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## Chapter 16 – Zoning

### Article 2 – Definitions, Illustrations and Lot Standards

#### Sec. 16-2-20. Definitions.

For the purposes of this Chapter, the following terms shall have the meanings set forth below unless the context clearly indicates otherwise:

*Accessory apartment* means a dwelling unit that has been added onto, or created within, a single-family dwelling or detached garage. The *accessory apartment* has separate cooking, bathing and sleeping areas. The inclusion of an accessory apartment shall maintain the appearance of the structure as a single-family dwelling or detached garage. The *accessory apartment* shall remain under the same ownership as the single-family dwelling.

*Accessory building or structure* means a building or structure detached from a principal building located on the same lot and customarily incidental and subordinate to the principal building or use. An *accessory building or structure* is functionally dependent upon the principal use. (See Illustration No. 16-1 at Section 16-2-30)

*Accessory dwelling* means an individual dwelling unit subordinate to, and contained within or on the same lot as, a single-family dwelling.

*Accessory use* means a use of land, or of a building or portion thereof, customarily incidental to and subordinate to the principal use of the land or building and located on the same lot with the principal use.

*Active programmed recreation turf* means grass used for recreation that is one thousand five hundred (1,500) contiguous square feet or greater; and located at least ten (10) feet from a street or interior-facing parking lot unless the turf area is at least thirty (30) feet in all dimensions or immediately adjacent to an athletic field.

*Active use* means a building space at the ground level of a building that is designed for retail or other customer-oriented commercial use. Such space shall not include vehicle parking, service areas, utility facilities, residential uses, or residential support uses such as lobbies, resident laundry rooms and resident work-out facilities.

*Adult use* means an establishment consisting of, including or having the characteristics of any or all of the following:

*Adult bookstore* means an establishment having as a substantial or significant portion of its stock-in-trade books, magazines, publications, tapes or films that are distinguished or characterized by their emphasis on matter depicting, describing or relating to sexual activities or anatomical genital areas.

*Adult cabaret* means:

1. An establishment devoted to adult entertainment, either with or without a liquor license, presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to sexual activities or anatomical genital areas;
2. A cabaret that features topless dancers, go-go dancers, strippers, male or female impersonators or similar entertainers for observation by patrons.

*Adult massage parlor* means a similar establishment or portion of an establishment presenting material distinguished by emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement and customarily not open to the general public through the exclusion of minors.

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*Adult motion picture theater* means an enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to sexual activities or anatomical genital areas.

*Nude entertainment establishment* means an establishment where a person appears in a state of nudity when such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals of either sex.

*Agricultural use* means the production, keeping or maintenance, for sale, lease or personal use, of plants and animals useful to man, including, but not limited to:

*Animal husbandry* means raising of livestock, bees, apiary products and fur animals, including the incidental preparations for market, storage and delivery, but not the sale of retail products.

*Horticulture* means the cultivation of a garden or orchard, including floriculture and viticulture, and comprises the production of crops and raising nursery stock, including incidental preparations for market, storage and delivery but not retail sale of products.

*Alley* means a service roadway providing a secondary means of access to abutting property and designated for service access to the rear or side of buildings.

*Alteration* means any act or process that changes one (1) or more of the exterior architectural features of any building or structure. A change in exterior color is not an *alteration*.

*Alteration, structural* means any change in the supporting members of a building, such as bearing walls, columns, beams and girders, or in the dimensions or configurations of the roof, foundation or exterior walls.

*Amusements* means an establishment or enterprise for the purpose of amusing or entertaining persons, including by way of example but not in limitation, museums, bowling alleys, pool halls, arcades, dance halls, puppet shows, theaters, cinemas, concerts, stage shows, roller and ice skating rinks, sport facilities and recreational facilities, whether such establishments are indoor or outdoor, for profit or not for profit or in conjunction with another use on the premises. However, amusements shall not include devices for amusement and entertainment such as jukeboxes, pool tables, coin-operated games, pinball machines or television and radio where such devices are clearly incidental and subordinate to the principal use of the premises.

*Apartment house* means a structure containing three (3) or more dwelling units that have not been subdivided into separate ownership units.

*Area median income (AMI)* means the median household income estimates and program income limits compiled and released annually for Eagle County by the United States Department of Housing and Urban Development (HUD).

*Athletic field turf* means grass used for sports or physical education that is one thousand five hundred (1,500) contiguous square feet or greater; not less than thirty (30) feet in any dimension; and located at a school, daycare, religious institution, recreation center, senior center, park or water park. Athletic field turf may be located less than ten (10) feet from a street or interior-facing parking lot.

*Automobile service station* means any building, land area or other premises or portion thereof used for the retail dispensing or sales of vehicular fuels; serving and repair of automobiles; and including as an accessory use the sale and installation of lubricants, tires, batteries and similar vehicle accessories. Motor vehicle service is listed as an industrial use.

*Automotive detail shop* means a building, or portion thereof, containing facilities for complete or partial hand-washing of automobiles as a service to a customer.

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*Automotive parts/sales* means any building or premises whose primary use is for the dispensing or sale at retail to the public of lubricating oil or grease, tires, batteries and other minor automobile accessories.

*Bakeries and confectioneries* means the baking of bread, cake, cookies and other similar items for delivery to wholesale customers or for door-to-door sale or delivery to retail customers.

*Bakeries and delicatessens with food service* means stores engaged in the sale at retail of bread, cake, cookies and other similar items, including the baking of such items on the premises, but excluding the baking of such items for delivery to wholesale customers or for door-to-door sale or delivery to retail customers.

*Banks and financial institutions* means commercial banks, savings and loan associations, brokerage offices and other similar financial institutions, but not including pawnshops.

*Batch plant* means the manufacturing of asphalt or concrete which may include the storage of related component materials.

*Battle Retained Parcels* means, whether unplatted or divided into tracts, parcels, lots and blocks pursuant to the exemption plat process or a recorded final plat, all land within the Bolts Lake Property that is neither a Town parcel nor a restricted parcel and is intended for future development or other disposition.

*Bed and breakfast and tourist home* mean a dwelling unit in which overnight accommodations and a morning meal are provided only to guests of the facility for compensation. There are no cooking or dining facilities provided in individual rooms, and the length of stay is less than thirty (30) days. See also *Commercial accommodations*.

*Bolts Concept Plan* means and refers to the concept plan and master map for the Bolts Lake Property that is set forth in Section 16-10.5-25, and which depicts the general locations of the Battle Retained Property, the restricted parcels and the Town parcels.

*Bolts Lake Property* means the approximately three hundred seventy-nine (379) acres of land consisting of the Battle Retained Property, the restricted parcels and the Town parcels, as conceptually depicted in the Bolts Concept Plan, but excluding any land conveyed to and owned in fee by ERWSD (or its successors and assigns) pursuant to the Reservoir Agreement.

*Bolts Water Distribution System* has the meaning stated in Section 13-1-10.

*Bolts Water Treatment Plant* has the meaning stated in Section 13-1-10.

*Bolts Water Treatment System* has the meaning stated in Section 13-1-10.

*Building* means any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials of any kind.

*Building height or height of building* means the maximum vertical (plumb) distance measured at any point along the perimeter of the structure from the finished, natural, or established grade (whichever is more restrictive) and a point on the roof depending on the roof type. No portion of any structure included in building height measurements where height is measured to a mean or mid-point shall exceed the applicable building height limitation contained in this Code. (See Illustration No. 16-2.)

*Building lot coverage* means the portion of a lot that is covered by buildings, including all interior space including garages, and all enclosed cantilevered portions of a building, covered porches, covered walkways and similar covered areas. Buildings are measured at the outside exterior wall. Additionally, fifty percent (50%) of the total area of second- and third-level decks shall be counted towards the allowable building lot coverage. Second- and third-level decks that cover a portion of a building that has already been counted towards the allowable lot coverage shall not count towards the total lot coverage. Second- and third-level decks that are structurally supported from the ground level shall have their entire area counted towards the allowable lot coverage. (See Illustration No. 16-3.)

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*Bulk plane* means a theoretical plane beginning at a setback or directly above a street line at a maximum height of twenty (20) feet and rising over a slope determined by a forty-five (45) degree angle measured down from the vertical. (See Illustration No. 16-3)

*Camper/trailer* means a vehicle eligible to be registered and insured for highway use, designed to be used as temporary shelter for travel, recreational and vacation purposes for not more than thirty (30) days. The term includes, but is not limited to, equipment commonly called fifth wheels, independent travel trailers, dependent travel trailers, tent trailers, pickup campers, motor homes and converted buses, but does not include mobile homes.

*Campground* means any property utilized for camping and/or parking of a camper/ trailer for a period not to exceed thirty (30) days.

*Car wash* means a building, or portion thereof, containing facilities for washing automobiles, using production line methods with a chain conveyor, blower, steam cleaning device or other mechanical devices; or providing space, water, equipment or soap for the complete or partial hand-washing of such automobiles, whether by an operator or by a customer.

*Caretaker unit* means a stand-alone building that houses an accessory dwelling use and is intended to be occupied by not more than four (4) unrelated individuals, or by a family, which individuals are employed for the purpose of taking care of the property and improvements located within a ranch lot or within an estate lot and/or providing domestic services to the principle single family dwelling located on such lot.

*Cemetery* means the use of property for the interment of human remains, whether above or below ground, along with all accessory structures and uses which are commonly and reasonably associated with such use. Accessory uses shall include, but are not limited to, funeral homes, columbarias, cenotaph walls, and ossuaries.

*Church* means a building or structure, or groups of buildings or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses.

*Club* means any nonprofit organization exclusively serving members and their guests whose facilities are limited to meeting, eating and recreational uses; and further, whose activities are not conducted principally for monetary gain.

*Commercial accommodations* means a building or group of buildings containing guest units designed to be rented for less than thirty (30) days to the general public for compensation and which may or may not have eating or drinking facilities as an accessory use. *Commercial accommodations* include inns, hostels, motels, hotels, boarding houses, lodging houses and dormitory housing.

*Commercial use* means an activity involving the sale of goods or services carried out for profit.

*Community center* means a building used for recreational, social, educational and cultural activities, open to the public or a designated part of the public, usually owned and operated by a public or nonprofit group or agency.

*Community character* means the image of a community or area as defined by such factors as its social and economic characteristics and the built environment, natural features and open space elements, type of housing, architectural style, infrastructure and the type and quality of public facilities and services.

*Community facilities* means a building or structure owned and operated by a governmental agency to provide a governmental service to the public.

*Community housing* means a residential dwelling unit within the Town of Minturn that is deed-restricted in accordance with this Article and the Town of Minturn's Community Housing Requirements and

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Guidelines, as approved and amended from time to time by resolution by the Town Council, and in accordance with a deed restriction approved by the Town of Minturn Town Council or its designee.

*Community housing for sale unit* means a community housing unit that is deed-restricted in accordance with this Article and the Town of Minturn's Community Housing Requirements and Guidelines, as approved and amended from time to time by resolution by the Town Council, and in accordance with deed restrictions approved by the Town of Minturn Town Council or its designee to establish maximum initial sales and resale prices, as well as residency, employment and income qualifications for owners and occupants.

*Community housing rental unit* means a community housing unit that is deed-restricted in accordance with this Article and the Town of Minturn's Community Housing Requirements and Guidelines, as approved and amended from time to time by resolution by the Town Council, and in accordance with deed restrictions approved by the Town of Minturn Town Council or its designee, to establish a maximum rental prices, as well as residency, employment and income qualifications for owners and occupants.

*Community housing residency requirements and guidelines* means the requirements adopted by resolution by the Town Council, from time to time, which may include, but shall not be limited to, standards concerning the procedure for qualifying to own or rent community housing units; the requirements (e.g. residency) for qualifying to own or rent community housing units; forms of approved deed restrictions: limitations on appreciation of sales prices of community housing; procedures for sale of community housing; priorities for persons bidding to purchase community housing units; maximum sales and rental rate increases; standards for the number of residents per dwelling unit; quality of construction requirements for new community housing units; and possible incentives for the construction of community housing. The Community Housing Residency Requirements and Guidelines, and amendments thereto, shall be adopted following a duly noticed public hearing at which such guidelines are considered.

*Community housing unit* means a residential dwelling unit within the Town of Minturn that is deed-restricted in accordance with this Article and the Town of Minturn's Community Housing Requirements and Guidelines, as approved and amended from time to time by resolution of the Town Council, and in accordance with deed restrictions approved by the Town of Minturn Town Council or its designee.

*Community-oriented building, facility or use* means a predominately noncommercial use established primarily for the benefit and service of the general public or the community in which it is located. Such facilities include, but are not limited to: community centers, art/performing arts or cultural centers, libraries, museums and other similar uses.

*Conditional use* means a use listed in the Character Area use tables and permitted upon approval of the Town Council upon showing that such use in a specified location will comply with the conditions and standards for the zone and location proposed.

*Conditional use permit* means a use permit issued by the Town stating that the conditional use meets all the standards and conditions set forth in this Chapter.

*Condominium* means a building or group of buildings in which dwelling units, offices or floor areas are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis.

*Contiguous* means sharing a common border at more than a single point of intersection and in such a manner that the shared boundaries are touching. Lands that are separated by a right-of-way that is dedicated in fee simple shall not be considered to be *contiguous*. Lands that touch at points of intersection shall also not be considered to be *contiguous*.

*Convenience store* means a small-scale food store less than two thousand five hundred (2,500) square feet in size, generally located in small neighborhood convenience centers. Such stores may have on-site service of food or drink for immediate consumption, and carry for sale general food items, as well as medicines, cosmetics and limited beer and wine items.

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*Coop* means an enclosed and secured facility for housing fowl.

*Cottage industry: See Home occupation.*

*Day care center* means a licensed facility which provides regular care and supervision, for an entire day or a portion of a day, for five (5) or more children who are not related to the owner, operator or manager thereof, whether such facility is operated with or without compensation for such care.

*Day spa* means a non-destination commercial establishment (as distinguished from a spa/wellness center) comprising less than five thousand (5,000) square feet of gross leasable area (as defined in Section 16-10.5-80(2)) that offers aesthetic services such as massages, face and body treatments, and skin and nail treatments.

*Deed restriction* means a contract entered into between the Town and the owner or purchaser of real property identifying the conditions of occupancy and resale.

*Delicatessens and specialty food stores* means establishments selling specialty foods at retail and less than two thousand five hundred (2,500) square feet in size.

*Density* means a unit of measurement indicating the number of dwelling units per acre of land.

*Gross density* includes all the area within the boundaries of the particular area, excluding nothing.

*Net density* excludes the area within the one-hundred-year floodplain and slopes in excess of thirty percent (30%).

*Designated use area (landscaping)* means grass designated for special use at cemeteries and mortuaries.

*Design continuity* means a unifying or connecting theme or physical feature of the Town or Character Area, provided by one (1) or more elements of the natural or created environment.

*Design fit* means consistency in scale, quality or character between new and existing development so as to avoid abrupt and/or severe differences.

*Design review* means the submission of a site or building design for review by the Town Design Review Board. See Appendix B to this Code.

*Design standards* means the Town's Design Standards and Guidelines defining parameters to be followed in site and/or building design and development. See Appendix B to this Code.

*Designated buildable area(s)* has the meaning stated in Section 17-2-10.

*Development* means any manmade change to improved or unimproved real estate, including, but not limited to, construction, demolition, renovation, rehabilitation, mining, dredging, filling, grading, paving, excavation or drilling operations.

*Dormitory housing* means a building used as group living quarters for a student body or religious order as an accessory use for a college, university, boarding school, convent, monastery or other similar institutional use.

*Drive-in use* means an establishment that, by design, physical facilities, service or packaging procedures, encourages or permits customers to receive services, obtain goods or be entertained while remaining in their motor vehicles.

*Drive-through/drive-up establishment* means a place of business operated for the retail sale and purchase of food and other goods, services or entertainment, which is laid out and equipped so as to allow its patrons to be served or accommodated while remaining in their automobiles, or which allows the

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consumption of food or beverages in automobiles on the premises or elsewhere on the premises, but outside any completely enclosed structures.

*Drugstores and pharmacies* means a retail store which sells prescription drugs and which may also sell other items at the retail level. A pharmacy may have a maximum gross floor area of five thousand (5,000) square feet. Prescription drugs may also be sold in department stores, variety stores and food stores, but such a store shall not be deemed to be a *pharmacy*.

*Dry cleaners* means an establishment engaged in providing laundry, dyeing and dry-cleaning services to individual customers.

*Duplex* means a structure that is used exclusively by two (2) families, each living as an independent house keeping unit. Joining Requirements: a shared roof line, buildings connected by a common roof, including covered walkways; or a minimum ten percent (10%) of a party wall; or a structure divided into two (2) living spaces by one (1) wall or floor. (See Illustration No. 16-5.)

*Duplex lot* means a lot located within a character area and zone that permits duplexes that has a minimum lot size of at least five thousand (5,000) square feet.

*Dwelling* means a structure or portion thereof that is used exclusively for human habitation.

*Dwelling, multiple-family* means a building containing three (3) or more dwelling units, including apartments, condominium units or townhouses, designed for and used by three (3) or more families each living as an independent housekeeping unit.

*Dwelling, single-family* means a building containing a single dwelling unit.

*Dwelling unit* means any room or group of rooms with not more than one (1) indoor kitchen facility designed for or used as a dwelling for one (1) family as an independent housekeeping unit. *Dwelling unit* shall include mobile and manufactured homes, but shall not include hotels, motels, clubs, boarding houses, dormitories or other institutions such as hospitals or jails.

*Dwelling unit, efficiency* means a dwelling unit consisting of not more than one (1) habitable room together with a kitchen or kitchenette and sanitary facilities.

*Easement* means a grant of one (1) or more of the property rights by the property owner to and/or for use by the public, a corporation or another person or entity.

*Eating and drinking establishment* means a commercial establishment other than a drive-through or fast food restaurant where food and drink are prepared, served and consumed primarily within the principal building.

*Educational facility* means public schools, nonpublic schools, colleges and universities, proprietary schools and schools administered and operated by the State. The following definitions shall apply to the various types of educational facilities:

*Colleges or universities* means such educational facilities under charter or license from the State.

*Nonpublic schools* means all private, parochial and independent schools which provide education for compulsory school-age pupils comparable to that provided in the public schools of the State.

*Proprietary facilities* means all privately owned and managed educational facilities which may include, but not be limited to, art, church, business colleges, trade schools, church camps and day camps.

*Public schools* means those schools administered by legally organized school districts.

*Employee/qualified resident* means a person who is employed on the basis of a minimum of one thousand five hundred (1,500) hours worked per calendar year in the employment area, which averages

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thirty (30) hours per week for a minimum of ten (10) months per year, physically working in the employment area and who resides in the community housing unit as their sole and exclusive place of residence a minimum nine (9) months of a twelve-month period. Priority will be given to employees/qualified residents employed within the Town of Minturn boundaries.

*Employment area* means that portion of the Eagle River Valley located from Dotsero to Red Cliff, including Vail.

*Encroachment* means any obstruction or illegal or unauthorized intrusion in a setback or right-of-way or on adjacent land.

*Enlargement* means an increase in the size of an existing structure or use, including physical size of the property, building, parking and other improvements.

*ERWSD* has the meaning stated in Section 13-1-10.

*Estate lot* has the meaning stated in Section 17-2-10.

*Estate lot plat* has the meaning stated in Section 17-2-10.

*Estate lot process* has the meaning stated in Section 17-2-10.

*Exception* means permission to depart from the design standards in the design standards.

*Exemption plat* has the meaning stated in Section 17-2-10.

*Exemption plat parcel* has the meaning stated in Section 17-2-10.

*Exemption plat process* has the meaning stated in Section 17-2-10.

*Family* means any number of individuals living and cooking together, including domestic employees, as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability, but not exceeding four (4) unrelated individuals. A *single housekeeping unit* is defined as common use and access to all living and eating areas, bathrooms and food preparation and serving areas.

*Family child care home* means a facility for child care in a place of residence of a family or person for the purpose of providing less than twenty-four-hour care for up to twelve (12) children who are not related to the person or persons providing the care, as defined and regulated by the Colorado Department of Human Services Child Care Facility Licensing regulations, whether such facility is operated with or without compensation for such care.

*Festival marketplace* means a retail center located in a unique architectural setting with a mix of small specialty shops and carts offering one-of-a-kind merchandise, with an emphasis on gifts and crafts supplied locally and food offerings.

*Fiscal impact analysis* means an analysis, also known as a cost-revenue analysis, of the costs and revenues to the Town associated with a specific development application.

*Flea market* means an occasional or periodic market held in an open area or structure where groups of individual sellers offer goods for sale to the public.

*Fowl* means any fowl, including any chicken, duck, goose, turkey, pigeon or other fowl.

*Free range* means fowl being allowed to move about within an open area on the permitted property without the benefit of a coop or run.

*Functional turf* means an irrigated grass area that provides a recreational benefit to the community and is:

1. Not located on single-family lots;

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2. Located at least ten (10) feet from a street, on slopes less than twenty-five percent (25%), and not installed within street medians, along streetscapes or at the front of entryways to parks, commercial sites, neighborhoods, or subdivisions; and
  3. Active/programmed recreation turf, athletic field turf, designated use area (landscaping), pet relief area, playground turf or resident area turf.

*Funeral home* means a building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation.

*Gas station* means any place where motor vehicle fuel is sold and dispensed as either a principal or incidental activity. Where the sale and dispensing of vehicle fuel is the principal activity, accessory activities may include the retail sale of lubricants, tires, batteries, motor vehicle accessories and supplies, including minor installation services or repairs customarily incidental thereto.

*General development plan* means a plan showing general land use, circulation, open space, utilities, stormwater management, environmental factors, community facilities, housing, impacts and phasing for development proposed to be constructed as a Planned Unit Development.

*Grade, established* means the grade of a previously disturbed property prior to the most recent proposed development or construction activity. On developed lots, the established grade is established by extrapolating and referencing elevations at points where the previously disturbed and/or developed area appears to meet the undeveloped portions of the lot. Such extrapolation and reference may occur at the property boundary if the lot is previously disturbed or developed to the furthest extent of the lot.

*Grade, finished* means the final elevation of the ground surface of a site after human-made alterations, such as grading, grubbing, cutting, filling, or excavating, have been made on the ground surface; the grade of a site after reconfiguring grades according to an approved site plan.

*Grade, natural* means the elevation of the surface of the ground which has been created through the action of natural forces and has not resulted from humanmade cuts, fills, excavation grading or similar earthmoving processes, or, the ground surface elevation in existence prior to the initiation of development on a parcel of land.

*Grocery store* means a commercial establishment over two thousand five hundred (2,500) square feet in size, commonly known as a supermarket or food store, primarily engaged in the retail sale of canned foods and dry goods, fresh fruits and vegetables, fresh and prepared meats, fish and poultry.

*Gross income* means the total income, including alimony and child support, derived from a business, trust, employment and from income-producing property, before deductions for expenses, depreciation, taxes, and similar allowances.

*Gross leasable area (GLA)* means the total floor area for which the tenant pays rent and that is designed for the tenant's occupancy and exclusive use. *GLA* does not include public or common areas such as utility rooms, stairwells, malls and so on.

*Group home* means a residential building that is owned and operated by a nonprofit organization, or is owned and operated by an individual or group of individuals who actually reside at and maintain their primary place of residence in the group home, that is:

- a. Occupied by elderly persons. Is occupied by not more than eight (8) persons who are sixty (60) years of age or older who do not require skilled or intermediate care facilities.
- b. Occupied by developmentally disabled persons. Contains a state-licensed facility for the exclusive use of not more than eight (8) persons who are developmentally disabled due to their having cerebral palsy, multiple sclerosis, mental retardation, autism or epilepsy.

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- c. Occupied by mentally ill persons. Contains a state-licensed facility for the exclusive use of not more than eight (8) persons who have been screened by a mental health professional and have been determined to be mentally ill. No person who has been determined to be not guilty of a violent offense by reason of insanity or who has been convicted of a felony shall be placed in a group home.

*Guest unit* means a room or suite of rooms without cooking facilities, suitable for separate occupancy in a motel, hotel, condominium, lodging unit or similar establishment, including a single-family or multi-family residence. If the unit is designed for and used by a person as an independent housekeeping unit, it shall be considered as a dwelling unit.

*Half stories* means habitable space that is located within the pitched roof portion of a structure or where the majority of the habitable space is below-grade. Habitable space within a half story shall have a minimum floor to ceiling height of five (5) feet at the lowest point. See Section 16-2-65.

*Health/medical office* means a building, the principal use of which is for offices of health professionals, which contains facilities for the examination and treatment of patients but not for their lodging. This includes physicians, dentists, chiropractors or other licensed practitioners of the healing arts for the examination and treatment of persons solely on an outpatient basis.

*High use area* means an area within a required yard intended or expected to serve as the primary outdoor use, recreation, pedestrian traffic or gathering place for personal or commercial purposes.

*Home business* means the conduct of a business, occupation or trade as an accessory use entirely within a residential building or accessory structure for gain or support by residents of the dwelling and employees residing off the premises, which may serve patrons on the premises.

*Home occupation* means an occupation conducted within a building or a portion thereof by a resident of the premises. Such occupations include:

- a. An endeavor involving the production and sale of goods or services, which does not change the residential character of the area; and
- b. Contracting for services where such services are not provided on the premises, except on an appointment basis.

*Hospital* means an institution providing primary health services and medical or surgical care to persons, primarily inpatients suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions, and including as an integral part of the institution related facilities such as laboratories, outpatient facilities, training facilities, medical offices and staff housing.

*Hotel* means a facility offering transient lodging and accommodations to the general public and providing additional services, such as restaurants, meeting rooms, entertainment and recreational facilities.

*Hydrozone* means areas within the landscape defined by a grouping of plants requiring a similar amount of water to sustain health. For the purposes of this document, hydrozones are broken into the following four (4) categories:

1. Very low hydrozones include plantings that need water when first planted, but none once established.
2. Low hydrozones include plantings that generally do not require more than three (3) gallons per square foot of supplemental water per year. During plant establishment or drought, additional supplemental water may be beneficial.
3. Moderate hydrozones include plantings that generally require between three (3) and ten (10) gallons per square foot of supplemental water per year.

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4. High hydrozones include plantings that generally require between ten (10) and eighteen (18) gallons per square foot of supplemental water per year.

*Impervious surface area* means any material that prevents absorption of water into the ground. The area of the lot covered by the following shall be considered as impervious surface in all character areas:

- a. The principal building, excluding roof overhangs.
- b. All accessory buildings, parking garages, carports and sheds.
- c. Porches, stairways, decks, elevated walkways, sheds and other structures, together with paved areas or areas otherwise covered with materials impervious to water.
- d. Parking areas, sidewalks and driveways regardless of surface materials.

*Incentive floor* means an additional floor of development that is allowed only when additional requirements for the development are met. See Section 16-2-65.

*Inclusionary community housing* means the policy of requiring community housing in residential developments to ensure adequate housing stock for local residents and to maintain or increase the current ratio of primary to second home ownership in the Town of Minturn.

*Initial sales price* means the maximum price for which a price capped community housing for sale unit may be initially sold.

*Institutional use* means a religious or public use, such as a church, library, public or private school, hospital or government-owned or -operated building, structure or land used for public purposes.

*Junk* means any scrap, waste, reclaimable material or debris, whether or not stored, for sale or in the process of being dismantled, destroyed, processed, salvaged, stored, baled, disposed of or other use or disposition.

*Junkyard* means any area, lot, land, parcel, building, structure or part thereof used for the storage, collection, processing, purchase, sale, salvage or disposal of junk.

*Kennel* means any building, structure or open space devoted wholly or partly to the raising, boarding or harboring of four (4) or more animals that are over six (6) months old.

*Kennel, commercial* means a commercial establishment in which dogs or domesticated animals are housed, groomed, bred, boarded, trained or sold, all for a fee or compensation.

*Laundromat* means a business that provides home-type washing and drying machines for hire to be used by customers on the premises.

*Laundry* means an industrial establishment where washing and drying machines are used on a large scale for private facilities not open to the public.

*Legal lot of record* means any lot, parcel or tract of land that was filed in the records of the County Clerk and Recorder and complied with all applicable laws, ordinances and regulations in effect at that time.

*Limited review uses* means uses that are allowed in a specific zone, subject to limited review and approval by the Planning Director.

*Liquor store* means a facility principally for the retail sale of alcoholic beverages for off-premises consumption.

*Loading space* means an off-street space or berth, on the same lot with the building it serves, for the temporary parking of vehicles while loading or unloading merchandise or material and which has access to a street, alley or other appropriate means of ingress or egress.

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*Lot* means a parcel of land as established by survey, plat or deed. (See Illustration No. 16-1 at Section 16-2-30.)

*Lot area* means the number of square feet contained within a lot exclusive of any area in a street or public right-of-way, unless said street or public right-of-way was created as a result of either an act of condemnation under the eminent domain authorities of Articles 1 through 7, Title 38, C.R.S. or the grant of a deed to a condemning authority in lieu of condemnation.

*Lot depth* means the average distance from the median of the front property line to the median of the rear property line measured perpendicularly from one (1) of the sides.

*Lot, substandard* means a parcel of land that has less than the minimum area or minimum dimensions required in the zone in which the lot is located.

*Lot, transition* means a lot in one (1) zoning district abutting another district.

*Lot width* means the average distance between the medians of the two (2) side lot lines, measured perpendicularly from one (1) of the sides.

*Low-impact commercial business* means a commercial use which complies with the parking standards and does not emit an excessive amount of traffic, noise, vibration, light, heat and/or fumes to be considered a nuisance to surrounding residential areas.

*Manufactured home* means factory-built, single-family structures that meet the National Manufactured Home Construction and Safety Standards Act (42 U.S.C. § 5401), commonly known as the HUD Code.

*Manufacturing, light* means an establishment engaged in manufacturing, assembly, compounding, processing, packaging, treatment or distribution of projects, including primary product production from raw materials or production of services, but excluding establishments which produce or emit toxic or noxious gases, odors or fumes, excessive noise, vibration or electrical interference or similar substances or conditions onto adjacent or other properties; or dangerous to the comfort, peace, enjoyment, health and safety of the community.

*Master map* means the map set forth in Section 16-10-35, which map depicts all previously defined non-buildable area(s) within the mountaintop area that contain lynx denning and peregrine falcon nesting areas, view shed corridors, wetlands and stream corridors, and critical slopes greater than thirty percent (30%).

*Mixed-use development* means the development of a tract of land, building or structure with a variety of complementary and integrated uses such as, but not limited to, residential, office, manufacturing, retail, public or entertainment in a compact urban form.

*Mobile home* means a single-family dwelling built on a permanent chassis designed for long-term residential occupancy and containing complete electrical, plumbing and sanitary facilities and designed to be installed in a permanent or semi-permanent manner with or without a permanent foundation, which is capable of being drawn over public highways as a unit or in sections by special permit. (Section 38-12-201.5[2], C.R.S.)

*Mobile home park* means a site containing three (3) or more spaces with required improvements and utilities that are leased for the long-term placement of mobile homes and that may include services and facilities for the residence.

*Mobile or manufactured home sales* means the sale, lease or rental of new and used mobile homes, modular homes, manufactured homes, trailers and motor homes.

*Modular home* means a single-family dwelling which is partially or entirely manufactured in a manufacturing facility; is installed on an engineered permanent foundation; has brick, wood or cosmetically equivalent exterior siding and a pitched roof; and is certified pursuant to the adopted Building Code.

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*Motel* means an establishment providing sleeping accommodations with a majority of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

*Motor vehicle sales* means the sale, lease or rental of new and used automobiles, trucks, motor homes, recreational vehicles and trailers.

*Mountaintop area* has the meaning stated in Section 17-2-10.

*Municipal property* means any chattels, structures, lots and/or parcels owned by the Town.

*Municipal use* means any use of land or structures by the Town.

*Nonconforming lot* means any lot which was lawfully established pursuant to the regulations in effect at the time of its development, but which does not conform to the minimum lot area standards of this Chapter for the zone district in which the lot is located.

*Nonconforming structure* means any structure which was lawfully established pursuant to the regulations in effect at the time of its development, but which does not conform to the standards of this Chapter for the zone district in which the structure is located regarding minimum setbacks, maximum height or maximum building lot coverage, the applicable standards for off-street parking or other applicable standards.

*Nonconforming use* means any use of a structure or land which was lawfully established pursuant to the regulations in effect at the time of its development, but which use is not designated in this Chapter as an allowed use, a use allowed by limited review or a use allowed by conditional review in the zone district in which it is located.

*Non-impervious surface* means area on a lot that consists of natural material that absorbs water, including storm water, and includes: wild ground cover, fescue sod, native grasses, wildflowers, xeriscape areas, trees, riparian areas, river and creek areas, wetlands, reservoirs, and other green plant life.

*Office use* means offices or studios of professional or service occupations or agencies which benefit from and contribute to an environment of semi-residential nature characterized by low traffic and pedestrian volumes, lack of distracting, irritating or sustained noise and low density of building developments, including accountant, appraiser, architect, engineer, insurance adjuster, landscape architect, lawyer, consultant, secretarial agency, bonding agency, travel agency, real estate, mortgage or title agency and investment agency.

*Open space* means any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners, occupants and their guests of land adjoining or neighboring such open space. Ownership of open space may be deeded or reserved to a property owner's association, dedicated to the public or protected in other forms deemed acceptable to the Town Council.

*Open space, common* means land within or related to a project, not individually owned or dedicated for public use, that is designed and intended for the common use or enjoyment of the residents and guests of the development, and may include such complementary structures and improvements as are necessary and appropriate.

*Open space, green* means an open space area not occupied by any structures or impervious surfaces.

*Open space, private* means common open space, the use of which is normally limited to the occupants of a single dwelling or building or property.

*Open space, public* means open space owned by a public agency and maintained by it for the use and enjoyment of the general public.

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*Open space ratio* means total area of open space divided by the total site area in which the open space is located.

$$\text{Open Space Ratio} = \frac{\text{Open Space Area}}{\text{Site Area}}$$

*Unusable open space* means land dedicated to conservation opportunities in which construction is limited to trails, bridges, irrigation structures, erosion protection devices, underground utilities and similar low-impact uses.

*Usable open space* means land dedicated to outdoor recreation which may include parks with play equipment, ball fields, lawn areas, walkways, soft and hard trails, sitting areas, courtyards and landscaping areas, tennis courts, swimming pools or other meaningful recreation facilities common to the residents.

*Ordinary high water mark* means that line on the bank established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris or other appropriate means that consider the characteristics of the surrounding areas.

*Parcel* means a unit of land or a series of contiguous units of land held in common ownership. (See Illustration No. 16-1 at Section 16-2-30.)

*Parking area* means any public or private area under or outside of a building or structure, designed and used for parking motor vehicles, including parking lots, garages, private driveways and legally designated areas of public streets.

*Parking area, private* means a parking area for the exclusive use of the owners, tenants, lessees or occupants of the lot on which the parking area is located, or their customers, employees or whomever else they permit to use the parking area.

*Parking area, public* means a parking area available to the public, with or without payment of a fee.

*Parking area, shared* means joint use of a parking area for more than one (1) use.

*Parking, off-street* means any parking area located off of any publicly or privately owned street and entirely within the boundaries of one (1) or more lots or parcels.

*Parking, on-site* means parking spaces located on the same lot or parcel as the land use generating the need for parking.

*Parking space* means space adequate to park a standard automobile, plus means of access.

*Parking structure* means a building or structure consisting of more than one (1) level and used to store motor vehicles.

*Party wall* means a common, shared wall between two (2) separate structures, buildings or dwelling units. (See Illustration No. 16-1 at Section 16-2-30.)

*Pawnshop* means a place of business which takes or receives, by way of pledge, pawn or exchange, goods, wares, merchandise or any kind of personal property whatever, for the repayment or security of any money loaned thereon, or to loan money on deposit of personal property.

*Pedestrian scale* means the proportional relationship between an individual and his or her environment. *Pedestrian scale* suggests that the relationship between a person and the environment, whether natural or created, is comfortable and intimate and contributes to the individual's sense of accessibility.

*Permitted property* means the property subject to and associated with the fowl permit.

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*Personal services* means establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel. *Personal services* include, but are not limited to, the following: laundry, linen supply, diaper service, beauty and barber shops, shoe repair, funeral service, steam baths, reducing salons and health clubs, clothing rental, locker rental, porter service and domestic services.

*Pet relief area* means grass at a property providing commercial and retail services for pets, such as veterinarian and boarding facilities. The area must not exceed two hundred (200) square feet.

*Phasing* means development undertaken in a logical time and geographic sequence. See also the phasing standards at Section 16-17-230 of this Chapter.

*Photographic studios* means an establishment for taking and developing photos for sale.

*Planned Unit Development (PUD)* means an area of land controlled by one (1) or more landowners, to be developed under unified control or unified plan of development for a number of dwelling units, residential, commercial, educational, recreational or industrial uses or any combination of the foregoing, the plan for which may not correspond in lot size, bulk or type of use, density, building lot coverage, open space or other restriction to the existing land use regulations. (Section 24-67-103(3), C.R.S.)

*Planning Director* means the Town Administrator or his or her designee.

*Playground turf* means grass in designated play areas with playground amenities, including, but not limited to, slides, swings and climbing structures on homeowner association owned/managed property or at a public park, water park, school, daycare or family care center facility, senior center or religious institution. Playground turf may be located less than ten (10) feet from a street if fenced.

*Plaza* means an open area that may be improved and landscaped; usually surrounded by streets and buildings.

*Preexisting use* means the use of a lot or structure prior to the time of the enactment of this Zoning Code.

*Principal use* means the primary purpose or function that a lot serves or is intended to serve.

*Professional activities* means the conduct of a business, profession, service or government where retail trade is not conducted.

*Professional offices* means a room or suite of rooms maintained for the practice of any generally recognized profession, including medical practitioners, dentists, lawyers, architects, engineers or similar professions.

*Public building or use* means any building open to the general use, participation or enjoyment of the public and owned by the Town, county, district, state or federal government or a public utility corporation.

*Public nuisance* means any place where people congregate, which encourages a disturbance of the peace, or where the conduct of persons in or about that place is such as to annoy or disturb the peace of the occupants of or persons attending such place, or the passerby on the public street or highway. (Section 16-14-304(1)(a), C.R.S.)

*Public utility* means a closely regulated enterprise with a franchise for providing to the public a utility service deemed necessary for the public health, safety and welfare. Facilities used for public utility purposes, including but not limited to an electric substation, a gas regulator station, a telephone exchange, a water or sewer pumping station or a water reservoir.

*Publicly accessible* means a space such as a plaza or sidewalk on private property that is directly accessible from a public right-of-way and use by the general public is allowed.

*Railroad yard* means an open area for the storage and repair of trains.

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*Ranch lot* has the meaning stated in Section 17-2-10.

*Ranch lot plat* has the meaning stated in Section 17-2-10.

*Ranch lot process* has the meaning stated in Section 17-2-10.

*Recreational facility* means a place designed and equipped for the conduct of sports and leisure-time activities.

*Recreational vehicle* means a vehicular-type portable structure without permanent foundation that can be towed, hauled or driven and primarily designed as a temporary living accommodation for recreational, camping and travel use and including, but not limited to, travel trailers, truck campers, camping trailers and self-propelled motor homes.

*Recreational vehicle park* means any lot or parcel of land upon which two (2) or more recreational vehicles sites are located, established or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes.

*Reservoir* means a pond, lake, tank or basin, natural or manmade, used for the storage, regulation and control of water.

*Reservoir Agreement* has the meaning stated in Section 13-1-10.

*Resident area turf* means grass up to one hundred fifty (150) square feet per dwelling or accommodation unit at multi-family residential properties, multi-family mixed use properties, or assisted living and rehabilitation centers used by tenants for recreation or leisure, and is separate from non-functional and non-accessible but required landscape areas typically associated with parking lots, streetscapes or other non-accessible areas.

*Resident occupied community housing* means housing with a deed restriction recorded against it requiring that it be owned or occupied by an employee/qualified resident as its primary residence as set forth in this Article and the Town of Minturn Housing Residency Requirements and Guidelines.

*Restaurant* means any establishment whose principal business is the sale of food for consumption at tables located on the premises.

*Restricted parcels* means, as depicted on the Bolts Concept Plan, the following parcels or tracts of land within the Bolts Lake Property that are created pursuant [to] the exemption plat process, are neither Town parcels nor Battle Retained Parcels, and are subject to certain perpetual easements, restrictive covenants, purchase options or similar restrictions that run with title to such parcels, are binding on the landowner thereof, and are enforceable by and for the benefit of the Town:

- (1) The OTP Area;
- (2) The Processing Area (being a portion of the Reservoir South Area);
- (3) The CTP Area; and
- (4) The Maloit Wetlands Area.

*Retail* means the sale of merchandise. These stores and lines of merchandise include, but are not limited to, apparel stores; art supply stores and galleries; bookstores; camera stores and photographic studios; candy stores; chinaware and glassware stores; florists; gift stores; hobby stores; household appliance stores; jewelry stores; leather goods stores; luggage stores; music and record stores; newsstands and tobacco stores; sporting goods stores; stationery stores; toy stores; variety stores; yardage and dry goods stores.

*Retail store* means a building or part of a building where goods, merchandise, substances, articles or things are offered or kept for retail sale directly to the general public and includes storage on the store

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premises of limited quantities of such goods, merchandise, substances, articles or things sufficient only to service such store. Such a use may include outside display and sale.

*Right-of-way* means a strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission line, oil or gas pipeline, water line, sanitary storm sewer and other similar uses. Generally, it is the right of one to pass over the property of another.

*Roadside stand* means a temporary structure designed or used for the display or sale of one-of-a-kind artwork and crafts, nursery, greenhouse, garden or other produce.

*Run* means when associated with fowl, a "run" is an enclosed and secured facility where fowl are able to move around more freely than within a coop.

*Self-service storage facility* means a structure containing separate, individual and private storage spaces of varying size, leased or rented, on individual leases for varying periods of time. *Self-service storage facilities* are often referred to as mini-warehouses and designed to serve both residential and commercial customers.

*Setback* means the distance required between the face of a building and the lot line opposite that building face, measured perpendicularly to the building.

*Shared or party driveway* means a single driveway, no more than eighteen (18) feet wide serving two (2) or more adjoining lots. (See Illustration No. 16-1 at Section 16-2-30.)

*Site plan* means the scaled development plan for one (1) or more lots on which is shown the existing and proposed conditions of the lot. (See Illustration No. 16-4 at Section 16-2-30.)

*Ski area* means an area developed for snow skiing and snowboarding, with trails and lifts, including ski and snowboard rental and sales, instruction, emergency medical and eating facilities.

*Ski resort* means a ski area that also includes sales, rental and services of related equipment and accessories, eating places, residences, hotels and motels.

*Small appliance repair shops, excluding furniture repair* means a center for the sale, repair, maintenance of or diagnosis upon small appliances, defined herein as a device or instrument designed to perform a specific function, especially an electrical device such as a toaster, for household use.

*Spa/wellness center* means a destination commercial establishment (as distinguished from a day spa) comprising at least five thousand (5,000) square feet of gross leasable area (as defined in Subsection 16-10.5-80(2)) that offers health and aesthetic services such as massages, face and body treatments, and skin treatments; health and wellness activities such as yoga rooms, meditation rooms, saunas, and hot tubs; and/or associated food and beverage services.

*Storage and utility area* means that portion of a building or lot designed or used or both, primarily for holding or safekeeping goods or machinery, or for the location or installation of mechanical devices to provide, generate or store utility service, including heat, water, cooling, electric power, propane gas and natural gas.

*Street* means any vehicular way that: (1) is an existing state, county or municipal roadway; (2) is shown upon a plat approved pursuant to law; (3) is approved by other official action; or (4) is shown on a plat duly filed and recorded in the County Clerk and Recorder's office. A street includes the land between the street lines, whether improved or unimproved.

*Street level* means the elevation of the finished street, parking area, mall, or other circulation area open to the public. For multistory buildings, the floor at street level shall be that floor nearest in elevation to the elevation of that point of the finished street, parking area, mall, or other circulation area open to the general public.

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*Street, private* means a street that has not been accepted by the Town or other governmental entity.

*Structure* means anything constructed or erected, the use of which requires location on or in the ground, including buildings, mobile homes, billboards, swimming pools or the like or part thereof. Utility poles, flagpoles or walls and fences less than four (4) feet high are excluded.

*Studio for arts and crafts* means the workshop of an artist, sculptor, photographer, crafts person or organization.

*Tailors and dressmakers* means a center for the repair or manufacturing of individual clothing or apparel on a small scale.

*Temporary processing area* means, together with the placement site as described below, an area used for processing and temporary storage of soil, gravel, minerals, rocks, sand and similar materials excavated from an immediately adjacent site, for the purpose of post-processing placement on another immediately adjacent site.

*Temporary structure* means a structure without any foundation or footings and that is removed when the designated time period, activity or use for which the temporary structure was erected has ceased.

*Temporary use* means a use established for not more than six (6) months with the intent to discontinue such use upon the expiration of the time period.

*Terminal* means a place where transfer between modes of transportation takes place.

*Theater* means a place of public assembly designed for the screening or viewing of motion pictures.

*Town parcels* means, as depicted on the Bolts Concept Plan, the following parcels or tracts of land within the Bolts Lake Property that are created pursuant the exemption plat process, are neither Battle Retained Parcels nor restricted parcels, and are fee-owned by the Town (or a successor of the Town):

- (1) The Highlands Area;
- (2) The Reservoir South Area (excluding the Processing Area);
- (3) The Rec Center Parcel(s); and
- (4) The Highway 24 Parcels.

*Townhouse* means a single-family dwelling in a row of at least three (3) such units in which each unit has its own front and rear access to the outside, no unit is located over another unit and each unit is separated from any other unit by one (1) or more vertical, common fire-resistant walls.

*Traffic impact study* means a report analyzing anticipated street and roadway conditions within and without an applicant's development.

*Trailer* means a structure standing on wheels, towed or hauled by another vehicle, and used for short-term human occupancy, carrying of materials, goods or objects, or as a temporary office.

*Transitional use* means a permitted land use or structure of an intermediate intensity by level of activity or scale between a more intensive and less intensive use. Some examples of *transitional use* include professional offices located between retail and residential uses, duplex and townhouse units located between single-family detached and multi-family areas, and private clubs or low-intensity recreational uses between industrial and residential uses.

*Travel and ticket agency* means a sales or service establishment dealing in travel services.

*Use* means the purpose or activity for which land or buildings are designed, arranged or intended, or for which land or buildings are occupied or maintained.

*Vested right* means a right that cannot be changed or altered by change in a regulation.

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*Warehouse* means a building used primarily for the storage of goods and materials.

*Xeriscape* means a landscaping method developed especially for arid and semiarid climates that utilizes water-conserving techniques (such as the use of drought-tolerant plants, mulch, and efficient irrigation). Xeriscape areas must include at least fifty percent (50%) plants (as opposed to rocks under-laid by a landscape/soil barrier), and permit infiltration of stormwater into the underlying soil.

*Yard* means the space on the same lot as a building or structure that is unoccupied and open to the sky, except as provided herein.

*Yard, corner lot* means the yard on a lot that is bounded on two (2) sides by streets. The front yard is side of the lot where the front door is located as determined by the Planning Director. In addition to front, rear and side yard setbacks, a corner lot must meet the "clear vision" code. The application of side and rear yard setbacks shall be determined by the Planning Director.

*Yard, front* means that portion of a yard between the street line and the front door of the building and between the two (2) side lot lines, the depth of which shall be the least distance between the front lot line and the building.

*Yard, rear* means that portion of a yard between the rear of a building and a rear lot line, and between two (2) side lot lines, the depth of which shall be the least distance between the building and the rear lot line.

*Yard, side* means all the yard between the front and rear yards, the width of which shall be the least distance between the side lot lines and the building.

## **Sec. 16-2-30. Illustrations.**

The following illustrations shall apply to this Chapter:

Illustration No. 16-1	Accessory Building or Structure Shared or Party Driveway
Illustration No. 16-2	Building Height Measurement
Illustration No. 16-3	Building Lot Coverage
Illustration No. 16-4	Bulk Plane
Illustration No. 16-5	Site Plans for Duplex Connections
Illustration No. 16-6	Lot Requirements and Dimensional Standards
Illustration No. 16-7	Building Height Dimensional Standards

### **Illustration No. 16-1 Accessory Building or Structure Shared or Party Driveway**

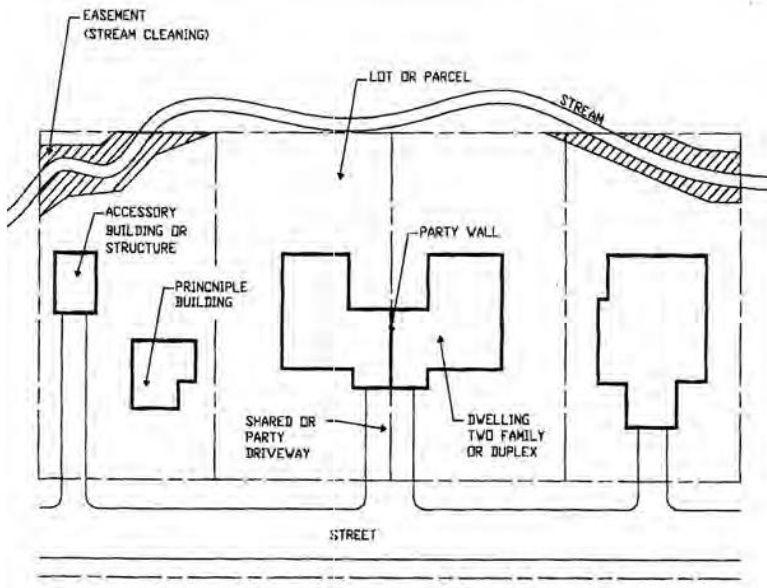
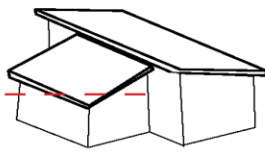
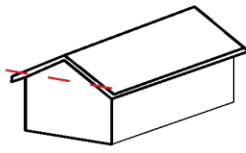


Illustration No. 16-2

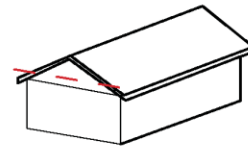
Roof Types Showing where to Measure Maximum Building Height



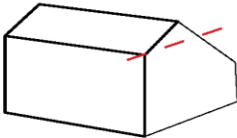
skillion & lean-to roof



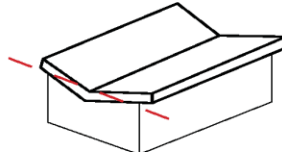
open gable roof



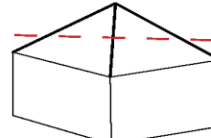
box gable roof



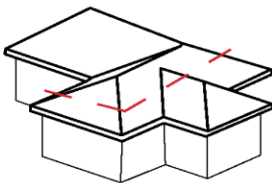
saltbox roof



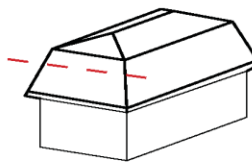
butterfly roof



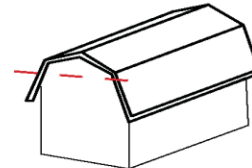
pyramid hip roof



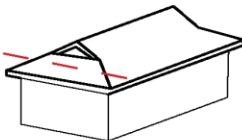
hip & valley roof



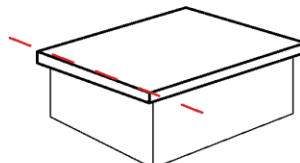
mansard roof



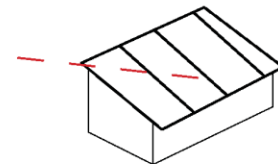
gambrel roof



dutch gable roof

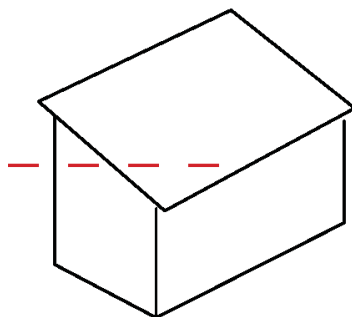


flat roof

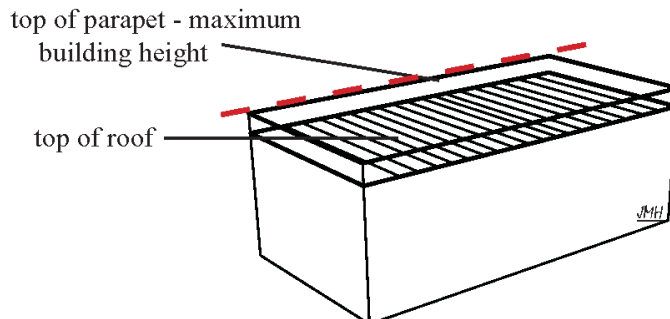


'garden shed' 12' maximum

Illustration No. 16-2 (cont'd.)



shed roof

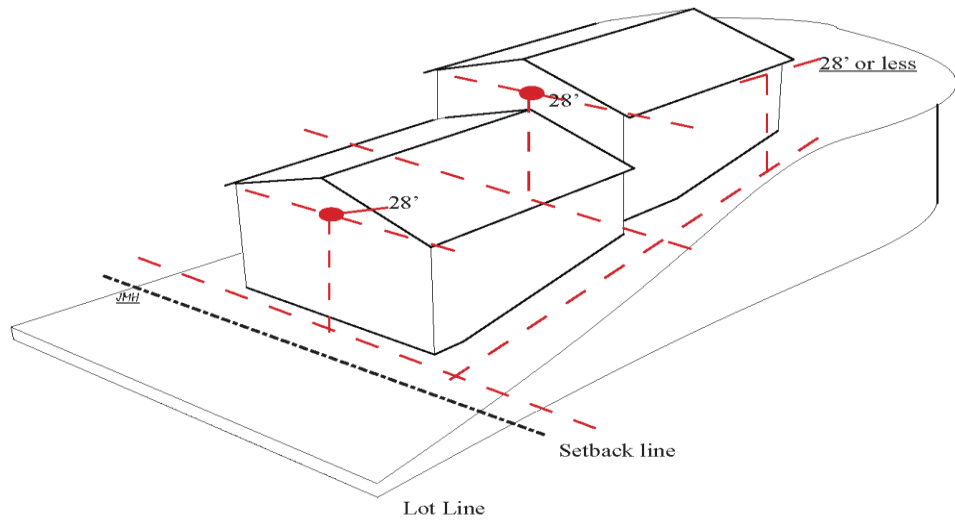
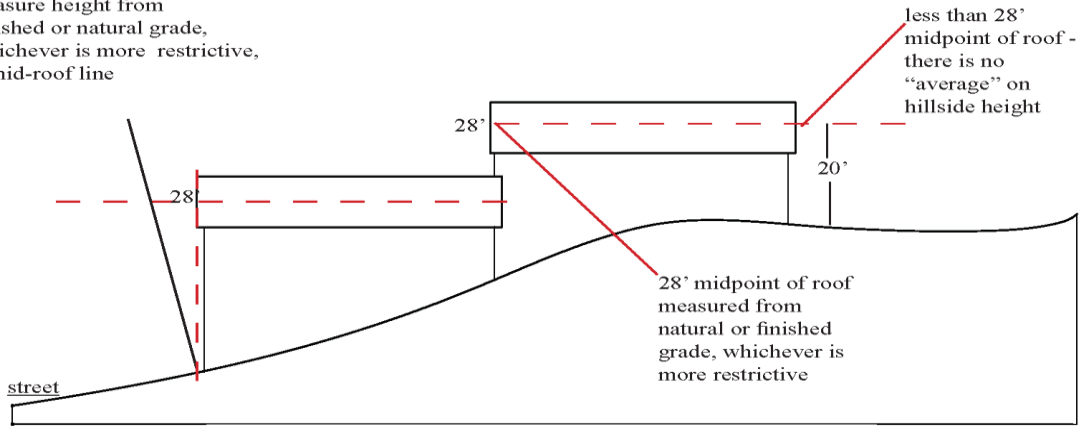


parapet

**Illustration No. 16-2 (cont'd.)**

Building Height Measurement on a Hillside  
(using 28' maximum building height as an example)

Measure height from finished or natural grade, whichever is more restrictive, to mid-roof line



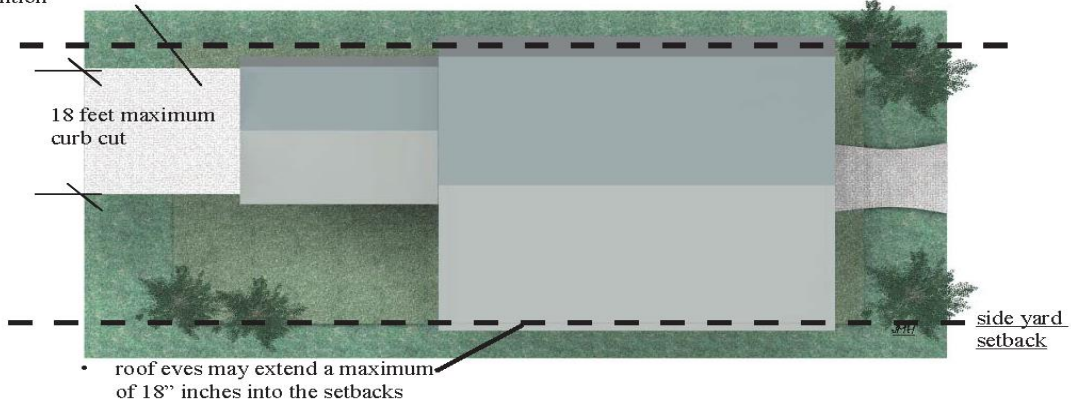
**Illustration No. 16-2 (cont'd.)**



50% maximum impervious surface, includes all areas described in the definition

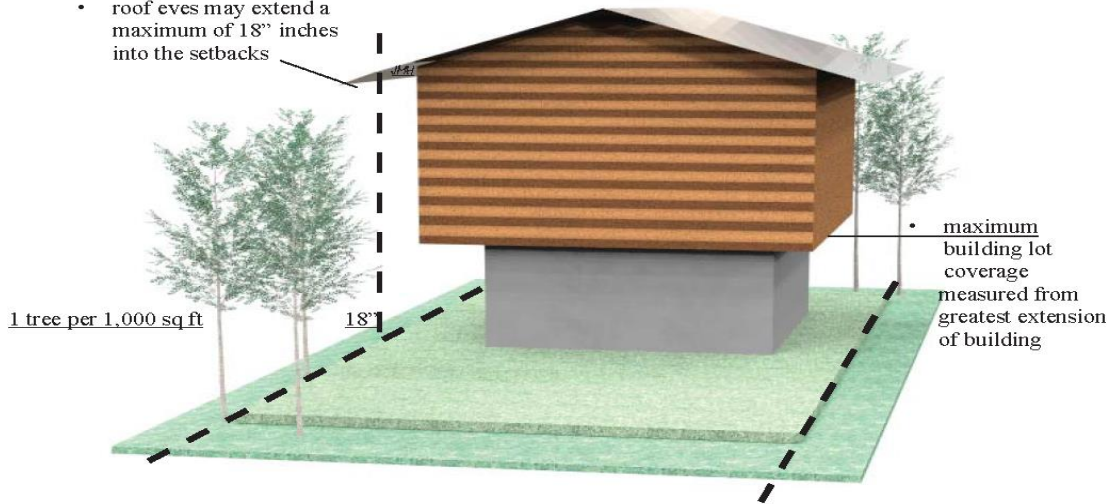
Maximum Building Lot Coverage and Maximum Impervious Surface

40% maximum building lot coverage includes all buildings measured at the outside exterior wall



Cantilevering and Maximum Building Lot Coverage

- The cantilevered portion of the structure must meet the maximum building lot coverage
- roof eaves may extend a maximum of 18" inches into the setbacks



**Illustration No. 16-4  
Bulk Plane**

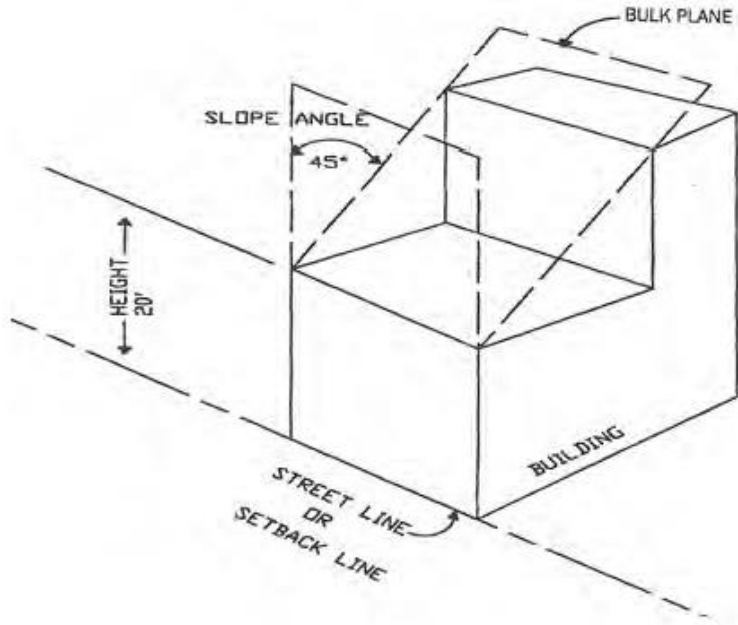
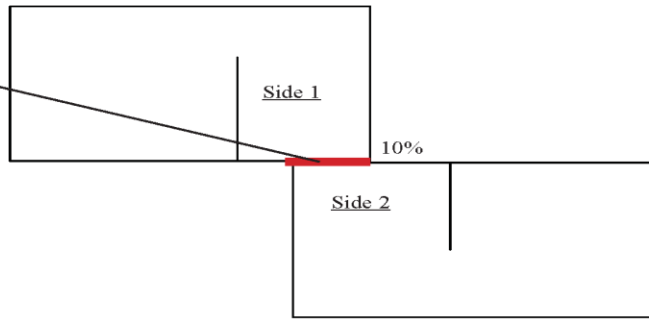


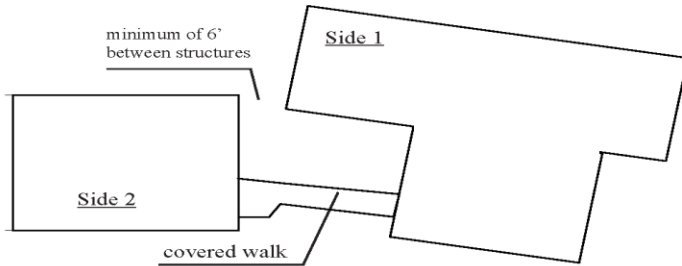
Illustration No. 16-5

Four Duplex Connections Allowed

- 1) Duplex: minimum 10% of a party wall



- 2) Duplex: connected by a shared roof line that can include covered walkways.
  - the buildings must use same roof material to appear as one dwelling



- 3) Duplex: structure is divided into two living spaces by one wall or floor

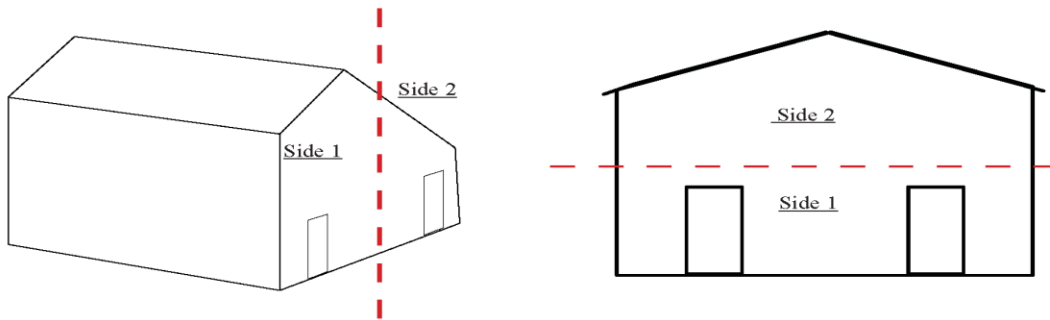
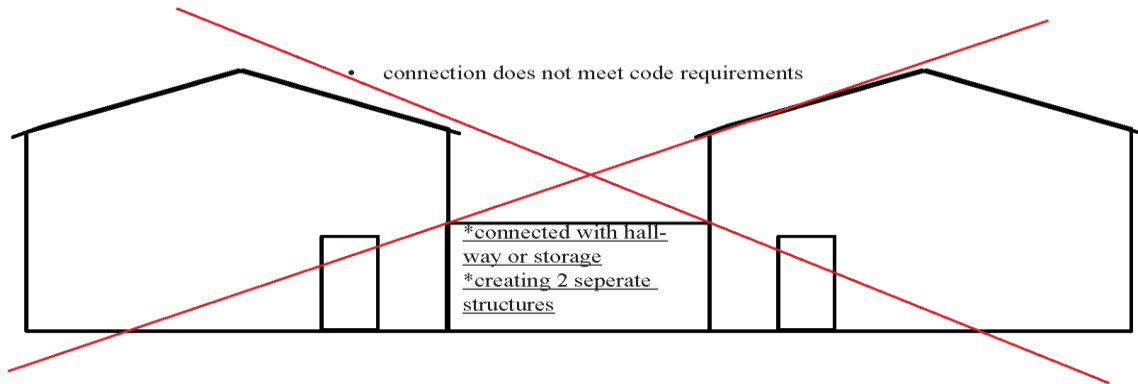


Illustration No. 16-5 (cont'd.)

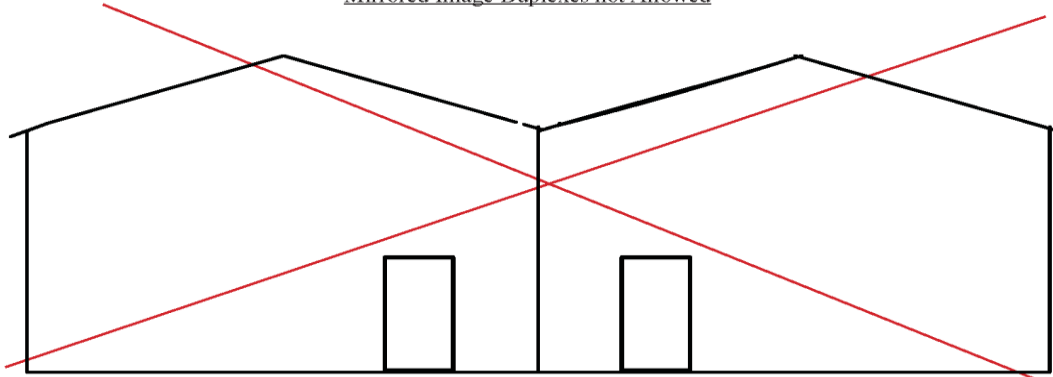
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Duplex Connections Not Allowed

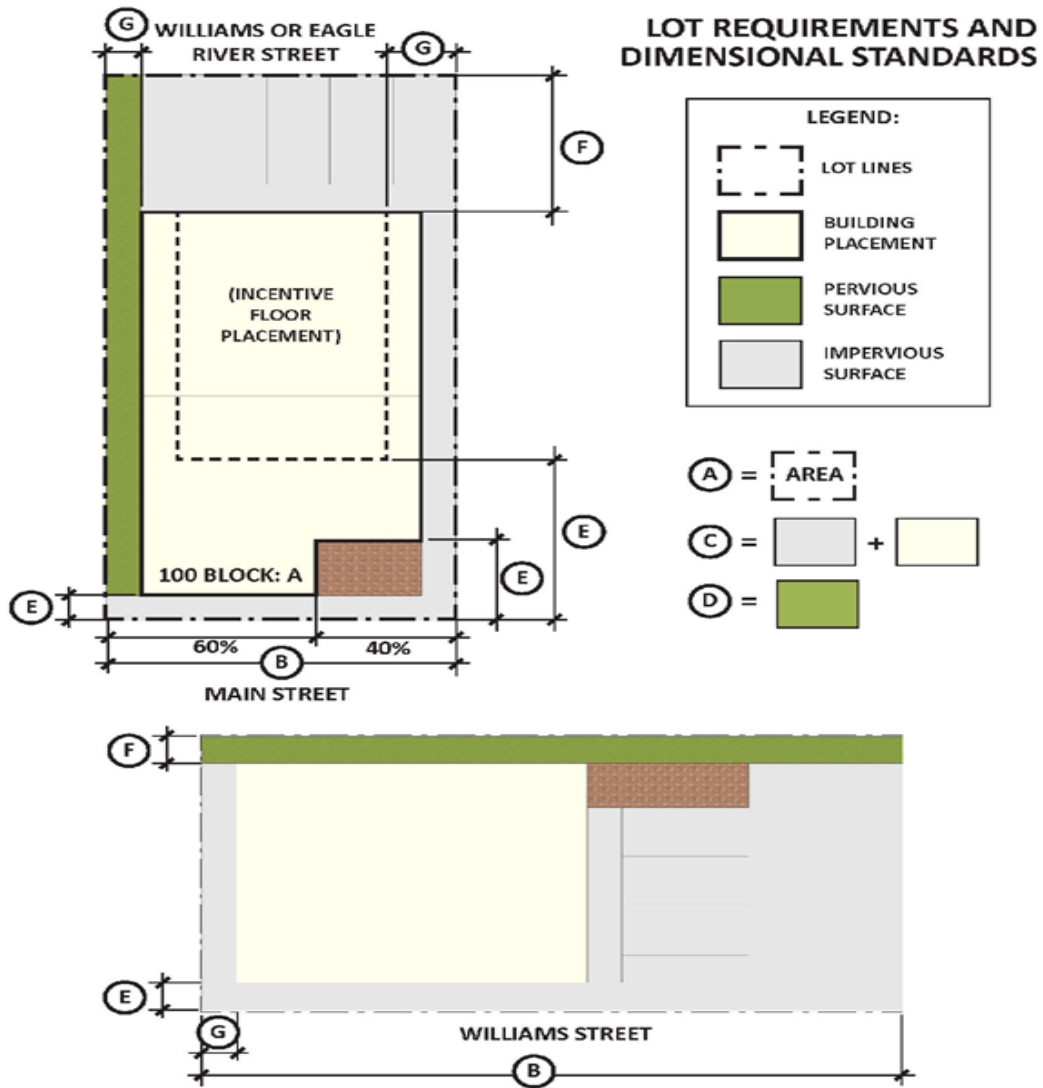
- 1) connection by hallway or storage area, creating 2 separate houses
- 2) mirrored images



Mirrored Image Duplexes not Allowed

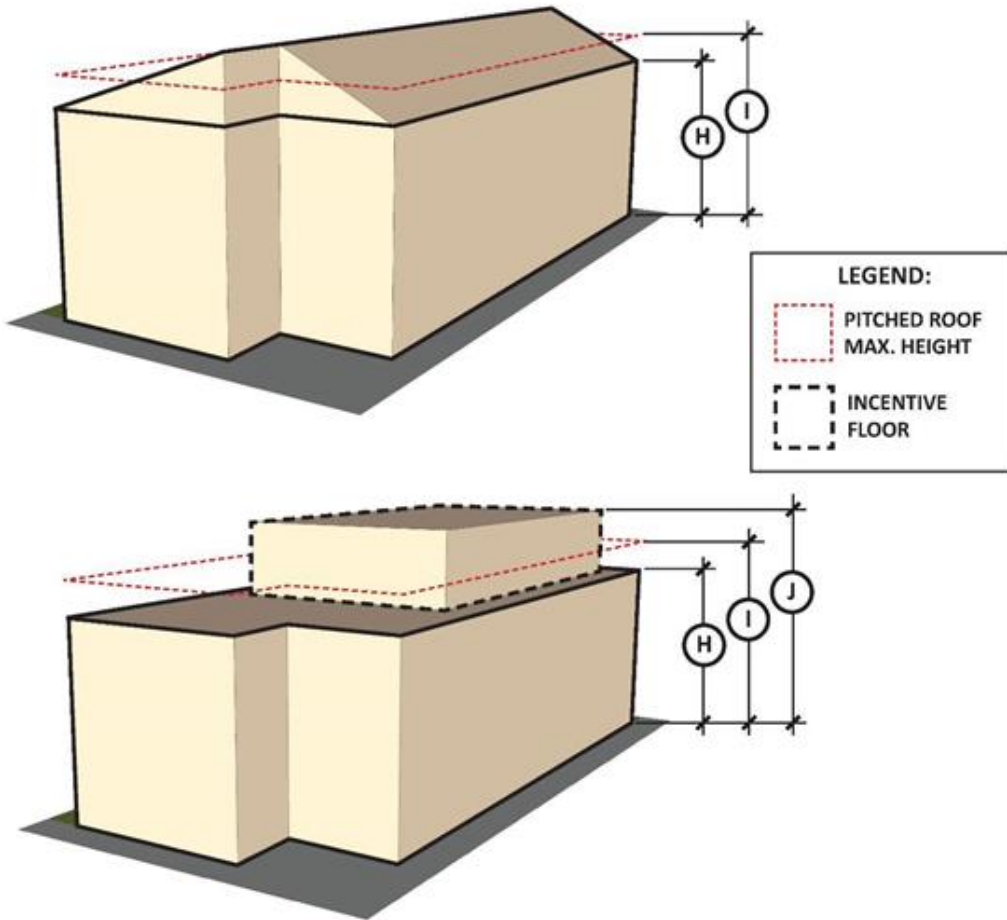


**Illustration No. 16-6**  
**Lot Requirements and Dimensional Standards**



**Illustration No. 16-7**  
**Building Height Dimensional Standards**

## BUILDING HEIGHT DIMENSIONAL STANDARDS



(Prior code 16-2-3; Ord. 15-2008 §1; Ord. 01-2015 §2; Ord. 11-2022 §2)

### Article 10 – Bolt’s Lake, Willow Creek, Rock Creek and Holy Cross Character Areas

#### Sec. 16-10-30. Permitted uses of ranch lots and estate lots.

Notwithstanding anything in Section 16-10-20 to the contrary, Table 16-5.5 sets forth the uses for any ranch lot or estate lot located within the mountaintop area. Permitted uses must be located within designated buildable areas unless otherwise indicated:

**TABLE 16-5.5**

<i>Permitted Uses</i>	<i>Use by Right</i>	<i>Conditional Use (see 16-21-620)</i>	<i>Limited Use (see 16-21-630)</i>	<i>Not Allowed</i>
One (1) single family dwelling, which may include one (1) accessory apartment	X			
One (1) accessory dwelling or caretaker unit	X			

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(Supp. No. 15, Update 4)

Up to five (5) accessory buildings or structures that are not, and do not contain, dwelling units (e.g., barns, stables, greenhouses, warming huts, hunting cabins, pump houses, storage sheds, gazebos and similar structures accessory to recreational uses described below)	X		X (if located outside of designated buildable areas)	
Agricultural uses (not limited to designated buildable areas)	X			
Bed and breakfast		X		
Driveways (individual, shared or party; not limited to designated building areas but must be located outside of designated lynx denning areas and peregrine falcon nesting sites)	X			
Fencing (subject to design review as contemplated in subparagraph (4)l. of Section 16-10-40)	X		X (if located outside of designated buildable areas)	
Forestry uses (planting and harvesting of new growth, selective harvesting of old growth and similar activities), including pine beetle management and fire safety buffering (not limited to designated buildable areas) Clear cutting requires obtaining a limited use approval. The term "clear cutting" means the harvesting or removal, for purposes other than pine beetle management and fire safety buffering, of (i) more than fifty percent (50%) of existing standing old growth trees, (ii) from a contiguous area comprising more than thirty percent (30%) of the land area within an individual ranch lot or individual estate lot, and (iii) that is planned to be performed within any twenty-four (24) month period.	X		X (clear cutting requires prior submittal to the Town of a forest management plan for the property approved by the Colorado State Forest Service)	
Ground mounted solar energy systems, small scale wind systems, communications facilities and similar facilities (not limited to designated buildable areas)			X	
Home occupations	X			
Public utilities and related public utility facilities	X		X (if located outside of designated buildable areas)	
Private recreational uses as follows: Use by right: Private recreational uses (not limited to designated buildable areas), including but not limited to back country and cross-country skiing, mountain biking, equestrian, hiking (see above regarding accessory buildings and structures). Limited use: Off road motocross or two-stroke ATV use and related trail construction for private use (not limited to designated buildable areas, but must be located outside of	X		X	X

designated lynx denning areas and peregrine falcon nesting areas as depicted on the applicable ranch lot plat (pursuant to 17-6-70(7)c.) or estate lot plat (pursuant to 17-6-60(5)g.). Not Allowed: Construction of trails (relating to uses by right or limited uses) within lynx denning and peregrine falcon nesting areas as depicted on the applicable ranch lot plat (pursuant to 17-6-70(7)c.) or estate lot plat (pursuant to 17-6-60(5)g.).				
Recreational uses open to the public (not limited designated buildable areas, but must be located outside of designated lynx denning areas and peregrine falcon nesting sites as depicted on the applicable ranch lot plat (pursuant to 17-6-70(7)c.) or estate lot plat (pursuant to 17-6-60(5)g.), including but not limited to snow cat operations, cross-country skiing, equestrian centers, riding stables, animal boarding, mountain biking, zip line operations and facilities, hiking, experiential youth oriented "outward bound/outdoor lab" type camps, experiential adult oriented "team building" type camps, and trails associated with such uses (see above regarding accessory buildings and structures, including short term dormitory type accommodations associated with experiential camps)		X		
Restaurant facilities		X		
Roof-mounted photovoltaic/solar energy systems installations on permitted structures	X		X (if located outside of designated buildable areas)	
Subject to compliance with Chapter 13, Article 7, private wells, community wells, community water systems, private OWTS systems, and package sewage plant systems	X		X (if located outside of designated buildable areas)	
Private open space and common open space, provided that there will be open space ratio requirements and that Section 16-17-90 will not apply (not limited to designated buildable areas)	X			
Reservoirs and water storage tanks	X		X (if located outside of designated buildable areas)	
Ski lodges open to the public		X		
Private cemetery				X
Streets (public or private)	X	X (if located outside of		

		designated buildable areas)		
Temporary uses and structures, pursuant to Section 16-21-640	X			
As determined by the planning director, uses similar in character and intensity to the permitted uses and accessory uses set forth in this Section 16-10-30	X		X (if located outside of designated buildable areas)	
Any use that is not listed in this Section 16-10-30				X

## Article 17 – Supplemental Regulations and Standards

### Sec. 16-17-150. Water efficient landscape standards.

- (a) Water efficient design principles. Water efficient landscaping principles include the following:
- (1) **Design.** The design identifies zones of different water requirements and groups plants with similar water needs together.
  - (2) **Appropriate use of turf.** Limit high-hydrozone turf and plantings to appropriate high-use areas with high visibility and functional needs.
  - (3) **Low water-using plants.** Choose low-water demanding plants and turf where practicable.
  - (4) **Irrigation.** Design, operate and maintain an efficient irrigation system.
  - (5) **Soil preparation.** Incorporate soil amendments before planting.
  - (6) **Mulch.** Add mulch to planting beds to a minimum depth of two (2) inches.
  - (7) **Maintenance.** Provide regular and attentive maintenance.
- (b) Soil amendment.
- (1) Soil amendments for turf, shrubs, perennials, and annuals shall be sandy loam to a depth of six (6) inches, containing at least five percent (5%) organic matter by volume.
  - (2) Soil amendments for trees shall be sandy loam to a depth of thirty-six (36) inches containing one to three percent (1—3%) organic matter by volume. In locations with existing good soils, soil shall be turned in an area three (3) times the dimension of the root ball.
- (c) Mulch. Mulch shall be applied at a minimum depth of two (2) inches with modifications as appropriate for installed plant material. Mulch shall be renewed as needed. Mulch material may be organic material including, but not limited to: wood, bark nuggets, nut shells, grass clippings, straw, compost and chopped leaves; or inorganic material including decorative stone or river rock, pea gravel, pebbles.
- (d) Plant selection and grouping. Plant materials shall be selected for water efficiency, drought tolerance, use of native species and their relationship to the Minturn regional ecology as well as local topographical and metrological conditions.
- (1) Plants shall be selected from a pre-approved list of native, drought-tolerant plantings appropriate for USDA Zone 4b.

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- a. Hydrozones required. Plants shall be grouped together by soil suitability and by water use in distinct hydrozones (very low, low, moderate, and high) to increase irrigation efficiency. Plants from the same water use zone shall be grouped together on the same irrigation zones, Water use zones shall be consistent with plant selection and water needs.
  - b. The landscape design shall promote and preserve native species and natural areas. Native species shall account for seventy-five percent (75%) of provided plants and these must be drought tolerant species.
- (e) The total amount of high hydrozones located on a property shall not exceed fifty percent (50%) of the total landscape area. Turf grass areas designated and approved as functional turf shall be excluded from the total landscape area under this requirement. Trees in tree grates shall also be excluded from the total landscape area under this requirement.
- (f) Plants from a high-hydrozone zone shall not be planted on slopes at a twenty-five percent (25%) slope or greater.
- (g) Turf.
- (1) High-hydrozone turf grass is prohibited unless exempt pursuant to Subsection 16-17-150(h).
- (h) The developer of a property may submit an application to the Planning Director requesting consideration for a waiver or exemption from the prohibition of Subsection 16-17-150(g) for high-hydrozone. Functional turf that provides a recreational benefit to the community and meets the functional turf definition. Waiver applications must demonstrate that the turf substantially complies with the functional turf definition as indicated by:
- (1) Activity type;
  - (2) Activity-appropriate dimensions;
  - (3) Number of persons served and frequency of use;
  - (4) Location in proximity to similar turf areas;
  - (5) Public access and proximity to roadways;
  - (6) Presence of facilities and/or other recreational amenities;
  - (7) Irrigation efficiency; and
  - (8) Demonstration that artificial turf is not practicable or appropriate as an alternative to water use turf.

(Prior code 16-17-15; Ord. 01-2015 §2; Ord. 17-2022 §2)

Editor's note(s)—Ord. 17-2022 § 2, adopted Nov. 16, 2022, amended the title of § 16-17-150 to read as herein set out. The former § 61-17-150 title pertained to landscape standards and plan submittal required for multi-family, mixed-use commercial developments, subdivisions and planned unit developments.

### **Sec. 16-17-175. Installation and maintenance requirements for all landscaping.**

- (a) **Financial guarantee.** Prior to the issuance of a temporary certificate of occupancy, the Planning Director shall require the applicant to submit to the Town a cost estimate approved by the Town for completion of the landscaping including operable irrigation systems described in the approved landscape plan together with a financial guarantee (a cash escrow payment or letter of credit) to guarantee the installation of the required landscaping. The financial guarantee shall be in an amount equal to one hundred twenty-five percent (125%) of the total cost of supplying and installing the material depicted in the approved landscape plan based on

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the cost estimate. No certificate of occupancy shall be issued for any portion of the development where landscaping has not been installed and approved by the Town.

- (b) **Certificate of release.** Following inspection of the required landscaping to determine conformance with the landscape plan, the applicant shall certify that the landscaping has been installed in conformance with the approved plans. The financial guarantee shall be released within fourteen (14) working days following receipt of the certification and inspection by the Town.
- (c) **Town use of financial guarantee.** In the event the landscaping items contained within the cost estimate or approved plan are not installed in conformance with the approved plan, the Town may draw upon the financial guarantee to bring the landscaping into conformance with the approved plan.
- (d) **Required time for completion.** All required landscaping including operable irrigation systems shall be installed prior to or within the first planting season, generally June to October of any calendar year, following occupancy of the property. When phasing of a project's construction is approved, then installation of required landscaping and associated irrigation systems may be phased consistent with the project's approved development phasing.
- (e) **Maintenance.** All landscaping shall be healthy at the time of its installation and shall meet the standards of the American Association of Nurserymen. Landscaping shall be maintained so that it remains alive or it shall be replaced.
  - (1) **Landowner responsibility.** Maintenance of landscaped area shall be the responsibility of the landowner.
  - (2) **Replacement.** Landscaping that does not survive within the first three (3) years after it is planted shall be replaced by the property owner within thirty (30) days during the planting season or as soon as possible during the next planting season. The replacement vegetation shall be similar in size, type and amount to the vegetation being replaced.
- (f) **Irrigation system design.**
  - (1) Irrigation systems for multi-family and commercial projects shall be professionally designed by a landscape architect or irrigation specialist.
  - (2) When available, raw water shall be utilized for irrigation. Irrigation systems shall be designed to prevent water from spraying on impervious surfaces adjacent to landscape areas, shall utilize drip irrigation where appropriate to minimize run-off from sprinklers, and shall incorporate moisture sensors to reduce water consumption.
  - (3) A soil moisture sensing device or other irrigation management system shall be required for irrigation systems in turf areas.
  - (4) The landscape plan shall indicate the nature, location, and specifications of the irrigation system which shall be used. Separate irrigation circuits should be specified for different zones on the landscape plan. The landscape plan shall have sufficient detail to show that adequate irrigation will be provided to all required landscape areas and plant materials.
  - (5) The irrigation system shall be designed to correlate to the organization of plants into zones with similar watering requirements.
  - (6) Low-volume, drip, or subsurface irrigation systems shall be used in the following conditions:
    - a. In landscaped areas where any one (1) dimension is less than six (6) feet in width and surrounded by impervious surfaces;
    - b. In all non-turf grass areas where plantings exist as differentiated from areas where only inorganic materials such as rocks or mulch are planned or exist.

(Prior code 16-17-17; Ord. 01-2015 §2; Ord. 17-2022 §2)



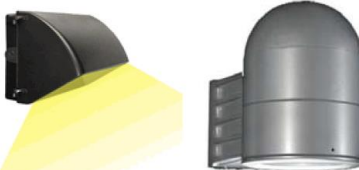


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Note(s)—See editor's note at § 16-17-170.

**Sec. 16-17-180. Exterior illumination standards.**

- (a) Purpose and intent. The purpose of this Article is to establish rules and regulations governing the installation of outdoor lighting in the Town. These regulations are intended to:
- (1) Promote appropriate light for safety and security;
  - (2) Help preserve the small town character;
  - (3) Prevent inappropriate and poorly designed or installed outdoor lighting;
  - (4) Reduce glaring and offensive light sources;
  - (5) Reduce nighttime light pollution and protect the night sky;
  - (6) Provide clear guidance pertaining to exterior light fixtures for developers and homeowners; and
  - (7) Phase out existing nonconforming fixtures that are in violation of this Article, including those owned by the Town.
- (b) **Definitions.** For the purpose of this Article, the following definitions shall apply:
- Exterior lighting* means permanent lighting that is installed, located or used in such a manner to cause light rays to shine outdoors.
- Full cut-off fixture* means a light fixture designed and installed where no direct light (as opposed to scattered light) is emitted at or above a horizontal plane running through the lowest point on the fixture.
- Glare* means intense light that results in discomfort and/or a reduction of visual performance and visibility.
- Holiday/ornamental lighting* means festoon-type lights.
- Light pollution* means any manmade light that diminishes the ability to view the night sky.
- Light trespass* means light falling on the property of another or the public right-of-way, when it is not required to do so.
- (c) Applicability. These lighting standards shall be applicable to all new construction in the Town. Additionally, residents and business owners are required to replace all nonconforming exterior light fixtures when a building permit is issued for any exterior project with a permit valuation greater than or equal to one thousand five hundred dollars (\$1,500.00). Business owners and residents with nonconforming fixtures are encouraged to comply with these regulations when replacing older fixtures.
- (d) General outdoor lighting regulations. The following regulations shall apply to all properties located within the Town:
- (1) All exterior lighting shall be shielded such that the source of illumination is not visible from the property line, thereby reducing glare and interference with boundary streets and adjacent properties. Light fixtures near adjacent property may require special shielding devices to prevent light trespass.
  - (2) All lighting shall conform with the definition for a full cut-off fixture.
  - (3) All exterior lighting or illumination shall be designed, located, placed and shielded to be architecturally and aesthetically in keeping with the buildings and surroundings, should create minimum visual impact on any other lot, tract or parcel in the Town, shall not directly illuminate adjoining lots, tracts, parcels or rights-of-way, including alleys, and shall comply with this Article.
  - (4) Floodlights and security lights shall be restricted as follows:

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- a. The point light source shall not be visible from neighboring lots or streets.
  - b. The light must comply with the definition of a full cut-off fixture, be down-directed and screened from adjacent properties in a manner that prevents light trespass.
- (5) Motion sensor lights may be permitted, but only where the sensor is triggered by motion within the owner's property lines.
- (6) Exterior lighting fixtures shall be mounted no higher than ten (10) feet above the flooring, deck, walkway, driveway or other occupied area or highest grade point of the ground surface immediately below the light fixture. The height of the fixture shall be the vertical distance from the surface directly below the centerline of the fixture to the lowest direct light-emitting part of the fixture. For mixed-use and commercial buildings, the height may be extended to fifteen (15) feet.
- (7) Exterior fluorescent tube lighting shall be prohibited in all cases.
- (e) Lighting plan required. To ensure that all new construction complies with the lighting standards, a lighting plan shall be submitted for all new construction in the Town. A lighting plan for residential projects can be reviewed by the Town Planner and Building Official and processed administratively prior to the issuance of a certificate of occupancy. However, a lighting plan shall be submitted at the time of application for all mixed-use and commercial projects and shall be approved by the Planning Commission. The lighting plan shall include the following information:
- (1) The type and luminous intensity of each light source and wattage (e.g., incandescent, halogen, high-pressure sodium, etc.).
  - (2) Fixture location and height above grade of each light fixture.
  - (3) Shielding and all mounting details.
  - (4) A specification sheet or photo of each light fixture.
  - (5) Other information deemed necessary to document compliance with the provisions of the lighting regulations.
- (f) Exemptions. The following exterior light fixtures shall be exempt from the regulations contained in this Article:
- (1) Illumination of the United States flag, provided that such lighting does not interfere with the vision of drivers or pedestrians or otherwise create an unsafe condition for the public. No more than two (2) lights per pole are permitted.
  - (2) Lights and lighting devices which are part of a Town event or public gathering, so long as the event or gathering is of a temporary nature.
  - (3) Holiday/ornamental lighting.
  - (4) Construction lighting used for the purpose of illuminating construction work activities, provided that the illumination source is directed internally towards the project site and is turned off each night when work is halted.
  - (5) Any light source that is used by an emergency service provider.
- (g) Enforcement and penalty. The violations of any of the regulations contained herein shall be deemed by the Town as a public nuisance, and such nuisances may be abated or prosecuted in accordance with the procedures established within this Code.
- (h) Figures and diagrams. The following figures illustrate examples of acceptable and unacceptable types of outdoor lighting fixtures. Note that even those types of fixtures shown as "acceptable" must be installed and aimed properly to comply with this Section.

<b>Unacceptable</b>	<b>Acceptable</b>
<b>Spotlights</b>	
	
<b>Wall Mounted</b>	
	
<b>Decorative</b>	
	
<b>Street Lighting</b>	
	
<b>Properly shielded fixture with no light trespass:</b>	<b>Light trespass from an unshielded fixture:</b>
	

(Ord. 2, 2010 §1)

(Supp. No. 15, Update 4)

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## Article 19 – Sign Regulations

### Sec. 16-19-30. Definitions.

For the purpose of this Article the following words shall have the following meanings:

*Animated sign* means a sign having lights or illumination which flashes, moves, rotates, scintillates, blinks, flickers, varies in intensity or color or uses intermittent electrical pulsations; provided, however, that seasonal lighting shall not be considered a flashing sign.

*Banner* means any advertisement device composed of flexible cloth or plastic, affixed by wires or ropes, which is located outdoors and which is primarily intended to announce or promote a civic or commercial event or which serves as a decoration for special holidays.

*Building frontage* means the length of a building or structure wall or walls facing a public street or right-of-way and used for the purpose of calculating maximum allowable sign area for an individual business.

*Civic sign* means a sign of or relating to a municipality or public affairs (such as a welcome sign/entry into Town).

*Combined building frontage* means the combined length of lineal frontage for a building or structure wall or walls facing more than one (1) public street or right-of-way and used for the purpose of calculating maximum allowable sign area for an individual business.

*Commission* means the Planning Commission and Design Review Board of the Town.

*Directional sign* means any sign on a lot that directs the movement or placement of pedestrian or vehicular traffic with or without reference to, or inclusion of, the name of a product sold or service performed on the lot or in a building, structure or business enterprise occupying the same.

*Flag* means a flexible cloth or plastic banner that is affixed in a manner so that it is put in motion by wind and displays government emblems, business or corporate logos or symbols and illustrations.

*Freestanding sign* means a single multi-faced sign affixed to a supporting structure or imbedded in and extending from the ground and detached from the building. This includes ground and pole signs. Allowable size does not include supporting structures except when said supporting structures are over fifty percent (50%) of the width or length of the sign itself, and shall then be considered to add in size and mass to the sign and shall be added to total sign size.

*Gas-filled tube lighting sign* means any sign that is illuminated by tubes filled with neon, argon and related gases.

*Information sign* means a sign used to indicate or provide information or direction with respect to uses on the property, including but not limited to signs that indicate the hours of operation and such signs as "No Smoking," "Open," "Closed," "Restrooms," "No Solicitors," "No Parking," "Deliveries in Rear," current credit card signs, trade association emblems and the like.

*Internal illumination* means lighting a sign by a light source that is within a sign having a translucent background and opaque letters, silhouettes or designs, or that is within letters or designs that are themselves made of translucent material.

*Lot front* means a portion of a property line that is contiguous to a public street.

*Off-premises sign* means a sign which advertises a business, merchandise, project, service or entertainment which is sold, produced, manufactured, furnished and located on a property other than that on which the sign is located.

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*Projecting sign* means a sign other than a wall sign, which projects from a wall and is supported by a wall of a building or structure, or by a device that extends from the wall of the building or structure.

*Residential nameplate* means a type of sign allowed for the sole purpose of identifying the inhabitants of a residential structure, the house name or the address of the residence.

*Roof sign* means a sign painted on the roof of a building or supported by poles, uprights or braces extending from the roof of a building, or projecting above the roof of a building.

*Sandwich board* means a two-sided sign not affixed to a structure or permanent support.

*Sign* means any identification, description, logo, illustration or device that is affixed or placed directly or indirectly on a building, lot or parcel, including its structure and component parts, including any sign illumination device which is used or intended to be used to attract attention to the subject matter for the purpose of advertising or proposing a commercial transaction, or identification of a business or agency, and which is visible by the general public from any public right-of-way or any public area.

*Sign area or surface area:*

- a. *Single-face sign:* The entire area within a single continuous perimeter composed of squares, circles, triangles or rectangles which enclose the extreme limits of the advertising message, announcement, declaration, demonstration, display, illustration, insignia, surface or space of a similar nature, together with any frame or other material, color or condition which forms an integral part of the display and is used to differentiate such sign from the wall against which it is placed, excluding the necessary supports, architectural features, detailing or banding that is integral and incidental to the facade of the building and is clearly not considered sign backing, or uprights on which such sign is placed.
- b. *Two- or more faced signs:* Where a sign has two (2) or more faces, the area of all faces shall be included in determining the area of the sign, except that only one (1) face of a double-faced sign shall be considered in determining the sign area, when both faces are parallel and the distance between faces does not exceed five (5) feet or the interior angle does not exceed forty-five (45) degrees if the boards are in a "V" configuration.
- c. *Exempt sign backing:* For buildings where signage is to be mounted on building facades (such as pin-mounted or painted lettering), or on architectural detailing such as banding which is clearly integral and incidental to the building facade and architectural detailing of the building or structure, but which is i) clearly not intended to act as a separate sign backing, or ii) not integral to the construction of the sign or signage, such detailing, siding materials and/or architectural features may be exempt from the sign area calculations. However, if an applicant proposes to paint a sign on a building or structure siding or facade and the use of multiple colors produces the illusion of a sign (lettering, message, announcement, declaration, demonstration, display, illustration, or insignia) with backing, the entire area of backing shall count toward the sign area.

*Sign structure* means any structure which supports or is capable of supporting a sign.

*Site development sign* means a sign used to identify a project under construction, including project name, general contractor, architect and prime real estate agent, and may include rental and sales information.

*Swing sign* means a sign that is suspended from a horizontal support (a swing post) that is attached to a vertical support mounted in the ground. A swing sign may also include riders.

*Temporary sign* means a sign which is, based upon materials, location and/or means of construction, e.g., light fabric, cardboard, wallboard, plywood, paper or other light materials, with or without a frame, intended for a definite and limited period of display and which is not permanently affixed to a structure or sign structure.

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*Walking sign* means any sign or lettering on a costume, which is carried or worn by any person which is visible from a public right-of-way, adjacent property or a public area. This does not include picket signs.

*Wall sign* means any sign attached to, painted on or erected against the building or structure, with the exposed face of the sign in a parallel plane of said wall.

*Window sign* means a sign that is painted on, applied or attached to a window, but excludes merchandise included in a window display. *Window signs* shall include signs located in the interior of a structure, placed so that they serve to effectively display advertising for any passerby on any public areas or a public right-of-way.

*Window sign, temporary* means a window sign which advertises special, temporary commercial events or sales. Signs displaying solely product names, product logos, business names or promoting the ongoing nature of a business and the product sold shall not be considered *temporary window signs*.

*Yard sign* means a temporary portable sign constructed of paper, vinyl, plastic, wood, metal or other comparable material, and designed or intended to be displayed for a limited period of time on a lot with one (1) or more existing permanent structures.

## **Article 21 – Administration and Procedures**

### **Division 4 – Miscellaneous Provisions**

#### **Sec. 16-21-700. Appeals.**

- (a) Administrative actions. Any decision, determination or interpretation by any Town administrative official with respect to the provisions of this Chapter and the standards and procedures hereinafter set forth shall become final at the next Planning Commission meeting following the administrator's decision, unless the decision is called up and modified by the board or commission.
- (b) Appeal of administrative actions:
  - (1) Authority. The Planning Commission shall have the authority to hear and decide appeals from any decision, determination or interpretation by any Town administrative official with respect to the provisions of this Chapter and the standards and procedures hereinafter set forth.
  - (2) Initiation. An appeal may be initiated by an applicant, adjacent property owner or any aggrieved or adversely affected person from any order, decision, determination or interpretation by any administrator with respect to this Chapter. *Aggrieved or adversely affected person means any person who will suffer an adverse effect to an interest protected or furthered by this Chapter.* The alleged adverse interest may be shared in common with other members of the community at large, but shall exceed in degree the general interest in community good shared by all persons. The administrator shall determine the standing of an appellant. If the appellant objects to the administrator's determination of standing, the Planning Commission shall, at a meeting prior to hearing evidence on the appeal, make a determination as to the standing of the appellant. If the Planning Commission determines that the appellant does not have standing to bring an appeal, the appeal shall not be heard and the original action or determination stands.
  - (3) Procedures. A written notice of appeal must be filed with the administrator or with the Planning Director within twenty (20) calendar days of the decision becoming final. If the last day for filing an appeal falls on a Saturday, Sunday or a Town-observed holiday, the last day for filing an appeal shall be extended to the next business day. The administrator's decision shall become final at the next Planning Commission meeting following the administrator's decision, unless the decision is called up and modified by the board or commission. Such notice shall be accompanied by the name and addresses

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(person's mailing and property's physical) of the appellant, applicant, property owner and adjacent property owners (the list of property owners within a condominium project shall be satisfied by listing the addresses for the managing agent or the board of directors of the condominium association) as well as specific and articulate reasons for the appeal on forms provided by the Town. The filing of such notice of appeal will require the administrative official whose decision is appealed to forward to the Planning Commission at the next regularly scheduled meeting, a summary of all records concerning the subject matter of the appeal and to send written notice to the appellant, applicant, property owner and adjacent property owners (notification within a condominium project shall be satisfied by notifying the managing agent or the board of directors of the condominium association) at least fifteen (15) calendar days prior to the hearing. A hearing shall be scheduled to be heard before the Planning Commission on the appeal within thirty (30) calendar days of the appeal being filed. The Planning Commission may grant a continuance to allow the parties additional time to obtain information. The continuance shall be allowed for a period not to exceed an additional forty (40) calendar days. Failure to file such appeal shall constitute a waiver of any rights under this Chapter to appeal any interpretation or determination made by an administrator.

- (4) Effect of filing an appeal. The filing of a notice of appeal shall stay all permit activity and any proceedings in furtherance of the action appealed unless the administrator rendering such decision, determination or interpretation certifies in writing to the Planning Commission and the appellant that a stay poses an imminent peril to life or property, in which case the appeal shall not stay further permit activity and any proceedings. The Planning Commission shall review such certification and grant or deny a stay of the proceedings. Such determination shall be made at the next regularly scheduled meeting of the Planning Commission.
  - (5) Findings. The Planning Commission shall on all appeals make specific findings of fact based directly on the particular evidence presented to it. These findings of fact must support conclusions that the standards and conditions imposed by the requirements of this Chapter have or have not been met.
  - (6) Fee. The Town Council may set a reasonable fee for filing an appeal of an administrative decision, determination or interpretation. The fee will be adopted in a fee schedule which shall be maintained in the Planning Department. The fee shall be paid at the time the appeal is filed.
- (c) Appeal of Planning Commission decisions:
- (1) Authority. The Town Council shall have the authority to hear and decide appeals from any decision, determination or interpretation by the Planning Commission with respect to the provisions of this Chapter and the standards and procedures hereinafter set forth.
  - (2) Initiation. An appeal may be initiated by an applicant, adjacent property owner or any aggrieved or adversely affected person from any order, decision, determination or interpretation by the Planning Commission with respect to this Chapter. **Aggrieved or adversely affected person means any person who will suffer an adverse effect to an interest protected or furthered by this Chapter.** The alleged adverse interest may be shared in common with other members of the community at large, but shall exceed in degree the general interest in community good shared by all persons. The administrator shall determine the standing of an appellant. If the appellant objects to the administrator's determination of standing, the Town Council shall, at a meeting prior to hearing evidence on the appeal, make a determination as to the standing of the appellant. If the Town Council determines that the appellant does not have standing to bring an appeal, the appeal shall not be heard and the original action or determination stands. The Town Council may also call up a decision of the Planning Commission by a majority vote of those Town Council members present.
  - (3) Procedures. A written notice of appeal must be filed with the Town Administrator within thirty (30) calendar days of the Planning Commission's decision becoming final. If the last day for filing an appeal falls on a Saturday, Sunday or a Town-observed holiday, the last day for filing an appeal shall be

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extended to the next business day. Such notice shall be accompanied by the names and addresses (person's mailing and property's physical) of the appellant, applicant, property owner and adjacent property owners (the list of property owners within a condominium project shall be satisfied by listing the addresses for the managing agent or the board of directors of the condominium association), as well as specific and articulate reasons for the appeal on forms provided by the Town. The filing of such notice of appeal will require the Planning Commission to forward to the Town Council at the next regularly scheduled meeting a summary of all records concerning the subject matter of the appeal and to send written notice to the appellant, applicant, property owner and adjacent property owners (notification within a condominium property shall be satisfied by notifying the managing agent or the board of directors of the condominium association) at least fifteen (15) calendar days prior to the hearing. A hearing shall be scheduled to be heard before the Town Council on the appeal within forty (40) calendar days of the appeal being filed. The Town Council may grant a continuance to allow the parties additional time to obtain information. The continuance shall be allowed for a period not to exceed an additional thirty (30) calendar days. Failure to file such appeal shall constitute a waiver of any rights under this Chapter to appeal any interpretation or determination made by the Planning Commission.

- (4) Effect of filing an appeal. The filing of a notice of appeal shall stay all permit activity and any proceedings in furtherance of the action appealed unless the administrator rendering such decision, determination or interpretation certifies in writing to the Town Council and the appellant that a stay poses an imminent peril to life or property, in which case the appeal shall not stay further permit activity and any proceedings. The Town Council shall review such certification and grant or deny a stay of the proceedings. Such determination shall be made at the next regularly scheduled meeting of the Town Council.
- (5) Findings. The Town Council shall on all appeals make specific findings of fact based directly on the particular evidence presented to it. These findings of fact must support conclusions that the standards and conditions imposed by the requirements of this Chapter have or have not been met.
- (6) Fee. The Town Council may set a reasonable fee for filing an appeal to a Planning Commission decision. The fee will be adopted in a fee schedule which shall be maintained in the Planning Department. The fee shall be paid at the time the appeal is filed.
- (d) Procedure for appeals; sign regulations. The procedure for an appeal of an administrative interpretation of the sign regulations shall be the same as that of appeals of an administrative action as set forth in Subsection (b) of this Section.
- (e) Appeal of Town Council decisions. The final decision of the Town Council with respect to any appeal pursuant to this Chapter or development permit application submitted pursuant to this Chapter may be appealed to an appropriate court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. The Municipal Court shall not have jurisdiction over such civil action.
- (f) Conduct of hearing. The Town Council shall have the authority to set standards, by administrative rule, on appellate hearing procedures, including but not limited to the time allowance for the presentation of evidence and the time allowance for oral arguments.

(Prior code 16-21-18; Ord. 16-2007 §6; Ord. 12-2012 §1)

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## Article 22 – Legal Nonconforming Uses, Structures and Lots

### Sec. 16-22-20. General provisions.

- (a) Any use, structure or lot in existence and lawful at the time of adoption of the initial ordinance codified herein, or any subsequent amendment hereto which is not in conformance with the provisions of this Chapter or amendment, shall be considered a legal nonconforming use, structure or lot and may continue, pursuant to this Article.
- (b) A use which was approved by the Town Council prior to the adoption of the initial ordinance codified herein, which is in violation of the terms of this Chapter, may proceed to completion and implementation and be treated as a legal nonconforming use, provided that such completion and implementation are pursued with reasonable diligence and completed within eighteen (18) months from the initial ordinance codified herein. This time period may be extended for a period not to exceed six (6) months upon approval in accordance with procedures for a conditional use, as set forth in Article 21 above.
- (c) If this Chapter is found in conflict with the building codes as adopted by the Town, the building codes shall take precedence.

(Prior code 16-22-2; Ord. 15-2002 §1; Ord. 15-2008 §1)

### Sec. 16-22-40. Repair, maintenance and reconstruction.

- (a) Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged, and may or may not need a building permit, as determined by the Building Inspector. *Major renovation or rebuild*, defined herein as work estimated to cost more than fifty percent (50%) of the valuation of the structure to be renovated, must be renovated or replaced by conforming with current zoning and building codes, and will definitely require a building permit.
  - (1) The only exception to Subsection (a) above shall be in the case of rebuilding following fire or natural disaster which causes more than fifty percent (50%) of the appraised valuation of the structure to need rebuilding.
  - (2) This exception must be approved by the Design Review Board with the following findings:
    - a. The structure was in use at the time of the fire or natural disaster.
    - b. The owner of the structure at the time of the fire or natural disaster must be wishing to rebuild the structure.
    - c. No change of use is taking place.
    - d. Rebuilding must commence within six (6) months of the date of the disaster and receive a certificate of occupancy within twenty-four (24) months of commencing work.
  - (3) Any change in size or type of a structure must be approved by the Design Review Board.
- (b) All major renovations, as defined in Subsection (a) above, must conform with Design Review Standards and shall mitigate potential safety issues as may be identified by the Design Review Board prior to commencing work. Potential safety issues include safety personnel access, snow shedding, fire and clear vision area.
- (c) Additions, defined herein as additional building square footage, shall conform with all applicable codes at the time of construction. Additions shall be excluded from calculations of "cost" for the purposes of this Chapter.

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(d) This Section shall not be in conflict with the building, mechanical, fuel gas, plumbing and electrical codes currently adopted by the Town. If any such conflict shall arise between the building codes and this Chapter, the building codes shall be considered prevailing.

(e) **For purposes of this Section:**

- (1) The *cost of renovation, repair or replacement* shall mean the valuation as determined by the Building Inspector in the plans submitted for a building permit.
- (2) The *cost of renovation, repair or replacement* shall also mean the total cost of all such intended work, and no person may seek to avoid the intent of this Section by doing such work incrementally. All work done within three (3) years of the initial permit approval shall be considered in the total cost.
- (3) The *cost* shall exclude any new foundation and repair or replacement foundations for existing structures. This value is determined by a bid furnished to the owner.
- (4) The *valuation* shall mean the valuation determined by the County Assessor's most current valuation of improvements, not including the land. If the renovation, repair or replacement is less than the complete structure, then an average square footage price, calculated without respect to type of use, is applied to the proposed project area, defined herein as the area where any work is being done.

(f) The Planning Director shall issue the building permit if he or she finds that, in completing the renovation, repair or replacement work:

- (1) No violation of Section 16-23-30 above will occur; and
- (2) The permittee will comply to the extent reasonably possible with all provisions of this Chapter applicable to the existing use (except that the permittee shall not lose his or her right to continue a nonconforming use). Reasonably possible compliance does not include increasing the size of a lot or moving a substantial structure sited on a permanent foundation. Mere financial hardship caused by the cost of meeting such requirements does not constitute grounds for finding that compliance is not reasonably possible.

(Prior code 16-22-4; Ord. 15-2002 §1; Ord. 15-2008 §1)

### **Sec. 16-22-60. Mobile home replacement.**

Existing mobile homes in the Town shall not be replaced by another mobile home. Mobile homes may be replaced by manufactured homes and modular homes, provided that the manufactured home or modular home conforms to the requirements of the particular zone district it is to be set in. Mobile homes, manufactured homes and modular homes are defined as follows:

*Manufactured home* means factory-built, single-family structures that meet the National Manufactured Home Construction and Safety Standards Act, (42 U.S.C. § 5401), commonly known as the *HUD Code*.

*Mobile home* means a single-family dwelling built on a permanent chassis designed for long-term residential occupancy and containing complete electrical, plumbing and sanitary facilities and designed to be installed in a permanent or semi-permanent manner with or without a permanent foundation, which is capable of being drawn over public highways as a unit or in sections by special permit.

*Modular home* means a single-family dwelling which is partially or entirely manufactured in a manufacturing facility, is installed on an engineered permanent foundation; has brick, wood or cosmetically equivalent exterior siding and a pitched roof; and is certified pursuant to the building code adopted by the Town.

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## Article 24 – Marijuana Establishments

### Sec. 16-24-20. Definitions.

The following words, terms and phrases, when used in this Article, shall have the following meanings unless the context clearly indicates otherwise:

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

*Marijuana club* means an entity or place of assembly that allows members and their guests, or any other persons, to consume marijuana or marijuana products, whether for profit or not for profit. *Marijuana clubs* shall not include social gatherings within a residential zone of adults twenty-one (21) years of age and older, where a fee is not charged, goods are not sold or no profit is made by the individual or entity hosting the gathering.

*Marijuana cultivation facility* means an entity licensed to cultivate, prepare and package marijuana and sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities and to other marijuana cultivation facilities, but not to consumers.

*Marijuana establishment* means a marijuana cultivation facility, marijuana testing facility, marijuana product manufacturing facility or a retail marijuana store.

*Marijuana product manufacturing facility* means an entity licensed to purchase marijuana; manufacture, prepare and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

*Marijuana products* means concentrated marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments and tinctures.

*Marijuana testing facility* means an entity licensed to analyze and certify the safety and potency of marijuana.

*Person* means a natural person, partnership, association, company, corporation, limited liability company or organization, or a manager, agent, owner, director, servant, officer or employee thereof.

*Retail marijuana store* means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana products manufacturing facilities and to sell marijuana and marijuana products to consumers.

## Article 25 – Areas and Activities of State Interest

### Sec. 16-25-90. Definitions.

The words and terms used in these regulations shall have the meanings set forth below unless the context requires otherwise.

*Appurtenant facilities* means any building, structure, or other property which is incidental to, and customarily found in connection with, major facilities of public utilities or domestic water and wastewater

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treatment facilities, and are operated and maintained for the benefit or convenience of the occupants, employees, customers, or visitors of such major facilities.

*Code* means the Town of Minturn Municipal Code, as amended from time to time.

*Department* means the Town of Minturn Planning and Zoning Department.

*Designation* means that legal procedure specified by Section 24-65.1-101, et seq., C.R.S., as carried out by the Town Council.

*Development or project* means any construction, activity, or change in activity which changes the basic character or the use of the land on which the construction activity or change occurs.

*Director* means the Town of Minturn Planning and Zoning Director.

*Domestic water and sewage treatment system* means a wastewater treatment plant, water treatment plant, or water supply system, including systems whose service area is, or will be, outside the boundaries of the Town.

*Efficient utilization of water* means the employment of methods, procedures, techniques and controls to encourage use of water that will yield the greatest possible benefits including social, economic, environmental, aesthetic, agricultural, commercial and recreational benefits, and that will promote, where feasible and appropriate, the conservation of water in particular uses, and that emphasizes, to the extent permissible under law, the recycling and reuse of water.

*Industrial* means any development of natural resources, business or trade, commercial activity, processing, fabrication, alteration or manufacture of raw or semi-processed materials, manufactured goods or any components thereof, and commercial feedlots. "Industrial" includes the provision of water directly or indirectly by a private entity or individual for domestic, municipal or industrial uses. "Industrial" does not include agricultural crop production or livestock watering.

*Interceptor* means a waste water interceptor sewer with an internal pipe diameter of equal to or greater than twenty-four (24) inches intercepting wastewater from a final point in a collection system and conveying the waste directly to a treatment plant, or meeting other requirements of the Colorado Department of Public Health and Environment to be classified as an interceptor.

*Legal description* means a description from which it is possible to locate accurately on the ground the boundaries of the land be described.

*Major facilities of a public utility* means transmission lines, power plants, substations, pipelines, and storage areas of utilities as herein separately defined.

*Material change* means any change in a project as approved under these regulations which significantly alters the nature of impacts considered in approval of the original permit or in the case of a development not previously issued a permit, a structural modification, change of use, change of operation, or change of user, which significantly alters the nature of the development and its associated impacts.

*Matter of state interest* means an area or activity of state interest or both, as set forth in Section 24-65.1-101, et seq., C.R.S.

*Municipal and industrial water project* means a water supply system and all related components through which a water supply from either surface or subsurface, alluvial or groundwater, renewable or non-renewable sources is derived for municipal or industrial uses or both. A water supply system includes wells, diversion facilities, pumps, conduits, canals, pipes, ditches, storage tanks, reservoirs or other impoundments, through which a water supply is obtained directly or by trade, substitution, augmentation or exchange, and also includes those components for returning unconsumed flows back to the stream system. The filing of an application in court or with the Colorado Ground Water Commission to adjudicate the use of water and obtaining a decree or determination, in and of itself, shall not constitute the development of a water project.

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*Nonconforming use* means a use in existence at the time of the adoption of these regulations, which use, were it a new use, would be one for which a permit is required under these regulations.

*Permit* means a permit issued under these regulations to conduct an activity of state interest and/or to engage in development in an area of state interest.

*Permit Authority* means the Town Council.

*Person* means any private individual, partnership, corporation, association, company, or any public or corporate body, including the state and federal governments, and including any political subdivision, agency, instrumentality, or corporation thereof.

*Pipeline* means any pipeline and appurtenant facilities thereto, designed for, or capable of, transporting natural gas, manufactured gas, or other petroleum derivatives.

*Power plant* means any of the following:

- (a) Any fossil fuel, biofuel, or similar electrical energy generating facility or addition thereto with a generating capacity of fifty (50) megawatts or more, and any appurtenant facilities.
- (b) Any solar or wind electrical energy generating facility or addition thereto with a generating capacity in excess of five hundred (500) kilowatts, and any appurtenant facilities.
- (c) Any nuclear or hydropower electrical generating facility of five hundred (500) kilowatts or more.

*Project* means the proposed activity for which a permit is required together with any development activity that is reasonably enabled or made possible by the proposed activity.

*Public utilities* mean those utilities as defined by Sections 39-4-101 and 40-1-103.

*Recycling* means the treatment of wastewater in a manner that will replenish its quality to the standard established by the Colorado Department of Public Health and Environment where permissible by state water law.

*Site development permit* means the development plan for one (1) or more lots showing the existing and proposed conditions of the lot and any improvements existing or to be constructed on the lot. This includes topography, vegetation, drainage, floodplains, wetlands and waterways, landscaping and open spaces, walkways, means of ingress and egress, circulation, utility services, structures and buildings, signs and lighting, berms, buffers and screening devices, surrounding development, and other information that may be reasonably required for the Director to determine compliance with the requirements of these regulations, and subsequently authorize issuance of a building or development permit.

*Site selection and construction* means and includes the initial site selection and construction of a facility as well as any subsequent relocation, reconstruction, or upgrade of such facility.

*Substation* means any facility designed to provide switching, voltage transmission, or voltage control required for the transmission of electricity at one hundred fifteen (115) kilovolts or more, but does not have as a primary purpose the transformation of voltage to fifty (50) kilovolts or less for distribution purposes.

*Town* means the Town of Minturn, Colorado.

*Town Council* means the Town Council of the Town of Minturn, Colorado.

*Transmission line* means any electric transmission line and appurtenant facilities used to transmit electricity.

*Wastewater treatment plant* means the facility or group of units used for treatment of wastewater from sewer systems and for the reduction and handling of solids and gases removed from such wastes.

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*Water distribution line* means a water supply system's pipe, conduit, ditch, natural water course, or combination thereof which is designed to transport water of a potable or non-potable quality, commonly referred to as treated or raw water, and having the characteristic that it allows customer service taps.

*Water supply system* means the system of pipes, structures and facilities through which a water supply is obtained, collected, treated, and sold or distributed for human consumption or household use, or the system of pipes, structures, and facilities through which a water supply is obtained which will be exchanged or traded for water which will be used for human consumption. Water supply systems include those systems whose service area is, or will be, outside the boundaries of the Town.

*Water transmission line* means a water supply system's pipe, conduit, ditch, natural water course, or combination thereof which is designed to transport water of a potable or non-potable quality, commonly referred to as treated or raw water, and having the characteristic that it does not allow customer service tap.

*Water treatment plant* means the facility or facilities within the water supply system, which can alter the physical, chemical or bacteriological quality of the water.

## Chapter 17 – Subdivisions

### Article 2 – Definitions

#### Sec. 17-2-10. Definitions.

The following words and phrases, when used in this Chapter, shall have the meanings ascribed in this Section except where the context clearly indicates a different meaning:

*Access* means the place, means or way by which pedestrians and vehicles shall have adequate and useable ingress and egress to a property, use or parking space.

*Alley* means a public right-of-way providing only secondary access to the rear of a property and not intended for general travel.

*Battle Retained Parcels* has the meaning stated in Section 16-2-20.

*Bolts Lake Property* has the meaning stated in Section 16-2-20.

*Construction plans and specifications* means engineered plans and specifications that are drawn and written with enough detail that a bid schedule and bids can be made from the plans and specifications.

*County* means Eagle County, Colorado.

*Design Review Board* means the Design Review Board of the Town, whose duly authorized agent for administrative matters is the Planning Director.

*Designated buildable area(s)* means, as depicted on the applicable estate lot plat or ranch lot plat, the area or areas designated within each ranch lot and within each estate lot, within which all permitted dwellings and accessory dwellings must be located (unless otherwise approved as a condition, limited or temporary use), which designated buildable areas(s): (i) must not include or overlap with any portion of a non-buildable area as depicted on the master map; (ii) must have an aggregate minimum land area of forty-three thousand five hundred sixty (43,560) square feet (one (1) acre); and (iii) may have a maximum aggregate land area of not more than thirty-three percent (33%) of the total acreage of the applicable ranch lot or estate lot.

*Developable land* means net land available for building or other development which is free from water bodies or the one-hundred-year floodplain.

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*Disposition* means a contract of sale resulting in the transfer of equitable title to an interest in subdivided land; a conveyance of said interest; and/or a lease or assignment of an interest in subdivided land which is not made pursuant to one (1) of the foregoing, whether made before or after Town Council approval of the subdivision plat.

*Dwelling* means a building or portion thereof used for human occupancy.

*Dwelling, multiple-family* means a building containing three (3) or more dwelling units.

*Dwelling, single-family* means a building containing only one (1) dwelling unit.

*Dwelling, two-family (duplex)* means one (1) structure containing two (2) dwelling units sharing a common wall which comprises at least ten percent (10%) of the linear measurement around the perimeter of the structure.

*Dwelling unit* means one (1) or more rooms in a dwelling occupied by one (1) family living independently of any other family, and having not more than one (1) indoor kitchen facility which is limited to the use of the one (1) family.

*Easement* means a conveyance or reservation of an incident of ownership in real property for one (1) or more specific purposes, public or private.

*Estate lot* means a legally conveyable and developable parcel of land having a minimum land area of three hundred fifty (350) acres that is established as a lot pursuant to an estate lot plat.

*Estate lot plat* means the recorded final plat as approved pursuant to the estate lot process.

*Estate lot process* means the process described in Section 17-6-60 for administrative review and approval of final subdivision plats to create legally conveyable and developable lots within the mountaintop area, each such lot having a minimum land area of three hundred fifty (350) acres.

*Exemption plat* means the recorded final plat as approved pursuant to the exemption plat process.

*Exemption plat parcel* means, whether designated as a parcel, tract, lot or otherwise, a specific parcel of land located within the Bolts Lake Property created and legally described by reference to a recorded exemption plat, which parcel is legally conveyable but must be replatted to create buildable lots pursuant to a recorded final plat prior to submittal of building permit applications for habitable improvements.

*Exemption plat process* means the process described in Section 17-6-80 and applicable to the Bolts Lake Property for administrative review and approval of final subdivision plats to create legally conveyable (but not developable prior to recording of an approved final plat) exemption plat parcels within the Bolts Lake Property.

*Final plat* means a map and supporting materials of certain described land prepared in accordance with this Chapter as an instrument for recording of real estate interests with the County Clerk and Recorder.

*Impervious cover or materials* means a surface that does not readily allow water to infiltrate into the ground. The term may include, but not be limited to, building roof surfaces, concrete or asphalt surfaces, compacted gravel and other similar surfaces.

*Lot* means the individual parcels of separate interests into which a tract of real property is to be divided for purposes of occupancy or transfer of ownership.

*Lot area* means the total horizontal land area within the boundaries of a lot.

*Lot line* means the external boundaries of a lot.

*Lot slope* means:

- a. *Standard method.* The gradient of the undisturbed land surface of a lot which shall be established by measuring the maximum number of feet in elevation gained or lost between lot lines. This relationship of vertical measurement divided by the horizontal measurement shall be expressed as a percentile.
- b. *Composite method.* This method involves the preparation of slope analysis of the parcel which characterizes the parcel into subareas on the basis of a range of lot slope. The categorization is done by mapping the areas by a predetermined distance between contour lines.

*Master map* has the meaning stated in Section 16-2-20.

*Master Plan* means a compendium of reports, charts, graphs, drawings, maps or plans as may be adopted, or any portion thereof or any amendment thereto, which sets forth recommendations and policies for guiding any future growth and development while providing for the public's health, safety and general welfare.

*Mobile home* means any wheeled vehicle without motor power, capable of being drawn by a motor vehicle, built on a permanent chassis designed for long-term residential occupancy or temporary office use, containing electrical, plumbing and sanitary facilities and designed to be installed in a permanent or semi-permanent manner.

*Mobile home park* means any parcel of land or portion thereof used for location of three (3) or more mobile homes for human habitation.

*Mobile home space* means a plot of ground within a mobile home park designed for accommodation of one (1) mobile home or camper vehicle.

*Mountaintop area* means the land comprising, collectively, the Willow Creek Character Area, the Rock Creek Area and the Holy Cross Character Area.

*Mountaintop road standards* means the following design standards for roadways to be constructed within the mountaintop area in connection with, as applicable, development of estate lots and ranch lots:

<b>Mountaintop Road Standards</b>										
Surface Type	Shoulder Type	Easement (min)	Shoulder (min)	Land Width	Design Speed	Max Grade	Cross Slope	Centerline Radius	Cross Culverts	Turn Outs
Gravel w/dust palliative	Gravel	40'	2'	10' (min)	20 MPH	12%, up to 15% for 200' segments	4% max inslope, 2% max outslope	100' (60' in steep terrain)	18" dia. min.	Max 600' spacing to opposing traffic passage, intervisible

*Open space* means any land or water area which serves the purpose of providing park, agricultural, recreation or conservation opportunities. Construction within open space is limited to foot paths, bridges, irrigation structures, erosion protection devices, underground utilities and outdoor recreation facilities. Ownership of open space may be deeded or reserved to a property owners' association, or may be dedicated to the public or protected in other forms deemed acceptable to the Town Council. Indoor recreation facilities shall not be included in open space.

*Ordinary high water* means the line on the bank established by the fluctuations of water and indicated by physical characteristics such as clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris or other appropriate means that consider the characteristics of the surrounding area.

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*Park* means land retained in an open condition for recreation use; it may be improved with playground apparatus, tennis courts, picnic areas, riding or hiking trails, recreation fields, swimming pools and similar facilities.

*Parking, off-street* means an area maintained on the lot in an accessible and unobstructed condition for parking of vehicles by the residents, visitors, employees and customers of uses occupying the lot.

*Permit* means a document issued by the Town granting permission to perform an act or service which is regulated by the Town.

*Person* means every natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government or any other group or combination acting as a unit.

*Planning Commission* means the Planning Commission of the Town, whose duly authorized agent for administrative matters is the Planning Director.

*Planning staff or Planner* means a person or persons employed by the Town to assist the Planning Commission in a staff capacity.

*Preliminary plat* means the map of a proposed subdivision and specified supporting materials drawn and submitted in accordance with the requirements of this Chapter to permit the evaluation of the proposal prior to detailed engineering and design required for the final plat.

*Public improvements* means all commonly used amenities, including, but not limited to, parking, driveways, walkways, landscaping, recreational facilities, outdoor lighting, off-site roads, water and sewer mains, drainage, public parks, open space and other improvements.

*Ranch lot* means a legally conveyable and developable parcel of land having a minimum land area of thirty-five (35) acres that is established as a lot pursuant to a ranch lot plat.

*Ranch lot plat* means the recorded final plat as approved pursuant to the ranch lot process.

*Ranch lot process* means the process described in Section 17-6-70 for Planning Commission review and approval of final subdivision plats to create legally conveyable and developable lots within the mountaintop area, each such lot having a minimum land area of thirty-five (35) acres.

*Road or street* means a way or right-of-way reserved for public or private use (other than an alley) which also provides primary vehicular and pedestrian access to adjacent properties, and may include the terms *avenue, drive, highway, lane, place, road* or other similar designation.

*Setback* means the area prescribed by an imaginary line extending across the lot, parallel with the adjacent lot line and within which no building or structures shall be constructed.

*Subdivide* means to make a disposition of land which is defined in this Section as a *subdivision*.

*Subdivider* means a person who makes a disposition of land which is defined in this Section as a *subdivision*.

*Subdivision or subdivided land* means any parcel of land in the Town (including land used for condominiums, apartments or any other multiple dwelling units) which is divided into two (2) or more parcels, separate interests or interests in common, unless exempted under other provisions of this Chapter. The terms *subdivision* and *subdivided land* as defined herein shall apply to any division of land. If a tract of land which has been subdivided in the past is later described as a single tract in deeds or plats by the legal or equitable owners thereof, any later subdivisions of that tract, even if along the lines of the earlier subdivision, shall be subject to the requirements of this Chapter. Further, if any tract of land has been subdivided as one (1) type of subdivision and thereafter is subdivided so as to create a different type of subdivision (for example, conversion of a condominium subdivision to a time-sharing subdivision), such conversion shall be subject to the requirements of this Chapter. Unless the

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method of disposition is adopted for the purpose of evading this Article, the terms *subdivision* and *subdivided land*, as defined herein, shall not apply to any division of land which:

- a. Is created by a lien, mortgage, deed of trust or any other security instrument.
- b. Is created by an interest in an investment entity.
- c. Creates cemetery lots.
- d. Creates an interest in oil, gas, minerals or water which is now or hereafter severed from the surface ownership of real property.
- e. Is created by the acquisition of an interest in land in the name of a husband and wife or other persons in joint tenancy or as tenants in common of such interest. For the purpose of this Subparagraph, any interest in common owned in joint tenancy shall be considered a single interest.
- f. Creates a leasehold interest of less than three (3) years in term and involves no change in use or degree of use of the leasehold estate or will devote the leasehold estate solely to the growing of crops or livestock.
- g. Is created by any court in this State pursuant to the law of eminent domain or by operation of law, or by order of any court in this State if the Town is given timely notice of any such pending action by the court and given opportunity to join as a party in interest in such proceeding for the purpose of raising the issue of evasion prior to entry of the court order.
- h. Would be redundant, where the case involved a clerical error in a previously approved plat.
- i. Would result in a property division for the purpose of perpetual open space.

*Subdivision, minor* means a proposed subdivision of a parcel of land creating a total of six (6) lots or less, including both platted and remaining unplatted parcels, which is properly zoned for the proposed use. All lots on the proposed subdivision must abut a Town street or road which has been accepted for maintenance or, in the judgment of the Town, be physically accessible, or capable of being physically accessible, from the public street by conventional vehicles.

*Town Clerk* means that person officially appointed by the Town Council to act as administrative secretary to maintain procedures and records in compliance with this Chapter.

*Town Council* means the Town Council of the Town of Minturn.

## **Article 8 – Minor Subdivisions**

### **Sec. 17-8-20. Definitions.**

For the purposes of this Chapter, the following terms shall have the meanings set forth below unless the context clearly indicates otherwise:

*Amended final plat*: An *amended final plat* may be used only in the following instances:

- a. The proposed amended final plat is part of a previously approved final plat;
- b. The proposed amendment to the final plat is not inconsistent with the intent of the final plat;
- c. The proposed amendment to the final plat does not adversely affect adjacent property owners; and
- d. The proposed amendment to the final plat does not create a new lot or lots.

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*Type A subdivision* means a subdivision creating not more than six (6) lots within property that has not previously been platted.

*Type B subdivision* means a subdivision creating not more than six (6) lots within a legally approved subdivision, or is a subdivision of a building containing condominiums, townhomes or duplexes, which may include the subdivision of land directly associated with that building.

## **Article 9 – Vacation of Public Easements and Rights-of-Way**

### **Sec. 17-9-20. Applicability.**

- (a) As used herein, the terms *road* and *easement* shall be deemed to include any and all parcels upon which there has been legally sufficient acceptance of dedication by the public or its authorized agents, representatives or officials.
- (b) The applicants for any road or easement vacation shall present a petition requesting such vacation to the Town, which petition shall have been signed by the owners of all abutting property whose means of legal ingress and egress would be affected by such vacation. The petition shall set forth adequate reasons for such vacation, together with the names, mailing and legal addresses of all abutting or adjacent landowners, or other landowners whose interests might be adversely affected by or who may be interested in such vacation. The petition shall be accompanied by a map adequately showing the road or easement sought to be vacated, as well as the property of all landowners described above. The petition, together with the map, shall be submitted to the Town in triplicate and shall be accompanied by the appropriate fee.
- (c) Upon receipt of the petition, the Town shall set the matter for discussion at a regular meeting of the Planning Commission, at least one (1) month thereafter, to allow for referrals as indicated below.
- (d) The Town shall refer a copy of the petition, together with the map, to affected governmental agencies, as well as public and private utility concerns, for review and written comment, to be returned within thirty (30) days. Such comments shall be advisory only.
- (e) The Town shall cause to be given notice by certified mail, return receipt requested, to all landowners referred to in Subsection (b) above, stating:
  - (1) That a petition for vacation has been submitted to the Town;
  - (2) A description of the road or easement sought to be vacated;
  - (3) Briefly, the reasons for the submittal; and
  - (4) The date, time and place of the meeting referred to in Subsection (c) above.
- (f) The Planning Commission at its meeting shall consider the merits of the petition to vacate, as well as the comments of interested members of the public, and shall, within a reasonable time afterward, make and submit its written recommendation thereupon to the Town Council.
- (g) Thereafter, the Town Clerk shall cause to be given public notice by one (1) publication in a legal newspaper not less than thirty (30) days prior to the hearing before the Town. The public notice shall state:
  - (1) The road or easement sought to be vacated;
  - (2) The recommendation of the Planning Commission; and
  - (3) The date, time and place of the hearing before the Town.
- (h) At its hearing, the Town Council shall consider the merits of the petition to vacate, together with the recommendation of the Planning Commission, as well as all other material the Town may deem pertinent,

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including the comments of interested members of the public, and may either approve or disapprove the petition to vacate.

- (i) No approved vacation of any road or easement shall be effective unless the following condition has been met within a reasonable time following approval by the Town of any petition to vacate: Quit claim deeds have been duly recorded in the office of the County Clerk and Recorder which cumulatively relinquish all rights, claims and interests that all interested parties, including public and private utility companies, may have in the road or easement to be vacated.

(Prior code 17-10-2)