearing if notice by publication was properly completed.
2. Where notice by posting is directed, the Town may post such notice or may require the *owner* to post a Town prepared sign on or within the vicinity of the affected property that states that a rezoning is under review and providing for contact information for the Town Manager not less than ten (10) calendar days prior to the date set for the public hearing.

(d) Notice Certification by Applicant.

Where mailed and/or posted notice is directed by the Town Manager, not less than five (5) calendar days prior to the public hearing, the applicant shall cause to be delivered to the Town Manager a written certification that the applicant has complied with the mailing

³ See Section 16-__-__ for definition of *measured* for determining distance between properties for purpose of this Land Use Code.

and/or requirements of section 16C-4- . Failure to submit such certification may, at the Town's option, require the continuation of the public hearing.

Sec. 16C-4-40. Criteria for Approval.

- (a) The Planning and Zoning Commission may grant a zoning variance where the *owner* establishes all of the following:
- (1) The existence of extraordinary physical conditions or circumstances, such as the *property's* size, shape, location, topography, floodplain, or steep slope imposes an unreasonable hardship in the development of the property in conformance with a requirement of Chapter 16B; and
 - (2) The hardship deprives the owner of privileges associated with development enjoyed by most other *properties* within the *neighborhood*; and
 - (3) Compliance with the standard or requirement would impose an extraordinary and wholly unreasonable cost or expense upon the owner which cost or expense essentially makes the property undevelopable and unmarketable given economic conditions; and
 - (4) The need for a variance is not the result of the owner's or the owner's predecessor's decisions, actions, or inactions⁴; and
 - (5) The granting of the variance will not be materially detrimental to the public welfare or injurious to other *properties* in the *neighborhood* which are located within the Town; and
 - (6) The variance granted will be the least modification possible to the requirements of Chapter 16B necessary to permit the owner's reasonable use of the owner's *property*.

Sec. 16A-28-50. Development or Design Variance Effectiveness; Termination.

A Development or Design Variance approved by the Commission by written resolution shall remain effective indefinitely until repealed by the Commission. The Commission may, in accordance with the same general procedures for the approval of a Development or Design Variance and after five (5) or more years following the effective date of the approving resolution, repeal the resolution and terminate the Development or Design Variance upon a finding that: (1) the property no longer meets one or more of the criteria for approval of a Development or Design Variance; and (2) no development or improvements were constructed in reliance on the Development or Design Variance.

⁴ For example, a setback or height variance to allow for a larger residence is not authorized where the owner installed other improvements within the building envelope which decision significantly limited the footprint and ultimate square footage of a principal residence.