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## Article 6. Non-residential Development & Design

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### 17-6-1 Intent & Applicability

- A. **Intent.** The intent of the Non-residential Development & Design standards is to:
1. Enable a range of compatible buildings and sites that meet the intent of each zoning district.
  2. Improve the appearance and vibrancy of mixed-use, commercial, and employment centers with good civic design.
  3. Promote quality architectural and site design, and use the visual priority of buildings to shape streetscapes and open spaces.
  4. Reinforce the distinct character of different corridors, centers and districts with development patterns and building and landscape design appropriate to the context, and specifically the high intensity, moderate intensity, low intensity, and very low intensity areas of the Comprehensive Plan.
  5. Strengthen the accessibility of places by coordinating site access and internal circulation systems with multi-modal street networks.
  6. Promote lasting and sustained investment in corridors, centers, and districts with quality design.
- B. **Applicability.**
1. The standards in this Chapter shall apply to all non-residential and mixed-use development in the MU-NC, MU-DT, MU-RC, and I districts, except where stated that sections only apply to specific districts or specific situations.
  2. All new structures and development shall comply with these standards.
  3. Modification or additions to existing structures or sites shall meet these standards to the extent of the modification or addition, except that the Director may waive any design standards applied to modifications or additions that:
    - a. Conflict with the consistent design of an existing building;
    - b. Conflict with a desired and prevailing character on the block or immediate vicinity of the project; or
    - c. To otherwise facilitate infill development or adaptive reuse of an existing building.
  4. The standards shall not apply to ordinary maintenance of existing buildings or sites, except that maintenance shall not occur in a manner that brings the building or site to a greater degree of non-conformance with these standards.



17-6-2 Non-residential Development Standards

A. **Non-residential Lot and Building Standards.** The lot and building standards for non-residential uses in the following districts are specified in Table 6-1.

Table 6-1: Non-residential Lot & Building Standards								
Zoning District	Minimum Lot Standards			Minimum Setbacks [5]				Building Height (max)
	Area		Lot Coverage (max.)	Front [1]	Interior Side [2]	Corner Side	Rear [3]	
MU-NC	2K – 40K s.f.		80%	10' – 25'	5'	20'	10'	40' / 3 stories
MU-DT	2K – 30K s.f.		100%	0' – 10'	5'	10' [4]	10'	40' / 3 stories
MU-RC	2.5K s.f.		20%	25'	5'	10' [4]	10'	60' / 5 stories
I-1 & I-2	10K s.f. min.		10%	25'	10'	25'	10'	40' / 3 stories

- [1] Front setback requirements may be modified for a particular street or block, based on the frontage types and design standards in Section 17-6-3.B.
- [2] The interior side setback for buildings which share a party wall is 0'. For any side lot line that abuts a residential use or a district that has a greater side setback requirement, the greater side setback of the abutting district shall apply;
- [3] For any lot where a rear lot line abuts a residential district, a setback of at least 25' shall apply.
- [4] The side setback for corner buildings may be 0' in the MU-NC, MU-DT, or MU-RC districts, provided they meet the Frontage A standards on the lot and building for at least the first 30' from the front corner. [Section 17-6-3].
- [5] Buildings and structures shall be setback from plugged and abandoned wells at least 50 feet; and from oil and gas facilities at least 250 feet.



**B. Dimension Standards & Exceptions.** The following applies to the lot and building standards established in Table 6-1: Non-residential Lot & Building Standards.

1. **Setbacks**

- a. In no case shall any setback exception or modification violate the provisions of a recorded easement.
- b. Any structural projections over public rights of way, or any similar area designed for pedestrian circulation, shall be at least 9 feet above the grade, and in no case within 5 feet of any curb for a street, access drive, or other area for vehicles.
- c. Structural projections such as bay windows, balconies, chimneys, eaves, cornices, awnings, open fire escapes, egress wells, or other non-foundational overhangs or projections may extend up to 4 feet from the foundation and encroach into the setback, but no closer than 2 feet from any lot line. This exception shall be limited to no more than 20% of the total area of any single facade.
- d. Ground-mounted mechanical equipment, meters, and utility boxes accessory to the building may be located in the side or rear setback provided that it extends no more than 6 feet from the principal building, no closer than 3 feet to the lot line, and is screened from public right-of-way by structures or landscape. These limitations do not apply to any utility structures otherwise authorized to be located according to easements or in the right-of-way, which shall follow the location and design standards of those specific authorizations.
- e. A lot may have more than one principal building, provided any accessory, secondary, or additional principal building shall be located at least 10 feet from any other building on the same or adjacent lots, or be joined by a party wall meeting all aspects of the building code. All buildings shall cumulatively meet the lot and building requirements in Table 6-1.

2. **Height.**

- a. Architectural features such as chimneys, ornamental towers and spires, and similar accessory elements may extend up to 50% above the actual building height, provided they are integral to the specific architectural style of the building and encompass less than 15% of the building footprint.
- b. Accessory building elements integral to the design and construction of the building, such as parapet walls, false mansards, or other design elements essential to quality building appearance may extend up to 6 feet above the roof deck on a flat roof.
- c. Functional and mechanical equipment such as elevator bulkheads, cooling towers, smokestacks, roof vents, or other equipment may be built up to their necessary height in accordance with building codes, provided the features are non-reflective and screened by parapet walls, or other design elements according to Section 17-8-3, or otherwise designed in a manner consistent with and integral to the specific architectural style of the building.

**C. Accessory Buildings – Non-residential.** Accessory buildings shall be permitted in association with and on the same lot as a principal building, subject to the same standards in Table 6-1, Non-residential Lot & Building Standards, and to the following additional limitations.

- 1. Accessory buildings are not subject to the design standards in Sections 17-6-3 and 17-6-4 provided they area under 200 square feet, are setback more than 80 feet from any public right of way or public space, or otherwise not visible due to the location and



- orientation of the principal structure. All accessory buildings shall be at least 10 feet from the principal building, or other distance specified by applicable building codes.
- 2. Any portion of the building or structure over 200 square feet or over 10 feet high, and potentially visible from the street or other public areas shall use materials, colors, and details that are compatible with the principal structure, or otherwise be screened according to Section 17-8-3.
- 3. Any building other building or structure shall be treated as a second principal building and meets all lot and building design standards for a principal building.

**17-6-3 Frontage Design**

A. **Design Objectives.** Frontage design determines the relationship between private development and the streetscape and affects the character of different streets, blocks, and districts. Application of frontage types is based upon a combination of the character of the district, the streetscape design, and the relationship to adjacent lots The frontage design standards have the following design objectives:

- 1. Enhance the image of the Town by coordinating streetscape investment with private lot and building investment.
- 2. Use buildings to shape streetscapes and public spaces, and orient buildings to these spaces.
- 3. Design frontages based on the scale and context of the area, block, and street, particularly emphasizing landscape areas to buffer sites from higher-volume / higher speed streets and emphasizing social spaces and human-scale features on walkable and multi-modal streets.
- 4. Coordinate development across multiple lots with compatible frontages along block faces, considering building placement, access, parking, landscape, and open space design.
- 5. Strengthen the identity and economic value of distinct places by reinforcing consistent patterns of streetscape, frontage design, and building materials, placement, and form.

B. **Frontage Design Standards.** The frontage types and design standards may modify the front setback established in Table 6-1. Subsections following this table provide specific design strategies and techniques to meet the design objectives and standards.

<b>Table 6-2: Non-residential Frontage Design</b>				
	<i>Frontage A</i>	<i>Frontage B</i>	<i>Frontage C</i>	<i>Frontage D</i>
<i>Front Building Line (build-to range)</i>	0' – 10'	0' – 25'	25' – 80'	80' +
<i>Required Front Building Line (min. % of frontage width)</i>	75%	60%	35%	35%
<i>Parking Setback (min.)</i>	Behind rear of building	Behind front building line	25' min. See Sec.17-7-4	25' min. See Sec.17-7-4
<i>Extent of Parking Frontage (max.)</i>	0%	40%	65%	65%
<i>Landscape</i>	See Sections 17-3-2, 17-7-4, and 17-8-3			



<i>Applicability</i>	<i>MU-DT</i>	■	□	□	-
	<i>MU-NC</i>	■	■	□	□
	<i>MU-RC</i>	■	■	■	□
	<i>I-1 &amp; I-2</i>	□	□	■	■

\* Unless otherwise specified in the Johnstown Standards and Specifications manual.

■ Permitted by right.

□ Permitted subject to Alternative Compliance procedures and criteria in this Article and in Section 17-2-6.

C. **Front Building Line.** All buildings shall establish a front building line within the range specified in Table 6-2, Non-residential Frontage Design, based on the appropriate frontage type for the specific street and block. All buildings shall occupy the minimum percentage specified for required front building line with either of the following:

1. Front building facades meeting the design standards in Table 6-3, Non-residential Building Design; or
2. Open spaces meeting the requirements of Section 17-6-5, Open Space Design, provided:
  - a. It is limited to no more than 50 linear feet or 50% of the lot frontage, whichever is greater;
  - b. There are defining vertical features at the extension of the required front building line, such as decorative walls, fences, or landscape features; and
  - c. All building facades fronting the open space meet the building design standards otherwise applicable to the building frontage.
3. Corner lots shall meet the frontage requirement along the side street for at least 30' or 30% of the side street frontage, whichever is greater.

D. **Landscape.** The remainder of the frontage between the streetscape and front building line shall include landscape and open space designs.

1. For frontages with buildings built between 0 and 10 feet from the front lot line, the streetscape design standards in Section 17-3-1, Street Design and Article 8, Landscape Design may satisfy this requirement, or extensions of the streetscape and landscape elements in easements or the private frontage.
2. In all other cases the landscape design shall be according to the requirements of Chapter 7, Access & Parking and Article 8, Landscape Design.
3. On all frontage types, lot open space meeting the standards of Section 17-6-5 may be included in the frontage area.

E. **Alternative Compliance.** Alternative Compliance to the frontage design standards in this Section may be authorized according to the process and criteria in Section 17-2-6, Alternative Compliance and any of the following additional applicable criteria:

1. The context presents a clear pattern of existing buildings and lots on the same block and opposite block face that are different from the requirements and are desirable to maintain.
  - a. Frontages should be similar for all lots on the same block face or gradually transition to different frontage types in situations that enable multiple types.
  - b. Front building lines on adjacent lots should generally not differ by more than 10 feet, unless substantial space exists between the buildings.



- c. Blocks with pedestrian amenities, on-street parking, or designed according to the Pedestrian and Parkway / Bikeway street type standards in Section 17-3-1 are generally appropriate for the Frontage Types A and B standards.
- d. Blocks with higher traffic speeds or volumes, which lack pedestrian amenities, or lack on-street parking are generally appropriate for Frontage Types C and D standards.
- 2. Parking and access that serves a greater area beyond the site and block may deviate from these standards, provided it does not negatively impact development on adjacent lots and it is designed to minimize impacts on streetscapes.
- 3. Civic uses or landmark buildings may deviate from frontage designs provided they are in a location that serves as a focal point for the surrounding area, and the exception is used for improved social space or aesthetic features on the frontage.
- 4. In all cases where a non-building frontage area is permitted with alternative compliance, a strong development edge shall be created along the required frontage by a combination of an ornamental wall or fence that compliments the building design and additional landscape elements that create defined vertical elements.

### 17-6-4 Building Design

- A. **Design Objectives.** Building design refines the scale and form of buildings beyond the basic setback, height, and lot coverage standards and improves the relationship of buildings to public and active spaces. The building design standards of this Section have the following design objectives:
  - 1. Refine the scale, massing, and design details of buildings to a greater degree of interest and aesthetics the closer they are to the streetscapes and other publicly used spaces.
  - 2. Relate buildings to adjacent development by mimicking similar scale, massing, and proportions through step-backs and secondary masses that break up larger masses.
  - 3. Locate doors and windows in a way that activates space, creates connections to important exterior spaces, and promotes economic activity at the interface of buildings and public spaces.
  - 4. Use materials and human-scale architectural features to create depth, texture, variation, and visual interest, particularly on larger facades, along streetscapes, or near active open spaces or adjacent lots.
  - 5. Emphasize the quality and longevity of investments with materials and colors that are attractive, durable, and have low maintenance requirements.
  - 6. Concentrate architectural and design features on facades that are public-facing.
- B. **Building Design Standards.** The building design standards in Table 6-3 are based on the placement of the building and proximity to the streetscape. Subsections following the table provide specific design strategies and techniques to meet the design objectives and standards.

Table 6-3: Non-residential Building Design			
Front building line	0' – 10'	11' – 25'	26' +
<i>Massing &amp; Modulation</i>	50' l.f. / 500 s.f.	75' l.f. / 1,000 s.f.	100' l.f. / 2,000 s.f.
<i>Entry Feature Spacing</i>	50' max.	100' max	1 per building
<i>First Story Transparency</i>	60% min.	40% min.	40% min. w/in 50' of entry



Table 6-3: Non-residential Building Design			
Front building line	0' – 10'	11' – 25'	26' +
Upper Story Transparency	15% min.	15% min.	15% min. n/a for industrial buildings
Materials	See Section 17-6-4.F / Table 6-4		

- C. **Massing & Modulation.** Wall planes that exceed the linear feet or square footage limits in Table 6-3, Non-residential Building Design shall be interrupted by one or a combination of the following techniques:
1. Emphasize structural bays and vertical breaks of the building exterior at regular intervals, with visible features such as columns, pillars, pilasters, or other details and accents along at least 25% of any public facing façade, and project at least 2 feet from the primary plane of the facade.
  2. Define horizontal elements with projections at least 4 feet from the wall associated with entrance features or differentiating stories, such as balconies, awnings, cantilevers, or similar horizontal elements.
  3. Break the volume of the building into distinct components with:
    - a. Step-backs of upper stories of at least 8 feet;
    - b. Recesses of the building footprint greater than 4 feet; or
    - c. Deviations shall encompass at least 20% wall planes of the entire public-facing elevation.
  4. Horizontal differentiation of a base, body and top of buildings with materials and architectural details.
    - a. For buildings less than 3 stories, this can be a distinct foundation, a facade, and an articulated roof structure, such as eaves and fascia for pitched roofs, or cornices and parapets for flat roofs.
    - b. For buildings 3 stories or more, the first floor should be clearly differentiated from upper stories to establish the base and an embellished roof structure.
    - c. Any belt course or trim band establishing the break in base, body and top shall use a material or pattern distinct from the primary material, 6 to 36 inches wide, off-set from the wall plane 4 to 24 inches; or may be a lessor trim associated with a material change.
  5. Use patterns of windows and doors, meeting the transparency requirements in subsections D. or E., to create a rhythm and balance with vertical and horizontal elements on the elevation.
  6. Use ornamental architectural details, and material and color changes associated with trim or massing elements along areas where there are no windows or doors.
  7. Use varied elevation types to create distinct patterns within and between buildings in a multiple-building complex or development comprised of similar structures.
- D. **Entry Features.** Primary public entrances shall be clearly defined on all front facades with at least two of the following elements and be located at intervals specified in Table 6-3, Non-residential Building Design:
1. An architectural emphasis such as raised parapets, gables, canopies, porticos, overhangs, pediments, arches, or projections or recessions within the wall plane of at least 3 feet.
  2. Transom or sidelight windows that frame and emphasize the entry.



3. Architectural details such as tile work and moldings, columns, pilasters, or other similar material changes.
  4. Integral planters, seating, or wing walls associated with an entry court or plaza that integrates landscape and hardscape designs.
  5. For corner buildings, any entrance feature located on the street corner may count to both sides, and may be considered located at 25' from each corner for the purpose of the required primary entry feature intervals.
- E. **Transparency.** The window and door transparency requirements of Table 6-3, Non-residential Building Design shall be met with one or more of the following techniques:
1. Where expressed as a first story requirement the percentage shall be measured between 2 feet and 8 feet above the sidewalk grade, or within 10 feet above the first-floor elevation if the building is set back more than 10 feet from the street.
  2. Where expressed as an upper story requirement, the percentage shall be measured between the floor level and ceiling of each story.
  3. All first story windows required shall provide direct views to the building's interior or to a lit display area extending a minimum of 3 feet behind the window.
  4. For industrial and civic buildings setback more than 25 feet from the street, clerestory windows may meet the first or upper story window requirements.
- F. **Materials.** Use exterior building materials with a texture and pattern that creates visual interest and signifies quality construction and detailing.
1. The predominant surfaces on building walls shall be one of the primary materials listed in Table 6-4, Non-residential Building Materials.
  2. No more than 4 materials should be used, including the use of secondary and accent materials.
  3. Material changes shall emphasize different elements of the building, in association with the massing and modulation standards in subsection C.
    - a. Where material changes are vertical with different materials stacked one above another, the transition between materials should include a belt course, trim band, sill, cap, frame, roof (if at ceiling height), or similar element to separate the two materials. Heavier and larger materials should be below lighter or smaller materials.
    - b. Where material changes are horizontal with different materials side-by-side, the transition between materials should occur at interior corners or at the trim line, architectural column or pilaster where the change is emphasizing different structural or massing components for a building.
  4. Material colors shall be low reflectance, subtle, classical, neutral or earth tone colors. Primary, secondary, and accent materials shall establish distinct but compatible color palettes. The use of high-intensity colors, metallic colors, black or fluorescent colors is limited to accent areas.
  5. For industrial-style buildings in the I-1 and I-2 districts, only the street-facing facades must meet these requirements.





**Table 6-4: Non-residential Building Materials**

<i>Primary Materials</i> (40% to 80%)	<i>Secondary Materials</i> (15% to 40%)	<i>Accent Materials</i> (5% to 20%)
<ul style="list-style-type: none"> <li>▪ Brick</li> <li>▪ Stone</li> <li>▪ Slate</li> <li>▪ Stucco</li> <li>▪ Exterior Insulation and Finish System (Water-managed EIFS only)</li> <li>▪ Fluted or split-faced block.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Any of the primary materials</li> <li>▪ Wood siding</li> <li>▪ Architectural tiles</li> <li>▪ Concrete Masonry Units (CMU - colored and textured only)</li> <li>▪ Tilt-up concrete panels with brick or stone facing.</li> <li>▪ Architectural metals (prefinished non-corrugated)</li> <li>▪ Transparent or tinted glass</li> <li>▪ Corrugated metal</li> </ul>	<ul style="list-style-type: none"> <li>▪ Any of the primary or secondary materials</li> <li>▪ Precast stone</li> <li>▪ Wood trim or simulated wood</li> <li>▪ Translucent glass (not on first story)</li> <li>▪ Canvas or similar durable cloth (awnings only)</li> </ul>

\* Prohibited materials include: Vinyl siding, concrete block or tilt-up (smooth-faced), barrier-type EIFS, and reflective metal or glass.

G. **Alternative Compliance.** Alternative Compliance to the building design standards in this Section may be authorized according to the process and criteria in Section 17-2-6, Alternative Compliance, and any of the following additional applicable criteria:

1. The requirement is not consistent with the specific architectural style selected for the building based on reputable industry resources documenting the style.
2. The requirement would make the building less compatible with designs or characteristics of other buildings or sites adjacent to the project or that are prevalent throughout the area, and that are desirable to reinforce.
3. The requirement is inconsistent with the principal function of the building when applied to industrial buildings in the I-1 and I-2 districts.
4. Deviations from material standards and any simulated products demonstrate a proven performance in terms of maintenance and quality appearance. Manufacturer specifications and/or precedents for application may be required demonstrate that it will perform equally or better than the allowed material.

### 17-6-5 Open Space Design

A. **Design Objectives.** The design of open space can reinforce the character of unique districts and distinct places. Design of open space on a lot integrates the unbuilt areas of the site with the public realm design and can mitigate undesirable development impacts. The required lot open space, resulting from the remainder of the maximum lot coverage in Table 6-1, and any other open and unbuilt spaces or uncovered surfaces, shall be designed and located to meet the following design objectives:

1. Coordinate site design with the open space system and public realm design of the area.
2. Use open space as an organizing element for development, creating focal points for buildings or groups of buildings, and create transitions between distinct building sites.
3. Design a hierarchy of gateways, gathering places, parks, and natural features, and integrate these spaces with the system of streets, through drives, trails, and pedestrian passages.
4. Select open space types based on the context, function, and natural amenities of the site; in general, more compact and formal gathering spaces are most appropriate in walkable



- commercial and mixed-use areas, and more spacious and natural areas are most appropriate in large commercial or industrial areas.
5. Use landscape, furnishings, fixtures, art, planters, and other elements of open spaces to complement buildings, coordinate buildings and sites, and distinguish the unique character of different places.
  6. Preserve natural features that can serve as amenities, maintain views to and from important outside spaces, perform ecological functions, or provide important connecting corridors.
  7. Promote active gathering spaces in appropriate locations.
- B. **Lot Open Space Design.** Lot open space required for each building and lot in Table 6-1 shall create an amenity for the site and building. Buildings and open spaces on a lot shall be arranged to create usable outdoor spaces that meet one or more of the following types:
1. Private frontage landscape areas designed according to the frontage design standards in Section 17-6-3., excluding any driveways, parking areas, or other automobile space;
  2. Open space meeting the requirements for public or common open space in Section 17-3-2.
  3. Common rooftop decks provided they are at least 200 square feet, and at least 12 feet in all directions – this space shall be eligible for credit up to 25% of the open space requirement for the lot and building;
  4. Private balconies or patios, provided they are at least 100 square feet, and at least 8 feet in all directions– this space shall be eligible for credit up to 25% of the open space requirement for the lot and building; or
  5. Landscape areas and buffers designed according to the standards of Article 8, which shall only be counted towards the following percent of the open space requirement, even where greater landscape or buffers are required by other sections:
    - a. No more than 25% of the requirement for lot open space in the MU-DT and MU-NC district.
    - b. No more than 50% of the requirement for lot open space in MU-RC ; and
    - c. No limit in the I-1 and I-2 districts.
- C. **Alternative Compliance.** Alternative compliance to the lot open space design standards established in this section may be authorized according to the process and criteria in Section 17-2-6, Alternative Compliance, and any of the following additional applicable criteria:
1. The lot and building have access to at least two different active open spaces on the same block or abutting blocks, each meeting the design and service area standards in Section 17-3-2.
  2. Other designs that promote infill development or rehabilitation of existing buildings and sites in a compact, and walkable context.
  3. Recreation and social spaces are otherwise adequately met appropriate for the building and use by public spaces such as streetscapes, parks and open space, recreation centers, or other common and accessible amenities.
  4. Any screening, buffering, or other non-useable open space needs for the use, site, or building meet the standards of Section 17-8-3.

## 17-6-6 Specific Frontage & Design Plans

The frontage design, building design, and open space design standards are in this Article. may be refined and further specified based on a specific area plan for multiple properties and owners. The plan shall use the standards in 17-6-3, 17-6-4, and 17-6-5. but specifically apply them on a block-by-block basis. The



## ARTICLE 6 – NON-RESIDENTIAL DEVELOPMENT & DESIGN

### 17-6-5 OPEN SPACE DESIGN

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plan shall be approved by the Town as a supplement to the comprehensive plan. Alternatively, specific application of frontage types may be based on a plan approved in association with a development proposal, provided it: (1) is at least 10 acres; (2) includes at least 20% of Frontage A frontages; (3) includes at least 60% Frontage A or B standards; and (4) includes no more than 30% Frontage D standards. All plans approved shall be included or cross-referenced in the subsections below.

A. **[Reserved]**

*[This section can be used to document and catalogue specific frontage and design plans either as the Town undertakes more specific plans using this concept, or as development proposals meeting these thresholds are proposed.]*



## Article 7. Access & Parking

- 17-7-1 Intent & Applicability
  - 17-7-2 Access & Circulation
  - 17-7-3 Required Parking
  - 17-7-4 Parking Design
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### 17-7-1 Intent & Applicability

- A. **Intent.** The intent of the Access and Parking standards is to:
1. Emphasize the importance of site access for multiple modes of transportation.
  2. Preserve streetscape design and street functions by coordinating access along block faces and internal to blocks.
  3. Create access and parking standards appropriate to the context of the site, considering surrounding development patterns and street design.
  4. Provide the optimal amount of vehicle parking for individual sites, recognizing that too much and too little parking each have negative impacts.
  5. Ensure appropriate site design features that mitigate the physical and aesthetic impact of parking on streetscapes and surrounding sites.
  6. Maximize opportunities for on-street parking, shared parking, and other strategies to reduce the inefficiency from underutilized and redundant surface parking on adjacent sites.
  7. Promote parking designs that minimize runoff, decrease heat island effects, incorporate low impact design features, and infiltrate storm water into the ground.
- B. **Applicability.** Access and parking shall be shown on site plans, according to the application requirements in Article 17-2. Specifically the standards in this article apply to:
1. All new development, buildings or uses on a site.
  2. A change of use, or additions to existing building, except that
    - a. Additional parking requirements shall only apply to the expanded portions of buildings;
    - b. Additional parking shall only apply to non-residential uses that would require 20% or more additional required parking than the previous condition; and
  3. The parking design standards shall only apply to the newly constructed parking, except when more than 50% of an existing parking area is reconstructed, all parking and access shall comply with this section.
  4. The access standards shall not limit the location of any existing access, except:
    - a. In conjunction with a public streetscape project;
    - b. Where an entire site is redeveloped or when more than 50% of a parking area is added, reconstructed, or similarly impacted by development; or
    - c. Where the existing access is determined by the Town to be a danger to public safety.
    - d. Where an existing access conflicts with an adopted access control plan.



17-7-2 Access & Circulation

A. Design Objectives. The design of access to and internal circulation for sites shall achieve the following design objectives:

- 1. Reduce impacts of driveways and curb cuts on streetscape designs and reduce or eliminate conflicts with pedestrians, bicycles, and vehicles.
2. Promote shared, common, or other vehicle access and loading internal to blocks, particularly on busier streets or where the standards otherwise limit or prohibit access.
3. Coordinate reasonable vehicle access with frontage designs for lots and buildings based on context and according to Sections 17-5-3.A and 17-6-3.
4. Provide safe and convenient bicycle and pedestrian access to buildings and sites at an equal or greater level than vehicles, and in the most direct and safe way possible.

B. Vehicle Access. Vehicle access shall be designed according to the following standards.

- 1. Driveway Location. Except for where shared or common access is permitted and executed through easements, driveways shall be set back from side or rear lot lines as stated in Table 7-1 Minimum Driveway Setbacks.

Table 7-1: Minimum Driveway Setbacks. Table with 4 columns: Access, Setback from side or rear lot line, Setback from street side corner, Separation from other driveways. Rows include Residential access < 6 units, Residential access 7 - 40 units, Nonresidential access and residential access to 41+ units, Shared access, and Alley access.

[1] Driveway spacing may be averaged along a block for residential lots or on local streets to allow the best arrangement considering grades, streetscapes, and building and lot layouts. This may result in two adjacent lots having access near the same lot line on one side (2' side setback on each), while greater separation between driveways is provided between lots on the opposite sides.

- 2. Private Streetscapes. Any single project, lot, or site greater than 5 acres, or lots where access is constrained by driveway standards, shall provide a system of private streetscapes that establish access and circulation within the site. (See Figure 3-2 in Section 17-3-1). Private streetscapes:
a. Shall be laid out to organize the site into smaller internal blocks.
b. Shall be designed to mimic public street cross sections in Table 3-2, including sidewalks, landscape amenities, on-street parking and travel lanes.
c. May be treated as public streets for determining the proper location, orientation and design of sites, buildings, and utilities within the project.
d. Trail, greenway, or pedestrian passages meeting the standards of Section 17-3-2 may account for a portion of this internal circulation network, provided it connects buildings, open spaces, and internal streets with similar networks external to the site and presents a logical connection point for pedestrians and bicycles.



- 3. **General Design Standards.** All accesses shall meet the following design standards.
  - a. Sufficient on-site storage for queued vehicles waiting to park, drive-through, or exit without interfering with street traffic.
  - b. Circulation between adjacent parcels in non-residential areas shall be provided by private streetscapes, cross access easements, and other shared access provisions to protect the function, design, and character of public streets.
  - c. Landscape, buildings, and other site elements at access points shall meet the sight distance requirements of Section 17-3-1.D.2, Sight Distances.

**B. Internal Sidewalks.**

- 1. **Sidewalk Standards.** Development sites shall include direct sidewalk connections and circulation at the same or greater frequency as provided for vehicles. Sidewalks shall connect public entrances of buildings and sites to the following, in the safest and most direct manner possible:
  - a. Sidewalks in the public streetscape and along private streetscapes.
  - b. Parking areas and perimeter sidewalks, internal walkways, or crosswalks associated with the parking areas.
  - c. Civic or open space, or other common areas designed for active use.
  - d. Transit stops, ride-share, and park and ride location – existing or planned.
  - e. Where the above connections are not practical or would exceed 300 feet, the best alternative pedestrian connection shall be determined in coordination with the staff review.
- 2. **Sidewalk Width.** Internal sidewalks shall meet the requirements of Table 7-2: Internal Sidewalk Widths.

Table 7-2: Internal Sidewalk Widths	
Location	Minimum Width
Residential property < 10 units	5'
Residential property 10 + units	6'
Nonresidential property, site circulation	6'
Nonresidential property, along the front facade or to primary entrance < 10,000 square feet	8'
Other primary pedestrian routes on a site.	
Nonresidential property, along the front façade or to the primary entrance 10,000 + square feet	10'
Along any parking area with vehicle overhangs.	+ 2' to other required width

- 3. **Pedestrian Amenities.** Sidewalks and internal pedestrian circulation shall be separated from moving vehicles with vertical curbs, landscape buffers, curbside parking, or similar elements of the circulation and open space system; except crosswalks or other similar limited segments, which may be distinguished paint, brick, or colored or scored concrete and similar design features that signify pedestrian priority.

**C. Bicycle Connections.** Nonresidential and multi-unit dwelling projects with 10 or more units shall provide connections between the on-site bicycle parking and the public street or nearest bicycle route, trail or greenway. These connections may be provided by:

- 1. An internal sidewalk meeting Section 17-7-3.E. Sidewalks, where the distance is less than 200 feet and people may be expected to dismount and walk their bicycles;
- 2. A shared use path at least 10 feet wide;
- 3. An internal bicycle trail meeting standards in Section 17-3-2.C; or



4. Private streetscapes utilizing the most applicable public on-street bicycle accommodations in Section 17-3-1.C.
- D. **Alternative Compliance.** Alternative compliance to the access and circulation standards in this Section may be authorized according to the process and criteria in Section 17-2-6, Alternative Compliance, based on the intent and design objectives of this section, and with the following additional applicable criteria:
1. The standards, when applied to a particular project or street, will adversely impact the function of the transportation network in the vicinity of the site.
  2. A specific access management study or plan has altered the application of these standards for the particular street segment, or the guidance for traffic control in the Standards and Specifications manual lead to a different result.
  3. The project warrants a different access design when considering the functional class of the street, the streetscape design on the particular block, and the existing and anticipated adjacent land uses.
  4. In all cases, the alternatives shall be evaluated balancing the streetscape design objectives of the specific street type, traffic conditions of a particular street segment, and bicycle and pedestrian needs.

### 17-7-3 Required Parking

- A. **Vehicle Parking Rates.** Table 7-3: Required Parking provides minimum parking requirements and general categories apply to all similar uses not specifically listed. The following criteria shall be used in interpreting the table:
1. Employee rates shall consider maximum number of employees likely to be on-site at one time.
  2. Square footage rates shall consider leasable floor area or active area dedicated to the particular use. Where this number is not easily or readily determined, 85% of gross floor area may be used.
  3. A seating or capacity rate shall consider total number of seats based on industry standards for typical layouts of buildings or building codes.
  4. Where uses or sites have components of different uses (i.e. hotel with a restaurant), each component shall be calculated under most applicable rate.
  5. Where a use is not similar to a general use in the table or could meet more than one category, the Director shall determine the appropriate classification based on industry guides and the most similar use in terms of scale, format and operation.



<b>Table 7-3: Required Parking</b>	
<b>Use Category / Specific Use</b>	<b>Minimum Parking Rate</b>
<b>Residential</b>	
<i>Accessory Dwelling</i>	1 / unit
<i>Dwellings (detached, manufactured)</i>	2 / unit
<i>Dwellings (attached, multiple, or mixed)</i>	1 / unit (Studio / 1 bedroom)
	1.5 / unit (2 bedroom)
	1.75 / unit (3 bedroom)
	2 / unit (4 + bedroom) Director may administratively approve 0.5 / unit for micro units (> 400 s.f.)
<i>Senior Living (independent)</i>	0.5 – 0.75 / unit
<i>Senior Living (assisted or nursing)</i>	1 / 4 beds + 1 per employee
<i>Group Home (assisted)</i>	1 / 4 beds + 1 per employee
<i>Group Home (protective or rehabilitative)</i>	1 / 2 bed + 1 per employee
<i>Group Home (emergency shelter)</i>	1 / 8 beds + 1 per employee
<b>Public / Civic</b>	
<i>Assembly</i>	1 / 3 seats
<i>Public Safety / Services</i>	1 / 400 s.f.
<i>Library</i>	1 / 600 s.f.
<i>Museum</i>	1 / 1,000 s.f.
<i>School</i>	2 / class (elementary or junior)
	1 / 4 students + 1 / employee (senior or higher education) OR 1 / 4 seats of all auditorium or even space, whichever is greater
<b>Commercial</b>	
<i>Retail – Small (under 3K)</i>	1 / 500 s.f.
<i>Retail – General (3K+)</i>	1 / 250 s.f.
<i>Lodging - B&amp;B</i>	1 / guest room + 1
<i>Lodging - Hotel / Motel</i>	1 / guest room + 1 / 200 s.f. of restaurant + 1 / 8 seats of meeting space
<i>Medical Care</i>	1 / 200 for all general office and service areas + 1 / bed (admittance permitted)
<i>Office</i>	1 / 300 s.f.
<i>Services ( i.e. medical / personal services, day care, bank, vehicle repair, or similar uses with frequent customer service)</i>	1 / 250 s.f.
<i>Restaurant, bar or night club</i>	1 / 100 s.f.
<i>Health and Fitness Center</i>	1 / 150 s.f.
<i>Recreation and Entertainment</i>	1 / 300 s.f. generally
	1 / 4 seats of fixed seating areas
	1 / active patron station (i.e. 4 per lane bowling; 4 per hole golf course; etc.)
	1 / 100 s.f. for food and beverage service areas
<b>Industrial</b>	
<i>Manufacturing</i>	1 / 500 s.f. (artisan/limited or light)
	1 / 750 (all others)
	Director may administratively approve 1 / 1000 s.f. or 1 / employee for any large format manufacturing operations where the s.f. of building or site does not reflect the scale of operations or parking needs
<b>Agricultural</b>	
<i>.All uses</i>	Use combination of residential, public/civic commercial and industrial rates based on type and general nature of agriculture activities.





- B. **Maximum Parking.** Development shall not provide more than 140% of the minimum required parking without documented evidence of actual parking demand based on studies of similar uses in similar contexts. In addition, any parking permitted over 120% of the minimum shall require mitigation of the potential impacts of additional parking through one or more of the following strategies:
1. Utilize eligible parking reductions permitted in Section 17-7-3.C., Parking Reductions.
  2. Provide shared parking for other uses on the block or adjacent blocks according to this Section 17-7-3.D.
  3. Use alternative surfaces designed to infiltrate stormwater, and approved by the Public Works Director.
  4. Provide additional buffers and site open spaces to screen parking with at least a 10% increase in the open space or buffers required for the parking, and at least a 20% increase in the amount of landscape material required for the parking.
  5. Design parking areas over the 120% minimum as dual-purpose space, such as plazas, playgrounds, or similar event areas for regular and active use of the space during non-peak parking times.
  6. Increase the lot open space required for the building and site in Section 17-5-3.C or Section 17-6-5 by an amount equal to the area of parking over the 120% minimum and locate this open space to limit the impact and visibility of parking.
- C. **Parking Reductions.** The parking required by Table 7-3: Required Parking may be reduced depending on context and according to the following strategies:
1. *MU-DT Zone District Exemption.*
    - a. No parking is required in the MU-DT zoning district for nonresidential uses,
    - b. Any permitted residential uses shall meet the requirements in Table 7-3, except residential uses in mixed use buildings which shall meet 50% of the requirement in Table 7-3.
    - c. The Director or Town Council may require parking for any nonresidential use over 10,000 square feet provided the location, accessibility, and design of the parking is consistent with the overall planning and urban design objectives of the downtown area, or for any residential uses where the location, density, and residential building types are likely to have an impact on public or business parking in the vicinity.
  2. *On-street Parking Credit.* On-street parking within 300 feet of any lot frontage shall count towards the parking requirement at a rate of 0.5 spaces for every on-street space.
  3. *Alternative Transportation Credit.* Provision of creative and alternative modes of transportation for a development may be eligible for up to 50% reduction of the required vehicle parking. To be eligible for this credit, the applicant must demonstrate that it is practical to expect significant bicycle access to the site based on: the location and proximity to the broader bicycle transportation network; the design of the site; and the nature of the use and anticipated patrons.
  4. *Administrative Adjustment.* The Director may reduce the required parking for any use by up to 3 spaces or 10% of the required spaces, whichever is greater, due to the nature of a particular use or any unique circumstances on the site.
- D. **Shared Parking.** Required parking may be reduced for any site containing multiple uses, or for adjacent sites with different uses according to Table 7-4, Shared Parking.



1. Any approved shared parking arrangement shall require an agreement and easement among all landowners participating to ensure access, joint use, maintenance, and other operational issues.
2. The agreement shall be recorded with the county clerk and recorder and shall state that it cannot be changed or modified without the approval and signature of the Director.
3. A shared agreement that differs from this table may also be approved based on a joint parking study for the sites and uses demonstrating adequate parking during peak hours for all parties to the agreement.
4. Using Table 7-4, properties shall provide adequate parking for all uses during provided peak hours such that the demand is appropriately accommodated throughout the day.

<b>Table 7-4: Shared Parking</b>					
<b>Use</b>	<b>Percentage of Required Parking by Time Period</b>				
	<b>Weekday</b>		<b>Weekend</b>		<b>All</b>
	<b>6 AM to 5 PM</b>	<b>5 PM to 1 AM</b>	<b>6 AM to 5 PM</b>	<b>5 PM to 1 AM</b>	
<i>Employment</i>	100 %	10 %	5 %	5 %	5 %
<i>Retail or Service</i>	75 %	75 %	100 %	90 %	5 %
<i>Restaurant</i>	50 %	100 %	75 %	100 %	25 %
<i>Entertainment &amp; Recreation</i>	30%	100 %	75 %	100 %	5 %
<i>Place of Worship</i>	5 %	25 %	100 %	50 %	5 %
<i>School</i>	100 %	10 %	10 %	10 %	5 %
<i>Dwellings</i>	25 %	90 %	50 %	90 %	100 %
<i>Lodging</i>	50 %	90 %	75 %	100 %	100 %

- E. **Bicycle Parking.** All nonresidential or multifamily shall provide bicycle parking spaces according to Table 7-5, Bicycle Parking.

<b>Table 7-5 Bicycle Parking</b>	
<b>Activity</b>	<b>Required Spaces</b>
<i>Retail or office uses</i>	10% of the required vehicle spaces.
<i>Recreation and community facilities</i>	15% of the required vehicle spaces
<i>Other institutional, employment, industrial or entertainment uses</i>	5% of the required vehicle spaces.
<i>Multi-unit Residential Buildings</i>	1 per dwelling unit; 2 per dwelling unit with 3 or more bedrooms

Bicycle parking shall be designed according to the following standards:

1. A structure shall be securely anchored to the ground and usable for both U-locks and cable locks, support a bike at two points of contact to prevent damage to wheels or frames.
2. Bicycle parking for nonresidential uses shall be located within 100 feet of the primary entrance unless the Director approves an alternative location.



3. In the MU-DT district, bicycle parking facilities may be located in the right-of-way, in an amenity zone, subject to streetscape design plans and the Town approval. Structures shall be designed with artistic or ornamentation enhancements compatible with the streetscape character at the specific location.
  4. On-site structures that serve another primary function, such as light poles or bollards, but are designed to meet these standards, may count to the bicycle parking requirement.
  5. Alternative standards and specifications based on recognized industry guidance or best practices for bicycle parking may be approved by the Director through development review.
- F. **EV requirements.** Electric vehicle charging stations and readiness are required to be provided on all new parking areas with more than 20 spaces required as the minimum parking requirement. This ratio shall not apply to parking spaces provided above the minimum. The Town supports additional spaces made ready or capable with conduit installed on additional spaces.
1. Residential multifamily developments shall provide a minimum of 5% of the required spaces with installed charging stations, and ensure another 5% of spaces are ready for installation, meaning full circuits are installed at construction for future station additions.
  2. Nonresidential and mixed uses shall provide a minimum of 10% installed; 10% ready.
  3. Existing parking areas that redevelop or expand the area shall apply these rates to the new spaces only.
- G. **Accessible Parking.** Accessible vehicle parking spaces shall be provided in accordance with the applicable building codes and the Americans with Disabilities Act (ADA) guidelines for quantity, design, and location.

#### 17-7-4 Parking Design

- A. **Design Objectives.** The layout, location and design of parking areas shall meet the following design objectives.
1. Locate parking and circulation in ways that minimize negative impacts on public streetscapes or adjacent sites.
  2. Use landscape, building design, and other site design strategies to improve the appearance of parking areas.
  3. Incorporate sustainable practices into parking design to minimize runoff, decrease heat island effects, incorporate low impact design features, and otherwise reduce environmental impacts.
  4. Encourage smaller and more compact parking areas to reduce impacts.
- B. **Landscape Areas.** The landscape area standards in Table 7-6 Parking Lot Landscape are based on the number of spaces and location of the parking area relative to the principal building (front, side, or rear).



Spaces per Parking Block	Front [1]	Side & Rear
151 or more	<ul style="list-style-type: none"> <li>Prohibited – must be broken into smaller parking blocks</li> </ul>	<ul style="list-style-type: none"> <li>10' perimeter buffer; and</li> <li>10 spaces per internal island</li> </ul>
51 or 150	<ul style="list-style-type: none"> <li>25' front setback buffer</li> <li>10' perimeter buffer</li> <li>10 spaces per internal island</li> </ul>	<ul style="list-style-type: none"> <li>6' perimeter buffer</li> <li>15 spaces per internal island</li> </ul>
20-50	<ul style="list-style-type: none"> <li>10' front setback buffer</li> <li>6' perimeter buffer</li> <li>15 spaces per internal island</li> </ul>	<ul style="list-style-type: none"> <li>6' perimeter buffer</li> </ul>
Under 20	<ul style="list-style-type: none"> <li>6' front setback buffer</li> <li>6' perimeter buffer</li> </ul>	<ul style="list-style-type: none"> <li>6' perimeter buffer, except where abutting an alley</li> </ul>

[1] Any surface parking lot in residential districts shall be behind the front building line or setback at least 30' from the front lot line, whichever is less.

The landscape areas required by Table 7-6 shall be allocated as follows:

1. The perimeter landscape areas shall be continuous, except for perpendicular driveways or sidewalks accessing the parking area.
2. Interior landscape islands shall be either:
  - a. A peninsula extending from the perimeter landscape area at the required intervals, at least 9 feet wide and the depth of adjacent parking spaces.
  - b. An end cap island at the required intervals that is at least 9 feet wide and at least 150 square feet for 1 stall and at least 300 square feet for two stalls; or
  - c. A continuous “center strip” between two opposing stalls along the entire parking bank that is at least 6 feet wide.
3. Perimeter area and center strip that includes a sidewalk shall meet both the sidewalk width and perimeter landscape area width independently, with no landscape area being less than 6 feet wide.
4. Perimeter and internal landscape areas shall include plant materials meeting the requirements of Section 17-8-2.

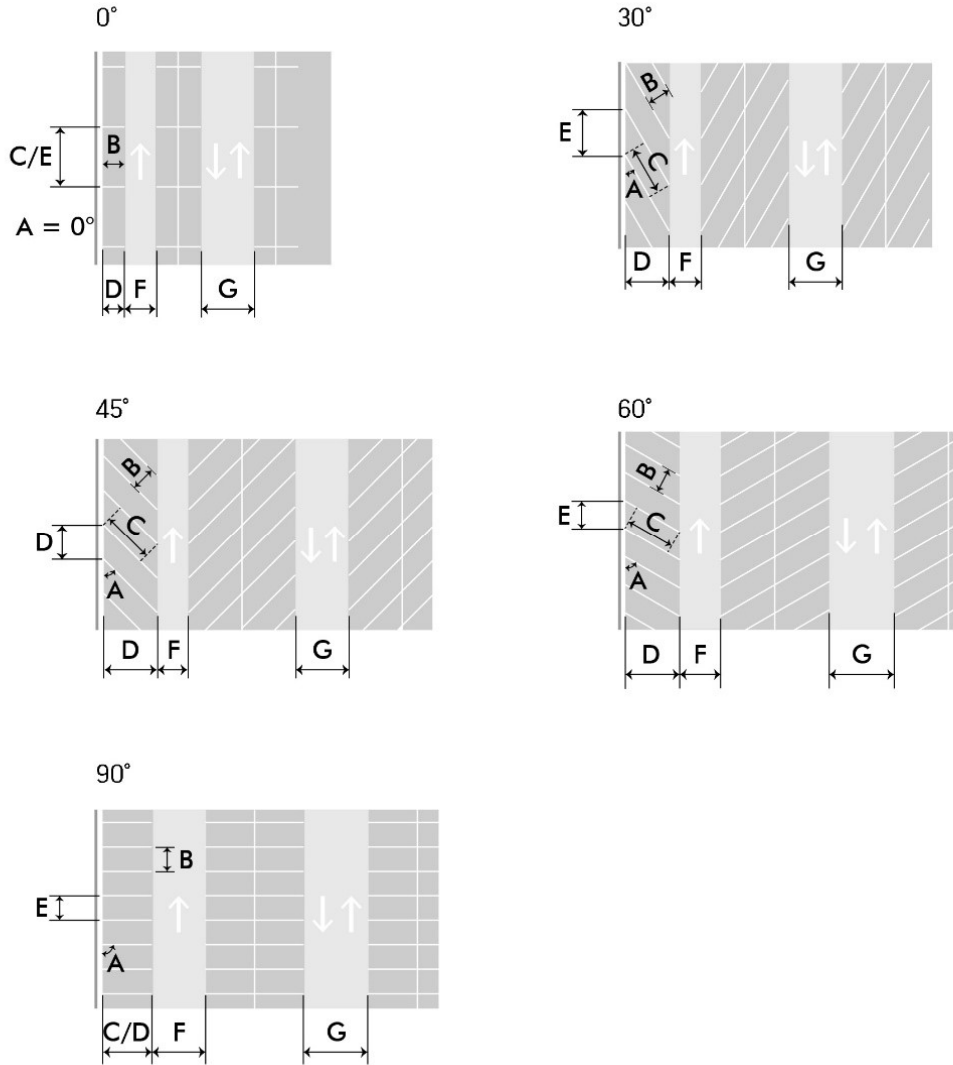
C **Sidewalks.** In meeting the standards of Sections 17-7-2.B and 17-7-4.B, a sidewalk connection shall be provided from the perimeter of the parking lot to the building entrance or building frontage. For a site or parking area with over 200 spaces, a sidewalk connection shall be provided through the parking areas and to the building frontage at least every 400 linear feet. Sidewalks meeting this standard may be located internal to the parking lot if separated from the surface parking, in perimeter landscape area or landscape median, or along a through access drive.

D. **Parking Dimensions.** Parking areas shall be designed to meet the dimension specifications in Table 7-7: Parking Dimensions.

Parking Angle Width (A)	Width (B)	Length (C)	Depth to Curb (D)	Curb Width (E)	Aisle Width – One-way (F)	Aisle Width – Two-way (G)	Bumper Overhang*
0°	7.0'	22'	7.0'	22'	12'	20'	n/a
30°	8.5'	20'	18'	17'	15'	20'	1.5'
45°	8.5'	20'	20'	12'	15'	20'	1.5'
60°	9.0'	20'	21'	10.5'	18'	24'	2.0'
90°	9.0'	20'	18'	9.0'	20'	24'	2.0'



- \* Amount of Depth to Curb dimension that may overhang landscape area or sidewalk other wheel stop block. If overhanging sidewalk, this amount shall be added to the required minimum sidewalk width.



**Figure 7-1 Parking Dimensions**  
 Dimensions standards of Table 7-7, applied to typical parking layouts.

**E. General Design Standards.**

1. All required parking shall be on-site except as specifically provided in this Article for credits or shared parking sections. Additionally, the Director may allow for a portion of required parking off site through a site plan review subject to the following specific considerations:



- a. It is within 300 feet of the subject site;
  - b. It is in the same or comparable zoning district;
  - c. The presence of the off-site lot does not negatively impact potential development on that lot or in the vicinity.
  - d. There are no pedestrian barriers or other access constraints between the parking and use, and safe connections are provided between each.
  - e. An agreement demonstrating rights and control of the off-site property is provided.
2. No parking space shall be located where it backs into a street or through access drive except:
    - a. Residential parking in driveways, which for driveways accessing buildings and lots with 6 units or less; or
    - b. On-street parking on public streets or private streetscapes according to the standards in Section 17-3-1.C.
  3. Required parking areas shall be used solely for the parking of vehicles in operating condition for patrons, occupants or employees of the use, unless specifically authorized otherwise by provisions in this code.
  4. Up to 25% of the required spaces on a site may be permitted to be designed and signed for compact cars, with no space less than 16' deep with a 2' overhang, at 90°. These spaces may not be located along a required emergency access route.
  5. Parking and access areas shall be designed to adequately address drainage and runoff, including curb, gutters and inlets, or other drainage strategy approved by the Public Works Director to support best management practices to minimize runoff and encourage infiltration of storm water.
  6. Off-street parking areas and driveways shall be graded and paved with an all-weather material meeting the Design Standards.
- F. **Loading Requirements.** In mixed-use, commercial, or industrial districts, off-street loading shall be required as indicated in Table 7-8, Loading Areas.
1. The number and size of spaces may be revised based on the operating characteristics of the particular use and determined through site plan review.
  2. Loading areas shall be located on a remote portion of the building and site or internal to the block and buffered by other buildings wherever possible.
  3. Loading areas and activities shall not interfere with the use of walkways, drive aisles, stacking areas, internal access streets or public streets.
  4. Loading shall be screened from public streets or adjacent properties and other public-facing areas in a manner that best limits visibility and mitigates noise, according to the buffer types and design standards in Section 17-8-3.
  5. In areas, projects or zoning districts designed to promote pedestrian activity, or for buildings and sites where more compact building and site design is required, alternate loading standards shall be permitted by the Director. Alternate loading standards may include sharing of loading spaces among multiple smaller tenants, using side streets, on-street parking, or alleys – particularly where there are sufficient spaces during off hours for loading or deliveries per Table 7-8, or other similar strategies that avoid designing sites for large vehicle access.



<b>Gross Floor Area</b>	<b>Required Loading Area and Size</b>
<i>Under 10,000 s.f</i>	N/A, or may be shared per 17-7-4.F.5
<i>10,001 – 25,000 s.f</i>	1 space; 10' x 25'
<i>25,001 – 40,000 s.f.</i>	2 spaces; at least one of which is increased to 10' x 50'
<i>40,001 or more s.f.</i>	3 spaces, plus 1 for every 50,000 s.f. over 100,000; at least every third space shall be increased to 10' x 50'

- G. **Alternative Compliance.** Alternative compliance to the parking design standards in this section may be authorized according to the process and criteria in Section 17-2-6, Alternative Compliance, based on the intent and design objectives of this section, and with any of the following additional applicable criteria:
1. To facilitate infill development or where site constraints hinder the ability to meet the dimensional standards.
  2. To integrate more sustainable practices considering the water quality, air quality, energy efficiency, or other similar environmental impacts.
  3. To better accommodate any non-vehicle or other alternative modes of transportation.
  4. Any exception shall be based on documentation that the proposed dimensions and arrangements will not require unsafe or impractical vehicle maneuvering.



## Article 8. Landscape & Site Design

- 17-8-1 Intent & Applicability
  - 17-8-2 Plant Requirements
  - 17-8-3 Buffer & Screens
  - 17-8-4 Plant Specifications
  - 17-8-5 Fences & Walls
- 

### 17-8-1 Intent & Applicability

A. **Intent.** The intent of the landscape and site design standards is to:

1. Improve and maintain the image of the Town and build value with a well-designed public realm, coordinating streetscapes, open spaces, and lot frontages.
2. Emphasize distinct areas throughout the Town with the location and design of landscape areas
3. Coordinate landscape and design amenities across multiple sites with special attention to the consistent relationship of public and private frontages.
4. Strengthen the character, quality, and value of development with landscape design that serves multiple aesthetic, environmental, and social functions.
5. Enhance the ecological function of un-built portions of sites, and protect and integrate established natural amenities into development projects.
6. Screen and mitigate the visual, noise, or other impacts of sites and buildings.
7. Conserve water and shift to water-conscious landscape design that is regionally appropriate and specific to the arid Front Range climate.

B. **Applicability.** The standards of this Section shall apply to all development except:

1. Additions to existing buildings or sites that do not result in an increase in building footprint or impervious surfaces by more than 10%; or
2. Changes in use that do not result in an increase in land use intensity, considering hours of operation, types of activity, or other functional impacts of the use.
3. In cases where the landscape standards apply to existing sites that may redevelop or change use, the intent is to bring the site into full compliance with these standards. For infill and rehabilitation of existing sites the Director may prorate the requirements to the extent of the site work where full compliance is not possible or practical, and only apply the standards to portions of the site subject to development.
4. For existing development with approved landscape plans, continued adherence to and maintenance of those plans is required until such time as it may redevelop or proceed with an amendment.

### 17-8-2 Plant Requirements

A. **Design Objectives.** Landscape plans shall meet the following design objectives:

1. Frame important streets and emphasize gateways with street trees, landscape massing, and other vertical elements.
  2. Provide comfort, spatial definition and visual interest to active outdoor spaces including walkways, civic spaces, parks, trails or other similar outdoor gathering places
-





3. Improve resource and energy efficiency with landscape arrangements that consider wind blocks, heat gain, water usage, solar access, and other elements inherent to the site.
4. Promote storm water management and prevent erosion through natural landscape elements that intercept, infiltrate, store, or convey precipitation and runoff.
5. Locate plants, landscape features, and site design elements sensitive to seasonal solar and shading conditions, particularly maximizing summer shade and winter sun on active portions of sites.
6. Encourage the protection and preservation of healthy plants and landscape features that can meet current and future needs of the site through development, rather than plant and design new ones.

B. **Landscape Requirements.** The required landscape shall be based on different elements of the site according to Table 8-1, and in accordance with the Design Standards.

Site Element	Deciduous Trees	Evergreen Trees	Shrubs
<b>Streetscape:</b> The landscape area in the ROW or along the lot line immediately abutting the right of way.	1 canopy tree per 35' of lot frontage, every 25' to 45' on center. (See Design Standards for use of tree grates in walks)	n/a	n/a
<b>Front Yard &amp; Foundation.</b> The area between the building line and ROW along a street, including street sides of corner lots.	1 ornamental tree per 40' of lot frontage for buildings set back more than 10' from the front lot line; AND 1 canopy tree per 35' of lot frontage for buildings set back more than 40'.	Evergreen trees may be substituted for ornamental trees at a rate of 1 for 1, and for canopy trees at a rate of 2 for 1, for up to 50% of the requirement.	1 shrub per 5' of building frontage. 3 ornamental grasses may be substituted for each shrub up to 50% of the requirement. Seasonal planting beds or pots associated with the entrance may substitute for any building located closer than 10' to the front lot line.
<b>Parking.</b> Areas on the perimeter, or interior of parking.	1 canopy tree per 5 parking spaces  Ornamental trees may be substituted for canopy trees at a rate of 2 for 1 up to 50% of the requirement	Evergreen trees may be substituted for canopy trees at a rate of 2 for 1, for up to 50% of the requirement	1 shrub per 8' of perimeter. 1 shrub per 5' for any parking area within 25' of any right of way or sidewalk. 3 ornamental grasses may be substituted for each shrub up to 50% of the requirement.
<b>Buffers.</b> Areas of a site that require additional landscape to mitigate potential impacts on streetscape or adjacent property.	See Section 17-8-3.		
<b>Civic and Open Spaces.</b> Areas of the site designed as part of a broader system of formal and natural open spaces.	See Section 17-3-2		
<b>Other Areas</b>	<ul style="list-style-type: none"> <li>▪ 1 canopy tree; or</li> <li>▪ 2 ornamental trees; or</li> <li>▪ 2 evergreen trees and 5 shrubs</li> </ul> per 1000 SF of interior lot areas or per 3000 SF of open space/outlot areas All other unbuilt or unpaved areas require ground cover, decorative rock, mulch or other natural and permeable surfaces resulting in 75% coverage of all areas within 3 years of planting.		



- C. **Credits for Existing Vegetation.** Preservation of existing landscape material that is healthy and desirable species may count for landscape requirements provided measures are taken to ensure the survival through construction and all other location and design standards are met.
1. Landscape plans shall provide an inventory of all existing trees or significant woody vegetation including size, health, species, and any proposed for removal.
  2. Existing landscape credits shall only count towards the portion of the site where it is located, according to the site elements in Table 8-1. For example, an existing tree may only count towards the required planting for parking lot perimeters if it remains in the parking perimeter in the final design.
  3. Credits shall be on a 1 for 1 basis provided it meets the minimum specifications for new plants. The Director may approve landscape material that is larger or otherwise established and valuable on a 2 for 1 basis, or may approve plants of exceptional quality due to species, location, maturity, and health on a 3 for 1 basis.
  4. Trees or other existing landscape that contributes to the standard shall be identified on a landscape plan and the critical root zone shall be protected for the entirety of construction by a construction fence. Tree protection measures shall be based on applicable industry standards and best practices to ensure survival of the landscape.
- D. **Design & Location.** The landscape required by Table 8-1 shall be arranged and designed in a way that best achieves the intent of this Article and design objectives of this Section, considering the context and adjacencies proposed on the site. Required plantings shall be planted in the following specific locations on the lot.
1. **Streetscape Trees.** Streetscape and frontage trees shall be located in line with other trees along the block to create a rhythm along the streetscape and promote enclosure of the tree canopy. In the absence of a clearly established line along the block, trees may be planted in the following locations in order of priority.
    - a. Centered between the sidewalk and curb;
    - b. Planted within wider walks on pedestrian-oriented or mixed-use streets located in tree wells with grates meeting the Design Standards;
    - c. 5 to 10 feet from the back of a curb where no sidewalk exists or from the sidewalk in other situations where the sidewalk is attached;
    - d. Within the first 10 feet of the adjacent lot line where significant constraints in the right-of-way would prevent other preferred locations;
    - e. Ornamental trees may be substituted for canopy street trees only in situations where no other alternative is available due to constraints of the site or right-of-way conditions. Ornamental trees may be used where trees are to be located within 10 feet of any overhead wires.
    - f. Shrubs or perennials planted in the streetscape (parkway, medians) shall be placed outside or sized appropriately to avoid impact to any site distance limits in the Design Standards.
  2. **Front Yard & Foundation Trees & Shrubs.** Front yard and foundation plantings shall be located in open spaces near the building and in planting beds along the building frontage.
    - a. Ornamental and evergreen trees shall be located within 25 feet of the building.
    - b. Shrubs and smaller plantings shall be located within 10 feet of the foundation.
    - c. Where planting beds are used within hardscape around a foundation, they should be at least 4 feet wide, at least 60 square feet, and concentrated along at least 50% of the building frontage.
    - d. Foundation plantings are not required in service and loading areas



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- e. Utilize larger and vertical landscape elements to frame entries, anchor the corners of buildings, and break up the visual impact of large or long building facades.
  3. **Parking Lot Landscape.** Parking lot landscape requirements shall be planted in perimeter buffers and landscape islands planned and designed according to Section 17-7-4, Parking Lot Design.
    - a. There shall be at least one canopy tree per 35 feet of parking lot perimeter, or one ornamental or evergreen tree per 20 feet of perimeter.
    - b. There shall be at least one tree per parking lot island, or one canopy tree or two evergreen or ornamental trees per 300 feet of other internal landscape area.
    - c. Shrubs shall be located to define parking lot edges, screen parking from adjacent sites, or create low barriers along sidewalks and streetscapes.
    - d. Any parking within 25 feet of the right-of-way shall have a Type 1 buffer per Section 17-8-3.
  4. **Interior Lot & Common Open Space / Outlot Landscape.** The remaining unpaved, unbuilt area of a lot or any outlot shall be landscaped at the rate indicated in Table 8-1. Plants shall be designed and located to meet the design objectives, unless otherwise approved under subsection E. Alternative Compliance. Stormwater facilities shall not have plantings within the required capacity area of the facility, and landscape required for those areas shall be integrated throughout the site in other appropriate areas.
  5. **Sight Distance.** Screens, buffers and landscape shall be located and designed to maintain proper lines of sight at all intersections of streets, alleys, driveways, and internal access streets as provided in the Design Standards.
  6. **Specific Applicability.** Where landscape standards for different conditions or elements of a site overlap, effective site and landscape design may enable the space and plants to count toward more than one requirement, based on the greater plant requirement applicable to that area. For example, a buffer area required by Section 17-8-3 may also be along a parking area perimeter, or a parking area perimeter may also be along a streetscape, and the greater planting requirement between these areas can satisfy both requirements. Approval shall be subject to the Director determining that the intent and design objectives of this section are achieved.
- E. **Alternative Compliance.** Alternative compliance to the landscape design standards established in Section 17-8-2, may be authorized according to the process and criteria in Section 17-2-6, Alternative Compliance, and any of the following additional applicable criteria:
1. The alternative results in better design of common or civic space on the site;
  2. The alternative results in a better allocation of plants in relation to adjacent streetscapes or other public spaces; or
  3. The alternative is necessary to improve the longevity or survival of plant materials
  4. The alternative protects areas of environmental significance, including habitat, floodplains, and river or riparian corridors.
  5. In all cases the deviation is the minimum necessary to address the circumstance, the alternative equally or better meets the design objectives of this Section, and there are no negative impacts on other design standards applicable to the building or site.



17-8-3 Buffers & Screens

- A. **Design Objectives.** Intense land uses or site elements shall be buffered and screened from streetscapes and adjacent property according to the following design objectives. These objectives shall be used in applying the buffer requirements in Table 8-2, Buffer Planting Designs.
  - 1. Mitigate impacts of parking lots or vehicle circulation near streets or property lines with landscape barriers and low-level headlight screening.
  - 2. Use berms, vertical landscape, dense plantings, or other grade or spatial changes to alter views, subdue sound, and change the sense of proximity of incompatible uses, buildings, or site conditions.
  - 3. Soften transitions where changes in development patterns, intensity of land uses, or building scale occur.
  - 4. Screen service and utility areas of buildings and sites from adjacent property or streetscapes with architectural features, fences, or landscape that limit visibility or noise.
  - 5. Utilize three layers of landscape buffers and screens, including: canopy trees (high-level – 30'+); evergreen or ornamental trees (mid-level – 6' to 30'); and shrubs, annuals, perennials, and ground cover (low-level – under 6'), to directly and most effectively mitigate potential impacts and adjacencies.
  
- B. **Buffer Planting.** The planting requirements in Table 8-2: Buffer Requirements shall be used to buffer and screen more intense uses or elements of sites according to the design objectives of this section. The buffer width is independent of and may include any setback, parking perimeter buffer, or other open space requirement so that the larger requirement controls.

Site Element	Minimum Width [1]	Trees [2]	Screen [2]
<b>Type 1:</b> A low screen used to define the edges of areas, particularly along streets, alleys or walkways.	5'	1 canopy tree per 30' May substitute evergreens or ornamental tree at 2 for 1 for up to 50% of the trees	3' high shrubs at 3' on center; OR 3' high solid decorative wall or fence with shrubs, grasses and perennials along 50%
<b>Type 2:</b> A buffer designed to soften the transition between different uses, scales of buildings, or intensity of uses	10'	1 canopy tree per 30' May substitute evergreens or ornamental tree at 2 for 1 for up to 50% of the trees	6' high shrubs planted 6' on center.
<b>Type 3:</b> A buffer design to create a special and visibility barrier between incompatible situations	15'	1 canopy tree per 30' AND 1 ornamental or evergreen tree per 30'	6' high solid fence or wall with 3' – 6' shrubs and perennials along 50% the exterior fence

[1] The width of a required buffer may be narrower to account for infill situations, or more compact and urban conditions; or may be wider when combined with additional landscape or setback standards. In these cases, a combination of additional plants or structural separation may be required.

[2] Linear dimensions refers to the outside perimeter or linear feet of a use or area requiring the screen or buffer.

Buffer types in Table 8-2 shall be required in the following circumstances.

- 1. **Type 1 Buffers.** Type 1 buffers shall be required:
  - a. Except for driveways of detached houses and multi-unit houses, along the boundaries of any parking located within 25 feet of the public right of way. Parking lots with 50 or more spaces in one area require the use of a decorative wall and plantings.



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- b. Where parking is located within 100 feet of any pedestrian area, internal sidewalk, or public or common gathering space, with no other screen or visual separation
      - c. Along parking areas located less than 20 feet from an adjacent property unless a shared parking easement exists for the area to be readily interpreted as a single parking area.
    2. **Type 2 Buffers.** Type 2 buffers shall be required:
      - a. Between multi-unit projects with 10 or more units and detached houses
      - b. Between commercial and residential uses.
      - c. Between industrial and commercial uses.
      - d. In a common open space along any residential lots that back to a collector or arterial street.
      - e. Along any side or rear boundary of a commercial or industrial use that directly faces a highway or interstate.
    3. **Type 3 Buffers.** Type 3 buffers shall be required.
      - a. Any transition between industrial and residential uses.
      - b. Buffer and screening of any specific high-intensity uses or high-intensity portions of a site abutting or visible for public spaces or active portions of commercial and mixed-use property, as determined necessary through development review.
      - c. Any permitted outdoor storage areas or contractor yard areas.
      - d. Along any residential boundary that directly faces a state highway or interstate.
    4. **Generally.** Any buffer may be required where necessary to meet the design objectives of this section or to achieve the general screening standards of Section 17-8-3.
  - C. **General Screening.** All of the following shall be screened from streets or adjacent property by placement of buildings, open space, dense evergreen vegetation, a decorative and durable opaque fence or wall complementing the architectural details and materials of the building, or a combination of these screening strategies. Where design of the building, frontages, open space, buffers and other site requirements do not adequately screen these elements, the Director may require additional planting to achieve the design objectives of this Section.
    1. Plantings and other screening features may suffice for:
      - a. Electrical and mechanical equipment such as transformers, air conditioners, or communication equipment and antennas whether ground-, wall- or roof-mounted.
      - b. Large or long blank walls visible from public streets, public or common areas or other sensitive boundaries in association with the buffer standards.
      - c. Utility stations or fixtures.
    2. Solid screening wall or fencing required for:
      - a. Permanent or temporary outdoor storage and transit hub parking areas
      - b. Trash and recycling enclosures.
      - c. Delivery and vehicle service bays.
      - d. Overhead doors and loading docks.
  - D. **Alternative Compliance.** Alternative compliance to the buffer and screening standards established in Section 17-8-3, may be authorized according to the process and criteria in Section 17-2-6, Alternative Compliance.



17-8-4 Plant Specifications

- A. **Design Objectives.** The plant specifications have the following design objectives:
  1. Ensure the longevity and survival of landscape investments with proper species, location, installation and maintenance of plants.
  2. Promote regionally appropriate strategies, including limiting risk of disease or infestation through diversity of urban forest on an area- or town-wide basis.
  3. Establish minimum standards that balance immediate conditions with reasonable long-term growth and performance of landscape plans.
  4. Require water efficient strategies in terms of the water needs of landscape plans, and the continued operations and maintenance of sites.
  
- B. **Species.** All trees, shrubs, and seed mixes shall be selected and planted according to the Johnstown Recommended Plant Materials and other specifications in the Streetscape, Parks, Open Space section of the Design Standards. In addition to any species on these lists, alternatives may be proposed and approved as part of the development review provided they:
  1. Are documented by a landscape architect or other credible information comparable in type and performance to any species on this list;
  2. Are adaptable to the climate of the Front Range region and the specific conditions in which they are proposed; and
  3. Are not invasive or otherwise problematic to the overall health of the landscape.
  
- C. **Plant Specifications.** All landscape materials shall meet the American Standards for Nursery Stock standards, and be selected for its native characteristics or survival in the climate for the Front Range region. Plants shall meet the following specifications at planting:

Table 8-3: Plant Specifications	
Type	Specification
Canopy Tree	2" DBH; Mature height of at least 30'
Ornamental Tree	2" DBH ; 8' to 10' minimum planting height for multi-stemmed; Mature height of 15' – 30'
Evergreen Tree	6' minimum planting height; Mature height of at least 10'. Evergreens with mature heights of 30' or more may be classified as large trees.
Shrub	24" or 5-gallon minimum container
Perennials	1-gallon container
Ground Cover	Areas designed for vegetative cover shall have 50% ground cover at the time of planting and full coverage within 2 growing seasons
General	Plants used for screening and buffers shall achieve the required opacity and function in its winter seasonal conditions within 2 years following planting.

DBH – Diameter at breast height



D. **Tree Diversity.** The required trees planted shall promote diversity with the following species selection criteria.

Table 8-4: Tree Diversity	
Required Trees	Diversity
1 - 9	No specific requirement, but trees should be diversified from those existing trees in the vicinity.
10 - 39	At least 2 genus; AND At least 3 species No more than 50% of any one species
40+	At least 3 genus; AND At least 4 species No more than 33% of any one species

\* Any streetscape master plan or public realm plan may achieve street tree diversity on a broader or block-scale basis while planting the same species on individual segments for the urban design effect.

E. **Water Conservation Guidelines.** All landscape plans shall conserve water with landscape materials and design techniques using the following principles.

1. Incorporate a “zoned planting scheme” to reduce water demand by grouping plants with similar water requirements together in the same hydrozone.
2. Limit high-irrigation turf and plantings to appropriate high-use areas with high visibility and functional needs, and use water-conserving grasses such as fescue sods. Turf and spray-irrigated areas shall be limited to:
  - a. Residential rear yard areas maximum of 50%, up to 2,000 SF for single family homes, except for lots platted prior to January 1, 2024;
  - b. Areas designed for play, sports fields, and similar common or public park areas;
  - c. Achieving specific aesthetic and design objectives at significant gateways, corridors, or entryways to neighborhoods or activity centers, at the discretion of the Town.
3. Use drought tolerant plants, suitable to the region, with low watering and pruning requirements. Water conservation and xeric species may be found and referenced on the plantselect.org website, or similar reputable source acceptable to the Town.
4. Incorporate soil amendments and use of organic mulches that reduce water loss and limit erosion. All planting areas shall receive soil amendments of at least 3 cubic yards per 1,000 square feet. Certification of and proof of amendment may be required.
5. Install efficient automatic irrigation systems that incorporate water conservation measures, including spray heads for ground cover and drip irrigation for shrubs and trees, weather/rain gauges, and high-efficiency or precision nozzles.
6. Native grasses may be used in low-traffic areas and require irrigation to establish. Raw water dedication, per the Johnstown Municipal Code - required with a review for credit at the sole discretion of the Town upon confirmation of the removal or effective disablement of the irrigation system. Seed mix shall be per the Design Standards.
7. Alternative non-potable sources and systems of irrigation water for all common landscape areas is encouraged and shall be required if available in sufficient quantity

F. **Stormwater Treatment.** Landscape amenities that incorporate stormwater treatment are recommended, provided they can meet both the landscape design standards and the stormwater management performance standards. Techniques such as bioswales, water quality ponds, and rain gardens should be used to infiltrate runoff from parking lots, streets, civic spaces, and other impervious surfaces wherever possible.



- G. **Planting & Maintenance.** All landscape plans shall include installation specifications meeting the Design Standards method of maintenance including a watering system and statement of maintenance methods.
  - 1. All plantings shall be properly maintained. Plant materials which fail to grow within a 2-year period or which exhibit evidence of insect pests, disease, and/or damage shall be appropriately treated, and any plant in danger of dying or already dead shall be removed and replaced.
  - 2. All elements of an approved landscape plan including plant materials shall be considered material elements of the project in the same manner as parking, buildings, or other details. Deficiencies of any approved landscape plan at any point may be enforced as a violation of the provisions of this ordinance.
  
- H. **Alternative Compliance.** Alternative compliance to the plant specification standards established in Section 17-8-4, may be authorized by the Director according to the process and criteria in Section 17-2-6, Alternative Compliance, and any of the following additional applicable criteria:
  - 1. The alternative is necessary to improve the longevity or survival of plant materials.
  - 2. The alternative improves the health or general species mix specific to the context and vicinity of the site.
  - 3. In all cases the deviation is the minimum necessary to address the circumstance, the alternative equally or better meets the design objectives of this Section, and there are no negative impacts on other design standards applicable to the building or site.

**17-8-5 Fences & Walls**

- A. **Design Objectives.** Fences and walls provide safety and security, screening, and architectural enhancements to sites and buildings and shall meet the following design objectives:
  - 1. Fence and wall designs shall consider the context of the area, the location on the site, and the desired functions.
  - 2. Fences and walls with prominent publicly visible locations require higher design standards, accompaniment of landscape to soften the expanse, or a combination of both.
  - 3. Fences and walls in walkable contexts or nearest pedestrian facilities require a lower profile, more open design, or both.
  - 4. Fences and walls in prominent public places should complement the design of the site and the architecture of the associated building.
  - 5. Fences and walls shall be designed and located sensitive to the massing and design relationship, and other impacts to adjacent property.
  
- B. **Fence & Wall Standards.** All fences and walls shall meet the following standards.
  - 1. *Height & Location.* Fences shall be located according to Table 8-5: Fence Height and Location.

Table 8-5: Maximum Fence Height and Location		
	Residential	Commercial & Industrial
Front	<ul style="list-style-type: none"> <li>▪ 3' high if solid</li> <li>▪ 4' high if at least 50% open</li> </ul>	<ul style="list-style-type: none"> <li>▪ 3' high if solid</li> <li>▪ 4' high if at least 50% open</li> </ul>
Side & Rear	<ul style="list-style-type: none"> <li>▪ 6' if behind the front building line</li> </ul>	<ul style="list-style-type: none"> <li>▪ 8' if behind the front building line</li> </ul>





**Table 8-5: Maximum Fence Height and Location**

<i>Location</i>	<ul style="list-style-type: none"> <li>▪ All fences or walls shall be located on private property.</li> <li>▪ Where a property line is not known, installation shall be at least 2 feet from any public or common space sidewalk or trail.</li> <li>▪ If inadvertently located in any public right of way are subject to removal without replacement, if the area is required for public use or maintenance, repair, or replacement.</li> </ul>
<i>Generally</i>	<ul style="list-style-type: none"> <li>▪ Ornamental enhancements associated with an entry or gateway may be up to 8' high.</li> <li>▪ All fences or walls located along adjacent lot lines shall be constructed so that either:             <ul style="list-style-type: none"> <li>○ The face of the fence is on the property line, with the finished side facing outward; or</li> <li>○ The face of the fence is at least 3 feet from the property line. Any areas set back 3 feet or more from the property line, which could become enclosed by other similarly located fences or walls, shall provide at least one gate for access and maintenance equipment.</li> </ul> </li> <li>▪ Fences or walls outside of required setbacks (i.e. in the buildable envelope), and behind front building line can exceed height limits, but may be limited by building codes or other public health and safety standards.</li> <li>▪ Height includes any retaining wall or berm the fence is built on; however, the Director may grant exceptions where for fences in conjunction with a berm or wall where they equally or better serve the intent and design objectives of this Article.</li> </ul>

2. **Permitting and Maintenance.** All fences and walls shall be built to applicable codes, be engineered and permitted where required, and be maintained in good condition regarding both structure and appearance.
3. **Perimeter Fences.** Any fence designed as part of a perimeter fence for multiple properties, as part of a landscape buffer, or any expanse longer than 100 feet and within 30' of a collector or arterial, shall meet the following standards:
  - a. All fencing shall be softened with landscape materials on the street side of fences meeting the buffer standards of Section 17-8-3.
  - b. Expanses of over 300' shall be broken up by either:
    - (1) Offsets to solid fencing required of at least 3 feet on 1/3 of the length for every 300-foot span; or
    - (2) Ornamental designs on at least 1/2 of every 300-foot span that is at least 75% open (i.e. wrought iron); and
    - (3) Masonry columns are required at least every 100 feet.
4. **Sports and Recreation Fences.** Fences for sports and recreation facilities, or for any other similar public facility, may be up to 10 feet generally; or up to 14 feet for tennis, pickleball, or similar sport courts if at least 50% open above 7 feet high; and taller to serve the functional need for backstops or golf course protection.
5. **Materials.** All fences and walls shall be made of the following durable materials:
  - a. Decorative iron;
  - b. Masonry;
  - c. Wood, commercially-available wood intended for fencing;
  - d. Vinyl;
  - e. Vinyl covered chain-link/woven wire may be used in commercial and industrial applications, except prohibited for any front fence or along a public street;



- f. Barbed wire, limited to the top 12" of a fence placed on the side or rear of commercial and industrial uses, not immediately adjacent to a residential use. Fences and only if all portions of barbed wire are above 6 feet high. Razor and concertina wire is prohibited except in special and unique circumstances or in applications for federally-protected facilities.
    - g. Electrical fences are only allowed for permitted agriculture uses.
  - 6. *Construction and Erosion Control Fences.* Temporary fences for construction may be up to 10 feet in height, or as otherwise specified in construction permits.
  - 7. *Drainage Easements.* No fence shall be constructed which could impede the flow of drainage waters. All fences must be installed in a manner that will not constrict the water flow planned for proper drainage of the lots in a subdivision.
  - 8. *Sight Distances.* All fences, walls or screening shall be located out of the sight distances in the Design Standards, or otherwise limited to no more than 3 feet high in these areas.
- C. **Alternative Compliance.** Alternative compliance to the fence and wall standards established in Section 17-8-5, may be authorized by the Director according to the process and criteria in Section 17-2-6, Alternative Compliance.



## Article 9. Signs

- 17-9-1 Intent & Applicability
  - 17-9-2 Exempt Signs
  - 17-9-3 Permitted Sign Types & Allowances
  - 17-9-4 Standards for Specific Signs
  - 17-9-5 General Standards – All Signs
  - 17-9-6 Planned Unit Development Signs
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### 17-9-1 Intent & Applicability

- A. **Intent.** The intent of the sign standards is to:
1. Create an attractive aesthetic environment in the town.
  2. Enhance the quality and civic design of the community through the visual priority of buildings, streetscapes, open spaces, landscapes, and other investments in the public realm.
  3. Ensure that signs preserve and contribute to the unique character and identity of distinct places and districts.
  4. Improve economic viability by assuring that the town is a visually pleasant place to visit, conduct business, and live.
  5. Provide effective identification and communication for businesses, institutions, and other community destinations without excessive competition for visual attention.
  6. Protect property values and investments by minimizing adverse effects from signs on adjacent property.
  7. Promote safety for pedestrians, bicyclists, motorists, or other users of the public rights-of-way with proper location, construction, operation, and maintenance of signs.
  8. Ensure that the constitutionally guaranteed right of free speech is protected through appropriate standards for signs as a way of public communication.
- B. **Applicability.**
1. **General Applicability.** The standards in this Article shall apply to all signs except:
    - a. Legal non-conforming signs, subject to the provisions in Section 17-1-7.F
    - b. Exempt signs, to the extent of the limitations and specifications in Section 17-9-2.
  2. **Permit Required.** All signs shall require a permit to demonstrate compliance with this Article, issued based on an application signed by the property owner or the owner's authorized agent, except the following signs:
    - a. Signs exempt from a sign permit, as specified in Section 17-9-2.
    - b. The change of copy or content, change of sign panels, or similar changes to an existing sign that conforms to these standards, provided there is no change in the size, sign structure, or other essential design characteristics of the sign.
    - c. Ordinary maintenance or repair of existing signs provided no structural changes are made.
    - d. Permits may be required for any sign work to demonstrate compliance with other public safety codes, such as electrical, fire, or building codes.



C. **Sign Measurements.** Sign dimensions shall be interpreted as follows:

1. **General Area Calculation.** All applicants for a sign permit shall provide the surface area of the sign in square feet, providing methods and measurements for the calculation. Signs mounted on or displayed as a standard geometrical shape shall be measured by the standard mathematical formula for that shape. Signs mounted on or displayed as an irregular shape shall be measured by the smallest area of up to two standard geometrical shapes that can encompass the entire sign mounting.
2. **Freestanding Signs.** The area of a sign shall be computed by the entire area of the face of the structure, cabinet, or module encompassing the sign. Bases or supporting structures that include no message may be excluded from the sign area calculation.
3. **Wall, Window or Other Building-mounted Signs.** Any building mounted sign mounted on a background shall be measured by the area of the background. If mounted directly on the wall, the area shall be computed by means of the smallest single and continuous perimeter of up to two standard geometric shapes that enclose the outer limits of the writing, emblem, or other display. Gaps which are greater than two times the height of the sign area, when using the continuous perimeter above, may be subtracted from the calculation of the sign area, but it shall be interpreted as two signs. The area of the wall or window area for the purposes of determining the sign allowance shall be the total surface of the wall or window visible in an elevation view.
4. **Decorative Elements.** Embellishments such as pole housing, framing, decorative roofing and support structures, such as architectural or masonry bases, shall not be included in the area of the measurement if they contain no writing, emblem, or other display.
5. **Double-faced Signs.** Where the sign faces of a double-faced sign are no more than three feet apart at any location, only one face will be measured in computing sign area. If the two faces of a double-faced sign are of unequal area, the area of the sign will be the area of the larger face.
6. **Three-dimensional Objects.** Three-dimensional sign area is measured by the profile surface area that encloses the entire object on each side. This is calculated by the largest two-dimensional elevation of the object, taken from a typical viewing angle.

## 17-9-2 Exempt Signs

The following signs are exempt from a sign permit provided the sign meets all other applicable requirements of this Article. Unless specifically noted, exempt signs do not count towards the sign allowance specified for each zoning district. Signs beyond the limits of the exemptions may only be permitted by permits meeting the sign standards and allowances of the zoning district.

A. **Property Identification Signs.** Signs that enhance the ability of public safety, emergency services personnel, and the general public to locate a property, and which are visible from the right-of-way or other publicly accessible common areas, are exempt from permits subject to the following limitations:

1. **Address Signs.** Two per address, including suite numbers, up to 2 square feet each, only one of which may be ground-mounted. Address signs on buildings shall be placed between 4 feet and 12 feet high. Ground-mounted address signs shall be no more than 36 inches high, or incorporated into other permitted signs.



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2. **Building Name Plate.** Each building or site may have one name plate sign per frontage on streets or common areas, up to 5 square feet. Building name plate signs shall be associated with the permanence or significance of the building or site, rather than a particular tenant, and include designs such as engraved stone, bronze plates, or similar ornamental detail integrated with the architecture of the building or the site landscape.
- B. Public Safety, Traffic Control or Public Information.** Signs designed and located to control traffic movement and safety of vehicles and pedestrians according to uniform traffic control device standards; public wayfinding signs for community destinations; signs required by the Town’s Building or Fire Code; or signs otherwise required to support any official action or legal obligation of a federal, state, or local government, may be designed and located to meet the public purposes or requirements of other codes.
- C. Flags.** Flags shall be mounted a building below the building height or mounted on a permanent freestanding pole subject to the height limit of the zoning district and setback from the property line a distance equal to the actual height of the flagpole.
1. **Residential Uses.** Up to three non-commercial flags may be permitted per lot. Total flag area per property shall not exceed 80 square feet and no single flag may be more than 40 square feet. Residential uses may also display non-commercial flags in windows, which will be counted toward the total number and allowable area.
  2. **Nonresidential Uses and Mixed-use Projects.** Up to five non-commercial flags may be permitted per lot. Total flag area per property shall not exceed 200 square feet and no single flag may be more than 100 square feet.
- D. Window Signs.** Signs or window graphics may be mounted to the interior of any first-floor windows in nonresidential districts, provided signs shall not exceed more than 25 percent of the area of all first-floor windows, and at least 50 percent of the window the sign is mounted on remains clear of any visual obstructions.
- E. Temporary Signs.** Temporary signs are exempt from the sign permit process, and are subject to the standards in Sections 17-9-2 and 17-9-2, and 17-9-4.D.
- F. Incidental Signs.** Incidental signs for nonresidential uses or multi-family complexes, which are intended to convey messages to guests, patrons, or other users of the property, such as traffic or parking instructions, service or other internal directions, security warnings, or other similar minor accessory signs are limited to:
1. No single sign may be more than 4 square feet, or 12 square feet for lots more than 1 acre.
  2. Signs that are over 1.5 square feet are limited to no more than 12 square feet total sign allowance per lot, or 40 square feet per acre, whichever is greater.
  3. Signs shall be no more than 6 feet high if ground-mounted or 12 feet high if mounted on a building;
  4. Signs shall be setback at least 10 feet from all property lines; and
  5. Grouping or arranging incidental signs to have the effect of a larger permitted sign or and increase visibility from rights-of-way or other publicly accessible common area makes all signs in the grouping ineligible for this exemption.
- G. Construction Signs.** Signs associated with active construction sites are limited to:
1. 80 square feet of total sign allowance per 600 linear feet of public street frontage, calculated on a pro-rata basis;
  2. No more than 3 signs per street frontage;



- 3. Signs may be mounted on a building ground-mounted, and shall be limited to 12 feet in height;
- 4. Incidental contractor branding on vehicles, materials, fencing, work trailers, and similar shall be exempt, and not subject to this sign allowance limit; and
- 5. The signs shall only be posted for the duration of a valid permit associated with the project.

These signs are in addition to any other temporary sign allowances in Tables 9-2 and 9-3.

- H. **Special Event Signs.** Signs associated with a temporary special event may be approved through the permitting and approvals for the event. Signs shall generally follow the standards in this Section; however, the event approval process may authorize deviations that generally meet the intent of this Article, or are otherwise based on the short term and special circumstances of the event.
- I. **Interior Signs.** Any sign that is not visible from the right-of-way, from any point along the perimeter of the property or from adjacent property, or from publicly accessible common spaces are exempt from permits and the standards of this Chapter, but may be subject to electrical, fire, or building codes, or subject to other construction and public safety specifications.
- J. **Venue Signs.** Signs associated with a public or common gathering space for events, and which are oriented only towards patrons of the event, such as scoreboards, institutional logos, or similar experience branding are exempt from the permits and standards provided they are approved as part of a site plan for the facility.
- K. **Vehicle Signs.** Signs permanently and professionally affixed via paint, decal, sticker, wrap, or similar technology to the standard exterior of a licensed and functional vehicle, for the clear purpose of identifying the vehicle or service provider for commercial use, and parked in a typical vehicle or service area, or being driven, shall not be subject to this Code. All other signage affixed to a vehicle, trailer, or other mobile object that may be reasonably interpreted to be regularly, or permanently placed for the purposes of providing signage is subject to dimensional and locational elements in this Code.

### 17-9-3 Permitted Sign Types & Allowances

- A. **Permitted Sign Types.** The following sign types are distinguished for the purposes of determining the total sign allowance for permitted signs for each lot or building.

Table 9-1: Permitted Sign Types	
Sign Type	Description
<b>Building Signs</b>	A sign painted, printed, or attached to the exterior surface of a building, awning, canopy, or other fixed building surface in a permanent manner. Building signs are the principal signs for the building or site and generally have a scale and design legible to vehicles in the public right-of-way or otherwise legible distant from the building (distinguished from Pedestrian Signs below).
<b>Freestanding Signs</b>	A detached sign that is independent from any building. Freestanding signs are the principal signs for the building or site and generally have a scale and design legible to vehicles in the public right-of-way or adjacent drives. (Distinguished from Pedestrian Signs below).
<b>Pedestrian Signs</b>	A sign with a design and scale to be legible to pedestrians in front of or immediately adjacent to the building or site, or to be legible to individuals internal to a site containing multiple buildings. Pedestrian signs may be attached to buildings or mounted on the ground independent to a building in a permanent manner. Typical examples include signs hanging below a covered walk, canopy, or awning, mounted on or projecting from a wall, or freestanding signs associated with a pedestrian entrance or passage.



<b>Temporary Signs</b>	A portable sign which is not permanently embedded in the ground or permanently affixed to a building or structure, and designed or intended to be used for a brief period of time. Temporary signs do not include permanent signs with temporary or changeable messages.
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**B. Residential Districts.** The following sign types are permitted in residential zoning districts:

Table 9-2: Permitted Signs – Residential Districts		
Sign Type	Standards	
<b>Building Signs</b>	Quantity	<ul style="list-style-type: none"> <li>▪ Permitted for principal nonresidential or multi-unit residential buildings (i.e. schools, churches, community centers, apartments)</li> <li>▪ 2 per street-facing building elevation</li> <li>▪ No more than 1 on any single wall plane</li> </ul>
	Maximum Size	<ul style="list-style-type: none"> <li>▪ 5% of street-facing building elevation or 100 s.f , whichever is less (<i>per sign</i>)</li> </ul>
	Height	<ul style="list-style-type: none"> <li>▪ At least 1 foot below the top of the wall it is mounted on for flat roof buildings.</li> <li>▪ At least 1 foot below roof deck or eave line for pitched roof buildings.</li> </ul>
	Other Standards	See Section 17-9-4.A
<b>Freestanding Signs</b>	Quantity	<ul style="list-style-type: none"> <li>▪ Permitted for principal nonresidential or multi-unit buildings (i.e. schools, churches, community centers, apartments)</li> <li>▪ 1 per street frontage; but no more than 2 per lot.</li> </ul>
	Maximum Size	<ul style="list-style-type: none"> <li>▪ 32 s.f. (<i>per sign</i>)</li> </ul>
	Maximum Height	<ul style="list-style-type: none"> <li>▪ 6'</li> </ul>
	Other standards	<ul style="list-style-type: none"> <li>▪ Setback from property lines at least a distance equal to the height</li> </ul> See Section 17-9-4.B, Residential property may also be permitted Identity Signs as provided in Section 17-9-4.E
<b>Pedestrian Signs</b>	Quantity	<ul style="list-style-type: none"> <li>▪ Permitted for principal nonresidential or multi-unit buildings (i.e. schools, churches, community centers, apartments)</li> <li>▪ 1 per each public building entrance</li> </ul>
	Maximum Size ( <i>per sign</i> )	<ul style="list-style-type: none"> <li>▪ 6 s.f; or</li> <li>▪ 8 s.f. if associated with a primary building entrance</li> </ul>
	Maximum Height	<ul style="list-style-type: none"> <li>▪ 6' if ground-mounted</li> <li>▪ 12' if mounted on a building</li> </ul>
	Other Standards	See Section 17-9.4.C.
<b>Temporary Signs</b>	Total Allowance	<ul style="list-style-type: none"> <li>▪ 18 s.f., or 0.18 s.f. per 1' of street frontage whichever is greater, but no more than 48 square feet.</li> </ul>
	Quantity	<ul style="list-style-type: none"> <li>▪ N/A; subject to total allowance and duration limits; however the duration and period of multiple signs allowed is limited. See Section 17-9-4.D</li> </ul>
	Maximum Size ( <i>per sign</i> )	<ul style="list-style-type: none"> <li>▪ 8 square feet</li> <li>▪ 24 square feet per sign for lots with over 150' of street frontage.</li> </ul>
	Maximum Height	<ul style="list-style-type: none"> <li>▪ 6' if ground-mounted</li> <li>▪ 20' or 1' below top of wall plane, whichever is less, if mounted on a building</li> </ul>
	Other Standards	See Section 17-9-4.D



C. **Mixed-use & Industrial Districts.** The following sign types are permitted in mixed-use and industrial zoning districts:

<b>Table 9-3: Permitted Signs – Mixed-use &amp; Industrial Districts</b>		
<b>Sign Type</b>	<b>Standards</b>	
<b>Building Signs</b>	<i>Total Allowance</i>	<ul style="list-style-type: none"> <li>2 s.f. for each 1 linear foot of building frontage for first 100' of building frontage; plus</li> <li>1 s.f. for each 1 linear of building frontage over 100' of building frontage</li> </ul>
	<i>Quantity</i>	<ul style="list-style-type: none"> <li>Single-tenant Buildings: 4 signs per street-facing elevation</li> <li>Multi-tenant Buildings: 1 primary sign per street-facing elevation, on a pro rata basis based upon the linear frontage of the building.</li> </ul>
	<i>Maximum Size (per sign)</i>	<ul style="list-style-type: none"> <li>200 s.f.</li> </ul>
	<i>Maximum Height</i>	<ul style="list-style-type: none"> <li>At least 1 foot below the top of the wall it is mounted on for flat roof buildings.</li> <li>At least 1 foot below roof deck or eave line for pitched roof buildings.</li> </ul>
	<i>Other Standards</i>	See Section 17-9-4.A
<b>Freestanding Signs</b>	<i>Total Allowance</i>	<ul style="list-style-type: none"> <li>1 s.f. for each 1 liner foot of building frontage for first 100' of building frontage; plus</li> <li>0.5 s.f. for each 1 linear of building frontage over 100' of building frontage</li> </ul>
	<i>Quantity</i>	<ul style="list-style-type: none"> <li>1 per 150' of street frontage (minimum 100' separation between signs)</li> <li>3 per lot or development maximum.</li> </ul>
	<i>Maximum Size (per sign)</i>	<ul style="list-style-type: none"> <li>N/A; limited to total allowance</li> </ul>
	<i>Maximum Height</i>	<ul style="list-style-type: none"> <li>Single user or 1-3 tenants- 12'</li> <li>Multi-tenants / Other - See Development Identity Signs in Section 17-9-4.E.</li> <li>Signs within 100' of the I-25 right-of-way 50' or 50' higher than adjacent interstate grade, whichever is higher.</li> <li>Signs within 50' of a state or U.S. highway right-of-way - 50'; not permitted in the MU-DT district.</li> </ul>
	<i>Minimum Setbacks</i>	<ul style="list-style-type: none"> <li>50% of the sign height and lot located in any easements</li> </ul>
	<i>Other standards</i>	See Section 17-9-4.B Projects over 5 acres may also be permitted Identity Signs as provided in Section 17-9-4.E
<b>Pedestrian Signs</b>	<i>Quantity</i>	<ul style="list-style-type: none"> <li>1 sign per each 50' of building frontage, or one for each tenant with a separate public entrance;</li> <li>Plus 1 for each building entrance</li> </ul>
	<i>Maximum Size (Individual Signs)</i>	<ul style="list-style-type: none"> <li>6 s.f.; or</li> <li>8 s.f. if associated with a primary building entrance</li> </ul>
	<i>Height</i>	<ul style="list-style-type: none"> <li>6' if ground-mounted</li> <li>12' if mounted on a building</li> </ul>
	<i>Other Standards</i>	See Section 17-9-4.C
<b>Temporary Signs</b>	<i>Total Allowance</i>	<ul style="list-style-type: none"> <li>32 s.f. total sign allowance, or 0.25 s.f. for every 1 linear foot of street frontage for lots over 100' of frontage, up to a maximum of 100 s.f.</li> </ul>
	<i>Quantity</i>	<ul style="list-style-type: none"> <li>N/A; subject to total allowance and duration limits; however the duration and period of multiple signs allowed is limited. See Section 17-9-4.D.</li> </ul>





Maximum Size (Individual Signs)	<ul style="list-style-type: none"> <li>▪ 12 s.f.</li> <li>▪ 24 s.f. for lots with 100' to 200' of street frontage</li> <li>▪ 48 s.f. per sign for lots with over 200' of street frontage.</li> </ul>
Height	<ul style="list-style-type: none"> <li>▪ 6' if ground-mounted</li> <li>▪ 20' or 1' below top of wall plane, whichever is less, if mounted on a building</li> </ul>
Other Standards	See Section 17-9-4.D

### 17-9-4 Supplemental Standards for Specific Sign Types

The standards in this section are supplemental standards, in addition to the general standards in Tables 9-2 and 9-3 applicable to specific sign types.

**A. Building Signs.** Buildings signs are subject to the following additional standards:

1. Building signs in the MU-DT district shall be limited to a sign band between the street level storefront and the first story cornice or frieze, or on a first-story awning, except buildings 3-stories or taller may allocate up to 50% of the building sign allowance to a sign located within 8 feet from the top of the facade.
2. No portion of a building wall or other structure may be built above the roofline, which serves no other structural or architectural purpose, other than to mount a sign or expand the sign area allowance. A parapet intended for rooftop mechanical screening or to provide articulation may be used to place building signs.
3. Building signs shall not project more than 15 inches off the wall surface, except projecting signs meeting the following additional limitations:
  - a. Projecting wall signs may extend from and be perpendicular to the wall up to 10 feet, but no closer than 5 feet to the back of the curb.
  - b. Projecting signs shall be at least 8 feet above grade.
  - c. Projecting signs shall be no larger than 2 square feet for every 1 foot of building height, to a maximum of 50 square feet.
  - d. Only one projecting sign is permitted per wall.

**B. Freestanding signs.** Freestanding signs are subject to the following additional standards:

1. Freestanding signs used in the MU-DT and MU-NC zoning district are permitted only in instances where the front entrance of the primary building is located in compliance with Section 17-6-3, Frontage Design, and is setback from the right of way at least 20 feet.
2. Support structures and bases shall be constructed with durable, high quality architectural materials (such as brick or stone) that complement the building or are integrated into the landscape and other site elements in terms of material, colors, and ornamentation.
3. Freestanding signs shall be accompanied by a landscape or civic space plan that integrates the sign area into the overall site, softens the visibility of the structural elements, and improves the appearance of the sign and property from the streetscape subject to the standards and criteria of Article 8.
4. Any lot or site that uses only building signs (no freestanding signs) may receive a 20% bonus in the permitted building sign allowance.

**C. Pedestrian Signs.** Pedestrian signs are subject to the following additional standards:

1. Pedestrian signs shall be placed along building frontages where there is direct pedestrian access and circulation



2. Signs may be mounted directly on the surface of the wall, awning, or canopy, or if hanging below, maintains at least 8 feet clearance from the sidewalk below
  3. Pedestrian signs associated with an entrance shall be located within 10 feet of a business entrance.
  4. Portable pedestrian signs (“A frame”, “sandwich board” or “T-frame”) have a limited license to be placed in the public right-of-way for any permitted retail or service use provided:
    - a. Signs are only permitted on Pedestrian Streets meeting the street design standards of Section 17-3-1, or other areas of a site associated with pedestrian circulation and access.
    - b. No more than one sign per public building entrance.
    - c. The sign shall be no more than 8 square and is limited to no wider than 3 feet and not taller than 4 feet.
    - d. The sign is placed within 20 feet of the main entrance of the building or service area of a business, and at least 2 feet from any curb.
    - e. The sign is placed on or near a sidewalk, and otherwise associated with pedestrian routes to and from the business.
    - f. The sign shall maintain at least six feet clear passage for pedestrians on the sidewalk, and is otherwise located to avoid visual obstructions or safety hazards for users of the right-of-way.
    - g. The sign shall be permitted only during business hours of the associated business.
    - h. The sign shall be weighted to remain upright and in place, and removed immediately in periods of high winds or otherwise at the request of the Town.
- D. **Temporary Signs.** Temporary signs are subject to the following additional standards:
1. No temporary sign shall be displayed for more than 120 consecutive days, without 120 days intervening. Relocation of a temporary sign, or removal and replacement with a substantially similar sign does not extend the time period for the temporary sign.
  2. The period when more than 1 temporary sign may be placed on a lot or site shall be limited to no more than 120 days.
  3. The total area allowance for temporary signs in Table 9-2 or 9-3 may be allocated to multiple signs, provided:
    - a. No single sign exceeds the maximum area per sign.
    - b. The limitation periods for a single sign or multiple signs is not exceeded.
    - c. Signs shall not be grouped or arranged to have the effect of a larger permitted sign or otherwise be coordinated as a single sign.
  4. Temporary signs shall not be illuminated or use any light reflecting materials or coating.
  5. Temporary signs shall be constructed of durable material, designed to resist quick deterioration from the elements, and securely anchored to not pose a distraction or hazard. Non-rigid materials (such as banners) shall be secured by a support or frame to avoid distraction or flapping.
  6. The Director may require the removal of any temporary sign that pertains to an expired event, or may refrain from enforcement of the duration or time limits for any temporary sign related to an event that has been extended beyond the control of the owner.
- E. **Identity Signs.** Larger commercial properties and residential neighborhoods may be permitted identity signs as provided in this section.
1. *Nonresidential, Mixed-use or Industrial Identity Signs.* Nonresidential or mixed-use projects over 20 acres and with multiple tenants or buildings are permitted identity signs in addition to the permitted freestanding sign allowances, subject to the following:



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- a. Identity signs shall be incorporated into a significant architectural element that reflects the unique character and identity of the area.
  - b. Structures associated with identity features shall generally be subject to height limits of the district, however exceptions may be approved through the site development plan process and based on the context of the site. No exception shall be approved beyond the height limits in Table 9-3.
  - c. No more than two identity signs per entrance and one per corner at the intersection of two perimeter streets.
  - d. Maximum sign area shall be no more than 200 square feet per sign.
  - e. Identity signs shall be located at least 200 feet from any other freestanding sign, except for matching or complimentary identity signs on either side of an entrance.
  - f. Identity signs shall be located on the site of the nonresidential use, or in a common area owned and controlled by a property or business association, provided there is an owners association or similar entity to ensure on-going maintenance of the sign and landscape.
2. **Residential Identity Signs.** Residential projects with more than 20 lots or more than 5 acres are permitted identity signs in addition to the permitted freestanding sign allowances subject to the following standards:
- a. All residential gateway signs shall be monument signs, no higher than 8 feet, unless incorporated into an accessory structure that is an integral part of the landscape design.
  - b. Identity signs shall be limited to no more than 2 per entrance from a collector or arterial street, provided the entrances are separated by at least 300 feet.
  - c. Identity signs shall be limited to:
    - (1) 24 square feet for entrances on a collector street;
    - (2) 48 square feet for entrances on an arterial street.
  - d. Identity signs shall be set back from the lot or parcel line at least 6 feet.
  - e. Identity signs shall be located on the site of the residential use, or in a common area owned and controlled by a property or business association of the residential uses, provided there is a property manager, homeowners association, or other entity to ensure on-going maintenance of the sign and landscape.
3. **Site Development Plan Review.** All identity signs shall require a site development plan review according to the standards and criteria in Section 17-2-5, or may otherwise be incorporated into a broader site development plan in which the subject sign is located.
- F. **Multi-tenant Buildings & Sites.** Any nonresidential building or site with multiple tenants shall be subject to the following:
1. A sign plan shall demonstrate coordination of all signs on the building and site, allow sufficient flexibility for the replacement of signs or new tenants without the need for a new sign plan, unless a new sign design concept is proposed for the entire building or site.
  2. Building signs may be apportioned to any tenant with a separate exterior entrance and apportioned to their percentage of the street-facing elevation. In the case where all tenants share a common entrance the building signs may be apportioned to no more than two signs per street-facing elevation.
  3. Buildings that have multiple wall or freestanding signs, or multiple tenant components on a single sign shall coordinate all signs for the building or site. Coordination may be established by combinations of two or more of the following:
    - a. The same or similar fonts, in terms of color, scale, and style. However, a primary and secondary font may be incorporated into signs.
    - b. The same sign background in terms of material and color or coordinated colors.



- c. The same base or framing in terms of materials and style, provided it is prominent enough to be a visible coordinating element across multiple signs.
  - d. A consistent scale, orientation, shape or placement of signs. For example, all oval signs, or all signs located within a sign band across storefronts.
  - e. Pedestrian signs or portions of principal signs that are less than 33% of the sign areas, may deviate from coordinating elements to account for logos, icons, or branding unique to the tenants.
- G. **Drive-Through Service Facilities.** Drive-through service facilities may have two signs per service area, no more than 32 square feet per sign, and no more than 8 feet high. Drive through service signs may be further limited and located to the accessory use standards in Section 17-4-4, and the site development plan criteria in Section 17-2-5.
- H. **Electronic Message Displays.** Electronic message displays may be incorporated into permitted signs subject to the following additional limitations:
- 1. Only one display shall be permitted for each lot or development.
  - 2. Displays shall only be used for permitted non-residential uses, and shall be setback at least 100 feet from any property zoned for or used exclusively for residential uses.
  - 3. Portions of a sign use for electronic display shall be further limited in the following districts:
    - a. R-1, R-2, R-3, MU-NC and MU=DT districts – 24 square feet maximum.
    - b. All other nonresidential districts – 48 square feet maximum.
  - 4. Only static display is permitted with at least 8 seconds between changes in display and no more than 0.3 second for transitions.
  - 5. Changes may occur only by dissolve, fade or instantaneous change. Scrolling, flashing, rolling, window shading or other similar effects, or any other flashing or appearance of movement is prohibited.
  - 6. Displays shall be equipped with a sensor or other device that automatically determines the ambient illumination and programmed to dim according to ambient light conditions and keep the illumination to no more than 0.3 footcandles over ambient lighting conditions.
    - a. Lighting shall be measured perpendicular to the sign at a distance dependent on the overall sign area.
    - b. Unless standard industry practices dictate a different measure or method, the distance shall be the square root of 100 time the sign area. (i.e. a 50 square foot sign should be measured from 70.7 feet perpendicular to the sign.)
  - 7. Applications for sign permits containing an electronic display shall include the manufacturer's specifications and cd/m<sup>2</sup> rating.
  - 8. Signs shall not include any business message that is not on the same lot or premises as the sign, and shall not direct attention to a business, produce or service sold or offered off premises.
  - 9. Any sign that malfunctions causing flashing, motion, or other violations of this Chapter shall be turned off as soon as possible, but in no case longer than 24 hours. The sign shall not be turned on again until prepared to operate according to these standards.
  - 10. The Town shall have the right to enter the property and view the programmed specifications of the sign to determine compliance with these provisions in accordance with the sign permit issued for the sign.

## 17-9-5 General Standards – All Signs

### A. Public Health, Safety, & Maintenance.



1. All signs shall be designed, constructed, located, and maintained in a manner that is compliant with all electrical, fire, and building codes, and any other industry standards for public safety of signs, so that the sign does not present any potential risk to public safety in the judgment of the Building Official or the Director.
2. No sign shall be designed and located in a way where it can imitate or be confused with an official government sign for traffic direction or any other public safety symbol.
3. Signs shall not obstruct visibility of pedestrians and vehicles with sight triangles, as defined by Section 17-3-2.D.2.
4. Any sign projecting over a walkway, active area in front of a building, or other area where people may pass shall maintain at least 7.5 feet vertical clearance.
5. No sign shall be located to obstruct any window, door, or other opening used for egress or required for light or ventilation.
6. No sign, sign structure, or associated grounds shall present any dilapidated state or condition that may impact the relationship to or appearance from the public right-of-way or adjacent property.
7. All signs and any surrounding grounds or landscape shall be maintained in good condition, free of any debris, weeds, disrepair, or other unsightly conditions.

**B. General Design.**

1. *Placement.* The location of all permanent building signs shall be incorporated into the architectural design of the building according to the following principles:
  - a. Placement of signs should be considered part of the overall facade design and composition.
  - b. Sign locations should align with major architectural features such as storefront sign bands, cornices and parapets, entrance features, marquees, windows, canopies, and other similar architectural features.
  - c. Signs shall not be placed where they obstruct any significant building design feature, including windows, architectural details, trim, and ornamentation.
2. *Durability & Appearance.* All permanent signs shall be designed to convey durability and a quality appearance according to the following principles:
  - a. Materials, particularly for the frames, casings or bases of signs, should be chosen to complement the architecture of the building, and coordinate with other accent materials or architectural details of the building and site.
  - b. Simple 2- and 3-color contrasting colors schemes should be used between the color of the background, letters, and accents to ensure legibility and quality appearances. Fluorescent colors should be limited to accents and typically less than 10% of the sign area.
  - c. Buildings and sites that have that have multiple building or freestanding signs should coordinate all signs using one or more consistent coordinating elements, such as similar fonts, colors, sign scale or shapes, backgrounds, or casing and framing material.

**C. Specific Designs Prohibited.**

1. No sign shall be attached to any public utility pole or installed within the public right-of-way, except:
  - a. Official government signs exempt from these standards according to Section 17-9-2.B;
  - b. Signs attached to and projecting from buildings and meeting all other standards of this Article;
  - c. Portable pedestrian signs meeting the limited license and exception in Section 17-9-4.C; or



- d. Signs otherwise licensed by the city through special events or management of the design and use of the right-of-way, apart from the Development Code.
2. No sign shall include balloons, streamers, pennants, or other air activated movements and animated elements such as flashing, blinking, or rotating, whether animated by mechanical, electrical, or environmental means.
  - a. This limitation shall not apply to pedestrian signs, provided any animated element of the sign or structure shall count to the limits of the pedestrian sign allowances.
  - b. This provision shall not apply to prohibit flags, temporary signs, or electronic message displays meeting the standards of this Article, or to signs approved in association with a special event permit.
  - c. This provision shall not apply to temporary holiday displays or works of art, provided there is no commercial message associated with them.
3. Materials and design which are prohibited include:
  - a. Vinyl fabric or other material that is not intended as a durable exterior building material.
  - b. Box signs consisting of metal or similar exterior framing, with replaceable translucent panels are not permitted as wall signs. Replaceable panels may be used in the context of a multitenant freestanding sign.
  - c. Exposed framing, wiring, or support posts or poles unless demonstrated to be an intentional and aesthetic part of the architectural design.
4. No sign shall be placed on any vehicle, bus, or trailer, or similar objects visible from the right-of-way, where the object is located specifically to function as a sign and to avoid the standards or criteria of this Article.
5. Any sign with a business message shall be located on the lot of the business activity and shall not direct attention to a business, produce or service sold or offered off premises, except signs for multi-tenant premises, which must be associated with the site and located in common areas controlled by the businesses or property owners' associations.

**D. Illumination.**

1. Any illumination of a sign shall be designed to eliminate glare or any other negative impacts on surrounding rights-of-way and property. In general, any direct source of light shall not be visible from the public street or adjacent property.
2. Light from an illuminated sign shall not spill onto adjacent properties. The light reading from sign lighting at any point within 10 feet from an adjacent property shall be less than one foot-candle. A photometric plan may be required.
3. External light sources shall be directed and shielded to conceal the light source and illuminate only the surface of the sign.
4. External illumination of a signs 10 feet high or more shall only occur from the top down.
5. No light source shall cause any glare, flashing, strobing, movement, or other similar impact off site, or that may be construed to mimic public safety distraction to traffic.
6. Exposed lighting where the light source is the sign, shall be limited to window signs mounted to the inside of the building, pedestrian signs, or used as an accent equaling less than 10% of the sign area.

**17-9-6 Planned Development Signs**

The provisions in this Article shall be used to guide signs within Planned Development (PD) application. Proposed planned developments may include a specific and coordinated sign plan with limited standards that address size, height, design, lighting, color, materials, location and method of construction of all signs planned within the PD. Absent a specific sign plan, the Town shall apply sign standards closest to the zoning district the PD land uses represent. The Town Council may impose alternate standards relating to



## ARTICLE 9 – SIGNS

### 17-9-5 GENERAL STANDARDS – ALL SIGNS

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signs if it is determined that there are commensurate design trade-offs proposed for signs through the procedures and criteria in Section 17-2-4.



## Article 10. Supplemental Standards

- 17-10-1 Wireless Communication Facilities
  - 17-10-2 Floodplain Management & Flood Damage Prevention
  - 17-10-3 Natural Resource Extraction & Energy Development
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### 17-10-1 Wireless Communication Facilities

- A. **Intent.** In order to accommodate the communication needs of residents and businesses while protecting the public, health, safety and general welfare of the community, the Town Council finds that these regulations are necessary to:
1. Provide for the managed development and installation, maintenance modification and removal of wireless communications infrastructure in the Town with the fewest number of wireless communications facilities (WCFs) to complete a network without unreasonably discriminating against wireless communications providers of functionally equivalent services, including all of those who install, maintain, operate and remove wireless communication facilities;
  2. Minimize adverse visual effects of WCFs through thoughtful design and siting, including, but not limited to, camouflage design techniques, appropriate and effective screening and undergrounding whenever possible;
  3. Encourage the location of towers in areas that minimize the total number of towers needed throughout the Town;
  4. Require the co-siting of WCFs on new and existing sites wherever possible;
  5. Encourage the location of WCFs in areas where the impact to the Town and its residents is minimized;
  6. Enhance the ability of wireless communications service providers to provide wireless services to the community quickly, effectively and efficiently; and
  7. Effectively manage WCFs located in the public right-of-way.
- B. **Applicability.** The requirements set forth in this Section shall apply to all eligible facilities requests and WCF applications for base stations, alternative tower structures, towers, micro cells, small cells and all other wireless facilities, except the following:
1. *Amateur radio antennas.* Amateur radio antennas that are owned and operated by a federally licensed amateur radio station operator or are exclusively receive-only antennas, provided that the height is less than or equal to the distance from the base of the antenna to the property line and meets other applicable provisions of the Code are met.
  2. *Pre-existing WCFs.* Any WCF for which a permit has been properly issued prior to June 3, 2019, shall not be required to meet the requirements of this Section. Notwithstanding the foregoing, any modifications qualifying as an eligible facility request shall be evaluated under this Section.
  3. *Miscellaneous receiving antennas.* Antennas used for reception of television, multi-channel video programming and radio such as over-the-air receiving device (OTARD) antennas, television broadcast antennas, satellite antennas and broadcast radio antennas, provided such antennas are less than 1 meter in diameter, mounted on the ground with a total height less than 5 feet or attached to an existing building. The Director has the authority to approve modifications to the size and height restriction of OTARD





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- antennas and OTARD antenna structures, if, in the reasonable discretion of the Director, modifications are necessary to comply with federal law.
4. *Emergency.* A WCF installed upon the declaration of a state of emergency by the federal or state government or by the Town pursuant to written determination, provided prior to the WCF installation or within 72 hours thereafter, that such action is necessary to protect the health, safety and welfare of the public.
  5. *Temporary WCF.* A cell on wheels, or similar temporary WCF, installed for the purpose of providing sufficient coverage for a special event for no more than 1) days, subject to administrative approval by the Town.

#### C. Operational Standards

1. *Federal Requirements.* WCFs shall meet the standards and regulations of the Federal Aviation Administration, the FCC and any other federal government agency with the authority to regulate WCFs, as amended from time to time. If such standards and regulations are revised, then the owners of the WCF shall bring such facility into compliance with such revised standards and regulations within the time period mandated by the controlling federal agency. Unless preempted by federal law, failure to meet such revised standards and regulations within 30 days of the Town's determination of such failure shall constitute grounds for the removal of the WCF by the Town or by the owner of the WCF at the owner's expense.
2. *Permission to use public right-of-way or public property.*
  - a. *Public right-of-way.* Prior to, or concurrently with, the filing of an application seeking land use approval for the siting of WCF in the ROW, the applicant shall have an executed agreement with the Town, granting the applicant a non-exclusive license to use the ROW. WCFs attached to an existing pole or replacement pole or on a new traffic signal, street light pole or similar structure shall require written evidence of a license, or other legal right or approval, to use such structure by its owner. The applicant shall remain the owner of, and solely responsible for, any WCF installed in the ROW.
  - b. *Public property.* Prior to, or concurrently with, the filing of an application seeking land use approval for a WCF on public property, the applicant shall execute a lease agreement with the Town.
3. *Operation and maintenance.* To ensure the structural integrity of WCFs, the owner and operator of a WCF shall ensure that it is maintained in compliance with the standards contained in applicable local building and safety codes. If, upon inspection, the Town concludes that a WCF fails to comply with such codes and/or constitutes a danger to persons or property, then, upon written notice being provided to the owner of the WCF, the owner shall have 30 days from the date of notice to bring the WCF into compliance. Upon good cause shown by the owner and meeting reasonable safety considerations, the Director may extend such compliance period, not to exceed 90 days from the date of said notice. If the owner fails to bring the WCF into compliance within said time period, the Town may remove the WCF at the owner's expense.
4. *Abandonment and removal.* After the WCF is constructed, if a WCF has not been in use for a period of 3 months, the owner of the WCF shall notify the Town of the non-use and shall indicate whether re-use is expected within the ensuing three months. Any WCF that is constructed and is not operated for a continuous period of 6 months shall be considered abandoned. The Town, in its sole discretion, may require an abandoned WCF to be removed. The owner of such WCF, or the property owner who signed a removal affidavit,



shall remove the same within 30 days of receipt of written notice from the Town. If such WCF is not removed within said 30 days, the Town may remove it at the owner or the property owner's expense and any approved permits for the WCF shall be deemed to have expired. The Town may also, in its sole discretion, decline to approve any new WCF application until the applicant who is also the owner of any abandoned WCF has removed such WCF or provided payment for such removal to the Town.

5. *Hazardous materials.* No hazardous materials shall be permitted in association with WCFs, except those necessary for the operation of the WCF and only in accordance with all applicable laws governing such materials.
6. *Collocation and co-siting.* No WCF owner or operator shall unreasonably exclude a telecommunications competitor from using the same WCF facility or site. When an owner or operator seeks to exclude a telecommunications competitor, upon request from the Director, the owner or operator shall provide written evidence explaining why collocation or co-siting is not possible at the particular facility or site.

**D. Review Procedures & Requirements**

1. *Timeframe for review.* New WCFs shall be constructed, collocated or co-sited after a written request from an applicant is reviewed and approved by the Town, in accordance with this Section. The Town shall provide an application for WCF submittals, which shall require the provision of information necessary and adequate for the Town to appropriately make a determination with respect to the WCF development request. An application for a WCF that does not comply with the provisions and design standards of this Section may seek *Use by Special Review* approval pursuant to the procedure set forth in the Code.
  - a. *Facilities within public rights-of-way.* Applications for base stations, alternative tower structures, small cell facilities and alternative tower structures within public rights-of-way shall be reviewed by the Director for conformance with this Section, using the design standards in Subsection E. and those otherwise found in the Code. If the Director determines that WCFs in the rights-of-way are found to have a significant visual impact, are not compatible with the structure or surrounding area or do not meet the intent of this Section, the Director may refer such applications to the Planning and Zoning Commission for a *Use by Special Review* determination.
  - b. *WCFs, including towers.*
    1. Applications for towers, other than those defined or excepted in subsection D.1.a., must utilize the *Use by Special Review* procedure (conditional use approval) set forth in the Code, and meet the applicable submittal requirements site development plans in Article 2, unless otherwise directed by the Director.
    2. Applications for towers shall demonstrate that other alternative design options, such as using base stations or alternative tower structures, are not viable options.
    3. Subject to the tolling provisions in Subsection D.3, the Town shall render a decision within 150 days of the date on which an applicant submits a complete *Use by Special Review* application.
  - c. *Eligible facilities requests.*
    1. *Permitted use.* Eligible facilities requests shall be considered a permitted use in all zoning districts and shall be subject to administrative review.



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The Town shall prepare an application form requiring submittal of the information necessary for the Town to consider whether a project constitutes an eligible facilities request, including, but not limited to, sufficient information to allow the Town to determine whether the request does not constitute a substantial change and whether it complies with applicable law. The application shall not require the applicant to demonstrate a need or business case for the request.

2. *Timeframe.* Subject to the tolling provisions in Subsection D.3, the Director shall render a decision within 60 days of the date on which an applicant submits a complete application.
3. *Ineligible requests.* If the Director determines that the applicant's request is not an eligible facilities, the presumptively reasonable timeframe in Section 332(c)(7) of the Telecommunication Act, as prescribed by the Shot Clock, shall begin to run from the issuance of the Town's decision that the application is not a covered request, assuming that the application is deemed to be complete at that time. The Town may request additional information from the applicant to evaluate whether the application is complete, during which time the timeframe for review of the application shall be tolled.

d. *Small cell facilities.*

1. *Application.* The Town shall prepare an application form requiring submittal of the information necessary for the Town to consider whether a project constitutes a small cell facility.
2. *Timeframe.*
  - (a) *Collocation on existing structure.* Subject to the tolling provisions in Subsection D.3, the Town shall render a decision within 60 days of the date on which an applicant submits a complete application.
  - (b) *New structure.* Subject to the tolling provisions of in Subsection D.3, the Town shall render a decision within 90 days of the date on which an applicant submits a complete application.
3. *Batched applications.* If a single application seeks authorization for multiple deployments, all of which may be categorized as either small cell facilities using an existing structure or small cell facilities using a new structure, then the timeframe for review shall be equal to that for a single deployment within that category. If a single application seeks authorization for multiple deployments, the components of which may be a mix of these aforementioned categories (small cell facilities using an existing structure or small cell facilities using a new structure), then the timeframe for review shall be equal to that with the longer review timeframe permitted for all components of that application.

2. *Additional submittal requirements.*

- a. In addition to the requirements contained in the Town-approved applications, the following supplemental items are required for all WCF applications:
  - (1) Applicable submittal requirements for site development plans in Article 2, unless otherwise waived by the Director;
  - (2) Signal non-interference letter;
  - (3) Radio frequency emissions letter;
  - (4) Photo simulations showing before and after conditions;
  - (5) Inventory of sites. Each applicant shall provide a narrative description and a map of the applicant's existing and currently proposed WCFs





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shall commence to run again on the business day following the day on which the applicant submits such subsequent amended application.

- c. *Failure to act.* If an applicant fails to respond and resubmit the information requested by the Town within 14 days of the Town's written notice, the Town may make a determination of denial without prejudice. The applicant may thereafter submit a new application.
4. *Decision.* Any decision to approve, approve with conditions or deny an application shall be in writing and supported by evidence and shall be provided to the applicant. An applicant may appeal an administrative decision in accordance with the Code and may appeal a decision rendered by Town Council in accordance with state and federal law and regulations.
5. *Compliance with applicable law.* Notwithstanding the approval of a WCF application or eligible facilities request, all work must be completed in compliance with applicable building, structural, electrical and safety requirements as set forth in the Code and all other applicable laws and regulations. All applicants shall:
  - a. Comply with permits and licenses issued by a governmental authority with jurisdiction;
  - b. Comply with easements, covenants, conditions and restrictions on or applicable to the underlying real property;
  - c. Maintain the WCF in good working condition and to the standards established at the time of application approval; and
  - d. Ensure the WCF and the site is free from trash, debris, litter, graffiti and other forms of vandalism. Any damage shall be repaired as soon as practicable, and, in no instance, more than 10 days from the time of notification by the Town or after discovery by the owner or operator of the site. Notwithstanding the foregoing, any graffiti on WCFs located in the public rights-of-way or on public property may be removed by the Town, in its discretion, and the owner or operator of the WCF shall pay all costs of such removal within 30 days after receipt of an invoice from the Town.
6. *Fee.* The applicant shall pay a fee with the submission of the application. The fee shall be the maximum amount allowed by the FCC, if at all, or an amount set by Town Council by resolution. The fee shall constitute a reasonable approximation of the Town's costs and shall be imposed on a non-discriminatory basis. The Town may, in its discretion, retain professional consultants to review and assist in the processing of applications. If a professional consultant is retained by the Town, the applicant shall be required to pay the Town's actual costs for the consultant.

#### E. Design Standards

1. *Applicability.* WCFs shall be designed and located to minimize the impact on the surrounding neighborhood and to maintain the character and appearance of the Town. The design standards set forth herein shall apply to the location and design of all WCFs governed by this Section, unless otherwise exempted by the Town. While the Town anticipates and expects compliance with all the design standards set forth herein, the Town's primary objectives are to ensure that WCFs use camouflage and concealment design techniques to reduce visibility and be co-sited or collocated to minimize the number of facilities.
2. *General design standards for WCFs.*



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- a. **Camouflage and concealment.** All WCFs and any transmission equipment shall, to the maximum extent possible, use camouflage and concealment design techniques including, but not limited to, the use of materials, colors, textures, screening, undergrounding, landscaping or other design options that blend the WCF into the surrounding natural setting and built environment.
- (1) Camouflage design may be of heightened importance where findings of particular sensitivity are made (e.g. proximity to historic, natural or aesthetically significant structures or areas, views or to community features or facilities). In instances where WCFs are located in areas of high visibility, they shall be designed (e.g., placed underground, depressed or located behind earth berms) to minimize their profile.
  - (2) Camouflage design may include the use of alternative tower structures should the Director determine that such design meets the intent of this Section and the community is better served thereby.
  - (3) WCFs shall be constructed out of non-reflective materials (visible exterior surfaces only).
- b. **Co-siting and collocation.**
- (1) **Co-siting.** WCFs shall be designed and constructed to permit the facility to accommodate WCFs from at least two wireless service providers on the same WCF, to the extent reasonably feasible based upon construction, engineering and design standards, except where such collocation would materially compromise the design intent of the WCF, particularly visually.
  - (2) **Collocation.** If existing eligible facilities are not available in the area to be served, WCFs shall be designed to utilize pre-existing structures, poles and buildings wherever possible.
- c. **Accessibility.** WCFs and associated equipment shall be designed and sited to comply with the Americans with Disabilities Act and all other local, state and federal laws and regulations. WCFs may not be located or maintained in a manner that causes unreasonable interference.
- d. **Height.** The maximum height of a WCF shall be 36 inches unless otherwise approved through a *Use by Special Review* procedure or the applicant provides compelling evidence that a majority of similar, nearby structures are taller and that a taller height is thus compatible. The Director shall determine whether a taller height is acceptable.
- e. **Setbacks.** The following minimum setback requirements shall apply to all WCFs, except for alternative tower structures and small cell facilities in the right-of-way, and shall be the greater of the following:
- (1) When attached to a structure, the setback for a principal building within the applicable zoning district;
  - (2) 25% of the facility height, including WCFs and related accessory equipment;
  - (3) For sites within 100 feet of residential uses, facilities over 30 feet from ground elevation measured within 5 feet of the base, a setback from all adjacent residential property lines of 1 foot for every foot in height; or
  - (4) 20 feet.
- f. **Lighting.** WCFs shall not be artificially lighted, unless required by the FAA or other applicable governmental authority or the WCF is mounted on a light pole or other similar structure primarily used for lighting purposes. All exterior lighting



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within equipment yards shall be mounted on poles or on a building wall below the height of the screen wall or fence.

- g. *Noise.* Noise generated on a site must not be emitted at levels prohibited in the Code or otherwise prohibited by the Director, except that a WCF owner or operator shall be permitted to exceed such noise standards for a reasonable period of time during repairs, not to exceed 2 hours without the prior written authorization of the Director.
- h. *Landscaping.*
  - (1) All landscaping and screening shall adhere to the Town of Johnstown Landscape Standards and Specifications, as amended;
  - (2) WCFs shall be sited in a manner that ensures continued compliance with required landscaping and open areas for the principal uses on the parcel;
  - (3) WCFs, including small cell facilities, unless excepted by the Director for safety considerations, shall provide screening from rights-of-way and adjacent properties, which may, in the Director's discretion, include berms and plant materials; and
  - (4) Where landscaping is required, appropriate irrigation must be installed.
- i. *Screening.*
  - (1) All structures and improvements associated with a WCF shall incorporate adequate safety equipment and aesthetic treatments to be visually compatible with uses in the surrounding area;
  - (2) All equipment not located within the right-of-way and not otherwise addressed herein shall be fully screened within a walled yard or placed in an enclosed building except in cases where the Director determines that a better design alternative exists. The yard shall be enclosed by a solid fence or wall of sufficient height to screen all miscellaneous equipment from view from the right-of-way or adjacent properties and to provide security; and
  - (3) Cables, wires, boxes, transformers and other accessory equipment must be designed to be located internally or otherwise highly-integrated into any structure to the degree feasible to minimize visual clutter and screen.

#### 3. *Additional design standards.*

- a. Building roof-mounted WCFs and equipment shall be set back from the edges of flat roofs, screened, painted, enclosed or otherwise effectively camouflaged and concealed to minimize the visual impact on surrounding properties and rights-of-way. No roof-mounting may occur on gabled or similar roofing structures that provide significant visibility from nearby rights-of-way and properties.
- b. Antennas may only be mounted to the side of a building if camouflage and concealment techniques are utilized to ensure maximum integration and minimal interference with the architectural features of that building. The equipment shall be mounted in a configuration as flush to the wall as technically possible, with a maximum protrusion of six (6) feet, and shall not project above the wall on which it is mounted.
- c. Equipment shall, to the maximum extent feasible, feature the smallest and most discreet components that the technology will allow so as to have the least possible impact on the architectural character and overall aesthetics of the building or structure.



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- d. Roof-mounted WCF equipment shall be screened by parapet or screen walls in a manner compatible with the building's design, colors and materials.
  - e. If a replacement pole is being considered, the new pole must match, to the extent feasible, other street light and traffic poles within 528 feet of the site with regard to design, height, width and utility. A replacement pole accommodating internal wiring and cable may be up to 24 inches in diameter at the base.
4. *Design standards in relation to residential uses.*
- a. WCFs shall be sited and designed in a manner that is considerate of the proximity of the facility relative to residential structures, neighborhoods and planned residential areas in order to minimize the visual impacts of WCFs on existing and planned residential areas.
  - b. When placed on or adjacent to residential properties, a WCF shall be placed in close proximity to a common property line between adjoining residential properties, such that the WCF minimizes visual impacts equitably among adjacent and nearby properties.
  - c. For a corner lot, the WCF shall be placed adjacent to a common property line between adjoining residential properties or on the corner formed by two intersecting streets.
5. *Design requirements for specific types of WCFs.*
- a. Alternative tower structures not in the public right-of-way shall:
    - (1) Be designed and constructed to look like a building, facility, structure or other commonplace item typically found in the area;
    - (2) Be camouflaged or concealed consistent with other existing natural or manmade features in or near the proposed location;
    - (3) Be compatible with the surrounding area, including design considerations such as the context, scale, massing, height, articulation, topography and the landscaped environment;
    - (4) Be the minimum size needed to obtain coverage objectives. Height or size of the proposed alternative tower structure should be minimized as much as possible;
    - (5) Be sited in a manner that is sensitive to the proximity of the facility to structures, neighborhoods, special districts, natural areas and residential uses and zoning district boundaries; and
    - (6) Take into consideration the uses on adjacent and nearby properties and the compatibility of the facility to these uses.
  - b. Alternative tower structures and small cell facilities in the public right-of-way are subject to the alternative tower structures design standards in this Section and to the following additional design criteria:
    - (1) Alternative tower structures and associated small cell facilities or micro cell facilities may be deployed in the public right-of-way through the utilization of a street light pole, distribution lines, utility poles, traffic signal or similar structure;
    - (2) To the extent that an alternative tower structure is a vertical structure located in the public right-of-way, its pole-mounted components shall be





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- located on or within an existing utility or street light pole serving another purpose whenever technically feasible;
  - (3) If the applicant provides evidence that an existing structure is not available in the area where additional coverage is needed, a new pole or structure may be considered;
  - (4) With respect to pole components, such components shall be located on or within a new utility pole where other utility distribution lines are aerial and there are no reasonable alternatives, if the applicant is authorized to construct the new utility poles;
  - (5) Alternative tower structures shall be consistent with the size and shape of similar pole-mounted equipment installed by communications companies on utility poles in the right-of-way within reasonable proximity the proposed alternative tower structure;
  - (6) Alternative tower structures shall be designed such that antenna installations on traffic signal standards are placed in a manner so that the size and appearance of the structure will not be considerably altered and the function of the signal will not be impacted;
  - (7) Alternative tower structures shall be sized to minimize the negative aesthetic impacts to the right-of-way and adjacent properties;
  - (8) Alternative tower structures shall not alter vehicular circulation or parking within the right-of-way or impede vehicular, bicycle or pedestrian access or visibility along the right-of-way;
  - (9) Alternative tower structures may not be more than 5 feet taller (as measured from the ground to the top of the pole) than any existing utility or traffic signal pole within a radius of 528 feet of the pole or structure. A new or freestanding alternative tower structure may not be higher than 36 feet; and
  - (10) Alternative tower structures in the right-of-way shall not exceed 24 inches in diameter.
- c. Towers that are not alternative tower structures or small cell facilities are subject to the following:
  - (1) No new towers, excepting small cell facilities in the right-of-way, shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Director that existing WCFs are not able to accommodate the needs that the applicant proposes to address with its tower application and sufficient separation of towers is achieved. Evidence may consist of the following:
    - (a) No existing WCFs with a suitable height are located within the geographic area required to meet the applicant's engineering requirements;
    - (b) Existing WCFs do not have sufficient structural strength to support applicant's proposed WCF;
    - (c) The applicant's proposed WCF would cause electromagnetic interference with the existing WCFs or the existing WCFs would cause interference with the applicant's proposed WCF; or
    - (d) The applicant demonstrates that there are other limiting factors that render existing WCFs unsuitable for collocation;
  - (2) Towers shall either maintain a galvanized steel finish, or, subject to any applicable FAA standards and Town design approval processes, be painted a neutral color so as to reduce visual obtrusiveness;
  - (3) Wherever possible, towers shall be located to utilize existing landforms, vegetation and structures to aid in screening the facility from view or to otherwise blend in with the surrounding built and natural environment;



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- (4) Monopole support structures shall taper from the base to the tip;
  - (5) All towers shall be enclosed by security fencing or wall and shall also be equipped with an appropriate anti-climbing device;
  - (6) Where the proposed height exceeds that of the zoning district, towers over 90 feet in height shall not be located within one-quarter mile from any existing tower that is over 90 feet in height, unless the applicant has shown to the satisfaction of the Director that there are no reasonably suitable alternative sites in the required geographic area that meet the applicant's needs; and
  - (7) Tower-related accessory equipment shall meet the following standards:
    - (a) All buildings, shelter, cabinets and other accessory components shall be grouped as closely together as technically possible;
    - (b) The total footprint coverage area of the WCF's accessory equipment shall not exceed 350 square feet;
    - (c) No related accessory equipment or accessory structure shall exceed 12 feet in height; and
    - (d) Related accessory equipment, including, but not limited to, remote radio units, shall be fully screened whenever feasible by being located behind parapet walls or within equipment enclosures.
6. *Design standards for ground mounted equipment.* Ground-mounted equipment shall be located in a manner necessary to address both public safety and aesthetic concerns. Wherever feasible, ground-mounted equipment that is otherwise visible from the right-of-way or adjacent properties shall be undergrounded to minimize the visual impact to the area and minimize impacts related to physical access on the site. Where appropriate and to the extent it is reasonably feasible based upon construction, engineering and design standards, the Director may require a flush-to-grade underground equipment vault.
7. *Deviation and interpretation.*
- a. *Deviation.* The Town anticipates and expects compliance with all the design standards set forth in this Section. If an applicant does not utilize the design standards, the applicant shall, in its application, identify the standards that are not utilized and the reason for the deviation.
  - b. *Interpretation.* Where interpretation of the design standards is necessitated by the circumstances, the Director shall make such determination. The applicant may appeal the Director's determination to the Board of Adjustment.
- F. **Definitions.** The following terms shall have the specific meaning given when used in this section. All other terms shall have their plain and ordinary meaning unless specifically defined for use throughout this Chapter in Article 11.

*Agreement.* An executed agreement, and any exhibits, supplements or amendments thereto, between the owner or operator of WCFs and the Town to utilize the public right-of-way or public property to install WCFs and associated equipment.

*Alternative tower structure.* Man-made trees, clock towers, bell steeples, light poles, buildings and similar alternative design mounting structures that are compatible with the natural setting and surrounding structures and camouflage or conceal the presence of the antennas or towers in a manner designed to make them architecturally compatible with the surrounding area. This term also includes any antenna or antenna array attached to an alternative tower structure. A stand-alone pole in the right-of-way, streetlight



or traffic signal that accommodates small cell facilities is considered an alternative tower structure to the extent it meets the camouflage and concealment standards of this Section.

**Antenna.** Any device used to transmit or receive radio or electromagnetic waves such as, but not limited to, panel antennas, reflecting discs, microwave dishes, whip antennas, directional and non-directional antennas consisting of one or more elements, multiple antenna configurations or other similar devices and configurations as well as exterior apparatus designed for telephone, radio or television communications through the sending or receiving of wireless communications signals.

**Base station.** A structure or equipment at a fixed location that enables Federal Communications Commission ("FCC") licensed or authorized wireless communications between user equipment and a communications network. The definition of base station does not include or encompass a tower as defined herein or any equipment associated with a tower. Base station includes, without limitation:

- (a) Equipment associated with wireless communications services such as private, broadcast and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul that, at the time the relevant application is filed with the Town under this Section, has been reviewed and approved under the applicable zoning or siting process or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support; and
- (b) Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small-cell networks) that, at the time the relevant application is filed with the Town under this Section, has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

The definition of base station does not include any structure that, at the time the relevant application is filed with the Town, does not support or house equipment described in paragraphs (a) and (b) above.

**Camouflage, concealment or camouflage design techniques.** Measures used in designing a WCF to alter or mask its appearance in such a manner as to substantially integrate it into surrounding building designs or natural settings to minimize the visual impacts of the facility on the surrounding uses and ensure the facility is compatible with the environment in which it is located. A WCF site utilizes camouflage design techniques when it:

- (a) is integrated as an architectural feature of an existing structure such as a cupola, spire, chimney, cornice or similar item;
- (b) is integrated in an outdoor fixture such as a utility tower; or
- (c) uses a design which mimics and is consistent with nearby natural features, architectural features (such as a clock tower), or is incorporated into (including without limitation, being attached to the exterior of such facilities and painted to match it) or replaces existing permitted facilities (including without limitation, stop signs or other traffic signs or freestanding light standards), such that the presence of the WCF is not readily apparent.

**Cell on wheels.** A mobile cell site that consists of an antenna tower and electronic radio transceiver equipment on a truck or trailer designed to boost reception as part of a larger cellular network and is temporary in nature.

**Collocation.**

- (a) the mounting or installation of transmission equipment on a pre-existing structure (i.e., tower, building, utility pole, street light pole); or
- (b) the modification of a structure for the purpose of mounting or installing an antenna facility on the structure to transmit or receive radio frequency signals for communications purposes, whether or not there is an existing antenna on the structure.



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**Co-siting.** The sharing of a single structure, tower, designated area of land or other facility by more than one antennae or other WCF equipment.

**Eligible facilities request.** Any request for modification of an existing tower or base station that is not a substantial change.

**Eligible support structure.** Any tower or base station as defined in this Section, provided that it is existing at the time the relevant application is filed with the Town under this Section.

**Existing tower or base station.** A constructed tower or base station that was reviewed, approved and lawfully constructed in accordance with all requirements of applicable law as of the time it was built; for example, a tower that exists as a legal, non-conforming use and was lawfully constructed is existing for purposes of this definition.

**Micro cell facility.** A small wireless facility that is no larger than 24 inches in length, 15 inches in width, 12 inches in height, and that has an exterior antenna, if any, that is no more than 11 inches in length.

**Monopole.** A single, freestanding pole-type structure supporting one or more antennas.

**Over the air receiving device** shall mean an antenna used to receive video programming from direct broadcast satellites, broadband radio services and television broadcast stations, but shall not include antennas used for AM/FM radio, amateur ("ham") radio, CB radio, digital audio radio services or antennas used as part of a hub to relay signals among multiple locations.

**Pole-mounted small cell facility.** A small cell facility with an antenna that is mounted and supported on an alternative tower structure, which structure may be a replacement pole.

**Public property** shall mean real property owned or controlled by the Town, excluding the public right-of-way.

**Radio frequency emissions letter.** A letter from the applicant certifying that all WCFs that are the subject of the application shall comply with federal standards for radio frequency emissions.

**Replacement pole.** An alternative tower structure that is a newly constructed and permitted traffic signal, utility pole, street light, flagpole, electric distribution or other similar structure of proportions and of equal height or such other height that would not constitute a substantial change to a pre-existing pole or structure in order to support a WCF or small cell facility or micro cell facility or to accommodate collocation, and replaces a pre-existing pole or structure.

**Shot Clock.** The provisions of the Declaratory Ruling and Third Report and Order issued by the FCC on September 28, 2018, related to the timeframe for review and tolling, as may be amended by the FCC from time to time.

**Signal non-interference letter.** A letter from the applicant certifying that the WCFs that are the subject of the application will be designed, sited and operated in accordance with applicable federal regulations addressing radio frequency interference.

**Site for towers** (other than towers in the right-of-way and eligible support structures). The current boundaries of the leased or owned property surrounding the tower or eligible support structure and any access or utility easements currently related to the site. A site for other alternative tower structures, base stations, micro cell facilities and small cell facilities in the right-of-way is further restricted to that area comprising the base of the structure and other existing or proposed related accessory equipment deployed on the ground.

**Small cell facility or small wireless facility.** A WCF where each antenna is located inside an enclosure of no more than 3 cubic feet in volume or, in the case of an antenna that has exposed elements, the



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antenna and all of its exposed elements could fit within an imaginary enclosure of no more than 3 cubic feet; and primary equipment enclosures are not larger than 28 cubic feet in volume; and all other wireless equipment associated with the structure, including the wireless equipment associated with the proposed antenna and any pre-existing associated equipment on the structure, is not more than 28 cubic feet in volume, cumulatively.

Small cell facilities are mounted to structures 50 feet or less in height, including their antennas, or are mounted on structures no more than 10% taller than other adjacent structures, or do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10%, whichever is greater. Small cell facility shall also include a micro cell or micro cell facility.

**Substantial change.** A modification that substantially changes the physical dimensions of an eligible support structure if, after the modification, the structure meets any of the following criteria:

- (a) For towers, other than alternative tower structures or towers in the right-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array, with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than 10 feet, whichever is greater;
- (b) For towers, other than towers in the right-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the side of the structure by more than 6 feet;
- (c) For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed 4 cabinets;
- (d) For towers in the right-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other existing, individual ground cabinet associated with the structure;
- (e) For any eligible support structure, it entails any excavation or deployment outside the current site;
- (f) For any eligible support structure, it would defeat the concealment elements of the eligible support structure; for the purposes of this definition, a change that would undermine the concealment elements of this structure will be considered to defeat the concealment elements of the structure; or
- (g) For any eligible support structure, it does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure equipment, unless the non-compliance is due to an increase in height, increase in width, addition of cabinets or new excavation that would not exceed the thresholds identified in subsections (a), (b), (c) or (d) of this definition. For purposes of determining whether a substantial change exists, changes in height are measured from the original support structure in cases where deployments are or will be separated horizontally, such as on building rooftops; in other circumstances, changes in height are measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to February 22, 2012.

**Telecommunications Act.** The Federal Telecommunications Act of 1996, 47 U.S.C. §§ 151-614 (1994 & Supp. 1998), as amended.

**Toll and tolling.** To delay, suspend or hold off on the imposition of a deadline, statute of limitations or time limit.

**Tower.** Any structure that is designed and constructed primarily built for the sole or primary purpose of supporting one or more FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast and public safety services, as well as unlicensed wireless services and fixed wireless services



such as microwave backhaul, and the associated site. The term includes self-supporting lattice towers, guyed towers, monopole towers, radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures and the like.

*Transmission equipment.* Equipment that facilitates transmission for any FCC licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

*Unreasonable interference.* Any use of the right-of-way that disrupts or interferes with the use by the Town, the general public or other person authorized to use or be present upon the right-of-way, when there exists an alternative that would result in less disruption or interference. Unreasonable interference includes any use of the right-of-way that disrupts vehicular or pedestrian traffic, any interference with public utilities and any other activity that will present a hazard to public health, safety or welfare.

*Wireless communications facility or WCF.* A facility used to provide personal wireless services as defined at 47 U.S.C. § 332 (c)(7)(C), as amended; or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services. A WCF does not include a facility entirely enclosed within a permitted building where the installation does not require a modification of the exterior of the building; nor does it include a device attached to a building, used for serving that building only and that is otherwise permitted under other provisions of the Code. A WCF includes an antenna or antennas, including without limitation, directional, omni-directional and parabolic antennas, base stations, support equipment, alternative tower structures and towers. The term does not include mobile transmitting devices used by wireless service subscribers, such as vehicle or hand held radios/telephones and their associated transmitting antennas, nor does it include other facilities specifically excluded from the coverage of this Title.

## 17-10-2 Floodplain Management & Flood Damage Prevention

### A. Title & Purpose

1. *Statutory authorization.* The Legislature of the State has, in Article 20 of Title 29, C.R.S., delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. The Town, as a home rule municipality, has the inherent authority to adopt land use regulations affecting the public health, safety, and welfare of the Town.
2. *Findings of fact.*
  - a. The flood hazard areas of the Town are subject to periodic inundation, which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the health, safety and general welfare of the public.
  - b. These flood losses are created by the cumulative effect of obstructions in areas of special flood hazard, which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods, which are/may be hazardous to other lands because they are inadequately elevated, floodproofed, or otherwise protected from flood damage and therefore may further contribute to the flood loss.



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3. **Statement of purpose.** It is the purpose of this Article to promote public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:
  - a. Protect human life and health;
  - b. Minimize expenditure of public money for costly flood control projects;
  - c. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
  - d. Minimize prolonged business interruptions;
  - e. Minimize damage to critical facilities, infrastructure and other public facilities, such as water, sewer and gas mains; electric and communications stations; and streets and bridges located in floodplains;
  - f. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
  - g. Ensure that potential buyers are notified that property is located in a flood hazard area.
  - h. Ensure that those who occupy the floodplain assume the responsibility for their actions;
  - i. Protect the natural areas required to convey flood flows and retain flow characteristics; and
  - j. Obtain and maintain the benefits to the community of participating in the National Flood Insurance Program.
  
4. **Methods of reducing flood losses.** In order to accomplish its purposes, this Article uses the following methods:
  - a. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
  - b. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
  - c. Control the alteration of natural floodplains, stream channels and natural protective barriers, which are involved in the accommodation of flood waters;
  - d. Control filling, grading, dredging and other development which may increase flood damage; and
  - e. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

#### B. General Provisions

1. **Lands to which this Article applies.** This Article shall apply to all areas within the jurisdiction of the Town. If a lot or parcel lies partly within a floodplain, floodway, flood fringe, or other designated area, or has been removed from a flood fringe by a LOMR-Fill, the part(s) of such lot or parcel lying within such area or areas shall meet all the standards and requirements applicable to such area as prescribed by this Article. If lands located outside the Town limits are included within a flood hazard area, the requirements of this Article shall apply to such lands upon annexation and thereafter, and any development activities upon such lands after the date of annexation shall comply with this Article.
  
2. **Basis for establishing the Special Flood Hazard Area.** The Special Flood Hazard Areas identified by the Federal Emergency Management Agency in the most recent scientific and engineering reports entitled, "The Flood Insurance Study for Larimer County, Colorado and Incorporated Areas," dated January 15, 2021, and "The Flood Insurance Study for Weld County, Colorado and Incorporated Areas," dated January 20, 2016, both with accompanying Flood Insurance Rate Maps and any revisions thereto are hereby



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adopted by reference and declared to be a part of this Article. These Special Flood Hazard Areas identified by the FIS and attendant mapping are the minimum area of applicability of this Article and may be supplemented by studies designated and approved by the Town Council. The Floodplain Administrator shall keep a copy of the Flood Insurance Study (FIS), DFIRMs, FIRMs and/or FBFMs on file and available for public inspection at Town Hall

3. *Establishment of Floodplain Development Permit.* A Floodplain Development Permit shall be required to ensure conformance with the provisions of this Article.
4. *Compliance.* No structure or land shall hereafter be located, altered or have its use changed within the Special Flood Hazard Area without full compliance with the terms of this Article and other applicable regulations. Nothing herein shall prevent the Town Council from taking such lawful action as is necessary to prevent or remedy any violation. These regulations meet the minimum requirements as set forth by the Colorado Water Conservation Board and the National Flood Insurance Program.
5. *Abrogation and greater restrictions.* This Article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Article and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
6. *Interpretation.* In the interpretation and application of this Article, 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.
7. *Warning and disclaimer of liability.* The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This Article does not imply that land outside the Special Flood Hazard Area or uses permitted within such areas will be free from flooding or flood damages. This Article shall not create liability on the part of the Town or any official or employee thereof for any flood damages that result from reliance on this Article or any administrative decision lawfully made thereunder.
8. *Severability.* This Article and the various parts thereof are hereby declared to be severable. Should any section of this Article be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Article as a whole or any portion thereof other than the section so declared to be unconstitutional or invalid.

#### **C. Administration**

1. *Designation of Floodplain Administrator.* The Director is hereby appointed as Floodplain Administrator to administer, implement, and enforce the provisions of this Article and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.
2. *Duties and responsibilities of Floodplain Administrator.* Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:
  - a. Maintain and hold open for public inspection all records pertaining to the provisions of this Article including the actual elevation (in relation to mean sea





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- b. Review, approve or deny all applications for Floodplain Development Permits required by adoption of this Article.
  - c. Review Floodplain Development Permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
  - d. Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334) from which prior approval is required.
  - e. Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this Article, including proper elevation of the structure.
  - f. Where interpretation is needed as to the exact location of the boundaries of the Special Flood Hazard Area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the Floodplain Administrator shall make the necessary interpretation.
  - g. When Base Flood Elevation data has not been provided in accordance with Subsection 17-263(b) of this Article, the Floodplain Administrator shall obtain, review and reasonably utilize any Base Flood Elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of Section 17-265 of this Article.
  - h. For waterways with Base Flood Elevations for which a regulatory floodway has not been designated, no new construction, substantial improvements or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half ( $\frac{1}{2}$ ) foot at any point within the community.
  - i. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zone A1-30, AE or AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one-half ( $\frac{1}{2}$ ) foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision), fulfills the requirements for such revisions as established under the provisions of Section 65.12 and receives FEMA approval.
  - j. Notify, in riverine situations, adjacent communities and the state coordinating agency, which is the Colorado Water Conservation Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.
  - k. Ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.
3. *Permit procedures.* Prior to any development or construction within any areas of Special Flood Hazard, an application for a Floodplain Development Permit shall be presented to and approved by the Floodplain Administrator. The Town shall provide application forms and submittal checklists, which may include, but not be limited to, plans drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to Special Flood Hazard Area. Additionally, the following information is required:



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- a. Elevation (in relation to mean sea level), of the lowest floor, including without limitation the crawl space or basement, heating, cooling or other mechanical components, and garage of all new and substantially improved structures;
  - b. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
  - c. A certificate from a registered Colorado professional engineer or architect that the floodproofing methods meet the floodproofing criteria of Paragraph 17-265(b)(2);
  - d. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development; and
  - e. A written report showing to the satisfaction of the Floodplain Administrator that the floodplain development permit may be issued in compliance with all criteria for approval;
  - f. Specifications for building construction and materials, filling, dredging, grading, channel improvements and changes, storage of materials, water supply and sanitary facilities;
  - g. Detailed information documenting compliance with any specific requirements applicable to the proposed development or activity pursuant to this Article; and
  - h. An emergency response and preparedness plan, if required pursuant to this Article; provided, however, that this requirement may be considered a floodplain development permit condition to be met prior to issuance of a certificate of occupancy, pursuant to Subsection (g) below.
  - i. An application for a floodplain development permit may be subject to a permit application fee plus the applicable review fees for any and all associated analyses.
4. The Floodplain Administrator may require the applicant to furnish such additional information as he or she deems necessary to evaluate the effects of the proposed construction upon any flood hazard areas, which information may include, but shall not be limited to, the following:
- a. Valley cross-sections showing the floodplain surrounding the watercourse, cross-sections of the area to be occupied by the proposed development, and 1% flood maximum water-surface elevation information;
  - b. A profile showing the slope of the bottom of the channel or thalweg of the watercourse;
  - c. A floodplain analysis of the flood profile, base flood elevation and velocity, and floodplain, flood fringe, floodway and erosion buffer zone boundaries, along with boundaries of any other delineated areas, using floodplain modeling guidelines established or approved by the Town Planner, which analysis shall include existing and anticipated uses and shall show the impact the proposed construction or development will have on the elevation of the water-surface of the 1% flood;
  - d. A structural analysis showing that any proposed structures will be adequately designed and constructed to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and scouring; and
  - e. A stability analysis for any proposed development within an erosion buffer zone or for any floodway encroachment or modification.
5. Plans, drawings, specifications or reports for structures, other improvements, features or encroachments, or other impacts of proposed activities shall be prepared and certified by a Colorado registered professional engineer as necessary to provide for an adequate technical basis for floodplain development permit, variance or other decisions under this Article.



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6. When reviewing and making a final determination of approval or denial of the application for a floodplain development permit, the Floodplain Administrator shall determine which portions of any flood hazard areas are affected by the particular development request and then shall apply the provisions of this Article as applicable. The Floodplain Administrator also shall determine whether the proposed construction or development is consistent with the need to minimize flood damage and meets the intent of this Article after considering the following factors:
  - a. The effects upon the efficiency or capacity of the floodway;
  - b. The effects upon lands upstream, downstream and in the immediate vicinity;
  - c. The effects upon the 1% flood profile and channel stability;
  - d. The effects upon any tributaries to the main stream, drainage ditches, and any other drainage facilities or systems;
  - e. Whether additional public expenditures for flood protection or prevention will be required;
  - f. Whether the proposed use is for human occupancy, and, if so, the impacts to human safety and the extent to which emergency response and preparedness and other measures are required and have been assured in order to reduce safety risk;
  - g. The potential danger to persons upstream, downstream, and in the immediate vicinity;
  - h. Whether any proposed changes in watercourse will have an adverse environmental effect on the watercourse, including without limitation, erosion of stream banks, and streamside trees, vegetation, and wildlife habitat;
  - i. Whether any proposed water supply and sanitation systems and other public utility systems are located and constructed to minimize flood damage and to prevent disease, contamination and unsanitary or hazardous conditions during a flood;
  - j. Whether any proposed facility and its contents will be susceptible to flood damage and the effect of such damage;
  - k. The relationship of the proposed development to elements of the Johnstown Comprehensive Plan and any applicable floodplain management programs;
  - l. Whether safe access is available to the property in times of flood for ordinary and emergency vehicles;
  - m. Whether the cumulative effect of the proposed development with other existing and anticipated uses will increase flood elevations; and
  - n. Whether the expected flood elevations, velocities, duration, rate of rise, channel stability and sediment transport of the floodwaters expected at the site will adversely affect the development or surrounding property, and whether adequate drainage is provided to reduce exposure to flood damage.
7. All floodplain mapping shall meet the requirements set forth in the version of the FEMA publication "Guidelines and Specifications for Flood Hazard Mapping Partners" in effect at the time of the completion of the mapping.
8. If the Floodplain Administrator determines that the application meets the purposes and requirements of this Article, he or she shall issue the permit and may attach such conditions as he or she deems necessary to further the purposes of this Article or to ensure compliance with the same. The Floodplain Administrator may require a deposit of escrowed funds or other means of securing the performance of permit conditions, and may request that the Town building official condition the release of a certificate of occupancy or other final approval upon submission of final documentation of compliance with conditions, as appropriate.



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9. A floodplain development permit shall expire three years after its date of issuance if the permittee has not started construction (see definition of *start of construction*) under the permit. If a floodplain use permit is issued in connection with the issuance of a building permit, and the building permit expires, then the floodplain development permit shall be reevaluated based on any new criteria or data established or available since the issuance of the permit, and a new floodplain development permit may be required in connection with a new building permit, if the permit would not comply with this Section in light of such new criteria or data.
10. No person who has obtained a floodplain development permit shall fail to construct in accordance with the approved application and design or terms of said permit.
11. Variance procedures.
  - a. The Town Council shall hear and render judgment on requests for variances from the requirements of this Article.
  - b. The Town Council shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Article.
  - c. Any person or persons aggrieved by the decision of the Town Council may appeal such decision in the courts of competent jurisdiction.
  - d. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
  - e. Variances may be issued for the reconstruction, rehabilitation, or restoration of Historic Structures, without regard to the procedures set forth in the remainder of this Article, provided such reconstruction, rehabilitation or restoration will not cause the structure to lose the Historic Structure designation.
  - f. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half ( $\frac{1}{2}$ ) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the relevant factors in Subsection (c) above have been fully considered. As the lot size increases beyond the one-half ( $\frac{1}{2}$ ) acre, the technical justification required for issuing the variance increases.
  - g. Upon consideration of the factors noted above and the intent of this Article, the Town Council may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Section).
  - h. Variances shall not be issued within any designated floodway if any increase (e.g. greater than 0.00' rise) in flood levels during the base flood discharge would result.
  - i. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
  - j. Prerequisites for granting variances:
    - (1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
    - (2) Variances shall only be issued upon:
      - (a) Showing a good and sufficient cause;
      - (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
      - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety,



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- extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (3) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the Base Flood Elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- k. Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:
- (1) The criteria outlined in Paragraphs (11)(a. – i.) of this Section are met; and
- (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- Non-conforming structures use may be continued, notwithstanding the provisions of this Article, subject to the following conditions:
- (a) If a non-conforming structure is abandoned for 12 consecutive months, the structure shall conform to the requirements of this Article prior to any future use. Intent to resume active operations shall not affect the foregoing.
- (b) If any non-conforming structure is substantially damaged (>50% of value) by any means, including floods, such structure shall not be reconstructed, except in conformity with the provisions of this Article.
- (c) Any substantial improvement to a non-conforming structure in a FEMA basin floodplain shall be made only in conformity with the provisions of this Article.
- (d) No person shall change the use of a non-conforming structure in any floodway from a nonresidential structure to a residential structure or a mixed-use structure, or to increase the residential use area of a mixed-use structure.
- (e) No person shall change the use of a non-conforming structure in any flood fringe from a nonresidential structure to either a residential structure or a mixed-use structure with residential use below the regulatory flood protection elevation, or to increase the residential use area of a mixed-use structure below the regulatory flood protection elevation.
- (f) No person shall change the use of a non-conforming structure or existing structure that is not a critical facility to use as a critical facility contrary to the provisions of this Section, or change the use of a critical facility to another type of critical facility, or increase the physical area in use for a non-conforming critical facility, contrary to the provisions of this Section.
- (g) A non-conforming structure may not be relocated, except that a non-conforming critical facility may be relocated within the same parcel of land without losing its legal non-conforming status.
12. ***Penalties for noncompliance.*** No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. A person who



violates the requirements of this Article shall be punished by a fine not exceeding the amount set forth in Article IV of Chapter 1 of the Code. Each day that any such violation continues shall constitute a separate violation and shall subject the perpetrator to a separate penalty. Nothing herein contained shall prevent the Town from taking such other lawful action as is necessary to prevent or remedy any violation.

#### D. Provisions for Flood Hazard Reduction

1. **General standards.** In all Special Flood Hazard Areas, the following provisions are required for all new construction and substantial improvements:
  - a. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  - b. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
  - c. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
  - d. All new construction or 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;
  - e. All manufactured homes shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
  - f. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
  - g. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and
  - h. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
  
2. **Specific standards.** In all Special Flood Hazard Areas where base flood elevation data has been provided as set forth in (i) Subsection B.2; Subsection C.2.g; or (iii) Subsection D.7, the following provisions are required:
  - a. **Residential construction.** New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork), elevated to 1 foot above the base flood elevation. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado professional engineer, architect or land surveyor. Such certification shall be submitted to the Floodplain Administrator.
  
  - b. **Nonresidential construction.** With the exception of Critical Facilities, outlined in Subsection (h) of this Section, new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement), electrical, heating, ventilation, plumbing and air



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conditioning equipment and other service facilities (including ductwork) elevated to 1 foot above the base flood elevation or, together with attendant utility and sanitary facilities, be designed so that, at 1 foot above the base flood elevation, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered Colorado professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this Subsection. Such certification shall be maintained by the Floodplain Administrator, as proposed in Subsection D.3 above.

- c. *Enclosures.* New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered Colorado professional engineer or architect or meet or exceed the following minimum criteria:
- (1) A minimum of 2 openings having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.
  - (2) The bottom of all openings shall be no higher than 1 foot above grade.
  - (3) Openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- d. *Manufactured homes.* All manufactured homes that are placed or substantially improved within Zones A1-30, AH and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home, electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) are elevated to 1 foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. All manufactured homes placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of the above Paragraph shall be elevated so that either:
- (1) The lowest floor of the manufactured home, electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork), are 1 foot above the base flood elevation; or
  - (2) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and all securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.



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- e. **Recreational vehicles.** All recreational vehicles placed on sites within Zones A1-30, AH and AE on the community's FIRM shall either:
    - (1) Be on the site for fewer than 180 consecutive days;
    - (2) Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.; or
    - (3) Meet the permit requirements of Subsection D.3 and the elevation and anchoring requirements for manufactured homes in Subsection D.2.d above.
  - f. **Prior approved activities.** Any activity for which a Floodplain Development Permit was issued by the Town or a CLOMR was issued by FEMA prior to January 1, 2021 may be completed according to the standards in place at the time of the permit or CLOMR issuance and will not be considered in violation of this Article if it meets such standards.
3. **Standards for areas of shallow flooding (AO/AH zones).** Located within the Special Flood Hazard Area established in Subsection C.2 are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:
- a. **Residential construction.** All new construction and substantial improvements of residential structures must have the lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) elevated above the highest adjacent grade at least 1 foot above the depth number specified in feet on the community's FIRM (at least 3 feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado professional engineer, architect or land surveyor. Such certification shall be submitted to the Floodplain Administrator.
  - b. **Nonresidential construction.** With the exception of Critical Facilities, outlined in Subsection D.12, all new construction and substantial improvements of nonresidential structures, must have the lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) elevated above the highest adjacent grade at least 1 foot above the depth number specified in feet on the community's FIRM (at least 3 feet if no depth number is specified) or, together with attendant utility and sanitary facilities, be designed so that the structure is watertight to at least 1 foot above the base flood level with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads or effects of buoyancy. A registered Colorado professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Subsection D.3, are satisfied. Within Zone AH or AO, adequate drainage paths around structures on slopes are required to guide floodwaters around and away from proposed structures.
4. **Standards for determination of the lowest floor elevation.** The lowest floor elevation of the structure shall be determined based on the type of foundation. If more than one





foundation type is used, the lowest floor elevation shall be determined separately for each portion of the structure with a different foundation type.

- a. *Slab-on-grade.* The lowest floor elevation of a slab-on-grade structure shall be measured at the top of the slab.
  - b. *Basement.* The lowest floor elevation of a structure with a basement shall be measured at the top of the basement slab.
  - c. *Crawl space.* The lowest floor elevation of a structure with a crawl space shall be measured at the top of the floor of the lowest finished area.
  - d. *Enclosure.* The lowest floor elevation of a structure with an enclosure shall be measured at the lowest interior grade of the enclosure.
5. *Elevation certificate required.* A FEMA elevation certificate, signed and certified by a Colorado registered professional land surveyor, accurately documenting the as-built elevation of the improvements, must be submitted to the Floodplain Administrator and accepted before release of a certificate of occupancy for the structure.
6. *Standards for floodproofing.* Any structure or portion of a structure eligible to substitute floodproofing in lieu of compliance with the applicable elevation requirements of Section 17-265 shall meet the following requirements, which shall be referred to as *floodproofing requirements*:
- a. In order for a structure to be eligible to comply with this Article through these floodproofing requirements:
    - (1) The structure must be a nonresidential structure, a nonresidential use portion of a mixed-use structure, an accessory structure or an attached garage; and
    - (2) The flood depth surrounding the structure must not exceed three (3) feet.
  - b. The structure must be designed and constructed to be floodproofed so that:
    - (1) Below the regulatory flood protection elevation, the structure is watertight with walls substantially impermeable to the passage of water;
    - (2) All structural components are capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy from flooding;
    - (3) The structure complies with the FEMA flood-resistant materials and floodproofing requirements in effect as of the date of the floodplain development permit; and
  - c. The following must be submitted to the Floodplain Administrator and accepted as completed prior to issuance of a floodplain use permit and a building permit:
    - (1) A pre-construction floodproofing certificate, signed and certified by a registered professional engineer or architect, accurately documenting the proposed floodproofing elevation;
    - (2) Detailed plans for floodproofing measures that include:
      - (a) The benchmark used;
      - (b) Design details and locations of the specific floodproofing measures;
      - (c) The direction and distance that all doors swing, in order to show that floodproofing closure shields, if any, cannot block doors from opening when shields are in place; and
      - (d) The signature and certification of a registered professional engineer or architect;



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- (3) Manufacturer's specification sheets if using manufactured measures, such as, for example, sealants;
  - (4) Manufacturer's catalog cuts if ordering measures, such as, for example, gates or shields, from a catalog;
  - (5) A statement of the wording of the directions for securing and releasing any gate or closure shield, which directions are required to appear on the back of any gate or closure shield;
  - (6) An emergency action plan that includes:
    - (a) A description of where the floodproofing measures will be stored;
    - (b) A description of who will be responsible for ensuring that the measures are in place, and who will monitor any closure shields, if the structure is an occupied structure; and
    - (c) An annual schedule of when the floodproofing measures will be in use;
  - (7) A statement of the wording of notices to be posted in conspicuous locations on each floor of the structure, in such form, locations and numbers as are reasonably necessary to inform occupants of the structure that the structure is floodproofed and identifying the specific location of any floodproofing equipment requiring human operation in order for the floodproofing to be effective;
  - (8) A plan of the structure showing the location of the required floodproofing notices; and
  - (9) A plan for maintenance and inspection of the floodproofing measures.
- d. A post-construction floodproofing certificate, signed and certified by a registered professional engineer or architect, accurately documenting the as-built elevation of the floodproofing improvements, must be submitted to the Floodplain Administrator and accepted before release of a certificate of occupancy for the structure.
7. *Standards for venting.* Any structure or portion of a structure eligible to substitute venting in lieu of compliance with the applicable elevation requirement in Subsection E. shall meet the following requirements:
- a. The structure must provide 1 square inch of venting for every square foot of enclosed area;
  - b. The structure must provide at least two vents located on different sides of the structure, with one being located on the upstream side of the structure if possible;
  - c. The bottom of required vents must be no higher than 1 foot above grade;
  - d. The required vents must be freely open with no human intervention required;
  - e. The area below the regulatory flood protection elevation must be unfinished and constructed of flood-resistant materials as the same are defined by FEMA. Sheetrock (drywall) used for fire protection is permitted in unfinished areas;
  - f. All ductwork, heating, ventilation and air conditioning systems, electrical and hot water heaters included as part of the structure must be elevated to above the regulatory flood protection elevation;
  - g. The structure must be securely anchored to resist floatation;
  - h. All of the above required features must be shown on the building plans submitted for the floodplain permit and building permit;
  - i. An elevation certificate documenting the venting features included in a structure in a form satisfactory to the Floodplain Administrator must be submitted prior to the issuance of a certificate of occupancy for the structure. For an accessory structure, a certification shall not be required, provided that the structure is



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inspected during routine inspection in connection with a building permit or certificate of occupancy.

8. **Floodways.** Floodways are administrative limits and tools used to regulate existing and future floodplain development. The State has adopted floodway standards that are more stringent than the FEMA minimum standard (see definition of *Floodway* in Subsection B.). Located within Special Flood Hazard Area (as established in Subsection C.2) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:
  - a. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway Unless it has been demonstrated through hydrologic and hydraulic analyses performed by a licensed Colorado professional engineer and in accordance with standard engineering practice that the proposed encroachment would not result in any increase (requires a no-rise certification) in flood levels within the community during the occurrence of the base flood discharge.
  - b. If Paragraph D.8.a above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Section.
  - c. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in Base Flood Elevations, provided that the community first applies for a CLOMR and floodway revision through FEMA.
  
9. **Alteration of a watercourse.** For all proposed developments that alter a watercourse within a Special Flood Hazard Area, the following standards apply:
  - a. Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition and channel migration and properly mitigate potential problems through the project, as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.
  - b. Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.
  - c. Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable federal, state and local floodplain rules, regulations and ordinances.
  - d. Any stream alteration activity shall be designed and sealed by a registered Colorado professional engineer or Certified Professional Hydrologist.
  - e. All activities within the regulatory floodplain shall meet all applicable federal, state and the Town floodplain requirements and regulations.
  - f. Within the regulatory floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a floodway analysis and report, sealed by a registered Colorado professional engineer, that there is not more than a 0.00-foot rise in the proposed conditions compared to existing conditions floodway resulting from the project, otherwise known as a no-rise certification, unless the community first applies for a CLOMR and floodway revision in accordance with Subsection D.4.
  - g. Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.



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10. *Properties removed from floodplain by fill.* A Floodplain Development Permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F) unless such new structure or addition complies with the following:
  - a. *Residential construction.* The lowest floor (including basement) electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) must be elevated to minimum of 1 foot above the Base Flood Elevation that existed prior to the placement of fill.
  - b. *Nonresidential construction.* The lowest floor (including basement) electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) must be elevated to minimum of 1 foot above the Base Flood Elevation that existed prior to the placement of fill, or, together with attendant utility and sanitary facilities, be designed so that the structure or addition is watertight to at least 1 foot above the base flood level that existed prior to the placement of fill with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads or effects of buoyancy.
  - c. All fill materials to be used in the floodplain shall be designed to withstand the erosional forces associated with the Base Flood, and shall be certified by a registered Colorado professional engineer prior to placement. Said certification shall be submitted to the Floodplain Administrator for review and approval.
  
11. Standards for subdivision and development proposals, including the placement of manufactured home parks and subdivisions.
  - a. All subdivision and development proposals, shall be reasonably safe from flooding. If a subdivision or other development proposal is in a flood-prone area, the proposal shall minimize flood damage.
  - b. All proposals for the development of subdivisions and other applicable development shall meet Floodplain Development Permit requirements of Subsection C.2; D.3; and the provisions of this subsection.
  - c. Base Flood Elevation data shall be generated for subdivision proposals and other proposed development, which is greater than fifty (50) lots or five (5) acres, whichever is lesser, if not otherwise provided pursuant to Subsection C.2 or Subsection D.2..
  - d. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
  - e. All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical and water systems, located and constructed to minimize or eliminate flood damage.
  
12. *Standards for Critical Facilities.* A Critical Facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for Regulatory Floodplains in Colorado, that, if flooded, may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.
  - a. *Classification of Critical Facilities.* Critical Facilities are classified under the following categories: (i) essential services; (ii) hazardous materials; (iii) at-risk populations; and (iv) vital to restoring normal services. It is the responsibility of the Town Council to identify and confirm that specific structures in their community meet the following criteria:



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- (1) Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities and transportation lifelines.
  - (a) These facilities consist of:
    - (i) Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage and emergency operation centers);
    - (ii) Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions and non-ambulatory surgical structures, but excluding clinics, doctors' offices, and nonurgent care medical structures that do not provide these functions);
    - (iii) Designated emergency shelters;
    - (iv) Communications facilities, such as main hubs and control centers for telephone, broadcasting satellite dish systems, cellular systems, television, radio and other emergency warning systems, but excluding towers, poles, lines, cables and conduits);
    - (v) Public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines and service lines); and
    - (vi) Air transportation lifelines (airports [municipal and larger], helicopter pads and structures serving emergency functions and associated infrastructure, such as aviation control towers, air traffic control centers and emergency equipment aircraft hangars).
  - (b) Specific exemptions to this category include wastewater treatment plants (WWTP), non-potable water treatment and distribution systems and hydroelectric power generating plants and related appurtenances.
  - (c) Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the Town Council that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-year floodplain or are compliant with the provisions of this Article, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Town Council on an as-needed basis upon request.
- (2) Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials.
  - (a) These facilities may include:



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- (i) Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);
  - (ii) Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;
  - (iii) Refineries;
  - (iv) Hazardous waste storage and disposal sites; and
  - (v) Aboveground gasoline or propane storage or sales centers.
- (b) Facilities shall be determined to be Critical Facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a Material Safety Data Sheet (MSDS) on file for any chemicals stored or used in the work place, AND the chemicals are stored in quantities equal to or greater than the Threshold Planning Quantity (TPQ) for that chemical, then that facility shall be considered to be a Critical Facility. The TPQ for these chemicals is: either 500 pounds or the TPQ listed (whichever is lower) for the 356 chemicals listed under 40 C.F.R. § 302 (2010), also known as Extremely Hazardous Substances (EHS); or 10,000 pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Public Health and Environment. OSHA requirements for MSDS can be found in 29 C.F.R. § 1910 (2010). The Environmental Protection Agency (EPA) regulation "Designation, Reportable Quantities, and Notification," 40 C.F.R. § 302 (2010) and OSHA regulation "Occupational Safety and Health Standards," 29 C.F.R. § 1910 (2010) are incorporated herein by reference and include the regulations in existence at the time of the promulgation the ordinance codified herein, but exclude later amendments to or editions of the regulations.
- (c) Specific exemptions to this category include:
- (i) Finished consumer products within retail centers and households containing hazardous materials intended for household use and agricultural products intended for agricultural use.
  - (ii) Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the local authority having jurisdiction by hazard assessment and certification by a qualified professional (as determined by the local jurisdiction having land use authority) that a release of the subject hazardous material does not pose a major threat to the public.
  - (iii) Pharmaceutical sales, use, storage and distribution centers that do not manufacture pharmaceutical products.
  - (iv) These exemptions shall not apply to buildings or other structures that also function as Critical Facilities under another category outlined in this Article.



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- (3) At-risk population facilities include those facilities that house or provide shelter or services to children, the infirm, or other persons requiring special assistance or care or life support:
    - (a) Hospitals;
    - (b) Non-ambulatory surgery center;
    - (c) Residential care and group homes;
    - (d) Elder care;
    - (e) Nursing homes and assisted living;
    - (f) Congregate care ;
    - (g) Public and private schools (pre-schools, K-12 schools), before-school and after-school care serving 12 or more children;
    - (h) Day care and day camps;
    - (i) Other housing and facilities intended to serve those insufficiently mobile to avoid death or injury during a flood without special assistance.
  - (4) Facilities vital to restoring normal services including government operations. These facilities consist of:
    - (a) Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers);
    - (b) Essential structures for public colleges and universities (dormitories, offices and classrooms only).
    - (c) These facilities may be exempted if it is demonstrated to the Town Council that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are compliant with this Section and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Town Council on an as-needed basis upon request.
- b. *Protection for Critical Facilities.* All new and substantially improved Critical Facilities and new additions to Critical Facilities located within the Special Flood Hazard Area shall be regulated to a higher standard than structures not determined to be Critical Facilities. For the purposes of this Article, protection shall include one of the following:
- (1) Location outside the Special Flood Hazard Area; or
  - (2) Elevation of the lowest floor or floodproofing of the structure, together with attendant utility and sanitary facilities, to at least 2 feet above the Base Flood Elevation.
- c. *Ingress and egress for new Critical Facilities.* New Critical Facilities shall, when practicable as determined by the Town Council, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.



- E. **Definitions.** The following terms shall have the specific meaning given when used in this section. All other terms shall have their plain and ordinary meaning unless specifically defined for use throughout this Chapter in Article 11.

**1-percent (1%) flood.** A flood having a recurrence interval that has a one-percent chance of being equaled or exceeded during any given year (one-percent-annual-chance flood). The terms *one-hundred-year flood* and *one-percent-chance flood* is synonymous with the term *100-year flood*. This term does not imply that the flood will necessarily happen only once every 100 years.

**1% floodplain.** The area of land susceptible to being inundated as a result of the occurrence of a 1% flood.

**100-year flood.** See “1% flood.”

**0.2-percent (0.2%) flood.** A flood having a recurrence interval that has a two-tenths percent chance of being equaled or exceeded during any given year (0.2-percent-chance annual flood). The terms *five-hundred-year flood* and *0.2 percent-chance flood* is synonymous with the term *500-year flood*. This term does not imply that the flood will necessarily happen only once every 500 years.

**0.2% floodplain.** The area of land susceptible to being inundated as a result of the occurrence of a 0.2% flood.

**500-year flood.** See “0.2% flood”

**Abandoned.** Any structure that has been used or was intended for use as an occupied structure, in whole or in part, including an accessory building, that has become vacant or unused for a period of at least 365 consecutive days, and meets at least two of the following conditions:

- (1) Is open to casual entry or trespass;
- (2) Is damaged by fire, flood, weather or vandalism to an extent that prevents safe occupation;
- (3) Is the site of loitering or vagrancy;
- (4) Demonstrates a lack of property maintenance and upkeep as evidenced by one or more violations of the International Property Maintenance Code, as adopted in § 5-47 of this Code;
- (5) Is under notice for being in violation of one or more City ordinances;
- (6) Has been secured or boarded up for at least three hundred sixty-five (365) consecutive days;
- (7) Has utilities disconnected or not in use;
- (8) Is subject to a condemnation notice or legal order to vacate;
- (9) Is structurally unsound to an extent that prevents safe occupation; or
- (10) Is a potential hazard or danger to the public.

**Accessory structure.** A structure that is located on the same parcel of property as the principal structure and is used solely for parking and/or storage.

**Addition.** Any activity that expands the enclosed footprint or increases the square footage of an existing structure.

**Alluvial fan flooding.** A fan-shaped sediment deposit formed by a stream that flows from a steep mountain valley or gorge onto a plain or the junction of a tributary stream with the main stream. Alluvial fans contain active stream channels and boulder bars, and recently abandoned channels. Alluvial fans are predominantly formed by alluvial deposits and are modified by infrequent sheet flood, channel avulsions and other stream processes.

**Area of shallow flooding.** A designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with a one-percent chance or greater annual chance of flooding to an average depth of 1 to 3 feet





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where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow

*At-risk population.* Children, the infirm, and other persons requiring special assistance or care, or life support.

*Base flood.* The flood having a one-percent chance of being equaled or exceeded in any given year, whether designated as such by FEMA or by the Town Council in the manner provided in this Article. *Base Flood Elevation (BFE)* means the elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30 and VE that indicates the water surface elevation resulting from a flood that has a one-percent chance of equaling or exceeding that level in any given year.

*Basement.* Any area of a building having its floor sub-grade (below ground level) on all sides.

*Benchmark.* An established monument with a documented elevation in relation to mean sea level.

*Channel.* The physical confine of a stream or waterway consisting of a bed and stream banks, existing in a variety of geometries.

*Channelization.* The artificial creation, enlargement or realignment of a stream channel.

*Code of Federal Regulations (CFR).* The codification of the general and permanent Rules published in the Federal Register by the executive departments and agencies of the federal government. It is divided into fifty titles that represent broad areas subject to federal regulation.

*Community.* Any political subdivision in the State that has authority to adopt and enforce floodplain management regulations through zoning, including but not limited to cities, towns, unincorporated areas in the counties, Indian tribes and drainage and flood control districts.

*Conditional Letter of Map Revision (CLOMR).* A letter from FEMA officially commenting on a proposed project, which, if constructed in conformance with the CLOMR submittal contained plans would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in a revision to the effective Flood Insurance Rate Map to show changes in zones, delineations, and flood elevations of floodplains and floodways. A CLOMR does not revise an effective Flood Insurance Rate Map.

*Conditional physical map revision (CPMR).* A letter from FEMA officially commenting on, but not revising, the effective Flood Insurance Rate Map, for a proposed project that would, upon completion, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in a revision to, and republication of, one or more panels of the effective Flood Insurance Rate Map to show changes in flood risk zones, delineations and flood elevations of floodplains and floodways.

*Crawl space.* Any unfinished area of a building having its improved or unimproved floor subgrade (below ground level) on all sides and the interior height of which, measured from the lowest interior grade to the highest point of the foundation, is 4 feet or less.

*Critical Facility.* A structure or related infrastructure, but not the land on which it is situated, as specified in Subsection E.8 that, if flooded, may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood. See Subsection E.8.

*Cumulative substantial improvement.* Any combination of repairs, demolition, reconstruction, rehabilitation and/or other improvements of a structure taking place during the time the structure has been



located in a designated floodplain, the cumulative cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement, provided that the footprint of the structure is not increased. The term *cumulative substantial improvement* shall include any repair or reconstruction work on structures that have incurred substantial damage. It shall not include any project for improvement of a structure to correct violations of state or local health, sanitary or safety code specifications that have been identified by the local code enforcement official, including only the minimum improvements necessary to assure safe living conditions. Also, *cumulative substantial improvement* shall not include ordinary maintenance activities, such as interior or exterior painting or decoration, replacement of windows, doors or other nonstructural elements, repair or replacement of heating or air conditioning appliances or hot water heaters, reroofing, and utility connections, provided that such improvements shall not be excluded from the overall work when carried out in connection with structural improvements.

**Development.** Any man-made change in improved and unimproved real estate, including but not limited to: new buildings or other structures, modifications or improvements to existing structures, mining, dredging, filling, grading, paving, land clearing, excavation or drilling operations, or permanent storage of equipment or materials. Development shall also mean any change to, or change of use of, a property or structure that is within the scope of a restriction or equipment set out in this Article.

**DFIRM database.** A database (usually spreadsheets containing data and analyses that accompany DFIRMs). The FEMA Mapping Specifications and Guidelines outline requirements for the development and maintenance of DFIRM databases.

**Digital Flood Insurance Rate Map (DFIRM).** A FEMA digital floodplain map. These digital maps serve as "regulatory floodplain maps" for insurance and floodplain management purposes.

**Drainageway.** A natural or artificial land surface depression with or without perceptibly defined beds and banks to which surface runoff gravitates and collectively forms a flow of water continuously or intermittently in a definite direction.

**Elevated building.** A non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X and D, to have the top of the elevated floor above the ground level by means of pilings, columns (posts and piers) or shear walls parallel to the flow of the water; and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X and D, *elevated building* also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

**Emergency response and preparedness plan.** A plan, and related preparations and systems, that are intended to provide both a reasonable measure of preparedness for flooding and other emergencies that may occur in conjunction with flooding, and a reasonable ability to respond to such circumstances so as to avoid and minimize potential harm to persons or property.

**Enclosure.** An unfinished area below the finished area of a building that is partially or fully shut in by rigid walls, where the lowest interior grade is at or above the outside grade on all sides.

**Encroachment.** An addition to or change to the physical condition of a specified type of flood hazard area that results in the blockage, diversion or displacement of floodwaters.

**Essential services facilities.** Facilities for the provision of services needed before, during and after a flood event in order to protect public health and safety.

**Existing manufactured home park or subdivision.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed



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(including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

*Expansion to an existing manufactured home park or mobile building development.* The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes or mobile buildings are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads). Installation of a manufactured home or mobile building on a previously improved lot within a manufactured home park or mobile building development shall not be deemed to constitute expansion of manufactured home park or mobile building development.

*Federal Register.* The official daily publication for Rules, proposed Rules and notices of federal agencies and organizations, as well as executive orders and other presidential documents.

*FEMA.* The Federal Emergency Management Agency, or successor agency

*FEMA floodplain basin.* The land in a 1% floodplain designated by FEMA. This includes both areas of a floodplain designated as Zones A, AE, AO, AH and A1—A30 on the Flood Insurance Rate Map and any other areas in a basin for which FEMA has issued a floodplain map that the Town designates as 1% floodplain.

*FEMA special flood hazard area.* Areas delineated on the Flood Insurance Rate Map and designated as Zones A, AE, AO, AH and A1—A30.

*Fill.* A deposit of materials of any kind placed by artificial means. *Finished area* shall mean an enclosed area that has more than 20 linear feet of finished walls (paneling, wallboard or other non-flood-resistant material, for example) or that is used for any purpose other than solely for parking of vehicles, building access or storage.

*Floatable materials.* Any material that is not secured in place or completely enclosed in a structure, so that it could float off site during the occurrence of a flood and potentially cause harm to downstream property owners, or that could cause blockage of a culvert, bridge or other drainage facility. This includes, without limitation, lumber, vehicles, boats, equipment, trash dumpsters, tires, drums or other containers, pieces of metal, plastic or any other item or material likely to float. *Floatable materials* shall not include motor vehicles parked temporarily on property for the purpose of customer or employee parking, or a business's temporary outdoor display of inventory during its usual hours of operation.

*Flood or flooding.* A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (a) The overflow of water from channels and reservoir spillways;
- (b) The unusual and rapid accumulation or runoff of surface waters from any source; or
- (c) Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current).

*Flood control structure.* A physical structure designed and built expressly or partially for the purpose of reducing, redirecting or guiding flood flows along a particular waterway. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

*Flood fringe.* That portion of the 1% floodplain between the floodway boundary and the upper limits of the base flood. Sheet flow areas with flood depths of less than 1 foot shall not be considered part of the *flood fringe*. Sheet flow areas with flood depths between 1 and 3 feet, inclusive, shall be considered part of the *flood fringe*.



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**Flood hazard area** shall mean the Big Thompson or Little Thompson floodplain, a FEMA basin floodplain, a Town basin floodplain, an area removed from a floodplain by a LOMR-Fill, or an erosion buffer zone.

**Flood Insurance Rate Map (FIRM)**. An official map of a community on which the Federal Emergency Management Agency has delineated both the Special Flood Hazard Areas and the risk premium zones applicable to the community.

**Flood Insurance Study (FIS)**. The official report provided by FEMA. The report contains the Flood Insurance Rate Map, as well as flood profiles and water surface elevation of the base flood.

**Floodplain or flood-prone area**. Any land area susceptible to being inundated as the result of a flood, including the area of land over which floodwater would flow from the spillway of a reservoir.

**Floodplain Administrator**. The community official designated by title to administer and enforce the floodplain management regulations.

**Floodplain Development Permit**. A permit required before construction or development begins within any Special Flood Hazard Area (SFHA). If FEMA has not defined the SFHA within a community, the community shall require permits for all proposed construction or other development in the community including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within flood-prone areas. Permits are required to ensure that proposed development projects meet the requirements of the NFIP and this Article.

**Floodplain management**. The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations. Floodplain management refers to those activities that are implemented with the intent to promote the public health, safety and general welfare, to minimize public and private losses due to flood conditions and to maintain, enhance and improve the natural and beneficial functions of floodplains.

**Floodplain management regulations**. Land use and zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**Floodproofing**. Any combination of structural provisions, and/or nonstructural additions, changes or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damage to properties, water and sanitary facilities, structures and contents of buildings in a floodplain area.

**Floodway (regulatory floodway)**. The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the base flood water surface elevation more than one-half ( $\frac{1}{2}$ ) foot (six [6] inches). Letters of Map Revision to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation.

**Floodway modification**. Any alteration to a channel thalweg, bed or banks of a floodway that would change the delineation of the floodway. **Footprint** shall mean the aerial extent and location of a structure at the point at which it meets the ground at grade level, or at which the floor projects horizontally above the ground, to the extent portions of the structure do not meet the ground.

**Freeboard**. The vertical distance in feet above a predicted water surface elevation, intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the



height calculated for a selected size flood such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.

**Functionally dependent use.** A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes docking facilities, but does not include long-term storage or related manufacturing facilities.

**Hardship.** The effect of a floodplain designation on the use of a property in light of unusual physical characteristics of the land that are exceptional or peculiar to the property and not shared by adjacent parcels. *Hardship* does not include personal or financial circumstances of the current owner of the land, such as increased costs, inconvenience, aesthetic considerations, physical disability, timing, mistakes by contractors or advisors, personal preferences, or the disapproval of neighbors.

**Hazardous materials facilities.** Facilities that produce, use or store highly volatile, hazardous, flammable, explosive, toxic and/or water-reactive materials, liquids, gases or solids, as defined under the Hazardous Materials Transportation Act, 49 U.S.C. Secs. 1801-1812, and cemeteries. *Hazardous materials facilities* shall include, but not be limited to: chemical and pharmaceutical plants; laboratories; refineries; hazardous waste storage and disposal sites; gasoline storage or sales facilities; automobile oil and lubrication, repair or paint facilities; warehouses; manufacturing facilities; and propane storage or sales facilities. *Hazardous materials facilities* shall not include retail structures and facilities that only stock and store products in factory-sealed containers.

**Highest adjacent grade.** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Historic structure.** Any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  1. By an approved state program as determined by the Secretary of the Interior; or
  2. Directly by the Secretary of the Interior in states without approved programs.

**Infrastructure.** Any facility, excluding structures, of a public or private utility providing electric, telephone, cable TV, fiber-optic, telegraph, water, wastewater, storm sewer or any other public utility service; stormwater improvements identified in any Town-approved drainage master plan; public roads, bridges and culverts; and traffic signaling equipment that is provided, required or authorized by any governmental entity having jurisdiction.

**Letter of map amendment (LOMA).** A letter from FEMA officially revising the effective Flood Insurance Rate Map that establishes that a property is not located in a FEMA special flood hazard area.

**Letter of Map Revision (LOMR).** FEMA's official revision of an effective Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs) or the Special Flood Hazard Area (SFHA).



**Letter of Map Revision based on Fill (LOMR-F).** A letter from FEMA stating that a structure or parcel of land that has been elevated by fill would not be inundated by the base flood.

**Levee.** A man-made embankment, usually earthen, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding. For a levee structure to be reflected on the FEMA FIRMs as providing flood protection, the levee structure must meet the requirements set forth in 44 CFR § 65.10.

**Levee system.** A flood protection system which consists of a levee or levees and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

**Lowest adjacent grade (LAG).** The elevation of the natural ground or properly compacted fill that comprises a component of a building's foundation system, sidewalk, patio, deck support or basement entryway immediately next to a structure and after the completion of construction.

**Lowest floor.** The lowest floor of the lowest enclosed area (including basement), and includes any floor used for living purposes which includes working, storage, sleeping, cooking and eating or recreation, or any combination thereof. This includes any floor that could be converted to such a use, such as a basement or crawl space. The lowest floor is a determinate for the flood insurance premium for a building, home or business. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

**Manufactured home.** A structure that is used or intended for use as a residential structure that is transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term *manufactured home* does not include a recreational vehicle.

**Manufactured home park or subdivision.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Market value.** The value of a structure, excluding the value of the underlying land, based upon the market for comparable properties in the local real estate market among willing buyers and sellers. Market value may be established by the County Assessor's assessment of the actual value of the structure, or may be established by an independent certified appraisal consistent with FEMA standards for the appraisal of improvements.

**Material Safety Data Sheet (MSDS).** A form with data regarding the properties of a particular substance. An important component of product stewardship and workplace safety, it is intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner, and includes information such as physical data (melting point, boiling point, flash point, etc.), toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment and spill-handling procedures.

**Mean sea level.** For purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

**Mixed-use structure.** Any structure that is used or intended for use for a mixture of nonresidential and residential uses in the same structure. **National Flood Insurance Program (NFIP)** means FEMA's program of flood insurance coverage and floodplain management administered in conjunction with the Robert T. Stafford Relief and Emergency Assistance Act. The NFIP has applicable federal regulations promulgated



in Title 44 of the Code of Federal Regulations. The U.S. Congress established the NFIP in 1968 with the passage of the National Flood Insurance Act of 1968.

**New construction.** A new structure (including the placement of a mobile home) or facility or the replacement of a structure or facility which has been totally destroyed. New manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

**No-rise certification.** A record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A no-rise certification must be supported by technical data and signed by a registered Colorado professional engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM).

**Physical Map Revision (PMR)/** FEMA's formal action whereby one or more map panels of the effective National Flood Insurance Rate Map (FIRM) are physically revised and republished. A PMR is used to show changes in flood risk zones, floodplain and/or floodway delineations, flood elevations, and/or planimetric features.

**Reconstruct or reconstruction.** To rebuild a structure without increasing its footprint, when the structure has been: (a) partially or completely destroyed by any cause (i.e., fire, wind, flood), or (b) partially or completely torn down. *Reconstruction* that also meets the definition of *redevelopment* shall be regulated hereunder as redevelopment.

**Recreational vehicle.** A vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projections;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

**Redevelop or redevelopment.**

- (a) To construct any substantial improvement that will result in the removal or replacement of more than 50% of the wall perimeter of any floor of a structure that is completely or partially below the base flood elevation, provided that the footprint of the structure is not increased; or
- (b) To repair or reconstruct any structure that has sustained substantial damage, which damage has caused the removal or replacement of more than 50% of the wall perimeter of any floor of a structure that is completely or partially below the base flood elevation, provided that the footprint of the structure is not increased.

**Regulatory flood protection elevation.** The elevation above the base flood elevation to which a structure must be elevated, as set forth in the applicable requirements of this Section.

**Regulatory floodplain.** The floodplain that is regulated by the Town, including the Big Thompson and Little Thompson floodplains and other FEMA or Town-delineated basin floodplains.

**Rehabilitation or rehabilitate.** To make any improvements and repairs to the interior and exterior of a structure that do not result in any increase in the footprint of the structure. The construction of a vertical addition is considered to constitute *rehabilitation*.

**Remodel or remodeling.** (See *rehabilitation* or *rehabilitate*.)



**Residential structure.** Any structure that is used for, or designed as and capable of being used for, the temporary or permanent domicile of persons, including without limitation a dwelling, a boarding house, a hotel, a motel and similarly used structure and a manufactured home. A *mixed-use structure* shall not be deemed to constitute a *residential structure*.

**Shallow flooding area.** Either: (a) a designated AH or AO zone shown on the Flood Insurance Rate Map; or (b) designated as a shallow flooding area by the City in a 1% floodplain having an average depth of from one 1 to 3 feet, inclusive, where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Sheet flow area.** A portion of the 1% floodplain that is characterized by undefined flow paths. *Sheet flow areas* with flood depths of less than 1 foot shall not be considered part of the flood fringe. *Sheet flow areas* with flood depths between 1 and 3 feet, inclusive, shall be considered part of the flood fringe.

**Special Flood Hazard Area (SFHA).** The land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year, i.e., the 100-year floodplain.

**Start of construction.** The date the building permit was issued, including substantial improvements, provided that the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The *actual start* means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. *Permanent construction* does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the *actual start of construction* means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Storage of floatable materials.** Storage outside of any structures of materials, products, equipment, vehicles or any other item that is not a structure, if the stored material or item meets the definition of *floatable material*. *Structure* shall mean a structure with two or more outside rigid walls from floor to roof and a fully secured roof that is affixed to a permanent site, a mobile building or manufactured home or a gas or liquid storage tank that is principally aboveground. An attached garage or addition shall be considered part of the structure to which it is attached.

**Substantial damage.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure (but not of the land where it is located) just prior to when the damage occurred.

**Substantial improvement.** Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost\*\* of which equals or exceeds 50% of the market value of the structure before start of construction of the improvement. The value of the structure shall be determined by the local jurisdiction having land use authority in the area of interest. This 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 code enforcement official and which are the minimum necessary 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.





## ARTICLE 10 – SUPPLEMENTAL STANDARDS

### 17-10-2 FLOODPLAIN MANAGEMENT & FLOOD DAMAGE PREVENTION

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**Threshold Planning Quantity (TPQ).** A quantity designated for each chemical on the list of extremely hazardous substances that triggers notification by facilities to the State that such facilities are subject to emergency planning requirements.

**Unfinished area.** An enclosed area that is used only for the parking of vehicles, building access or storage purposes and does not meet the definition of finished area.

**Vertical addition.** An addition to a structure that does not result in an increase in the structure's footprint, provided that the associated work does not constitute redevelopment of the structure.

**Variance.** A grant of relief to a person from the requirement of this Article when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this Article. (For full requirements, see Section 60.6 of the National Flood Insurance Program regulations.)

**Violation.** The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4) or (e)(5) is presumed to be in violation until such time as that documentation is provided.

**Water surface elevation.** The height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

**Water surface profile.** A graph that shows the relationship between the vertical elevation of the top of the floodwater and of the streambed with the horizontal distance along the stream channel.

**Watercourse.** A stream, creek, pond, slough, gulch, reservoir, lake or portion of the floodplain functioning as a natural or improved channel carrying flows, not constituting a flood. The term shall include, but not be limited to, established natural and human-made drainageways for carrying storm runoff, but it shall not include irrigation ditches.

**Zone.** An area designated on the FEMA Flood Insurance Rate Map, indicating the likelihood and potential extent of flooding:

- (a) **A zone.** An area inundated by the 1% Flood, as shown on the FEMA Flood Insurance Rate Map. Base flood elevations are not determined in an A zone.
- (b) **A1—A30 and AE zone.** Areas inundated by the 1% Flood, as shown on the FEMA Flood Insurance Rate Map. Base flood elevations are determined for these zones.
- (c) **AH zone.** An area of one-hundred-year shallow flooding as shown on the FEMA Flood Insurance Rate Map where depths are between 1 and 3 feet (usually shallow ponding). Base flood elevations are determined for this zone.
- (d) **AO zone.** An area of one-hundred-year shallow flooding as shown on the FEMA Flood Insurance Rate Map where depths are between 1 and 3 feet (usually sheet flow on sloping terrain). Average flood depths are determined for this zone.
- (e) **X zone.** One or more of the following: the area inundated by the 0.2% flood; a sheet flow area inundated by the 1% flood with an average flood depth of less than 1 foot; or an area protected by one or more levees from inundation by the 1% flood.



### 17-10-3 Natural Resource Extraction & Energy Development

- A. **Intent.** State law recognizes that surface and mineral estates are separate and distinct interests in land and that one may be severed from the other. Additionally, energy development is of community interest and impact. The Town has the responsibility to protect Town infrastructure and resources, manage and mitigate adverse land use impacts, and protect the health, safety, and general welfare of the public, while permitting such uses to be developed in a responsible and compatible manner. This Section has the following intent with regard to the rights of surface and mineral estates as well as energy development:
1. Ensure and monitor compliance with all State and Federal laws and rules;
  2. Enable the right to use that part of the surface estate reasonably for such uses;
  3. Minimize or mitigate adverse land use impacts and protect community interests.
  4. Protect the Town's infrastructure and groundwater resources to ensure these resources are not harmed.
  5. Mitigate potential negative impacts from such development on property owners, adjacent or future land uses, and ecological resources through reasonable regulations for construction, operation and reclamation related to natural resource extraction and energy development.
- B. **Applicability.** The standards and procedures in this Section apply to all natural resource extraction and energy development operations located on surface property in the Town limits.
- C. **Process.** No such development shall be operated, and no site development or equipment shall be located prior to the following:
1. *Use by Special Review* according to the procedures and criteria in Section 17-2-7.
  2. *Site Plan.* Approval of a site plan in association with the *Use by Special Review* approval, or in accordance with the procedures and criteria in Section 17-2-5 for any new or relocated facilities, and provided it is compliance with an approved *Use by Special Review* and the standards of this Section.
  3. *Notice to Proceed.* Prior to commencement of construction operations for which a *Use by Special Review* has been previously granted, a "Notice to Proceed" shall be obtained from the Town. A copy of any necessary state or federal permit issued for the operation shall be provided to the Town.
  4. *Building Permits.* Building permits shall be obtained as required by the Town's adopted Building and Fire Codes and all other applicable codes and regulations.
  5. For natural resource extraction the initial *Use by Special Review* permit shall allow any twinning, sidetracking, deepening, recompleting or reworking of a well and relocation of accessory equipment or gathering and transmission lines so long as all applicable regulations of this jurisdiction and the state are met. If any twinning, sidetracking, deepening, recompleting or reworking of a well, or relocation of accessory equipment or gathering and transmission lines occurs, then the operator shall submit a revised site plan according to the procedures and criteria in Section 17-2-7.
- D. **Site & Development Supplementary Standards.** All natural resource extraction and energy facility development projects shall meet the following supplementary site and development standards:
1. **General Provisions.** Operators shall conform to the following:
    - a. Town, county, state, and federal regulations and standards, including those concerning air quality, water quality, odor and noise and other possible nuisances.
    - b. Town sanitation and environmental standards.



## ARTICLE 10 – SUPPLEMENTAL STANDARDS

### 17-10-3 NATURAL RESOURCE EXTRACTION & ENERGY DEVELOPMENT

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2. **Flow Lines.** All flow lines, including transmission and gathering systems, shall have the legal description of the location recorded with the County Clerk and Recorder within 30 days of completion of construction. Abandonment of any flow lines shall be recorded with the County Clerk and Recorder within 30 days after abandonment.
3. **Impact Mitigation.**
  - a. All equipment and facilities shall be adequately fenced to restrict access by unauthorized persons and mitigate visual clutter and impacts. All facilities and equipment shall be surrounded by a fence at least six feet but no more than 10 feet in height, of noncombustible material and which includes a gate which shall be locked. Fencing surrounding well heads may be an open design. Fencing surrounding oil and gas equipment and production pads shall be a solid and durable material that provides screening.
  - b. All sites shall remain clear of all nonessential equipment and vehicles.
  - c. Where possible, operators shall provide for the development of multiple reservoirs by drilling on existing pads or by multiple completions or commingling in existing well bores.
  - d. Use of electric motors, only, permitted.
  - e. Drilling operations may be subject to noise mitigation and sound walls.
  - f. Noise management plan may be required to identify hours of maximum noise emissions, type, frequency and level of noise to be emitted and proposed mitigation measures.
  - g. Construction of noise-abating structures may be required where facilities create noise and visual impacts which cannot otherwise be mitigated. Based on the duration of anticipated impacts these structures may be temporary or permanent in nature.
  - h. Exhaust from engines, motors, coolers and other mechanized equipment shall be vented in a direction away from all habitable buildings that be reasonably by impacted.
  - i. Exterior lighting shall be down-directional and directed away or shielded from residential areas to eliminate glare.
  - j. Facilities and equipment shall not be located within regulatory flood hazard areas.
  - k. When facilities are located within or in close proximity to any area identified with sensitive ecological features or natural habitat, the Town may require consultation with Colorado Parks and Wildlife and or provide an ecological survey to obtain recommendations for appropriate site specific and cumulative impact mitigation procedures.
  - l. Other measures that may be needed to mitigate impacts to the community or public infrastructure.
- E. **Coordination with COGCC Rules.** In addition to any other standards that are part of a *Use by Special Review* approval, all oil and gas facilities shall comply with the current rules of the Oil and Gas Conservation Commission of the State of Colorado (COGCC). All requisite approvals may be submitted and reviewed concurrently, but shall receive final approvals by the COGCC prior to the Town issuing Notice to Proceed. Evidence of such approvals shall be provided to the Town.
- F. **Supplementary Application Materials – Oil & Gas.** In addition to all submittal requirements for a *Use by Special Review* and site plan required by Section 17-2-7, oil and gas facilities may be required to submit the following:
  1. Copies of all information submitted to the COGCC.
  2. If any of the following is not included on the COGCC information, it shall be incorporated into plans submitted to the Town:



## ARTICLE 10 – SUPPLEMENTAL STANDARDS

### 17-10-3 NATURAL RESOURCE EXTRACTION & ENERGY DEVELOPMENT

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- a. The proposed location of production site facilities or well site facilities. Future development of the resource shall be considered in the location of the tank battery. Existing tank batteries and transmission and gathering lines within 500 feet of the well site shall be shown.
  - b. The location of the drilling equipment and related facilities and structures.
  - c. The following information within a radius of 500 feet of the proposed well or production site:
    - (1) Existing surface improvements;
    - (2) Existing utility easements and other rights-of-way of record; and
    - (3) Existing irrigation or drainage ditches.
    - (4) Names of abutting subdivisions or owners of abutting unplatted property
  - f. Well site or production site's existing lease boundaries, well name and number. .
3. **Other Items.**
- a. The operator's and surface owner's names and addresses, copies of any required COGCC 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 COGCC.
  - d. An emergency response plan that is mutually acceptable to the operator and the appropriate fire district that includes a list of local telephone number 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 minimizing negative impacts, including noise and vibration levels, air and water quality, odor levels, visual impacts, wildlife impacts, waste disposal, traffic and roadway impacts, and public safety.
  - 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.
- G. **Review Criteria.** In addition to all other general criteria in Section 17-2-7 for *Use by Special Review*, the Town shall consider the following for natural resource extraction and energy development facilities:
1. The submittal of all necessary information demonstrates compliance with all federal, state and local laws and regulations regarding siting and operating facilities.
  2. The site plans demonstrate compliance with all standards in this Section.
  3. The site plan or any additional mitigation plans meet the standards, guidelines and criteria for the specific location and context.
  4. No other conditions or circumstances exist that will undermine the intent of this Section.
- H. **Inspections.** The operator shall allow inspections of all facilities by Town personnel at any reasonable hour.
1. Failure to allow inspections for more than ten days shall result in scheduling a *Use by Special Review* permit revocation hearing before the Town Council. The Town Council's decision on a *Use by Special Review* revocation based on failure to allow inspections shall be final.
  2. Each year the operator of any producing oil or gas well shall provide the following to the Town:
    - a. Proof of insurance and bonding required by any Town, county, state or federal law or regulation.
    - b. Certification of compliance with the conditions of this Section, the Uniform Building and Fire Codes, and other applicable regulations.
    - c. Annual inspection fees may be established by the Town to cover inspection costs.



## ARTICLE 10 – SUPPLEMENTAL STANDARDS

### 17-10-3 NATURAL RESOURCE EXTRACTION & ENERGY DEVELOPMENT

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- I. **Defined Terms.** The following terms used in this Section shall have the meaning given below. All terms not listed but that are defined in the Act, or in regulations by the COGCC or CDPHE authorized under the Act, shall defer to those definitions, and any conflicts resolved in favor of the state definitions. All other terms shall have their plain and ordinary meaning unless specifically defined for use throughout this Chapter in Article 11.

*Act* shall mean the Oil and Gas Conservation Act of the State of Colorado.

*Commission or COGCC* shall mean the Oil and Gas Conservation Commission of the State of Colorado.

*Inspector, Town* shall mean any person designated by the Town Manager or by the Manager's designee, who shall have the authority to inspect a well site to determine compliance with this Chapter and other applicable ordinances of the Town.

*Operating plan* shall mean a general plan which describes an oil and gas exploration and production facility identifying purpose, use, typical staffing pattern, seasonal or periodic considerations, routine hours of operation, source of services/infrastructure, any mitigation plans and any other information related to regular functioning of that facility.

*Operator* shall mean the person or entity designated by the owner or lessee of the mineral rights as the operator for oil and gas sites.

*Operations / Operating* shall mean use of the facility, once construction activities are complete and the site is in day-to-day operations.

*Production facilities* shall mean all storage, separation, treating, dehydration, artificial lift, power supply, compression, pumping, metering, monitoring, flow lines and other equipment directly associated with oil wells, gas wells or injection wells.

*Sidetracking* shall mean entering the same wellhead from the surface, but not necessarily following the same well bore, throughout its subsurface extent when deviation from such well bore is necessary to reach the objective depth because of an engineering problem.

*Surface owner* shall mean any person having title or right of ownership in the surface estate of real property or leasehold interest therein.

*Twining* shall mean the drilling of a well adjacent to or near an existing well when the well cannot be drilled to the objective depth or produced due to an engineering problem, such as a collapsed casing or formation damage.

*Well* shall mean any oil or gas well, a hole drilled for the purpose of producing oil or gas, or a well into which fluids are injected.

*Well site* shall mean the areas which are directly disturbed during the drilling and subsequent operation of, or affected by production facilities directly associated with, any oil well, gas well or injection well.

*Wellhead* shall mean the mouth of the well at which oil or gas is produced.



## Article 11. Definitions

- 17-11-1 Description of Uses
  - 17-11-2 Defined Terms
  - 17-11-3 Design & Architecture Terms
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### 17-11-1 Description of Uses

This section provides descriptions of uses of land and buildings associated with Table 4-2: Permitted Uses. It is organized by categories and types of uses. Categories are general groupings of uses with similar characteristics, and types are based on common physical or operational characteristics, such as typical scale or format. Where a proposed use is not generally listed or appears to meet the description of more than one use type, the Director shall make an interpretation on the most equivalent described use category and/or type, considering:

1. The similarity of the use in terms of scale, impact, and operations to other described uses;
2. The typical building format and site design associated with the use from existing examples; and
3. The potential contribution of the use, in its typical format and design, to the intent of the zoning district, and the ability to complement and be compatible with other permitted uses.

Any uses that may not be interpreted as equivalent to a use in Table 4-2 is not anticipated by these regulations and may only be allowed by an amendment to the development code.

#### A. Residential Uses

1. *Household Living.* Residential occupancy of a dwelling unit by a single household, with tenancy arranged on a monthly or longer basis. Household living occurs in a variety of types based on the scale and format of buildings and arrangement of dwelling units.

*One-unit Dwelling.* A residential building designed for one primary dwelling unit. One-unit dwellings include variations based on the lot size.

*Multi-unit Dwelling.* A residential building designed for two or more principal dwelling units. Multi-unit dwellings include variations based on the building type and scale, including duplexes, multi-unit houses, row houses, or apartments.

*Live / Work Dwelling.* A combination of residential commercial activity located in a dwelling unit or sharing the same building as a dwelling sharing a common wall or with direct access between the residential and commercial elements, and where each is intended as a principal use.

*Mixed-use Dwelling.* A residential use in a building designed for street level retail, service or employment uses, and where dwelling units are accommodated on upper stories, or otherwise separated from the principal commercial function of the building.

*Manufactured or Small Format Home Communities.* A parcel of land planned and designed for multiple home sites for the placement of manufactured, mobile or other small homes, and used for the principal dwelling of households for long-term residency. These communities include internal common areas, circulation systems and accessory



uses and facilities to support the community. Dwellings may either be located on home sites designated within a larger project or on single lots owned through appropriate condominium procedures or platted under certain conditions.

*Established Residential (all building types).* Any residential building and use, legally established when it originated but where new development of the same use or similar building type is no longer permitted in the zone district. Where permitted, continued use and further investment in the building and use is not discouraged.

2. *Group Living.* Residential occupancy of a structure by a group of people that do not meet the definition of a household, with tenancy arranged on a monthly or longer basis. Group living structures typically have a common eating area for residents, and they may receive some level of care, training, or services associated with their residency. Group living occurs in a variety of types based on the scale and format of buildings, arrangement of dwelling units, and the degree or intensity of associated services.

*Group Home- Small.* The use of a residential building as a single primary dwelling which provides permanent residence, supervision, and other services for up to 8 unrelated persons with intellectual and developmental disabilities, behavioral or mental health disorders, or who are over the age of 65 years old and need of special care due to physical conditions or infirmities. The group home includes up to 2 residential caregivers, and shall be licensed, operated, or owned by a governmental agency or non-profit qualified to provide care and supervision. Group homes shall not include interim care treatment or rehabilitation facilities, or other housing facilities serving as an alternative to incarceration.

*Residential Care – Limited.* A residential building or grouping or residential buildings used as the permanent residence of individuals that require a limited level of assistance, medical care, therapy, or supervisions for daily living activities, or where shared social and recreational activities provide a common amenity for residents. Support services are accessory to the residential use and character of the buildings, and do not require 24-hour staffing, other than security. Typical examples include assisted living, co-housing, group homes larger than 8 individuals or that otherwise do not meet the criteria for Group Home - Small, and retirement communities.

*Residential Care - General.* A residential or institutional building, or group of buildings, designed to provide a primary or interim residence and health care for persons who require care on a full-time basis. Meals, medical support, rehabilitative services, social and recreational activities are provided on site with facilities and professional staff. Typical examples include nursing homes, long-term care facility, treatment centers, continuing care facility, congregate care communities, or hospices.

*Residential Care - Institutional.* A residential or institutional building, or group of buildings, designed and operated to provide interim or temporary housing, twenty-four-hour care, and supervision for residents who are at risk or in need of special support services. Typical examples include halfway house, rehabilitative residence, protective housing, or shelters.

## **B. Public / Institutional Uses**

1. *Assembly.* An institutional or civic use designed to serve the community for regular or periodic events, including worship, civic, social, recreation, or entertainment, and accessory uses associated with organized activities, including child care, concession



services, education, and recreation events. They can be available to the public at large, by voluntary affiliation, or for private organizations limited by membership.

*Assembly – Limited (< 400 capacity and < 2 acre lot).* A place of public assembly designed and located to serve immediately adjacent uses and nearby neighborhoods, or be accessory to other uses and typically designed for less than 400 people. All buildings and facilities are located on a lot of less than 2 acres. Examples include a small neighborhood association clubhouse or recreation center, common meeting rooms or meeting hall, or small religious facilities.

*Assembly – General (400-800 occupants or 2 to 5 acres).* Places of public assembly designed and located to serve community or civic needs of a broad vicinity and typically designed for 400 – 800 people. All buildings and facilities fit on a lot or are arranged in a small campus of between 2 and 5 acres. Examples include a community/recreation center, small event hall or large religious facility.

*Assembly – Large (800+ occupants or 5+ acres).* Places of public assembly designed and located to serve community or civic needs of the Town or region and typically designed for more than 800 people. Buildings and facilities require large lots or campuses that are difficult to integrate into the surrounding block structure, are disruptive to connected development patterns, and require special siting and civic design considerations. Examples include an auditorium, large event hall, major worship hall or campus, or convention and conference center.

2. *Civic & Institutional Buildings.* The use of land and buildings to serve public or community interest through government or non-profit agencies through cultural, social, or education offerings, or for the administration operations of organizations providing these services.

*Government and Town.* A public use that supports the community at large by through public health and safety, protective or related services. Examples include police and fire stations, dispatch, and related facilities, or similar government and quasi-government buildings and grounds.

*Library, public.* A public facility for the use, but not sale, of literary, musical, artistic, or reference materials.

*Museum, cultural.* A building having public significance by reason of its architecture or former use or occupancy; or serving as a repository for a collection of nature, scientific, or literary curiosities, or objects of interest, or works of art, and accessory sales related to the subject matter or activities on the site (i.e. museum gift shop small scale sit-down restaurants or cafes).

*School.* Building or group of buildings designed to provide structured, seasonal or year-round education opportunities for the community. Schools are typically integrated into the surrounding context and development pattern as a civic amenity (whether single buildings or a campus), based on the scale of the facilities. Typical examples include elementary or secondary public or private schools, colleges and universities, or other special purpose or specific-need schools that have a course of study and education environment similar to that of public schools.

3. *Park and Open Space.* Any parcel or area of land or water unimproved with any residential, commercial, or industrial uses and dedicated or reserved for public and/or private use and enjoyment, or public lands managed by a public entity for the conservation or stewardship of resources. Specific uses and purposes include





agricultural, recreational, education, cultural, scenic or environmental purposes, and the land is characterized by open or natural landscape features.

*Athletic Field.* Land, often requiring equipment, owned by a unit of government and designed for outdoor games and sports such as lacrosse, baseball, football, and soccer.

*Recreation Center or Grounds.* A private or public facility for cultivation of fruits, flowers, vegetables, or ornamental plants by more than one person or household. Examples include a community gym, pool, club, golf course, or similar recreational facilities that serve as an organizing element or focal point for surrounding development.

*Park, Trail or Civic Space.* A public, common, or private open areas designed and used for both active or passive recreation. (See Section 3-2 for specific designs and types.)

4. *Utilities.* A service use owned by a governmental entity, or any entity defined as a public utility for any purpose by the state public utilities commission, and used in connection with the distribution, collection, or transmission of energy, water, sanitary sewerage, communication, or municipal services on a local level. All utilities may be further limited by site design and landscape standards of this code, or more specifically regulated and permitted by licensing agencies, franchise agreements, or specific conditions and design requirements of any easement authorizing the location of facilities. For the purposes of the development code, utility facilities are further classified as follows.

*Minor Utility Facility.* Small-scale facilities that provide utilities necessary to support development either within a specific sub-area of the Town or the immediate vicinity of the facility. This use typically involves the construction or installation of only minor structures. Employees typically are not located at the site. Examples include electric transformer stations; gas regulator stations; telephone exchange buildings; well, water, and sewer pumping stations, power lines; storm drainage facilities; pump stations and hydrants; switching boxes; and other structures to serve adjacent properties. A minor utility facility may be either a principal or accessory use of land, but does not include accessory facilities serving the customary needs of uses, buildings, and land in the zoning district through required improvements in easements, rights-of-way, or private service lines

*Major Utility Facility.* Large-scale facilities typically serving utilities to the region, the entire Town, or a significant sub-area of the Town, which normally entails the construction of new buildings or structures, and that often have employees at the site. Major utility facilities have potential major impacts on an area or Town by virtue of their appearance, noise, size, traffic generation, externalities, or other operational characteristics. Examples include water works, reservoirs, power or heating plants, energy/power transmission lines, power generating plants, and sewage or wastewater treatment plant.

### C. **Agriculture Uses**

1. *Agritourism.* The use of a farm or agricultural resources, process, or products for special events, retail and restaurant activities, or cultural promotion of agricultural heritage in typical agricultural structures or settings, and in association with maintaining and promoting the continued agricultural use and character of the building, property, or general vicinity.

*Roadside Stands.* A small retail operation selling agriculture products produced on or near a site, typically involving a small kiosk, tent or truck with temporary facilities, or on sites in more rural contexts it may include permanent structures.



*Farmers Market.* The use of a commercial farm or other permitted non-residential use or open and civic space for the periodic sale of produce from farms and other accessory products, which may include temporary, interim, or permanent structures to facilitate events

*Community Farm.* A small farm open to the public generally or periodically but on a regular basis for commercial or cultural purposes, such as events, sale of agricultural produce, dining utilizing primarily farm products, or tours that demonstrate agricultural process and practices.

2. *Farming.* A commercial use of property for planting, cultivating, harvesting and storage of grains, hay or plants, and/or the raising and feeding of livestock and poultry. The storage of crops, grains, feeds or other products shall be limited to those raised on or to be consumed on the premises.

*Farming – Limited.* The primary use of land for small-scale production of field crops or horticulture for food, or raising small animals where limited accessory storage facilities and light machinery is necessary and the land area is typically under 10 acres.

*Farming – General.* The primary use of land for commercial production of field crops for food or raw materials in other agriculture operations; the raising or breeding of livestock, poultry, fish or other animals; or plant production such as nursery, orchard, vineyard. The land area is typically over 10 acres.

*Farming – Large / Industrial.* A large-scale farming and agricultural processing operation where heavy machinery, storage of large quantities of byproducts or intensive animal operations occur, such as feedlots or the commercial feeding of offal or garbage to swine or to other animals, commercial production and sale of livestock, or other similar intensive operations.

#### D. Commercial Uses

1. *Animal Care / Sales.* Commercial service and retail uses that provide the sale, care, or boarding for domesticated animals that is further refined by the scale and intensity of the operations, as follows:

*Animal Care - Limited (< 3K, no boarding).* A small office or shop providing animal care or sales. The use involves less than 3,000 square feet of commercial area, and all activities occur indoors (except routine daily pet care), Examples include a veterinary office, small pet store, or small pet grooming or training,

*Animal Care – Small (3K – 8K or limited boardings).* An office or store providing animal care or sales, and where any overnight boarding is limited to that necessary for medical care or observation. The use involves less than 8,000 square feet of commercial space and limited outdoor activity areas necessary to accommodate the care animals. Examples include a veterinary clinic, large pet store, or large pet grooming or training.

*Animal Care – General (8K – 30K or boarding).* A large office or store providing animal care or sales, or any use offering routine daily care for animals, whether less than 24 hours or overnight boarding. The use involves between 8,000 and 30,000 square feet of commercial space, or all scales of daily animal care with indoor or outdoor space where multiple animals are cared for on a daily basis. Examples include a large pet store, large grooming or training facility, animal hospital, or any animal day care, kennel, or boarding service.



*Animal Care – Large (Outdoor or over 30K).* A large facility or grounds providing animal care, training, or boarding. The use involves over 30,000 square feet of commercial space, or is of a nature where a substantial amount of care, training, or boarding occurs in outdoor facilities. Examples include large animal hospitals, and large commercial/outdoor kennels, animal shelters, stables, or breeding facilities.

2. *Dependent Care.* A commercial use of nonresidential property for the care of a child away from his/her own home or for any adult in need of supervisory care, for any part of the 24-hour day. This does not include services accessory to schools, religious services, or employment activities, or licensed childcare home occupations accessory to a principal dwelling.

*Dependent Care – Limited (< 3K).* A dependent care use less than 3,000 square feet of commercial area, within a small building or in a portion of a mixed-use building.

*Dependent Care– General (3K –8K).* A dependent care use between 3,000 and 8,000 square feet of commercial area, typically within one moderate-sized building or in a portion of a larger mixed-use building.

*Dependent Care – Large. (> 8K).* A dependent care use with more than 8,000 square feet, typically within one large building or involving more than one building in a campus or multi-building complex.

3. *Entertainment & Recreation.* Commercial service uses engaged in the business of providing daily or regularly scheduled activities for entertainment, leisure, training and instruction, or recreation, offered to the to the public at large, through individual membership, or through group arrangements. This use type is further refined by the scale, format and intensity as follows:

*Entertainment & Recreation – Indoor / Limited (< 8K).* An indoor entertainment and recreation use that involves a building less than 8,000 square feet. Examples include a small bowling alley, billiard hall, a small theater, or dance or yoga studio.

*Entertainment & Recreation - Indoor / General (8K - 30K).* An indoor entertainment and recreation use that involves a building that is between 8,000 and 30,000 square feet or more. Examples include a small sports and recreation center, larger arcade or game center, or a moderate sized theater complex,

*Entertainment & Recreation - Indoor / Large (30K+ ).* An indoor entertainment and use that involves a building that is 30,000 square feet or more. Examples include a large bowling alley, a sports and recreation center, a large theater or theater complex, or skating rink

*Recreation/Entertainment – Outdoor.* Any outdoor entertainment and recreation use, where a commercial business offers the grounds use of patrons. Examples include racquet club, miniature golf, driving range, golf course, batting cages, sports and athletic complex, or band shell or amphitheater.

4. *Food & Beverage Service.* A specific service and retail use engaged in the business of serving prepared food and/or beverages to the public for immediate consumption. The serving of alcoholic beverages is accessory to this use but may be further regulated by business and liquor licenses. Whether the use includes drive-through facilities is regulated by the accessory use provisions and site design standards for the district and



street. Food & Beverage Service are further refined by scale, format and intensity based on the following:

*Restaurant – Limited (< 3K).* An accessory or small-scale restaurant under 3,000 square feet of commercial area, located in a small or mixed-use building or sometimes associated with other uses, such as a cafe, lunch counter, walk-up window or similar small retail sales food outlet.

*Restaurant – Small (3K – 8K).* A small-scale restaurant between 3,000 and 8,000 of commercial area, and typically includes separate kitchen dining facility, a accessory bar and entertainment areas.

*Restaurant – General (> 8K).* A moderate- or large-scale restaurant between 3,000 and 8,000 of commercial area, and typically includes separate kitchen dining facility, a accessory bar and entertainment areas, and may include accessory craft manufacturing or packaged retail sales of food and beverages.

5. *Lodging.* Commercial uses providing accommodations for temporary overnight occupancy on a less than monthly basis, and accessory uses associated with typical guest services such as food service, recreation or similar accommodations to support overnight-guests. Lodging is refined to the following scales based on building type, format, and intensity of use:

*Bed and Breakfast (up to 5 rooms).* A small residential building used for commercial short-term lodging with shared living space between the operator as the primary occupant and the patrons. The use includes no more than 5 bedrooms or 8 guests, and where meals may be offered to overnight guests for compensation.

*Inn (6 to 40 rooms).* A small commercial or large residential building providing short-term lodging and includes at least 6 but no more than 40 rooms.

*Lodging – Hotel / Motel General (40+ Rooms).* A large commercial building providing short-term lodging and includes 41 or more rooms.

6. *Marijuana Uses.* Uses involved in the production, distribution, prescription, or sale of cannabis as may be further described in the Colorado State Constitution or Colorado Revised Statutes.

7. *Medical Service.* Commercial services uses providing medical, dental, or physical health or wellness care to the public. This use type is further categorized by the following formats:

*Medical Service – Limited (< 8K).* A medical care use offering routine outpatient services, that occupies less than 8,000 square feet of diagnostic or treatment area, includes no surgical or in-patient facilities, and operates in normal business hours. Examples include a small doctor or dentist office, eye-care center, or urgent care center that is accessory to a larger retail or pharmacy use.

*Medical Service– General (8K – 30K).* A medical care use offering routine outpatient services, or provides diagnostic testing, laboratory services, and limited custom fabrication of medical supplies. The use occupies between 8,000 and 30,000 square feet for research, diagnostic, or treatment areas, includes no inpatient facilities, and operates in normal business hours. Examples include a larger doctor or dentist group practice, small clinic or analytical lab, or small outpatient urgent care or surgical center.



*Medical Care – Large (> 30K).* A medical care use offering a full range of services, that occupies more than 30,000 square feet for diagnostic or treatment areas, and may include emergency care, surgical services, or other inpatient treatment. The use may include accessory retail, food service, pharmacy or wellness/fitness uses. Examples include hospital, large clinic or analytical labs, regional medical campus or centers.

8. *Office.* Commercial uses focused on employment and engaged in the administrative, technical, or management aspects of business or professional services that typically do not have frequent or unscheduled on-premise interaction with the public or clients. Examples include accountants, lawyers, architects, engineers, insurance, or other professional or administrative services. Office uses are further refined by the scale and format of buildings based on the following:

*Office – Limited (< 8K or < 33% of mixed-use projects).* An office use less than 8,000 square feet of commercial area, within a small building or occupying a portion of a mixed-use building or site with a floor area of all non-residential uses is less than 33%, considering other uses in the building or on the site.

*Office – General (8K – 30K).* An office use between 8,000 and 30,000 square feet of commercial area, typically within one moderate-sized building.

*Office – Large. (> 30K).* An office use with more than 30,000 square feet, typically within one large building or involving more than one building in a campus pattern.

9. *Personal Service.* Commercial uses engaged in the business of providing personal or instructional services to the public that may include frequent or unscheduled interaction with clients or customers on-premises. Examples include a barbershop or beauty salon, travel agency, fitness services, tailor, repair of household goods, print shop, delivery outlets, bank, or personal financial services. Personal service uses are further refined by scale, intensity and format based on the following:

*Personal Service – Limited (< 3K or < 33% of mixed-use projects).* A personal service use less than 3,000 square feet of commercial area, within a small building or occupying a portion of a mixed-use building or site where all nonresidential uses have floor area less than 33%, considering other uses in the building or on the site.

*Personal Service– Small (3K – 8K).* A personal service use between 3,000 and 8,000 square feet of commercial area, located in a small building.

*Personal Service – Large (> 8K).* A service use encompassing more than 8,000 square feet, typically in a large-freestanding building or part of a large mixed-use project

10. *Retail.* Commercial uses primarily engaged in the sale, lease, or rental of products to the general public with frequent interaction of patrons or consumers on premises. Retail uses are further refined by scale, intensity, and format based on the following types:

*Retail – Limited (< 3K or 33% of mixed-use buildings / projects).* A small-scale retail use with under 3,000 square feet of commercial area, or occurring in a building where all nonresidential uses have floor area less than 33%, considering other uses in the building or on the site.



*Retail – Small (3K - 8K).* A retail use with at least 3,000 but less than 8,000 square feet of commercial area, typically located in a small building or a multi-tenant, mixed-use building.

*Retail – General (8K - 30K).* A moderate-scale retail use at least 8,000 but less than 30,000 square feet of commercial area, typically located in a moderate free-standing building or a large multi-tenant or mixed-use building.

*Retail – Large (> 30K).* A large-scale retail use with at least 30,000 square feet of commercial area. in a large-freestanding or part of a part of a large mixed-use project.

*Retail – Outdoor & Equipment Sales.* A specific retail use where the primary business is associated with merchandise that typically must be displayed outside and on a year-round basis. Examples include a garden center, a greenhouse / nursery, a lumber yard, or a small machine or equipment sales.

11. *Retail – Grocery Store.* A specific retail use selling food, produce, and household products for general household consumption, including a significant portion of inventory in fresh produce, baked goods, meats, or seafood. Accessory sales of prepared food for on-site consumption is limited to no more than 20% of the transactions. These uses often serve as a key anchor for neighborhood and community centers which justifies slightly larger scale than other general retail uses, provided they can still fit into the block structure, development pattern, and public-realm framework of the area. To accommodate this, Retail Grocery Store is further refined by scale and format as follows:

*Grocery – Small (< 8K).* A small grocery offering limited selection of products or specialty foods or produce in a small-scale format under 8,000 square feet. Examples include a corner store, butcher shop, produce market, or other specialty market.

*Grocery – General (8K – 30K).* A mid-sized grocery offering a range of food and household products, and limited accessory services in a mid-sized building format, at least 8,000 square feet but less than 30,000 square feet. Examples include a neighborhood market, urban-format groceries

*Grocery – Large (> 30K).* A large grocery store offering a wide range of food and household products and associated accessory services in a large-scale format. Examples include a conventional full-service grocery store, large-format grocery or supermarket, or a similar function housed within a larger warehouse retail store.

12. *Vehicle & Equipment Uses.* Commercial uses that include the sale, rental, or maintenance of motor vehicles or similar large-scale equipment which have a scale or format oriented to the vehicles and large equipment, typically including large parking areas, and outdoor storage or circulation of vehicles and equipment. Use types include:

*Gas Station -Limited (1 - 8 pumps).* A commercial use designed to supply motor vehicles with gasoline or other fuel source, oils, greases, and may involve limited accessory sales of convenience goods. This use may be combined with accessory vehicle service and repair uses, subject to the service bay limitations stated below. A limited vehicle gas station includes no more than 8 fueling stations, no more than 2 service islands, no more than 2 accessory vehicle service bays and no more than 1,500 square feet of accessory retail or service areas. Examples include small, neighborhood service stations.

*Gas Station -General (9-17 pumps).* A vehicle gas station limited to between 9 and 16 fueling stations, no more than 4 service islands, no more than 3 accessory vehicle



service bays and no more than 3,000 square feet of accessory retail or service areas. Examples include general stores and gas stations.

*Gas Station - Large (17+ pumps).* A vehicle gas station that contains more than 16 fueling stations, more than 4 islands, and up to 4 accessory vehicle service bays and no more than 8,000 square feet of accessory retail or service areas. Examples include a large convenience center and gas station, or truck stops and travel centers.

*Automobile Repair – Limited.* A commercial use engaged in the repair and maintenance of automobiles, motorcycles, trucks, trailers, or similar vehicles, not including body or fender work. Minor paint or decorative wrap work may be included, however, not including a full paint booth.

*Automobile Repair - Body Shop.* A commercial use designed for service, repair, and restoration of vehicles, including major repairs, paint, and body work.

*Automobile, RV, or Equipment Sales / Rental.* A commercial use designed for the display, sale, leasing, or rental of new or used motor vehicles, recreational vehicles, boats, or similar large equipment. Any repair or service work is accessory to the sale, leasing or rental of operable vehicles and equipment.

*Car Wash and Automobile Detailing.* A commercial service use that washes, cleans, or refurbishes motor vehicles, whether through self-service, mechanical service, or personal service, and whether as a principal use or an accessory use to another commercial use.

**D. Manufacturing / Industrial Uses**

1. *Industrial Services.* A business engaged in service to other businesses and industries, or engaged in services to the general public but where industrial equipment or processes are necessary for service, or where services are dispatched from a central location for storage of vehicles, equipment, or merchandise. Examples include plumbing, exterminators, HVAC repair, utility contractors, janitorial services, commercial laundry services, or other similar business.

*Contractors Office or Fleet Services.* A small, centralized location for industrial service uses, where administrative offices, dispatch services, and limited on-site storage of equipment and fleet vehicles can occur during non-business hours.

*Industrial Services – Light.* A small-scale or low-impact industrial service use with limited outdoor storage needs, where surface parking, vehicle storage, and general storage needs are similar to other industrial or commercial uses, and where areas dedicated to storage of equipment and vehicles during non-business hours can occur indoors, or in well-screened areas.

*Industrial Services – Heavy.* A large-scale industrial service use which may produce a higher degree of adverse impacts (e.g. noise, glare, dust, odor, or vibrations), or which may need substantial outdoor storage, large warehouses, or significant parking and storage for vehicles or equipment.

*Vehicle / Fleet Maintenance Facility.* An industrial service use that provides mechanical and repair services to commercial vehicles, large equipment, or other similar services, whether the service is offered to other business with large vehicles and equipment or whether it is accessory to the business maintaining its own fleet and equipment.



2. **Manufacturing.** A use engaged processing, fabrication, packaging, or assembly of goods, from raw materials or partially completed secondary materials. Products may be finished or semi-finished, and are typically stored and shipped to other areas for distribution to businesses, consumers or retail outlets, although limited accessory sales, display, or customer service areas may be provided.

**Manufacturing – Limited / Artisan.** A small-scale manufacturing use producing primarily finished products with limited need for storage of materials or finished products. The use produces no negative byproducts such as smoke, odor, dust or noise discernable from outside of the building, and deliveries and distribution are made by general commercial delivery services requiring no special large truck access. Products or services are often made available to the public on premises generating customer activity. Examples include artists' studios, small bakery, brewpub, or small wood or metal shops.

**Brewery, Distillery, or Winery.** Any establishment, licensed by the appropriate State and Federal authorities, where malt liquors, fermented malt beverages, spiritous liquors, and vinous liquors are manufactured. This does not include and is distinct from accessory craft food and beverage manufacturing, which is accessory to a permitted restaurant use. However, this manufacturing use may include accessory retail, tasting, or restaurant uses.

**Manufacturing – Light.** A manufacturing use that produces little or no byproducts such as smoke, odor, dust, or noise discernable from beyond the property; limited outside storage may be necessary, and distribution and delivery or distribution needs require occasional large truck access. Examples include research labs or facilities, small equipment or commodity assembly, non-retail laundry services, commercial bakery, or food and beverage processing.

**Manufacturing – Heavy.** An industrial manufacturing use, where raw and other materials are made into other materials or finished products. The activities may produce byproducts such as noise, dust, smoke, or odor, but are mitigated to limit impacts beyond the property boundary. Outside storage and activities may be necessary, and distribution and delivery needs involve frequent or large truck access. Examples include large-scale manufacturing or fabrication plants, large equipment assembly, metal fabrication plants, chemical laboratories or other similar high-intensity manufacturing or distribution operations.

3. **Warehousing / Storage.** An industrial or commercial use involved in the temporary keeping of goods and products for interim or long-term periods and for distribution to other businesses and industries, including any logistic services related to this business such as labeling, bulk packaging, inventory control, or light assembling. This use may support their own business, or be offered as a service to other businesses in the chain of production..

**Wholesale – Sales & Distribution.** An establishment primarily engaged in the sale or distribution of goods and materials in large quantity to retailers or other businesses for resale to individual or business customers, or the sale, storage, and delivery of large items directly to customers from distribution centers.

**Indoor Storage.** A storage use where all activities occur indoors except for the limited loading and unloading of goods at discrete loading docks. Examples include indoor self-storage and long-term garages.





*Outdoor Storage.* A storage use where all or a portion of the storage of materials or products occurs outdoors. Examples include boat or RV storage, towing service storage yard, and industrial supply storage yards.

*Fuel Storage.* Industrial-scale storage of fuels as a principal use of land in above ground or below ground storage containers designed for wholesale distribution or mass consumption.

4. *Waste / Salvage.* A use that receives solid or liquid wastes for disposal on site, or for storage and processing for further distribution of disposed items. Specific use types include:

*Automobile Wrecking / Salvage Yard.* A business engaged in wrecking and dismantling, storage, sale, or dumping of dismantled, obsolete, or wrecked vehicles.

*Hazardous Waste Handling.* A facility where the principal use is to collect, store, or processes waste that is ignitable (combustible or flammable), corrosive, reactive (explosive), or toxic and requires special handling to avoid illness or injury to persons or damage to property or the environment, or any other manufacturing or industrial use where the process or byproducts could produce these hazards and otherwise needs to be contained and treated to protect the general public health and safety.

*Recycling Operation, Enclosed or Unenclosed.* A facility that collects, stores, process and distributed waste materials that can be treaded and returned to a condition in which they may again be used for production or consumption. Recycling operations may be “enclosed” where all activities other than remote and discrete loading areas are indoors, or they may be unenclosed, where a portion of the collection, storage, or processing occurs outside.

*Waste Transfer Station.* A facility or structure where trash is collected, including appropriate structures and mechanical equipment for the collection, compaction, and/or loading of trash.

### 17-11-2 Defined Terms

All terms used in this code shall have their plain and commonly accepted meaning, based upon the context of their use in the code. The following terms shall have the meaning given below, unless more specifically described, limited or qualified within the standards of this code. Some Articles have specific definitions where the terms have the given meaning for interpretation of that article.

*Accessory Building, Structure or Use.* A building, structure or use located or conducted upon the same lot (or on a contiguous lot, under one deed, in the same ownership) as the principal building, structure or use to which it is related, and which is clearly incidental and subordinate to and customarily found in connection with the principal building or use.

*Alley.* A public or private way at the rear or side of the property, permanently dedicated as a means of vehicular access to the abutting property and generally having less width than a street.

*Appeal.* A review of a final decision by a higher authority according to the standards and procedures of this code, or as otherwise allowed by other laws.

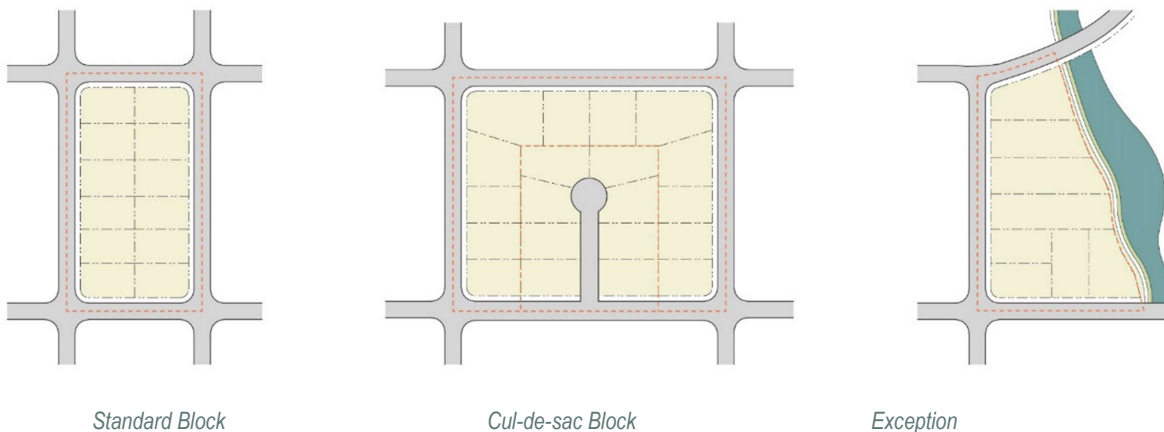


**Applicant.** The owners or lessees of property, their agent, or persons who have contracted to purchase property, or the city or other quasi-governmental entity that is proposing an action requiring review and approval by one or more of the sections in this title. An applicant may subsequently become the Developer once approval is granted and, in this case, the terms shall be interchangeable.

**Art.** All forms of original creations of visual art, including, but not limited to, sculpture; mosaics; painting, whether portable or permanently fixed, as in the case of murals; photographs; crafts made from clay; fiber and textiles; wood; glass; metal; plastics; or any other material or any combination thereof; calligraphy; mixed media composed of any combination of forms or media; unique architectural styling or embellishment, including architectural crafts, environmental landscaping; or restoration or renovation of existing works of art of historical significance. Works of art are not intended to be used for commercial advertising purposes.

**Basement.** The portion of a building between floor and ceiling which is entirely below grade, or partly below and partly above grade but so located that the vertical distance from grade to the floor below is more than the vertical distance from grade to ceiling.

**Block.** A group of platted lots and tracts connected as a distinct subset of the development pattern, and surrounded by streets or by other features that interrupt the street network such as parks, railroad rights-of-way, or municipal boundary lines; or the perimeter of all lots fronting on the street in the case of a cul-de-sac.



**Block face.** All lots on one side of a block and fronting on the same street.

**Buffer.** An area of a site used to promote separation and enhance compatibility between land uses of different intensities, and using space, landscape, or the arrangement of buildings and structures, or any combination of these to create separation or mitigate impacts.

**Building.** Any structure built for the shelter or enclosure of persons, animals, chattels, property or substance of any kind, excluding fences. The word *building* includes the word *structure*.

**Building Floor Area.** The maximum horizontal area within the outer perimeter of the building walls.

**Building Footprint (building coverage).** That area or portion of a lot which is occupied or covered by all buildings on that lot.

**Building, Detached.** Any single building or building separated from another building on the same lot.



**Building, Enclosed.** A building separated on all sides from adjacent open space or other buildings by fixed exterior walls or party walls, with opening only for windows and doors, and covered by a permanent roof.

**Building Frontage.** The area of the lot along the front building line, and when referring to design standards it may include relationship between this area, the streetscape, and the primary facade of the building.

**Building Frontage, Principal.** The horizontal linear dimension which is designated as the primary facade of that portion of a building occupied by a single use or occupancy for the purposes of allocating signs and other design requirements.

**Building Frontage, Secondary.** That dimension of a building abutting a public right-of-way other than the principal building frontage for the purposes of allocating signs and other design requirements.

**Building Height.** The vertical distance from the grade level at the main entrance of a building to the top of the parapet that comprises the majority of the perimeter of the building for a flat roof; or to the mean/average height between the eaves and ridges for pitched roofs. In instances where substantial grading occurs to prepare a site the pre-existing grade or comparable grade in relation to the street may be used. In instances where buildings are integrated into the existing grade, the average grade along the building frontage may be used. In addition to height design standards and story heights may be used to address the relative scale and massing of buildings (See Section 11-3 Design & Architecture Terms)

**Building Line.** The actual line at which a building is constructed, and the location of other elements on the lot or adjacent lots may refer to this line extended outward from the building to the sides of the lot.

**Building Line, Required Front.** The portion (usually expressed as a percentage) of the lot frontage required to be occupied by the front facade of a principle structure, or other specifically permitted substitutes which may include accessory structures or landscape associated with the frontage design.

**Building, Principal.** One building housing the principal (primary or most important) uses permitted for the lot upon which it is located.

**Building Setbacks.** The minimum required distance between any property line and the building or structure. When front building setbacks are expressed as a range (i.e. 10' to 25'), it shall be interpreted as a front build to" range, within which distance the front building line of the principal structure shall be established.

**Building Types.** A range or specific category of buildings that share common physical attributed in terms of lot size, lot coverage, height, and building form, scale, or massing. Building types may also be grouped by other attributes that ensure they function or are operated in a compatible manner as other buildings in the vicinity, but are primarily addressing physical compatibility.

**Canopy Tree.** A large deciduous (foliage that sheds annually) woody plant that normally grows with a main trunk and has a mature height of 30 feet or more and where the understory is clear of branches and leaves below 10 to 15 feet, resulting in shaded usable areas during spring and summer months, and sunlit useable areas during fall or winter months.

**Change of Use.** A use that substantially differs from the previous use of a building or land and which may affect such things as parking, drainage, circulation, traffic, landscaping, building configuration, utility demands, noise, or lighting. A change of ownership which does not include any of the factors listed above shall not be considered a change of use.

**Clearance.** The vertical distance from the lowest point of an overhead object to the highest point of the ground or sidewalk directly below the object.



**Comprehensive Plan.** The Johnstown Comprehensive Plan, as amended. The Comprehensive Plan may include any other plans, policies, or programs officially adopted or approved by the Town under the guidance of that plan, including the Town’s Three Mile Area Plan.

**Construction Sign.** A temporary sign announcing construction, remodeling or other improvements of a property.

**Coverage, Lot.** Land area which is covered with impervious surfaces, such as buildings, patios, or decks with roofs, carports, swimming pools, tennis courts, or land area covered by any other type of structure, including parking lots.

**Density.** The total number of dwelling units on a property, divided by the gross area in acres of such property. Density is typically used to measure planning impacts on broad areas, but is not appropriate for measuring the scale or intensity of development on a particular lot. (See Building Types.)

**Design Standards.** References the current adopted Johnstown Engineering Specifications and Design Standards, which may also be commonly known as the Standards and Specifications.

**Developer.** Any person, partnership, joint venture, association, or corporation or other legal entity who or which shall participate as owner, promoter, designer, builder, or sales agent in the planning, platting, development, promotion, sale, or lease of a subdivision. Interchangeable with “Applicant” for the purposes of this code.

**Development.** The activity of initiating a change of landscape, buildings, access, use, or operation on a property through activities such as grading, filling, paving, excavating, construction, erection, repair, or rehabilitation of or to existing physical elements of property.

**Development Pattern.** The physical layout of blocks, streets, open spaces, lots and uses where common attributes or associated elements define distinct areas of the community by the scale, intensity, or other physical barriers or transitions.

**Drive-through, Accessory.** An accessory site design and building design component of any business in which the provision of services or the sale of food or merchandise to the customer in a motor vehicle without the need for the customer to exit the motor vehicle. This definition includes, but is not limited to, bank drive-up tellers and drive-through fast food restaurants.

**Driveway.** An improved concrete or asphalt path, or other area dedicated to vehicle access to a site or leading directly to one or more Town-approved parking spaces or parking spaces on a lot or within a building.

**Dwelling:** Any building or portion of building that is used as the residence of one or more households, but not including visitor accommodations, clubs, hospitals, tents, or similar uses providing transient or temporary accommodation.

**Dwelling Unit.** One or more rooms and a single principal kitchen and at least one bathroom, designed, occupied, or intended for occupancy as separate quarters for the exclusive use of a single household, for household living purposes (i.e., living, cooking, and sanitary purposes), located in a dwelling.

**Dwelling Unit, Accessory.** A dwelling unit that is subordinate, incidental to, and on the same lot as a principal dwelling unit.

**Easement.** A right granted by a property owner permitting a designated part of interest in the owner’s property to be used by others for a specific use or purpose.



**Household.** An individual; 2 or more individuals related by blood, marriage, or legal adoption or guardianship; or a functional household when three or more individuals are not so related, and living as a single housekeeping unit sharing a dwelling. For purposes of this Chapter, a functional household is one that shares the living spaces of a dwelling unit, shares household duties, and regularly shares meals; in contrast, a group of multiple individual households living together may employ individual or non-concurrent leases, lock-out bedrooms; separate entrances; distinct private vs. common areas; or each buying their own groceries.

**Façade.** The exterior face of a building.

**Family.** See *Household*.

**Flag.** A type of sign, typically displayed on a piece of fabric, with a distinctive design.

**Frontage.** The area of a lot between the front building line and the front lot line that establishes the primary relationship between the building and site and the public streetscape.

**Grade (adjacent ground elevation).** The average elevation of the graded surface of the ground, paving or sidewalk adjoining the base of a structure, in all directions.

**Green.** A larger civic gathering space that is primarily landscaped area with formal designed spaces for trails, seating, performance, or other pedestrian activity.

**Greenway.** A strip of undeveloped land, in an urban or rural area, set aside for recreational use or environmental protection.

**Gross Leasable Area (GLA).** The area of a building that can be leased to tenants, including storage areas and common areas apportioned to the number of tenants sharing the area. Gross leasable area shall be measured in the same manner of gross floor area, but is apportioned to specific uses or tenants in the building.

**Ground Cover.** Materials that typically do not exceed one foot in height used to provide cover of the soil in landscaped areas, which may include a combination of, but not limited to river rock, cobble, boulders, concrete pavers, grasses, flowers, low-growing shrubs and vines, and those materials derived from once-living things, such as wood mulch. In no event shall weeds be considered ground cover.

**Hazard.** A source of danger to persons or damage to property.

**Height.** Sign height is generally measured from the existing lowest grade directly below the sign. The average grade of all areas directly below the sign may be used, provided the high and low point do not have a differential greater than 10 feet; otherwise the elevation 10 feet above the lowest grade shall be used.

**Home Occupation.** A business conducted accessory to and within a residence and subject to other standards and procedures of this code to ensure that it is subordinate and customarily incidental to the residence.

**Illuminated Sign.** A sign lighted by or exposed by artificial light.

**Landscape Area.** Land set apart for the planting of grass, shrubs, trees, or similar living plants. Such land may include trees and plants arranged in a formal pattern to support outside gathering and include other constructed elements such as a plaza, pedestrian area, fences, walls or nonorganic displays integral to the design of the space.



**Lot.** A parcel of land, established by a subdivision plat, having the required minimum dimensions, which shall be located on either a public right-of-way or on a legal and perpetual access and which is occupied or designed to be occupied by one or more principal buildings, structures, or uses. (See Outlot, Parcel, and Tract)

**Lot Area.** The area bounded by the front, rear and side lot lines, or when expressed as a range, it shall be interpreted as a minimum and a maximum.

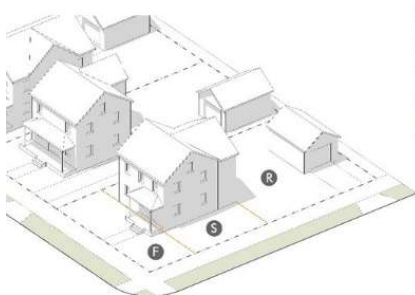
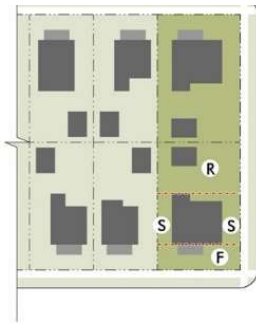
**Lot Depth.** The horizontal distance between the front and rear lot lines measured at right angles to the front right-of-way lines. Where the front and rear lines are not approximately parallel, the lot depth shall be the average when measured from at least three different points along the front lot line, including the two corners at the front lot line.

**Lot Frontage.** The portion of the lot that establishes the relationship between the building or site and the public realm or street upon which the lot fronts.

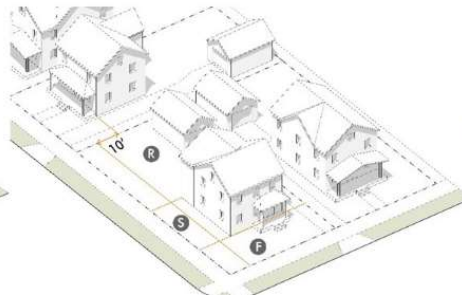
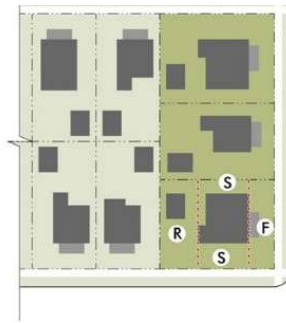
**Lot Line.** A line dividing one lot from another lot or parcel, or from a street or alley.

**Lot Line, Front.** The property line dividing a lot from a street or public or common space on which the building and lot orients. On a corner lot, generally the shorter street frontage shall be considered as a front lot line, except that the context of the block and abutting lots may allow the following arrangements:

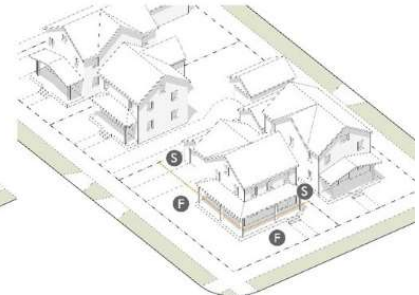
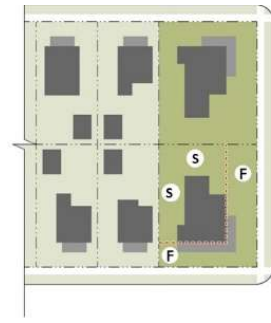
- **Standard Corner.** The building orients to the same front as all other buildings on the same street, and an expanded side setback applies on the other street side of the lot. Side and rear setbacks apply to the remaining sides.
- **Reverse Corner.** The building orients to the end-grain of the block (not the same as other buildings on the interior of the block), and the front setback and frontage design applies to that street. The other street-side setback is the greater of (a) the stated street-side setback for that building type or (b) 10 feet in front of the forward-most point of the front building line of the abutting lot. Side and rear setbacks apply to the remaining sides.
- **Corner Orientation.** The building orients to both streets, with the front setback and frontage design applying on both street sides. The two remaining lot lines are treated as side setbacks and there is no rear setback.



Standard Corner



Reverse Corner



Corner Orientation



**Lot Line, Interior Side.** A side lot line which is adjacent to a side lot line of another lot.

**Lot Line, Rear.** The line opposite the front lot line. Where the side lot lines meet in a point, the rear lot line shall be assumed to be a line not less than ten feet long, lying within the lot and parallel to the front lot line.

**Lot Line, Side.** Any lot lines other than the front or rear lot line.

**Lot Line, Street Side,** A side lot line which separates the lot from a street.

**Lot Width.** The horizontal distance between the side lot lines, typically measured at the front lot line, but for irregular lots it may be measured at the front setback line.

**Marijuana or Recreational Marijuana.** All parts of the plant of the genus *cannabis*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin, including marijuana concentrate. Marijuana includes marijuana products as defined herein. Marijuana does not include industrial hemp, nor does it include fiber produced from the stalks, oil or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other product.

**Natural Area.** Aquatic or terrestrial habitats or areas which exist in their natural condition, and which have not been significantly altered by human activity or which have been restored to as close to their natural condition if disturbed previously by human activity.

**Natural Feature.** Features which give an area its general appearance and ecological character and which attract or support the wildlife species that use or inhabit the area.

**Nonconforming.** A condition of property which was lawfully established or constructed prior to the effective date of this Chapter and which does not conform to the requirements of these regulations.

**Nuisance.** Activity which arises from unreasonable, unwarranted or unlawful use by a person of his or her own property, working obstruction or injury to a right of another or to the public and producing such material annoyance, inconvenience and discomfort that the law will presume resulting damage.

**Official Zoning Map.** The Town's official graphic record of the boundaries of zoning districts, as it may be amended from time to time, and containing other information as specified in this Chapter.

**Open Space, Common.** A common area permanently set aside for the common use and enjoyment of residents or occupants of a development or members of a homeowners' association, which open area may be landscaped and/or left with natural vegetation cover and which may include swimming pools and other recreational leisure facilities; areas of scenic or natural beauty and habitat areas; hiking, riding, or off-street bicycle trails; and landscape areas adjacent to roads which are in excess of minimum required rights-of-way.

**Open Space, Private or On-lot.** An outdoor area not intended for habitation, directly adjoining a dwelling unit or building, which is intended for the private enjoyment of the residents or occupants of the adjacent dwelling unit or building and which is defined in such a manner that its boundaries are evident. Private or on-lot open space may include lawn area, decks, balconies, and/or patios.

**Open Space, Required.** That portion or percentage defined by the zoning standards of a lot required to be open and unobstructed. The area must not be covered by any structure or impervious surface, such as sidewalks or driveways, with the exception of required amenities, identity features, or useable open space required pursuant to this code.



**Open Space, Usable.** That portion of a lot or site available to all occupants of the building or site for recreational and other leisure activities that are customarily carried on outdoors.

**Ornamental Tree.** A small deciduous tree planted primarily for its ornamental value or for screening and which will typically be smaller than a canopy tree approximately 15 to 30 feet in height.

**Outlot.** A parcel or parcels of land designated on a plat and intended to be further subdivided before development at some point in the future, but which may be initially created under single ownership through a subdivision process. (See Lot, Parcel, and Tract)

**Parcel.** A unit or contiguous units of land used by the county assessor to identify taxable property, typically referring to unplatted land, in the possession of, or recorded as the property of one person, partnership, joint venture, association or corporation, or other legal entity. (See Lot, Outlot, and Tract)

**Park.** Any dedicated and accepted public or private land available for recreational or scenic purposes.

**Patio.** An unenclosed paved area typically used for seating in a side or rear yard, accessory to a structure.

**Porch.** A roofed or unroofed open structure projecting from the front, side or rear wall of a building and serving as a primary or secondary entrance into the building.

**Primary Entrance.** The entrance to a building or structure which is intended to be the main pedestrian or public entrance and which shall typically be located on the front of the building or structure, and therefore includes enhancements and human-scale details to show the priority and importance of the space to the public.

**Principal Building, Structure or Use.** A primary permitted building, structure or use of land as specified in the district regulations of this Chapter, other than an accessory building, dwelling or use or special use.

**Private Streetscape.** Access and internal circulation within a site and typically used to organize, break-up, and create transitions within larger sites through transportation and urban design elements that mimic the appearance and function of public streetscapes.

**Replacement Value.** The amount it would cost to replace a structure or restore a site to its previous condition considering all aspects of the investment at their current market costs. This amount may be based on estimates or where discrepancies exist the average of three independent estimates, in the sole discretion of the Town.

**Shrub.** A woody plant which consists of a number of small stems from the ground or small branches near the ground and which may be deciduous or evergreen.

**Sidewalk.** A paved, surfaced, or leveled area, parallel to and usually separated from the street, used as a pedestrian path, or which otherwise provides pedestrian circulation and access to important destinations and principal building entrances within a site.

**Sign.** Any advertisement, announcement, or direction of communication produced in whole or in part by the construction, erection, affixing or placing of a structure, or produced by painting on or pasting or placing any printed, lettered, pictured, figured or colored materials on any building, structure or surface; provided, however, that signs placed or erected by the Town or the State for the purpose of showing street names or traffic directions or regulations or for other municipal or government purposes shall not be included herein. Not to include public art or murals – see Art.





**Sign, Abandoned.** A sign which advertises or identifies an out-of-business, moved, or non-existing business, service, or other use of premises.

**Sign, Freestanding.** A sign which is supported by its own structure not associated with a building.

**Sign, Monument.** A sign supported by or mounted directly upon the ground by a base that is integral to the entire sign structure and incorporates the sign.

**Sign, Portable.** A sign that is not permanently affixed to a building, structure, or into the ground, but which have a durable design and stable support to allow placement of the sign on an interim or more permanent basis than temporary signs.

**Sign, Temporary.** A sign which is not intended as a permanent sign and which is easily relocated or removed.

**Sign, Wall.** A sign incorporated in, painted on, attached to or erected against the facade of a building.

**Sign, Window.** A sign painted on or applied to a window.

**Square.** A civic gathering space with direct pedestrian access to a street or streetscape, with a mix of formal and landscape elements.

**Story.** The part of a building included between the surface of one floor and the surface of the floor next above, or if there is no floor above the ceiling above. Story heights shall generally be 9 to 10 feet except the following guidelines can be used to address the effective scale and massing of buildings within permitted heights. (See Building Height);

- The first story for residential buildings should be 9 feet to 14 feet;
- The first story in non-residential buildings should be 12 feet to 20 feet;
- Building types or parts of buildings that require high floor-to-ceiling heights, such as a gymnasium, atrium or warehouse, shall have the number of stories calculated as: the finished floor-to-ceiling height divided by 15.
- Any ground story that has more than 4 feet of its height exposed above finished grade along more than 50% of the foundation perimeter shall count as a story.
- A half-story is the space under a sloping roof that has a line of intersection of the roof and exterior wall face not more than 2 feet above the floor level, and where the possible floor area with head room of 7 feet or more is no greater than 60% of the total floor area of the story directly beneath.

**Street** means a public thoroughfare, dedicated or deeded, for the purpose of providing a principal means of access to abutting property.

**Street, Design Type.** A reference to the design attributes of a specific segment of the street, regardless of the functional class, and including lane widths, number of lanes, parking, streetscape, and sidewalks. Street design types allow the design of segments of streets to transition and relate better to the context and anticipated abutting land uses, without disrupting the overall role of the street in the functional classification system.

**Street, Functional Classification.** A system of categorizing streets based on their role in the overall street network, considering traffic volumes, traffic speeds, and continuity of the street. These include arterial, collector, and local.

**Street Frontage.** The property line which abuts a public right-of-way.



**Street Tree.** A tree planted in close proximity to a street in order to provide shade over the street and to soften the street environment, typically a canopy tree although ornamental trees may be substituted in specific circumstances.

**Streetscape.** The scene that may be observed or the area designed for activity along a street, including both natural and non-natural components, including vegetation, buildings, paving, plantings, lighting fixtures and miscellaneous structures.

**Structural Alteration.** Any change in the support members of a building, such as bearing walls, columns, beams or girders.

**Structure.** Anything constructed or erected, including a fence, sign or building, with a fixed location on the ground.

**Temporary.** For a limited period of time, not permanent.

**Tract.** A parcel of land platted in a subdivision for a specific purpose, which shall be shown on the face of the plat. Specific purposes may include, but are not limited to, drainage areas, stormwater detention or retention areas, parks, open space, or land areas reserved for other public facilities. (See Lot, Outlot, and Parcel)

**Transparency.** When referring to the design of building facades, transparency is the percentage of windows and doors on the façade, intended (1) to break up the scale and massing of the façade and relate the building to the streetscape and public spaces; and (2) to provide connections – visual and perceived – between the activities on the site and the public streetscape or spaces. Therefore, transparency has two measurements: (1) the extent of transparency, which is the percentage of the overall façade, measured at each story but which includes non-transparent components associated with the opening such as molding, casing or frames; and (2) the degree of transparency, which is typically the clarity of the glass used for the opening. A door may count to this requirement if at least 25% of the door or door assembly meets the clarity requirement with windows in the door, or transom or side light doors alongside of the door. The clarity of the glass in the opening is met by a minimum Visible Light Transmission of 60% (VLT = the percent of total visible light that is transmitted through a glazing system) and a maximum Visible Light Reflectance of 15%. (VLR = the percent of total visible light that is reflected by a glazing system) For upper story windows, these measures may be 40% VLT and 20% VLR.

**Yard.** That portion of the open area on a lot extending open and unobstructed from the ground upward from a lot line to a principal building.

**Yard, Front.** That portion of a lot extending across the full width of the lot between the front lot line and the nearest line or point of the principal building.

**Yard, Rear.** That portion of a lot extending across the full width of the lot between the rear lot line and the nearest line or point of the principal building.

**Yard, Required.** That portion of the open area on a lot extending open and unobstructed from the ground upward from a lot line for a depth or width specified by the regulations for the zone district in which the lot is located.

**Yard, Side.** That portion of a lot extending from the front yard to the rear yard between the side lot line and the nearest line or point of the principal building.



### 17-11-3 Design & Architecture Terms

This section is a glossary of architecture and design terms explains concepts, strategies, and techniques that are used to affect building and site design.

A. **Architectural Style.**

When used generally, architectural style refers to a distinctive manner of expression, fashion or composition of building elements at a specific time.

When used specifically, architectural style refers to a prevalent or historical style that is documented with common or typical patterns in assembling building elements and form, and where variations within the style follow common rules of application for materials, massing or composition of the details. (i.e. Art Deco, Colonial Revival, Craftsman, Mid-Century Modern, Mission, Spanish Colonial Revival, Tudor Revival, Victorian, etc. See *Colorado's Historic Architecture & Engineering Guide*, [www.historycolorado.org/colorados-historic-architecture-engineering-guide](http://www.historycolorado.org/colorados-historic-architecture-engineering-guide) )

B. **Building Elements.** Buildings are made up of vertical elements, horizontal elements, details, and ornamentation that break up the building elevations into distinct components and establish the form and scale of the building. Building elements include:

1. **Awning.** A sloped or rounded framed projection attached to a wall and extended over a window or door to provide protection from the elements.
2. **Bay (window).** A bump out in the facade typically associated with an element of the interior floor plan but located to provide balance and relief to the massing on the exterior facade. A bay is usually associated with a window.
3. **Belt Course.** A continuous row or layer of stones, brick or other primary building material set in a wall and in line with changes in stories, changes in materials, or window sills. Belt courses make a visually prominent horizontal line to break up a wall plane by using a distinct material and/or implementing a pronounced and distinct pattern of the material.
4. **Bracket.** A projecting support placed under an eave or other projection with design qualities and details that add emphasis to the roof structure or massing element.
5. **Canopy.** A flat roofed projection attached to a wall and extended over a window, door, or walkway, or a freestanding structure over walkway or service area that gives protection from the elements.
6. **Clerestory Window.** A window high on a wall section above eye level and used to permit light or air into areas that otherwise do not have windows due to functional constraints of the building.
7. **Column.** A supporting pillar, especially one consisting of design qualities and details that add emphasis and ornamentation to a portion of the facade, or any roof structure or area it supports.
8. **Cornice.** An ornamental topping projecting from the wall with design qualities and details that crowns a structure along the top near the roof, with an emphasis that is compatible with but more elaborate than other similar details and ornamentation on the building.
9. **Eaves.** An overhang of the roof structure, where larger eaves can increase the prominence of the roof as a “cap” to the building and protect portions of the facade (particularly windows) from the elements.
10. **Entry Feature.** A structural component of the building or building footprint used to emphasize and add interest to the entry into the building, provide active social space protected from elements, contribute human scale to the building elevation, and create transitions from public to private space.
11. **Facia.** The exposed vertical edge of the roof often with design qualities and details that add emphasis and ornamentation to the roof structure.



12. **Foundation.** The base upon which the entire structure sits, designed with stronger, heavier materials, and often includes details and ornamentation to emphasize a building's connection to the ground, a sense of permanence, and transition to the main wall plane for vertical articulation.
  13. **Gable.** The triangular and vertical portion of a wall plane between intersecting roof pitches.
  14. **Lintel.** A horizontal beam, typically over a door, window or storefront to support the structure above it and add accent to the door, window, or storefront.
  15. **Parapet.** A vertical extension of the wall plane above the roof, typically used to hide a flat or low-sloped roof and the rooftop equipment, or function as a firewall for attached structures, and usually including ornamentation to provide a visually prominent “cap” to the building.
  16. **Pediment.** A gable or ornamental tablet or panel, typically triangular or arched, placed above a point of emphasis on a facade and often supported by columns or pilasters.
  17. **Pilaster.** A projecting vertical element on a wall plane used to give the appearance of a supporting column and used to articulate the extent of a wall plane or other component of a facade.
  18. **Sidelight.** A window with a vertical orientation along an opening (door or window) that is narrower than the opening but provides emphasis to the importance of the opening with expanded transparency, additional trim and ornamentation, or other architectural details.
  19. **Transom.** A window above an opening (door or window) built on a horizontal crossbar that may provide light and/or swing open to add ventilation.
- C. **Building Form.** Building form refers to the outward three-dimensional envelope of a building or space affected by the mass, shape, composition, and articulation of building elements.
1. **Mass.** Mass is the volume (height x width x depth or height x building footprint) defined by a structure relative to its surroundings.
  2. **Shape.** Shape affects the massing and refers to the simplicity or complexity of the outer dimensions of surface planes (wall planes or roof planes), and their orientation (horizontal / vertical; symmetrical / asymmetrical).
  3. **Composition.** Composition is how the different building elements or materials are arranged to either distinguish or coordinate a particular shape or mass.
  4. **Articulation.** Articulation is using architectural elements to clearly call out a different portion of the composition, shape, or mass and break the building form into smaller, identifiable pieces.
    - (a) **Horizontal Articulation.** Breaking the mass down through different levels of height on the building, particularly for taller buildings, or by a step back or other voids in the massing.
    - (b) **Vertical Articulation.** Breaking the mass down through different bays or structural components along the length of the building elevation, particularly for longer, larger footprint buildings.
  5. **Altering Form.** Techniques to alter the form of a building and affect the scale include:
    - (a) Main mass and wing or secondary masses;
    - (b) Stepping back in the wall plane, usually larger differences (i.e. 4 feet +) at upper story(ies);
    - (c) Cantilever or overhangs, usually a smaller distance (i.e. 1 to 4 feet) over a lower story;
    - (d) Off-sets or breaks in a wall plane in relation to interior floor plan or outside space, not to the level of creating a wing or secondary mass;
    - (e) Dormers, including a window and sub-roof within roof structure;
    - (f) Projections of an element of the facade composition such as a bay window, entry feature, or eaves; and



- (g) Articulation and composition of the facade in relation to, or in addition to any of the above techniques.

D. **Scale.**

Scale refers to the perceived or relative size of a form in relation to something else – usually a person, a social space (courtyard, lot, streetscape, etc.), or another building. For example, “human scale” refers to how spaces or objects relate to and are experienced or perceived by people at a close range and a slow pace. Scale can be affected by the mass, shape, composition, or articulation of the form to make an otherwise larger form seem smaller or more relatable based on how the components are perceived.

E. **Compatibility.** Compatibility refers to the similarity of buildings and sites to adjacent properties or to prevalent patterns and themes in an area. In general, the elements of compatibility will include combinations of the following:

1. Similar proportions of building masses, particularly nearest the property lines and other adjacent buildings;
2. Similar orientation of the building including the relationship to streetscapes, the shaping of open spaces, and the locations and arrangements of the building footprint;
3. Similar window and door patterns, including location, size, and proportions;
4. Similar roof lines (planes, pitches, profiles and details);
5. Similar building materials, particularly primary building materials, or where materials differ they share common textures or color palates;
6. A common architecture style, including the facade composition and materials; however, many styles can allow differences in design within the style.

*Note:* Compatibility does not necessarily mean the same, but rather a sensitivity to the context, adjacencies, and character of the area. While not all of the above elements are necessary for compatibility, the greater the number that are similar, the greater the compatibility will be; significant departures from any one element should be compensated with either greater similarity of other elements or by similarity of more elements. Where things are not compatible, transitions should occur through space and landscape buffer designs.