

ARTICLE 5: LAND USE APPLICATION REQUIREMENTS & PROCEDURES

Section 16-5-10: General Provisions

A. Purpose

The purpose of this Article is to describe the types of land use applications permitted in the Town of Minturn and the review procedures for these applications.

B. Applicability

1. The application requirements and review procedures set forth in this Article apply to all land use applications in the Town of Minturn.
2. No use of a property shall commence or building permit be issued until the required review procedures have been completed, and approvals obtained, for all land use applications required pursuant to this Article and all subdivision applications required pursuant to Article 8.

C. Public Review of Application.

1. No application will be made available to the public until after it has been deemed complete in accordance with this Article.
2. An application, and any associated materials, will be made available for review by the public at Minturn Town Hall during normal business hours.
3. Upon request to the Town, any person may obtain a hard copy of an application, and any associated materials. The person making such a request shall be responsible for payment of the applicable fee(s) pursuant to the Town's fee schedule.

D. Findings for Approval or Denial

All decisions on the applications set forth in this Article shall include, at minimum, a clear statement of the following:

1. The approval, approval with conditions, or denial, whichever is appropriate.
2. The basis upon which the decision was made, including specific findings of fact with reference to the relevant review criteria and standards of this Code.

E. Effect of Inaction on an Application

Notwithstanding the continuance of a public hearing, authorized in accordance with Section 16-5-##, if the person or body responsible for deciding on an application fails to render an approval or denial, such inaction shall be deemed a denial of the application.

F. Application Withdrawal

1. **Applicant Withdrawal.** An applicant may withdraw their application at any time prior to a final action on the application by the decision-making body. To do so, an applicant must notify the Town, in writing, by making a statement for the record at a public hearing, or by other appropriate means, that their application is withdrawn.
2. **Administrative Withdrawal.** If an applicant fails to correct deficiencies in their application within ninety (90) business days of receiving written notice from the Town of such deficiencies, the

Planning Director may deem the application to be withdrawn. If the Planning Director deems the application to be withdrawn, they shall provide the applicant with written notice of this decision. An applicant may appeal such an action by the Planning Director to the Town Council in accordance with Section 16-#-##.

Commented [MF1]: Consideration should be given to moving these provisions to the new General Provisions Article (Article 1) for the updated Land Use Code. These provisions apply to both Land Use and Subdivision applications. Having one Section of the updated Land Use Code that addresses these requirements might be preferable to having these provisions listed in Article 5 (Land Use applications) and Article 8 (Subdivision applications).

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Section 16-5-20: Land Use Application Types & Review Procedures

A. Overview

Table 16-5-1 provides an overview of the types of land use applications permitted in the Town and their review procedures.

Table 16-5-1: Summary of Land Use Application Types & Review Procedures

Application Type	Pre-Application Conference	Town Staff	Planning Commission ¹	Town Council ²
Code Amendment (refer to Section 16-5-50)	Required	R	R	D
Conditional Use (refer to Section 16-5-60)	Required	R	R	D
Design Review (refer to Section 16-5-70)	Required	R	D	-
Minor Design Review (refer to Section 16-5-80)	Required	D	D ³	-
Limited Review Use (refer to Section 16-5-90)	Required	D	-	-
Location and Extent (refer to Section 16-5-100)	Required	R	R	D
Rezoning (Amendment to Zoning Map) (refer to Section 16-5-110)	Required	R	R	D
Temporary Use (refer to Section 16-5-120)	Required	D	-	-
Zoning Variance (refer to Section 16-5-130)	Required	R	R	D
Planned Unit Development (PUD) Applications				
PUD Concept Development Plan (refer to Section 16-5-150)	Required	R	R	-
PUD Preliminary Development Plan (refer to Section 16-5-160)	Required	R	R	D
PUD Final Development Plan (refer to Section 16-5-170)	Required	R	-	D
Minor PUD Amendment (refer to Section 16-5-180)	Required	D	-	-
Major PUD Amendment (refer to Section 16-5-190)	Required	R	R	D
Sign Applications				
Sign Permit (refer to Section 16-5-200)	Optional	D	-	-
Master Sign Program (refer to Section 16-5-210)	Required	D	-	-
Sign Variance (refer to Section 16-5-220)	Required	R	R	D

LEGEND:

R = Reviews and provides recommendation; D = Reviews and makes final decision; - = Not applicable

NOTES:

¹The Planning Commission also serves as the Design Review Board.

²The Town Council also serves as the Zoning Board of Appeals.

³If the application is referred to the Design Review Board by the Planning Director.

B. Minimum Contents of Application

The Town shall make available a form(s) for the land use application types set forth in this Article. This form will, at minimum, require an applicant to submit the following information:

1. **Contact Information.** The name, mailing address, phone number, and email address of the applicant, the agent authorized to represent the applicant (if applicable), and all other owners of record for the subject property.
2. **Owner Consent.** A signature, notarized letter, or other legal document that demonstrates the owner(s) of record for the subject property consent to the submittal of an application.
3. **Authorization Letter.** If an agent is representing the applicant, the application must include a letter that grants power of attorney to the agent and authorizes the agent to represent the applicant. The letter must be signed by all owner(s) of the subject property.
4. **Agreement to Pay Review Costs.** A statement that the applicant, by signing the application, acknowledges that they are responsible for, and they agree to pay, all costs incurred by the Town for the review of their application.
5. **Property Information.** Information for the subject property including, but not limited to, a legal description; the physical/street address (if such exists); the Eagle County Assessor's parcel number; current zoning; existing land uses; and the size of the property.
6. **Project Information.** A written description of the proposal and an explanation of how the proposal complies with the applicable review standards.
7. **Disclosure of Ownership.**
 - a. A current disclosure of ownership for the subject property that lists the names of all owners of the property and all mortgages, judgments, liens, easements, contracts, and agreements that run with the land.
 - b. The disclosure of ownership may be in the form of a current report from a title insurance company, ownership and encumbrance report, attorney's opinion, or other documentation acceptable to the Town Attorney.
 - c. The date of a disclosure of ownership must be no more than thirty (30) calendar days from the date of the application submittal.
8. **List of Adjacent Property Owners.**
 - a. A list of the names and mailing addresses of all owners of record for properties within one hundred (100) feet of the subject property, as measured from the boundary of the subject property. The Eagle County Assessor's records shall be used to determine the addresses of property owners of record.
 - b. This list must be current within thirty (30) calendar days of the date that the application is submitted to the Town.
 - c. **Vicinity Map.** A vicinity map, drawn to scale, locating the subject property within the Town. The minimum size for a vicinity map is eight and half inches by eleven inches (8.5"x11").
 - d. **Preliminary Development Assessment.** If required by the Planning Director, a Preliminary Development Assessment prepared in accordance with [Section 16-12-##](#). The subsequent

submittal of a Development Impact Report may also be required by the Planning Director, pursuant to **Section 16-12-##**.

- e. **Additional Information.** Any additional information that is required for a specific type of application, pursuant to this Article.

C. Concurrent Review of Applications

1. Where multiple applications concern the same property the applicant may request, and the Planning Director may permit, concurrent submission and review of said applications for efficiency and practicality.
2. If there are redundant submission requirements among the applications being submitted by the applicant, the Planning Director is authorized to waive such requirements to mitigate an unnecessary burden on the applicant.

Commented [MF2]: This language has been moved under Section 16-5-10: General Provisions.

Commented [MF3]: Consideration should be given to moving these provisions to the new General Provisions Article (Article 1) for the updated Land Use Code. These provisions apply to both Land Use and Subdivision applications. Having one Section of the updated Land Use Code that addresses these requirements might be preferable to having these provisions listed in Article 5 (Land Use applications) and Article 8 (Subdivision applications).

I recommend that the Table summarizing the Land Use application types and procedures remain in this Section.

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Section 16-5-30: Public Notice Requirements

A. Overview

Table 16-5-2 provides an overview of the public notice requirements for the Town's land use applications.

Table 16-5-2: Summary of Public Notice Requirements

Application Type	Type of Notice Required			
	Published	Mailed	Posted	Mineral Estate
Code Amendment (refer to Section 16-5-50)	X	-	-	-
Conditional Use (refer to Section 16-5-60)	X	X	X	X ¹
Design Review (refer to Section 16-5-70)	X	X	X	X ¹
Minor Design Review (refer to Section 16-5-80)	X ³	X ³	X ³	X ^{1,3}
Limited Review Use (refer to Section 16-5-90)	-	-	-	-
Location and Extent (refer to Section 16-5-100)	X	X	X	X ¹
Rezoning (Amendment to Zoning Map) (refer to Section 16-5-110)	X	X ²	X ²	X ¹
Temporary Use (refer to Section 16-5-120)	-	-	-	-
Zoning Variance (refer to Section 16-5-130)	X	X	X	X ¹
Planned Unit Development (PUD) Applications				
PUD Concept Development Plan (refer to Section 16-5-150)	-	-	-	X ¹
PUD Preliminary Development Plan (refer to Section 16-5-160)	X	X	X	X ¹
PUD Final Development Plan (refer to Section 16-5-170)	X	X	X	X ¹
Minor PUD Amendment (refer to Section 16-5-180)	-	-	-	X ¹
Major PUD Amendment (refer to Section 16-5-190)	X	X	X	X ¹
Sign Applications				
Sign Permit (refer to Section 16-5-200)	-	-	-	-
Master Sign Program (refer to Section 16-5-210)	-	-	-	-
Sign Variance (refer to Section 16-5-220)	X	X	X	-

LEGEND:

X = Required; - = Not required/not applicable

NOTES:

¹ Refer to Colorado Revised Statutes for mineral estate owner notice requirements and procedures.

² Mailed and posted notice is not required for a rezoning initiated by the Town.

³ If the application is referred to the Design Review Board by the Planning Director..

B. Public Notice Requirements

The following are the specific requirements for the types of public notice listed in Table 16-5-2.

1. Required Content of Notice.

- a. All notices mailed, published, and posted for a public hearing must include the following information:
 - i. The date, time, and location of the hearing.
 - ii. The physical address and general legal description of the subject property.
 - iii. The name of the applicant.
 - iv. The purpose of the hearing, including the type of application and a brief description of the applicant's request.
 - v. Information about who (e.g., Planning Commission, Town Council, etc.) will be holding the hearing.
 - vi. The right of interested persons to provide comment on the applicant's request.
 - vii. Location where the public can obtain the full details of the application.
 - b. In accordance with state statute, any notice sent to a mineral estate owner shall contain the following information:
 - i. The time and place of the initial public hearing.
 - ii. The nature of the hearing.
 - iii. The location and legal description by section, township, and range of the property that is the subject of the hearing.
 - iv. The name of the applicant.
2. **Mailed Notice.**
- a. Written notice of a public hearing shall be sent by certified mail to all property owners of record within one hundred (100) feet of the subject property, as measured from the boundary of said property.
 - b. If a property, within one hundred (100) feet of the subject property, is a condominium development, notice may be mailed to the managing agent, registered agent, or any member of the board of directors of the development.
 - c. The Eagle County Assessor's records shall be used to determine the mailing addresses of property owners of record.
 - d. Notice must be mailed at least ten (10) calendar days prior to the date scheduled for the first public hearing on an application.
 - e. For a Major PUD Amendment, the following is required:

- i. Written notice of a public hearing shall be sent by certified mail to all property owners of record within and adjoining the PUD.
 - ii. Such notice must be mailed at least fifteen (15) calendar days prior to the date scheduled for the first public hearing on an application.
3. **Published Notice.** Notice of a public hearing shall be published, one (1) time, in a local newspaper, having general circulation within the Town. Notice must be published at least ten (10) calendar days prior to the date scheduled for the first public hearing on an application.
4. **Posted Notice.**
 - a. Notice of a public hearing shall be posted on the subject property on a sign provided by the Town. Notice must be posted on the subject property at least ten (10) calendar days prior to the date scheduled for the first public hearing on an application.
 - b. The sign displaying the notice must comply with the following requirements:
 - i. Be continuously displayed and maintained until the conclusion of the public hearing.
 - ii. Be located no more than twenty-five (25) feet from the street that the subject property fronts on. If the subject property does not front on a street, the sign must be erected adjacent to the nearest street and include a notation that indicates the direction and distance to the subject property.
 - iii. Be in a location that is clearly visible to the public.
 - iv. Be posted at a height of at least four (4) feet above natural grade.
 - v. Use lettering that is a minimum of one (1) inch tall and one-half (½) wide.
 - vi. Be affixed to materials that are sturdy.
 - vii. Be waterproof or have a waterproof covering.
 - viii. Be removed with seven (7) calendar days of a decision being rendered on the application.
5. **Mineral Estate Notice.**
 - a. As required by the Colorado Revised Statutes, notice to mineral estate owners shall be sent by certified mail, return receipt requested, or by a nationally recognized overnight courier, not less than thirty (30) calendar days before the date scheduled for the first public hearing on an application.
 - b. The applicant, or their agent, is solely responsible for identifying and notifying the mineral estate owners for the subject property in accordance with the requirements of the Colorado Revised Statutes.

- c. The applicant, or their agent, must submit certification of mineral estate owner notice, pursuant to the Colorado Revised Statutes, to the Town a minimum of ten (10) business days prior to the date scheduled for the first public hearing on an application.

C. Applicant Responsibilities

The applicant, or their agent, is responsible for the following:

1. The accuracy of all information provided in a notice for a public hearing.
2. The proper mailing, publication, and posting of notice for a public hearing. This includes mailing notice to property owners of record within one-hundred (100) feet of the subject property and to mineral estate owners, if required by the Colorado Revised Statutes.
3. All costs associated with providing notice for a public hearing.
4. Submitting proof and sworn certification to the Planning Director that notice was provided in accordance with this Section prior to commencement of the first public hearing for an application. Such proof must be submitted to the Town a minimum of ten (10) business days prior to the date scheduled for the first public hearing on an application.

D. Constructive Notice

1. **Minor Notice Defects.** Minor defects in a notice for a public hearing shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements.

Minor defects are limited to the following:

- a. Errors in a legal description.
 - b. Typographical or grammatical errors that do not affect the discernability of the notice.
2. **Failure to Observe or Receive Notice.**
 - a. Failure of a party to observe or receive notice of a public hearing shall not cause a delay in the proceedings nor shall it invalidate or prohibit any review or action.
 - b. If questions arise at a public hearing regarding the adequacy of notice, the decision-making body shall make a formal finding as to whether there was substantial compliance with the notice requirements of this Article.
 3. **Failure of Posted Notice to Remain in Place.** Failure of a posted notice to remain in place, after the notice has been properly posted, without the applicant's knowledge and despite the applicant's reasonable efforts to maintain the sign, shall not be deemed as noncompliance with the requirements of this Article nor shall it be grounds to challenge the validity of any decision made on the application.

Commented [MF4]: Consideration should be given to moving these provisions to the new General Provisions Article (Article 1) for the updated Land Use Code. These provisions apply to both Land Use and Subdivision applications. Having one Section of the updated Land Use Code that addresses these requirements might be preferable to having these provisions listed in Article 5 (Land Use applications) and Article 8 (Subdivision applications).

I recommend that the Table summarizing the public notice requirements remain in this Section.

Section 16-5-40: Public Hearing Requirements

A. General Provisions

1. **Applicability.** All public hearings held pursuant to this Article must comply with the procedures set forth in this Section.
2. **Request for Notification of Public Hearings.**
 - a. Any person may submit to the Town a request to receive notice of public hearings.
 - b. The Town shall be responsible for providing notification of public hearings to anyone who submits such a request.
 - c. A person requesting notice of public hearings is responsible for all costs incurred by the Town for the processing and mailing of notification.
 - d. A person may request that notice of public hearings be provided by e-mail. Such notification will be provided by the Town at no charge.
3. **Rights of All Persons.**
 - a. Any person may appear at a public hearing and submit evidence for the application being considered. They may submit evidence on behalf of themselves or an organization.
 - b. At the request of the person, or head of the body, conducting a public hearing, the person submitting evidence on behalf of an organization shall submit, in writing, proof of their authority to represent the organization.
4. **Site Visit.**
 - a. As part of a public hearing, the person or body conducting the hearing, may inspect the property that is the subject of an application.
 - b. Upon reasonable request of the Planning Director, the applicant shall, prior to the site visit, mark the property boundaries, building envelopes, and other pertinent features of the site.

B. Continuance of a Public Hearing

1. The person or body conducting a public hearing may, in its sole discretion, continue a public hearing to a fixed date, time, and place.
2. A public hearing cannot be continued for more than ninety (90) calendar days from the date of its commencement without the written consent of the applicant.

C. Record of Public Hearing.

1. The person or body conducting a public hearing shall record the hearing using any appropriate means, which may include transcription, audiotape, and/or videotape.
2. The following shall constitute the record of a public hearing:
 - a. The minutes of the secretary or Town Clerk.

Commented [MF5]: Based on discussions with the Town Attorney it has been determined that this language should not be included in the Town's Land Use Code.

- b. All applications, exhibits, and papers submitted in any proceeding before a person or body conducting a public hearing.
 - c. The staff report.
 - d. The decision of the person or body conducting the public hearing.
3. The record of a public hearing shall be public record, open for inspection. A person may contact the Town, during normal business hours, to request a copy of the record of a public hearing.

Commented [MF6]: It might be advisable to move this Section to the new General Provisions Article (Article 1) for the updated Land Use Code because these provisions apply to all public hearings, not just those for Land Use applications.

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Section 16-5-50: Code Amendment

A. Applicability

1. All changes to the text of this Code must comply with the requirements and procedures set forth in this Section.
2. An amendment to this Code may be proposed by the Town Council; the Planning Commission; Town staff; a citizen or group of citizens of the Town; or, an owner of, or other person with a recognized interest in, land in the Town or their authorized representative.

B. Purpose

The purpose of this Section is to provide the requirements and process for changing the text of this Code. This Section is not intended to relieve particular hardships or to confer special privileges or rights on any person, but only to make necessary adjustments in light of changed conditions.

C. Application Submittal Requirements

An application for a Code Amendment shall include the following:

1. **Application.** A completed copy of the application form furnished by the Town. This form will, at minimum, require an applicant to submit the information listed in [Subsection 16-5-##-#](#).
2. **Application Fee.** Payment for the applicable fee, as designated by the Town's schedule of fees, shall be made at the time of submittal of an application.
3. **Narrative.** A written statement that sets forth the following:
 - a. The precise language of the proposed amendment(s) to this Code.
 - b. The justification for the amendment(s) based upon the review criteria set forth in this Section.
4. **Additional Information.** Any other information deemed necessary by the Planning Director to ensure a complete and proper review of the request.

D. Waiver of Application Submittal Requirements

1. At the discretion of the Planning Director, certain submittal requirements may be waived to tailor the requirements to the information that is necessary to review a specific application.
2. To authorize a waiver, the Planning Director must make a finding for the following:
 - a. The waiver will not compromise a proper and complete review of the application.
 - b. The submittal requirement(s) to be waived is not necessary for describing the proposal or demonstrating compliance with the applicable review criteria.
3. If the Planning Director authorizes a waiver, they will:
 - a. Provide the applicant with written notice of their decision.

- b. Include in their staff report a list of the submittal requirements waived and the findings made to justify the waiver.

E. Application Review Criteria

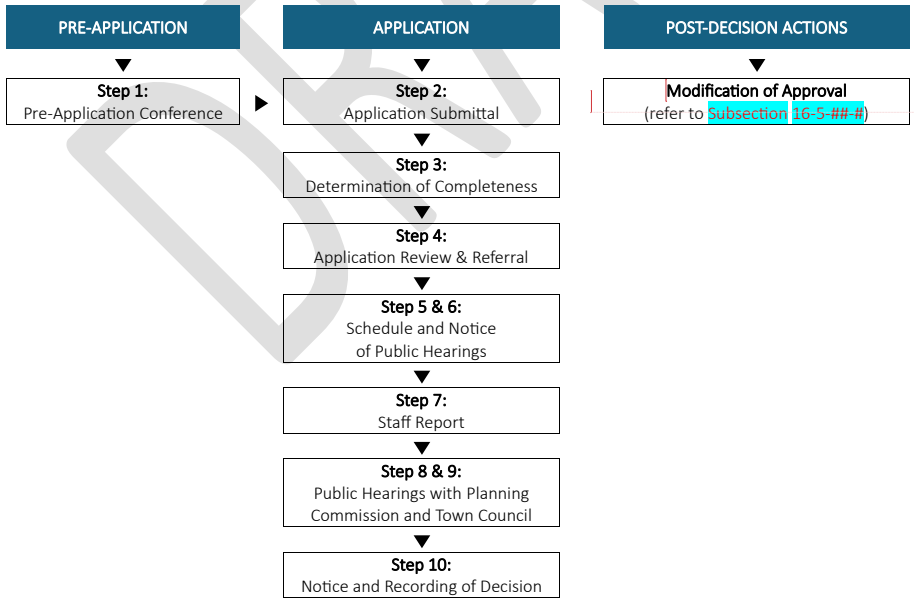
The Planning Commission may recommend approval of, and the Town Council may approve, a request to amend the text of this Code upon a positive finding of each of the following criteria:

1. The amendment is necessary to bring this Code into alignment with the Community Plan.
2. The amendment does not adversely affect the health, safety, or general welfare of the citizens or natural environment of the Town.
3. The amendment does not contradict or conflict with other provisions of this Code.
4. The amendment is necessary to bring this Code into compliance with state or federal statutes or case law.
5. The amendment is necessary to address changed or changing community priorities, new land use or design trends, and/or other social or economic conditions in the Town.

F. Application Review Procedures

A request for a Code Amendment will be reviewed and decided upon in accordance with the following procedures. A Town-initiated Code Amendment is exempt from Steps 1 through 4.

Table ##: Overview of Code Amendment Review Procedures



Commented [MF7]: Per the Town Attorney, there is no appeal of a Code Amendment. This is a legislative action and the only recourse is through referendum.

1. **Step 1: Pre-Application Conference.** A Pre-Application Conference is required prior to the submittal of an application for a Code Amendment. This requirement may be waived at the discretion of the Planning Director.

The process for a Pre-Application Conference is as follows:

- a. *Schedule Pre-Application Conference.* The applicant must submit a written request for a Pre-Application Conference to the Planning Director. Within fourteen (14) calendar days of receiving such a request, the Planning Director will schedule the Pre-Application Conference and notify the applicant of the date, time, and location of the conference.
- b. *Materials for Pre-Application Conference.* If required by the Planning Director, the applicant will submit information that allows for an informal evaluation of the proposal. This information must be submitted at least five (5) business days prior to the Pre-Application Conference.
- c. *Attend Pre-Application Conference.* The applicant and the Planning Director will attend the Pre-Application Conference. The Planning Director may invite other town staff, town consultants, and/or county, state, or federal representatives to participate in the Pre-Application Conference if they deem it appropriate.

The purpose of the Pre-Application Conference is to provide the applicant, Planning Director, and other attendees with an opportunity to review and discuss the following:

- i. The applicant's proposal.
- ii. The applicable provisions of this Code.
- iii. The application submittal requirements and review procedures.
- iv. The referral agencies likely to be involved with the review of the application.

Depending on the magnitude or complexity of the applicant's proposal and/or the availability of other persons deemed necessary to attend, the Pre-Application Conference may be continued for a reasonable time at the request of the applicant or the Planning Director.

- d. *Pre-Application Conference Summary.* Within ten (5) business days of the conclusion of the Pre-Application Conference, the Planning Director shall prepare, and provide the applicant with, a written summary of the conference.
 - e. *Effect of Pre-Application Conference.* Any information provided as part of a Pre-Application Conference shall not be binding on the Town or the applicant.
2. **Step 2: Submittal of Application.** The applicant for a Code Amendment shall submit a complete application to the Town. Prior to the application submittal, the Planning Director shall determine, and inform the applicant of, the format (electronic or hard copy) and number of copies of the application to be submitted.

3. **Step 3: Determination of Completeness.** Within thirty (30) business days of the Town receiving an application, the Planning Director shall review the application and determine whether it is complete and includes sufficient information to be evaluated for general compliance with the requirements of this Code.

- a. *Application Deemed Complete.* If the Planning Director determines the application to be complete, they shall do the following:
 - i. Certify the application as complete and record the date of the determination of completeness.
 - ii. Notify the applicant, in writing, of the determination of completeness any changes that need to be made to the application prior to commencing the application referral process; and the number of complete applications to be submitted to the Town for the referral process.
- b. *Application Deemed Incomplete.* If the application is determined to be incomplete, the Planning Director shall notify the applicant, in writing, of the application's deficiencies and that no further action on the application will be taken until these deficiencies have been remedied.

If an applicant fails to correct deficiencies in their application, the Planning Director may deem the application to be withdrawn in accordance with [Subsection 16-5-##.#](#).

- c. *Extension of Timeframe for Determination of Completeness.* The Planning Director may extend the timeframe for a determination of completeness by up to ten (10) business days if one of the following conditions exist:
 - i. The scope of the application warrants additional time for the Planning Director to review the application and make a determination of completeness.
 - ii. The Planning Director's workload justifies the need for an extension of time to review the application and make a determination of completeness.

If the Planning Director chooses to extend the time for the review and determination of completeness for an application, they will provide the applicant with written notice of their decision.

4. **Step 4: Application Review and Referral.**

- a. Within five (5) business days of receiving the requested number of complete applications from the applicant, the Planning Director shall circulate copies of the application package for review and comment by the town departments, town consultants, and referral agencies that may be affected by the proposal. The Planning Director is responsible for determining the appropriate town departments, town consultants, and referral agencies to involve in the review of an application.

- b. The comment period for the review by referral agencies shall be twenty (20) business days from the date that the application is circulated by the Planning Director. Upon request by a referral agency, the Planning Director may authorize one (1) extension of this comment period by up to ten (10) business days.
 - c. Comments from referral agencies not received by the Town within the applicable time frame will be considered a no comment.
 - d. Town departments and town consultants may provide comments on an application at any time during the review process.
5. **Step 5: Schedule Public Hearings.** Upon the conclusion of the referral process, the Planning Director shall schedule the application for public hearings before the Planning Commission and Town Council in accordance with the following requirements and notify the applicant, in writing, of the date, time, and location of each public hearing.
- a. The public hearings shall be scheduled for a regularly scheduled meeting or a special meeting of the Planning Commission and Town Council.
 - b. The first public hearing before the Planning Commission shall be scheduled no later than forty (40) business days after the conclusion of the referral process.
 - c. A public hearing before the Town Council shall be scheduled within forty (40) business days of the Planning Commission completing its review and making a recommendation to the Town Council. In accordance with the Home Rule Charter, the public hearing with the Town Council is to be held at the second meeting that the ordinance for the rezoning is introduced a second time.
6. **Step 6: Notice of Public Hearings.** Prior to the date of the first public hearing with the Planning Commission, the applicant shall:
- a. *Publish Notice.* Publish notice in a local newspaper, having general circulation within the Town, in accordance with [Section 16-5-##](#).
 - b. *Submit Proof of Notice.* Submit proof of notice in accordance with [Section 16-5-##](#).
7. **Step 7: Staff Report.** Town staff shall prepare a staff report that addresses the following, as applicable:
- a. Compliance with the standards of this Code.
 - b. Issues raised during the review of the application by town staff, town consultants, and/or referral agencies.
 - c. Recommended conditions to ensure compliance with applicable standards.
 - d. Additional information pertinent to the review of the application that must be submitted by the applicant.

8. **Step 8: Public Hearing with Planning Commission.**
- a. The Planning Commission will hold a public hearing, in accordance with **Section 16-5-##**, to review the application. The applicant, or their agent, must be present at the hearing.
 - b. At least five (5) calendar days prior to the public hearing, the Planning Director shall make available the following materials to the Planning Commission, the applicant, and the public:
 - i. The application and any supporting materials.
 - ii. The staff report.
 - iii. Copies of any comments received by the Town from town departments, town consultants, referral agencies, and/or the public.
 - c. Following the close of the public hearing, the Planning Commission shall consider the application and any supporting materials, the staff report, public testimony, and the review criteria for a Code Amendment, and shall take one of the following actions:
 - i. Recommend that the Town Council approve the amendment(s), subject to any changes that the Planning Commission deems necessary to ensure compliance with this Code and the Community Plan.
 - ii. Recommend that Town Council deny the amendment(s) and state the specific reason(s) for denial.
9. **Step 9: Public Hearing with Town Council.**
- a. Following the public hearing with the Planning Commission, the Town Council will hold a public hearing, in accordance with **Section 16-5-##**, to review the application. The applicant, or their agent, must be present at the hearing.
 - b. At least five (5) calendar days prior to the public hearing, the Planning Director shall make available the following materials to the Town Council, the applicant, and the public:
 - i. The application and any supporting materials.
 - ii. The staff report.
 - iii. The Planning Commission's recommendation.
 - iv. Copies of any comments received by the Town from town departments, town consultants, referral agencies, and/or the public.
 - c. Following the close of the public hearing, the Town Council shall consider the application and any supporting materials, the staff report, the recommendation of the Planning Commission, public testimony, and the review criteria for a Code Amendment, and shall take one of the following actions:

- i. Approve the amendment(s), subject to any changes that the Town Council deems necessary to ensure compliance with this Code and the Community Plan.
 - ii. Deny the amendment(s) and state the specific reason(s) for denial.
- d. If the Town Council approves an amendment(s) to this Code, it shall enact an ordinance to such effect.

10. Step 10: Notice and Recording of Decision.

- a. Within ten (10) business days of a final action by Town Council, the following will occur:
 - i. The Planning Director will send written notice of the decision to the applicant.
 - ii. A copy of the decision will be made available to the applicant during normal business at Minturn Town Hall.
- b. If Town Council approves a Code Amendment, the Town Clerk will do the following:
 - i. Enter a copy of the ordinance approving the amendment(s) into the town's records.
 - ii. Revise this Code to reflect the approved amendment(s).

G. Modification of Approval

Any modification to an approved Code Amendment shall require the submittal of a new application that is processed and reviewed in accordance with the procedures and standards set forth in this Section.

Section 16-5-60: Conditional Use

A. Applicability

This Section applies to all land uses classified as a Conditional Use in [Table ##](#). A Conditional Use is only permitted if it is approved via the review process set forth in this Section.

B. Purpose

The purpose of this Section is to establish a review process that enables the Planning Commission and Town Council to evaluate, on a case-by-case basis, the appropriateness of certain types of land uses based on the proposed location and compatibility with surrounding land uses.

C. Application Submittal Requirements

An application for a Conditional Use shall include the following:

1. **Application.** A completed copy of the application form furnished by the Town. This form will, at minimum, require an applicant to submit the information listed in [Subsection 16-5-##-#](#).
2. **Application Fee.** Payment for the applicable fee, as designated by the Town's schedule of fees, shall be made at the time of submittal of an application.
3. **Narrative.** A written statement that describes the following:
 - a. The precise nature and operational characteristics of the proposed use.
 - b. Any measures to be implemented to ensure that the proposed use is compatible with surrounding land uses.
 - c. How the proposed use complies with the review criteria set forth in this Section.
4. **Site Plan.** A site plan, drawn to scale, showing the following information:
 - a. Property boundaries including bearings and dimensions.
 - b. Minimum required front, side, rear, and live stream setback lines.
 - c. Existing topography and any proposed changes.
 - d. The location and dimensions or size of all existing and proposed:
 - i. Land uses.
 - ii. Buildings and structures (or building envelopes if exact dimensions are not available) and their setbacks from the boundaries of the subject property.
 - iii. Easements and public rights-of-way on or abutting the subject property.
 - iv. Streets, alleys, driveways, sidewalks, paths, and/or other access improvements.
 - v. Parking and loading areas.

- vi. Usable open space.
 - vii. Landscaped areas, fencing, and walls.
 - viii. Utilities, including information about any changes to these utilities that will be necessitated by the proposed use.
 - ix. Drainage facilities and features.
- e. A table with that includes the following data:
- i. Size of the subject property.
 - ii. Total number of dwelling units and number of each type of unit (studio, one bedroom, etc.).
 - iii. Floor area of each type of dwelling unit.
 - iv. Total building coverage provided as a percentage of the total area of the subject property.
 - v. Total impervious surface coverage provided as a percentage of the total area of the subject property.
 - vi. Total area of usable open space.
 - vii. Total landscaped area.
 - viii. Total number of parking spaces.
5. **Conceptual Building Plans and Elevations.** Conceptual building plans and elevations with sufficient detail to depict the layout, dimensions, general appearance, scale, and interior use of any proposed buildings or existing building(s) to be changed.
6. **Additional Information.** Any other information deemed necessary by the Planning Director to ensure a complete and proper review of the request.

D. Waiver of Application Submittal Requirements

- 1. At the discretion of the Planning Director, certain submittal requirements may be waived to tailor the requirements to the information that is necessary to review a specific application.
- 2. To authorize a waiver, the Planning Director must make a finding for the following:
 - a. The waiver will not compromise a proper and complete review of the application.

- b. The submittal requirement(s) to be waived is not necessary for describing the proposal or demonstrating compliance with the applicable review criteria.
3. If the Planning Director authorizes a waiver, they will:
- a. Provide the applicant with written notice of their decision.
 - b. Include in their staff report a list of the submittal requirements waived and the findings made to justify the waiver.

E. Application Review Criteria

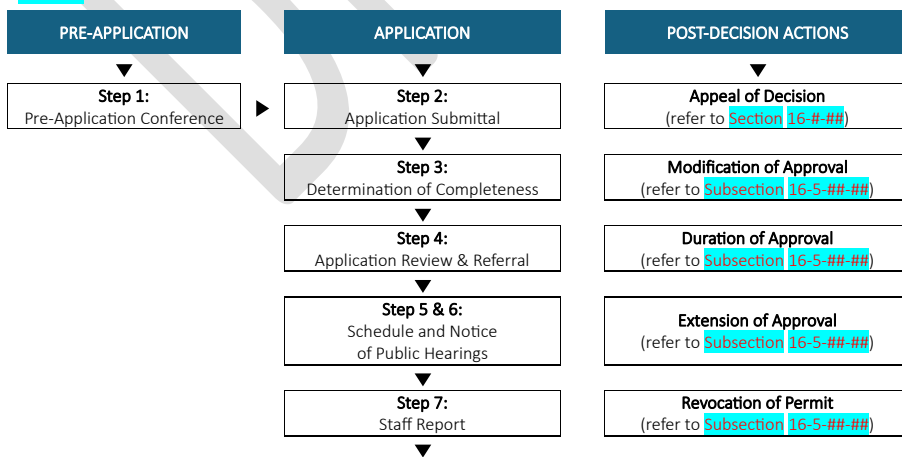
The Planning Commission may recommend approval of, and the Town Council may approve, a request for a Conditional Use upon a positive finding of each of the following criteria:

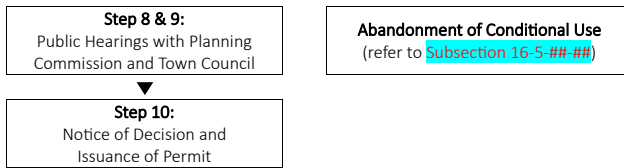
1. The proposed use is consistent with the Community Plan and the purpose and intent of the applicable zone district.
2. The proposed use complies with the applicable provisions of this Code, including any Use-Specific Standards and/or Design Standards.
3. The location, scale, and conditions under which the proposed use will operate are compatible with surrounding land uses.
4. All potential adverse effects of the proposed use will be mitigated to the maximum extent feasible.

F. Application Review Procedures

A request for a Conditional Use will be reviewed and decided upon in accordance with the following procedures.

Table ##: Overview of Conditional Use Review Procedures





1. **Step 1: Pre-Application Conference.** A Pre-Application Conference is required prior to the submittal of an application for a Conditional Use. This requirement may be waived at the discretion of the Planning Director.

The process for a Pre-Application Conference is as follows:

- a. *Schedule Pre-Application Conference.* The applicant must submit a written request for a Pre-Application Conference to the Planning Director. Within fourteen (14) calendar days of receiving such a request, the Planning Director will schedule the Pre-Application Conference and notify the applicant of the date, time, and location of the conference.
- b. *Materials for Pre-Application Conference.* If required by the Planning Director, the applicant will submit information that allows for an informal evaluation of the proposal. This information must be submitted at least five (5) business days prior to the Pre-Application Conference.
- c. *Attend Pre-Application Conference.* The applicant and the Planning Director will attend the Pre-Application Conference. The Planning Director may invite other town staff, town consultants, and/or county, state, or federal representatives to participate in the Pre-Application Conference if they deem it appropriate.

The purpose of the Pre-Application Conference is to provide the applicant, Planning Director, and other attendees with an opportunity to review and discuss the following:

- i. The applicant's proposal.
- ii. The applicable provisions of this Code.
- iii. The application submittal requirements and review procedures.
- iv. The referral agencies likely to be involved with the review of the application.

Depending on the magnitude or complexity of the applicant's proposal and/or the availability of other persons deemed necessary to attend, the Pre-Application Conference may be continued for a reasonable time at the request of the applicant or the Planning Director.

- d. *Pre-Application Conference Summary.* Within ten (10) business days of the conclusion of the Pre-Application Conference, the Planning Director shall prepare, and provide the applicant with, a written summary of the conference.

- e. *Effect of Pre-Application Conference.* Any information provided as part of a Pre-Application Conference shall not be binding on the town or the applicant.
2. **Step 2: Submittal of Application.** The applicant for a Conditional Use shall submit a complete application to the Town. Prior to the application submittal, the Planning Director shall determine, and inform the applicant of, the format (electronic or hard copy) and number of copies of the application to be submitted.
3. **Step 3: Determination of Completeness.** Within thirty (30) business days of the Town receiving an application, the Planning Director shall review the application and determine whether it is complete and includes sufficient information to be evaluated for general compliance with the requirements of this Code.
- a. *Application Deemed Complete.* If the Planning Director determines the application to be complete, they shall do the following:
 - i. Certify the application as complete and record the date of the determination of completeness.
 - ii. Notify the applicant, in writing, of the determination of completeness; any changes that need to be made to the application prior to commencing the application referral process; and the number of complete applications to be submitted to the Town for the referral process.
 - b. *Application Deemed Incomplete.* If the application is determined to be incomplete, the Planning Director shall notify the applicant, in writing, of the application's deficiencies and that no further action on the application will be taken until these deficiencies have been remedied.

If an applicant fails to correct deficiencies in their application, the Planning Director may deem the application to be withdrawn in accordance with [Subsection 16-5-##-#](#).
 - c. *Extension of Timeframe for Determination of Completeness.* The Planning Director may extend the timeframe for a determination of completeness by up to ten (10) business days if one of the following conditions exist:
 - i. The scope of the application warrants additional time for the Planning Director to review the application and make a determination of completeness.
 - ii. The Planning Director's workload justifies the need for an extension of time to review the application and make a determination of completeness.

If the Planning Director chooses to extend the time for the review and determination of completeness for an application, they will provide the applicant with written notice of their decision.

4. **Step 4: Application Review and Referral.**

- a. Within five (5) business days of receiving the requested number of complete applications from the applicant, the Planning Director shall circulate copies of the application package for review and comment by the town departments, town consultants, and referral agencies that may be affected by the proposal. The Planning Director is responsible for determining the appropriate town departments, town consultants, and referral agencies to involve in the review of an application.
 - b. The comment period for the review by referral agencies shall be twenty (20) business days from the date that the application is circulated by the Planning Director. Upon request by a referral agency, the Planning Director may authorize one (1) extension of this comment period by up to ten (10) business days.
 - c. Comments from referral agencies not received by the Town within the applicable time frame will be considered a no comment.
 - d. Town departments and town consultants may provide comments on an application at any time during the review process.
5. **Step 5: Schedule Public Hearings.** Upon the conclusion of the referral process, the Planning Director shall schedule the application for public hearings before the Planning Commission and Town Council in accordance with the following requirements and notify the applicant, in writing, of the date, time, and location of each public hearing.
- a. The public hearings shall be scheduled for a regularly scheduled meeting or a special meeting of the Planning Commission and Town Council.
 - b. The first public hearing before the Planning Commission shall be scheduled no later than forty (40) business days after the conclusion of the referral process.
 - c. A public hearing before the Town Council shall be scheduled within forty (40) business days of the Planning Commission completing its review and making a recommendation to Town Council.
6. **Step 6: Notice of Public Hearings.** Prior to the date of the first public hearing with the Planning Commission, the applicant shall:
- a. *Mail Notice.* Mail notice, by certified mail, to all property owners of record within one hundred (100) feet of the subject property, in accordance with [Section 16-5-###](#).
 - b. *Publish Notice.* Publish notice in a local newspaper, having general circulation within the Town, in accordance with [Section 16-5-###](#).
 - c. *Post Notice.* Post notice on a sign on the subject property in accordance with [Section 16-5-###](#).
 - d. *Mail Notice to Mineral Estate Owners (As Required).* If required by the Colorado Revised Statutes, mail notice to mineral estate owners in accordance with [Section 16-5-###](#).

- e. *Submit Proof of Notice.* Submit proof of notice in accordance with [Section 16-5-##](#).
7. **Step 7: Staff Report.** Town staff shall prepare a staff report that addresses the following, as applicable:
- a. Compliance with the standards of this Code.
 - b. Issues raised during the review of the application by town staff, town consultants, and/or referral agencies.
 - c. Recommended conditions to ensure compliance with applicable standards.
 - d. Additional information pertinent to the review of the application that must be submitted by the applicant.
8. **Step 8: Public Hearing with Planning Commission.**
- a. The Planning Commission will hold a public hearing, in accordance with [Section 16-5-##](#), to review the application. The applicant, or their agent, must be present at the hearing.
 - b. At least five (5) calendar days prior to the public hearing, the Planning Director shall make available the following materials to the Planning Commission, the applicant, and the public:
 - i. The application and any supporting materials.
 - ii. The staff report.
 - iii. Copies of any comments received by the Town from town departments, town consultants, referral agencies, and/or the public.
 - c. Following the close of the public hearing, the Planning Commission shall consider the application and any supporting materials, the staff report, public testimony, and the review criteria for a Conditional Use, and shall take one of the following actions:
 - i. Recommend that the Town Council approve the Conditional Use, subject to any conditions that the Planning Commission deems necessary to ensure compliance with this Code and the Community Plan.
 - ii. Recommend that Town Council deny the Conditional Use and state the specific reason(s) for denial.
9. **Step 9: Public Hearing with Town Council.**
- a. Following the public hearing with the Planning Commission, the Town Council will hold a public hearing, in accordance with [Section 16-5-##](#), to review the application. The applicant, or their agent, must be present at the hearing.
 - b. At least five (5) calendar days prior to the public hearing, the Planning Director shall make available the following materials to the Town Council, the applicant, and the public:

- i. The application and any supporting materials.
 - ii. The staff report.
 - iii. The Planning Commission's recommendation.
 - iv. Copies of any comments received by the Town from town departments, town consultants, referral agencies, and/or the public.
- c. Following the close of the public hearing, the Town Council shall consider the application and any supporting materials, the staff report, the recommendation of the Planning Commission, public testimony, and the review criteria for a Conditional Use, and shall take one of the following actions:
- i. Approve the Conditional Use, subject to any conditions that the Town Council deems necessary to ensure compliance with this Code and the Community Plan.
 - ii. Deny the Conditional Use and state the specific reason(s) for denial.
- d. If the Town Council approves a Conditional Use, it shall enact an ordinance to such effect.
- 10. Step 10: Notice of Decision and Issuance of Permit.**
- a. Within ten (10) business days of a final action by Town Council, the following shall occur:
 - i. The Planning Director will send written notice of the decision to the applicant.
 - ii. A copy of the decision will be made available to the applicant during normal business at Minturn Town Hall.
 - b. If Town Council approves a Conditional Use, the following will occur:
 - i. The Town Clerk will enter a copy of the ordinance approving the Conditional Use into the town's records.
 - ii. Within ten (10) business days of the effective date of the ordinance approving the Conditional Use, the Planning Director will issue, to the applicant, a Conditional Use Permit that states the duration of the approval and any conditions of approval.

G. Modification of Approval

Any modification to an approved Conditional Use Permit shall require the submittal of a new application that is processed and reviewed in accordance with the procedures and standards set forth in this Section.

H. Duration of Approval

- 1. Approval of a Conditional Use shall expire and become null and void one (1) year after the date of approval unless one of the following has occurred:
 - a. The approved use has been established (if no building permit from the Town is required).

- b. A complete building permit application has been submitted and approved by the Town and on-site construction has commenced.
 - c. A request for an extension has been submitted and approved in accordance with **Subsection 16-5-##-#**.
2. Once established, a Conditional Use Permit is valid for five (5) years unless a different permit duration is specifically authorized as part of the approval by Town Council.

I. Extension of Approval

1. The holder of a Conditional Use Permit may submit a written request for an extension of their permit to the Town Council. Such a request must be received a minimum of thirty (30) calendar days prior to the expiration date of the Conditional Use Permit. Any request received later than this will not be considered by the Town.
2. A request to extend the approval of a Conditional Use Permit must demonstrate the following:
 - a. Failure to establish the use was beyond the applicant's control.
 - b. The approved use is not speculative in nature.
 - c. The approved use remains in compliance with this Code and the Community Plan.
 - d. There is reasonable likelihood that the approved use will be established in the next year.
3. The Town Council may authorize one (1) extension of a conditional use permit for a period of up to twelve (12) calendar months.

J. Revocation of Permit

1. The Town Council may revoke a Conditional Use Permit, following a public hearing, if it is determined that one or more of the following conditions exist:
 - a. The applicant has misrepresented any material fact in their application or supporting materials.
 - b. The Conditional Use fails or ceases to comply with applicable standards, conditions, or criteria for issuance of a permit.
 - c. The operation of the Conditional Use violates any statute, law, ordinance, or regulation.
 - d. The operation of the Conditional Use constitutes a nuisance or poses a real or potential threat to the health, safety, or welfare of the public.
2. If the Planning Director has reasonable cause to believe that one or more of the conditions listed in this Subsection exist, they shall serve the owner of record for the subject property with a written notice that sets forth the grounds for revocation and forfeiture of any vested property rights related thereto. Such notice shall be sent to the owner of record by certified mail, return

receipt requested, and state the date, time, and place for the public hearing at which the Town Council will consider whether the Conditional Use Permit should be revoked.

3. Notice by the Planning Director shall be served at least thirty (30) calendar days prior to the date of the public hearing with the Town Council.
4. The public hearing with the Town Council shall be conducted in accordance with the following requirements:
 - a. The Town will be represented by the Planning Director, Town Attorney, Town Administrator, or other authorized representative.
 - b. The applicant will be represented by themselves or their authorized representative.
 - c. All evidence will be presented under oath.
 - d. The parties involved in the hearing will be permitted to cross-examine witnesses.
 - e. The sworn testimony and evidence shall pertain to the standards set forth in this Subsection.
5. Within thirty (30) calendar days of the close of the public hearing, the Town Council shall, based on the evidence submitted and the standards prescribed in this Subsection, issue a written decision to:
 - a. Revoke the Conditional Use Permit, stating the specific reason(s) for revocation.
 - b. Make a finding that insufficient evidence exists to revoke the Conditional Use Permit.
6. The action of the Town Council shall be final and effective immediately.

K. Abandonment of Conditional Use

1. If an approved Conditional Use is discontinued or abandoned for a period of more than twelve (12) consecutive months, then such use cannot be re-established or resumed without the approval of new Conditional Use application that is processed and reviewed in accordance with the procedures and standards set forth in this Section.
2. When government action can be documented as the reason for the discontinuation or abandonment of an approved Conditional Use, such time delay shall not be calculated for the purposes of this Subsection.

Section 16-5-70: Design Review

A. Applicability

1. All major development or redevelopment in the Town must comply with the requirements and procedures set forth in this Section.
2. No building permit shall be issued for a major development or redevelopment prior to an approval from the Design Review Board, in accordance with this Section.
3. All minor development or redevelopment in the Town must comply with the requirements and procedures set forth in [Section 16-5-80](#).

B. Purpose

The purpose of this Section is to establish a process for ensuring that all major development and redevelopment in the Town is constructed in a manner that complies with the adopted regulations of the Town.

C. Application Submittal Requirements

An application for Design Review shall include the following:

1. **Application.** A completed copy of the application form furnished by the Town. This form will, at minimum, require an applicant to submit the information listed in [Subsection 16-5-##-#](#).
2. **Application Fee.** Payment for the applicable fee, as designated by the Town's schedule of fees, shall be made at the time of submittal of an application.
3. **Boundary Survey.** A boundary survey, with a stamp and signature (or electronic equivalent) of a surveyor licensed in Colorado, that includes the following information:
 - a. Date of survey (survey date must be within six (6) calendar months of the application submittal date).
 - b. Right-of-way and property lines; including bearings, distances, and curve information.
 - c. Labeled ties to existing USGS benchmark.
 - d. Property boundaries to the nearest one-hundredth (0.01) of a foot accuracy. Distances and bearings and a basis of bearing must be shown. Show existing pins or monuments found and their relationship to the established corner.
 - e. The locations, bearings, and dimensions of all existing easements recorded with the Eagle County Clerk and Recorder.
 - f. Spot elevations, at five-foot intervals, at the edge of asphalt along the street frontage of the subject property and a minimum of two (2) spot elevations on either side of the lot.
 - g. Existing topographic conditions of the subject property shown at two-foot (2') contour intervals.

- h. Existing trees or groups of trees having trunks with diameters of four (4") inches or more.
 - i. Rock outcroppings and other significant natural features.
 - j. All utility meter locations, including any pedestals on site or in the right-of-way adjacent to the site and the exact location of existing utility sources.
 - k. Environmentally sensitive areas or areas of natural hazards, where applicable. These may include, but are not limited to, rock fall areas, wetlands, and/or floodplain areas.
 - l. If applicable, the centerline and edge of a stream or creek, the ordinary high-water mark, the required live stream setback from the ordinary high-water mark, and the one-hundred-year floodplain.
4. **Site Plan.** A site plan, drawn to scale, showing the following information:
- a. Property line locations, bearings, and dimensions based on a current boundary survey of the property.
 - b. Minimum required front, side, rear, and live stream setback lines.
 - c. Existing and proposed easements.
 - d. Existing and proposed buildings and structures, including sheds, enclosures, decks, patios, and balconies.

Note: A solid line is to be used to identify the building footprint and the outside face of exterior walls, inclusive of all cantilevered elements of the building. A dashed line is to be used to identify the roof/eave edge.
 - e. Height elevations of all roof ridgelines and/or the top of all flat roof elements, as well as the mid-point of all sloped roof elements.
 - f. Existing and proposed driveways and parking areas. The finished surface, heated or unheated areas, grade, percent slope, dimensions, turning radii, and spot elevations at the property line must be shown.
 - g. All slopes between thirty (30%) and forty percent (40%), as well as any slopes that exceed forty (40%) percent.
 - h. Existing and proposed retaining walls including materials and spot elevations.
 - i. Existing and proposed fences including height and materials.
 - j. If applicable, the centerline and edge of a stream or creek, the ordinary highwater mark, the required live stream setback from the ordinary high-water mark, and the one-hundred-year floodplain according to a current survey of the property.

- k. Snow storage areas denoted with hatching and showing corresponding area (expressed in square feet) as a percentage of overall site area.
 - l. Existing and proposed sidewalks and walkways.
 - m. All areas of lot and impervious coverage denoted with hatching and showing corresponding area (expressed in square feet) as a percentage of overall site area.
5. **Grading and Drainage Plan.** A grading and drainage plan that includes the following information:
- a. Existing contours, shown at two-foot (2') intervals, for all areas to be disturbed by the proposed construction. Contours for undisturbed areas must be shown when drainage in those areas impacts the disturbed area, or vice versa.
 - b. Proposed contours, shown at two-foot (2') intervals, for all disturbed areas that demonstrate positive drainage.
 - c. Critical spot elevations, as necessary, to demonstrate positive drainage and the direction of flow. Finished grade at all building corners must be provided.
 - d. The top-of-foundation elevation. The top-of-foundation elevation must be consistent with the foundation plan. For buildings on slopes of thirty percent (30%) or greater, elevations for stepped foundation walls must be shown.
 - e. Drainage arrows that show how stormwater will be routed around buildings and where stormwater will exit the property. Stormwater cannot cause damage to any adjacent property. Drainage and erosion control features needed to prevent damage must be included.
 - f. Proposed drainage facilities, such as French drains or culverts.
 - g. Retaining wall details that include drainage details. Elevations for the top- and bottom-of-wall shall be shown at each location where a retaining wall steps up or down. The elevation of the tallest point of a retaining wall must also be provided.
6. **Landscape Plan.** If applicable, a landscape plan, prepared in accordance with [Section 16-#-##](#).
7. **Building Elevations and Architectural Details.** Building elevations and architectural detailing for all sides of the proposed structure(s) that include the following information:
- a. The type, size, and texture of all exterior materials.
 - b. Building heights, dimensioned in accordance with this Code.
 - c. Minimum required front, side, rear, and live stream setback lines.
 - d. The location of exterior lighting fixtures and roof and building drainage systems (i.e., gutters and downspouts).

8. **Floor Plans.** Floor plans of all levels of any proposed structure(s) indicating the proposed uses and dimensions of all interior space shall be included. For additions to existing structures, floor plans must be provided for the existing building as well as all proposed additional floor area.
9. **Ceiling Plans.** If applicable, reflected ceiling plans that show exterior lighting (recessed or can lighting) within soffits.
10. **Color Chips and Material Boards.** Color chips and/or a materials board are required for all projects.
11. **Additional Requirements for Multi-Family and Commercial Developments.** Multi-family and commercial developments may require one (1) or more of the following:
 - a. A three-dimensional model, drawn to scale, of the proposed project and adjacent buildings.
 - b. A three-dimensional architectural model, drawn to scale, that depicts the proposed project and adjacent structures.
 - c. A two-dimensional photo illustration of the proposed building in relation to adjacent structures.
12. **Additional Information.** Any other information deemed necessary by the Planning Director to ensure a complete and proper review of the request.

D. Waiver of Application Submittal Requirements

1. At the discretion of the Planning Director, certain submittal requirements may be waived to tailor the requirements to the information that is necessary to review a specific application.
2. To authorize a waiver, the Planning Director must make a finding for the following:
 - a. The waiver will not compromise a proper and complete review of the application.
 - b. The submittal requirement(s) to be waived is not necessary for describing the proposal or demonstrating compliance with the applicable review criteria.
3. If the Planning Director authorizes a waiver, they will:
 - a. Provide the applicant with written notice of their decision.
 - b. Include in their staff report a list of the submittal requirements waived and the findings made to justify the waiver.

E. Application Review Criteria

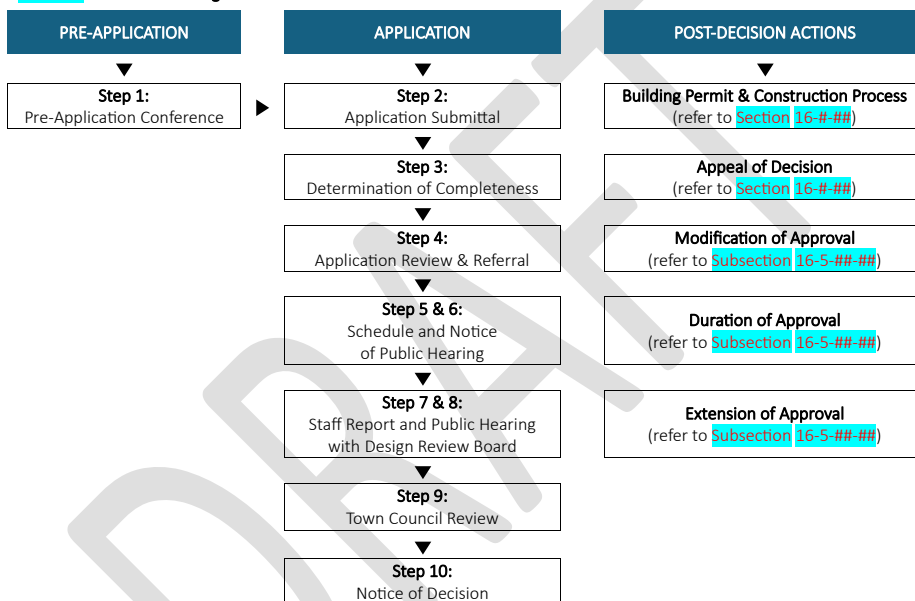
The Design Review Board may approve a request for Design Review upon a positive finding of each of the following criteria:

1. The proposal complies with the applicable requirements of this Code, including the zoning regulations set forth in [Article ##](#) and the Design Standards and Guidelines set forth in [Article ##](#).
2. The proposal helps achieve the goals and objectives of the Community Plan.

F. Application Review Procedures

A request for Design Review will be reviewed and decided upon in accordance with the following procedures.

Table ##: Overview of Design Review Procedures



1. **Step 1: Pre-Application Conference.** A Pre-Application Conference is required prior to the submittal of an application for Design Review. This requirement may be waived at the discretion of the Planning Director.

The process for a Pre-Application Conference is as follows:

- a. *Schedule Pre-Application Conference.* The applicant must submit a written request for a Pre-Application Conference to the Planning Director. Within fourteen (14) calendar days of receiving such a request, the Planning Director will schedule the Pre-Application Conference and notify the applicant of the date, time, and location of the conference.
- b. *Materials for Pre-Application Conference.* If required by the Planning Director, the applicant will submit information that allows for an informal evaluation of the proposal. This

information must be submitted at least five (5) business days prior to the Pre-Application Conference.

- c. *Attend Pre-Application Conference.* The applicant and the Planning Director will attend the Pre-Application Conference. The Planning Director may invite other town staff, town consultants, and/or county, state, or federal representatives to participate in the Pre-Application Conference if they deem it appropriate.

The purpose of the Pre-Application Conference is to provide the applicant, Planning Director, and other attendees with an opportunity to review and discuss the following:

- i. The applicant's proposal.
- ii. The applicable provisions of this Code.
- iii. The application submittal requirements and review procedures.
- iv. The referral agencies likely to be involved with the review of the application.

Depending on the magnitude or complexity of the applicant's proposal and/or the availability of other persons deemed necessary to attend, the Pre-Application Conference may be continued for a reasonable time at the request of the applicant or the Planning Director.

- d. *Pre-Application Conference Summary.* Within ten (10) business days of the conclusion of the Pre-Application Conference, the Planning Director shall prepare, and provide the applicant with, a written summary of the conference.
 - e. *Effect of Pre-Application Conference.* Any information provided as part of a Pre-Application Conference shall not be binding on the town or the applicant.
- 2. **Step 2: Submittal of Application.** The applicant for Design Review shall submit a complete application to the Town. Prior to the application submittal, the Planning Director shall determine, and inform the applicant of, the format (electronic or hard copy) and number of copies of the application to be submitted.
 - 3. **Step 3: Determination of Completeness.** Within thirty (30) business days of the Town receiving an application, the Planning Director shall review the application and determine whether it is complete and includes sufficient information to be evaluated for general compliance with the requirements of this Chapter.
 - a. *Application Deemed Complete.* If the Planning Director determines the application to be complete, they shall do the following:
 - i. Certify the application as complete and record the date of the determination of completeness.
 - ii. =

iii. Notify the applicant, in writing, of the determination of completeness= any changes that need to be made to the application prior to commencing the application referral process; and, the number of complete applications to be submitted to the Town for the referral process.

b. *Application Deemed Incomplete.* If the application is determined to be incomplete, the Planning Director shall notify the applicant, in writing, of the application's deficiencies and that no further action on the application will be taken until these deficiencies have been remedied.

If an applicant fails to correct deficiencies in their application, the Planning Director may deem the application to be withdrawn in accordance with [Subsection 16-5-###-#](#).

c. *Extension of Timeframe for Determination of Completeness.* The Planning Director may extend the timeframe for a determination of completeness by up to ten (10) business days if one of the following conditions exist:

- i. The scope of the application warrants additional time for the Planning Director to review the application and make a determination of completeness.
- ii. The Planning Director's workload justifies the need for an extension of time to review the application and make a determination of completeness.

If the Planning Director chooses to extend the time for the review and determination of completeness for an application, they will provide the applicant with written notice of their decision.

4. **Step 5: Application Review and Referral.**

- a. Within five (5) business days of receiving the requested number of complete applications from the applicant, the Planning Director shall circulate copies of the application package for review and comment by the town departments, town consultants, and referral agencies that may be affected by the proposal. The Planning Director is responsible for determining the appropriate town departments, town consultants, and referral agencies to involve in the review of an application.
- b. The comment period for the review by referral agencies shall be twenty (20) business days from the date that the application is circulated by the Planning Director. Upon request by a referral agency, the Planning Director may authorize one (1) extension of this comment period by up to ten (10) business days.
- c. Comments from referral agencies not received by the Town within the applicable time frame will be considered a no comment.
- d. Town departments and town consultants may provide comments on an application at any time during the review process.

5. **Step 5: Schedule Public Hearing.** Upon the conclusion of the referral process, the Planning Director shall schedule the application for public hearing before the Design Review Board in

accordance with the following requirements and notify the applicant, in writing, of the date, time, and location of the public hearing.

- a. The public hearing shall be scheduled for a regularly scheduled meeting or a special meeting of the Design Review Board.
 - b. The first public hearing before the Design Review Board shall be scheduled no later than forty (40) business days after the conclusion of the referral process.
6. **Step 5: Notice of Public Hearing.** Prior to the date of the first public hearing with the Design Review Board, the applicant shall:
- a. *Mail Notice.* Mail notice, by certified mail, to all property owners of record within one hundred (100) feet of the subject property, in accordance with Section 16-5-##.
 - b. *Publish Notice.* Publish notice in a local newspaper, having general circulation within the Town, in accordance with Section 16-5-##.
 - c. *Post Notice.* Post notice on a sign on the subject property in accordance with Section 16-5-##.
 - d. *Mail Notice to Mineral Estate Owners (As Required).* If required by the Colorado Revised Statutes, mail notice to mineral estate owners in accordance with Section 16-5-##.
 - e. *Submit Proof of Notice.* Submit proof of notice in accordance with Section 16-5-##.
7. **Step 7: Staff Report.** Town staff shall review the application and prepare a staff report that addresses the following, as applicable:
- a. Compliance with the standards of this Code.
 - b. Issues raised during the review of the application by town staff, town consultants, and/or referral agencies.
 - c. Recommended conditions to ensure compliance with applicable standards.
 - d. Additional information pertinent to the review of the application that must be submitted by the applicant.
8. **Step 8: Public Hearing with Design Review Board.**
- a. The Design Review Board will hold a public hearing, in accordance with Section 16-5-##, to review the application. The applicant, or their agent, must be present at the hearing.
 - b. At least five (5) calendar days prior to the public hearing, the Planning Director shall make available the following materials to the Design Review Board, the applicant, and the public:
 - i. The application and any supporting materials.

- ii. The staff report.
 - iii. Copies of any comments received by the Town from town departments, town consultants, referral agencies, and/or the public.
- c. Following the close of the public hearing, the Design Review Board shall consider the application and any supporting materials, the staff report, public testimony, and the review criteria for a Design Review, and shall take one of the following actions:
- i. Approve the request, subject to any conditions that the Design Review Board deems necessary to ensure compliance with this Code and the Community Plan.
 - ii. Deny the request and state the specific reason(s) for denial.
9. **Step 9: Town Council Review.** The decision by the Design Review Board will be added to the consent agenda for the next available Town Council meeting. At this meeting, the Town Council may, by a majority vote, call up the Design Review Board's decision for review. Should the Town Council decide to call up the Design Review Board's decision, the Town Council shall review said decision in accordance with the requirements of this Section and take one of the following actions:
- a. Affirm the Design Review Board's decision.
 - b. Affirm the Design Review Board's decision with any conditions that the Town Council deems necessary to ensure compliance with this Code and the Community Plan.
 - c. Reverse the Design Review Board's decision.

If no call up is initiated by the Town Council and the consent agenda is approved, the decision by the Design Review Board shall be final.

10. **Step 10: Notice of Decision.**
- a. Within ten (10) business days of a final action by the Town Council, the following shall occur:
 - i. The Planning Director will send written notice of the decision to the applicant.
 - ii. A copy of the decision will be made available to the applicant during normal business at Minturn Town Hall.

G. Building Permit and Construction Process

1. **Building Permit Required.** Once an application has been approved by the Design Review Board, the applicant may apply for a building permit. The application for a building permit shall be in substantial compliance with plans approved by the Design Review Board and shall be reviewed by the Building Official for compliance with all applicable codes and laws of the Town.
2. **Pre-construction Meeting and Inspection Required.** Once a building permit has been issued, and prior to any construction activity being authorized, a pre-construction meeting is required to be

held at the subject property. The purpose of the pre-construction meeting is for the contractor (General Contractor and/or Owner's Representative of record with the Town) to familiarize themselves with the Town's construction regulations, inspection process, and requirements. This is also a time for Town staff to inspect the pre-construction conditions of the subject property and to verify limits of disturbance along with any required erosion control measures.

3. **Foundation Inspection Required.** After any foundation has been poured and foundation work has been completed, and prior to scheduling a foundation inspection, an Improvement Location Certificate (ILC) verifying the location of the foundation must be submitted to the Building Official. Construction may not proceed until the location of the approved foundation has been verified by the Building Official as part of the foundation inspection.
4. **Framing Inspection Required.** After the framing of the structure(s) has been completed, and prior to scheduling a framing inspection, an Improvement Location Certificate (ILC) verifying the location of all roof ridge height(s) and locations of all exterior walls of the structure relative to required setbacks and property boundaries must be submitted to the Building Official. Construction may not proceed until the location and the extents of the structure(s) have been verified by the Building Official as part of the framing inspection.
5. **Temporary Certificate of Occupancy (TCO) Inspection Required.** At the completion of the project, a Temporary Certificate of Occupancy (TCO) inspection shall be required. An updated Improvement Location Certificate showing all new improvements on the site, shall be submitted to the Building Official prior to scheduling a TCO inspection.
6. **Certificate of Occupancy (CO) Inspection Required.** The final step in the construction and inspection process is the final Certificate of Occupancy (CO) inspection.

H. Modification of Approval

1. Minor Modifications.

- a. Minor modifications to a plan or design approved by the Design Review Board cannot be made without written authorization by Town staff.
- b. Town staff may, at their discretion, refer any minor modifications to an approved plan or design to the Planning Commission for final approval.
- c. Minor modifications include, but are not limited to, the following:
 - i. Changes to exterior materials, patterns, and/or textures.
 - ii. Minor revisions to exterior window and/or door sizing and/or placement.
- d. Minor modifications do not include any changes to a previously approved plan or design that increase building square footage, building height, lot or impervious coverage.

2. Major Modifications.

- a. Major modifications to a plan or design approved by the Design Review Board will be reviewed and decided on in accordance with this Section.

- b. Major modifications are any changes to a previously approved plan or design that do not qualify as minor modifications.

I. Duration of Approval

1. An approval by the Design Review Board shall expire and become null and void one (1) year after the date of approval unless one of the following has occurred:
 - a. A building permit is issued.
 - b. Construction has commenced and is diligently pursued towards completion.
 - c. A request for an extension has been submitted and approved in accordance with [Subsection 16-5-###-#](#).

J. Extension of Approval

1. An applicant with an approval from the Design Review Board may submit a written request for an extension of their approval. Such a request must be received at least thirty (30) calendar days prior to the expiration date of the approval. Any request received later than this will not be considered by the Town.
2. Upon a showing of good cause, the Planning Director may authorize one (1) extension of an approval for a period of up to twelve (12) calendar months.
3. At the discretion of the Planning Director, a request for an extension of an approval may be referred to the Design Review Board for review and a decision. If this occurs, the Design Review Board will review and decide on such a request at a public hearing that is noticed and held in accordance with this Section.

Section 16-5-80: Minor Design Review

A. Applicability

1. All minor development or redevelopment in the Town must comply with the requirements and procedures set forth in this Section.
2. No building permit shall be issued prior to an approval from the Planning Director or the Design Review Board, in accordance with this Section.

B. Purpose

The purpose of this Section is to establish an administrative process for ensuring that all minor development or redevelopment in the Town is constructed in a manner that complies with the adopted regulations of the Town.

C. Application Submittal Requirements

An application for a Minor Design Review shall include the following:

1. **Application.** A completed copy of the application form furnished by the Town. This form will, at minimum, require an applicant to submit the information listed in [Subsection 16-5-##-#](#).
2. **Application Fee.** Payment for the applicable fee, as designated by the Town's schedule of fees, shall be made at the time of submittal of an application.
3. **Boundary Survey.** A boundary survey, with a stamp and signature (or electronic equivalent) of a surveyor licensed in Colorado, that includes the following information:
 - a. Date of survey (survey date must be within six (6) calendar months of the application submittal date).
 - b. Right-of-way and property lines; including bearings, distances, and curve information.
 - c. Labeled ties to existing USGS benchmark.
 - d. Property boundaries to the nearest one-hundredth (0.01) of a foot accuracy. Distances and bearings and a basis of bearing must be shown. Show existing pins or monuments found and their relationship to the established corner.
 - e. The locations, bearings, and dimensions of all existing easements recorded with the Eagle County Clerk and Recorder.
 - f. Spot elevations, at five-foot intervals, at the edge of asphalt along the street frontage of the subject property and a minimum of two (2) spot elevations on either side of the lot.
 - g. Existing topographic conditions of the subject property, shown at two-foot (2') contour intervals.
 - h. Existing trees or groups of trees having trunks with diameters of four (4") inches or more.
 - i. Rock outcroppings and other significant natural features.

- j. All utility meter locations, including any pedestals on site or in the right-of-way adjacent to the site and the exact location of existing utility sources.
 - k. Environmentally sensitive areas or areas of natural hazards, where applicable. These areas may include, but are not limited to, rock fall areas, wetlands, and/or floodplain areas.
 - l. If applicable, the centerline and edge of a stream or creek, the ordinary high-water mark, the required live stream setback from the ordinary high-water mark, and the one-hundred-year floodplain.
4. **Site Plan.** A site plan, drawn to scale, showing the following information:
- a. Property line locations, bearings, and dimensions based on a current boundary survey of the property.
 - b. Minimum required front, side, rear, and live stream setback lines.
 - c. Existing and proposed easements.
 - d. Existing and proposed buildings and structures, including sheds, enclosures, decks, patios, and balconies.

Note: A solid line is to be used to identify the building footprint and the outside face of exterior walls, inclusive of all cantilevered elements of the building. A dashed line is to be used to identify the roof/eave edge.
 - e. Height elevations of all roof ridgelines and/or the top of all flat roof elements, as well as the mid-point of all sloped roof elements.
 - f. Existing and proposed driveways and parking areas. The finished surface, heated or unheated areas, grade, percent slope, dimensions, turning radii, and spot elevations at the property line must be shown.
 - g. All slopes between thirty (30%) and forty percent (40%), as well as any slopes that exceed forty (40%) percent.
 - h. Existing and proposed retaining walls including materials and spot elevations.
 - i. Existing and proposed fences including height and materials.
 - j. If applicable, the centerline and edge of a stream or creek, the ordinary highwater mark, the required live stream setback from the ordinary high-water mark, and the one-hundred-year floodplain according to a current survey of the property.
 - k. Snow storage areas denoted with hatching and showing corresponding area (expressed in square feet) as a percentage of overall site area.

- l. Existing and proposed sidewalks and walkways.
 - m. All areas of lot and impervious coverage denoted with hatching and showing corresponding area (expressed in square feet) as a percentage of overall site area.
5. **Grading and Drainage Plan.** A grading and drainage plan that includes the following information:
- a. Existing contours, shown at two-foot (2') intervals, for all areas to be disturbed by the proposed construction. Contours for undisturbed areas must be shown when drainage in those areas impacts the disturbed area, or vice versa.
 - b. Proposed contours, shown at two-foot (2') intervals, for all disturbed areas that demonstrate positive drainage.
 - c. Critical spot elevations, as necessary, to demonstrate positive drainage and the direction of flow. Finished grade at all building corners must be provided.
 - d. The top-of-foundation elevation. The top-of-foundation elevation must be consistent with the foundation plan. For buildings on slopes of thirty percent (30%) or greater, elevations for stepped foundation walls must be shown.
 - e. Drainage arrows that show how stormwater will be routed around buildings and where stormwater will exit the property. Stormwater cannot cause damage to any adjacent property. Drainage and erosion control features needed to prevent damage must be included.
 - f. Proposed drainage facilities, such as French drains or culverts.
 - g. Retaining wall details that include drainage details. Elevations for the top- and bottom-of-wall shall be shown at each location where a retaining wall steps up or down. The elevation of the tallest point of a retaining wall must also be provided.
6. **Landscape Plan.** If applicable, a landscape plan, prepared in accordance with [Section 16-#-##](#).
7. **Building Elevations and Architectural Details.** Building elevations and architectural detailing for all sides of the proposed structure(s) that include the following information:
- a. The type, size, and texture of all exterior materials.
 - b. Building heights, dimensioned in accordance with this Code.
 - c. Minimum required front, side,-rear, and live stream setback lines.
 - d. The location of exterior lighting fixtures and roof and building drainage systems (i.e., gutters and downspouts).
8. **Floor Plans.** Floor plans of all levels of any proposed structure(s) indicating the proposed uses and dimensions of all interior space shall be included. For additions to existing structures, floor plans must be provided for the existing building as well as all proposed additional floor area.

9. **Ceiling Plans.** If applicable, reflected ceiling plans that show exterior lighting (recessed or can lighting) within soffits.
10. **Color Chips and Material Boards.** Color chips and/or a materials board are required for all projects.
11. **Additional Requirements for Multi-Family and Commercial Developments.** Multi-family and commercial developments may require one (1) or more of the following:
 - a. A three-dimensional model, drawn to scale, of the proposed project and adjacent buildings;
 - b. A three-dimensional architectural model, drawn to scale, that depicts the proposed project and adjacent structures; AND/OR,
 - c. A two-dimensional photo illustration of the proposed building in relation to adjacent structures.
12. **Additional Information.** Any other information deemed necessary by the Planning Director to ensure a complete and proper review of the request.

D. Waiver of Application Submittal Requirements

- a. At the discretion of the Planning Director, certain submittal requirements may be waived to tailor the requirements to the information that is necessary to review a specific application.
- b. To authorize a waiver, the Planning Director must make a finding for the following:
 - i. The waiver will not compromise a proper and complete review of the application.
 - ii. The submittal requirement(s) to be waived is not necessary for describing the proposal or demonstrating compliance with the applicable review criteria.
- c. If the Planning Director authorizes a waiver, they will:
 - i. Provide the applicant with written notice of their decision.
 - ii. If applicable, include in their staff report a list of the submittal requirements waived and the findings made to justify the waiver.

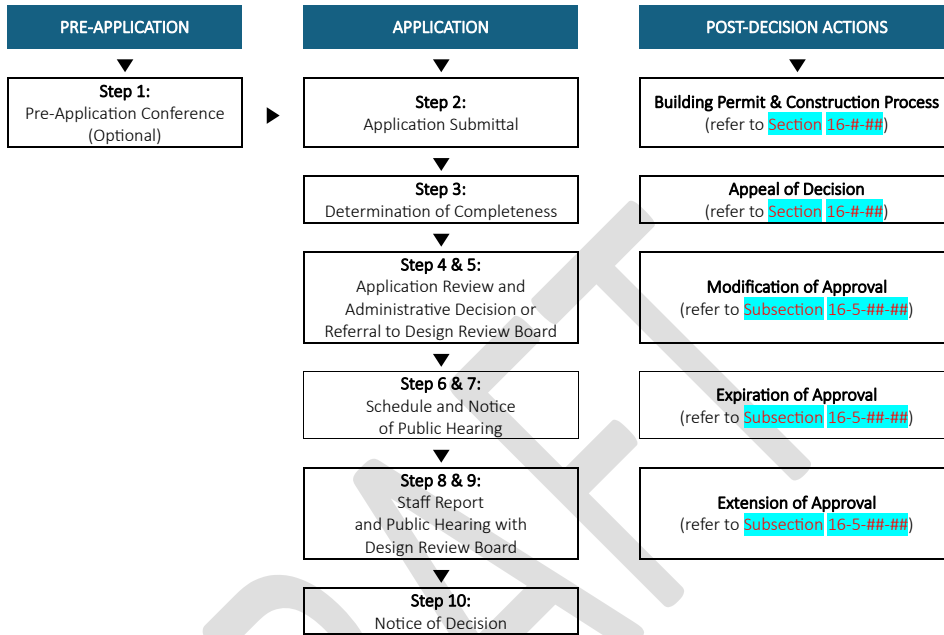
D. Application Review Criteria

The Planning Director, or the Design Review Board, may approve a request for Minor Design Review upon a finding that the proposal complies with the applicable requirements of this Code, including the applicable zoning regulations set forth in [Article ##](#) and Design Standards and Guidelines set forth in [Article ##](#).

E. Application Review Procedures

A request for Minor Design Review will be reviewed and decided upon in accordance with the following procedures.

Table ##: Overview of Minor Design Review Procedures



1. **Step 1: Pre-Application Conference (Optional).** A Pre-Application Conference may be requested by the applicant or Town staff prior to the submittal of an application for a Minor Design Review. A Pre-Application Conference for a Minor Design Review is optional and not required.

The process for a Pre-Application Conference is as follows:

- a. *Schedule Pre-Application Conference.* The applicant must submit a written request for a Pre-Application Conference to the Planning Director. Within fourteen (14) calendar days of receiving such a request, the Planning Director will schedule the Pre-Application Conference and notify the applicant of the date, time, and location of the conference.
- b. *Materials for Pre-Application Conference.* If required by the Planning Director, the applicant will submit information that allows for an informal evaluation of the proposal. This information must be submitted at least five (5) business days prior to the Pre-Application Conference.
- c. *Attend Pre-Application Conference.* The applicant and the Planning Director will attend the Pre-Application Conference. The Planning Director may invite other town staff, town consultants, and/or county, state, or federal representatives to participate in the Pre-Application Conference if they deem it appropriate.

The purpose of the Pre-Application Conference is to provide the applicant, Planning Director, and other attendees with an opportunity to review and discuss the following:

- i. The applicant's proposal.
- ii. The applicable provisions of this Code.
- iii. The application submittal requirements and review procedures.
- iv. The referral agencies likely to be involved with the review of the application.

Depending on the magnitude or complexity of the applicant's proposal and/or the availability of other persons deemed necessary to attend, the Pre-Application Conference may be continued for a reasonable time at the request of the applicant or the Planning Director.

- d. *Pre-Application Conference Summary.* Within ten (10) business days of the conclusion of the Pre-Application Conference, the Planning Director shall prepare, and provide the applicant with, a written summary of the conference.
 - e. *Effect of Pre-Application Conference.* Any information provided as part of a Pre-Application Conference shall not be binding on the Town or the applicant.
2. **Step 2: Submittal of Application.** The applicant for a Minor Design Review shall submit a complete application to the Town. Prior to the application submittal, the Planning Director shall determine, and inform the applicant of, the format (electronic or hard copy) and number of copies of the application to be submitted.
3. **Step 3: Determination of Completeness.** Within thirty (30) business days of the Town receiving an application, the Planning Director shall review the application and determine whether it is complete and includes sufficient information to be evaluated for general compliance with the requirements of this Code.
- a. *Application Deemed Complete.* If the Planning Director determines the application to be complete, they shall do the following:
 - i. Certify the application as complete and record the date of the determination of completeness.
 - ii. Notify the applicant, in writing, of the determination of completeness; any changes that need to be made to the application; and the number of complete applications to be submitted to the Town.
 - b. *Application Deemed Incomplete.* If the application is determined to be incomplete, the Planning Director shall notify the applicant, in writing, of the application's deficiencies and that no further action on the application will be taken until these deficiencies have been remedied.

If an applicant fails to correct deficiencies in their application, the Planning Director may deem the application to be withdrawn in accordance with [Subsection 16-5-##-#](#).

- c. *Extension of Timeframe for Determination of Completeness.* The Planning Director may extend the timeframe for a determination of completeness by up to ten (10) business days if one of the following conditions exist:
 - i. The scope of the application warrants additional time for the Planning Director to review the application and make a determination of completeness.
 - ii. The Planning Director's workload justifies the need for an extension of time to review the application and make a determination of completeness.

If the Planning Director chooses to extend the time for the review and determination of completeness for an application, they will provide the applicant with written notice of their decision.

4. Step 4: Application Review

- a. Within five (5) business days of receiving the requested number of complete applications from the applicant, the Planning Director shall circulate copies of the application package for review and comment by town departments and town consultants that may be affected by the proposal. The Planning Director is responsible for determining the appropriate town departments and town consultants to involve in the review of an application.
- b. Town departments and town consultants may provide comments on an application at any time during the review process.

5. Step 5: Administrative Decision or Referral to Design Review Board.

- a. Upon the conclusion of the application review process, the Planning Director shall review the application to determine if the proposal satisfies the applicable review criteria and standards identified in this Code. Upon the conclusion of their review, the Planning Director shall take one of the following actions:
 - i. Approve the Minor Design Review, subject to any conditions that the Planning Director deems necessary to ensure compliance with this Code and the Community Plan.
 - ii. Deny the Minor Design Review and state the specific reason(s) for denial.
- b. The decision by the Planning Director will be added to the consent agenda for the next available Design Review Board meeting. At this meeting, the Design Review Board may, by a majority vote, call up the Planning Director's decision for review. Should the Design Review Board decide to call up the Planning Director's decision, the Design Review Board shall review said decision in accordance with the requirements of this Section and take one of the following actions:
 - i. Affirm the Planning Director's decision.

- ii. Affirm the Planning Director's decision with any conditions of approval that the Design Review Board deems necessary to ensure compliance with this Code and the Community Plan.
- iii. Reverse the Planning Director's decision.

If no call up is initiated by the Design Review Board and the consent agenda is approved, the decision by the Planning Director shall be final.

- c. At the discretion of the Planning Director, a novel, complex, or contested application may be referred to the Design Review Board for review and a decision. If an application is referred to the Design Review Board, the Planning Director will provide the applicant with written notice of their decision.
- 6. Step 6: Schedule Public Hearing.** If the Planning Director refers an application to the Design Review Board, the Planning Director shall schedule the application for a public hearing before the Design Review Board in accordance with the following requirements and notify the applicant, in writing, of the date, time, and location of the public hearing.
- a. The public hearing shall be scheduled for a regularly scheduled meeting or a special meeting of the Design Review Board.
 - b. The first public hearing before the Planning Commission shall be scheduled no later than forty (40) business days from the date of the Planning Director's decision to refer the application.
- 7. Step 7: Notice of Public Hearing.** Prior to the date of the first public hearing with the Design Review Board, the applicant shall:
- a. *Mail Notice.* Mail notice, by certified mail, to all property owners of record within one hundred (100) feet of the subject property, in accordance with [Section 16-5-###](#).
 - b. *Publish Notice.* Publish notice in a local newspaper, having general circulation within the Town, in accordance with [Section 16-5-###](#).
 - c. *Post Notice.* Post notice on a sign on the subject property in accordance with [Section 16-5-###](#).
 - d. *Mail Notice to Mineral Estate Owners (As Required).* If required by the Colorado Revised Statutes, mail notice to mineral estate owners in accordance with [Section 16-5-###](#).
 - e. *Submit Proof of Notice.* Submit proof of notice in accordance with [Section 16-5-###](#).
- 8. Step 8: Staff Report.** If the Planning Director refers an application to the Design Review Board, Town staff shall prepare a staff report that addresses the following, as applicable:
- a. Compliance with the standards of this Code.
 - b. Issues raised during the review of the application by town staff, town consultants, and/or referral agencies.

- c. Recommended conditions to ensure compliance with applicable standards.
- d. Additional information pertinent to the review of the application that must be submitted by the applicant.

9. Step 9: Public Hearing with Design Review Board.

- a. The Design Review Board will hold a public hearing, in accordance with **Section 16-5-##**, to review the application. The applicant, or their agent, must be present at the hearing.
- b. At least five (5) calendar days prior to the public hearing, the Planning Director shall make available the following materials to the Planning Commission, the applicant, and the public:
 - i. The application and any supporting materials.
 - ii. The staff report.
 - iii. Copies of any comments received by the Town from town departments, town consultants, referral agencies, and/or the public.
- c. Following the close of the public hearing, the Design Review Board shall consider the application and any supporting materials, the staff report, public testimony, and the review criteria for a Minor Design Review, and shall take one of the following actions:
 - i. Approve the request, subject to any conditions that the Design Review Board deems necessary to ensure compliance with this Code and the Community Plan.
 - ii. Deny the request and state the specific reason(s) for denial.

10. Step 10: Notice of Decision.

- a. Within ten (10) business days of a final action by the Planning Director or the Design Review Board, the following shall occur:
 - i. The Planning Director will send written notice of the decision to the applicant.
 - ii. A copy of the decision will be made available to the applicant during normal business at Minturn Town Hall.

F. Building Permit and Construction Process

Refer to **Subsection 16-5-70(G)**.

G. Modification of Approval

Any modification to a Minor Design Review approval shall require the submittal of a new application that is processed and reviewed in accordance with the procedures and standards set forth in this Section.

H. Duration of Approval

An approval by the Planning Director or the Design Review Board shall expire and become null and void one (1) year after the date of approval unless one of the following has occurred:

1. A building permit is issued.
2. Construction has commenced and is diligently pursued towards completion.
3. A request for an extension has been submitted and approved in accordance with [Subsection 16-5-##\(##\)](#).

I. Extension of Approval

1. An applicant with an approval from the Planning Director or the Design Review Board may submit a written request for an extension of their approval. Such a request must be received at least thirty (30) calendar days prior to the expiration date of the approval. Any request received later than this will not be considered by the Town.
2. Upon a showing of good cause, the Planning Director may authorize one (1) extension of an approval for a period of up to twelve (12) calendar months.

DRAFT

Section 16-5-90: Location and Extent

A. Applicability

1. Any project proposed by a political subdivision of the state or a publicly or privately owned utility must comply with the requirements and procedures set forth in this Section.
2. The requirements and procedures set forth in this Section are in-lieu of the Town's Design Review and Minor Design Review requirements and procedures.

B. Purpose

The purpose of this Section is to provide the Town with an opportunity to review projects proposed by a public or quasi-public entity in relation to the Community Plan, and to inform any public or quasi-public entity of the Town's reasonable expectations for land use and development. Location and extent review is mandated by state law, C.R.S. §§ 30-28-110 and 22-32-101 et seq.

C. Application Submittal Requirements

An application for a Location and Extent shall include the following:

1. **Application.** A completed copy of the application form furnished by the Town. This form will, at minimum, require an applicant to submit the information listed in [Subsection 16-5-###-#](#).
2. **Application Fee.** Payment for the applicable fee, as designated by the Town's schedule of fees, shall be made at the time of submittal of an application.
3. **Narrative.** A written statement that describes the project and how the proposal complies with the review criteria set forth in this Section.

4. **Survey.** <Add Text>

5. **Site Plan.** <Add Text>

6. **Grading Plan.** <Add Text>

7. **Utility Plan.** <Add Text>

8. **Conceptual Architectural Plans.** <Add Text>

9. **Landscape Plan.** <Add Text>

10. **Lighting Plan.** <Add Text>

11. **Engineering Reports.** <Add Text>

a. *Traffic Analysis.* <Add Text>

b. *Soils and Geotechnical Report.* <Add Text>

c. *Drainage Analysis.* <Add Text>

Commented [MF8]: Working with Town staff to detail the submittal requirements for a Location and Extent application.

12. **Additional Information.** Any other information deemed necessary by the Planning Director to ensure a complete and proper review of the request.

D. Waiver of Application Submittal Requirements

1. At the discretion of the Planning Director, certain submittal requirements may be waived to tailor the requirements to the information that is necessary to review a specific application.
2. To authorize a waiver, the Planning Director must make a finding for the following:
 - a. The waiver will not compromise a proper and complete review of the application.
 - b. The submittal requirement(s) to be waived is not necessary for describing the proposal or demonstrating compliance with the applicable review criteria.
3. If the Planning Director authorizes a waiver, they will:
 - a. Provide the applicant with written notice of their decision.
 - b. Include in their staff report a list of the submittal requirements waived and the findings made to justify the waiver.

E. Application Review Criteria

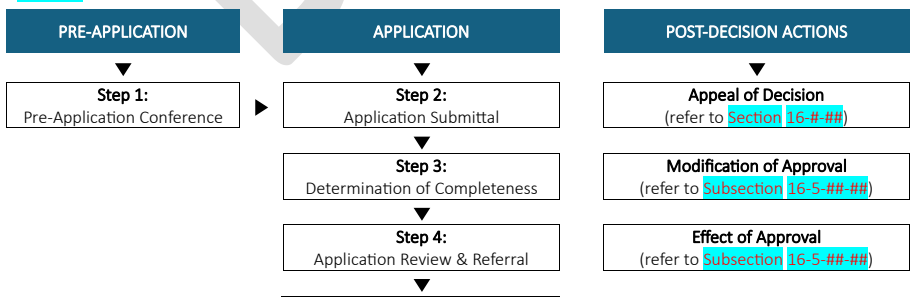
The Planning Commission may recommend approval of, and the Town Council may approve, a request for a Location and Extent upon a positive finding of each of the following criteria:

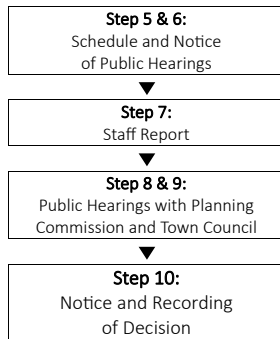
1. Is in substantial compliance with the Community Plan, other plans adopted by the Town, and Town policies.
2. Minimizes adverse impacts to the health, safety, and welfare of Minturn’s residents.

F. Application Review Procedures

A request for a Location and Extent will be reviewed and decided upon in accordance with the following procedures.

Table ##: Overview of Location and Extent Procedures





1. **Step 1: Pre-Application Conference.** A Pre-Application Conference is required prior to the submittal of an application for Location and Extent. This requirement may be waived at the discretion of the Planning Director.

The process for a Pre-Application Conference is as follows:

- a. *Schedule Pre-Application Conference.* The applicant must submit a written request for a Pre-Application Conference to the Planning Director. Within fourteen (14) calendar days of receiving such a request, the Planning Director will schedule the Pre-Application Conference and notify the applicant of the date, time, and location of the conference.
- b. *Materials for Pre-Application Conference.* If required by the Planning Director, the applicant will submit information that allows for an informal evaluation of the proposal. This information must be submitted at least five (5) business days prior to the Pre-Application Conference.
- c. *Attend Pre-Application Conference.* The applicant and the Planning Director will attend the Pre-Application Conference. The Planning Director may invite other town staff, town consultants, and/or county, state, or federal representatives to participate in the Pre-Application Conference if they deem it appropriate.

The purpose of the Pre-Application Conference is to provide the applicant, Planning Director, and other attendees with an opportunity to review and discuss the following:

- i. The applicant's proposal.
- ii. The applicable provisions of this Code.
- iii. The application submittal requirements and review procedures.
- iv. The referral agencies likely to be involved with the review of the application.

Depending on the magnitude or complexity of the applicant's proposal and/or the availability of other persons deemed necessary to attend, the Pre-Application Conference

may be continued for a reasonable time at the request of the applicant or the Planning Director.

- d. *Pre-Application Conference Summary.* Within ten (10) business days of the conclusion of the Pre-Application Conference, the Planning Director shall prepare, and provide the applicant with, a written summary of the conference.
 - e. *Effect of Pre-Application Conference.* Any information provided as part of a Pre-Application Conference shall not be binding on the town or the applicant.
2. **Step 2: Submittal of Application.** The applicant for a Location and Extent shall submit a complete application to the Town. Prior to the application submittal, the Planning Director shall determine, and inform the applicant of, the format (electronic or hard copy) and number of copies of the application to be submitted.
3. **Step 3: Determination of Completeness.** Within thirty (30) business days of the Town receiving an application, the Planning Director shall review the application and determine whether it is complete and includes sufficient information to be evaluated for general compliance with the requirements of this Code.
- a. *Application Deemed Complete.* If the Planning Director determines the application to be complete, they shall do the following:
 - i. Certify the application as complete and record the date of the determination of completeness.
 - ii. Notify the applicant, in writing, of the determination of completeness; any changes that need to be made to the application prior to commencing the application referral process; and the number of complete applications to be submitted to the Town for the referral process.
 - b. *Application Deemed Incomplete.* If the application is determined to be incomplete, the Planning Director shall notify the applicant, in writing, of the application's deficiencies and that no further action on the application will be taken until these deficiencies have been remedied.

If an applicant fails to correct deficiencies in their application, the Planning Director may deem the application to be withdrawn in accordance with [Subsection 16-5-###-#](#).
 - c. *Extension of Timeframe for Determination of Completeness.* The Planning Director may extend the timeframe for a determination of completeness by up to ten (10) business days if one of the following conditions exist:
 - i. The scope of the application warrants additional time for the Planning Director to review the application and make a determination of completeness.
 - ii. The Planning Director's workload justifies the need for an extension of time to review the application and make a determination of completeness.

If the Planning Director chooses to extend the time for the review and determination of completeness for an application, they will provide the applicant with written notice of their decision.

4. **Step 4: Application Review and Referral.**

- a. Within five (5) business days of receiving the requested number of complete applications from the applicant, the Planning Director shall circulate copies of the application package for review and comment by the town departments, town consultants, and referral agencies that may be affected by the proposal. The Planning Director is responsible for determining the appropriate town departments, town consultants, and referral agencies to involve in the review of an application.
- b. The comment period for the review by referral agencies shall be twenty (20) business days from the date that the application is circulated by the Planning Director. Upon request by a referral agency, the Planning Director may authorize one (1) extension of this comment period by up to ten (10) business days.
- c. Comments not received by the Town within the applicable time frame will be considered a no comment.
- d. Town departments and town consultants may provide comments on an application at any time during the review process.

5. **Step 5: Schedule Public Hearings.** Upon the conclusion of the referral process, the Planning Director shall schedule the application for public hearings before the Planning Commission and Town Council in accordance with the following requirements and notify the applicant, in writing, of the date, time, and location of each public hearing.

- a. The public hearings shall be scheduled for a regularly scheduled meeting or a special meeting of the Planning Commission and Town Council.
- b. The first public hearing before the Planning Commission shall be scheduled no later than forty (40) business days after the conclusion of the referral process.
- c. A public hearing before the Town Council shall be scheduled within forty (40) business days of the Planning Commission completing its review and making a recommendation to the Town Council.

6. **Step 7: Notice of Public Hearing.** Prior to the date of the first public hearing with the Planning Commission, the applicant shall:

- a. *Mail Notice.* Mail notice, by certified mail, to all property owners of record within one hundred (100) feet of the subject property, in accordance with [Section 16-5-##](#).
- b. *Publish Notice.* Publish notice in a local newspaper, having general circulation within the Town, in accordance with [Section 16-5-##](#).

- c. *Post Notice*. Post notice on a sign on the subject property in accordance with Section 16-5-##.
 - d. *Mail Notice to Mineral Estate Owners (As Required)*. If required by the Colorado Revised Statutes, mail notice to mineral estate owners in accordance with Section 16-5-##.
 - e. *Submit Proof of Notice*. Submit proof of notice in accordance with Section 16-5-##.
7. **Step 8: Staff Report.** Town staff shall prepare a staff report that addresses the following, as applicable:
- a. Compliance with the standards of this Code.
 - b. Issues raised during the review of the application by town staff, town consultants, and/or referral agencies.
 - c. Recommended conditions to ensure compliance with applicable standards.
 - d. Additional information pertinent to the review of the application that must be submitted by the applicant.
8. **Step 9: Public Hearing with Planning Commission.**
- a. The Planning Commission will hold a public hearing, in accordance with Section 16-5-##, to review the application. The applicant, or their agent, must be present at the hearing.
 - b. At least five (5) calendar days prior to the public hearing, the Planning Director shall make available the following materials to the Planning Commission, the applicant, and the public:
 - i. The application and any supporting materials.
 - ii. The staff report.
 - iii. Copies of any comments received by the Town from town departments, town consultants, referral agencies, and/or the public.
 - c. Following the close of the public hearing, the Planning Commission shall consider the application and any supporting materials, the staff report, public testimony, and the review criteria for a Location and Extent, and shall take one of the following actions:
 - i. Recommend that the Town Council approve the request, subject to any changes that the Planning Commission deems necessary to ensure compliance with this Code and the Community Plan.
 - ii. Recommend that Town Council deny the request and state the specific reason(s) for denial.
9. **Step 10: Public Hearing with Town Council.**

- a. Following the public hearing with the Planning Commission, the Town Council will hold a public hearing, in accordance with Section 16-5-###, to review the application. The applicant, or their agent, must be present at the hearing.
 - b. At least five (5) calendar days prior to the public hearing, the Planning Director shall make available the following materials to the Town Council, the applicant, and the public:
 - i. The application and any supporting materials.
 - ii. The staff report.
 - iii. The Planning Commission's recommendation.
 - iv. Copies of any comments received by the Town from town departments, town consultants, referral agencies, and/or the public.
 - c. Following the close of the public hearing, the Town Council shall consider the application and any supporting materials, the staff report, the recommendation of the Planning Commission, public testimony, and the review criteria for a Location and Extent, and shall take one of the following actions:
 - i. Approve the request, subject to any changes that the Town Council deems necessary to ensure compliance with this Code and the Community Plan.
 - ii. Deny the request and state the specific reason(s) for denial.
 - d. If the Town Council approves a Location and Extent, it shall enact a resolution to such effect.
10. **Step 11: Notice and Recording of Decision.**
- a. Within ten (10) business days of a final action by Town Council, the following will occur:
 - i. The Planning Director will send written notice of the decision to the applicant.
 - ii. A copy of the decision will be made available to the applicant during normal business at Minturn Town Hall.
 - b. If Town Council approves a Location and Extent, the Town Clerk will enter a copy of the resolution into the town's records.

Commented [MF9]: Does the Town Council pass a resolution or an ordinance for a decision on a Location and Extent application?

G. Modification of Approval

Any modification to an approved Location and Extent shall require the submittal of a new application that is processed and reviewed in accordance with the procedures and standards set forth in this Section.

H. Effect of Approval

Following the approval of a Location and Extent application, the applicant is authorized to apply for a grading permit, building permit, and/or similar type of permit required by the Town. An application for

such permit(s) shall be in substantial compliance with the approved Location and Extent application and shall be reviewed by the Building Official for compliance with all applicable codes and laws of the Town.

DRAFT

Section 16-5-100: Limited Review Use

A. Applicability

1. This Section applies to all land uses classified as a Limited Review Use in [Table ##](#).
2. A Certificate of Zoning Compliance shall be required prior to the issuance of a building permit for, or the establishment of, any building, structure, or land use that is listed as a Limited Review Use in [Table ##](#).
3. The Planning Director will issue a Certificate of Zoning Compliance for a Limited Review Use that has been reviewed and approved or approved with conditions in accordance with this Section.

B. Purpose

The purpose of this Section is to provide an efficient administrative review process for land uses that are allowed in a specific zone district subject to compliance with established use-specific standards.

C. Application Submittal Requirements

An application for a Limited Review Use shall include the following:

1. **Application.** A completed copy of the application form furnished by the Town. This form will, at minimum, require an applicant to submit the information listed in [Subsection 16-5-##-#](#).
2. **Application Fee.** Payment for the applicable fee, as designated by the Town's schedule of fees, shall be made at the time of submittal of an application.
3. **Narrative.** A written statement that describes the following:
 - a. The precise nature and operational characteristics of the proposed use; AND,
 - b. How the proposed use complies with the applicable requirements of this Code and the review criteria set forth in this Section.
4. **Site Plan.** A site plan, drawn to scale, showing the following information:
 - a. The boundaries of the subject property including bearings and dimensions.
 - b. Minimum required front, side, rear, and live stream setbacks lines.
 - c. Existing topography and any proposed changes.
 - d. The location and dimensions or size of all existing and proposed:
 - i. Land uses.
 - ii. Buildings and structures (or building envelopes if exact dimensions are not available) and their setbacks from the boundaries of the subject property.
 - iii. Easements and public rights-of-way on or abutting the subject property.

- iv. Streets, alleys, driveways, sidewalks, paths, and/or other access improvements.
- v. Parking and loading areas.
- vi. Usable open space.
- vii. Landscaped areas, fencing, and walls.
- viii. Utilities, including information about any changes to these utilities that will be necessitated by the proposed use.
- ix. Drainage facilities and features.

e. A table with that includes the following data:

- i. Size of the subject property.
- ii. Total number of dwelling units and number of each type of unit (studio, one bedroom, etc.).
- iii. Floor area of each type of dwelling unit.
- iv. Total building coverage provided as a percentage of the total area of the subject property.
- v. Total impervious surface coverage provided as a percentage of the total area of the subject property.
- vi. Total area of usable open space.
- vii. Total landscaped area.
- viii. Total number of parking spaces.

- 5. **Conceptual Building Plans and Elevations.** Conceptual plans and elevations with sufficient detail to depict the layout, dimensions, general appearance, and scale of any proposed buildings.
- 6. **Additional Information.** Any other information deemed necessary by the Planning Director to ensure a complete and proper review of the request.

D. Waiver of Application Submittal Requirements

- 1. At the discretion of the Planning Director, certain submittal requirements may be waived to tailor the requirements to the information that is necessary to review a specific application.
- 2. To authorize a waiver, the Planning Director must make a finding for the following:
 - a. The waiver will not compromise a proper and complete review of the application.

- b. The submittal requirement(s) to be waived is not necessary for describing the proposal or demonstrating compliance with the applicable review criteria.
- 3. If the Planning Director authorizes a waiver, they will provide the applicant with written notice of their decision.

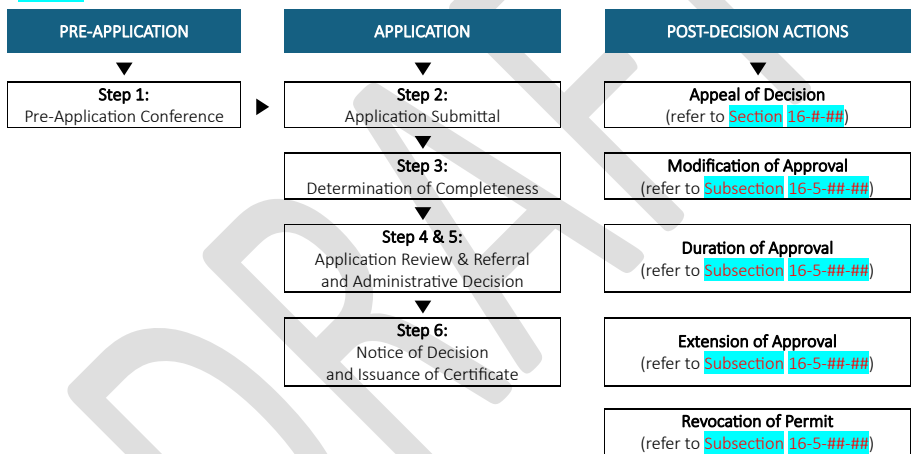
E. Application Review Criteria

The Planning Director may approve a request for a Limited Review Use upon a finding that the proposed use complies with the applicable provisions of this Code, including any Use-Specific Standards.

F. Application Review Procedures

A request for a Limited Review Use will be reviewed and decided upon in accordance with the following procedures.

Table ##: Overview of Limited Review Use Procedures



1. **Step 1: Pre-Application Conference.** A Pre-Application Conference is required prior to the submittal of an application for a Limited Review Use. This requirement may be waived at the discretion of the Planning Director.

The process for a Pre-Application Conference is as follows:

- a. *Schedule Pre-Application Conference.* The applicant must submit a written request for a Pre-Application Conference to the Planning Director. Within fourteen (14) calendar days of receiving such a request, the Planning Director will schedule the Pre-Application Conference and notify the applicant of the date, time, and location of the conference.
- b. *Materials for Pre-Application Conference.* If required by the Planning Director, the applicant will submit information that allows for an informal evaluation of the proposal. This

information must be submitted at least five (5) business days prior to the Pre-Application Conference.

- c. *Attend Pre-Application Conference.* The applicant and the Planning Director will attend the Pre-Application Conference. The Planning Director may invite other town staff, town consultants, and/or county, state, or federal representatives to participate in the Pre-Application Conference if they deem it appropriate.

The purpose of the Pre-Application Conference is to provide the applicant, Planning Director, and other attendees with an opportunity to review and discuss the following:

- i. The applicant's proposal.
- ii. The applicable provisions of this Code.
- iii. The application submittal requirements and review procedures.
- iv. The referral agencies likely to be involved with the review of the application.

Depending on the magnitude or complexity of the applicant's proposal and/or the availability of other persons deemed necessary to attend, the Pre-Application Conference may be continued for a reasonable time at the request of the applicant or the Planning Director.

- d. *Pre-Application Conference Summary.* Within ten (10) business days of the conclusion of the Pre-Application Conference, the Planning Director shall prepare, and provide the applicant with, a written summary of the conference.
 - e. *Effect of Pre-Application Conference.* Any information provided as part of a Pre-Application Conference shall not be binding on the town or the applicant.
2. **Step 2: Submittal of Application.** The applicant for a Limited Review Use shall submit a complete application to the Town. Prior to the application submittal, the Planning Director shall determine, and inform the applicant of, the format (electronic or hard copy) and number of copies of the application to be submitted.
 3. **Step 3: Determination of Completeness.** Within thirty (30) business days of the Town receiving an application, the Planning Director shall review the application and determine whether it is complete and includes sufficient information to be evaluated for general compliance with the requirements of this Code.
 - a. *Application Deemed Complete.* If the Planning Director determines the application to be complete, they shall do the following:
 - i. Certify the application as complete and record the date of the determination of completeness.

ii. Notify the applicant, in writing, of the determination of completeness; any changes that need to be made to the application prior to commencing the application referral process; and the number of complete applications to be submitted to the Town for the referral process.

b. *Application Deemed Incomplete.* If the application is determined to be incomplete, the Planning Director shall notify the applicant, in writing, of the application's deficiencies and that no further action on the application will be taken until these deficiencies have been remedied.

If an applicant fails to correct deficiencies in their application, the Planning Director may deem the application to be withdrawn in accordance with [Subsection 16-5-###-#](#).

c. *Extension of Timeframe for Determination of Completeness.* The Planning Director may extend the timeframe for a determination of completeness by up to ten (10) business days if one of the following conditions exist:

- i. The scope of the application warrants additional time for the Planning Director to review the application and make a determination of completeness.
- ii. The Planning Director's workload justifies the need for an extension of time to review the application and make a determination of completeness.

If the Planning Director chooses to extend the time for the review and determination of completeness for an application, they will provide the applicant with written notice of their decision.

4. **Step 4: Application Review and Referral.**

- a. Within five (5) business days of receiving the requested number of complete applications from the applicant, the Planning Director shall circulate copies of the application package for review and comment by the town departments, town consultants, and referral agencies that may be affected by the proposal. The Planning Director is responsible for determining the appropriate town departments, town consultants, and referral agencies to involve in the review of an application.
- b. The comment period for the review by referral agencies shall be twenty (20) business days from the date that the application is circulated by the Planning Director. Upon request by a referral agency, the Planning Director may authorize one (1) extension of this comment period by up to ten (10) business days.
- c. Comments from referral agencies not received by the Town within the applicable time frame will be considered a no comment.
- d. Town departments and town consultants may provide comments on an application at any time during the review process.

5. **Step 5: Administrative Decision.** Upon the conclusion of the application review and referral process, the Planning Director shall review the application to determine if the proposal satisfies

the applicable review criteria and standards identified in this Code. Upon the conclusion of their review, the Planning Director shall take one of the following actions:

- a. Approve the Limited Review Use, subject to any conditions that the Planning Director deems necessary to ensure compliance with this Code and the Community Plan.
 - b. Deny the Limited Review Use and state the specific reason(s) for denial.
6. **Step 6: Notice of Decision and Issuance of Certificate.** Within ten (10) business days of a final action by Planning Director, the following shall occur:
- a. The Planning Director will send written notice of the decision to the applicant.
 - b. A copy of the decision will be made available to the applicant during normal business at Minturn Town Hall.
 - c. If a Limited Review Use is approved, the Planning Director will issue, to the applicant, a Certificate of Zoning Compliance that states the following:
 - i. Description and location of the approved use.
 - ii. Duration of approval.
 - iii. Any conditions of approval.
 - iv. Any other information that the Planning Director deems necessary to include as part of the Certificate of Zoning Compliance.

G. Modification of Approval

Any modification to an approved Certificate of Zoning Compliance (i.e., an approved Limited Review Use) shall require the submittal of a new application that is processed and reviewed in accordance with the procedures and standards set forth in this Section.

H. Duration of Approval

A Certificate of Zoning Compliance shall expire and become null and void one (1) year after the date of issuance unless one of the following has occurred:

1. The approved use has been established, is on-going, and in operation (if no building permit from the Town is required).
2. A complete building permit application has been submitted and approved by the Town and on-site construction has commenced.
3. A request for an extension has been submitted and approved in accordance with [Subsection 16-5-###](#).

I. Extension of Approval

1. The holder of a Certificate of Zoning Compliance may submit a written request for an extension of their approval to the Planning Director. Such a request must be received a minimum of thirty (30) calendar days prior to the expiration date of the Certificate of Zoning Compliance. Any request received later than this will not be considered by the Town.
2. A request to extend the approval of a Certificate of Zoning Compliance must demonstrate the following:
 - a. Failure to establish the use was beyond the applicant's control.
 - b. The approved use is not speculative in nature.
 - c. The approved use remains in compliance with this Code and the Community Plan.
 - d. There is reasonable likelihood that the approved use will be established in the next year.
3. The Planning Director may authorize one (1) extension of a Certificate of Zoning Compliance for a period of up to twelve (12) calendar months.

DRAFT

Section 16-5-110: Rezoning (Amendment to Zoning Map)

A. Applicability

1. All amendments to the Town's Official Zoning Map must comply with the requirements and procedures set forth in this Section.
2. Changing the zoning of a property, or properties, from one zone district to another constitutes an amendment to the Town's Official Zoning Map.
3. An amendment to the Town's Official Zoning Map may be proposed by the Town Council; the Planning Commission; Town staff; or an owner of, or other person with a recognized interest in, land in the Town or their authorized agent.
4. A rezoning should not be used when a Conditional Use Permit, Variance, or other relief could be used to achieve a similar result.

B. Purpose

The purpose of this Section is to establish the requirements and procedures for amending the Town's Official Zoning Map.

C. Application Submittal Requirements

An application for Rezoning shall include the following:

1. **Application.** A completed copy of the application form furnished by the Town. This form will, at minimum, require an applicant to submit the information listed in **Subsection 16-5-##-#**.
2. **Application Fee.** Payment for the applicable fee, as designated by the Town's schedule of fees, shall be made at the time of submittal of an application.
3. **Narrative.** A written statement that describes the following:
 - a. The new zone district being requested.
 - b. The justification for rezoning based on the review criteria set forth in this Section.
 - c. Why the proposed zone district is more appropriate for the subject property than the existing zoning.
4. **Zoning and Land Use Map.** A map that shows the existing zoning of, and land uses on, all properties within three hundred (300) feet of the subject property.
5. **Survey.** A scaled survey that depicts the existing conditions of the subject property. The following information must be shown:
 - a. Date of survey.
 - b. Legal description.
 - c. Property boundaries including bearings and dimensions.

Commented [MF10]: In De Beque we require all applicants to sign an Agreement to Pay Form to ensure that applicants are aware that they will be required to pay all costs associated with the review of an application by the town's consultants.

Is this an appropriate requirement for Minturn?

Commented [MF11]: This requirement has been removed per the direction of the Town Attorney.

- d. Existing natural features including, but not limited to, vegetation, rock-outcroppings, and watercourses.
 - e. Environmentally sensitive areas or areas of natural hazards, where applicable (rock fall areas, wetlands, one-hundred-year floodplain, etc.).
 - f. Existing improvements including, but not limited to, buildings, streets, sidewalks, trails.
 - g. Dimensions between existing buildings or structures and all property boundaries.
 - h. Other information that is necessary to demonstrate compliance with the requirements of the proposed zone district.
6. **Additional Information.** Any other information deemed necessary by the Planning Director to ensure a complete and proper review of the request.

D. Waiver of Application Submittal Requirements

- 1. At the discretion of the Planning Director, certain submittal requirements may be waived to tailor the requirements to the information that is necessary to review a specific application.
- 2. To authorize a waiver, the Planning Director must make a finding for the following:
 - a. The waiver will not compromise a proper and complete review of the application.
 - b. The submittal requirement(s) to be waived is not necessary for describing the proposal or demonstrating compliance with the applicable review criteria.
- 3. If the Planning Director authorizes a waiver, they will:
 - a. Provide the applicant with written notice of their decision.
 - b. Include in their staff report a list of the submittal requirements waived and the findings made to justify the waiver.

E. Application Review Criteria

The Planning Commission may recommend approval of, and the Town Council may approve, a request for Rezoning upon a positive finding of each of the following criteria:

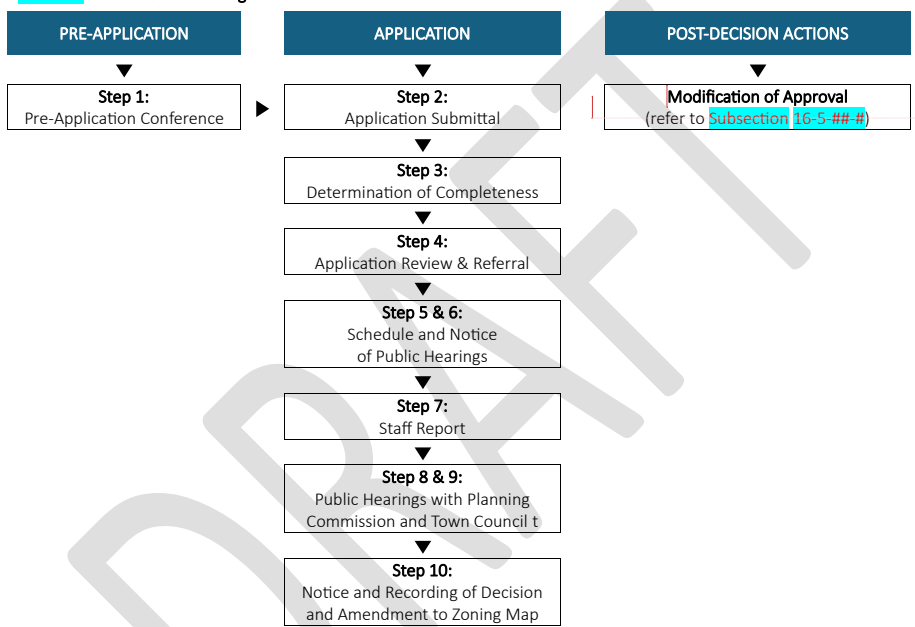
- 1. The change in zoning is consistent with the Community Plan, specifically the Future Land Use Map, and any other applicable plan adopted by the Town.
- 2. The change in zoning will not have significant adverse impacts on the natural environment, including, but not limited to, water, air, noise, stormwater management, wildlife habitat, vegetation, and wetlands.
- 3. The change in zoning supports the logical and orderly development of the Town and the necessary public facilities and services are available or can be provided.

4. The proposed zone district is compatible with existing and allowed uses on properties in the immediate vicinity of the subject property.
5. The change in zoning does not constitute spot zoning.

F. Application Review Procedures

A request for Rezoning will be reviewed and decided upon in accordance with the following procedures.

Table ##: Overview of Rezoning Review Procedures



Commented [MF12]: Per the Town Attorney, there is no appeal of a Rezoning. This is a legislative action.

1. **Step 1: Pre-Application Conference.** A Pre-Application Conference is required prior to the submittal of an application for Rezoning. This requirement may be waived at the discretion of the Planning Director.

The process for a Pre-Application Conference is as follows:

- a. *Schedule Pre-Application Conference.* The applicant must submit a written request for a Pre-Application Conference to the Planning Director. Within fourteen (14) calendar days of receiving such a request, the Planning Director will schedule the Pre-Application Conference and notify the applicant of the date, time, and location of the conference.
- b. *Materials for Pre-Application Conference.* If required by the Planning Director, the applicant will submit information that allows for an informal evaluation of the proposal. This

information must be submitted at least five (5) business days prior to the Pre-Application Conference.

- c. *Attend Pre-Application Conference.* The applicant and the Planning Director will attend the Pre-Application Conference. The Planning Director may invite other town staff, town consultants, and/or county, state, or federal representatives to participate in the Pre-Application Conference if they deem it appropriate.

The purpose of the Pre-Application Conference is to provide the applicant, Planning Director, and other attendees with an opportunity to review and discuss the following:

- i. The applicant's proposal.
- ii. The applicable provisions of this Code.
- iii. The application submittal requirements and review procedures.
- iv. The referral agencies likely to be involved with the review of the application.

Depending on the magnitude or complexity of the applicant's proposal and/or the availability of other persons deemed necessary to attend, the Pre-Application Conference may be continued for a reasonable time at the request of the applicant or the Planning Director.

- d. *Pre-Application Conference Summary.* Within ten (10) business days of the conclusion of the Pre-Application Conference, the Planning Director shall prepare, and provide the applicant with, a written summary of the conference.
 - e. *Effect of Pre-Application Conference.* Any information provided as part of a Pre-Application Conference shall not be binding on the Town or the applicant.
2. **Step 2: Submittal of Application.** The applicant for a Rezoning shall submit a complete application to the Town. Prior to the application submittal, the Planning Director shall determine, and inform the applicant of, the format (electronic or hard copy) and number of copies of the application to be submitted.
 3. **Step 3: Determination of Completeness.** Within thirty (30) business days of the Town receiving an application, the Planning Director shall review the application and determine whether it is complete and includes sufficient information to be evaluated for general compliance with the requirements of this Code.
 - a. *Application Deemed Complete.* If the Planning Director determines the application to be complete, they shall do the following:
 - i. Certify the application as complete and record the date of the determination of completeness.

ii. Notify the applicant, in writing, of the determination of completeness; any changes that need to be made to the application prior to commencing the application referral process; and the number of complete applications to be submitted to the Town for the referral process.

b. *Application Deemed Incomplete.* If the application is determined to be incomplete, the Planning Director shall notify the applicant, in writing, of the application's deficiencies and that no further action on the application will be taken until these deficiencies have been remedied.

If an applicant fails to correct deficiencies in their application, the Planning Director may deem the application to be withdrawn in accordance with [Subsection 16-5-###-#](#).

c. *Extension of Timeframe for Determination of Completeness.* The Planning Director may extend the timeframe for a determination of completeness by up to ten (10) business days if one of the following conditions exist:

- i. The scope of the application warrants additional time for the Planning Director to review the application and make a determination of completeness.
- ii. The Planning Director's workload justifies the need for an extension of time to review the application and make a determination of completeness.

If the Planning Director chooses to extend the time for the review and determination of completeness for an application, they will provide the applicant with written notice of their decision.

4. Step 4: Application Review and Referral.

- a. Within five (5) business days of receiving the requested number of complete applications from the applicant, the Planning Director shall circulate copies of the application package for review and comment by the town departments, town consultants, and referral agencies that may be affected by the proposal. The Planning Director is responsible for determining the appropriate town departments, town consultants, and referral agencies to involve in the review of an application.
- b. The comment period for the review by referral agencies shall be twenty (20) business days from the date that the application is circulated by the Planning Director. Upon request by a referral agency, the Planning Director may authorize one (1) extension of this comment period by up to ten (10) business days.
- c. Comments from referral agencies not received by the Town within the applicable time frame will be considered a no comment.
- d. Town departments and town consultants may provide comments on an application at any time during the review process.

5. **Step 5: Schedule Public Hearings.** Upon the conclusion of the referral process, the Planning Director shall schedule the application for public hearings before the Planning Commission and Town Council in accordance with the following requirements:
 - a. The public hearings shall be scheduled for a regularly scheduled meeting or a special meeting of the Planning Commission and Town Council.
 - b. The first public hearing before the Planning Commission shall be scheduled no later than forty (40) business days after the date of determination of completeness.
 - c. A public hearing before the Town Council shall be scheduled within forty (40) business days of the Planning Commission completing its review and making a recommendation to the Town Council. In accordance with the Home Rule Charter, the public hearing with the Town Council is to be held at the second meeting that the ordinance for the rezoning is introduced a second time.
6. **Step 6: Notice of Public Hearings.**
 - a. Prior to the date of the first public hearing with the Planning Commission, the applicant shall:
 - i. *Mail Notice.* Mail notice, by certified mail, to all property owners of record within one hundred (100) feet of the subject property, in accordance with [Section 16-5-###](#).
 - ii. *Publish Notice.* Publish notice in a local newspaper, having general circulation within the Town, in accordance with [Section 16-5-###](#).
 - iii. *Post Notice.* Post notice on a sign on the subject property in accordance with [Section 16-5-###](#).
 - iv. *Mail Notice to Mineral Estate Owners (As Required).* If required by the Colorado Revised Statutes, mail notice to mineral estate owners in accordance with [Section 16-5-###](#).
 - v. *Submit Proof of Notice.* Submit proof of notice in accordance with [Section 16-5-###](#).
 - b. A rezoning initiated by the Town shall only require the publishing of notice in accordance with [Section 16-5-###](#).
7. **Step 7: Staff Report.** Town staff shall prepare a staff report that addresses the following, as applicable:
 - a. Compliance with the standards of this Code.
 - b. Issues raised during the review of the application by town staff, town consultants, and/or referral agencies.
 - c. Recommended conditions to ensure compliance with applicable standards.

- d. Additional information pertinent to the review of the application that must be submitted by the applicant.
8. **Step 8: Public Hearing with Planning Commission.**
- a. The Planning Commission will hold a public hearing, in accordance with [Section 16-5-##](#), to review the application. The applicant, or their agent, must be present at the hearing.
 - b. At least five (5) calendar days prior to the public hearing, the Planning Director shall make available the following materials to the Planning Commission, the applicant, and the public:
 - i. The application and any supporting materials.
 - ii. The staff report.
 - iii. Copies of any comments received by the Town from town departments, town consultants, referral agencies, and/or the public.
 - c. Following the close of the public hearing, the Planning Commission shall consider the application and any supporting materials, the staff report, public testimony, and the review criteria for a Rezoning, and shall take one of the following actions:
 - i. Recommend that Town Council approve the Rezoning.
 - ii. Recommend that Town Council deny the Rezoning and state the specific reason(s) for denial.
9. **Step 9: Public Hearing with Town Council.**
- a. Following the public hearing with the Planning Commission, the Town Council will hold a public hearing, in accordance with [Section 16-5-##](#), to review the application. The applicant, or their agent, must be present at the hearing.
 - b. At least five (5) calendar days prior to the public hearing, the Planning Director shall make available the following materials to the Town Council, the applicant, and the public:
 - i. The application and any supporting materials.
 - ii. The staff report.
 - iii. The Planning Commission's recommendation.
 - iv. Copies of any comments received by the Town from town departments, town consultants, referral agencies, and/or the public.
 - c. Following the close of the public hearing, the Town Council shall consider the application and any supporting materials, the staff report, the recommendation of the Planning Commission, public testimony, and the review criteria for a Rezoning, and shall take one of the following actions:

- i. Approve the Rezoning.
- ii. Deny the Rezoning and state the specific reason(s) for denial.
- d. If Town Council approves a Rezoning, it shall enact an ordinance to such effect.

10. Step 10: Notice and Recording of Decision and Amendment to Zoning Map.

- a. Within ten (10) business days of a final action by Town Council, the following will occur:
 - i. The Planning Director will send written notice of the decision to the applicant.
 - ii. A copy of the decision will be made available to the applicant during normal business at Minturn Town Hall.
- b. If Town Council approves a Rezoning, the Town Clerk will do the following:
 - iii. Enter a copy of the ordinance approving the Rezoning into the town's records.
 - iv. Within thirty (30) calendar days of the effective date of the ordinance approving the Rezoning, update the Zoning Map to reflect the change in zoning.

G. Modification of Approval

Any modification to an approved Rezoning shall require the submittal of a new application that is processed and reviewed in accordance with the procedures and standards set forth in this Section.

Section 16-5-120: Temporary Use

A. Applicability

1. This Section applies to all land uses classified as a Temporary Use in [Table ##](#).
2. Special events approved through the Town's special events permit procedures are exempt from this Section.

B. Purpose

The purpose of this Section is to provide an efficient administrative review process for land uses and associated buildings or structures that will be established for no more than six (6) calendar months.

C. Application Submittal Requirements

An application for a Temporary Use shall include the following:

1. **Application.** A completed copy of the application form furnished by the Town. This form will, at minimum, require an applicant to submit the information listed in [Subsection 16-5-##-#](#).
2. **Application Fee.** Payment for the applicable fee, as designated by the Town's schedule of fees, shall be made at the time of submittal of an application.
3. **Narrative.** A written statement that describes the following:
 - a. The proposed location, precise nature, and operational characteristics of the proposed temporary use.
 - b. How the following will be addressed, as applicable:
 - i. Potable water supply.
 - ii. Sanitation including solid waste and sewage disposal.
 - iii. Emergency services including medical, police, and fire protection.
 - iv. Security and crowd control.
 - v. Parking and traffic control.
 - c. How the proposed use complies with the applicable requirements of this Code and the review criteria set forth in this Section.
4. **Agreement** A document, signed by the applicant and the owner of the subject property, if different from the applicant, that:
 - a. States the applicant agrees to cease the proposed use and remove any associated buildings or structures upon the expiration of the Temporary Use Permit;

- b. Authorizes the Town to remove any buildings or structures associated with the proposed use, if the use is not in compliance with the conditions of the Temporary Use Permit or the applicable requirements of this Code; AND,
 - c. States that the property owner will be responsible for all costs incurred by the Town to remove any buildings or structures associated with the proposed use.
5. **Required Licenses.** Evidence that the applicant has obtained or will obtain prior to the commencement of the Temporary Use, all licenses required by the Town and the State. Such licenses may include, but are not limited to, the following:
- a. Business license.
 - b. Sales tax license.
 - c. Approval from the State for food sales.
 - d. Liquor license.
 - e. A license issued by the Town if the proposed use is to be located on town-owned property.
6. **Additional Information.** Any other information deemed necessary by the Planning Director to ensure a complete and proper review of the request.

D. Waiver of Application Submittal Requirements

- 1. At the discretion of the Planning Director, certain submittal requirements may be waived to tailor the requirements to the information that is necessary to review a specific application.
- 2. To authorize a waiver, the Planning Director must make a finding for the following:
 - a. The waiver will not compromise a proper and complete review of the application.
 - b. The submittal requirement(s) to be waived is not necessary for describing the proposal or demonstrating compliance with the applicable review criteria.
- 3. If the Planning Director authorizes a waiver, they will provide the applicant with written notice of their decision.

E. Application Review Criteria

The Planning Director may approve a request for a Temporary Use upon a positive finding of each of the following criteria:

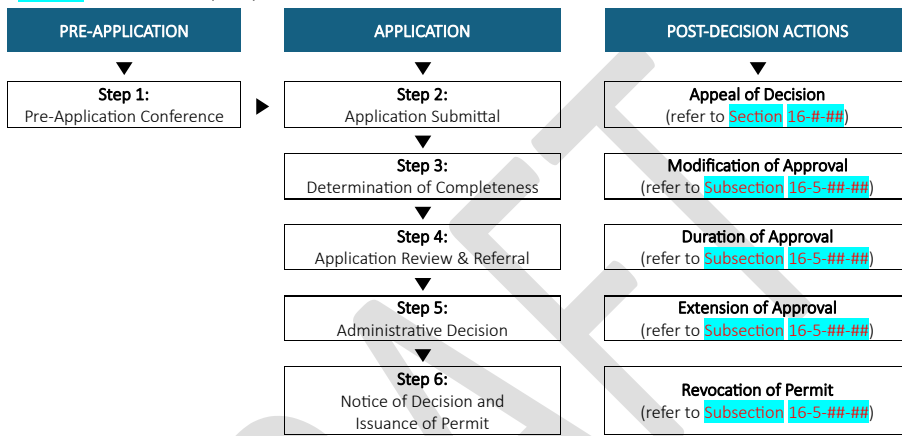
- 1. The proposed use is consistent with the Community Plan.
- 2. The proposed use complies with the applicable requirements of this Code and health, sanitation, safety, and access laws.

- The proposed use is compatible with existing land uses on properties surrounding the subject property.

F. Application Review Procedures

A request for a Temporary Use will be reviewed and decided upon in accordance with the following procedures.

Table ##: Overview of Temporary Use Review Procedures



- Step 1: Pre-Application Conference.** A Pre-Application Conference is required prior to the submittal of an application for a Temporary Use. This requirement may be waived at the discretion of the Planning Director.

The process for a Pre-Application Conference is as follows:

- Schedule Pre-Application Conference.* The applicant must submit a written request for a Pre-Application Conference to the Planning Director. Within fourteen (14) calendar days of receiving such a request, the Planning Director will schedule the Pre-Application Conference and notify the applicant of the date, time, and location of the conference.
- Materials for Pre-Application Conference.* If required by the Planning Director, the applicant will submit information that allows for an informal evaluation of the proposal. This information must be submitted at least five (5) business days prior to the Pre-Application Conference.
- Attend Pre-Application Conference.* The applicant and the Planning Director will attend the Pre-Application Conference. The Planning Director may invite other town staff, town consultants, and/or county, state, or federal representatives to participate in the Pre-Application Conference if they deem it appropriate.

The purpose of the Pre-Application Conference is to provide the applicant, Planning Director, and other attendees with an opportunity to review and discuss the following:

- i. The applicant’s proposal.
- ii. The applicable provisions of this Code.
- iii. The application submittal requirements and review procedures.
- iv. The referral agencies likely to be involved with the review of the application.

Depending on the magnitude or complexity of the applicant’s proposal and/or the availability of other persons deemed necessary to attend, the Pre-Application Conference may be continued for a reasonable time at the request of the applicant or the Planning Director.

- d. *Pre-Application Conference Summary.* Within ten (10) business days of the conclusion of the Pre-Application Conference, the Planning Director shall prepare, and provide the applicant with, a written summary of the conference.
 - e. *Effect of Pre-Application Conference.* Any information provided as part of a Pre-Application Conference shall not be binding on the town or the applicant.
2. **Step 2: Submittal of Application.** The applicant for a Temporary Use shall submit a complete application to the Town. Prior to the application submittal, the Planning Director shall determine, and inform the applicant of, the format (electronic or hard copy) and number of copies of the application to be submitted.
3. **Step 3: Determination of Completeness.** Within thirty (30) business days of the Town receiving an application, the Planning Director shall review the application and determine whether it is complete and includes sufficient information to be evaluated for general compliance with the requirements of this Code.
- a. *Application Deemed Complete.* If the Planning Director determines the application to be complete, they shall do the following:
 - i. Certify the application as complete and record the date of the determination of completeness.
 - ii. Notify the applicant, in writing, of the determination of completeness; any changes that need to be made to the application prior to commencing the application referral process; and the number of complete applications to be submitted to the Town for the referral process.
 - b. *Application Deemed Incomplete.* If the application is determined to be incomplete, the Planning Director shall notify the applicant, in writing, of the application’s deficiencies and that no further action on the application will be taken until these deficiencies have been remedied.

If an applicant fails to correct deficiencies in their application, the Planning Director may deem the application to be withdrawn in accordance with [Subsection 16-5-###-#](#).

- c. *Extension of Timeframe for Determination of Completeness.* The Planning Director may extend the timeframe for a determination of completeness by up to ten (10) business days if one of the following conditions exist:
 - i. The scope of the application warrants additional time for the Planning Director to review the application and make a determination of completeness.
 - ii. The Planning Director's workload justifies the need for an extension of time to review the application and make a determination of completeness.

If the Planning Director chooses to extend the time for the review and determination of completeness for an application, they will provide the applicant with written notice of their decision.

4. **Step 4: Application Review and Referral.**

- a. Within five (5) business days of receiving the requested number of complete applications from the application, the Planning Director shall circulate copies of the application package for review and comment by the town departments, town consultants, and referral agencies that may be affected by the proposal. The Planning Director is responsible for determining the appropriate town departments, town consultants, and referral agencies to involve in the review of an application.
- b. The comment period for the review by town departments, town consultants, and referral agencies shall be twenty (20) business days from the date that the application is circulated by the Planning Director. Upon request by a referral agency, the Planning Director may authorize one (1) extension of this comment period by up to ten (10) business days.
- c. Comments from referral agencies not received by the Town within the applicable time frame will be considered a no comment.
- d. Town departments and town consultants may provide comments on an application at any time during the review process.

5. **Step 5: Administrative Decision.**

- a. Upon the conclusion of the review and referral process, the Planning Director shall review the application to determine if the proposal satisfies the applicable review criteria and standards identified in this Code. Upon the conclusion of their review, the Planning Director shall take one of the following actions:
 - i. Approve the Temporary Use, subject to any conditions that the Planning Director deems necessary to ensure compliance with this Code and the Community Plan.
 - ii. Deny the Temporary Use and state the specific reason(s) for denial.

6. **Step 6: Notice of Decision and Issuance of Certificate.** Within ten (10) business days of a final action by Planning Director, the following shall occur:
 - a. The Planning Director will send written notice of the decision to the applicant.
 - b. A copy of the decision will be made available to the applicant during normal business at Minturn Town Hall.
 - c. If a Temporary Use is approved, the Planning Director will issue, to the applicant, a Temporary Use Permit that states the following:
 - i. Duration of the permit.
 - ii. Any conditions of approval.
 - iii. Notice of the Town's authority to revoke the permit in accordance with **Subsection 16-##-##**.
 - iv. Any other information that the Planning Director deems necessary to include as part of the permit.

G. Modification of Approval

Any modification to an approved Temporary Use Permit shall require the submittal of a new application that is processed and reviewed in accordance with the procedures and standards set forth in this Section.

H. Duration of Approval

All Temporary Use Permits shall expire and become null and void six (6) calendar months after the date of issuance unless a request for an extension has been submitted and approved in accordance with **Subsection 16-5-##-##**.

I. Extension of Approval

1. The holder of a Temporary Use Permit may submit a written request for an extension of their permit to the Planning Director. Such a request must be received at least five (5) business days prior to the expiration date of the Temporary Use Permit. Any request received later than this will not be considered by the Town.
2. Upon a showing of good cause by the permit holder, the Planning Director may authorize one (1) extension of an approved Temporary Use Permit for a period of up to thirty (30) calendar days.

J. Revocation of Permit

1. The Planning Director may revoke a Temporary Use Permit at any time if it is determined that the use is not being operated in compliance with the conditions of the permit, this Code, or any other provision of the Municipal Code.
2. If the Planning Director revokes a Temporary Use Permit, they shall provide written notice, stating the cause of such revocation, to the applicant.

Section 16-5-130: Zoning Variance

A. Applicability

1. All requests for variance from any zone district regulation, set forth in **Article ##**, must comply with the requirements and procedures set forth in this Section.
2. All requests for a variance from any sign regulation, set forth in **Article ##**, must comply with the requirements and procedures set forth in **Section 16-5-##**.
3. Variances from the use regulations prescribed for each zone district are not permitted.
4. Cost or inconvenience to the applicant, resulting from strict or literal compliance with a zoning regulation set forth in this Code, shall not be a reason for granting a variance

B. Purpose

1. The purpose of this Section is to establish the requirements and procedures for a variance from the strict application of any zone district regulation, set forth in **Article ##**.
2. The purpose of a variance is to provide an opportunity to mitigate practical difficulties or undue hardships that would result from the strict application of the zoning regulations set forth in this Code.

C. Application Submittal Requirements

An application for Zoning Variance shall include the following:

1. **Application.** A completed copy of the application form furnished by the Town. This form will, at minimum, require an applicant to submit the information listed in **Subsection 16-5-##-#**.
2. **Application Fee.** Payment for the applicable fee, as designated by the Town's schedule of fees, shall be made at the time of submittal of an application.
3. **Narrative.** A written statement that describes the following:
 - a. The precise nature of the proposed variance.
 - b. The justification for variance based on the review criteria set forth in this Section.
 - c. Any measures proposed to make the variance compatible with adjacent properties.
4. **Site Plan.** A site plan, drawn to scale, showing the following information:
 - a. Property boundaries including bearings and dimensions.
 - b. Minimum required front, side, rear, and live stream setback lines.
 - c. Existing topography and any proposed changes.
 - d. The location and dimensions or size of all existing and proposed:

- i. Land uses.
 - ii. Buildings and structures (or building envelopes if exact dimensions are not available) and their setbacks from the boundaries of the subject property.
 - iii. Easements and public rights-of-way on or abutting the subject property.
 - iv. Streets, alleys, driveways, sidewalks, paths, and/or other access improvements.
 - v. Parking and loading areas.
 - vi. Usable open space.
 - vii. Landscaped areas, fencing, and walls.
 - viii. Utilities.
 - ix. Drainage facilities and features.
5. **Conceptual Building Plans and Elevations.** Conceptual plans and elevations with sufficient detail to depict the layout, dimensions, general appearance, scale, and interior plan of any proposed buildings.
 6. **Additional Information.** Any other information deemed necessary by the Planning Director to ensure a complete and proper review of the request.

D. Waiver of Application Submittal Requirements

1. At the discretion of the Planning Director, certain submittal requirements may be waived to tailor the requirements to the information that is necessary to review a specific application.
2. To authorize a waiver, the Planning Director must make a finding for the following:
 - a. The waiver will not compromise a proper and complete review of the application.
 - b. The submittal requirement(s) to be waived is not necessary for describing the proposal or demonstrating compliance with the applicable review criteria.
3. If the Planning Director authorizes a waiver, they will:
 - a. Provide the applicant with written notice of their decision.
 - b. Include in their staff report a list of the submittal requirements waived and the findings made to justify the waiver.

E. Application Review Criteria

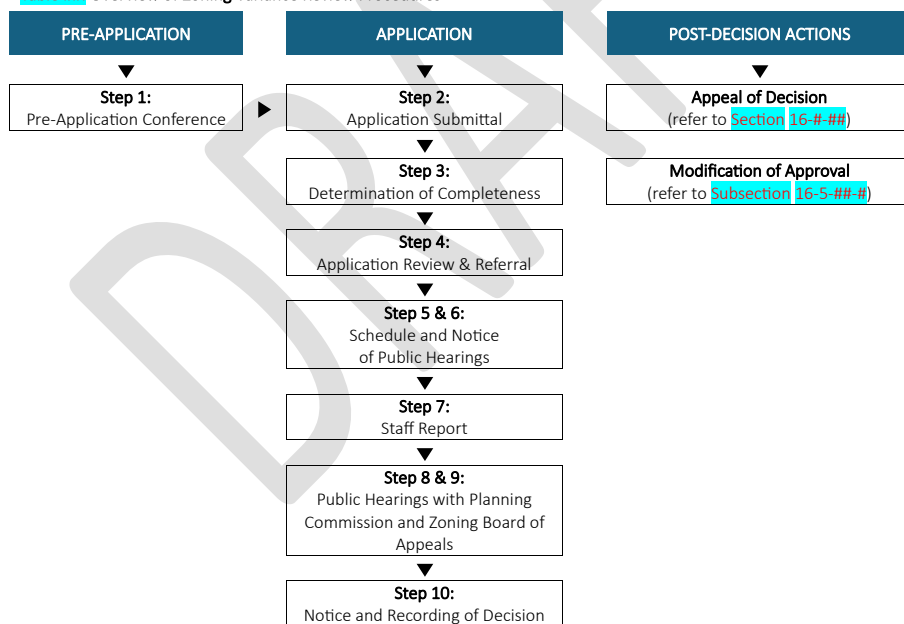
The Planning Commission may recommend approval of, and the Zoning Board of Appeals may approve, a request for a Zoning Variance upon a positive finding of each of the following criteria:

1. There exists an exceptional or extraordinary condition(s) that is unique to the subject property (such as shape, size, or topography), is not a general condition throughout the same zone district, and did not result from the action of any person currently having interest in the property.
2. The exceptional or extraordinary condition(s) of the subject property creates a situation such that the strict application of the specified regulation will result in practical difficulty or undue hardship upon the applicant not related to purposes of convenience or financial burden.
3. The granting of the variance will not be detrimental to the public health, safety, or welfare; will not be materially injurious to properties or improvements in the vicinity; and will not result in substantial impairment to the purposes of this Chapter.
4. The requested variance is the minimum necessary to alleviate the hardship or practical difficulty.

F. Application Review Procedures

A request for Zoning Variance will be reviewed and decided upon in accordance with the following procedures.

Table ##: Overview of Zoning Variance Review Procedures



1. **Step 1: Pre-Application Conference.** A Pre-Application Conference is required prior to the submittal of an application for a Zoning Variance. This requirement may be waived at the discretion of the Planning Director.

The process for a Pre-Application Conference is as follows:

- a. *Schedule Pre-Application Conference.* The applicant must submit a written request for a Pre-Application Conference to the Planning Director. Within fourteen (14) calendar days of receiving such a request, the Planning Director will schedule the Pre-Application Conference and notify the applicant of the date, time, and location of the conference.
- b. *Materials for Pre-Application Conference.* If required by the Planning Director, the applicant will submit information that allows for an informal evaluation of the proposal. This information must be submitted at least five (5) business days prior to the Pre-Application Conference.
- c. *Attend Pre-Application Conference.* The applicant and the Planning Director will attend the Pre-Application Conference. The Planning Director may invite other town staff, town consultants, and/or county, state, or federal representatives to participate in the Pre-Application Conference if they deem it appropriate.

The purpose of the Pre-Application Conference is to provide the applicant, Planning Director, and other attendees with an opportunity to review and discuss the following:

- i. The applicant's proposal.
- ii. The applicable provisions of this Code.
- iii. The application submittal requirements and review procedures.
- iv. The referral agencies likely to be involved with the review of the application.

Depending on the magnitude or complexity of the applicant's proposal and/or the availability of other persons deemed necessary to attend, the Pre-Application Conference may be continued for a reasonable time at the request of the applicant or the Planning Director.

- d. *Pre-Application Conference Summary.* Within ten (10) business days of the conclusion of the Pre-Application Conference, the Planning Director shall prepare, and provide the applicant with, a written summary of the conference.
 - e. *Effect of Pre-Application Conference.* Any information provided as part of a Pre-Application Conference shall not be binding on the Town or the applicant.
2. **Step 2: Submittal of Application.** The applicant for a Zoning Variance shall submit a complete application to the Town. Prior to the application submittal, the Planning Director shall determine, and inform the applicant of, the format (electronic or hard copy) and number of copies of the application to be submitted.
 3. **Step 3: Determination of Completeness.** Within thirty (30) business days of the Town receiving an application, the Planning Director shall review the application and determine whether it is

complete and includes sufficient information to be evaluated for general compliance with the requirements of this Code.

- a. *Application Deemed Complete.* If the Planning Director determines the application to be complete, they shall do the following:
 - i. Certify the application as complete and record the date of the determination of completeness.
 - ii. Schedule a public hearing in accordance with [Section 16-5-##](#).
 - iii. Notify the applicant, in writing, of the determination of completeness; the date, time, and location for each of the public hearing; any changes that need to be made to the application prior to commencing the application referral process; and the number of complete applications to be submitted to the Town for the referral process.
- b. *Application Deemed Incomplete.* If the application is determined to be incomplete, the Planning Director shall notify the applicant, in writing, of the application's deficiencies and that no further action on the application will be taken until these deficiencies have been remedied.

If an applicant fails to correct deficiencies in their application, the Planning Director may deem the application to be withdrawn in accordance with [Subsection 16-5-##-#](#).

- c. *Extension of Timeframe for Determination of Completeness.* The Planning Director may extend the timeframe for a determination of completeness by up to ten (10) business days if one of the following conditions exist:
 - i. The scope of the application warrants additional time for the Planning Director to review the application and make a determination of completeness.
 - ii. The Planning Director's workload justifies the need for an extension of time to review the application and make a determination of completeness.

If the Planning Director chooses to extend the time for the review and determination of completeness for an application, they will provide the applicant with written notice of their decision.

4. **Step 4: Application Review and Referral.**

- a. Within five (5) business days of receiving the requested number of complete applications from the applicant, the Planning Director shall circulate copies of the application package for review and comment by the town departments, town consultants, and referral agencies that may be affected by the proposal. The Planning Director is responsible for determining the appropriate town departments, town consultants, and referral agencies to involve in the review of an application.
- b. The comment period for the review by town departments, town consultants, and referral agencies shall be twenty (20) business days from the date that the application is circulated

by the Planning Director. Upon request by a referral agency, the Planning Director may authorize one (1) extension of this comment period by up to ten (10) business days.

- c. Comments from referral agencies not received by the Town within the applicable time frame will be considered a no comment.
 - d. Town departments and town consultants may provide comments on an application at any time during the review process.
5. **Step 5: Schedule Public Hearing.** Upon the conclusion of the referral process, the Planning Director shall schedule the application for public hearings before the Planning Commission and the Zoning Board of Appeals in accordance with the following requirements and notify the applicant, in writing, of the date, time, and location of each public hearing.
- a. The public hearings shall be scheduled for a regularly scheduled meeting or a special meeting of the Planning Commission and the Zoning Board of Appeals.
 - b. The first public hearing before the Planning Commission shall be scheduled no later than forty (40) business days after the conclusion of the post-referral process.

A public hearing before the Zoning Board of Appeals shall be scheduled within forty (40) business days of the Planning Commission completing its review and making a recommendation to the Town Council.

6. **Step 6: Notice of Public Hearing.** Prior to the date of the first public hearing with the Planning Commission, the applicant shall:
- i. *Mail Notice.* Mail notice, by certified mail, to all property owners of record within one hundred (100) feet of the subject property, in accordance with [Section 16-5-###](#).
 - ii. *Publish Notice.* Publish notice in a local newspaper, having general circulation within the Town, in accordance with [Section 16-5-###](#).
 - iii. *Post Notice.* Post notice on a sign on the subject property in accordance with [Section 16-5-###](#).
 - iv. *Mail Notice to Mineral Estate Owners (As Required).* If required by the Colorado Revised Statutes, mail notice to mineral estate owners in accordance with [Section 16-5-###](#).
 - v. *Submit Proof of Notice.* Submit proof of notice in accordance with [Section 16-5-###](#).
7. **Step 7: Staff Report.** Town staff shall prepare a staff report that addresses the following, as applicable:
- a. Compliance with the standards of this Code.
 - b. Issues raised during the review of the application by town staff, town consultants, and/or referral agencies.

- c. Recommended conditions to ensure compliance with applicable standards.
 - d. Additional information pertinent to the review of the application that must be submitted by the applicant.
8. **Step 8: Public Hearing with Planning Commission.**
- a. The Planning Commission will hold a public hearing, in accordance with [Section 16-5-##](#), to review the application. The applicant, or their agent, must be present at the hearing.
 - b. At least five (5) calendar days prior to the public hearing, the Planning Director shall make available the following materials to the Planning Commission, the applicant, and the public:
 - iv. The application and any supporting materials.
 - v. The staff report.
 - vi. Copies of any comments received by the Town from town departments, town consultants, referral agencies, and/or the public.
 - c. Following the close of the public hearing, the Planning Commission shall consider the application and any supporting materials, the staff report, public testimony, and the review criteria for a Zoning Variance, and shall take one of the following actions:
 - i. Recommend that the Zoning Board of Appeals approve the Zoning Variance, subject to any conditions that the Planning Commission deems necessary to ensure compliance with this Code and the Community Plan.
 - ii. Recommend that the Zoning Board of Appeals deny the Zoning Variance and state the specific reason(s) for denial.
9. **Step 9: Public Hearing with Zoning Board of Appeals.**
- a. Following the public hearing with the Planning Commission, the Zoning Board of Appeals will hold a public hearing, in accordance with [Section 16-5-##](#), to review the application. The applicant, or their agent, must be present at the hearing.
 - b. At least five (5) calendar days prior to the public hearing, the Planning Director shall make available the following materials to the Zoning Board of Appeals, the applicant, and the public:
 - i. The application and any supporting materials.
 - ii. The staff report.
 - iii. The Planning Commission's recommendation.
 - iv. Copies of any comments received by the Town from town departments, town consultants, referral agencies, and/or the public.

- c. Following the close of the public hearing, the Zoning Board of Appeals shall consider the application and any supporting materials, the staff report, the recommendation of the Planning Commission, public testimony, and the review criteria for a Zoning Variance, and shall take one of the following actions:
 - i. Approve the Zoning Variance, subject to any conditions that the Zoning Board of Appeals deems necessary to ensure compliance with this Code and the Community Plan.
 - ii. Deny the Zoning Variance and state the specific reason(s) for denial.

10. Step 10: Notice and Recording of Decision.

- a. Within ten (10) business days of a final action by the Zoning Board of Appeals, the following will occur:
 - i. The Planning Director will send written notice of the decision to the applicant.
 - ii. A copy of the decision will be made available to the applicant during normal business at Minturn Town Hall.
- b. If the Zoning Board of Appeals approves a Zoning Variance, the Town Clerk will enter a copy of the resolution approving the variance into the town's records.

G. Modification of Approval

Any modification to an approved Zoning Variance shall require the submittal of a new application that is processed and reviewed in accordance with the procedures and standards set forth in this Section.

Section 16-5-140: Planned Unit Development (PUD)

A. Applicability

1. This Section and Sections 16-5-150 through 16-5-170 apply to all requests to establish a Planned Unit Development Zone District (PUD).
2. An application for a PUD may be made for any land in, or to be annexed to, the Town that complies with the applicable standards of this Section.
3. A PUD Zone District should not be used when a Conditional Use, Zoning Variance, or other appropriate process can be used to achieve the same result.
4. Before any land can be designated as a PUD, the PUD must receive approval pursuant to the terms of this Section and Sections 16-5-150 through 16-5-170.

B. Purpose

The purposes of the Planned Unit Development (PUD) Zone District are to:

1. Provide landowners with greater flexibility to creatively develop their land, in exchange for community benefit(s) that could not be realized through the strict adherence to this Code.
2. Achieve the goals and policies of the Community Plan.
3. Provide for new technology and promotes high-quality, innovative development that results in efficient use of land and is integrated and compatible with surrounding land use and development patterns.
4. Preserve sensitive environmental areas, wildlife habitat, and cultural and/or historic resources.
5. Achieve a more desirable natural environment by maintaining and enhancing air quality, as well as surface and ground water quality and quantity.
6. Expand and diversify housing opportunities for people of varying income levels and provide long-term affordable housing.
7. Establish land use patterns that integrate uses and result in compact development that supports non-motorized mobility (e.g., walking, biking, etc.) and the efficient and economical provision of public infrastructure and services.
8. Encourage development that expands access to public transit and contributes to trail systems in and around the Town.

C. Authority

1. This Section, and Sections 16-5-150 through 16-5-190, are adopted pursuant to the Planned Unit Development Act of 1972 (C.R.S. § 24-67-101, et seq., as amended).

2. Town staff and the Planning Commission are authorized to recommend, and the Town Council is authorized to impose, any conditions on a PUD that are necessary to accomplish the purpose of this Code and the Community Plan.

D. General Provisions

1. **Minimum Land Area.** To be eligible for a PUD Zone District, the subject property, or properties, must have a minimum gross area of two (2) acres.
2. **Land Ownership Requirements.** No application for a PUD will be accepted by the Town without the written consent of the owner(s) of the property, or properties, included within the proposed PUD.
3. **Effect on Other Code Provisions.**
 - a. Except as expressly authorized by this Section and approved as a part of a PUD Guide, the standards of this Code shall apply to development within any PUD.
 - b. Certain regulations and standards, adopted by the Town, cannot be modified or changed by a PUD. Such regulations and standards, may include, but are not limited to, building codes, construction standards, health codes, and fire codes.
4. **Retention of Existing Zoning.** The existing zoning for a property or properties, subject to an application for a PUD, shall not change until a Rezoning has been approved in accordance with [Section 16-5-160](#).
5. **Common Open Space, Park, and Recreation Standards.** All PUDs must comply with the following standards:
 - a. *Minimum Area.* A minimum of twenty-five percent (25%) of the total area within a PUD must be allocated to public and/or private open space, park, and/or recreation purposes. At the discretion of the Town Council, the following may be authorized as an alternative to this requirement:
 - i. A cash-in-lieu fee pursuant to this Subsection.
 - ii. A dedication of land not within the PUD that satisfies the requirements of this Subsection.
 - iii. A combination of a cash-in-lieu fee, pursuant to this Subsection, and a dedication of land not within the PUD that satisfies the requirements of this Subsection.
 - iv. Amenities within the PUD that achieve a similar purpose to open space, park, and recreation areas.
 - b. [Table ##](#) lists examples of areas and amenities that are, and are not, eligible to be counted towards the common open space, park, and recreation requirement:

Table ##: Examples of Areas & Amenities that Do and Do Not Count

Areas & Amenities that Count:	Areas & Amenities that Do Not Count:
<ul style="list-style-type: none"> ▪ Waterbodies. ▪ Critical wildlife habitat areas, riparian areas, one-hundred-year floodplain areas, and other environmentally sensitive areas that are protected through the use of conservation easements or other means and that may or may not be usable by, or accessible to, the residents of the PUD. ▪ Communal rooftop spaces, pocket parks, community gardens, dog parks, outdoor recreation areas, and similar amenities. 	<ul style="list-style-type: none"> ▪ Parking and loading areas. ▪ Street rights-of-way. ▪ Minimum required yard setbacks. ▪ Private balconies, patios, and similar amenities. ▪ Indoor recreation facilities, building lobbies, and similar amenities. ▪ Areas with slopes greater than thirty percent (30%), unless such slopes are designed and developed for recreation purposes such as trails.

- c. *Dedication of Land Subject to Approval.* The dedication of land to the Town, other public agency, or non-profit entity, for common open space, park, or recreation shall be subject to approval and acceptance by the Town Council or decision-making body of the applicable public agency or non-profit entity.
- d. *Improvements Required.* All common open space, park, and recreational areas must be shown on the Preliminary Development Plan for a PUD and are to be constructed and fully improved in accordance with the development schedule established for each phase of the PUD.
- e. *Continuing Use and Maintenance.* All privately-owned common open space, park, and recreation areas must continue to conform to their intended use, as specified on the Preliminary Development Plan for a PUD. To ensure that all common open space, park, and recreation areas identified in a PUD are used as such, restrictions and/or covenants will be placed in each deed to ensure their maintenance and to prohibit the division of these areas.
- f. *Cash-In-Lieu Fee.*
 - i. The cash-in-lieu fee shall be in an amount equivalent to that of the acreage in the PUD that otherwise is required to be dedicated for public and/or private open space, park, and/or recreation purposes.
 - ii. The Town Council shall, by resolution, set the per-acre fee for cash-in-lieu of the required dedication of land in PUDs for public and/or private open space, park, and/or recreation purposes. This fee should be updated at least every two (2) years.
 - iii. Payment for the cash-in-lieu fee is due and payable to the Town within ninety (90) calendar days of the date of approval of the resolution/ordinance approving of the Final Development Plan for the PUD or as otherwise stated in the PUD Agreement.
 - iv. Payment for the cash-in-lieu fee will be held by the Town in a specific, interest-bearing account reserved for the acquisition of land for open space, parks, and/or recreation

purposes and/or the development of, or capital improvement to, parks, playgrounds, trails, and recreation facilities, or other similar amenities in the Town

6. Ownership and Maintenance of Common Elements.

- a. As part of a PUD, provisions shall be made for the establishment of an entity (homeowner's association, non-profit corporation, etc.) that is responsible for the ownership, administration, operation, and maintenance of any common elements (open space, parks, recreation areas, private streets, etc.) within the PUD. This entity is also responsible for securing adequate liability insurance for these common elements.
- b. This entity must be established prior to the sale of any lots or units within a PUD.
- c. Membership in the entity is mandatory for all owners within a PUD.

7. Covenants, Conditions & Restrictions (CC&Rs). The applicant for a PUD may propose covenants, conditions, and restrictions (CC&Rs) to be applied within the PUD. Such CC&Rs may be more restrictive than the town's regulations and standards but never less restrictive.

- a. Any proposed CC&Rs shall be reviewed by the Town Attorney and approved by the Town Council through the PUD process.
- b. Upon the recording of the Final Development Plan and/or Final Plat for a PUD, the CC&Rs for the PUD shall be recorded with the Eagle County Clerk and Recorder's Office.

E. Overview of PUD Process

- 1. The process for establishing a PUD Zone District has three (3) required steps:
 - a. *Step 1: Concept Development Plan (refer to [Section 16-5-##](#)).* The purpose of the Concept Development Plan is to allow the applicant to present and discuss the concept for the proposed PUD and to provide Town staff and the Planning Commission with an opportunity to:
 - i. Identify key issues to be addressed via the PUD process.
 - ii. Assess the overall appropriateness and feasibility of the proposed PUD, including if it complies with this Code, is in substantial conformance with the Community Plan, and is generally compatible with surrounding land uses.
 - iii. Consider if the innovation, high-quality architecture and design, and community benefit(s) of the proposed PUD justify variations from the requirements of this Code.
 - iv. Reach a general agreement on issues such as: the appropriate range of dwelling units and amount of non-residential space proposed; the type of land uses to be permitted; dimensional limitations and other variations that may be considered; the general locations intended for development and the areas planned to remain undeveloped; the general alignments for access; and how water supply and sewage disposal will be provided.

- b. *Step 2: Preliminary Development Plan (refer to Section 16-5-##).* The purpose of the Preliminary Development Plan is to provide an opportunity for:
 - i. An applicant to develop and propose detailed solutions in response to any issues and concerns identified during the review of the Concept Development Plan and to provide other detailed information and design work required for a proposed PUD.
 - ii. The Town to review and evaluate the details of the proposed PUD.
 - c. *Step 3: Final Development Plan (refer to Section 16-5-##).* The purpose of the Final Development Plan is to provide an opportunity to review any final information, design work, and/or legal documents for the proposed PUD.
- 2. Combined PUD Concept and Preliminary Development Plan Application.**
- a. An applicant may submit a combined application for a Concept and Preliminary Development Plan to consolidate these steps into a single review process.
 - b. A combined application shall include the submittal requirements for both a Concept and a Preliminary Development Plan. If there are redundant submittal requirements among the applications, the Planning Director is authorized to waive such requirements to mitigate an unnecessary burden on the applicant.
 - c. A combined application will be reviewed pursuant to the requirements and procedures for a Preliminary Development Plan (refer to Section 16-5-##).
- 3. Concurrent Submittal and Review of Preliminary Development Plan and Rezoning Required.**
- a. An application to change the zoning of the property, or properties, for a PUD must be submitted, processed, and reviewed concurrently with an application for a Preliminary Development Plan. The purpose of the Rezoning application is to change the zoning of the subject property or properties from the Town's underlying zone district(s) to a PUD.
 - b. The Rezoning application must comply with the requirements set forth in Section 16-5-##. If there are redundant submittal requirements among the Rezoning and Preliminary Development Plan applications, the Planning Director is authorized to waive such requirements to mitigate an unnecessary burden on the applicant.
 - c. The Rezoning will be processed and reviewed in accordance with Section 16-5-##.
 - d. In no event shall a Preliminary Development Plan be approved prior to the approval of a Rezoning for the subject property or properties.
- 4. Concurrent Review of PUD and Subdivision.**
- a. If an applicant for a PUD Zone District intends to subdivide the subject property, or properties, they must process their PUD applications concurrently with the required subdivision applications. If there are redundant submittal requirements among the applications, the Planning Director is authorized to waive such requirements to mitigate an unnecessary burden on the applicant.

- b. In no event shall the subdivision of a PUD be approved prior to the approval of Final Development Plan for the PUD.

5. PUD Agreement Required.

- a. Concurrent with the approval of a Final Development Plan for a PUD, the applicant and the Town Council shall enter into an agreement (PUD Agreement) binding the PUD to any conditions placed in the agreement.
- b. All PUD Agreements must be prepared in accordance with [Section 16-#-##](#).
- c. The applicant for a PUD is responsible for providing a final version of all documents to be included as exhibits to a PUD Agreement pursuant to [Section 16-5-160](#).

F. Authorized Variations

The Town Council is authorized to grant the following variations from the Town's adopted regulations and standards as part of an approval of a PUD. Each variation granted must be included in the Control Document for the PUD.

1. **Density and Intensity of Development.** The density of residential and intensity of commercial development may be varied.
2. **Dimensional Limitations.**
 - a. The minimum lot area, minimum lot area per use, maximum building lot coverage, maximum floor area, minimum yard setbacks, and maximum height may be varied.
 - b. The Town Council may require minimum yard setbacks, lot widths and space between buildings of such dimensions as they are determined to be necessary to provide adequate access, wildfire prevention and fire protection; to ensure proper ventilation, light, air and snowmelt between buildings; and to minimize the effects of transmission of noise between units and between buildings. As a general guide, twenty (20) feet between buildings shall be considered the minimum appropriate spacing.
3. **Mixed Land Uses.**
 - a. A variation may be allowed that permits the integration of mixed land uses.
 - b. Residential and non-residential uses may be mixed together. Various types of residential uses may also be combined within the PUD to promote more efficient land use patterns and increased open space.
4. **Building Type, Design, and Layout.**
 - a. A variation may be allowed that allows for greater variety in the type, design, and layout of structures or buildings.
 - b. Structures or buildings must be designed to be compatible, in terms of height, mass, scale, orientation, and configuration, with other units in the PUD and the surrounding area, yet shall avoid uniformity of design.
5. **Environmental Resources and Natural Hazards.**

- a. A variation may be allowed that provides flexibility in site planning to enable development in the PUD to avoid areas of valued environmental resources and/or natural hazards, as these have been identified in **Article ##** of this Code.
 - b. This shall be accomplished in such a way as to maintain these lands as large, contiguous areas. Such lands shall not be fragmented into small, unconnected areas by development, unless the applicant demonstrates that this arrangement is necessary to maintain the underlying density on the property, and the lands providing environmental resource values have been protected and lands subject to natural hazards have been avoided. Where applicable, connections of such lands on the site to such lands on adjacent properties shall be accomplished.
6. **Water.** A variation may be allowed that creates incentives for applicants to commit to a water augmentation plan for their development that makes available "wet" water into the Cross Creek or Upper Eagle River Basin.
 7. **Trails.** A variation may be allowed that provides incentives for applicants to make contributions to the County's and Town's multi-use trail system, in accordance with the recommendations of the latest version of the Town Trails Plan and the County Trails Plan, or to provide appropriate forms of access to public lands (including summer and winter parking areas and trailheads) and to river and creek drainages in and surrounding the Town. Proposed access shall be consistent with public land management objectives and resource protection needs for the areas to be accessed.
 8. **Affordable Housing.** A variation may be allowed that extends an incentive to applicants to provide long-term affordable housing.
 9. **Public Facilities.** A variation may be allowed that provides incentives for applicants to develop public facilities, including but not limited to public transportation facilities, public recreation facilities and similar facilities. The facilities may be located on or off of the PUD site and shall be facilities that meet the demands not only of project residents, but also of other residents of and visitors to the Town.

H. Basis for Granting Variations.

1. Variations from the Town's adopted regulations and standards may be granted by the Town Council upon a finding that the Preliminary Development Plan for a PUD achieves one (1) or more of the following purposes and that the granting of the variation is necessary for that purpose to be achieved.
2. An applicant for a PUD must demonstrate that departure from existing ordinances is warranted and that the proposed PUD is consistent with the Community Plan, this Code, and the character of the Town, and significantly contributes to the following:
 - a. New technology and promotes innovative and efficient land use patterns.
 - b. Permits the integration of land uses and contributes to trails and pedestrian circulation.
 - c. Preserves valued environments and natural resources and achieves a more desirable environment.

- d. Maintains or improves air and water quality.
- e. Provides for a wide range of housing opportunities.
- f. Improves the overall design character and quality of new development.
- g. Permits the integration rather than separation of uses, so that necessary facilities are conveniently located in relation to each other.
- h. Establishes land use patterns that promote and expand opportunities for public transportation and trails and for safe, efficient, compact street and utility networks that lower development and maintenance costs and conserve energy.
- i. Preserves valued environmental, historic or mineral resource lands and avoids development in natural hazard areas.
- j. Maintains and enhances surface and ground water quality and quantity.
- k. Provides applicants the opportunity to contribute to the Town's multi-use trail system; to provide and maintain access to public lands and rivers.
- l. Establishes incentives for applicants to encourage the provision of long-term affordable housing.

I. Enforcement of PUD

1. **General.** The provisions of an ordinance approving a Planned Unit Development (PUD) zone district designation, or an ordinance approving a Preliminary Development Plan for a PUD, a PUD Guide, and a PUD Agreement, relating to the use of land and the location of common open space, shall run in favor of the Town and shall be enforceable at law or in equity by the Town, without limitation on any power or regulation otherwise granted by law.
2. **Residents.** All provisions of the ordinance approving a Planned Unit Development (PUD) zone district designation, or an ordinance approving a Final Development Plan for PUD, a PUD Guide, and PUD Agreement, shall also run in favor of the residents, occupants and owners of the PUD, but only to the extent expressly provided in the ordinance and in accordance with the terms of the Final Development Plan for PUD. To that extent, said provisions, whether recorded by plat, covenant and easement or otherwise, may be enforced at law or in equity by residents, occupants or owners acting individually, jointly or through an organization designated in the ordinance to act on their behalf. However, no provision of the ordinance shall be implied to exist in favor of residents, occupants and owners except those provisions of the ordinance which have been finally approved by the Town Council.
3. **Release by Town.** All those provisions of the ordinance approving a PUD zone district designation or an ordinance approving a Final Development Plan for a PUD authorized to be enforced by the Town may be modified, removed or released by the Town subject to the following:

- a. *Enforcement.* No modification, removal or release of the provisions shall affect the rights of the residents, occupants and owners of the PUD to maintain and enforce these provisions at law or equity as provided in this Section.
 - b. *Procedure.* No substantial modification, removal or release of the provisions of the ordinance by the Town shall be permitted except pursuant to [Section 16-15-230](#) of this Article.
4. **Release by Residents.** Residents and owners of the PUD may, to the extent and in the manner expressly authorized by the provisions of the ordinance, modify, remove or release their rights to enforce the provisions of the ordinance, but no such action shall affect the right of the Town to enforce the ordinance.
5. **Enforcement of Open Space, Parks, Recreation Areas and Common Area Conditions.** In the event the organization established to own and maintain common open spaces, parks, recreation areas, communally owned facilities and private streets, or any successor organization, shall at any time fail to maintain the common facilities in reasonable order and condition in accordance with the approved Final Development Plan for the PUD, the Planning Director may cause written notice to be served upon such organization or upon the owners of land in the development setting forth the manner in which the common facilities have failed to be maintained in reasonable conditions, which notice shall include the demand that the deficiencies noted be cured within thirty (30) calendar days. The notice shall state the date and place of hearing to be held within ten (10) calendar days of notice.
6. **Remedies Authorized.** At the time of hearing, the Planning Director may modify the terms of the original notice as to deficiencies and may extend the time within which the same may be cured. If the deficiencies set forth in the original notice or modifications are not cured within the time set, the Planning Director, in order to preserve the taxable values of properties within the development and to prevent the common facilities from becoming a public nuisance, may enter upon such common facilities and maintain the same for a period of one (1) year. Any failure of the Planning Director to act for any period of time shall not bar their action. Such entry and maintenance shall not vest in the public any right to use the common facilities not dedicated to public use.
7. **Show Cause Hearing.** Before expiration of the one (1) year period, the Planning Director shall take the initiative or shall, upon the written request of the organization responsible for maintenance, call a public hearing and give notice of such hearing to the organization responsible for maintenance or the property owners of the PUD. At such hearing, the organization responsible for maintenance and/or the residents of the development may show cause why maintenance by the Town should not be continued for the succeeding year.
8. **Continuing Maintenance.** If the Town Council determines that it is not necessary for the Town to continue such maintenance, the Town shall cease such maintenance at the time established by the Town Council. Otherwise, the Town shall continue maintenance for the next succeeding year, subject to a similar hearing and determination at the end of each year thereafter. The cost of Town maintenance shall be paid by the owners of properties within the PUD that have a right of enjoyment of the common open space, parks, and/or recreation areas. The cost of Town maintenance and any unpaid assessments shall become a tax lien against the common facilities of, and the private properties within, the PUD.

9. **Assessments.** The Town shall have the right to make assessments against properties in the development on the same basis that the organization responsible for maintenance of the facilities could make such assessments. Any unpaid assessment shall be a lien against the property responsible for the same, enforceable the same as a mortgage against such property. The Town may foreclose its lien on the common facility by certifying the same to the County Treasurer for collection as in the case of collection of general property taxes.

J. Abandonment or Expiration of a PUD

1. Abandonment.

- a. The abandonment of an approved Preliminary Development Plan or Final Development Plan may be initiated by the owner(s) of the subject property, or properties.
- b. If there are multiple owners of the subject property, or properties, all owners must consent to the abandonment of the approved Preliminary Development Plan or Final Development Plan.
- c. The abandonment of an approved Preliminary Development Plan or Final Development Plan shall require the submittal of a Rezoning application that is processed and reviewed in accordance with the procedures and standards set forth in Section 16-5-##.

Commented [MF13]: This needs to be reviewed by the Town Attorney.

2. Expiration.

- a. If an approved Preliminary Development Plan or Final Development Plan for a PUD expires, pursuant to Section 16-5-## or Section 16-5-##, the Planning Director will schedule a public hearing with the Town Council within forty (40) business days of the expiration date.
- b. At the public hearing, the Town Council will consider the applicable requirements of the Colorado Revised Statutes and determine whether to extinguish the approved Preliminary Development Plan or Final Development Plan.
- c. Prior to extinguishing an approved Preliminary Development Plan or Final Development Plan, the Town Council must make any finding required by law. If the Town Council finds that extinguishment of an approved Preliminary Development Plan or Final Development Plan is contrary to law, such Development Plan shall not be extinguished.
- d. Upon extinguishment of a Preliminary Development Plan or Final Development Plan for a PUD, the Town Council shall take one of the following actions:
 - i. Change the zoning of the subject property, or properties, to the Town zone district(s) in effect prior to the approval of the Preliminary Development Plan for the PUD.
 - ii. If the Town zone district(s), in effect prior to the approval of the Preliminary Development Plan for the PUD, no longer exists, the Town Council will change the zoning of the subject property, or properties, to a Town zone district(s) that allows for land uses of a similar scale, intensity, and type to those allowed by the previous zone district(s).
- e. Within thirty (30) calendar days of a change of zoning by the Town Council, the Town Clerk will update the Zoning Map to reflect such change.

- f. Upon the expiration of an approved Preliminary Development Plan or Final Development Plan, no development shall be permitted within the PUD until the zoning of the subject property, or properties, has been changed.

Commented [MF14]: This needs to be reviewed by the Town Attorney.

DRAFT

Section 16-5-150: PUD Concept Development Plan

A. Purpose

The purpose of this Section is to establish a process for reviewing the concept for a proposed PUD. The Concept Development Plan is the first step in the PUD process. Refer to [Subsection 16-5-##-#](#) for further information.

B. Application Submittal Requirements

An application for a Concept Development Plan shall include the following:

1. **Application.** A completed copy of the application form furnished by the Town. This form will, at minimum, require an applicant to submit the information listed in [Subsection 16-5-##-#](#).
2. **Application Fee.** Payment for the applicable fee, as designated by the Town's schedule of fees, shall be made at the time of submittal of an application.
3. **Narrative.** A written statement that provides a general explanation of the following:
 - a. The nature and extent of the development within the proposed PUD, including information about proposed land uses, residential densities, and contemplated ownership patterns.
 - b. An explanation of why the proposed PUD zoning is more desirable than the Town's existing zoning.
 - c. How the PUD conforms to the Community Plan and the review criteria set forth in this Section.
 - d. The availability of water, sewer, and other utilities necessary to serve development in the PUD; or, a statement describing any major extensions necessary to serve development.
 - e. The availability of public infrastructure (streets, sidewalks, trails, etc.) and public services (e.g., police, fire protection, emergency medical services, etc.) to serve development in the PUD.
4. **Survey.** A scaled survey, with a stamp and signature (or electronic equivalent) of a surveyor licensed in Colorado, that depicts the existing conditions of the subject property. The survey must be prepared within six (6) months of the date of the application submittal. The following information must be shown on the survey:
 - a. Date of survey.
 - b. Property boundaries to the nearest one-hundredth (0.01) of a foot accuracy. Distances and bearings and a basis of bearing must be shown. Show existing pins or monuments found and their relationship to the established corner.
 - c. The locations, bearings, and dimensions of all existing easements recorded with the Eagle County Clerk and Recorder.

- d. Rights-of-way including bearings, distances, and curve information.
 - e. Existing topography at two-foot (2') contour intervals.
 - f. Existing natural features including, but not limited to, vegetation, rock-outcroppings, and watercourses.
 - g. Environmentally sensitive areas or areas of natural hazards, where applicable (rock fall areas, wetlands, one-hundred-year floodplain, etc.).
 - h. Existing improvements including, but not limited to, buildings, streets, sidewalks, and trails.
 - i. Other information that is necessary to accurately depict existing conditions.
5. **Conceptual Development Plan.** A plan showing the following information. The purpose of this plan is to allow for an evaluation of the conceptual layout the proposed PUD.
- a. Property boundaries.
 - b. Existing natural features including, but not limited to, vegetation, rock-outcroppings, and watercourses.
 - c. Existing improvements including, but not limited to, buildings, streets, sidewalks, trails.
 - d. General location of the following:
 - i. Existing and proposed land uses (residential, nonresidential, open space, parks, etc.).
 - ii. Existing and proposed buildings.
 - iii. Existing and proposed streets, sidewalks, trails, and other access improvements.
 - iv. Existing and proposed utilities.
 - e. A table that includes an estimate or range of the following data, as applicable:
 - i. Total area within the PUD.
 - ii. Area to be allocated to each type of land use (residential, non-residential, open space, parks, recreation, streets, etc.).
 - iii. Percentage of the gross PUD area to be dedicated to common open space, park, and recreation areas (refer to **Subsection 16-5-##-#**).
 - iv. Number of proposed lots and their sizes.
 - v. Proposed number and type of dwelling units (single-family, duplex, townhomes, apartments, etc.).

- vi. Proposed maximum square footage for non-residential uses.
- 6. **Conceptual Building Elevations.** Conceptual elevations, renderings, or other architectural illustrations to depict the general appearance and scale of proposed buildings and their relation to the site's natural features and existing development on adjacent properties.
- 7. **Additional Information.** Additional information required by this Code or that the Planning Director deems necessary for a proper and complete review of the application.

C. Waiver of Application Submittal Requirements

- 1. At the discretion of the Planning Director, certain submittal requirements may be waived to tailor the requirements to the information that is necessary to review a specific application.
- 2. To authorize a waiver, the Planning Director must make a finding for the following:
 - a. The waiver will not compromise a proper and complete review of the application.
 - b. The submittal requirement(s) to be waived is not necessary for describing the proposal or demonstrating compliance with the applicable review criteria.
- 3. If the Planning Director authorizes a waiver, they will:
 - a. Provide the applicant with written notice of their decision.
 - b. Include in their staff report a list of the submittal requirements waived and the findings made to justify the waiver.

D. Application Evaluation Criteria

The Planning Commission and Town Council should consider the following criteria in their evaluation of a request for a Concept Development Plan.

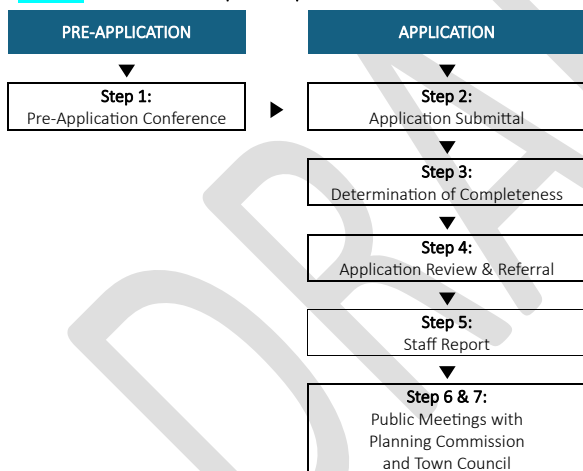
- 1. The PUD is in substantial conformance with the Community Plan and complies with the applicable requirements of this Code.
- 2. The innovation, high-quality architecture and design, and community benefit(s) of the PUD justify variations from the requirements of this Code.
- 3. The nature, design, and architectural character of development in the PUD will reflect, support, and/or enhance the character of the Town.
- 4. The scale, intensity, and type of land uses and development in the PUD are compatible with the surrounding area.
- 5. The PUD includes, or is within walking distance (i.e., ¼ to ½ mile) of, recreational amenities such as parks, public open space, trails, playgrounds, and/or similar amenities.

6. Public infrastructure and services can be provided to the PUD in a logical, efficient, and economical manner.
7. Residential uses are located in a manner that provide residents of the PUD with convenient access to places of employment, places that provide goods and services, open space, parks, recreational facilities, educational facilities, and public transit.
8. Residential uses in the PUD provide a diversity of housing opportunities for people of varying income levels.
9. The PUD does not allow for any land use that has been declared a nuisance by ordinance of the Town, the Colorado Revised Statutes, or any court of competent jurisdiction.

E. Application Review Procedures

A request for a Concept Development Plan will be reviewed and decided upon in accordance with the following procedures.

Table ##: Overview of Concept Development Plan Review Procedures



1. **Step 1: Pre-Application Conference.** A Pre-Application Conference is required prior to the submittal of an application for a Concept Development Plan. This requirement may be waived at the discretion of the Planning Director.

The process for a Pre-Application Conference is as follows:

- a. *Schedule Pre-Application Conference.* The applicant must submit a written request for a Pre-Application Conference to the Planning Director. Within fourteen (14) calendar days of receiving such a request, the Planning Director will schedule the Pre-Application Conference and notify the applicant of the date, time, and location of the conference.

- b. *Materials for Pre-Application Conference.* If required by the Planning Director, the applicant will submit information that allows for an informal evaluation of the proposal. This information must be submitted at least five (5) business days prior to the Pre-Application Conference.
- c. *Attend Pre-Application Conference.* The applicant and the Planning Director will attend the Pre-Application Conference. The Planning Director may invite other town staff, town consultants, and/or county, state, or federal representatives to participate in the Pre-Application Conference if they deem it appropriate.

The purpose of the Pre-Application Conference is to provide the applicant, Planning Director, and other attendees with an opportunity to review and discuss the following:

- i. The applicant's proposal.
- ii. The applicable provisions of this Code.
- iii. The application submittal requirements and review procedures.
- iv. The referral agencies likely to be involved with the review of the application.

Depending on the magnitude or complexity of the applicant's proposal and/or the availability of other persons deemed necessary to attend, the Pre-Application Conference may be continued for a reasonable time at the request of the applicant or the Planning Director.

- d. *Pre-Application Conference Summary.* Within ten (10) business days of the conclusion of the Pre-Application Conference, the Planning Director shall prepare, and provide the applicant with, a written summary of the conference.
 - e. *Effect of Pre-Application Conference.* Any information provided as part of a Pre-Application Conference shall not be binding on the town or the applicant.
- 2. **Step 2: Submittal of Application.** The applicant for a Concept Development Plan shall submit a complete application to the Town. Prior to the application submittal, the Planning Director shall determine, and inform the applicant of, the format (electronic or hard copy) and number of copies of the application to be submitted.
 - 3. **Step 3: Determination of Completeness.** Within thirty (30) business days of the Town receiving an application, the Planning Director shall review the application and determine whether it is complete and includes sufficient information to be evaluated for general compliance with the requirements of this Code.
 - a. *Application Deemed Complete.* If the Planning Director determines the application to be complete, they shall do the following:
 - i. Certify the application as complete and record the date of the determination of completeness.

- ii. Schedule the application for review at a regularly scheduled or a special meeting of the Planning Commission
- iii. Notify the applicant, in writing, of the determination of completeness; the date, time, and location for the public meeting with the Planning Commission; any changes that need to be made to the application prior to commencing the application referral process; and the number of complete applications to be submitted to the Town for the referral process.

- b. *Application Deemed Incomplete.* If the application is determined to be incomplete, the Planning Director shall notify the applicant, in writing, of the application's deficiencies and that no further action on the application will be taken until these deficiencies have been remedied.

If an applicant fails to correct deficiencies in their application, the Planning Director may deem the application to be withdrawn in accordance with [Subsection 16-5-###-#](#).

- c. *Extension of Timeframe for Determination of Completeness.* The Planning Director may extend the timeframe for a determination of completeness by up to ten (10) business days if one of the following conditions exist:
 - i. The scope of the application warrants additional time for the Planning Director to review the application and make a determination of completeness.
 - ii. The Planning Director's workload justifies the need for an extension of time to review the application and make a determination of completeness.

If the Planning Director chooses to extend the time for the review and determination of completeness for an application, they will provide the applicant with written notice of their decision.

4. Step 4: Application Review and Referral.

- a. Within five (5) business days of receiving the requested number of complete applications from the applicant, the Planning Director shall circulate copies of the application package for review and comment by the town departments, town consultants, and referral agencies that may be affected by the proposal. The Planning Director is responsible for determining the appropriate town departments, town consultants, and referral agencies to involve in the review of an application.
- b. The comment period for the review by referral agencies shall be twenty (20) business days from the date that the application is circulated by the Planning Director. Upon request by a referral agency, the Planning Director may authorize one (1) extension of this comment period by up to ten (10) business days.
- c. Comments from referral agencies not received by the Town within the applicable time frame will be considered a no comment.
- d. Town departments and town consultants may provide comments on an application at any time during the review process.

- e. Upon the conclusion of the application review and referral process, the Planning Director will schedule the application for review by the Planning Commission and the Town Council at public meetings. The Planning Director will notify the applicant, in writing, of the date, time, and location of each public meeting.
5. **Step 5: Staff Report.** Town staff shall prepare a staff report that addresses the following, as applicable:
- a. Compliance with the standards of this Code.
 - b. Issues raised during the review of the application by town staff, town consultants, and/or referral agencies.
 - c. Recommended conditions to ensure compliance with applicable standards.
 - d. Additional information pertinent to the review of the application that must be submitted by the applicant.
6. **Step 6: Public Meeting with Planning Commission.**
- a. The Planning Commission will review the application at a public meeting. The applicant, or their agent, must be present at the meeting.
 - b. At least five (5) calendar days prior to the public meeting, the Planning Director shall make available the following materials to the Planning Commission, the applicant, and the public:
 - i. The application and any supporting materials.
 - ii. The staff report.
 - iii. Copies of any comments received by the Town from town departments, town consultants, referral agencies, and/or the public.
 - c. The purpose of this public meeting is to provide the applicant with an opportunity to present and discuss the concept for the proposed PUD with the Planning Commission. The Planning Commission may offer comments on the proposed PUD. No formal action by the Planning Commission is taken.
7. **Step 8: Public Meeting with Town Council.**
- a. Following the public meeting with the Planning Commission, the Town Council will review the application at a public meeting. The applicant, or their agent, must be present at the meeting.
 - b. At least five (5) calendar days prior to the public meeting with the Town Council, the Planning Director shall make available the following materials to the Town Council, the applicant, and the public:
 - i. The application and any supporting materials.

- ii. The staff report.
 - iii. A summary of the Planning Commission’s discussion regarding the proposed PUD.
 - iv. Copies of any comments received by the Town from town departments, town consultants, referral agencies, and/or the public.
- c. The purpose of this public meeting is to provide the applicant with an opportunity to present and discuss the concept for the proposed PUD with the Town Council. The Town Council may offer comments on the proposed PUD. No formal action by the Town Council is required.

F. Proceed to Preliminary Development Plan

Following the conclusion of the Concept Development Plan process, an applicant is authorized to proceed to the Preliminary Development Plan step of the PUD process. The applicant has sole discretion to submit an application for a Preliminary Development Plan.

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Section 16-5-160: PUD Preliminary Development Plan

A. Purpose

The purpose of this Section is to establish a process for reviewing a Preliminary Development Plan for a proposed PUD. The Preliminary Development Plan is the second step in the PUD process. Refer to [Subsection 16-5-###-#](#) for further information.

B. Application Submittal Requirements

An application for a Preliminary Development Plan shall include the following:

1. **Application.** A completed copy of the application form furnished by the Town. This form will, at minimum, require an applicant to submit the information listed in [Subsection 16-5-###-#](#).
2. **Application Fee.** Payment for the applicable fee, as designated by the Town's schedule of fees, shall be made at the time of submittal of an application.
3. **Narrative.** A written document that includes the following:
 - a. An explanation of any modifications made to the PUD, following the Concept Development Plan step, and the reasons for those changes.
 - b. A detailed explanation of how the PUD conforms to the Community Plan, including specific references to goals and policies.
 - c. A detailed explanation of how the PUD addresses each of the review criteria set forth in this Section.
 - d. A detailed list of all proposed variations from the requirements of the Town's existing zone district(s) and an explanation for why such variations are justified. A comparison between the proposed regulations and those of the existing zone district(s) must be provided.
 - e. If applicable, a detailed list of all proposed variations from the Town's subdivision regulations and an explanation for why such variations are justified.
 - f. An explanation of how the community benefit requirement set forth in [Subsection 16-5-###-#](#) is being addressed.
 - g. A statement explaining present and proposed ownership and tenancy (e.g., for sale or for rent) within the PUD, including the ownership or leasing of land, dwelling units and non-residential buildings.
 - h. A description of the plan for common open space, park, and recreation areas within the PUD and an explanation of how such plan will be administered and enforced (e.g., covenants, source(s) of funding, etc.).
 - i. A detailed explanation of the plans for providing fire protection, law enforcement, and emergency medical services.

- j. Economic data and supporting market analysis to justify any proposed commercial and industrial elements.
4. **Development Plan.** A set of plans, drawn to scale, showing the following information. These plans must contain sufficient detail to allow for an evaluation of land planning, building design, and other features of the PUD.
- a. Property boundaries including bearings and dimensions.
 - b. Existing land uses, zoning, and building locations for properties adjacent to the proposed PUD.
 - c. Location of each type of existing and proposed land use.
 - d. Location and dimensions of all existing and proposed lots or parcels.
 - e. Location, size, and height of existing and proposed structures and buildings.
 - f. Location of existing and proposed streets, sidewalks, trails, and other access improvements. Information about traffic circulation patterns and proposed ownership of streets must also be provided.
 - g. Location and dimensions of existing and proposed easements and rights-of-way.
 - h. Proposed snow removal patterns and location of proposed snow storage areas.
 - i. Location of proposed common open space, park, and recreation areas.
 - j. A table with that includes the following data:
 - i. Total area within the PUD.
 - ii. Totals and breakdowns of the areas dedicated to each type of existing and proposed land use, including rights-of-way and common open space, park, and recreation areas.
 - iii. Percentage of the gross PUD area to be dedicated to common open space, park, and recreation areas.
 - iv. Number of proposed lots or parcels and the size and proposed use for each.
 - v. Maximum density, provided as the maximum number of dwelling units per gross acre, proposed for residential uses in each area within the PUD.
 - vi. Proposed number of dwelling unit types (studio, one bedroom, etc.) in each area within the PUD.
 - vii. Proposed maximum square footage for non-residential uses in each area within the PUD.
 - viii. Amount of parking to be provided for each land use.

- k. Other required plans including, but not limited to, the following:
 - i. Plan for common open space, park, and recreation areas that addresses the requirements set forth in **Subsection 16-#-##**; identifies and describes all common open spaces, parks, and/or recreation areas; specifies how common open spaces, parks and/or recreation areas will be preserved (e.g., deeding land to the appropriate entity); and, a detailed explanation of how common open spaces, parks, and/or recreation areas will be maintained.
 - ii. Landscape plan prepared in accordance with **Section 16-#-##**.
 - iii. Lighting plan prepared in accordance with **Section 16-#-##**.
 - iv. Parking management plan prepared in accordance with **Section 16-#-##**.
 - v. Master Sign Program or other appropriate plan for signage in the PUD prepared in accordance with **Section 16-#-##**.
- 5. **Conceptual Building Elevations.** Conceptual elevations, renderings, or other architectural illustrations that depict the architectural character, styling, and scale of proposed buildings and their relation to the site's natural features and existing development on adjacent properties.
- 6. **PUD Guide.** A PUD Guide describing the allowed land uses, land uses subject to discretionary review (e.g., Conditional Uses), dimensional requirements, design standards, and other applicable requirements to guide development within the PUD. The PUD Guide must have a format similar to this Code.
- 7. **Impact Reports.** The following Impact Reports must be submitted:
 - a. A School Impact Report that describes the impact of the PUD on the school district.
 - b. A Fiscal Impact Report that describes the projected impact of the PUD on services provided by the Town and the Town's tax revenue based on historic Town tax levy. This report must include a schedule of projected tax revenues.
 - c. A Development Impact Report, if required pursuant to **Article ##**.
- 8. **Reports and Analysis.** The following documents, prepared by a qualified professional(s), must be submitted:
 - a. Evidence of adequate water rights or evidence that the applicant can satisfy the Town's requirements for fee in lieu of water rights dedication for the PUD.
 - b. Evidence of an adequate and legal water supply for the PUD.
 - c. Will serve letters from the appropriate utility providers regarding the provision of telephone, electricity, gas, cable television, internet, and other utilities necessary to serve the PUD.

- d. If applicable, information about measures that will be implemented to mitigate potential impacts from natural hazards (steep slopes, floodplain areas, rockfall areas, erosive and/or unstable soils, avalanche areas, etc.).
 - e. Traffic Study that includes the following information:
 - i. Impact of the PUD on existing traffic volumes and traffic patterns, including data for increases in average and peak daily traffic volumes.
 - ii. An evaluation of the existing street system's capacity and information about any improvements that will be required to handle the increased traffic from the PUD.
 - iii. Impact of the PUD on existing public transit services.
 - f. Soils and Geotechnical Report.
9. **Civil Engineering Plans.** The following documents, prepared by a qualified engineer licensed in the State of Colorado, must be submitted. These documents must be at 80% completion.
- a. Plans for potable water, irrigation water, and sewer systems for the PUD.
 - b. Grading and Drainage Plan that includes the following information:
 - i. <Add Text>
10. **Phasing Plan.** If development of a PUD is to occur in phases, a phasing plan must be provided. The phasing plan must demonstrate that the PUD can be completed within a reasonable time frame and include the following information:
- a. The approximate date when development, and subsequent phases or stages of development, will begin and be completed.
 - b. The improvements to be included in each phase or stage of development.
 - c. The financial guarantee(s) to be provided to ensure that improvements and amenities are constructed in accordance with the phasing plan.
11. **Governing Documents.** Any governing documents (covenants, conditions, and restrictions (CC&R's), design guidelines, housing deed restrictions, etc.) that address the following, as applicable:
- a. The type and structure of the entity responsible for, and an acceptable program for, the on-going maintenance of elements in the PUD under common ownership (e.g., private open space areas, parks, recreation amenities, walkways, private streets, etc.).
 - b. Design review based on any design guidelines established for the PUD.

Commented [MF15]: Waiting on input from the Town Engineer to finalize the engineering submittal requirements for a Preliminary Development Plan.

c. Deed restrictions, or other covenants, related to a community housing plan for the PUD.

12. **Additional Information.** Additional information required by this Code or that the Planning Director deems necessary for a proper and complete review of the application.

13. **Rezoning Application.**

- a. An application to change the zoning of the subject property or properties to a PUD must be submitted concurrently with an application for a Preliminary Development Plan. The Rezoning application must comply with the requirements set forth in [Section 16-5-##](#).
- b. A Rezoning application will be processed and reviewed concurrently with a Preliminary Development Plan application. The Rezoning application will be processed and reviewed in accordance with [Section 16-5-##](#).

14. **Preliminary Plat Application.**

- a. If the subject property, or properties, will be subdivided, a Preliminary Plat application must be submitted concurrently with an application for a Preliminary Development Plan. The Preliminary Plat application must comply with the requirements set forth in [Section 16-8-##](#).
- b. A Preliminary Plat application will be processed and reviewed concurrently with a Preliminary Development Plan application. The Preliminary Plat application will be processed and reviewed in accordance with [Section 16-8-##](#).

C. Waiver of Application Submittal Requirements

1. At the discretion of the Planning Director, certain submittal requirements may be waived to tailor the requirements to the information that is necessary to review a specific application.
2. To authorize a waiver, the Planning Director must make a finding for the following:
 - a. The waiver will not compromise a proper and complete review of the application.
 - b. The submittal requirement(s) to be waived is not necessary for describing the proposal or demonstrating compliance with the applicable review criteria.
3. If the Planning Director authorizes a waiver, they will:
 - a. Provide the applicant with written notice of their decision.
 - b. Include in their staff report a list of the submittal requirements waived and the findings made to justify the waiver.

D. Application Review Criteria

The Planning Commission may recommend approval of, and the Town Council may approve, a request for a Preliminary Development Plan upon a positive finding of each of the following criteria:

1. The PUD is in substantial conformance with the Community Plan and complies with the applicable requirements of this Code.

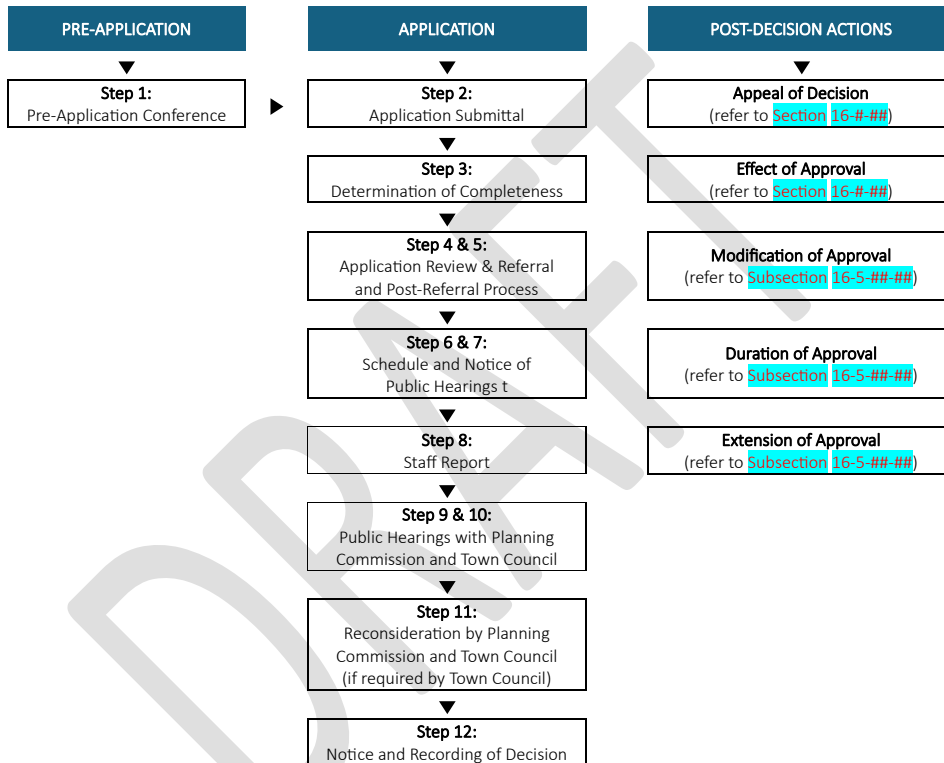
2. The innovation, high-quality architecture and design, and community benefit(s) of the PUD justify variations from the requirements of this Code.
3. The nature, design, and architectural character of development in the PUD reflects, supports, and/or enhances the character of the Town.
4. The scale, intensity, and type of land uses and development in the PUD are compatible with surrounding areas.
5. The PUD can be completed within a reasonable time frame.
6. The PUD includes, or is within walking distance (i.e., $\frac{1}{4}$ to $\frac{1}{2}$ mile) of, recreational amenities such as parks, public open space, trails, playgrounds, and/or similar amenities.
7. Public infrastructure and services can be provided to the PUD in a logical, efficient, and economical manner.
8. Streets, utilities, and other required infrastructure (e.g., drainage facilities) are, or will be improved to be, adequate to serve development in the PUD.
9. Residential uses are located in a manner that provide residents of the PUD with convenient access to places of employment, places that provide goods and services, open space, parks, recreational facilities, educational facilities, and public transit.
10. Residential uses in the PUD provide a diversity of housing opportunities for people of varying income levels.
11. The transportation network for the PUD includes:
 - a. Streets, alleys, bike paths, sidewalks, trails, public transit facilities, and similar infrastructure that provide logical, safe, and convenient connections within the PUD, as well as between the PUD and existing and proposed transportation systems in the surrounding area.
 - b. Parking and loading space(s) that are adequate to serve development in the PUD.
12. The dimensional requirements (e.g., setbacks, lot widths, building heights, separation between buildings, and/or similar requirements) for the PUD ensure the following:
 - a. Adequate access and fire protection.
 - b. Proper ventilation, sunlight, air, and snow melt between buildings.
 - c. Compatibility with development(s) in the surrounding area.
13. Open spaces, parks, recreation areas, and similar amenities in the PUD are located in a manner that maximizes their usefulness to the people being served and provide recreational opportunities, scenic value, and/or benefits to the natural environment.

14. The PUD does not allow for any land use that has been declared a nuisance by ordinance of the Town, the Colorado Revised Statutes, or any court of competent jurisdiction.

E. Application Review Procedures

A request for a Preliminary Development Plan will be reviewed and decided upon in accordance with the following procedures.

Table ##: Overview of Preliminary Development Plan Review Procedures



- Step 1: Pre-Application Conference.** A Pre-Application Conference is required prior to the submittal of an application for a Preliminary Development Plan. This requirement may be waived at the discretion of the Planning Director.

The process for a Pre-Application Conference is as follows:

- Schedule Pre-Application Conference.* The applicant must submit a written request for a Pre-Application Conference to the Planning Director. Within fourteen (14) calendar days of receiving such a request, the Planning Director will schedule the Pre-Application Conference and notify the applicant of the date, time, and location of the conference.

- b. *Materials for Pre-Application Conference.* If required by the Planning Director, the applicant will submit information that allows for an informal evaluation of the proposal. This information must be submitted at least five (5) business days prior to the Pre-Application Conference.
- c. *Attend Pre-Application Conference.* The applicant and the Planning Director will attend the Pre-Application Conference. The Planning Director may invite other town staff, town consultants, and/or county, state, or federal representatives to participate in the Pre-Application Conference if they deem it appropriate.

The purpose of the Pre-Application Conference is to provide the applicant, Planning Director, and other attendees with an opportunity to review and discuss the following:

- i. The applicant's proposal.
- ii. The applicable provisions of this Code.
- iii. The application submittal requirements and review procedures.
- iv. The referral agencies likely to be involved with the review of the application.

Depending on the magnitude or complexity of the applicant's proposal and/or the availability of other persons deemed necessary to attend, the Pre-Application Conference may be continued for a reasonable time at the request of the applicant or the Planning Director.

- d. *Pre-Application Conference Summary.* Within ten (10) business days of the conclusion of the Pre-Application Conference, the Planning Director shall prepare, and provide the applicant with, a written summary of the conference.
 - e. *Effect of Pre-Application Conference.* Any information provided as part of a Pre-Application Conference shall not be binding on the Town or the applicant.
2. **Step 2: Submittal of Application.** The applicant for a Preliminary Development Plan shall submit a complete application to the Town. Prior to the application submittal, the Planning Director shall determine, and inform the applicant of, the format (electronic or hard copy) and number of copies of the application to be submitted.
3. **Step 3: Determination of Completeness.** Within thirty (30) business days of the Town receiving an application, the Planning Director shall review the application and determine whether it is complete and includes sufficient information to be evaluated for general compliance with the requirements of this Code.
- a. *Application Deemed Complete.* If the Planning Director determines the application to be complete, they shall do the following:
 - i. Certify the application as complete and record the date of the determination of completeness.

ii. Notify the applicant, in writing, of the determination of completeness; any changes that need to be made to the application prior to commencing the application referral process; and the number of complete applications to be submitted to the Town for the referral process.

b. *Application Deemed Incomplete.* If the application is determined to be incomplete, the Planning Director shall notify the applicant, in writing, of the application's deficiencies and that no further action on the application will be taken until these deficiencies have been remedied.

If an applicant fails to correct deficiencies in their application, the Planning Director may deem the application to be withdrawn in accordance with [Subsection 16-5-##-#](#).

c. *Extension of Timeframe for Determination of Completeness.* The Planning Director may extend the timeframe for a determination of completeness by up to ten (10) business days if one of the following conditions exist:

- i. The scope of the application warrants additional time for the Planning Director to review the application and make a determination of completeness.
- ii. The Planning Director's workload justifies the need for an extension of time to review the application and make a determination of completeness.

If the Planning Director chooses to extend the time for the review and determination of completeness for an application, they will provide the applicant with written notice of their decision.

4. **Step 4: Application Review and Referral.**

a. Within five (5) business days of receiving the requested number of complete applications from the applicant, the Planning Director shall circulate copies of the application package for review and comment by the town departments, town consultants, and referral agencies that may be affected by the proposal. The Planning Director is responsible for determining the appropriate town departments, town consultants, and referral agencies to involve in the review of an application.

b. The comment period for the review by referral agencies shall be twenty (20) business days from the date that the application is circulated by the Planning Director. Upon request by a referral agency, the Planning Director may authorize one (1) extension of this comment period by up to ten (10) business days.

c. Comments from referral agencies not received by the Town within the applicable time frame will be considered a no comment.

d. Town departments and town consultants may provide comments on an application at any time during the review process.

5. **Step 5: Post Referral Process.**

- a. *Schedule Post-Referral Meeting with Applicant.* If the review comments from town departments, town consultants, and/or referral agencies identify deficiencies in and/or concerns with an application, the Planning Director will provide the applicant with written notice of such comments and schedule a post-referral meeting with the applicant within ten (10) business days of the conclusion of the referral period (i.e., Step 4). The Planning Director may invite other town staff, town consultants, and/or referral agency representatives to participate in the post-referral meeting if they deem it appropriate.

The purpose of the post-referral meeting is to:

- i. Discuss the review comments from the town departments, town consultants, and/or referral agencies.
 - ii. Determine what actions the applicant needs to take to adequately address the review comments, prior to the scheduling of the first public hearing for the application.
- b. *Applicant Response to Review Comments.* Within ninety (90) business days of a post-referral meeting, the applicant shall submit a detailed written response to the Planning Director that addresses all review comments from town departments, town consultants and/or referral agencies.

If the applicant fails to submit such a response within ninety (90) business days, the application may be deemed withdrawn in accordance with [Subsection 16-5-10\(F\)\(2\)](#).

The applicant may submit a written request to the Planning Director for additional time to submit the required response to review comments from town departments, town consultants and/or referral agencies. Upon a showing of good cause by the applicant, the Planning Director may authorize an extension of the response period.

- c. *Review of Applicant's Response.* Following receipt of the applicant's response, the Planning Director will circulate copies of the response to the town departments, town consultants, and/or referral agencies that provided review comments.

The town departments, town consultants, and/or referral agencies shall have twenty (20) business days to review the applicant's response and provide written comments that clearly delineate review comments have been adequately addressed or remedied by the applicant, and those that have not. Upon request by a town department, town consultant, or referral agency, an extension of this comment period may be granted by the Planning Director.

- d. *Inadequate Response to Review Comments.*
- i. If a town department, town consultant, and/or a referral agency identifies review comments that have not been adequately addressed or remedied by the applicant's response, the Planning Director will provide the applicant with written notice of such and request that the applicant submit an additional response that addresses all outstanding review comments.
 - ii. The applicant shall submit an additional response that addresses all outstanding review comments, in accordance with [Subsection 16-5-##\(b\)](#).

Commented [MF16]: This refers to the *Applicant Response to Review Comments* Subsection above.

- iii. Upon receipt of the applicant's response to all outstanding review comments, the Planning Director will circulate copies of the response to the town departments, town consultants, and/or referral agencies that provided review comments. Such town departments, town consultants, and/or referral agencies shall have the opportunity to review and comment on the applicant's response in accordance with [Subsection 16-5-##\(c\)](#).

Commented [MF17]: This refers to the *Review of Applicant's Response* Subsection above.

If a town department, town consultant, and/or a referral agency identifies review comments that have not been adequately addressed or remedied by the applicant's additional response, the process set forth in this Subsection shall be repeated until all review comments have been adequately addressed or remedied by the applicant.

- e. *Applicant Request for a Public Hearing.* If the applicant is unable to address or remedy all review comments to the satisfaction of the Planning Director, town departments, town consultants, and/or referral agencies, the applicant may submit a written request to the Planning Director that the application be scheduled for a public hearing.

As part of their request, the applicant shall submit a written response detailing the following:

- i. How referral comments have been addressed.
 - ii. Why it was not possible to address or remedy the outstanding review comments to the satisfaction of the Planning Director, town departments, town consultants, and/or referral agencies.
 - f. *Schedule Public Hearings.* Planning Director shall schedule a public hearing, in accordance with [Subsection 16-5-##\(6\)](#), upon one of the following:
 - i. The Planning Director determines that the applicant has successfully and adequately addressed or remedied all comments set forth in the referral responses.
 - ii. The Planning Director receives a written request from the applicant that a public hearing be scheduled for their application, in accordance with [Subsection 16-5-##\(e\)](#).
6. **Step 6: Schedule Public Hearings.** Upon the conclusion of the post-referral process, the Planning Director shall schedule the application for public hearings before the Planning Commission and Town Council in accordance with the following requirements and notify the applicant, in writing, of the date, time, and location of each public hearing.
- a. The public hearings shall be scheduled for a regularly scheduled meeting or a special meeting of the Planning Commission and Town Council.
 - b. The first public hearing before the Planning Commission shall be scheduled no later than forty (40) business days after the conclusion of the post-referral process.

Commented [MF18]: This refers to the *Applicant Request for a Public Hearing* Subsection above.

- c. A public hearing before the Town Council shall be scheduled within forty (40) business days of the Planning Commission completing its review and making a recommendation to Town Council.
7. **Step 7: Notice of Public Hearings.** Prior to the date of the first public hearing with the Planning Commission, the applicant shall:
- a. *Mail Notice.* Mail notice, by certified mail, to all property owners of record within one hundred (100) feet of the subject property or properties, in accordance with [Section 16-5-##](#).
 - b. *Publish Notice.* Publish notice in a local newspaper, having general circulation within the Town, in accordance with [Section 16-5-##](#).
 - c. *Post Notice.* Post notice on a sign on the subject property in accordance with [Section 16-5-##](#).
 - d. *Mail Notice to Mineral Estate Owners (As Required).* If required by state statute, mail notice to mineral estate owners in accordance with [Section 16-5-##](#).
 - e. *Submit Proof of Notice.* Submit proof of notice in accordance with [Section 16-5-##](#).
8. **Step 8: Staff Report.** Town staff shall prepare a staff report that addresses the following, as applicable:
- a. Compliance with the standards of this Code.
 - b. Issues raised during the review of the application by town staff, town consultants, and/or referral agencies.
 - c. Recommended conditions to ensure compliance with applicable standards.
 - d. Additional information pertinent to the review of the application that must be submitted by the applicant.
9. **Step 9: Public Hearing with Planning Commission.**
- a. The Planning Commission will hold a public hearing, in accordance with [Section 16-5-##](#), to review the application. The applicant, or their agent, must be present at the hearing.
 - b. At least five (5) calendar days prior to the public hearing, the Planning Director shall make available the following materials to the Planning Commission, the applicant, and the public:
 - i. The application and any supporting materials.
 - ii. The staff report.
 - iii. Copies of any comments received by the Town from town departments, town consultants, referral agencies, and/or the public.

- c. Following the close of the public hearing, the Planning Commission shall consider the application and any supporting materials, the staff report, public testimony, and the review criteria for a Preliminary Development Plan, and shall take one of the following actions:
 - i. Recommend that the Town Council approve the Preliminary Development Plan, subject to any changes that the Planning Commission deems necessary to ensure compliance with this Code and the Community Plan.
 - ii. Recommend that the Town Council deny the Preliminary Development Plan and state the specific reason(s) for denial.
10. **Step 10: Public Hearing with Town Council.**
- a. Following the public hearing with the Planning Commission, the Town Council will hold a public hearing, in accordance with [Section 16-5-##](#), to review the application. The applicant, or their agent, must be present at the hearing.
 - b. At least five (5) calendar days prior to the public hearing, the Planning Director shall make available the following materials to the Town Council, the applicant, and the public:
 - i. The application and any supporting materials.
 - ii. The staff report.
 - iii. The Planning Commission's recommendation.
 - iv. Copies of any comments received by the Town from town departments, town consultants, referral agencies, and/or the public.
 - c. Following the close of the public hearing, the Town Council shall consider the application and any supporting materials, the staff report, the recommendation of the Planning Commission, public testimony, and the review criteria for a Preliminary Development Plan, and shall take one of the following actions:
 - i. Approve the Preliminary Development Plan, subject to any changes that the Town Council deems necessary to ensure compliance with this Code and the Community Plan.
 - ii. Deny the Preliminary Development Plan and state the specific reason(s) for denial.
 - iii. Refer the application back to the Planning Commission for reconsideration if the Town Council determines that there has been a substantial change in, or departure from, the request considered by the Planning Commission.
 - d. If the Town Council approves a Preliminary Development Plan, it shall enact an ordinance to such effect.
11. **Step 11: Reconsideration by Planning Commission and Town Council.** If the Town Council refers an application back to the Planning Commission the following actions shall be taken:

- a. A public hearing with the Planning Commission will be scheduled no later than sixty (60) calendar days from the date of the Town Council's referral without the written consent of the applicant.
- b. The applicant will provide notice for the public hearing with the Planning Commission in accordance with the requirements set forth in this Section [\[refer to Subsection 16-5-##\(#\)\]](#).
- c. Town staff will review the current version of the request and prepare a revised staff report, as necessary, in accordance with [Subsection 16-5-##\(#\)](#).
- d. The Planning Commission will hold a public hearing in accordance with [Subsection 16-5-##\(#\)](#). Materials for the public hearing with the Planning Commission will be made available in accordance with [Subsection 16-5-##\(#\)](#). The applicant, or their agent, must be present at the hearing.
- e. After the close of the public hearing, the Planning Commission shall consider the application and any supporting materials, the staff report, public testimony, and the review criteria for a Preliminary Development Plan, and shall take one of the following actions:
 - i. Recommend approval of the Preliminary Development Plan to the Town Council, subject to any changes that the Town Council deems necessary to ensure compliance with this Code and the Community Plan.
 - ii. Recommend denial of the Preliminary Development Plan to the Town Council and state the specific reason(s) for denial.
- f. Within sixty (60) calendar days of the conclusion of the public hearing with the Planning Commission, the Town Council will hold a public hearing in accordance with [Subsection 16-5-##\(#\)](#). Materials for the public hearing with the Town Council will be made available in accordance with [Subsection 16-5-##\(#\)](#). The applicant, or their agent, must be present at the hearing.
- g. The applicant shall provide public notice for the public hearing with the Town Council in accordance with the requirements set forth in this Section [\[refer to Subsection 16-5-##\(#\)\]](#).
- h. After the close of the public hearing, the Town Council shall consider the application and any supporting materials, the staff report, the recommendation of the Planning Commission, public testimony, and the review criteria for a Preliminary Development Plan, and shall take one of the following actions:
 - i. Approve the Preliminary Development Plan, subject to any changes that the Town Council deems necessary to ensure compliance with this Code and the Community Plan.
 - ii. Deny the Preliminary Development Plan and state the specific reason(s) for denial.

12. Step 12: Notice and Recording of Decision.

- a. Within ten (10) business days of a final action by Town Council, the following will occur:

- i. The Planning Director will send written notice of the decision to the applicant.
 - ii. A copy of the decision will be made available to the applicant during normal business at Minturn Town Hall.
- b. If the Town Council approves a Preliminary Development Plan, the following will occur:
- i. Town Clerk will enter a copy of the ordinance approving the Preliminary Development Plan into the town's records.
 - ii. Town staff will address the final steps required for a Rezoning (pursuant to [Subsection 16-5-##\(3\)](#)) and a Preliminary Plat (pursuant to [Subsection 16-8-##\(3\)](#)), as applicable.

F. Effect of Approval

1. Approval of a Preliminary Development Plan constitutes authorization for an applicant to prepare and submit an application for a Final Development Plan.
2. If a Preliminary Plat is approved concurrently with the approval of a Preliminary Development Plan, the applicant is authorized to prepare and submit a Final Plat, in accordance with [Section 16-8-##](#).
3. Approval of a Preliminary Development Plan constitutes vested rights in accordance with [Section 16-#-##](#).

G. Modification of Approval

Any modification to an approved Preliminary Development Plan shall require the submittal of a new application that is processed and reviewed in accordance with the procedures and standards set forth in this Section. This shall not apply to any modifications that an applicant must make to address conditions of approval placed on a Preliminary Development Plan by the Town Council.

H. Duration of Approval

1. All Preliminary Development Plans for a PUD shall expire and become null and void one (1) year from the date of approval unless one of the following has occurred:
 - a. A Final Development Plan application has been submitted to and deemed complete by the Town.
 - b. A request for an extension has been submitted and approved in accordance with [Subsection 16-5-##-#](#).
2. The time frames set forth in this Subsection do not change with successive owners.
3. If an approved Preliminary Development Plan expires, a public hearing with the Town Council will be held, in accordance with [Subsection 16-5-##-#](#), to determine whether to extinguish the Preliminary Development Plan.

I. Extension of Approval

1. The applicant for an approved Preliminary Development Plan may submit a written request for an extension of their approval to the Town. Such a request must be received a minimum of thirty (30) calendar days prior to the expiration date of the approval. Any request received later than this will not be considered by the Town.
2. A request to extend the approval of a Preliminary Development Plan must demonstrate the following:
 - a. Failure to proceed with the submittal of the Final Development Plan for the PUD was beyond the applicant's control.
 - b. The Preliminary Development Plan for the PUD remains in compliance with this Code and the Community Plan.
 - c. There is reasonable likelihood that the PUD will be developed in the next two (2) years.
3. A request to extend the approval of a Preliminary Development Plan will be reviewed by the Town Council at a public hearing. Following the public hearing, the Town Council may authorize one (1) extension of an approval for a period of up to two (2) years.

DRAFT

Section 16-5-170: PUD Final Development Plan

A. Purpose

The purpose of this Section is to establish a process for reviewing a Final Development Plan for a proposed PUD. The Final Development Plan is the third and final step in the PUD process. Refer to [Subsection 16-5-###](#) for further information.

B. Application Submittal Requirements

An application for a Final Development Plan shall include the following:

1. **Application.** A completed copy of the application form furnished by the Town. This form will, at minimum, require an applicant to submit the information listed in [Subsection 16-5-###](#).
2. **Application Fee.** Payment for the applicable fee, as designated by the Town's schedule of fees, shall be made at the time of submittal of an application.
3. **Narrative.** A written document that includes the following:
 - a. An explanation of how the Final Development Plan is consistent with the approved Preliminary Development Plan and a description of any modifications made to the PUD, following the Preliminary Development Plan step, and the reasons for those changes.
 - b. An explanation of how the PUD conforms to the Community Plan and the review criteria set forth in this Section.
4. **Final Development Plan.** A plan, drawn to scale, that includes the following information:
 - a. All information required for a Preliminary Development Plan (refer to [Subsection 16-5-##\(##\)](#)).
 - b. Responses to any conditions of approval of the Preliminary Development Plan.
 - c. A final version of other required plans including, but not limited to, the following:
 - i. Landscape plan.
 - ii. Common open space, park, and recreation area plan.
 - iii. Lighting plan.
 - iv. Parking management plan.
 - v. Master Sign Program or other appropriate plan for signage in the PUD.
5. **Engineering Documents and Cost Estimates.**
 - a. A final version of engineering documents, including final plans, details, and specifications, for all on- and off-site improvements required for the PUD. Such improvements include, but are not limited to, the following:
 - i. Grading and drainage.

ii. Stormwater infrastructure.

iii. Roads, sidewalks, trails, and other access improvements.

iv. Utilities (water, sewer, irrigation, telephone, electricity, gas, cable television, internet, etc.).

v. Parks, open space, and recreation areas and any associated amenities (playground equipment, shade structures, benches, light poles, etc.).

b. An engineer's estimate of probable costs for all on- and off-site improvements required for the PUD.

Commented [MF19]: Waiting on input from the Town Engineer to finalize the engineering submittal requirements for a Final Development Plan.

5. **Governing Documents.** A final version of any governing documents (covenants, conditions, and restrictions (CC&R's), design guidelines, housing deed restrictions, etc.) for the PUD.

6. **Items for PUD Agreement.** In accordance with [Subsection 16-5##\(##\)](#), the applicant and the Town Council must enter into an agreement (PUD Agreement) concurrently with the approval of a Final Development Plan for a PUD. The following items must be submitted by the applicant to be included as exhibits to the PUD Agreement.

a. Final Development Plan.

b. Final PUD Guide.

c. Final engineering documents and engineer's estimate of probable costs for all on- and off-site improvements required for the PUD.

d. Other final documents for the PUD, as deemed necessary by the Town.

7. **Additional Information.** Any other information deemed necessary by the Planning Director to ensure a complete and proper review of the request.

8. **Final Plat Application.**

a. If the subject property, or properties, will be subdivided, a Final Plat application must be submitted concurrently with an application for a Final Development Plan. The Final Plat application must comply with the requirements set forth in [Section 16-8-##](#).

b. A Final Plat application will be processed and reviewed concurrently with a Final Development Plan application. The Final Plat application will be processed and reviewed in accordance with [Section 16-8-##](#).

C. Waiver of Application Submittal Requirements

1. At the discretion of the Planning Director, certain submittal requirements may be waived to tailor the requirements to the information that is necessary to review a specific application.

2. To authorize a waiver, the Planning Director must make a finding for the following:

- a. The waiver will not compromise a proper and complete review of the application.
 - b. The submittal requirement(s) to be waived is not necessary for describing the proposal or demonstrating compliance with the applicable review criteria.
3. If the Planning Director authorizes a waiver, they will:
- a. Provide the applicant with written notice of their decision.
 - b. Include in their staff report a list of the submittal requirements waived and the findings made to justify the waiver.

D. Application Review Criteria

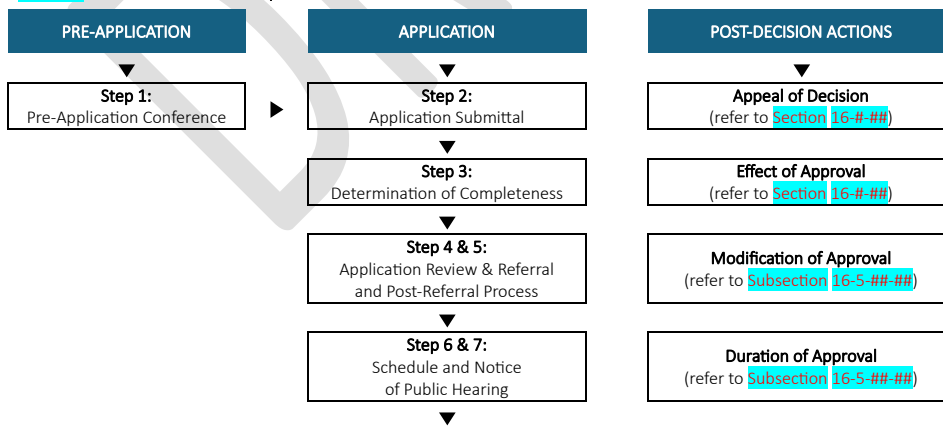
The Town Council may approve a request for a Final Development Plan upon a positive finding of each of the following criteria:

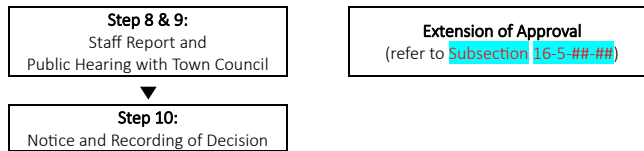
- 1. The Final Development Plan is in substantial conformance with the approved Preliminary Development Plan.
- 2. The Final Development Plan complies with the applicable requirements of this Code.
- 3. All conditions of approval for the Preliminary Development Plan have been addressed satisfactorily.

E. Application Review Procedures

A request for a Final Development Plan will be reviewed and decided upon in accordance with the following procedures.

Table ##: Overview of Final Development Plan Review Procedures





1. **Step 1: Pre-Application Conference.** A Pre-Application Conference is required prior to the submittal of an application for a Final Development Plan. This requirement may be waived at the discretion of the Planning Director.

The process for a Pre-Application Conference is as follows:

- a. *Schedule Pre-Application Conference.* The applicant must submit a written request for a Pre-Application Conference to the Planning Director. Within fourteen (14) calendar days of receiving such a request, the Planning Director will schedule the Pre-Application Conference and notify the applicant of the date, time, and location of the conference.
- b. *Materials for Pre-Application Conference.* If required by the Planning Director, the applicant will submit information that allows for an informal evaluation of the proposal. This information must be submitted at least five (5) business days prior to the Pre-Application Conference.
- c. *Attend Pre-Application Conference.* The applicant and the Planning Director will attend the Pre-Application Conference. The Planning Director may invite other town staff, town consultants, and/or county, state, or federal representatives to participate in the Pre-Application Conference if they deem it appropriate.

The purpose of the Pre-Application Conference is to provide the applicant, Planning Director, and other attendees with an opportunity to review and discuss the following:

- i. The applicant's proposal.
- ii. The applicable provisions of this Code.
- iii. The application submittal requirements and review procedures.
- iv. The referral agencies likely to be involved with the review of the application.

Depending on the magnitude or complexity of the applicant's proposal and/or the availability of other persons deemed necessary to attend, the Pre-Application Conference may be continued for a reasonable time at the request of the applicant or the Planning Director.

- d. *Pre-Application Conference Summary.* Within ten (10) business days of the conclusion of the Pre-Application Conference, the Planning Director shall prepare, and provide the applicant with, a written summary of the conference.

- e. *Effect of Pre-Application Conference.* Any information provided as part of a Pre-Application Conference shall not be binding on the Town or the applicant.
2. **Step 2: Submittal of Application.** The applicant for a Final Development Plan shall submit a complete application to the Town. Prior to the application submittal, the Planning Director shall determine, and inform the applicant of, the format (electronic or hard copy) and number of copies of the application to be submitted.
3. **Step 3: Determination of Completeness.** Within thirty (30) business days of the Town receiving an application, the Planning Director shall review the application and determine whether it is complete and includes sufficient information to be evaluated for general compliance with the requirements of this Code.
- a. *Application Deemed Complete.* If the Planning Director determines the application to be complete, they shall do the following:
 - i. Certify the application as complete and record the date of the determination of completeness.
 - ii. Notify the applicant, in writing, of the determination of completeness; any changes that need to be made to the application prior to commencing the application referral process; and the number of complete applications to be submitted to the Town for the referral process.
 - b. *Application Deemed Incomplete.* If the application is determined to be incomplete, the Planning Director shall notify the applicant, in writing, of the application's deficiencies and that no further action on the application will be taken until these deficiencies have been remedied.

If an applicant fails to correct deficiencies in their application, the Planning Director may deem the application to be withdrawn in accordance with [Subsection 16-5-##-#](#).
 - c. *Extension of Timeframe for Determination of Completeness.* The Planning Director may extend the timeframe for a determination of completeness by up to ten (10) business days if one of the following conditions exist:
 - i. The scope of the application warrants additional time for the Planning Director to review the application and make a determination of completeness.
 - ii. The Planning Director's workload justifies the need for an extension of time to review the application and make a determination of completeness.

If the Planning Director chooses to extend the time for the review and determination of completeness for an application, they will provide the applicant with written notice of their decision.
4. **Step 4: Application Review and Referral.**

- a. Within five (5) business days of receiving the requested number of complete applications from the applicant, the Planning Director shall circulate copies of the application package for review and comment by the town departments, town consultants, and referral agencies that may be affected by the proposal. The Planning Director is responsible for determining the appropriate town departments, town consultants, and referral agencies to involve in the review of an application.
 - b. The comment period for the review by referral agencies shall be twenty (20) business days from the date that the application is circulated by the Planning Director. Upon request by a referral agency, the Planning Director may authorize one (1) extension of this comment period by up to ten (10) business days.
 - c. Comments from referral agencies not received by the Town within the applicable time frame will be considered a no comment.
5. **Step 5: Post Referral Process.**
- a. *Schedule Post-Referral Meeting with Applicant.* If the review comments from town departments, town consultants, and/or referral agencies identify deficiencies in and/or concerns with an application, the Planning Director will provide the applicant with written notice of such comments and schedule a post-referral meeting with the applicant within ten (10) business days of the conclusion of the referral period (i.e., Step 4). The Planning Director may invite other town staff, town consultants, and/or referral agency representatives to participate in the post-referral meeting if they deem it appropriate.

The purpose of the post-referral meeting is to:

- i. Discuss the review comments from the town departments, town consultants, and/or referral agencies.
 - ii. Determine what actions the applicant needs to take to adequately address the review comments, prior to the scheduling of the first public hearing for the application.
- b. *Applicant Response to Review Comments.* Within ninety (90) business days of a post-referral meeting, the applicant shall submit a detailed written response to the Planning Director that addresses all review comments from town departments, town consultants and/or referral agencies.

If the applicant fails to submit such a response within ninety (90) business days, the application may be deemed withdrawn in accordance with [Subsection 16-5-10\(F\)\(2\)](#).

The applicant may submit a written request to the Planning Director for additional time to submit the required response to review comments from town departments, town consultants and/or referral agencies. Upon a showing of good cause by the applicant, the Planning Director may authorize an extension of the response period.

- c. *Review of Applicant's Response.* Following receipt of the applicant's response, the Planning Director will circulate copies of the response to the town departments, town consultants, and/or referral agencies that provided review comments.

The town departments, town consultants, and/or referral agencies shall have twenty (20) business days to review the applicant's response and provide written comments that clearly delineate review comments have been adequately addressed or remedied by the applicant, and those that have not. Upon request by a town department, town consultant, or referral agency, an extension of this comment period may be granted by the Planning Director.

d. *Inadequate Response to Review Comments.*

- i. If a town department, town consultant, and/or a referral agency identifies review comments that have not been adequately addressed or remedied by the applicant's response, the Planning Director will provide the applicant with written notice of such and request that the applicant submit an additional response that addresses all outstanding review comments.
- ii. The applicant shall submit an additional response that addresses all outstanding review comments, in accordance with **Subsection 16-5-##(b)**.
- iii. Upon receipt of the applicant's response to all outstanding review comments, the Planning Director will circulate copies of the response to the town departments, town consultants, and/or referral agencies that provided review comments. Such town departments, town consultants, and/or referral agencies shall have the opportunity to review and comment on the applicant's response in accordance with **Subsection 16-5-##(c)**.

Commented [MF20]: This refers to the *Applicant Response to Review Comments* Subsection above.

Commented [MF21]: This refers to the *Review of Applicant's Response* Subsection above.

If a town department, town consultant, and/or a referral agency identifies review comments that have not been adequately addressed or remedied by the applicant's additional response, the process set forth in this Subsection shall be repeated until all review comments have been adequately addressed or remedied by the applicant.

- e. *Applicant Request for a Public Hearing.* If the applicant is unable to address or remedy all review comments to the satisfaction of the Planning Director, town departments, town consultants, and/or referral agencies, the applicant may submit a written request to the Planning Director that the application be scheduled for a public hearing.

As part of their request, the applicant shall submit a written response detailing the following:

- i. How referral comments have been addressed.
 - ii. Why it was not possible to address or remedy the outstanding review comments to the satisfaction of the Planning Director, town departments, town consultants, and/or referral agencies.
- f. *Schedule Public Hearings.* Planning Director shall schedule a public hearing, in accordance with **Subsection 16-5-##(6)**, upon one of the following:
- i. The Planning Director determines that the applicant has successfully and adequately addressed or remedied all comments set forth in the referral responses.

- ii. The Planning Director receives a written request from the applicant that a public hearing be scheduled for their application, in accordance with [Subsection 16-5-##\(e\)](#).
6. **Step 6: Schedule Public Hearing.** Upon the conclusion of the post-referral process, the Planning Director shall schedule the application for a public hearing before the Town Council in accordance with the following requirements and notify the applicant, in writing, of the date, time, and location of each public hearing.
 - a. The public hearing shall be scheduled for a regularly scheduled meeting or a special meeting of the Town Council.
 - b. The first public hearing before the Town Council shall be scheduled no later than forty (40) business days after the conclusion of the post-referral process.
7. **Step 7: Notice of Public Hearing.** Prior to the date of the first public hearing with the Town Council, the applicant shall:
 - a. *Mail Notice.* Mail notice, by certified mail, to all property owners of record within one hundred (100) feet of the subject property or properties, in accordance with [Section 16-5-##](#).
 - b. *Publish Notice.* Publish notice in a local newspaper, having general circulation within the Town, in accordance with [Section 16-5-##](#).
 - c. *Post Notice.* Post notice on a sign on the subject property in accordance with [Section 16-5-##](#).
 - d. *Mail Notice to Mineral Estate Owners (As Required).* If required by state statute, mail notice to mineral estate owners in accordance with [Section 16-5-##](#).
 - e. *Submit Proof of Notice.* Submit proof of notice in accordance with [Section 16-5-##](#).
8. **Step 8: Staff Report.** Town staff shall prepare a staff report that addresses the following, as applicable:
 - a. Compliance with the standards of this Code.
 - b. Issues raised during the review of the application by town staff, town consultants, and/or referral agencies.
 - c. Recommended conditions to ensure compliance with applicable standards.
 - d. Additional information pertinent to the review of the application that must be submitted by the applicant.
9. **Step 9: Public Hearing with Town Council.**
 - a. The Town Council will hold a public hearing, in accordance with [Section 16-5-##](#), to review the application. The applicant, or their agent, must be present at the hearing.

Commented [MF22]: This refers to the *Applicant Request for a Public Hearing* Subsection above.

- b. At least five (5) calendar days prior to the public hearing, the Planning Director shall make available the following materials to the Planning Commission, the applicant, and the public:
 - i. The application and any supporting materials.
 - ii. The staff report.
 - iii. Copies of any comments received by the Town from town departments, town consultants, referral agencies, and/or the public.
 - c. Following the close of the public hearing, the Town Council shall consider the application and any supporting materials, the staff report, public testimony, and the review criteria for a Final Development Plan, and shall take one of the following actions:
 - i. Approve the Final Development Plan, subject to any changes that the Planning Commission deems necessary to ensure compliance with this Code and the Community Plan.
 - ii. Deny the Final Development Plan and state the specific reason(s) for denial.
 - d. If Town Council approves a Final Development Plan, it shall enact an ordinance to such effect.
10. **Step 9: Notice and Recording of Decision.**
- a. Within ten (10) business days of a final action by Town Council, the following will occur:
 - i. The Planning Director will send written notice of the decision to the applicant.
 - ii. A copy of the decision will be made available to the applicant during normal business at Minturn Town Hall.
 - b. If Town Council approves a Final Development Plan, the following will occur:
 - i. The Town Clerk will enter a copy of the ordinance approving the Final Development Plan into the town's records.
 - ii. Within one hundred and eighty (180) calendar days of the date of the Town Council's approval, Town staff will record a copy of the Final Development Plan, PUD Guide, and PUD Agreement in the office of the Eagle County Clerk and Recorder. It is the applicant's responsibility to prepare and provide the Town with the final version of the Final Development Plan and PUD Guide so that these documents can be recorded within this time frame.

F. Effect of Approval

- 1. Approval of a Final Development Plan shall be considered as satisfying the Final Development Plan requirements of the Town's PUD regulations.
- 2. An approved Final Development Plan, PUD Guide, and PUD Agreement shall be binding upon all land in a PUD and shall constitute the development regulations for such land. Development in a

PUD shall be limited to the uses, density, configuration, and all other elements and conditions set forth on the approved Final Development Plan, PUD Guide, and PUD Agreement.

3. Any permits (grading, building, etc.) for development in a PUD must demonstrate compliance with the approved Final Development Plan, PUD Guide, PUD Agreement, and other associated documents (e.g., Final Plat), as applicable.

G. Modification of Approval

1. A minor change(s) to an approved Final Development Plan (Minor PUD Amendment) is subject to the requirements and procedures set forth in this [Section 16-#-##](#).
2. A major change(s) to an approved Final Development Plan (Major PUD Amendment) is subject to the requirements and procedures set forth in this [Section 16-#-##](#).

H. Duration of Approval

1. All Final Development Plans for a PUD shall expire and become null and void one (1) year from the date of approval unless one of the following has occurred:
 - a. A building permit(s) for development in the PUD has been issued by the Town.
 - b. A request for an extension has been submitted and approved in accordance with [Subsection 16-5-##-#](#).
2. If an approved Final Development Plan expires, a public hearing with the Town Council will be held, in accordance with [Subsection 16-5-##-#](#), to determine whether to extinguish the Final Development Plan.

I. Extension of Approval

1. The applicant for an approved Final Development Plan may submit a written request for an extension of their approval to the Town. Such a request must be received a minimum of thirty (30) calendar days prior to the expiration date of the approval. Any request received later than this will not be considered by the Town.
2. A request to extend the approval of a Final Development Plan must demonstrate the following:
 - a. Failure to proceed with the submittal of the Final Development Plan for the PUD was beyond the applicant's control.
 - b. The Final Development Plan for the PUD remains in compliance with this Code and the Community Plan.
 - c. There is reasonable likelihood that the PUD will be developed in the next two (2) years.
3. A request to extend the approval of a Final Development Plan will be reviewed by the Town Council at a public hearing. After the public hearing, the Town Council may authorize one (1) extension of an approval for a period of up to two (2) years.

Section 16-5-180: Minor PUD Amendment

A. Applicability

1. All Minor Amendments to an approved PUD must comply with the requirements and procedures set forth in this Section, unless a different amendment process has been specifically authorized as part of the approval of the PUD by Town Council.
2. Minor Amendments to an approved PUD are limited to changes that are necessary to address technical or engineering considerations discovered during the development of the PUD that could not have been reasonably anticipated during the initial approval process.
3. Any amendments, which are not a Minor Amendment, shall be considered a Major Amendment and will be reviewed in accordance with [Section 16-5-###](#).
4. The Planning Director is responsible for determining if an amendment to an approved PUD constitutes a Minor or Major Amendment.

B. Purpose

The purpose of this Section is to establish an efficient administrative process for reviewing minor changes to an approved PUD.

C. Application Submittal Requirements

An application for a Minor Amendment shall include the following:

1. **Application.** A completed copy of the application form furnished by the Town. This form will, at minimum, require an applicant to submit the information listed in [Subsection 16-5-###.#](#).
2. **Application Fee.** Payment for the applicable fee, as designated by the Town's schedule of fees, shall be made at the time of submittal of an application.
3. **Narrative.** A written statement that provides an explanation of the following:
 - a. The amendment(s) being requested.
 - b. How the proposed amendment(s) constitutes a Minor Amendment and complies with the applicable requirements of this Code and the review criteria set forth in this Section.
4. **Redlined PUD Document(s).** A redlined version of the PUD document(s) to be amended. The redlined document(s) must show all proposed amendments.
5. **Additional Information.** Any other information deemed necessary by the Planning Director to ensure a complete and proper review of the request.

D. Waiver of Application Submittal Requirements

1. At the discretion of the Planning Director, certain submittal requirements may be waived to tailor the requirements to the information that is necessary to review a specific application.
2. To authorize a waiver, the Planning Director must make a finding for the following:

- a. The waiver will not compromise a proper and complete review of the application.
 - b. The submittal requirement(s) to be waived is not necessary for describing the proposal or demonstrating compliance with the applicable review criteria.
3. If the Planning Director authorizes a waiver, they will provide the applicant with written notice of their decision.

E. Application Review Criteria

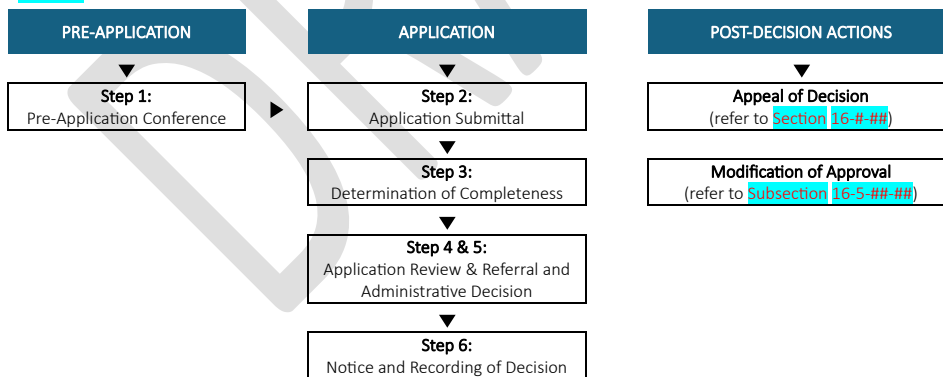
The Planning Director may approve a request for a Minor Amendment upon a positive finding of each of the following criteria:

- 1. The proposed amendment(s) does not substantially alter the intent or character of the approved PUD.
- 2. The proposed amendment(s) supports the efficient development of the PUD.
- 3. The proposed amendment(s) is consistent with the Community Plan and complies with the applicable requirements of this Code.
- 4. The proposed amendment(s) will not solely confer a special benefit upon any person.

F. Application Review Procedures

A request for a Minor Amendment will be reviewed and decided upon in accordance with the following procedures.

Table ##: Overview of Minor Amendment Review Procedures



1. **Step 1: Pre-Application Conference.** A Pre-Application Conference is required prior to the submittal of an application for a Minor Amendment. This requirement may be waived at the discretion of the Planning Director.

The process for a Pre-Application Conference is as follows:

- a. *Schedule Pre-Application Conference.* The applicant must submit a written request for a Pre-Application Conference to the Planning Director. Within fourteen (14) calendar days of receiving such a request, the Planning Director will schedule the Pre-Application Conference and notify the applicant of the date, time, and location of the conference.
- b. *Materials for Pre-Application Conference.* If required by the Planning Director, the applicant will submit information that allows for an informal evaluation of the proposal. This information must be submitted at least five (5) business days prior to the Pre-Application Conference.
- c. *Attend Pre-Application Conference.* The applicant and the Planning Director will attend the Pre-Application Conference. The Planning Director may invite other town staff, town consultants, and/or county, state, or federal representatives to participate in the Pre-Application Conference if they deem it appropriate.

The purpose of the Pre-Application Conference is to provide the applicant, Planning Director, and other attendees with an opportunity to review and discuss the following:

- i. The applicant's proposal.
- ii. The applicable provisions of this Code.
- iii. The application submittal requirements and review procedures.
- iv. The referral agencies likely to be involved with the review of the application.

Depending on the magnitude or complexity of the applicant's proposal and/or the availability of other persons deemed necessary to attend, the Pre-Application Conference may be continued for a reasonable time at the request of the applicant or the Planning Director.

- d. *Pre-Application Conference Summary.* Within ten (10) business days of the conclusion of the Pre-Application Conference, the Planning Director shall prepare, and provide the applicant with, a written summary of the conference.
 - e. *Effect of Pre-Application Conference.* Any information provided as part of a Pre-Application Conference shall not be binding on the town or the applicant.
2. **Step 2: Submittal of Application.** The applicant for a Minor Amendment shall submit a complete application to the Town. Prior to the application submittal, the Planning Director shall determine, and inform the applicant of, the format (electronic or hard copy) and number of copies of the application to be submitted.
 3. **Step 3: Determination of Completeness.** Within thirty (30) business days of the Town receiving an application, the Planning Director shall review the application and determine whether it is complete and includes sufficient information to be evaluated for general compliance with the requirements of this Code.

- a. *Application Deemed Complete.* If the Planning Director determines the application to be complete, they shall do the following:
 - i. Certify the application as complete and record the date of the determination of completeness.
 - ii. Notify the applicant, in writing, of the determination of completeness; any changes that need to be made to the application prior to commencing the application referral process; and the number of complete applications to be submitted to the Town for the referral process.
- b. *Application Deemed Incomplete.* If the application is determined to be incomplete, the Planning Director shall notify the applicant, in writing, of the application's deficiencies and that no further action on the application will be taken until these deficiencies have been remedied.

If an applicant fails to correct deficiencies in their application, the Planning Director may deem the application to be withdrawn in accordance with [Subsection 16-5-##-#](#).

- c. *Extension of Timeframe for Determination of Completeness.* The Planning Director may extend the timeframe for a determination of completeness by up to ten (10) business days if one of the following conditions exist:
 - i. The scope of the application warrants additional time for the Planning Director to review the application and make a determination of completeness.
 - ii. The Planning Director's workload justifies the need for an extension of time to review the application and make a determination of completeness.

If the Planning Director chooses to extend the time for the review and determination of completeness for an application, they will provide the applicant with written notice of their decision.

4. Step 4: Application Review and Referral.

- a. Within five (5) business days of receiving the requested number of complete applications from the applicant, the Planning Director shall circulate copies of the application package for review and comment by the town departments, town consultants, and referral agencies that may be affected by the proposal. The Planning Director is responsible for determining the appropriate town departments, town consultants, and referral agencies to involve in the review of an application.
- b. The comment period for the review by referral agencies shall be twenty (20) business days from the date that the application is circulated by the Planning Director. Upon request by a referral agency, the Planning Director may authorize one (1) extension of this comment period by up to ten (10) business days.
- c. Comments from referral agencies not received by the Town within the applicable time frame will be considered a no comment.

- d. Town departments and town consultants may provide comments on an application at any time during the review process.
- 5. **Step 5: Administrative Decision.** Upon the conclusion of the application review and referral process, the Planning Director shall review the application to determine if the proposal satisfies the applicable review criteria and standards identified in this Code. Upon the conclusion of their review, the Planning Director shall take one of the following actions:
 - a. Approve the Minor Amendment, subject to any conditions that the Planning Director deems necessary to ensure compliance with this Code and the Community Plan
 - b. Deny the Minor Amendment and state the specific reason(s) for denial.
- 6. **Step 6: Notice and Recording of Decision.**
 - a. Within ten (10) business days of a final action by the Planning Director, the following will occur:
 - i. The Planning Director will send written notice of the decision to the applicant.
 - ii. A copy of the decision will be made available to the applicant during normal business at Minturn Town Hall.
 - b. If a Minor Amendment is approved, within ninety (90) calendar days of the Planning Director's decision, the Town Clerk will enter a copy of the amended PUD document(s) into the town's records and record the document(s) in the office of the Eagle County Clerk and Recorder.

G. Modification of Approval

Any modification to an approved Minor Amendment shall require the submittal of a new application that is processed and reviewed in accordance with the procedures and standards set forth in this Section.

Section 16-5-190: Major PUD Amendment

A. Applicability

1. All Major Amendments to an approved PUD must comply with the requirements and procedures set forth in this Section, unless a different amendment process has been specifically authorized as part of the approval of the PUD by Town Council.
2. Major Amendments are any amendments to an approved PUD that are not considered Minor Amendments in accordance with [Section 16-5-##](#). Major Amendments include, but are not limited to, the following:
 - a. Changes to a land use(s) established by the PUD.
 - b. Major rearrangement of lots into areas of the PUD not previously containing development.
 - c. Increases in the intensity or density of development established by the PUD.
 - d. Changes to the phasing plan for the PUD.
 - e. Changes in the location, sighting, and/or bulk of structures and the height or character of buildings.
 - f. Decreases in the area or provisions for common open space, parks, and recreation.
 - g. Significant changes to the treatment of environmentally sensitive areas that exist with the PUD.
 - h. Significant changes to the architectural concept(s) of the PUD.
 - i. Significant changes to the layout of infrastructure for the PUD.
3. The Planning Director is responsible for determining if an amendment to an approved PUD constitutes a Minor or Major Amendment.
4. Any owner of record of property within a PUD may submit an application for a Major Amendment, subject to any homeowner association rules and regulations.

B. Purpose

The purpose of this Section is to establish a process for reviewing major changes to an approved PUD.

C. Application Submittal Requirements

1. An application for a Major Amendment shall include the submittal items for a Preliminary Development Plan set forth in [Section 16-5-##](#).
2. The information provided as part of an application for a Major Amendment must also include an original and redlined version of the approved document(s) (e.g., Final Development Plan, PUD Guide, PUD Agreement, etc.) to be modified. The redlined version of the approved document(s) must identify all the proposed changes.

D. Waiver of Application Submittal Requirements

1. At the discretion of the Planning Director, certain submittal requirements may be waived to tailor the requirements to the information that is necessary to review a specific application.
2. To authorize a waiver, the Planning Director must make a finding for the following:
 - a. The waiver will not compromise a proper and complete review of the application.
 - b. The submittal requirement(s) to be waived is not necessary for describing the proposal or demonstrating compliance with the applicable review criteria.
3. If the Planning Director authorizes a waiver, they will:
 - a. Provide the applicant with written notice of their decision.
 - b. Include in their staff report a list of the submittal requirements waived and the findings made to justify the waiver.

E. Application Review Criteria

The Planning Commission may recommend approval of, and the Town Council may approve, a request for a Major Amendment upon a positive finding of each of the following criteria:

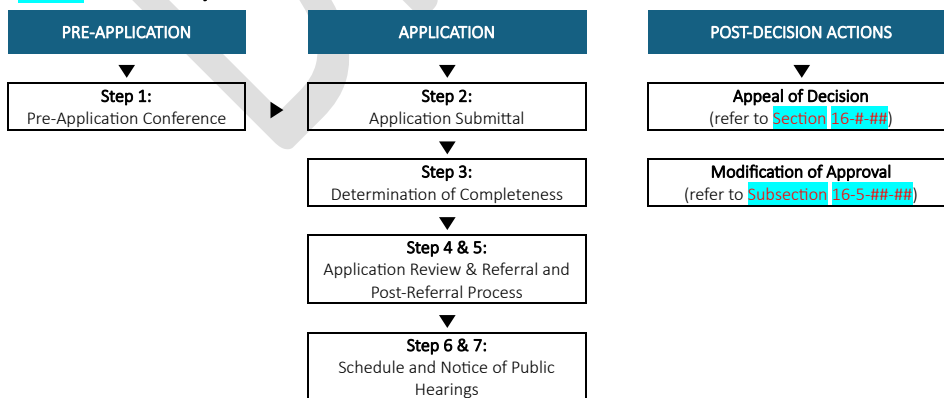
1. The PUD is in substantial conformance with the Community Plan and complies with the applicable requirements of this Code.
2. The innovation, high-quality architecture and design, and community benefit(s) of the PUD justify variations from the requirements of this Code.
3. The nature, design, and architectural character of development in the PUD reflects, supports, and/or enhances the character of the Town.
4. The scale, intensity, and type of land uses and development in the PUD are compatible with surrounding areas.
5. The PUD can be completed within a reasonable time frame.
6. The PUD includes, or is within walking distance (i.e., $\frac{1}{4}$ to $\frac{1}{2}$ mile) of, recreational amenities such as parks, public open space, trails, playgrounds, and/or similar amenities.
7. Public infrastructure and services can be provided to the PUD in a logical, efficient, and economical manner.
8. Streets, utilities, and other required infrastructure (e.g., drainage facilities) are, or will be improved to be, adequate to serve development in the PUD.
9. Residential uses are located in a manner that provide residents of the PUD with convenient access to places of employment, places that provide goods and services, open space, parks, recreational facilities, educational facilities, and public transit.

10. Residential uses in the PUD provide a diversity of housing opportunities for people of varying income levels.
11. The transportation network for the PUD includes:
 - a. Streets, alleys, bike paths, sidewalks, trails, public transit facilities, and similar infrastructure that provide logical, safe, and convenient connections within the PUD, as well as between the PUD and existing and proposed transportation systems in the surrounding area.
 - b. Parking and loading space(s) that are adequate to serve development in the PUD.
12. The dimensional requirements (e.g., setbacks, lot widths, building heights, separation between buildings, and/or similar requirements) for the PUD ensure the following:
 - a. Adequate access and fire protection.
 - b. Proper ventilation, sunlight, air, and snow melt between buildings.
 - c. Compatibility with development(s) in the surrounding area.
13. Open spaces, parks, recreation areas, and similar amenities in the PUD are located in a manner that maximizes their usefulness to the people being served and provide recreational opportunities, scenic value, and/or benefits to the natural environment.
14. The PUD does not allow for any land use that has been declared a nuisance by ordinance of the Town, the Colorado Revised Statutes, or any court of competent jurisdiction.

F. Application Review Procedures

Unless otherwise stated in this Section, a request for a Major Amendment will be reviewed and decided upon in accordance with the procedures for a Preliminary Development Plan set forth in [Section 16-5-###](#).

Table ##: Overview of Major Amendment Review Procedures





12. Step 12: Notice and Recording of Decision.

- a. Within ten (10) business days of a final action by the Town Council, the following will occur:
 - i. The Planning Director will send written notice of the decision to the applicant.
 - ii. A copy of the decision will be made available to the applicant during normal business at Minturn Town Hall.
- b. If a Major Amendment is approved by the Town Council, within ninety (90) calendar days of the Town Council's decision, the Town Clerk will do the following:
 - i. Enter a copy of the ordinance approving the Major Amendment into the town's records.
 - ii. Record the amended PUD document(s) in the office of the Eagle County Clerk and Recorder.

G. Modification of Approval

Any modification to an approved Major Amendment shall require the submittal of a new application that is processed and reviewed in accordance with the procedures and standards set forth in this Section.

Section 16-5-200: Sign Permit

A. Applicability

A Sign Permit is required for the installation or alteration of any sign within the Town, unless specifically exempted in accordance with [Section 16-#-##](#).

B. Purpose

The purpose of this Section is to provide an efficient administrative review process for Sign Permits.

C. Application Submittal Requirements

An application for a Sign Permit shall include the following:

1. **Application.** A completed copy of the application form furnished by the Town. This form will, at minimum, require an applicant to submit the information listed in [Subsection 16-5-##-#](#).
2. **Application Fee.** Payment for the applicable fee, as designated by the Town's schedule of fees, shall be made at the time of submittal of an application.
3. **Sign Drawing.** A fully dimensioned drawing or photo simulation of the proposed sign, as it will appear when installed. The following information, if applicable, must be provided:
 - a. Height and clearance of the sign.
 - b. For a projecting sign, the distance it projects from the face of the supporting wall.
4. **Sign Detail.** A scaled detail that includes the dimensions, area, shape, design, colors, materials, lighting, and letter styles of the proposed sign.
5. **Sign Area Calculation.** A calculation of sign area in accordance with [Section 16-#-##](#).
6. **Structural and Electrical Details.** If applicable, a drawing(s) showing the details of structural and/or electrical components of the sign to demonstrate compliance with the applicable building and electrical codes.
7. **Site Plan.** For a freestanding or projecting sign, a site plan, drawn to scale, showing the following information for the subject property:
 - a. Location and dimensions of the property's boundaries.
 - b. Minimum required front, side, rear, and live stream setback lines.
 - c. Footprints for existing and/or proposed buildings and structures.
 - d. Location and dimensions of existing easements.
 - e. Streets, alleys, driveways, sidewalks, paths, and other similar improvements on, or abutting, the property.
 - f. If applicable, clear vision areas pursuant to [Section 16-#-##](#).

g. Location of the proposed sign and the dimensions between the sign and all property boundaries.

8. **Existing Signs.** The type and size of any existing signs on the subject property.

9. **Additional Information.** Any other information deemed necessary by the Planning Director to ensure a complete and proper review of the request.

D. Waiver of Application Submittal Requirements

1. At the discretion of the Planning Director, certain submittal requirements may be waived to tailor the requirements to the information that is necessary to review a specific application.
2. To authorize a waiver, the Planning Director must make a finding of the following:
 - a. The waiver will not compromise a proper and complete review of the application.
 - b. The submittal requirement(s) to be waived is not necessary for describing the proposal or demonstrating compliance with the applicable review criteria.
3. If the Planning Director authorizes a waiver, they will provide the applicant with written notice of their decision.

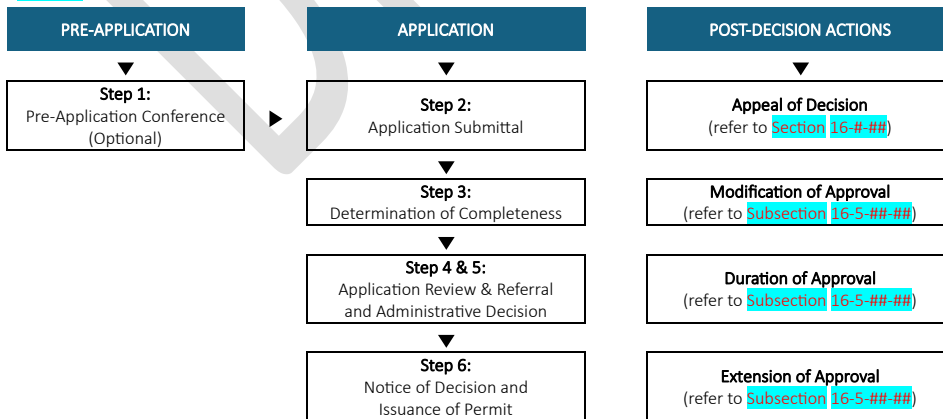
E. Application Review Criteria

The Planning Director may approve a request for a Sign Permit upon a positive finding that the proposed sign complies with the applicable requirements of this Code, specifically [Section 16-##-##](#).

F. Application Review Procedures

A request for a Sign Permit will be reviewed and decided upon in accordance with the following procedures.

Table ##: Overview of Sign Permit Review Procedures



1. **Step 1: Pre-Application Conference (Optional).** A Pre-Application Conference may be requested by the applicant or Town staff prior to the submittal of an application for a Sign Permit. A Pre-Application Conference for a Sign Permit is optional and not required.

The process for a Pre-Application Conference is as follows:

- a. *Schedule Pre-Application Conference.* The applicant must submit a written request for a Pre-Application Conference to the Planning Director. Within fourteen (14) calendar days of receiving such a request, the Planning Director will schedule the Pre-Application Conference and notify the applicant of the date, time, and location of the conference.
- b. *Materials for Pre-Application Conference.* If required by the Planning Director, the applicant will submit information that allows for an informal evaluation of the proposal. This information must be submitted at least five (5) business days prior to the Pre-Application Conference.
- c. *Attend Pre-Application Conference.* The applicant and the Planning Director will attend the Pre-Application Conference. The Planning Director may invite other town staff, town consultants, and/or county, state, or federal representatives to participate in the Pre-Application Conference if they deem it appropriate.

The purpose of the Pre-Application Conference is to provide the applicant, Planning Director, and other attendees with an opportunity to review and discuss the following:

- i. The applicant's proposal.
- ii. The applicable provisions of this Code.
- iii. The application submittal requirements and review procedures.
- iv. The referral agencies likely to be involved with the review of the application.

Depending on the magnitude or complexity of the applicant's proposal and/or the availability of other persons deemed necessary to attend, the Pre-Application Conference may be continued for a reasonable time at the request of the applicant or the Planning Director.

- d. *Pre-Application Conference Summary.* Within ten (10) business days of the conclusion of the Pre-Application Conference, the Planning Director shall prepare, and provide the applicant with, a written summary of the conference.
 - e. *Effect of Pre-Application Conference.* Any information provided as part of a Pre-Application Conference shall not be binding on the Town or the applicant.
2. **Step 2: Submittal of Application.** The applicant for a Sign Permit shall submit a complete application to the Town. Prior to the application submittal, the Planning Director shall determine, and inform the applicant of, the format (electronic or hard copy) and number of copies of the application to be submitted.

3. **Step 3: Determination of Completeness.** Within thirty (30) business days of the Town receiving an application, the Planning Director shall review the application and determine whether it is complete and includes sufficient information to be evaluated for general compliance with the requirements of this Code.

- a. *Application Deemed Complete.* If the Planning Director determines the application to be complete, they shall do the following:
 - i. Certify the application as complete and record the date of the determination of completeness.
 - ii. Notify the applicant, in writing, of the determination of completeness; any changes that need to be made to the application prior to commencing the application referral process; and the number of complete applications to be submitted to the Town for the referral process.
- b. *Application Deemed Incomplete.* If the application is determined to be incomplete, the Planning Director shall notify the applicant, in writing, of the application's deficiencies and that no further action on the application will be taken until these deficiencies have been remedied.

If an applicant fails to correct deficiencies in their application, the Planning Director may deem the application to be withdrawn in accordance with [Subsection 16-5-##-#](#).

- c. *Extension of Timeframe for Determination of Completeness.* The Planning Director may extend the timeframe for a determination of completeness by up to ten (10) business days if one of the following conditions exist:
 - i. The scope of the application warrants additional time for the Planning Director to review the application and make a determination of completeness.
 - ii. The Planning Director's workload justifies the need for an extension of time to review the application and make a determination of completeness.

If the Planning Director chooses to extend the time for the review and determination of completeness for an application, they will provide the applicant with written notice of their decision.

4. **Step 4: Application Review and Referral.**

- a. Within five (5) business days of receiving the requested number of complete applications the applicant, the Planning Director shall circulate copies of the application package for review and comment by the town departments, town consultants, and referral agencies that may be affected by the proposal. The Planning Director is responsible for determining the appropriate town departments, town consultants, and referral agencies to involve in the review of an application.

- b. The comment period for the review by referral agencies shall be twenty (20) business days from the date that the application is circulated by the Planning Director. Upon request by a referral agency, the Planning Director may authorize one (1) extension of this comment period by up to ten (10) business days.
 - c. Comments from referral agencies not received by the Town within the applicable time frame will be considered a no comment.
 - d. Town departments and town consultants may provide comments on an application at any time during the review process.
5. **Step 5: Administrative Decision.** Upon the conclusion of the application review and referral process, the Planning Director shall review the application to determine if the proposal satisfies the applicable review criteria and standards identified in this Code. Upon the conclusion of their review, the Planning Director shall take one of the following actions:
- a. Approve the Sign Permit, subject to any conditions that the Planning Director deems necessary to ensure compliance with this Code and the Community Plan
 - b. Deny the Sign Permit and state the specific reason(s) for denial.
6. **Step 6: Notice and Issuance of Permit.** Within ten (10) business days of a final action by the Planning Director, the following will occur:
- a. The Planning Director will send written notice of the decision to the applicant.
 - b. A copy of the decision will be made available to the applicant during normal business at Minturn Town Hall.
 - c. If a Sign Permit is approved, the Planning Director will issue, to the applicant, a permit that states the following:
 - i. Date of approval.
 - ii. For temporary signs, the duration of the permit.
 - iii. Any conditions of approval.
 - iv. Information about any inspections that are required for the sign. Such inspections may include, but are not limited to, an: inspection of sign placement; a footing inspection; and/or an inspection of electrical and/or structural components.
 - v. Information about the applicant's responsibilities to maintain the sign pursuant to [Subsection 16-5-##-#](#).
 - vi. Information about the Town's authority to order the maintenance, repair, or removal of a sign pursuant to [Subsection 16-5-##-#](#).

- vii. Any other information that the Planning Director deems necessary to include as part of the permit.

G. Modification of Approval

Any modification to an approved Sign Permit shall require the submittal of a new application that is processed and reviewed in accordance with the procedures and standards set forth in this Section.

H. Duration of Approval

1. All Sign Permits shall expire and become null and void ninety (90) calendar days after the date of issuance unless one of the following has occurred:
 - a. The sign has been installed or modified in accordance with the approved Sign Permit.
 - b. A request for an extension has been submitted and approved in accordance with [Subsection 16-5-##-H](#).
2. If a Sign Permit expires, the applicant will be required to obtain a new permit before the sign can be installed or altered.

I. Extension of Approval

1. The holder of a Sign Permit may submit a written request for an extension of their permit to the Planning Director. Such a request must be received at least ten (10) business days prior to the expiration date of the Sign Permit. Any request received later than this will not be considered by the Town.
2. Upon a showing of good cause by the permit holder, the Planning Director may authorize an extension of an approved Sign Permit for a period of up to ninety (90) calendar days.

Section 16-5-210: Master Sign Program

A. Applicability

1. Any multi-tenant building and/or development with more than one (1) building shall have a Master Sign Program for all signs on the subject property.
2. All signs identified in a Master Sign Program must comply with the applicable requirements of [Section 16-5-###](#).
3. A Master Sign Program must be approved before any Sign Permits can be issued for the subject property.
4. Once a Master Sign Program has been approved, all signs must comply with the approved program.

B. Purpose

The purpose of this Section is to provide an efficient administrative review process for a comprehensive plan for signs (i.e., a Master Sign Program) for a multi-tenant building and/or a development with more than one (1) building.

C. Application Submittal Requirements

An application for a Master Sign Program shall include the following:

1. **Application.** A completed copy of the application form furnished by the Town. This form will, at minimum, require an applicant to submit the information listed in [Subsection 16-5-###-#](#).
2. **Application Fee.** Payment for the applicable fee, as designated by the Town's schedule of fees, shall be made at the time of submittal of an application.
3. **Sign Program.** A written document that includes the following:
 - a. A list of the types of signs to be allowed on the subject property that includes the following information:
 - i. The location, materials, colors, lighting, and maximum area (in square feet) for each sign.
 - ii. The signs that will be shared among the tenants or buildings (e.g., a directory sign).
 - iii. The types of signs permitted for each tenant or building.
 - b. For a multi-tenant building, a list of units and the amount of signage (in square feet) allocated to each unit.
 - c. For a development with more than one (1) building, a list of each building and the amount of signage (in square feet) allocated to each building.
4. **Site Plan.** A site plan, drawn to scale, showing the following information for the subject property:
 - a. Location and dimensions of the property's boundaries.

- b. Minimum required front, side, rear, and live stream setback lines.
 - c. Footprints and frontage dimensions for existing and/or proposed buildings and structures.
 - d. Location and dimensions of existing easements.
 - e. Streets, alleys, driveways, sidewalks, paths, and other similar improvements on, or abutting, the property.
 - f. If applicable, clear vision areas pursuant to [Section 16-##-##](#).
 - g. Location of all proposed signs. For any freestanding signs, the dimensions between a sign and all property boundaries must be provided.
5. **Sign Drawings.** Fully dimensioned drawings or photo simulations of all proposed signs as they will appear when installed. The following information must be provided:
- a. Height and clearance of signs.
 - b. For any projecting signs, the distance it projects from the face of the supporting wall.
6. **Additional Information.** Any other information deemed necessary by the Planning Director to ensure a complete and proper review of the request.

D. Waiver of Application Submittal Requirements

- 1. At the discretion of the Planning Director, certain submittal requirements may be waived to tailor the requirements to the information that is necessary to review a specific application.
- 2. To authorize a waiver, the Planning Director must make a finding of the following:
 - a. The waiver will not compromise a proper and complete review of the application.
 - b. The submittal requirement(s) to be waived is not necessary for describing the proposal or demonstrating compliance with the applicable review criteria.
- 3. If the Planning Director authorizes a waiver, they will provide the applicant with written notice of their decision.

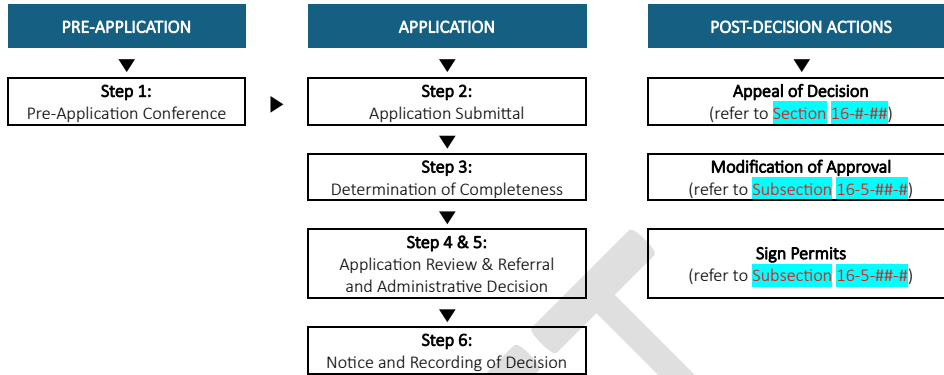
E. Application Review Criteria

The Planning Director may approve a request for a Master Sign Program upon a positive finding that the program complies with applicable requirements of this Code, specifically [Section 16-##-##](#).

F. Application Review Procedures

A request for a Master Sign Program will be reviewed and decided upon in accordance with the following procedures.

Table ##: Overview of Master Sign Program Review Procedures



1. **Step 1: Pre-Application Conference.** A Pre-Application Conference is required prior to the submittal of an application for a Master Sign Program. This requirement may be waived at the discretion of the Planning Director.

The process for a Pre-Application Conference is as follows:

- a. *Schedule Pre-Application Conference.* The applicant must submit a written request for a Pre-Application Conference to the Planning Director. Within fourteen (14) calendar days of receiving such a request, the Planning Director will schedule the Pre-Application Conference and notify the applicant of the date, time, and location of the conference.
- b. *Materials for Pre-Application Conference.* If required by the Planning Director, the applicant will submit information that allows for an informal evaluation of the proposal. This information must be submitted at least five (5) business days prior to the Pre-Application Conference.
- c. *Attend Pre-Application Conference.* The applicant and the Planning Director will attend the Pre-Application Conference. The Planning Director may invite other town staff, town consultants, and/or county, state, or federal representatives to participate in the Pre-Application Conference if they deem it appropriate.

The purpose of the Pre-Application Conference is to provide the applicant, Planning Director, and other attendees with an opportunity to review and discuss the following:

- i. The applicant's proposal.
- ii. The applicable provisions of this Code.
- iii. The application submittal requirements and review procedures.
- iv. The referral agencies likely to be involved with the review of the application.

Depending on the magnitude or complexity of the applicant's proposal and/or the availability of other persons deemed necessary to attend, the Pre-Application Conference may be continued for a reasonable time at the request of the applicant or the Planning Director.

- d. *Pre-Application Conference Summary.* Within ten (10) business days of the conclusion of the Pre-Application Conference, the Planning Director shall prepare, and provide the applicant with, a written summary of the conference.
 - e. *Effect of Pre-Application Conference.* Any information provided as part of a Pre-Application Conference shall not be binding on the Town or the applicant.
2. **Step 2: Submittal of Application.** The applicant for a Master Sign Program shall submit a complete application to the Town. Prior to the application submittal, the Planning Director shall determine, and inform the applicant of, the format (electronic or hard copy) and number of copies of the application to be submitted.
 3. **Step 3: Determination of Completeness.** Within thirty (30) business days of the Town receiving an application, the Planning Director shall review the application and determine whether it is complete and includes sufficient information to be evaluated for general compliance with the requirements of this Code.
 - a. *Application Deemed Complete.* If the Planning Director determines the application to be complete, they shall do the following:
 - i. Certify the application as complete and record the date of the determination of completeness.
 - ii. Notify the applicant, in writing, of the determination of completeness; any changes that need to be made to the application prior to commencing the application referral process; and the number of complete applications to be submitted to the Town for the referral process.
 - b. *Application Deemed Incomplete.* If the application is determined to be incomplete, the Planning Director shall notify the applicant, in writing, of the application's deficiencies and that no further action on the application will be taken until these deficiencies have been remedied.

If an applicant fails to correct deficiencies in their application, the Planning Director may deem the application to be withdrawn in accordance with [Subsection 16-5-###-#](#).
 - c. *Extension of Timeframe for Determination of Completeness.* The Planning Director may extend the timeframe for a determination of completeness by up to ten (10) business days if one of the following conditions exist:
 - i. The scope of the application warrants additional time for the Planning Director to review the application and make a determination of completeness.

- ii. The Planning Director’s workload justifies the need for an extension of time to review the application and make a determination of completeness.

If the Planning Director chooses to extend the time for the review and determination of completeness for an application, they will provide the applicant with written notice of their decision.

4. Step 4: Review by Town Staff, Consultants, and Referral Agencies.

- a. Within five (5) business days of receiving the requested number of complete applications from the applicant, the Planning Director shall circulate copies of the application package for review and comment by the town departments, town consultants, and referral agencies that may be affected by the proposal. The Planning Director is responsible for determining the appropriate town departments, town consultants, and referral agencies to involve in the review of an application.
- b. The comment period for the review by referral agencies shall be twenty (20) business days from the date that the application is circulated by the Planning Director. Upon request by a referral agency, the Planning Director may authorize one (1) extension of this comment period by up to ten (10) business days.
- c. Comments from referral agencies not received by the Town within the applicable time frame will be considered a no comment.
- d. Town departments and town consultants may provide comments on an application at any time during the review process.

5. Step 5: Administrative Decision. Upon the conclusion of the application review and referral process, the Planning Director shall review the application to determine if the proposal satisfies the applicable review criteria and standards identified in this Code. Upon the conclusion of their review, the Planning Director shall take one of the following actions:

- a. Approve the Master Sign Program, subject to any conditions that the Planning Director deems necessary to ensure compliance with this Code and the Community Plan
- b. Deny the Master Sign Program and state the specific reason(s) for denial.

6. Step 6: Notice and Recording of Decision.

- a. Within ten (10) business days of a final action by the Planning Director, the following will occur:
 - i. The Planning Director will send written notice of the decision to the applicant.
 - ii. A copy of the decision will be made available to the applicant during normal business at Minturn Town Hall.
- b. If a Master Sign Program is approved, the Planning Director will enter a copy of the approved program into the town’s records.

G. Modification of Approval

Any modification to an approved Master Sign Program shall require the submittal of a new application that is processed and reviewed in accordance with the procedures and standards set forth in this Section.

H. Sign Permits

Once a Master Sign Program has been approved, individual Sign Permits may be applied for, pursuant to [Section 16-5-###](#). Individual sign permits are required for the signs contained within an approved Master Sign Program.

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Section 16-5-220: Sign Variance

A. Applicability

1. All requests for a variance from any sign regulation, set forth in [Article ##](#), must comply with the requirements and procedures set forth in this Section.
2. All requests for a variance from any zoning regulation, set forth in [Article ##](#), must comply with the requirements and procedures set forth in [Section 16-5-##](#).
3. A variance cannot be requested for any type of sign that is not permitted in the applicable zone district.
- b. Cost or inconvenience to the applicant, resulting from strict or literal compliance with any sign regulation set forth in this Code, shall not be a reason for granting a variance

B. Purpose

1. The purpose of this Section is to establish the requirements and procedures for a variance from the strict application of the sign regulations, set forth in [Article ##](#).
2. The purpose of a variance is to prevent or lessen practical difficulties and unnecessary physical hardships that would result from the strict or literal interpretation and enforcement of the sign regulations set forth in this Code.

C. Application Submittal Requirements

An application for Sign Variance shall include the following:

1. **Application.** A completed copy of the application form furnished by the Town. This form will, at minimum, require an applicant to submit the information listed in [Subsection 16-5-##-#](#).
2. **Application Fee.** Payment for the applicable fee, as designated by the Town's schedule of fees, shall be made at the time of submittal of an application.
3. **Narrative.** A written statement that describes the following:
 - a. The precise nature of the proposed variance.
 - b. The justification for variance based on the review criteria set forth in this Section.
 - c. Any measures proposed to make the variance compatible with adjacent properties.
4. **Site Plan.** A site plan, drawn to scale, showing the following information for the subject property:
 - a. Location and dimensions of the property's boundaries.
 - b. Minimum required front, side, rear, and live stream setback lines.
 - c. Footprints and frontage dimensions for existing buildings and/or structures.
 - d. Location and dimensions of existing easements.

- e. Streets, alleys, driveways, sidewalks, paths, and other similar improvements on, or abutting, the property.
 - f. If applicable, clear vision areas pursuant to [Section 16-#-##](#).
 - g. Location of the proposed sign and all existing signs. For a freestanding sign, the dimensions between the sign and all property boundaries must be provided.
5. **Sign Drawing.** A fully dimensioned drawing or photo simulation of the proposed sign as it will appear when installed that includes the following information:
- a. Height and clearance of the sign.
 - b. For a projecting sign, the distance it projects from the face of the supporting wall.
6. **Sign Area Calculation.** A calculation of sign area in accordance with [Section 16-#-##](#).
7. **Additional Information.** Any other information deemed necessary by the Planning Director to ensure a complete and proper review of the request.

D. Waiver of Application Submittal Requirements

- 1. At the discretion of the Planning Director, certain submittal requirements may be waived to tailor the requirements to the information that is necessary to review a specific application.
- 2. To authorize a waiver, the Planning Director must make a finding for the following:
 - a. The waiver will not compromise a proper and complete review of the application.
 - b. The submittal requirement(s) to be waived is not necessary for describing the proposal or demonstrating compliance with the applicable review criteria.
- 3. If the Planning Director authorizes a waiver, they will:
 - a. Provide the applicant with written notice of their decision.
 - b. Include in their staff report a list of the submittal requirements waived and the findings made to justify the waiver.

E. Application Review Criteria

The Planning Commission may recommend approval of, and the Zoning Board of Appeals may approve, a request for a Sign Variance upon a positive finding of each of the following criteria:

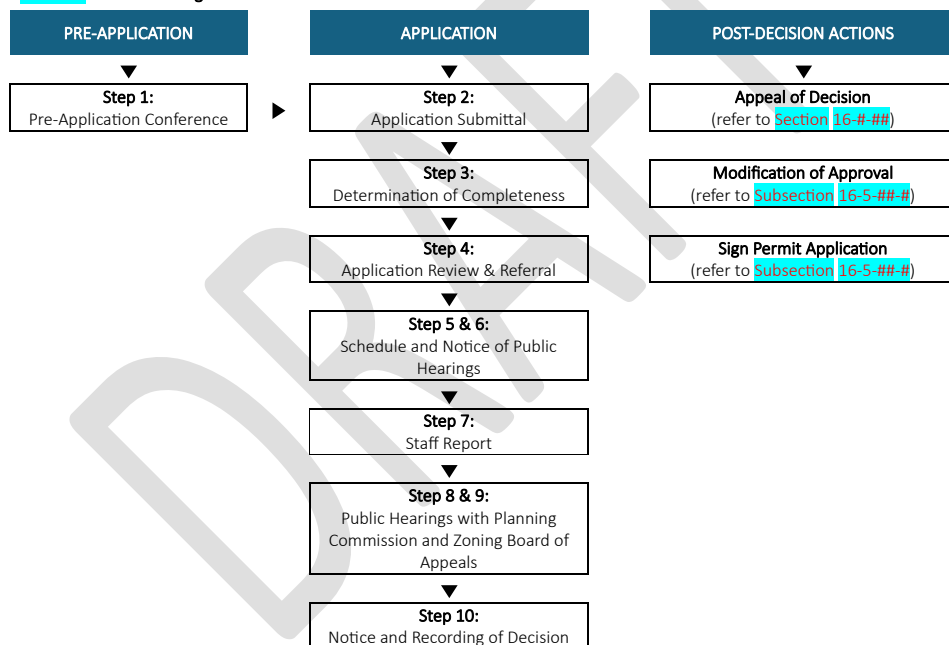
- 1. There exists an exceptional or extraordinary condition(s) that is unique to the subject property (such as shape, size, or topography), is not a general condition throughout the same zone district, and did not result from the action of any person currently having interest in the property.

2. The exceptional or extraordinary condition(s) of the subject property creates a situation such that the strict application of the specified regulation will result in practical difficulty or undue hardship upon the applicant not related to purposes of convenience or financial burden.
3. The granting of the variance will not be detrimental to the public health, safety, or welfare; will not be materially injurious to properties or improvements in the vicinity; and will not result in substantial impairment to the purposes of this Chapter.
4. The requested variance is the minimum necessary to alleviate the hardship or practical difficulty.

F. Application Review Procedures

A request for Sign Variance will be reviewed and decided upon in accordance with the following procedures.

Table ##: Overview of Sign Variance Review Procedures



1. **Step 1: Pre-Application Conference.** A Pre-Application Conference is required prior to the submittal of an application for a Sign Variance. This requirement may be waived at the discretion of the Planning Director.

The process for a Pre-Application Conference is as follows:

- a. *Schedule Pre-Application Conference.* The applicant must submit a written request for a Pre-Application Conference to the Planning Director. Within fourteen (14) calendar days of

receiving such a request, the Planning Director will schedule the Pre-Application Conference and notify the applicant of the date, time, and location of the conference.

- b. *Materials for Pre-Application Conference.* If required by the Planning Director, the applicant will submit information that allows for an informal evaluation of the proposal. This information must be submitted at least five (5) business days prior to the Pre-Application Conference.
- c. *Attend Pre-Application Conference.* The applicant and the Planning Director will attend the Pre-Application Conference. The Planning Director may invite other town staff, town consultants, and/or county, state, or federal representatives to participate in the Pre-Application Conference if they deem it appropriate.

The purpose of the Pre-Application Conference is to provide the applicant, Planning Director, and other attendees with an opportunity to review and discuss the following:

- i. The applicant's proposal.
- ii. The applicable provisions of this Code.
- iii. The application submittal requirements and review procedures.
- iv. The referral agencies likely to be involved with the review of the application.

Depending on the magnitude or complexity of the applicant's proposal and/or the availability of other persons deemed necessary to attend, the Pre-Application Conference may be continued for a reasonable time at the request of the applicant or the Planning Director.

- d. *Pre-Application Conference Summary.* Within ten (10) business days of the conclusion of the Pre-Application Conference, the Planning Director shall prepare, and provide the applicant with, a written summary of the conference.
 - e. *Effect of Pre-Application Conference.* Any information provided as part of a Pre-Application Conference shall not be binding on the Town or the applicant.
2. **Step 2: Submittal of Application.** The applicant for a Sign Variance shall submit a complete application to the Town. Prior to the application submittal, the Planning Director shall determine, and inform the applicant of, the format (electronic or hard copy) and number of copies of the application to be submitted.
 3. **Step 3: Determination of Completeness.** Within thirty (30) business days of the Town receiving an application, the Planning Director shall review the application and determine whether it is complete and includes sufficient information to be evaluated for general compliance with the requirements of this Code.
 - a. *Application Deemed Complete.* If the Planning Director determines the application to be complete, they shall do the following:

- i. Certify the application as complete and record the date of the determination of completeness.
 - ii. Schedule a public hearing in accordance with [Section 16-5-###](#).
 - iii. Notify the applicant, in writing, of the determination of completeness; the date, time, and location for the public hearing; any changes that need to be made to the application prior to commencing the application referral process; and the number of complete applications to be submitted to the Town for the referral process.
- b. *Application Deemed Incomplete.* If the application is determined to be incomplete, the Planning Director shall notify the applicant, in writing, of the application's deficiencies and that no further action on the application will be taken until these deficiencies have been remedied.

If an applicant fails to correct deficiencies in their application, the Planning Director may deem the application to be withdrawn in accordance with [Subsection 16-5-###-#](#).

- c. *Extension of Timeframe for Determination of Completeness.* The Planning Director may extend the timeframe for a determination of completeness by up to ten (10) business days if one of the following conditions exist:
- i. The scope of the application warrants additional time for the Planning Director to review the application and make a determination of completeness.
 - ii. The Planning Director's workload justifies the need for an extension of time to review the application and make a determination of completeness.

If the Planning Director chooses to extend the time for the review and determination of completeness for an application, they will provide the applicant with written notice of their decision.

4. Step 4: Application Review and Referral.

- a. Within five (5) business days of receiving the requested number of complete applications from the applicant, the Planning Director shall circulate copies of the application package for review and comment by the town departments, town consultants, and referral agencies that may be affected by the proposal. The Planning Director is responsible for determining the appropriate town departments, town consultants, and referral agencies to involve in the review of an application.
- b. The comment period for the review by referral agencies shall be twenty (20) business days from the date that the application is circulated by the Planning Director. Upon request by a referral agency, the Planning Director may authorize one (1) extension of this comment period by up to ten (10) business days.
- c. Comments from referral agencies not received by the Town within the applicable time frame will be considered a no comment.

- d. Town departments and town consultants may provide comments on an application at any time during the review process.
5. **Step 5: Schedule Public Hearing.** Upon the conclusion of the referral process, the Planning Director shall schedule the application for public hearings before the Planning Commission and the Zoning Board of Appeals in accordance with the following requirements and notify the applicant, in writing, of the date, time, and location of each public hearing.
- a. The public hearings shall be scheduled for a regularly scheduled meeting or a special meeting of the Planning Commission and the Town Council.
 - b. The first public hearing before the Planning Commission shall be scheduled no later than forty (40) business days after the conclusion of the referral process.
 - c. A public hearing before the Zoning Board of Appeals shall be scheduled within forty (40) business days of the Planning Commission completing its review and making a recommendation to the Town Council.
6. **Step 6: Notice of Public Hearing.** Prior to the date of the first public hearing with the Planning Commission, the applicant shall:
- a. *Mail Notice.* Mail notice, by certified mail, to all property owners of record within one hundred (100) feet of the subject property, in accordance with [Section 16-5-###](#).
 - b. *Publish Notice.* Publish notice in a local newspaper, having general circulation within the Town, in accordance with [Section 16-5-###](#).
 - c. *Post Notice.* Post notice on a sign on the subject property in accordance with [Section 16-5-###](#).
 - d. *Mail Notice to Mineral Estate Owners (As Required).* If required by the Colorado Revised Statutes, mail notice to mineral estate owners in accordance with [Section 16-5-###](#).
 - e. *Submit Proof of Notice.* Submit proof of notice in accordance with [Section 16-5-###](#).
7. **Step 7: Staff Report.** Town staff shall prepare a staff report that addresses the following, as applicable:
- a. Compliance with the standards of this Code.
 - b. Issues raised during the review of the application by town staff, town consultants, and/or referral agencies.
 - c. Recommended conditions to ensure compliance with applicable standards.
 - d. Additional information pertinent to the review of the application that must be submitted by the applicant.
8. **Step 8: Public Hearing with Planning Commission.**

- a. The Planning Commission will hold a public hearing, in accordance with [Section 16-5-##](#), to review the application. The applicant, or their agent, must be present at the hearing.
- b. At least five (5) calendar days prior to the public hearing, the Planning Director shall make available the following materials to the Planning Commission, the applicant, and the public:
 - i. The application and any supporting materials.
 - ii. The staff report.
 - iii. Copies of any comments received by the Town from town departments, town consultants, referral agencies, and/or the public.
- c. Following the close of the public hearing, the Planning Commission shall consider the application and any supporting materials, the staff report, public testimony, and the review criteria for a Sign Variance, and shall take one of the following actions:
 - i. Recommend that the Zoning Board of Appeals approve the Sign Variance, subject to any conditions that the Planning Commission deems necessary to ensure compliance with this Code and the Community Plan.
 - ii. Recommend that the Zoning Board of Appeals deny the Sign Variance and state the specific reason(s) for denial.

9. Step 9: Public Hearing with Zoning Board of Appeals.

- a. Following the public hearing with the Planning Commission, the Zoning Board of Appeals will hold a public hearing, in accordance with [Section 16-5-##](#), to review the application. The applicant, or their agent, must be present at the hearing.
- b. At least five (5) calendar days prior to the public hearing, the Planning Director shall make available the following materials to the Zoning Board of Appeals, the applicant, and the public:
 - i. The application and any supporting materials.
 - ii. The staff report.
 - iii. The Planning Commission's recommendation.
 - iv. Copies of any comments received by the Town from town departments, town consultants, referral agencies, and/or the public.
- c. Following the close of the public hearing, the Zoning Board of Appeals shall consider the application and any supporting materials, the staff report, the recommendation of the Planning Commission, public testimony, and the review criteria for a Sign Variance, and shall take one of the following actions:

- i. Approve the Sign Variance, subject to any conditions that the Zoning Board of Appeals deems necessary to ensure compliance with this Code and the Community Plan.
 - ii. Deny the Sign Variance and state the specific reason(s) for denial.
- d. If the Zoning Board of Appeals approves a Sign Variance, it shall enact a resolution to such effect.

10. Step 10: Notice and Recording of Decision.

- a. Within ten (10) business days of a final action by the Zoning Board of Appeals, the following will occur:
 - i. The Planning Director will send written notice of the decision to the applicant.
 - ii. A copy of the decision will be made available to the applicant during normal business at Minturn Town Hall.
- b. If the Zoning Board of Appeals approves a Sign Variance, the Town Clerk will enter a copy of the resolution approving the variance into the town's records.

G. Modification of Approval

Any modification to an approved Sign Variance shall require the submittal of a new application that is processed and reviewed in accordance with the procedures and standards set forth in this Section.

H. Sign Permit Application

- 1. Once a Sign Variance has been approved by the Zoning Board of Appeals, the applicant may apply for a Sign Permit pursuant to [Section 16-5-##](#).
- 2. The granting of a Sign Variance does not exempt the applicant from the requirement to submit an application for, and receive approval of, a Sign Permit.