
Town of Bennett, CO

Welcoming Neighbors Through Housing Variety

Final Report - August 2025



Report prepared by:



Twelve

Land Use | Engagement | Design

URBANrural
—continuum—

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SECTION I. EXECUTIVE SUMMARY AND IMPLEMENTATION PLAN



About the Affordable Housing Incentives and Code Audit

This report was developed to help the Town of Bennett address the gap between housing needs and current development patterns. It includes the following:

- A clear housing vision and goals
- A practical framework to guide local action
- A code audit identifying housing barriers and a proposed code edit, including a fast track review process to meet the goals of Proposition 123
- A roadmap for achieving the housing vision and goals

Vision

The Town of Bennett envisions **a safe, welcoming, and connected** community where housing variety supports economic vitality, social cohesion, and a strong sense of neighborly character. By 2030, Bennett will offer **a variety of small-scale, affordable housing options** that allow residents to **live, work, and play** at all stages of life and income levels.



Local Housing Goals

Developed based on goal-setting work sessions with staff and Town trustees



Source: The Seattle Times

Preserve and further develop the character of Bennett

Use neighborhood edges for a greater variety of housing forms and commercial amenities

Promote opportunities for individual housing choices

Housing Framework

The housing framework is a set of complementary strategies, organized into four elements and designed to function as a cohesive system. Together, these strategies support existing residents and create new housing opportunities for people at all stages of life in Bennett. If strategies are left out or deprioritized, the Town risks displacement of current residents and may struggle to attract the people essential to its community and economy.

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- ✓ 1. Encourage the market to meet more of the demand

 - ✓ 2. Support more households in accessing market rate homes

 - ✓ 3. Protect against displacement and poor housing conditions

 - ✓ 4. Create and preserve dedicated affordable housing units

Housing Framework

Element	1. Encourage the market to meet more of the demand	2. Support more households in accessing market rate homes	3. Protect against displacement and poor housing conditions	4. Create and preserve dedicated affordable housing units
Strategies	<ul style="list-style-type: none"> • Require greenfield development to include a tax base sufficient to cover the cost of services • Enable incremental developers and allow incremental growth everywhere • Reduce required parking to the lowest possible amount • Establish a loan loss reserve fund to support incremental development 	<ul style="list-style-type: none"> • Promote down-payment assistance programs to local employers • Support programs that help households bridge the gap between market rents and what they can sustainably afford • Establish a housing match program 	<ul style="list-style-type: none"> • Build off of the REVIVE program and engage other partners for home rehab and weatherization programs • Promote the property tax relief programs for seniors and disabled veterans • Preserve existing manufactured housing communities 	<ul style="list-style-type: none"> • Create a concierge service for prioritized developments • Require some affordability in exchange for PDs and annexations • Use Town-owned land for affordable or incremental development • Partner with a for-sale affordable housing developer • Pursue a mixed-income development with a Low-Income Housing Tax Credit partner

Note: More details on each are in the full report.

Code Audit and Priority Code Edits

The audit of the Land Use and Development regulations identified that while there are many edits that could be made to the code, the larger issue is that most development is currently using the Planned Development (PD) District to create new regulations specific to each development. PDs should only be used in specific circumstances as they rely on time consuming negotiations, are unpredictable, and create inconsistent outcomes. The priority code edits were chosen to address this issue while improving flexibility, predictability, and advancing housing goals. These priority edits are a starting point; ideally, Bennett should update its comprehensive plan including the creation of a future land use map and complete a full update of the Land Use and Development regulations. These recommendations help shape the implementation plan on the following pages.

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- ✓ 1. Add a fast-track process for affordable housing per State Proposition 123.

 - ✓ 2. Require a certain percentage of affordable housing in all annexations and PDs.

 - ✓ 3. Revise existing zoning district standards to be more flexible and allow more housing types by refining definitions and adding missing categories.

 - ✓ 4. Only allow PDs when a greater benefit is provided, set a minimum size, require the use of existing zoning districts unless modifications are approved, and require housing variety.

 - ✓ 5. Revise the two-step major subdivision process.

Note: Staff identified additional priorities through the code audit that are beyond this scope, but are recommended for near-term consideration. More details are in the full report.

Implementation Plan

This is a suggested approach to adopt the full set of recommendations in the Affordable Housing Incentives and Code Audit. It is designed to sequentially prioritize early wins and build a strong foundation before advancing more innovative strategies to meet the Town’s housing goals. Approximate timelines for each are listed in the descriptions on the following pages.



*Key point to engage development community

Finalize and adopt priority code edits

Approx. 6 months

Based on the redlined version of the Land Use and Development code created through this audit, Town staff will further refine the proposed language and take the revised version through the appropriate public process for adoption.

Create housing resources webpage

Approx. 3-4 months for initial set up; maintenance and other outreach avenues will be ongoing

Many strategies in the housing framework rely on increasing awareness of programs that already exist and are run by the county or local non-profits. These programs help residents access, afford, and maintain housing. As part of a broader outreach effort, the Town can create a housing resources webpage linking to services such as down-payment assistance, rental assistance, housing match programs, the REVIVE program, other home rehab and weatherization support, and property tax relief for seniors and veterans. This centralized page will complement other outreach methods and help connect residents to trusted support.

Launch priority projects

Approx. 3-4 months to establish a partnership; development will be a multiyear process

To address immediate gaps in both rental and for-sale housing that the market is not meeting, the Town should partner with developers to support one deed-restricted for-sale housing project (e.g., Habitat for Humanity or Elevation Community Land Trust) and one Low-Income Housing Tax Credit-supported rental development (e.g., Pennrose, Evergreen Real Estate Group) as early wins. These pilot efforts can demonstrate feasibility, build public trust, and lay the groundwork for future projects that expand the town's housing options.

Update comp plan and future land use map

Approx. 8-12 months

To comply with new state requirements, the Town will need to update its comprehensive plan to include a water supply element and a strategic growth element. This effort also presents an opportunity to prepare a future land use map that reflects the community's vision for growth and development. These updates will require robust community outreach and planning sessions to ensure alignment with local priorities. Given the scope, this work may take up to a year to complete.

Fully update the code

Approx. 12-24 months

A full update to the Land Use and Development code will help the Town align its regulations with the desired future described in the updated comp plan and new future land use map while supporting long-term housing and growth goals.

The full report identifies other code priorities that could be addressed during a full code update. This would also be a good opportunity to simplify the code, create a fiscal analysis process for greenfield development, and expand the fast-track process to incremental developers.

Build incremental development capacity

Approx. 12 months for initial steps, capacity-building work and reserve fund would be ongoing

To support smaller-scale, locally driven projects, the Town can take targeted steps to build incremental development capacity. This could include hosting technical assistance workshops and peer support groups for emerging developers, working with an architect to create pre-approved building templates for diverse housing types and mixed-use forms, and exploring the staff capacity needed to provide concierge permitting services. The Town should also assess interest in establishing a loan loss reserve fund to reduce risk and unlock financing for local builders.

SECTION II. INTRODUCTION AND PROJECT SCOPE



INTRODUCTION AND PROJECT SCOPE

Background Context

The Town of Bennett is at a crossroads in its growth trajectory. Located along the eastern I-70 corridor, the Town has experienced rapid residential development in recent years, with 31% of its housing stock built since 2020. Yet, this growth has not kept pace with the evolving needs of its workforce and the local economy.

The 2024 Housing Needs Assessment found that Bennett will need between 275 and 340 new housing units by 2029 to support current and future demand. Two-thirds of this need is for homes priced below market. While the for-sale market currently offers affordability relative to other metro area markets, rising home values and a lack of rental inventory are contributing to a widening gap between what is needed and what is available—particularly for households earning under 60% of Area Median Income (AMI), which as of 2025 was \$62,640 for a two-person household.

Key housing challenges identified include the following:

- A severe undersupply of rental housing, especially for small households and lower-income residents; the Housing Needs Assessment indicates a need for 110 rental units priced affordably to households earning at or below 60% AMI
- Lack of housing variety, with 95% of units consisting of detached single-family or manufactured homes¹
- A mismatch between local wages and housing costs, with most jobs in Bennett concentrated in lower-paying sectors, such as retail and food service
- Significant commuter patterns, where most Bennett residents travel to jobs outside the Town and many local workers live elsewhere due to the lack of affordable housing options

At the same time, Bennett has committed to a more intentional, balanced approach to development. The 2021 Comprehensive Plan calls for a mix of housing types and densities, compact growth patterns, and the creation of vibrant neighborhood centers. As Bennett has already opted into Colorado's Proposition 123, there is both a local priority and an opportunity to proactively expand the variety of housing available in the Town.

Proposition 123

The Town of Bennett officially opted in to Proposition 123, unlocking eligibility for state housing funds. To remain in compliance, the Town must

- deliver at least 18 new affordable housing units by the end of 2026,
- maintain a fast track development review process for qualifying affordable projects, and
- report annually on progress toward meeting housing targets.

¹ The 2024 Housing Needs Assessment references 96% because it counts both detached and attached single family homes. The percentage listed here only counts detached homes and mobile/manufactured homes.

Existing Housing Market

The predominance of detached single-family housing in Bennett might appear to reflect market demand alone. A closer look reveals that local policies and development procedures play a significant role in shaping this pattern, steering the market toward a narrow range of outcomes.

In addition to the majority of the housing stock being single-family or manufactured homes, just 12% of homes are renter occupied (compared to nearly 39% of homes statewide). While there is clear demand for affordable homeownership—especially from households priced out of Denver and Aurora—Bennett’s policy framework helps determine what types of housing actually get built and where.

For example, planned developments (PDs) have become the prevailing mechanism for new residential construction in Bennett. By allowing developers to bypass standard zoning requirements, the PD process grants flexibility for the developer to propose exactly what they want. In practice, however, this flexibility has not produced innovation or variety in housing types; it has mostly been used to advance single-family subdivisions. This outcome is shaped not only by developer and builder preference but also by how the PD process is structured and applied.

Additionally, the Town’s allowance of metropolitan districts as a financing tool has further shaped the development landscape. These districts enable developers to finance high infrastructure costs—particularly the high water and sewer tap fees—by passing long-term debt to future homeowners through the metropolitan district. This financing model works best when costs can be spread across large-scale, homogeneous single-family developments. Smaller, more diverse, or multifamily projects often struggle to absorb these costs, especially in projects that limit their rental revenue or sale prices to serve people earning more modest incomes, creating another barrier for the housing variety the Town prioritized in its comprehensive plan.

Together, these factors highlight that Bennett’s housing market is not operating on a level playing field. Local development processes and financing mechanisms systematically favor certain housing types, particularly single-family homes, while discouraging others. As a result, current policies do more than regulate development; they actively shape it, influencing what gets built far more than demand alone.

The following sections of this report will explore policy and regulatory recommendations to rebalance these market dynamics and support a broader range of housing options that align with Bennett’s community goals.

Project Purpose

This Welcoming Neighbors Through Housing Variety project was initiated after the 2024 Housing Needs Assessment to help the Town proactively address the growing gap between housing needs and current development patterns. The Housing Needs Assessment included a quick overview of housing policy and recommended potential strategies for Bennett to begin addressing the issues identified. After the Housing Needs Assessment was completed, the Town commissioned a deeper analysis of existing policies and the land use code resulting in the more detailed and customized recommendations that follow. This work aims to build the Town’s capacity to respond—by clarifying its housing goals and aligning its land use policies, development review processes, and available tools with those goals.

Specifically, the project is designed to accomplish the following:

- Establish a housing framework that identifies and organizes a range of tools—including incentives, regulations, funding mechanisms, procedures, and programs—that the Town can use to advance its housing goals in alignment with the comprehensive plan.
- Streamline and clarify land use regulations to meet Proposition 123’s fast track review standards, providing developers with well-defined pathways to propose projects that reflect community priorities.

Both the Housing Framework and the Code Audit sections are organized by the potential impact of each recommendation and the difficulty of implementation. The Housing Framework is approached qualitatively, and the Code Audit is described through an implementation matrix.

SECTION III. HOUSING FRAMEWORK



HOUSING FRAMEWORK

Housing Vision and Goals

Town staff and the Board of Trustees participated in a series of workshops to identify Bennett’s housing priorities. These conversations explored how housing influences the Town’s economic future, the types of people who can afford to live here, and the long-term fiscal health of the community. Participants reflected on what they value most about Bennett, and what the Town must do to preserve its character while supporting growth and opportunity for current and future residents.

This work led to the following housing vision:

The Town of Bennett envisions a **safe, welcoming, and connected community** where housing variety supports economic vitality, social cohesion, and a strong sense of neighborly character. By 2030, Bennett will offer a **variety of small-scale, affordable housing options** that allow residents to **live, work, and play** at all stages of life and income levels.

From this vision, three guiding goals were identified:

- Preserve and further develop the character of Bennett
- Use neighborhood edges for a greater variety of housing forms and commercial amenities
- Promote opportunities for individual housing choices

Framework Elements and Strategies

To guide policy recommendations and align strategies with Bennett’s unique context, this report organizes housing tools into a four-part framework. Each element of the framework addresses a distinct aspect of the local housing landscape, recognizing that no single intervention can meet the community’s full range of housing needs.

1. Encourage the market to meet more of the demand acknowledges that Bennett’s housing growth will continue to be led by private development, and that policy can help steer that growth toward more diverse and attainable options.

2. Support more households in accessing market rate homes recognizes that many working households earn too much to qualify for affordable housing, yet too little to comfortably afford the homes the market is producing. These households are a vital part of the community—teachers, healthcare workers, first responders—and helping them overcome barriers to ownership or stable rental housing strengthens both the local economy and long-term resident retention.

3. Protect against displacement and poor housing conditions ensures that as Bennett grows, it does so in a way that maintains housing stability for current residents and preserves the quality of the housing stock.

4. Create and preserve dedicated affordable housing units is necessary to serve households that will not be reached by the market alone, particularly renters and lower-income workers.

These four categories offer a comprehensive, flexible structure to organize and prioritize the policies and partnerships that will shape Bennett’s housing future.²

Each element is supported by several strategies, ranging from incentives and regulations to partnerships and programs. An initial list of potential strategies came from peer communities and policy best practices. Specific strategies recommended for Bennett were determined primarily based on their alignment with the three guiding goals that came from the workshops with Town trustees and staff. Additional considerations based on stakeholder feedback helped to refine the final recommendations.

Housing Framework Elements and Strategies Summary

Element	1. Encourage the market to meet more of the demand	2. Support more households in accessing market rate homes	3. Protect against displacement and poor housing conditions	4. Create and preserve dedicated affordable housing units
Strategies	<ul style="list-style-type: none"> • Require greenfield development to include a tax base sufficient to cover the cost of services • Enable incremental developers and allow incremental growth everywhere • Reduce required parking to the lowest possible amount • Establish a loan loss reserve fund to support incremental development 	<ul style="list-style-type: none"> • Promote down-payment assistance programs to local employers • Support programs that help households bridge the gap between market rents and what they can sustainably afford • Establish a housing match program 	<ul style="list-style-type: none"> • Build off of the REVIVE program and engage other partners for home rehab and weatherization programs • Promote the property tax relief programs for seniors and disabled veterans • Preserve existing manufactured housing communities 	<ul style="list-style-type: none"> • Create a concierge service for prioritized developments • Require some affordability in exchange for planned developments and annexations • Use Town-owned land for affordable or incremental development • Partner with a for-sale affordable housing developer • Pursue a mixed-income development with a Low-Income Housing Tax Credit partner

² The Housing Framework is based on a structure recommended by Local Housing Solutions <https://localhousingolutions.org/housing-policy-framework/>.

1. Encourage the Market to Meet More of the Demand³

Who gets to shape Bennett’s neighborhoods? In most places today, the answer is either large homebuilders creating uniform subdivisions or institutional developers financing apartment complexes through national investment markets. This dynamic—fueled by zoning, infrastructure policy, and financial systems—has resulted in a housing monoculture dominated by two options: detached single-family homes or large-scale multifamily buildings. Other forms of housing have been sidelined, not because they’re undesirable, but because they’re difficult to permit, finance, or build.

The developers interviewed for this project reflected that divide. Only Habitat for Humanity of Metro Denver was working at a more modest scale, creating homes tailored to local needs rather than investor portfolios. Most others acknowledged that current systems make it nearly impossible to build in the middle.

To support housing variety, Bennett must make room for incremental developers—homeowners adding basement apartments, local builders constructing fourplexes, and others creating small-scale, neighborhood-friendly homes. These developers are more responsive to local needs and are essential to creating variety in the housing stock.

What Is an Incremental Developer?

An incremental developer adds housing in small steps that build on the existing neighborhood—like an accessory dwelling unit (ADU), duplex, or small mixed-use building. Rather than transforming whole blocks at once, they work within the current fabric of the community to create more housing options over time. These small approaches are also referred to as incremental growth or incremental development.

At the same time, larger-scale greenfield development will continue to play a role. But to ensure long-term fiscal health, new subdivisions must contribute more than rooftops—they must generate a strong enough tax base to support the public services and infrastructure they rely on. Bennett can’t afford to grow in ways that look successful on paper but leave the Town with unfunded obligations. A mix of incremental and large-scale development, designed with financial and community sustainability in mind, is essential to meeting the Town’s housing goals.

Require greenfield development to include a tax base sufficient to cover the cost of services

Incorporate fiscal impact analysis into initial development discussions and ensure that the value of the new development balances the long-term cost of maintaining infrastructure and public services like roads, water, sewer, police, and fire. Emerging data indicates that a healthy balance of private to public investment should fall in the range of 20:1 to 40:1. Discourage low-density sprawl that underfunds future obligations. This approach has been used in Fate, Texas, a suburban community outside Dallas that has faced significant growth pressure. The city has made its [fiscal analysis spreadsheet](#) available for other communities interested in using this approach as an additional data point in evaluating potential developments.

³ Many of the strategy recommendations in this element derive from *Escaping the Housing Trap: The Strong Towns Response to the Housing Crisis*, by Charles Marohn Jr. and Daniel Herriges.

POTENTIAL IMPACT

Promotes financial sustainability, avoids future budget shortfalls, and encourages more efficient land use. It can also lead to greater housing variety and more mixed-use land use patterns that support diverse building types and local-serving businesses.

IMPLEMENTATION DIFFICULTY

Requires policy and ordinance updates, fiscal modeling capacity, and political will.

HOUSING GOALS ADDRESSED

Preserve and further develop the character of Bennett - Compact development patterns will preserve more land for open space, balancing a small-town character with abundant agricultural opportunities.

Use neighborhood edges for a greater variety of housing forms and commercial amenities - Because missing middle housing, small multifamily buildings, mixed-use projects, and compact commercial development typically generate more tax revenue per acre than single-family homes, requiring new development to cover its long-term service costs creates a financial incentive for more diverse, higher-yield land uses—without prohibiting single-family housing.

Promote opportunities for individual housing choices - Shifting away from low-density, single-use subdivisions opens the door to a broader mix of home types and price points, giving residents more options to live where and how they choose.

Enable incremental developers and allow incremental growth everywhere

Support small-scale, locally rooted builders through the following approaches.

- Host technical assistance events for people interested in participating in incremental development. The [Incremental Development Alliance](#), a 501c3, offers workshops to help people learn how to start a project.
- Create preapproved building templates for housing and commercial uses that can fit into different neighborhood contexts and meet zoning requirements.
- Simplify the land use and development code to make it understandable and useable for non-professional developers. [South Bend, Indiana has an award-winning code](#) that is very user friendly.
- Once the affordable housing fast track review process is in place, consider allowing incremental developers to use the process or identify other opportunities to expedite permitting.
- If there is enough staff capacity for the development concierge service recommended below, open this up to incremental developers and builders as a way of supporting community members with less development experience.
- Update the land use and development code to allow a minimum of two-unit homes and ADUs in the lowest density residential districts in addition to detached single-family homes, without requiring public hearings or rezoning. Additional opportunities for incremental growth for all zoning districts are in the list of prioritized items from the code audit discussed in Section IV (Code Audit for Barriers to Housing Variety).

POTENTIAL IMPACT

Encourages more community-based development, creates housing types that reflect local need, and spreads economic opportunity.

IMPLEMENTATION DIFFICULTY

Requires new administrative processes, approval of ordinances, and potential funding partnerships.

HOUSING GOALS ADDRESSED

Preserve and further develop the character of Bennett - This strategy fosters growth that is both responsive and well-matched to the existing character of Bennett’s neighborhoods.

Use neighborhood edges for a greater variety of housing forms and commercial amenities - Because traditional financing tools rarely support missing middle housing, enabling incremental developers is essential to filling the gap with small-scale, mixed-use and multifamily projects that larger developers are unlikely to pursue. While this strategy includes neighborhood edges, it goes further by encouraging gentle density increases townwide, ensuring that all homeowners—not just those on the edge—can contribute to housing supply and build generational wealth that stays rooted in the community.

Promote opportunities for individual housing choices - Supporting incremental development creates more options—like ADUs, duplexes, and small multifamily homes—allowing residents to choose housing that meets their needs at different life stages and income levels.

Reduce required parking to the lowest possible amount

Amend the land use and development code to allow developers to propose context-sensitive parking ratios, supported by parking studies or proximity to existing infrastructure. This enables the market to determine the true parking need for a particular development without establishing blanket regulation that adds to development costs resulting in higher prices for housing or consumer goods.

POTENTIAL IMPACT

Lowers development costs, supports small and infill projects, and frees up land for housing or public space.

IMPLEMENTATION DIFFICULTY

Can be adopted through zoning changes but may raise community concerns around congestion or spillover.

HOUSING GOALS ADDRESSED

Preserve and further develop the character of Bennett - not specifically addressed.

Use neighborhood edges for a greater variety of housing forms and commercial amenities - Lowering parking minimums make it more feasible to build small multifamily housing or mixed-use buildings on constrained or oddly shaped edge parcels that might otherwise be ruled out due to space requirements.

Promote opportunities for individual housing choices - By removing a major cost and design barrier, this strategy enables a broader range of housing types to be built and priced more affordably, giving residents more viable options.

Explore a loan loss reserve fund to support incremental development

Investigate establishing a reserve fund using Town contributions or grant funding and partner with local banks or community development finance institutions to help absorb partial losses in the event of borrower default. While Colorado law places stricter limits on municipal use of public financing tools than in other states, the Town can still create a fund that enables local banks to offer low-interest loans for small-scale residential construction or rehabilitation.

Case Study: Muskegon, MI

Muskegon used Tax Increment Finance (TIF) to redevelop underutilized infill lots in the city, with the higher tax valuation on completed projects used to repay the loan amounts that covered upfront development costs. While Colorado statute does not allow cities to use TIF in this way, there are other tools jurisdictions can leverage to support small-scale development, including a loan loss reserve fund.

Using a loan loss reserve fund to support incremental or small-scale housing development would be a new approach for Colorado. However, there are precedents for this kind of tool: for example, Boulder has successfully used a loan loss reserve fund to encourage private lenders to offer low-cost loans for energy efficiency improvements. In that program, the city provided partial guarantees that reduced risk for lenders, enabling lower interest rates and more accessible financing for property owners.

POTENTIAL IMPACT

Unlocks private capital for modest, community-driven projects that otherwise wouldn't be financed.

IMPLEMENTATION DIFFICULTY

Requires legal setup, lender engagement, and seed funding.

HOUSING GOALS ADDRESSED

Preserve and further develop the character of Bennett - not specifically addressed.

Use neighborhood edges for a greater variety of housing forms and commercial amenities - This strategy makes it possible to finance housing types that are well-suited to neighborhood edges (e.g., fourplexes or mixed-use buildings) that traditional lenders often overlook due to their scale.

Promote opportunities for individual housing choices - A loan loss reserve fund helps unlock financing for homeowners and small developers who want to add ADUs, convert existing buildings, or build modest infill housing; this expands access to more diverse and attainable housing options across the community.

2. Support More Households in Accessing Market Rate Homes

While much of the focus in housing policy centers on increasing supply, there is also a critical need to help households access the homes that already exist—whether as renters or buyers. Many working families in Bennett earn too much to qualify for income-restricted housing, yet face real barriers to securing stable, quality housing in the private market. These barriers can include limited savings for a down payment, inconsistent credit history, discrimination, or simply being outcompeted in a tight market.

This element of the framework recognizes that improving access is as important as increasing supply. It includes tools that help households overcome up-front financial hurdles and support renters in finding

and affording housing. At the same time, Bennett must approach this work carefully. Injecting new resources, whether through assistance or incentives, can unintentionally drive-up prices if not paired with efforts to expand housing choice and availability. By focusing on access as well as production, Bennett can expand homeownership opportunities, reduce housing instability, and ensure that more residents are able to remain and thrive in the community.

Promote down-payment assistance programs to local employers

Educate local employers about existing down-payment assistance programs, such as those offered by the Colorado Housing and Finance Authority (CHFA), and encourage them to share these opportunities with employees. The Town can act as a convener and promoter without administering funds directly.

POTENTIAL IMPACT

Increases awareness and uptake of existing financial tools that support homeownership, particularly among local employees, while requiring minimal public funding or administrative burden.

IMPLEMENTATION DIFFICULTY

Requires communication, outreach, and potential collaboration with local lenders and employers, but no new funding or legal infrastructure.

HOUSING GOALS ADDRESSED

Preserve and further develop the character of Bennett - This strategy strengthens long-term residency and investment in the Town, reinforcing Bennett's sense of connection, stability, and small-Town character.

Use neighborhood edges for a greater variety of housing forms and commercial amenities - not specifically addressed.

Promote opportunities for individual housing choices - Increasing awareness of down-payment assistance expands access to homeownership for those who might otherwise be shut out by up-front costs, allowing more residents to choose where and how they live.

Expand Access to Private Market Rentals

Work with the local housing authority (Maiker Housing Partners) and landlords to expand access to rental housing for households who face financial barriers. Under Colorado law (HB21-1117 and SB20-224), it is illegal to discriminate against prospective tenants based on lawful sources of income used to help pay rent. Despite this, some landlords continue to impose policies, such as high minimum income requirements or overly strict screening criteria, that effectively exclude lower-income renters.

To address this, the Town can partner with Maiker to educate landlords on the benefits, responsibilities, and legal obligations of accepting renters who receive support to bridge the gap between incomes and market rents. The Town can also help dispel common myths about these programs, emphasizing that they can provide reliable payments and help maintain stable, well-managed properties.

POTENTIAL IMPACT

Increases housing access for low-income residents and supports income diversity within neighborhoods.

IMPLEMENTATION DIFFICULTY

Largely coordination and outreach; dependent on housing authority engagement and landlord willingness. This strategy will have limited applicability until more rental housing is established in Bennett.

HOUSING GOALS ADDRESSED

Preserve and further develop the character of Bennett - not specifically addressed.

Use neighborhood edges for a greater variety of housing forms and commercial amenities - not specifically addressed.

Promote opportunities for individual housing choices - Expanding rental housing access increases the range of housing options available to lower-income households, giving them more flexibility in choosing where to live and reducing barriers to high-opportunity neighborhoods.

Establish a housing match program

Create a platform or partnership to connect local renters with available units or bedrooms—especially targeting local workers, seniors, or recent graduates. [Similar programs](#) have been set up by county health agencies and non-profits; some programs provide a general platform where people with space can connect with other community members looking to rent, other programs, like [Sunshine Home Share](#), focus on intentionally pairing seniors with a younger adult as part of an age-in-place strategy. Maiker Housing Partners is currently serving the community with a tool that allows landlords to list their vacant units.

POTENTIAL IMPACT

Improves transparency in the housing market, reduces search friction, and helps underutilized housing (e.g., spare bedrooms) find occupants who meet local needs.

IMPLEMENTATION DIFFICULTY

Requires technology setup, administrative support, and ongoing local promotion.

HOUSING GOALS ADDRESSED

Preserve and further develop the character of Bennett - This strategy supports modest, community-led solutions that align with Bennett’s small-town character and strengthen social connections between neighbors.

Use neighborhood edges for a greater variety of housing forms and commercial amenities - not specifically addressed.

Promote opportunities for individual housing choices - A match program expands choices for residents who may not be served by traditional rental listings. This can be especially impactful for seniors, young adults, or local workers seeking affordable, flexible living arrangements close to jobs or family.

3. Protect Against Displacement and Poor Housing Conditions

As Bennett continues to grow, it must ensure that long-time residents can remain securely housed and that the homes people live in remain safe, healthy, and habitable. This section focuses on strategies that protect renters and homeowners from involuntary displacement due to rising costs, health or economic hardship, or unsafe housing conditions. While expanding the supply of affordable housing is a critical part of the solution, stability also requires targeted interventions, like the preservation of existing homes that might otherwise be lost to deterioration or neglect.

Some of these dynamics are already playing out in Bennett. For example, one local mobile home park owner has begun replacing older units with newer homes, which can improve housing quality but may also raise rents or displace residents unable to afford the upgrades. This highlights the Town's need to strike a delicate balance—encouraging reinvestment in housing stock without displacing existing residents.

These strategies are especially important in Bennett, where growth brings both opportunity and tension. New residents contribute to the Town's vitality, but their arrival can also raise concerns about changing community identity and increasing costs.

This section complements strategies that promote incremental development. When change occurs in smaller, more organic steps, residents are more likely to see the benefits, help shape outcomes, and remain rooted in the community they've helped build.

Engage a home rehab and weatherization program

Bennett's existing [REVIVE program](#) can help address some issues related to property condition and energy inefficiencies. REVIVE offers grants up to \$2,500 per home, per year to support upgrades to property façades, these can include window replacements, roof repair, and replacement of siding among other upgrades. For projects that need work beyond the façade of the home, the Town can partner with existing regional or state programs—such as those offered through [Energy Outreach Colorado, Colorado's Weatherization Assistance Program \(WAP\)](#), or through the [county](#)—to assist low- and moderate-income homeowners with essential repairs, energy upgrades, and safety improvements. The Town can help identify eligible homes, promote available resources, and coordinate local referrals.

POTENTIAL IMPACT

Improves the quality and safety of existing housing stock, lowers utility costs for residents, and helps older homes remain viable and affordable—particularly for seniors and longtime residents who might otherwise be displaced by deterioration or rising maintenance costs.

IMPLEMENTATION DIFFICULTY

Requires staff time to identify partners, promote programs, and connect residents, but does not require the Town to administer the rehab work or funding directly.

HOUSING GOALS ADDRESSED

Preserve and further develop the character of Bennett - Helps maintain the appearance, function, and livability of existing homes, reinforcing neighborhood stability.

Use neighborhood edges for a greater variety of housing forms and commercial amenities - not specifically addressed.

Promote opportunities for individual housing choices - Keeps existing homes habitable and affordable, especially for lower-income households that might not be served by new development.

Promote the property tax relief programs for seniors and disabled veterans

Actively promote awareness of [Colorado's Senior and Disabled Veteran Homestead Exemptions](#) through Town communications, local events, and partnerships with senior-serving organizations. Offer informational sessions and application assistance to ensure eligible residents don't miss out due to lack of awareness or administrative hurdles.

POTENTIAL IMPACT

Increases housing stability for seniors and disabled veterans by reducing the annual tax burden, helping them age in place and remain in the community even as property values and taxes rise.

IMPLEMENTATION DIFFICULTY

Primarily involves outreach, education, and coordination with the Adams County Assessor's Office, which administers the exemption.

HOUSING GOALS ADDRESSED

Preserve and further develop the character of Bennett - Helps longtime residents remain in their homes and neighborhoods, maintaining continuity and community ties.

Use neighborhood edges for a greater variety of housing forms and commercial amenities - not specifically addressed.

Promote opportunities for individual housing choices - Reduces financial pressure on seniors and veterans, allowing them to stay in the housing they've chosen rather than being forced to move due to rising costs.

Preserve existing manufactured housing communities

Identify manufactured housing communities as critical sources of naturally occurring affordable housing and work proactively to support their long-term viability. This could include establishing regular communication with park owners and residents, exploring right-of-first-refusal policies or resident purchase opportunities if a park is for sale, and connecting owners with programs that support infrastructure upgrades or unit replacement without displacing residents. The Town can also monitor for patterns of displacement when older homes are replaced with newer, more expensive units. Tracking displacement can inform the overall housing needs of the community.

POTENTIAL IMPACT

Helps maintain one of Bennett's most affordable housing types, supports residents who may be especially vulnerable to cost-driven displacement, and preserves community stability in neighborhoods with long-term residents and multigenerational ties.

IMPLEMENTATION DIFFICULTY

Requires policy development, monitoring, and relationship-building with park owners and resident leaders; may involve coordination with regional housing nonprofits or state partners for technical support and funding.

HOUSING GOALS ADDRESSED

Preserve and further develop the character of Bennett - Maintains affordable housing options that are already embedded in the community, supporting continuity and neighborhood identity.

Use neighborhood edges for a greater variety of housing forms and commercial amenities - not specifically addressed.

Promote opportunities for individual housing choices - Protects a form of unsubsidized homeownership that is critical for lower-income households and those seeking stable housing outside of the rental market.

4. Create and Preserve Dedicated Affordable Housing Units

Even in a well-functioning housing market, there will always be households that cannot afford the cost of market-rate housing—whether it’s a senior on a fixed income, a person with a disability, or a low-wage worker supporting a family. For these residents, subsidized housing with lasting affordability protections is not just helpful—it is essential. A complete and equitable housing strategy must include tools that create and preserve dedicated affordable housing units that remain accessible to lower-income households over time.

This section focuses on policies that move beyond influencing the broader market to directly delivering affordability through public investment or regulatory action. Strategies include offering incentives or requiring affordability in exchange for special zoning considerations that produce affordable units in new developments, contributing local resources, and forming partnerships that make deeply affordable developments financially feasible. Together, these tools help ensure that Bennett can meet the needs of all its residents—including those whose incomes simply won’t stretch to cover market rents or home prices, no matter how efficiently the market operates.

Create a concierge service for prioritized developments

Formalize the high level of personalized support that Bennett planning staff already provides to developers as a "concierge service." This can help clarify expectations, strengthen predictability, and publicly communicate the Town’s priorities to potential partners. This approach would explicitly reserve intensive, hands-on guidance for projects that advance community goals, particularly those that include affordable units, support incremental development, or bring a variety of housing forms and price points into the community.

A formalized concierge service could involve designating a single point of contact to coordinate reviews across departments, schedule pre-application meetings, and help applicants navigate requirements efficiently. By publicly highlighting this service, Bennett can signal to mission-driven and community-

focused developers that it is serious about reducing process barriers for the types of projects most needed, while also managing staff capacity by focusing resources on the most impactful proposals.

For PDs and Annexations, the concierge service should be offered as an incentive for proposals that exceed the Town's baseline affordability requirements, rather than as standard support for all projects meeting minimum expectations. This ensures that additional staff effort is aligned with the highest community benefits.

POTENTIAL IMPACT

Improves feasibility and predictability for mission-driven developers, increases competitiveness for state and federal funding, and reduces development costs that can be passed on to future tenants or buyers.

IMPLEMENTATION DIFFICULTY

Requires internal coordination and staff capacity.

HOUSING GOALS ADDRESSED

Preserve and further develop the character of Bennett - not specifically addressed.

Use neighborhood edges for a greater variety of housing forms and commercial amenities - This strategy can be used by partners like Habitat for Humanity of Metro Denver or incremental development partners to quickly deliver different housing types on the edges and corners of neighborhoods.

Promote opportunities for individual housing choices - Streamlining the process increases the pipeline of income-restricted units available to households who can't afford market rates.

Require some affordability in exchange for planned developments and annexations

Establish policies or guidance that require a modest share of affordable units in return for discretionary entitlements like PDs or annexations.

POTENTIAL IMPACT

Leverages market-driven growth to expand the stock of affordable housing without requiring Town funding and ensures community benefit.

IMPLEMENTATION DIFFICULTY

Requires a clear policy or negotiation framework and political alignment to enforce consistently.

HOUSING GOALS ADDRESSED

Preserve and further develop the character of Bennett - Ensures that growth benefits long-term residents and contributes to affordability.

Use neighborhood edges for a greater variety of housing forms and commercial amenities - Encourages inclusion of a broader mix of units in new developments.

Promote opportunities for individual housing choices - Helps ensure some new homes are accessible to moderate- and lower-income households.

Use Town-owned land for affordable or incremental development

Inventory publicly owned parcels and assess suitability for affordable or small-scale housing development. Project sites with existing or nearby infrastructure will be far more feasible for affordable development, while proximity to amenities will help attract funding partners. Consider offering land at low or no cost to mission-driven developers or entering into partnerships that support affordability goals.

POTENTIAL IMPACT

Reduces one of the largest cost barriers in housing development, accelerates the production of affordable and community-centered housing, and demonstrates visible municipal support.

IMPLEMENTATION DIFFICULTY

Requires site evaluation, a land disposition policy, and engagement with qualified partners.

HOUSING GOALS ADDRESSED

Preserve and further develop the character of Bennett - Directs growth into well-planned, community-serving projects.

Use neighborhood edges for a greater variety of housing forms and commercial amenities - Makes a wider range of housing forms feasible—types that might otherwise be too costly to build.

Promote opportunities for individual housing choices - Allows more modest-income households to find housing within reach.

Partner with a for-sale affordable housing developer

Engage with nonprofit or mission-aligned developers (e.g., Habitat for Humanity, Elevation Community Land Trust) to support modestly scaled, income-restricted homeownership projects. Support can include land, fee waivers or deferment, and support with public outreach.

POTENTIAL IMPACT

Expands the pool of attainable ownership options, strengthens community stability, and creates long-term wealth-building opportunities for lower-income residents.

IMPLEMENTATION DIFFICULTY

Depends on the availability of experienced partners and the Town's readiness to offer land or policy support.

HOUSING GOALS ADDRESSED

Preserve and further develop the character of Bennett - Encourages homeownership models that support long-term residency.

Use neighborhood edges for a greater variety of housing forms and commercial amenities - not specifically addressed.

Promote opportunities for individual housing choices - Offers attainable homeownership for families priced out of the market.

Pursue a mixed-income rental development with a Low-Income Housing Tax Credit partner

Identify a potential site and issue a request for proposal (RFP) or initiate a partnership with a developer experienced in the Low-Income Housing Tax Credit (LIHTC) program to build a rental development with a mix of income-restricted and market-rate units.

POTENTIAL IMPACT

Delivers high-quality, permanently affordable rental units, supports income diversity, and attracts state and federal resources to Bennett.

IMPLEMENTATION DIFFICULTY

Requires predevelopment planning, site control, and alignment with CHFA and developer capacity.

HOUSING GOALS ADDRESSED

Preserve and further develop the character of Bennett - Creates opportunities for the Bennett workforce to live in town and more fully participate in the community.

Use neighborhood edges for a greater variety of housing forms and commercial amenities - not specifically addressed.

Promote opportunities for individual housing choices - Expands rental options for households who are currently priced out of the market.

Moving Forward

The strategies outlined in this section are intended to offer a flexible menu of options—although they have all been put forward with the specific context of Bennett in mind. Not all of these recommendations will be implemented at once, and several will require further refinement and public input before moving forward. Many of the approaches that involve land use or development regulations will need to be adopted through formal code changes via ordinance. A broader analysis of regulatory barriers to housing variety and affordability—including specific code edits—is provided in the following section. This alignment between strategy and regulation will be critical to ensuring that the Town’s housing goals are not only aspirational, but actionable.

SECTION IV. CODE AUDIT FOR BARRIERS TO HOUSING VARIETY



CODE AUDIT FOR BARRIERS TO HOUSING VARIETY

About the Code Audit

This is an analysis of barriers to housing variety within the Town's land use and development regulations in Chapter 16 of the municipal code and some related regulations. The purpose of this audit is to 1) identify the barriers to housing variety in the code and 2) explain how the code may be edited to remove those barriers. Most often, the recommended edits will reduce regulations, creating more flexibility for landowners, developers, builders and the Town.

This audit was informed by the information listed below.

- Eleven hours of interviews with nine people including Town staff, contract employees, elected and appointed officials, developers, and builders. Input varied greatly.
- Current Town plans and studies such as the following:
 - » 2021 Town of Bennett Comprehensive Plan
 - » Housing Needs Assessment, November 2024
 - » Capital Asset Inventory Master Plan
 - » Additional master plans and guiding documents available on the Town's website
- Research and best practices, including but not limited to the following:
 - » Template Land Development Code, Colorado Department of Local Affairs (DOLA), <https://dlg.colorado.gov/land-use-codes>
 - » Land Use Best Practices, DOLA, <https://dlg.colorado.gov/land-use-best-practices>
 - » Past code audits for other Colorado communities

Keep in mind, this is simply a review of the code for barriers to housing variety; it does not modify the code in any way but rather suggests code edits for the Town to consider. This is not a legal review of the regulations, nor a fair housing review. However, a few items based on recent legislation are identified below since they are related to housing.

Town Procedures and Regulations that Support Housing Variety

It is worth noting that the Town is already making important strides toward increasing housing variety. While this is not an exhaustive list, a few examples are provided below.

- Approving PDs with a variety of housing types and very flexible dimensional standards (e.g., small lot sizes and minimal setbacks).
- Establishing development and building guides for applicants, like the Development Handbook and Applicant Guides. These tools assist applicants through the process by clearly listing submittal requirements and other important procedural information. This likely saves the developer time (and, therefore, money) and results in the same benefits for the Town.
- Adopting building code modifications that exempt one- and two-family dwellings and townhomes from installing fire suppression systems. This significantly reduces the cost of building these housing types. However, it should be noted that this may increase the homeowner's costs for insurance.
- Currently updating (or previously updated) the Town's standards and specifications for infrastructure like the Roadway Design and Construction, Water Utility, and Stormwater Standards. This can ensure that the regulations are current and do not require unnecessary improvements that add cost to development. Clear and updated standards also tend to result in better applications that are easier to review, saving the developer and Town time and money.
- Holding regular weekly meetings of the Development Review Committee made up of key stakeholders in the development process (e.g., emergency responders and utility providers). Regularly planned meetings can expedite the review process by not having to schedule a meeting for each individual review. This also helps identify issues earlier in the process, which saves time and therefore money.
- Example supportive regulations within Chapter 16, Land Use and Development:
 - » Generally, the code has strong intentions but allows for flexible implementation. In some instances, this allows for housing variety; however, in other instances, it might be too flexible, creating unpredictability and longer review times.
 - » Allowing applications to be processed administratively by the Zoning Administrator is typically much quicker than having to go to a public meeting or hearing. Clear regulations that allow for administrative approvals save time and, therefore, money.
 - » Concurrent review procedures, like initial zoning with site plan review, allow for a quicker process. This can save time for the developer, resulting in cost savings.
 - » Fairly small lot area minimums can reduce overall costs by reducing the land area required per unit. This can also reduce the quantity of infrastructure needed (e.g., roads, utility lines), resulting in an overall reduced development cost.
 - » Allowing manufactured homes where residential uses are allowed can provide a less-expensive (and faster) building option, these units are mostly built off-site and assembled on-site.
 - » Allowing shared parking with reduced totals when proven acceptable by a parking demand analysis. Parking spaces can consume a lot of land area, adding costs to the development. Allowing for shared parking can reduce the land area needed and, therefore, reduce the project cost.

Summary of Code Audit Findings and Priorities

While there are several edits that could be made to the Town's land use and development regulations to remove barriers to housing variety, the edits will not have much impact because most development is currently using the PD District to essentially create new regulations specific to each development. It is not ideal to develop a community using all PDs for multiple reasons:

- Essentially everything can be negotiated, which is time-consuming and unpredictable for all involved.
- The resulting regulations are all but impossible to track, enforce, and modify as they are different for each development, creating an administrative burden and making it difficult for property owners to understand.
- Developers, not the community, determine how the Town is growing and developing. The Town is currently reacting to proposals rather than simply defining what is desired by the community from the start.

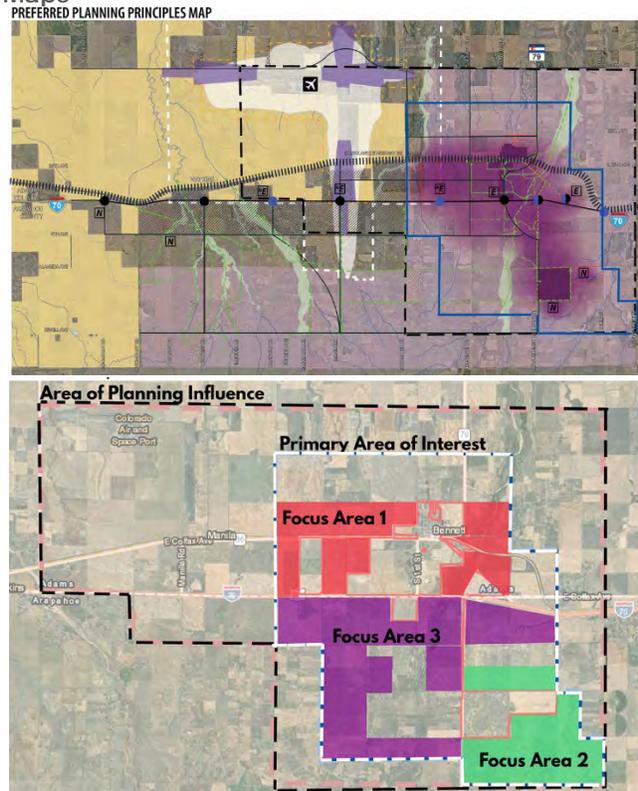
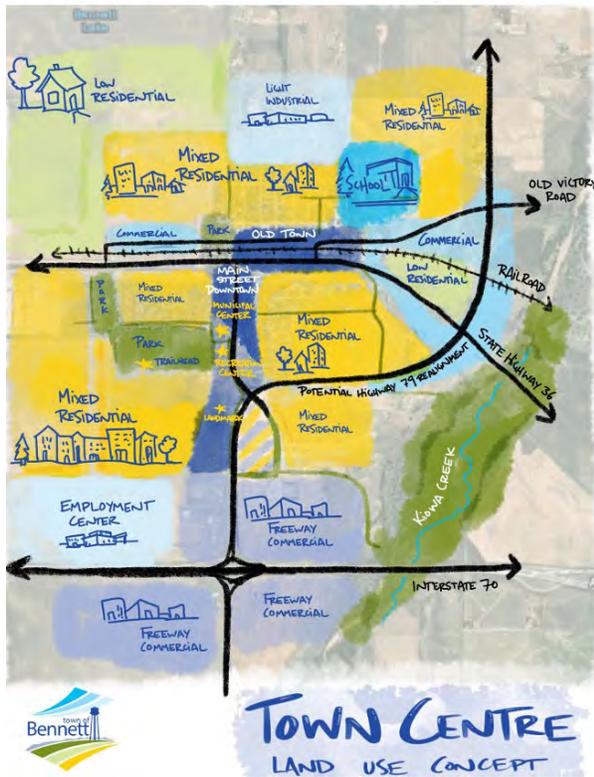
The overuse of PDs most often indicates that the code is no longer working and needs to be updated. To remedy this, **the established zoning districts should be updated to reflect the many desirable developments approved by the Town as PDs**. This would create more predictability for all involved while also simplifying reviews and administration. With that, **the use of PDs should be limited to developments that provide greater benefit to the Town than otherwise required**, like resource protection, more efficient utility layout, or housing form variety and affordability commitments.

Keep in mind that the Town's job is to balance all community priorities like the efficient provision of services, safety, maintaining the unique rural character, and promoting a high quality of life. As such, it is common for communities to participate in directing where and how the community grows in an effort to achieve the community's vision for its future. The Town could better use a couple of planning tools to guide growth and development while streamlining the development process.

Ideally, the Town would first **update the comprehensive plan, including the creation of a future land use map**. A future land use map is informed by the community along with existing conditions like flood hazards, water and sewer service plans, and more. The plan describes desired land use categories, and the map depicts where those land uses are appropriate, including defining growth areas and desired land uses for those growth areas. The typical future land use map looks 20 years ahead and can be very prescriptive or quite flexible. The Town has portions of a future land use map (see below) but not one that includes the full Town and its growth areas. Second, the Town would **complete a full land use and development code update** to clean up the regulations and guide development toward the desired future depicted on the map. This code update would likely include adding flexibility, encouraging what is desired, or even requiring what is desired in certain instances. Once completed, development applications would be reviewed for compliance with the adopted future land use map and code, creating more predictability for developers/builders and the Town.

The creation of a future land use map and a full code update could benefit the Town's ability to achieve the housing goals listed in Section III: Housing Framework. However, these were too large for the scope of this project as they both require a great deal of time and community engagement. Therefore, targeted code edits from the code audit were identified and prioritized by staff as explained below.

2021 Town of Bennett Comprehensive Plan Maps



Priority Code Edits

A draft code audit was shared with staff and after much consideration and discussion, the following edits were identified as the top priorities for the consulting team to address (they are labeled by **PRIORITY #** in the second column of the code audit table below):

PRIORITY 1

Add a fast track process for affordable housing per State Proposition 123⁴.

PRIORITY 2

Require a certain percentage of affordable housing in all annexations and PDs.

PRIORITY 3

Revise existing zoning district standards to be more flexible and allow more housing types by refining definitions and adding missing categories.

⁴ Local governments that adopt a Proposition 123-compliant expedited development review process by December 31, 2025, will receive up to \$50,000 in grant funding, with no local match required: [Fast Track Incentives for Early Adoption](#).

PRIORITY 4

Only allow PDs when a greater benefit is provided, set a minimum size, require the use of existing zoning districts unless modifications are approved, and require housing variety.

PRIORITY 5

Revise the two-step major subdivision process.

The main objectives of these prioritized edits are as follows:

- Meet state requirements, which for Bennett includes developing 16 units of affordable housing by 2026, to qualify for funding through Proposition 123.
- Start to get affordable units in Bennett, since most development is done through annexation and/or PD.
- Make the existing zoning districts more usable and desirable—reflective of what the Town is already approving through PDs—so there is flexibility but also increased predictability for developers, builders, staff, and the community.
- Limit the use of PDs to reduce the need for time-consuming negotiations and administration.
- Streamline the review procedures to save time, which also saves money.

A first draft of the above prioritized edits is in the Appendix for the Town’s consideration. These edits will be reviewed by the Town attorney and by Town staff. Staff will then determine the next steps. Note that the code can only be amended by following the procedure established in Section 16-1-360, which requires a public hearing with both the Planning and Zoning Commission and the Town Board of Trustees.

Additional Code Edits

Staff identified additional priorities from the code audit table, beyond what could be completed with this project. In no particular order, these include the following:

- Allow more administrative approvals (16-1-315)
- Clearly define the administrative variance procedure and allow adjustments to standards for projects that provide housing variety (16-1-315)
- Consider waiving fees for projects that provide housing variety (16-1-325)
- Remove the overlay districts by creating new zoning districts or refining existing ones (16-2-480)
- Revise regulations regarding ADUs to comply with Colorado HB24-1152 (16-2-560)
- Analyze if the special districts division of the code works as desired (16-5-805 to 16-5-850)
- Require that assignments for maintenance between the Town, special districts, and/or owners associations are clear and consistent (16-5-815)
- Revise the Town’s Development Design Guidelines
- Adopt a future land use map for the Town and growth areas

These items should be addressed as soon as the priority edits are completed.

Code Audit

The code audit table below is organized first by the **code section** in Chapter 16, Land Use and Development. The second column identifies the **recommended edits based on an identified barrier to housing variety**. The third column explains the **recommended edit**. The fourth column identifies the potential **impact** using a scale of low to moderate to high. Impact descriptions are as follows:

- **Low** indicates that the suggested edit will have a smaller impact on housing variety than other suggested edits. It may be best to combine these edits with other edits to make a larger impact. These edits also may be focused on simply removing a barrier and opening possibilities so the impact will only be realized if those newly available options are used.
- **Moderate** indicates that the suggested edit will have an impact on housing variety, but it may not be significant. Many suggested edits identified as moderate could actually be low or high, depending on the exact language of the edits made. The impact here is likely to vary because the suggested edit will open the potential for housing variety but will not guarantee that it is built.
- **High** indicates that the edit will likely have a very positive impact on housing variety in town and may even ensure a variety of housing is built.

In the fifth and final column, the level of **difficulty**, is included to identify the complexity of each recommended edit. The scale ranges from easy to hard and is described as follows:

- **Easy** indicates simple text edits that do not affect other areas of the code. These likely won't be controversial or require extra public process, and staff can likely complete these without consultants or additional funding.
- **Medium** indicates slightly complicated edits that may affect other areas of the code. They may be controversial and require additional public process. The complexity may require consultants and funding for those consultants.
- **Hard** indicates complex edits that affect other areas of the code. They are likely to be controversial and require more public process. They will likely require consultants (and funding for those consultants) because it requires more work than existing staff can handle.

Code Audit for Barriers to Housing Variety

Code Section	Recommended Edit(s) to Remove Barrier to Housing Variety	Explanation	Impact	Difficulty
Chapter 16 Land Use and Development				
16-1-210; 16-2-210; 16-2-705; 16-4-210; 16-5-210 Definitions	<ul style="list-style-type: none"> Consolidate definitions throughout Chapter 16. Reconcile duplicates (for example, “duplex” in 16-2-705 and “dwelling, two family” in 16-2-210). 	Consolidating definitions in one section makes it easier to navigate the regulations while also avoiding any conflicting definitions of the same term.	Low	Easy
Article I, Div. 3; Article II, Div. 3; Article IV, Div. 3; Article V Div. 3 Administration and Procedures	<ul style="list-style-type: none"> Consolidate all procedures throughout Chapter 16 into Article 1, perhaps just below the Review Process Chart, Table 1.1. Create flow charts for each procedure. 	<ul style="list-style-type: none"> This would make the regulations easier to follow and allow for the combination of similar procedures like site plan and final development plan. This may also make it easier to identify processes the Town prefers to run concurrently, like final plat, site plan/final development plan, and subdivision agreement/construction documents.⁵ 	Moderate	Hard
All of Chapter 16	General cleanup for clarity, for example: <ul style="list-style-type: none"> 16-2-410 is missing R1-A. Reconcile 16-2-465 accessory structure regulations section with 16-2-560 accessory dwelling units (ADUs). Overlay districts should have “overlay” in the title to avoid confusion. 	Having as clean and clear a code as possible makes it easier to use.	Low	Medium
Chapter 16, Article I General Provisions				
16-1-315 Review process (and applicable Administration and Procedures sections)	Allow more administrative approvals by the Zoning Administrator and/or reduce the number of hearings required. For example, conditional uses can be reviewed and approved by the planning commission, they do not also need to be reviewed by the board.	<ul style="list-style-type: none"> This would make some procedures easier and quicker. Administrative review is appropriate when the application can be reviewed against objective standards. Public hearings should be held for applications that require discretionary review of the specific proposal. Administratively approved applications are typically much faster than applications that require a public hearing. Every public hearing adds risk for the applicant. 	Low	Medium

⁵ Note that requiring all documents at once may be too difficult for smaller developments.

Code Section	Recommended Edit(s) to Remove Barrier to Housing Variety	Explanation	Impact	Difficulty
	<p>Add a fast track process for affordable housing projects per Proposition 123.</p> <p>PRIORITY 1</p>	<ul style="list-style-type: none"> • This will not only offer an expedited process for certain applications for a truly affordable housing project, but it will also open the possibility for the Town to receive funding connected to Prop. 123. • Note that the review timelines for applications required to have expedited review per Prop. 123 were not found to be a barrier to affordable housing. 	Moderate	Medium
	<ul style="list-style-type: none"> • Clearly define the administrative variance procedure and include a list of specific items that the Zoning Administrator can approve through this procedure. The list would typically include items that respond to a minor site condition or provide an alternate path to reach the objective. • Allow adjustments to all dimensional standards, landscaping requirements, and more if the project provides a defined threshold of housing variety. 	<ul style="list-style-type: none"> • The current administrative variance procedure only applies to the overlays and is not clearly explained. Define this procedure and list what qualifies so it has clear parameters. Include that this allowance is not to be stacked on other approvals, as it is not a way to get more of an adjustment. • 16-4-330 contains an administrative adjustment procedure for subdivisions under certain circumstances, so this would be a similar procedure but would apply to all zoning regulations. • This provides an alternative to a full variance, which requires a public hearing and compliance with strict criteria. It would be quicker and easier to have some variance requests approved administratively. • This could encourage the use of existing zoning districts by providing more flexibility and/or provide more flexibility for projects that provide housing variety. 	Moderate	Medium
16-1-325 Application and review fees	Part (b) – if the Town will consider waivers to fees for housing projects that include more variety, specify that here.	This could encourage developers/builders to consider building more housing variety. This could also be addressed in a fee schedule or separate policy.	Moderate	Easy
16-1-420 Required dedications	<p>Require a certain percentage of proposed lots/units in an annexation to be affordable housing through a deed restriction or other mechanism.</p> <p>PRIORITY 2</p>	This could be established through a Town policy or resolution that defines a percentage or range of the total number of proposed units that the Town will request to be truly affordable with any annexation, or those of a certain size. The Town can determine how to define <i>affordable</i> .	High	Medium

Code Section	Recommended Edit(s) to Remove Barrier to Housing Variety	Explanation	Impact	Difficulty
Chapter 16, Article II Zoning				
16-2-210 Definitions	<ul style="list-style-type: none"> • Add definitions for <i>triplex, fourplex, live-work, cluster development, cohousing,</i> and other desired housing types. • Add definitions related to affordable housing per Prop. 123 fast track process requirements. • Edit definition of <i>accessory dwelling unit</i> by replacing “an apartment” with “a dwelling unit.” Remove/revise definition of <i>apartment</i>. • Revise definition of <i>family</i> to comply with HB24-1007. • Update definitions of <i>manufactured home</i> and <i>mobile home</i>, define <i>off-site built housing</i> or <i>factory built housing</i>. • Edit <i>teacherage</i> term to be more inclusive or remove it and allow affordable housing in more districts. <p style="text-align: center;">PRIORITY 3</p>	<ul style="list-style-type: none"> • By defining additional desired housing types, they can be added to the use table and permitted in existing zoning districts where appropriate (as suggested below). • Prop. 123 contains a minimum threshold for what qualifies as an affordable housing project, and that definition will need to be added to the code. • Cleaning up the definition of <i>accessory dwelling unit</i> will add clarity. <i>Apartment</i> is related to tenure (own vs. rent), which does not need to be regulated in a land use code. • HB24-1007 restricts local governments from limiting residential occupancy based on familial relationships. • Cleaning up definitions related to mobile/manufactured and off-site built housing can relate to fair housing laws and need to be updated based on new technology. • Designating a housing type just for teachers could limit public funding available to build such housing due to a violation of fair housing regulations. Broadening this term could open other funding and housing options. Or simply allow certain housing types in the P District to not be restricted to a particular demographic. 	Low	Medium
16-2-350 Planned developments; 16-2-475 PD – Planned development district	<ul style="list-style-type: none"> • Only allow PDs for developments that provide greater benefit to the Town than would be required by the code. For example, more open space, housing variety, affordable housing, or more efficient infrastructure and services. • Limit PDs to developments of 2 acres or more. <p style="text-align: center;">PRIORITY 4</p>	<ul style="list-style-type: none"> • PDs require time intensive negotiations between the developer and the Town. Best practice is to only do this when the development will provide greater benefit to the Town than otherwise required by the code. • Instead of doing PDs for all development, a best practice is to have a good zoning code in place that is based on the Town’s goals, especially appropriate zoning districts (as suggested below). This sets the expectations for developers/builders from the start and provides everyone with more predictability. This could result in more complete applications, faster reviews and approvals, and more of what the community wants. 	Moderate	Medium

Code Section	Recommended Edit(s) to Remove Barrier to Housing Variety	Explanation	Impact	Difficulty
		<ul style="list-style-type: none"> • While the Town may have had time to work side-by-side with developers on PDs in the past, the current growth makes this level of service very difficult. PDs also take more staff time to enforce and monitor in the long run than standard zoning. PDs make it difficult to adjust zoning across town in the future to adjust to community desires, market trends, and even state legislation like for ADUs. • Currently, PDs are being used to provide numerous variances without providing significant benefits to the community while also working around processes that should involve the public. 		
	<p>If allowing for a PD due to the increased benefit to the Town, require the use of existing zoning districts unless a different use or standard is requested and approved during the PD process.</p> <p style="text-align: center;">PRIORITY 4</p>	<ul style="list-style-type: none"> • Improving the flexibility of the Town’s zoning districts (as suggested below) can achieve similar outcomes to current PDs. This limits the need for negotiation and improved predictability, and can streamline review procedures. • By defining density ranges in the Town’s zoning districts and requiring use of those zones (with limited special exceptions) the density ranges in outline development plans (ODPs) will be more clearly defined. This should reduce the Town feeling like they will get housing variety in the ODP step but then only get single-family units. • This reduces unnecessary regulations being established by developers, like setting minimum house/footprint size or not allowing off-site built housing. 	Low	Easy
	<p>If allowing for a PD due to the increased benefit to the Town, require a variety of housing.</p> <p style="text-align: center;">PRIORITY 4</p>	<ul style="list-style-type: none"> • 16-2-350(c)(8) appears to require housing variety but it is clearly not working well. By requiring a variety of housing types, the result should be a variety of price points. • The Town could also require some commercial or service uses within neighborhoods as desired in the comprehensive plan. 	Moderate	Medium
	<p>Require affordable housing in all PDs by defining the percentage of the total number of units proposed that will be required to be affordable.</p> <p style="text-align: center;">PRIORITY 2</p>	<p>PDs are negotiations between the Town and the developer and should be used to negotiate what the Town wants. Requiring even a small percentage of deed-restricted units or lots could result in actual units or lots being created. The Town can determine exactly how to define <i>affordable</i> for this requirement.</p>	High	Medium

Code Section	Recommended Edit(s) to Remove Barrier to Housing Variety	Explanation	Impact	Difficulty
16-2-360 Rezoning	<ul style="list-style-type: none"> • Revise the rezoning procedure to be stated in the positive. For example, the Zoning Map <u>may</u> be amended if the rezoning request is... • Clarify the current criteria and add more criteria to qualify for a rezoning. 	The current language limits one’s ability to rezone. This may result in a property owner doing only what is allowed in the current zone, rather than trying to do what they feel the community wants or the market desires. The criteria should not be too easy but should at least ensure that zoning can change when it makes sense. Consider making it easier to rezone to those districts that support housing variety and even other Town priorities.	Moderate	Easy
16-2-410 Standard zoning districts	Revise the list of existing zoning districts to allow a greater variety of housing. Revise the intent statements accordingly.	<ul style="list-style-type: none"> • Revising the existing zoning districts (like removing the A district with 5 acre min. lot size and creating more opportunities for housing in existing zoning districts) will allow greater flexibility and options for the landowner, developer, or builder. • Either modify the C District to allow for residential uses or create a new mixed-use district. Single use zones are no longer the norm, and all districts should allow for some mix of uses. This would reduce the need for specific standards for residential properties in the C District. • The MH District could become a manufactured home park district for land under one ownership with multiple units. It could have specific standards for internal driveways, site layout and infrastructure as detailed in 16-2-520. Areas of Town with many manufactured homes on individual lots could be rezoned R-3 where smaller houses are allowed on smaller lots. 	Moderate	Medium
	Amend the zoning map to allow for housing variety.	Legislatively rezone additional land to R-2 and R-3 and add R-1A. This will allow for housing variety as the current map has limited areas zoned for anything except single-family. If modifying the existing zoning districts, consider a legislative rezone to add more land zoned for more housing variety.	Moderate	Hard

Code Section	Recommended Edit(s) to Remove Barrier to Housing Variety	Explanation	Impact	Difficulty
	<p>Revise existing zoning district standards to be more flexible. Some of the following suggestions may make sense for all districts and some may make sense for only one of the districts:</p> <ul style="list-style-type: none"> • Reduce min. lot area required per dwelling. • Reduce min. lot width. • Remove all min. floor area and footprint requirements. • Increase lot coverage allowances or remove them and let the setback requirements prevail. • Reduce min. setbacks. • Match principal and accessory structure min. setbacks. • Increase building height for at least some accessory structures, like detached garages and ADUs. <p style="text-align: center;">PRIORITY 3</p>	<ul style="list-style-type: none"> • Allowing greater flexibility in most, if not all, zoning districts provides more options for development. • Allowing smaller lots helps reduce the land costs per unit. For example, in R-3 a 9,600 sq. ft. lot would be needed to build a fourplex. With four 1,000 sq. ft. units with two on the ground floor and two on the second floor—this would only occupy 2,000 sq. ft. of the 9,600 sq. ft. lot. This is likely cost prohibitive. • Smaller lot widths can save on land area and infrastructure costs. For example, in R-3 reduce the 25 ft. min. width for townhomes to 20 or 15 ft. • Although the min. floor areas are generally reasonable (except for the 2,000 sq. ft. min. in RE) these minimums could be prohibitive. Let the building code control the min. room and building areas by removing the min. floor area and footprint requirements. • Allowing more coverage can reduce land and infrastructure costs. • Reducing setbacks can allow more use of the lot. For example, there is no need for a 25 ft. front setback in the R-3 District; this just adds cost for land, landscaping, and maintenance. • Increasing accessory structure building height can allow for ADUs to be built on top of or as the second story of a detached garage. • Generally, even a small amount of increased density will reduce the Town’s costs to maintain infrastructure and provide some services in the long run, compared to lower density development. However, given the tendency to use special districts for the development of infrastructure, the cost is simply passed on to home buyers, which does little to incentivize the developer to build cost-effective infrastructure. 	High	Hard

Code Section	Recommended Edit(s) to Remove Barrier to Housing Variety	Explanation	Impact	Difficulty
16-2-470 Land uses	<ul style="list-style-type: none"> • Allow more housing types (including the types suggested to be defined) in existing zoning districts. • Allow for some residential uses in the C or EC Districts or create a mixed-use district that would allow it (as suggested above). • Do not allow single-family dwellings in the higher-density districts. <p style="text-align: center;">PRIORITY 3</p>	<ul style="list-style-type: none"> • This change would allow for more housing variety in existing zoning districts, if someone desires to build it. There are only two districts that allow more than just single-family homes, and there is not much land zoned for those two districts. There is no need for multiple single-family zones; it could be considered exclusionary zoning. • Single-use zoning, like only commercial, is not flexible enough to respond to market demands. Open the option for mixed-use developments. • Commit higher-density residential areas to higher density by not allowing single-family housing. 	High	Hard
	Convert conditional uses to permitted by right where possible and replace with use specific standards, if needed.	Removing the need to go through the conditional use process reduces time and expense for applicants and the Town. If necessary, specific standards can be added for certain uses of concern. For example, if multifamily were to be allowed in the C District, the use-specific standard could prohibit those residential uses from being located along primary roadways and on prime commercial land.	Moderate	Medium
16-2-480 Overlay districts	Remove the overlay districts by creating new zoning districts or refining existing ones.	<ul style="list-style-type: none"> • Overlays create another layer of regulations that can be difficult for the public to understand and staff to enforce. They should be used only if the same result cannot be achieved through other land use regulations, like standard zoning districts. • A new Downtown Residential District could replace the RMU overlay and allow more residential uses by right. This historic downtown area provides the best opportunity for small residential infill projects. • The CMU and MS Districts are essentially the same—they have different intents, which have no real regulatory value, and both require compliance with the Development Design Guidelines. The administrative variance allowances could be incorporated into the administrative adjustment process (as recommended above). 	Low	Hard

Code Section	Recommended Edit(s) to Remove Barrier to Housing Variety	Explanation	Impact	Difficulty
16-2-520 Mobile home parks	Reduce standards for mobile home parks, like the required off-street parking and required paving.	Parking areas and paving add cost to this traditionally lower-cost housing type.	Moderate	Easy
16-2-560 Accessory dwelling units (ADUs)	<ul style="list-style-type: none"> • Allow an ADU to be accessory to any single-family residential unit, not just in the R-1 and R-2 Districts. Remove owner occupancy and off-street parking requirements. • Allow an ADU to be built before a primary structure. 	<ul style="list-style-type: none"> • HB24-1152 requires ADUs to be allowed where all single-family dwellings are allowed. They must be approved administratively, must not require parking, and must not be limited to owner occupancy. This must also apply to PDs and within homeowners associations. Compliance could open funding from DOLA: Accessory Dwelling Units. • An ADU built before a primary unit can provide a place to live while the primary unit is being built. 	Moderate	Easy
16-2-610 Parking space requirements	<ul style="list-style-type: none"> • Reduce parking requirements to the absolute minimum acceptable by the community. This could be just in certain zones or for certain use. • Revise the table to reflect new residential use types (as recommended above). • Reduce parking requirements for certain types of housing projects that provide the housing variety. 	<ul style="list-style-type: none"> • Best practices are to not require off-street parking at all. While this may not be acceptable in Bennett, reducing off-street parking requirements reduces development costs. Always require accessible parking where the Americans with Disabilities Act requires. • Lower-income families have fewer cars so parking can be reduced, thus reducing the cost to develop. • HB24-1304 does not currently apply to the Town but may in the future.⁶ It restricts parking minimums in multifamily housing located in Applicable Transit Service Areas. 	Moderate	Medium
16-2-640 Parking area design standards	Require landscaping for parking areas with 10 or 20 or more spaces, rather than just 2 spaces.	Requiring landscaping for 2 or more parking spaces is not typical. Increasing to 10 or 20 can help with the cost of some housing developments.	Moderate	Easy
Div. 7 (16-2-700 to 16-2-795) Landscape; Div. 8 (16-2-810 to 16-2-880) Lighting	Refine standards to only include what is necessary to achieve the Town's broader goals surrounding community character.	Some landscaping and lighting standards can add complications to the development and building process while not actually achieving the community's goals. Removing any unnecessary regulations or simplifying the regulations can help reduce development and building costs.	Moderate	Medium

⁶ For more information visit: <https://leg.colorado.gov/bills/hb24-1304> or <https://dlg.colorado.gov/parking-minimums>.

Code Section	Recommended Edit(s) to Remove Barrier to Housing Variety	Explanation	Impact	Difficulty
16-2-710 Landscape plan requirement	Exempt additional types of residential development from the requirement to comply with the landscape standards and/or exempt them from the requirement to have a professional landscape architect prepare the plans.	Single-family and duplex lots are not required to submit landscape plans. Exempting additional housing types, like triplexes or townhouses, can help reduce the cost of building.	Moderate	Easy
Chapter 16, Article IV Subdivision Regulations				
16-4-360 Major subdivision review process; 16-4-370 Sketch plan review; 16-4-380 Final plat review	Revise the two-step major subdivision process to avoid going from a conceptual sketch plan review with just the planning commission to a final plat that completes the subdivision. PRIORITY 5	Traditionally, major subdivisions go through the following steps: 1) sketch plan, which is very conceptual and provides big picture review; 2) preliminary plan, which is more detailed and provides for a comprehensive review; and 3) final plat, which makes the subdivision final and ensures compliance with all requirements. A version of the current sketch plan process could be addressed during pre-application, a new preliminary plat step requiring more detail could be reviewed through a public hearing with the planning commission and the board, and final plat could be reviewed by only the board. This adjusted process could help provide the Town with better information earlier, resulting in more comprehensive feedback and less changes during the final steps in the process.	Moderate	Hard
Chapter 16, Article V Dedications and Improvements				
16-5-330 Initiation of improvements	Allow developers to start construction (like minor activities) before all permits are issued only if the developer assumes all risk.	While this is desired by developers to save time, it can be risky for the Town. Consider talking with the board and Town attorney about the benefits and risks to allowing this.	Low	Medium
Div. 8 (16-5-805 to 16-5-850) Special Districts	Analyze if this division of the code works as desired by the Town and if it is meeting the established intent.	There are varying opinions on whether special districts help or hurt housing prices. Either way, special districts create another layer of governance that does not have the same requirements as municipalities for things like transparency and processes for increasing taxes. It can lead to residents, and thus the Town, paying more for maintenance and operation due to the reduced economy of scale.	Moderate	Hard (too big to complete with this project)

Code Section	Recommended Edit(s) to Remove Barrier to Housing Variety	Explanation	Impact	Difficulty
16-5-815 Model service plan and intergovernmental agreement	Clearly require that assignments for maintenance between the Town, special districts, and/or owners associations are clear and consistent.	This can help ensure that Town staff know which infrastructure they are (and aren't) responsible for maintaining. The GIS data (in progress) will help, but consistent parameters will make it easier in the future.	Low	Medium
Other				
Development Design Guidelines	Revise these guidelines to 1) determine what is critical to require as a standard based on the Town's goals, 2) determine what is optional as a guideline, and 3) consider waivers of design standards for certain housing types or projects that provide housing variety as desired by the community. A menu of options could be provided with each item having a value, and the applicant would be required to reach a certain value (i.e., three smaller design elements, or one large design element).	<ul style="list-style-type: none"> • Even the simplest design requirements can increase the cost of building and staff time required to ensure compliance. Best practices are to focus only on key elements of how the building relates to public spaces. • These design guidelines appear to be drafted as just that— suggested guidelines. However, they have been used as standards (requirements) in PD developments. To revise this document, the community should determine what is required versus what is encouraged by balancing all Town priorities, including community character and desired housing variety. • Community character was found to be a priority through this process. As such, ensuring that developers and builders know the minimum design requirements from the start will help them understand the costs up front. Having clear requirements also requires less staff time; rather than negotiating, they can simply determine whether the requirement is met. • Flexibility in design provides builders with a route to do what works best for that particular development at that time while also allowing for a variety across developments. • Focusing less on the design of each building and more on the variety of housing desired and where it is located could result in more housing variety. 	High	Hard (too big to complete with this project)

Code Section	Recommended Edit(s) to Remove Barrier to Housing Variety	Explanation	Impact	Difficulty
Comprehensive Plan	Consider adopting a future land use map for the Town and annexation areas to help guide future development in line with community priorities.	Best practice is to engage the community during a comprehensive planning process to create a future land use map that establishes a big-picture vision for land uses in and around Bennett. This helps guide annexations and developments giving applicants, staff, and/or reviewing bodies more information to determine if applications are in line with the comprehensive plan. This can help the community guide the growth and development of the Town without having to try to sort this out with each development proposal. It creates more predictability in the process. After a comprehensive plan update, it is best practice to also update the land use and development regulations.	Moderate	Hard (too big to complete with this project)
Staffing	Maintain adequate community development staff, like planners and engineers.	Maintaining adequate staff ensures timely and comprehensive reviews, which can save the developers and builders time and money.	Moderate	Hard

APPENDIX



APPENDIX: PRIORITIZED CODE EDITS

OVERVIEW

As described in the Welcoming Neighbors Through Housing Variety report, priority code edits were identified from the full code audit table. This is the first draft of the priority edits for the community to consider, modify as desired, and consider for adoption.

The purpose of this overview is to address questions or comments from staff throughout this process, share resources, explain important considerations, and describe other potential edits that seemed beyond this scope of work but potentially desirable or helpful.

A few general notes about the edits:

- They are mostly informed by other communities' codes, the [DOLA Template Land Development Code](#), and best practices.
- They are to be reviewed by the Town attorney at the appropriate time. A few sections are flagged for detailed attorney review with a comment.
- In sections where edits are proposed, some general code cleanup is also included.

Priority 1: Add a fast track process for affordable housing per State Proposition 123.

Most edits for this priority are in the newly proposed Section 16-2-305, with some definitions added to 16-2-210.

WHY THIS IS IMPORTANT:

- This update was required by the State grant that provided funding for this project.
- By including a fast track process for affordable housing projects, the Town opens the possibility of additional funding from the State.

CONSIDERATIONS:

- Staff mentioned a preference for a policy from a peer community where the 90-day review clock only runs when the Town has the application. This does not appear to be in line with the guidance. See the [FAQ's webpage](#) that states, "The 90-calendar day clock starts once a local government deems a submitted application complete, as discussed above. The clock does not stop during the process or between review rounds or while the applicant is working on changes/revisions, but may be extended through one or both of the two extension options outlined below." Those two options for extensions are included in the proposed edits.
- For more information on the requirements, visit the following webpage: [Proposition 123 Fast Track | Colorado Department of Local Affairs](#).

Priority 2: Require a certain percentage of affordable housing in all annexations and PDs.

Most edits for this priority are in Sections 16-1-420 and 16-2-475, with the deed restriction language in Section 16-2-210.

WHY THIS IS IMPORTANT:

- Annexations and PDs are negotiations in which the Town can ask for affordable units as part of the established process, unlike most other zoning applications. Both procedures are time-intensive and should provide additional public benefit anyway (see Priority 4).
- Most development in Bennett is occurring through PDs and annexations so adding this requirement for affordable housing will likely result in actual affordable units or lots. It is about securing affordable units/lots now, while housing costs are still reasonable. Kept simple, this requirement should not discourage development.

CONSIDERATIONS:

- There can be many approaches to these kinds of requirements for affordable housing. Try to keep it simple so that a requirement can get in place quickly and the Town can start getting affordable units. It can be fine-tuned as more is learned.
- Deed restrictions can be a simple, self-executing approach to affordable housing. They can be monitored by the Town, a partner like a housing authority, or a consultant. The requirements are recorded as part of the deed and when any change in ownership/tenant takes place, it should be very apparent that certain restrictions on the unit exist. This is not a fool-proof approach, as nothing is, but it is a great way to set affordability restrictions without adding much of a management burden.
 - » Be consistent with the deed restriction language for all units, as it makes them much easier to manage in the long run.
 - » Deed restrictions can take many shapes; it is best to consider local conditions when drafting the restrictions. In Bennett, it seems that the goal is to get affordable units secured now with limited impact on market rate housing units.
- If the Town wants to require affordable housing for most all development/zoning applications, it would be considered “inclusionary zoning” or “inclusionary housing.” There are several regulations for adopting an inclusion housing ordinance, including HB21-1117, which make it much more complicated to establish and enforce. This tool is generally used in communities with robust construction activity and very high costs of housing (like big cities and resort communities). Examples include Aspen, [Boulder](#), Carbondale, [Denver](#), [Longmont](#), Superior, and Telluride. Inclusionary zoning could be considered by the Town later but is not recommended at this time.
- DOLA has many resources for affordable housing that touch on this topic including the following:
 - » The [Template Land Development Code](#) only allows for a PUD if one or more of the listed benefits are provided. One of the benefits is the “provision of affordable housing in significantly greater amounts, or affordable to households at significantly lower levels of

- area median income (AMI), than would be required to earn the affordable housing incentives in Article 4” (Article 5). Since inclusionary housing is not recommended for Bennett at this time, simply requiring PDs to provide affordable housing is appropriate.
- » [Innovative Affordable Housing Strategies](#) - this [fact sheet](#) explains that one of the strategies is “allowing planned unit developments with integrated affordable housing units.” it goes on to say, “Jurisdictions can require that PUDs include affordable housing or incentivize inclusion through density bonuses, fee waivers, and infrastructure support.”
 - » [Land Use Best Practices](#), developed by the Strong Communities Program, includes, “Update annexation policies to require or incentivize mixed use development that includes affordable housing and ensures connectivity with roads, transit, trails, parks and schools” and “Require PUDs to include and/or increase the percentage of integrated affordable housing units.”
- Many communities that require deed restricted units for both annexations and PDs in their municipal code require it as part of inclusionary zoning. It is believed that many communities do this without inclusionary zoning, so it is not formalized in the code but rather as a resolution or internal policies – which are hard to find. Also, many communities who have faced affordability issues do not have the ability to grow or annex land and/or they only use PDs in very unique circumstances so putting a requirement on annexation or PDs would not be helpful to many communities. Here are a few examples of communities who have something similar to what is proposed in the code edits:
 - » Canon City ([17.08.050](#)) allows deviations from the standards of the underlying zone district for PDs that include “residential dwellings that are deed restricted for households that make less than or equal to eighty (80) percent of the area median income.”
 - » [Fremont County Housing Needs Assessment](#) (page 72) calls for the municipalities of Fremont and Park counties to establish annexation policies that set targets for affordable housing. It suggests this could be achieved through a required set aside complete with AMI limits or through requiring a range of housing products.
 - » Ridgway ([7-6-2](#)) requires an affordable housing deed restriction on a minimum of 25% of units in all PUDs. The deed restriction does not expire and requires the unit to be a sole residence, the majority of one tenant’s income to be earned in the county, limits AMI to 120%, and more.
 - Requirements for affordable housing, especially inclusionary zoning, can be more effective when paired with incentives. If requiring a lot of affordable housing (high percentage of dwelling units, low AMI amounts, etc.) consider adding incentives like extra density, height, reduced parking, reduced open space dedication, etc. This can help offset the developers’ or builders’ costs of producing the affordable units.
 - The proposed edits do not include an option for alternative compliance (like contribution to an affordable housing fund, units being provided off-site, or within a different development) as this can get really complicated to implement and keep track of. Complications include question of determining equal value, justifying the segregation of affordable housing, and what the housing fund should be used for. This is also something the Town could consider later.

- If not desired to be the code, this requirement could live in a policy or resolution, making it easier to modify in the future. Keep in mind that separate documents get overlooked and can cause frustration for the Town and code users.

ADDITIONAL EDITS TO CONSIDER:

- If you want to add flexibility to be able to negotiate the affordability requirement or allow alternate compliance for each annexation and PD, you could add the following language:
 - » 16-1-420(d): “except as may be specifically provided in the annexation agreement”
 - » Newly proposed 16-2-475(b)(4)(a): “except as specified in the ODP”

If you add this flexibility, try not to allow it just to be exclusive and not have affordable housing in the development or for cost reasons.

Priority 3: Revise existing zoning district standards to be more flexible and allow more housing types by refining definitions and adding missing categories.

Most edits for this priority are in Sections 16-2-410 to 16-2-495, with edited or added definitions in Section 16-2-210.

WHY THIS IS IMPORTANT:

- Clearly the existing zoning districts do not align with what developers and builders want to create so PDs are being used for most development. This is not a desirable way to develop as described in detail in the report – it is time intensive, administratively difficult, and unpredictable.
- Modifying the existing zoning districts to allow a greater variety of residential uses and add flexibility to the dimensional standards will open options to let the market be more responsive to demand without compromising the Town’s ability to function efficiently.

HOW THE EDITS WERE APPROACHED:

- Many of the developments in Town were looked at in detail, especially those mentioned as good examples of more affordable housing throughout this process. The following sources were utilized:
 - » The development map online that has easy access to plat maps and development plans (although dated),
 - » County parcel data,
 - » Interviews completed for this project,
 - » 2021 Town of Bennett Comprehensive Plan,
 - » Other comparable communities’ zoning codes and codes that are newer, and
 - » The DOLA Template Land Development Code.
- Adjusted the dimensional standards to allow for what is being permitted in PDs and in existing zoning districts throughout the Town since clearly this is what the Town is okay with, and many are pretty good for affordability.

- Since the focus of this project was to remove barriers to affordable housing from the code, the proposed edits apply to all land, not just as an incentive that would apply only to affordable housing projects. The idea is that this will unleash the market to do what it wants to do. This is aligned with the Housing Framework element 1: Encourage the market to meet more of the demand. The Town can consider allowing even more flexibility for truly affordable housing projects as an incentive, if that is desired.

CONSIDERATIONS:

- The current existing zoning districts are all basically designed for single unit developments, so lots get smaller in higher density zones. By not allowing single units or even duplex dwellings in higher density zones, the lot size was increased to allow for more than one unit on a lot.
- The dimensional standards are mostly minimums. This means that developers/builders can go larger, but these are the minimum the Town can live with.
- The design guidelines are only required in a couple of the overlay districts and when the Town requires them through the PD process. Through the use of existing zoning districts, those guidelines will be suggestions, not requirements (note the suggestion to update the design guidelines in the code audit). This will shift the Town's focus away from some of the architectural details of each home and more toward overall housing variety and ensuring a complete community, which is a more appropriate focus when there are concerns around affordability. If desired, the code could require compliance with the design guidelines but since they were drafted as guidelines, they are really too much to apply to everything unilaterally. The Town could consider adding to the code that compliance with certain parts of the design guidelines is required, like garages must be setback 5' from the front of the residential building, porches are required for certain types of dwellings, or front doors/main access should front the street.
- DOLA's Division of Housing has good resources on Mobile vs. Manufactured homes if questions or concerns arise: [Consumers of Manufactured Homes and Tiny Homes – Modulars.](#)

ADDITIONAL EDITS TO CONSIDER:

- Once the edits to the districts are finalized, consider legislatively rezoning some developed areas within existing zoning districts to one of the revised zoning districts that is more in line with what is built. This could reduce legal nonconformities and make it easier to enforce the code while easing community concerns about nonconformities. For example, as drafted, it appears that Skyview could be rezoned from R-2 to R-1, Bennett Village from R-2 to R-1A, Bennett Ranch Filing 2 from R-3 to R-2, and Bruner Property from R-2 to R-1.
- Front and rear setbacks in R-1 could be reduced.
- Many PDs have larger side setbacks for corner or outside lots (sometimes just 2' larger). Since the code is consistent with 5' side setbacks or less, larger setbacks for corner lots were not added but consider doing so if it is important to community character or other goals.
- Building height in R-2 and R-3 could be increased, maybe by 5'.
- Consider making the Residential Estate (RE) district a "Legacy Zone District". A Legacy Zone district is generally defined as "a zoning designation that all properties zoned as such may remain in place and develop within the parameters of the standards herein but no additional properties will be permitted to rezone to that zone district." This will not allow additional RE

large lot development as it is inefficient with land and utilities/services. If this type of large-lot development is desired, a developer could go through the PD process.

- If parking arises as an issue, consider making the front setback 20' min. for front facing garages or the rear setback 20' min. for rear facing garages. It is quite common that people fill their garages with stuff or use it for something besides parking. Twenty-foot setbacks allow enough driveway length to park cars (anything less will not fit a parked car, and it will block the sidewalk or alley). Consider that alley-loaded developments leave more street frontage available for parking (not consumed by a driveway) so a 20' min. rear setback may not be necessary for alley loaded garages. You could consider requiring a 20' min. setback for the garage (front or rear) while the opposite setback, with no driveway/garage (front or rear) is 5' min.
- To encourage alley loaded garages, consider reducing the minimum rear setback for garages when an alley is present.
- If the community has specific design concerns about permitting additional residential uses in certain zones (like there is a desire for a larger setback or varied exterior materials), consider adding performance standards to Division 5 to address those (rather than not allowing the use or making it a conditional use).
- To encourage front porches, consider allowing them to encroach into the front setback. This would require revising the definition of Porch in Section 16-1-210.

Priority 4: Only allow PDs when a greater benefit is provided, set a minimum size, require the use of existing zoning districts unless modifications are approved, and require housing variety.

Most edits for this priority are in Sections 16-2-350 and 16-2-460.

WHY THIS IS IMPORTANT:

- As discussed in the report, PDs are time intensive, unpredictable, and administratively burdensome. With improved zoning districts (see Priority 3) there will be a more predictable and quicker way to develop. As such, PDs should only be allowed when the extra time and resources poured into them will result in meaningful extra benefits to the community (like affordable housing and a variety of housing).
- Utilizing existing zoning districts, even in PDs, helps tremendously with the administration of PDs – it creates some consistency across the Town which improves predictability, speeds up procedures, and helps the Town run more efficiently.

CONSIDERATIONS:

- It is important that the standard zoning districts are modified before these changes are adopted. Requiring use of the existing zoning districts in place today is not desired as the Town is permitting a lot of great and dense development through PDs that would not be allowed with the current zoning districts.

ADDITIONAL EDITS TO CONSIDER:

- For all PDs that contain residential neighborhoods, require some commercial or service uses as desired in the comprehensive plan.

- Allow some commercial or service uses in residential districts to allow for the neighborhood centers as desired in the comprehensive plan.
- Modify procedures to amend OPDs and FDPs so that minor edits are administrative but anything substantial goes to a public hearing.

Priority 5: Revise the two-step major subdivision process.

Most edits for this priority are in Sections 16-4-360 through 16-4-380. There are a few scattered edits throughout Article 5.

WHY THIS IS IMPORTANT:

- The current major subdivision procedure starts with a sketch plan review that is conceptual and has not been very productive. This adjusted process could help provide the Town with better information earlier, resulting in more comprehensive feedback and less changes during the final steps in the process.
- These edits could help promote the use of existing zoning districts and the major subdivision process rather than PDs.

CONSIDERATIONS:

- The code does not contain much detailed information on procedures but rather references the Applicant Guides. These code edits will need careful review and reconciliation with your internal procedures and applicant guides.

ADDITIONAL EDITS TO CONSIDER:

- If you want to create a financial incentive for running procedures concurrently (e.g., preliminary plat and site plan), consider changing that in your fee schedule.
- The details of the PD process (ODP and FDP) are not described at the same level of detail as the other procedures in the code. If this works okay then you may not need to modify it, but for readability for general users, it would be helpful to add some details to 16-2-350. For example, repeat the major steps summarized in Table 1.1 as is done for the subdivision procedures. As another example, specifically call out that FDPs must final plat per the subdivision section (if land is being subdivided) and it can be run concurrently with the FDP.
- Consider if the PD process should simply follow the newly revised major subdivision process (preliminary plat and final plat) and run concurrently with site plan and initial/rezoning. This could simplify the number of procedures and terms in the code.

Editing Notes

- As the edits are modified, keep in mind how those edits may affect other parts of the code. Like if procedures are modified, be sure that Table 1.1 is edited to reflect that change.
- After adoption, keep a list of clean up items and be ready to do another round of edits, hopefully just smaller clean up items. This is typical after large changes to a code.
- While there is not complete consistency in the Town's code, here are some editing guidelines used:
 - » Numbers are duplicated. For example, "one (1)"

- » Town is capitalized
- » The code is referenced as “this Code”
- » Use “as defined in Section ...” to reference another section of the code (note the capitalization of Section)
- » No oxford comma
- To reference the Colorado Revised Statutes, use “C.R.S. § XX-XX-XXX” (this one is very inconsistent in the code)

PRIORITY CODE EDITS

See the following pages.

CHAPTER 16
Land Use and Development¹

ARTICLE I General Provisions

Division 1 Purpose and Applicability

Commented [SC1]: Downloaded from Municode October 2024 (supplement no. 32). Checked for changes (ordinances) and incorporated all of those posted by June 5, 2025 (up to Ord 802-25)

Sec. 16-1-10. Title.

This Chapter shall be known as the *Bennett Land Use Code* or this *Chapter* and may be so cited.

Sec. 16-1-20. Effective date.

This Chapter will be in full force and effective upon adoption.

Sec. 16-1-30. Authority and jurisdiction.

- (a) This Chapter is adopted pursuant to the authority contained in state statutes. Authority is granted to municipalities to establish a Planning Commission and to regulate subdivisions (Sections 31-23-202 and 31-23-214, C.R.S.); to regulate land use (Section 29-20-101, et. seq., C.R.S.) and zoning (Section 31-23-3, C.R.S.); to provide for planned developments (Section 24-67-101, et. seq., C.R.S.); to provide for vesting of property rights (Section 24-68-101, et. seq., C.R.S); to prohibit or regulate nuisances and to enforce its major street plan within three (3) miles of its boundaries (Sections 31-15-401—31-15-601, C.R.S., and Sections 31-23-212 and 31-23-213, C.R.S.); to adopt a comprehensive plan; and to generally plan for and regulate the use of land.
- (b) Whenever a section of state statutes that is referred to in this Chapter is later amended or superseded, this Chapter is deemed amended to refer to the amended section or section that most nearly corresponds to the superseded section.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-1-40. Applicability.

- (a) The provisions of this Chapter shall pertain to all land and buildings within the boundaries of the Town. No person shall use, develop or subdivide any tract of land which is located within the Town except in conformity with the provisions of this Chapter.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-1-50. Purpose.

The purpose of this Chapter is to protect the health, safety and general welfare of present and future inhabitants of the Town, and to:

¹Editor's note(s)—Section 1(Exh. A), of Ord. 646-14, adopted December 9, 2014, allowed for the repealed and reenacted with amendments, Ch. 16. Formerly, Ch. 16 pertained to the same subject matter and derived from Ord. 612-11; Ord. 617-11; Ord. 620-12; Ord. 624-12; Ord. 631-13; Ord. 632-13; Ord. 636-13; Ord. 638-14; and Ord. 644-14.

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- (1) Implement the Town's goals, policies, plans, and programs to preserve and enhance the quality of life of its citizens and to promote economic vitality of its businesses;
 - (2) Promote superior land use, design and design flexibility;
 - (3) Support the development of Bennett as a model healthy community of interconnected employment and neighborhood centers;
 - (4) Maintain and enhance a quality residential environment in the Town;
 - (5) Provide a diversity of housing types at various densities;
 - (6) Enhance the sales tax and employment base of the Town by attracting and retaining commercial and industrial development;
 - (7) Provide adequate services and facilities to support existing and projected areas of population and growth;
 - (8) Promote logical extensions of and efficient use of the Town's infrastructure;
 - (9) Protect and preserve the rural nature of open lands;
 - (10) Provide a safe, efficient and connected multi-modal transportation network;
 - (11) Ensure that the fiscal impact of subdivision and development is borne by those parties who receive the benefits therefrom;
 - (12) Support programs and help provide facilities that meet the recreational, cultural, public safety and educational needs of the community;
 - (13) Promote cooperation and coordination in planning and growth management between the Town and neighboring jurisdictions;
 - (14) Promote sustainable and resilient development practices that assure a high quality of life for current and future generations;
 - (15) To regulate such other matters as the Planning Commission and Town Board may deem necessary in order to protect the best interest of the public and of private property ownership.

Sec. 16-1-60. Severability.

- (a) It is hereby declared to be the intent of the Town that the sections, paragraphs, sentences, clauses and phrases of this Chapter are severable. If any one (1) of these is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, the remainder of this Chapter shall not be affected and will remain valid and in effect.
- (b) If the application of any provision of these regulations to any tract of land shall be adjudged invalid, the same shall not affect, impair or invalidate these regulations or the application of any provision thereof to any other tract of land.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-1-70. Interpretation.

- (a) In interpreting and applying the provisions of this Chapter, such provisions shall be held to be the minimum requirements for the promotion of public health, safety, morals, convenience and general welfare. It is not intended by this Chapter to interfere with or to annul any easements, covenants or agreements between parties. However, whenever this Chapter imposes greater requirements than are imposed or required by other laws or resolutions or by easements, covenants or agreements between parties, the provisions of this Chapter shall govern.

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- (b) Where any provision of this Chapter imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by any other ordinance or by state statutes, the provisions of this Chapter shall govern.
 - (c) In case of a conflict between this Chapter and any private restrictions imposed by covenant or deed, the responsibility of the Zoning Administrator shall be limited to the enforcement of this Chapter.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-1-80. Rules of construction.

- (a) The word *shall* is mandatory and not discretionary.
- (b) The word *may* is optional and discretionary.
- (c) The word *lot* shall include the words *building site, site, plot* or *tract*.
- (d) A building or structure includes any part thereof.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-1-90. Conformity with Comprehensive Plan.

All applications for development approval, including, but not limited to, site plans, conditional use permits and subdivision plats, shall be evaluated in relation to conformance with the policies embodied within the Comprehensive Plan and all applicable special area plans or master plans.

Division 2 Definitions

Sec. 16-1-210. Definitions.

Questions of definition or working usage shall be interpreted by the Zoning Administrator based on the context of their usage and the intent of the section of the Article in which they occur. For the purposes of this Chapter, the words and phrases used in this Article shall have the meanings defined below unless otherwise specifically provided or unless clearly required by the context.

Abutting land means a parcel of land that has a common property line with another parcel of land.

Adjacent property means any property which abuts any property line of the property under review, or lies on the opposite side of an intervening public right-of-way.

Adult business means any establishment which has the principal purpose of the following: offering books or other printed material, pictures, movies, novelties or activities of a sexual nature; or includes persons who appear in a state of nudity or with exposed breasts or genitalia. Such establishments shall include adult bookstores, adult X-rated motion picture theaters, adult cabarets, topless bars or restaurants, massage parlors and any other uses of the same general character.

Annexation agreement means a contract between a petitioning landowner and the Town in connection with the annexation of land into the Town. An annexation agreement may include provisions for zoning of the property, the physical development of the property, the timing of development, dedications associated with annexation, the allocation of the cost of required public improvements and services and/or other matters relating to the public interest.

Appeal means a request for review by the Board of Adjustment of an administrative interpretation of this Chapter or a request for review by the Board of Trustees of a decision of the Zoning Administrator, as the context requires.

Applicant means any entity, including an individual, partnership, corporation, association, company or public body (including the federal government), or any political subdivision, agency, corporation or instrumentality of the State legally entitled to request an approval pursuant to this Chapter.

Applicant Guide means a document that details the application requirements for submittals associated with this Chapter.

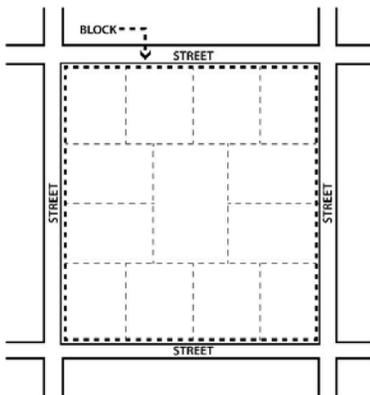
Architectural features mean any physical projection or feature that is not intended for occupancy and that extends beyond the face of an exterior wall of a building, including cornices, eaves, sills, box or bay windows, fireplaces, roof overhangs, mansards, unenclosed exterior balconies, marquees, canopies, pilasters and fascia, but not including signs.

Awning means a fixed or movable shelter supported entirely from the exterior wall of a building.

Beacon light means a tower with a light that gives warning.

Block means a group of lots existing within well-defined and fixed boundaries within a subdivision and usually being an area surrounded by streets or other features such as parks, rights-of-way or municipal boundary lines. See Figure 1-1.

Figure 1.1



Board of Adjustment means a special review board operating under the authority of this Chapter for purposes of hearing and deciding appeals or variances to this Chapter.

Buffer means a strip of land established to:

- a. Separate and protect one (1) type of land use from another;
- b. Screen one (1) type of land use from objectionable noise, odor, smoke or visual impact; or
- c. Provide additional open space.

Building means a structure having a roof supported by columns or walls that is designed, built or occupied as a shelter or enclosure for persons, animals or property.

Building Official means the officer or other designated authority charged with the administration and enforcement of the currently adopted Building Code.

Comprehensive Plan means the Comprehensive Plan of the Town as it may be amended from time to time.

Cul-de-sac means a short street having only one (1) end open to traffic and being terminated at the other end by a vehicular turnaround.

Curb cut means a driveway cut through the curb allowing the passage of vehicles.

Curfew means a time by which exterior lighting must be reduced to a specified maximum level or extinguished.

Dedication means the process by which private property is transferred to a public entity for a public use.

Development means any human-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Development agreement means a contract between a developer and the Town in connection with any discretionary development approval, including, but not limited to, rezoning, subdivision and/or PD approval. See *subdivision agreement* for agreements associated with platting and subdivision development improvements.

Drainage area means an area that is tributary to or conveys water into a watercourse or drainage way.

Drainage improvements mean all facilities used for collecting and conducting drainage and/or stormwater to, through and from drainage areas to the points of final outlet including, but not limited to, any and all of the following: conduits and appurtenant features, canals, ditches, streams, gulches, gullies, swale flumes, culverts, bridges, streets, curbs, gutters, works and pumping stations.

Drainage study means a document prepared in accordance with the drainage requirements of the Town, which analyzes all drainage features of the land and proposed development in sufficient detail to complete construction plans for all project drainage structures, including grading details, street grades and offsite facilities, as appropriate.

Drainage way means the bed or channel of a creek, canal, swale, gulch or other area where surface water flows which, in most cases, is natural in origin rather than manmade.

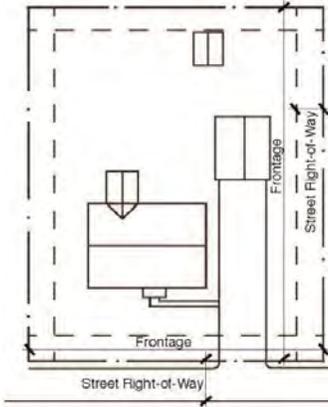
Driveway means a paved or unpaved area used for the ingress and/or egress of vehicles, and allowing access from a street to a building or other structure or facility.

Easement means a right of use over, under, across or through the property of another.

Existing building or improvement means a building or improvement that is existing or for which construction is at least thirty percent (30%) complete at the time the underlying property is initially zoned or rezoned.

Frontage means all sides of a lot adjacent to a street. See Figure 1-2.

Figure 1.2



Lot means a single parcel of land occupied or to be occupied by a building and its accessory buildings, together with such open spaces as are required under this Chapter.

Lot area means the total square footage or acreage contained within the boundaries of an individual lot. See Figure 1-3.

Figure 1.3



Lot, corner means a lot that has at least two (2) adjacent edges abutting a street. See Figure 1-4.

Figure 1.4



Lot, interior means a lot with both side lot lines abutting other lots. See Figure 1-4.

Lot line means a property line bounding a lot. See Figure 1-3.

Lot, through means an interior lot with at least two (2) nonadjacent edges abutting a street. See Figure 1-4.

Lot width means the width of a lot measured along the front setback line. See Figure 1-3.

Lot, zone means a platted lot or a combination of contiguous lots that are intended for a single permitted use and that are considered to be a single lot for the purposes of complying with zoning requirements.

Nonconforming sign means any sign that was legally established prior to the effective date of the existing requirements of this Chapter or subsequent amendment thereof, but that fails by reason of such adoption, revision or amendment to conform to all the present requirements of this Chapter.

Nonconforming structure means a building, structure or portion thereof which lawfully existed at the time of the adoption of the applicable Chapter, but which does not conform to the height or setback regulations of the zone in which it is located.

Nonconforming use means a use that was legally established prior to the effective date of this Chapter or subsequent amendment thereof, but that no longer complies with the use regulations that apply within the zoning district in which the use is located.

Open space means any parcel or area of land or water essentially unimproved with any residential, commercial or industrial uses and set aside, dedicated or reserved for public or private use and enjoyment, including recreational, scenic or environmental purposes. Open space may include agricultural uses and natural features located on a site, including, but not limited to, meadows, forested areas, steep slopes, floodplains, hazard areas, unique geologic features, ridgelines, unique vegetation and critical plant communities, stream corridors, wetlands and riparian areas, wildlife habitat and migration corridors, areas containing threatened or endangered species and archeological, historical and cultural resources, drainage, detention/retention ponds and required open space and setbacks pursuant to this Chapter.

Open space, common means open space within or related to a development, not individually owned or dedicated for public use but generally owned and maintained by a homeowners' association, that is designed and intended for the common use or enjoyment of the residents of the development and their guests, and may include such complementary structures and improvements as are necessary and appropriate. Common

open space may include trail areas, gardens, small parks, scenic areas, buffer areas or similar common areas. Common open space may also include active recreational facilities such as pools, tennis courts, playgrounds and clubhouses. Common open space shall not include driveways, sidewalks and parking areas.

Open space, unobstructed means a landscaped or natural area upon which no structure may be erected or surface area utilized for storage or for vehicular movement or parking.

Performance guarantee means any form of financial guarantee such as a cash deposit, letter of credit or other financial instrument in a form and amount satisfactory to the Town, which is submitted for the purpose of assuring the satisfactory completion of a required improvement.

Person means an individual, partnership, corporation, limited liability company, association, municipality or any other legal entity, public or private.

Petitioner means a person owning an undivided interest in fee of a parcel of land, including a corporate owner, who has signed a petition for annexation of such land to the Town pursuant to Section 31-12-107(1), C.R.S., or a registered elector of the Town who has signed a petition for an election with respect to the annexation of land to the Town pursuant to Section 31-12-107(2), C.R.S.

Planning Commission means the Planning and Zoning Commission of the Town.

Plat, final means a map of a land subdivision prepared in a form suitable for filing of record with necessary affidavits, dedications and acceptances, and in conformance with the requirements of this Chapter.

Porch means a porch or deck, roofed or unroofed open structure projecting from the front, side or rear wall of a building. A porch is considered a part of the principal building and is not permitted to extend into any required building setback.

Principal building means the primary structure located on a lot and designed for a use or occupancy by a permitted principal use in the applicable zoning district.

Property line means the legally described boundary line that indicates the limits of a parcel, tract, lot or block for the purpose of delineating ownership and setback requirements.

Public improvements mean rights-of-way, easements, access rights and physical improvements associated with a subdivision or development. Unless otherwise provided by this Chapter, public improvements include, but are not limited to, the following: curb and gutter, asphalt pavement, concrete pavement, streets of all types, alleys, survey monuments, pavement striping, sidewalks, pedestrian/bike paths and trails, landscaping, traffic signals, street lights, highways, greenways, rights-of-way, easements, access rights, construction plans, medians, bridges, acceleration and deceleration lanes, culverts, storm drainage facilities, including necessary structures, channels, water lines, sanitary sewer lines, parks and all other improvements which are deemed necessary and appropriate by the Town.

Roofline means the highest point on any building where an exterior wall encloses usable floor area, including floor area provided for housing mechanical equipment.

Roof pitch means the incline slope of a roof or the ratio of the total rise to the total width of a building; i.e., a one-foot rise and three-foot run is a 1:3 pitch roof. Roof slope is expressed in the feet of rise per foot of run.

School District means Bennett School District 29J.

Site specific development plan means the final plat of a subdivision or Final Development Plan of a PD (Planned Development) when approved by the Board of Trustees pursuant to Section 16-1-510 of this Chapter.

Street means a public or private right-of-way containing a drivable surface which provides vehicular access to adjacent properties.

Street, arterial means a street which is intended to carry large volumes of vehicular traffic from collector streets within one (1) part of the Town to highways or to collector streets within another part of the Town.

Street, collector means a street which is intended to carry low volumes of vehicular traffic from local streets to an arterial street or highway.

Street, local means a street which is intended to provide access to the front of individual lots and to carry vehicular traffic to a collector street.

Structure means any physical object constructed or made, the use of which requires permanent location on the ground, or attached to something having more or less permanent location on the ground.

Subdivision agreement means a contract between a developer and the Town that provides for the construction and/or provision of public improvements associated with a subdivision plat.

Town means the Town of Bennett, Colorado.

Town staff means any authorized employee of the Town, as well as any person or entity which the Board of Trustees or employees of the Town elect to consult.

Tract means a parcel of land created for purposes of sale and future subdivision, or for ownership by an owner's association or government entity without planned future subdivision. A tract shall not be developed until the requirements of this Chapter are met.

Use means any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained or occupied; or any activity, occupation, business or operation carried on or intended to be carried on in a building or other structure or on a tract of land.

Variance or waiver means an adjustment or alternative to the required standards, granted with or without conditions, according to the constraints and process defined in this Chapter.

Vested property right means the right to undertake and complete the development and use of property under the terms and conditions of a site specific development plan.

Zoning Administrator means the Town Manager or designee thereof, who shall be the individual primarily responsible for administration of this Chapter.

Division 3 Administration and Procedures

Sec. 16-1-305. Building permit requirement.

- (a) No building or structure shall be erected, constructed, reconstructed, altered, moved or structurally altered unless a building permit has been issued by the Building Official in conformance with the provisions of the Building Code. In addition, no building permit shall be issued and no use shall commence on any land until:
- (1) The land has been the subject of a subdivision plat approved by the Town in accordance with Article 4 of this Chapter; and
 - (2) The use of the land has been approved by the Zoning Administrator.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-1-310. Certificate of occupancy requirement.

No building shall hereafter be changed to a residential, business, commercial or industrial use, nor shall any new structure or building be occupied for a residential, business, commercial or industrial use unless the owner has first obtained a certificate of occupancy from the Building Official. Provided that the use is in conformance with the provisions of this Chapter, a certificate of occupancy shall be issued after all final inspections have been approved and all development impact fees have been paid pursuant to Article VIII of Chapter 4 of this Code.

Sec. 16-1-315. Review process.

- (a) Table 1.1, the Review Process Chart, outlines the required review steps applicable to different application types. Applicants should refer to the chart to determine which one (1) or more application types in the left-hand column of the chart applies to their proposed development request. The required stages of review and the respective approval authority for each application type are shown in the columns to the right. Submission requirements and the specific review process for each application type are set out in various applicant guides provided by Town staff. Unless otherwise indicated, amendment or modification of a prior approval follows the procedure for review of the original application.
- (b) In the event the Planning Commission or other board, commission or staff with authority recommends denial of an application at any stage, the applicant may choose to proceed to the next stage of review or may resubmit the application at the first stage. In the event the review stage is before the Board of Trustees, the application may not be further processed following a denial. An applicant may appeal certain decisions of the Zoning Administrator as specifically set forth in the provisions of this Chapter.
- (c) For certain applications where the Zoning Administrator has administrative approval authority (see Table 1.1), a majority of the Board of Trustees may "call up" the application for review of the Zoning Administrator's decision at the next regularly scheduled Board of Trustees meeting or soon thereafter. The Zoning Administrator may also choose to "push up" the decision making authority for any administrative action to the Planning Commission and/or the Board of Trustees.

Table 1.1
Review Process Chart

Key:
 BOA - Board of Adjustment
 CU - Call up on request of the TB
 H - Public Hearing
 M - Public meeting
 PC - Planning and Zoning Commission
 PD - Planned Development
 TB - Town Board of Trustees
 TE - Town Engineer
 ZA - Zoning Administrator (Town Manager or designee)

Application Type	Pre-App	Preliminary Review			Final Review and Decision				Reference/Notes
	Staff	Staff	PC	TB	Staff	PC	TB	BOA	
Annexation	ZA	ZA		M			H		See Article I, Division 4
Chapter 16 Code amendment		ZA				H	H		See Sec. 16-1-360
Conditional use	ZA	ZA				H	H		See Sec. 16-2-330
Development or Subdivision agreement		ZA					M		See Sec. 16-5-710
Development review fee waiver					ZA			CU	See Sec. 16-1-325
<u>Fast Track Process for Affordable Housing</u>	ZA				ZA				<u>See Sec. 16-2-305</u>
PD-ODP	ZA	ZA				H	H		See Sec. 16-2-350

Commented [SC2]: Added per Priority 1 - fast track process for affordable housing.

PD-FDP	ZA	ZA					H		See Sec. 16-2-350
PD amendment (ODP/FDP) - Minor					ZA				See Sec. 16-2-350
PD amendment (ODP) - Major	ZA	ZA					H	H	See Sec. 16-2-350
PD amendment (FDP) - Major	ZA	ZA						H	See Sec. 16-2-350
Rezoning	ZA	ZA					H	H	See Sec. 16-2-360
Service plan	ZA							H	See Sec. 16-5-815
Sexually oriented business license (A & B) and manager's license		ZA			ZA				See Sec. 16-6-305
Sign permit					ZA				See Sec. 16-3-310
Sign permit - Revocable (R.O.W.)					ZA/TE				See Sec. 16-3-310
Site plan	ZA				ZA			CU	See Sec. 16-2-310; appeal to TB
Subdivision: admin. adjustment	ZA				ZA				See Sec. 16-4-330; appeal to TB
Subdivision: boundary line adjustment	ZA				ZA				See Sec. 16-4-340; appeal to TB
Subdivision: major	ZA	ZA	HM	H			H	H	See Sec. 16-4-360
Subdivision: minor	ZA						H	H	See Sec. 16-4-350
Temporary use permit					ZA			CU	See Sec. 16-2-340; appeal to TB
Variance/appeal		ZA						H	See Sec. 16-2-370
Vested rights/site specific development plan	ZA							H	See Article I, Division 5

Commented [SC3]: Revised per Priority 5 - revise the two-step subdivision process.

Commented [SC4]: Consider removing this since major subdivision final plats are proposed to only go to the board for a hearing.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. 742-22, §§4, 5, 6-14-2022; Ord. 761-22, §1, 11-8-2022)

Sec. 16-1-320. General submittal requirements.

The following requirements are applicable to all submittal applications:

- (1) Development submittal requirements are contained in the Applicant Guide. In cases where two (2) or more types of applications are being processed concurrently (e.g., final development plan and final plat) any individual submittal requirement, which may be required for each application, does not need to be submitted more than once.
- (2) No application shall be reviewed until the application submittal is determined to be substantially complete by the Zoning Administrator and the required information is submitted to the Town.
- (3) No application shall be considered by a Town review authority (Zoning Administrator, Planning Commission and/or Board of Trustees, or designees) unless the application is processed consistent with this Chapter.

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- (4) To the extent required by Section 29-20-108, C.R.S., final Town action on any application of a public utility or a power authority providing electric or natural gas service that relates to the location, construction or improvement of major electrical or natural gas facilities shall be taken within one hundred twenty (120) days after submission of a preliminary application, if a preliminary application is required by this Chapter, or within ninety (90) days after submission of a final application. No timeline under such statute shall begin to run until the submitted application has been determined complete as provided in this Article.
 - (5) The Zoning Administrator may waive specific submittal requirements if said items do not appear necessary to meet the intent of this Chapter or to adequately evaluate the application.
 - (6) Development applications that are inactive for a period of six (6) consecutive months or more may be closed by Zoning Administrator after written notification to the applicant, and without the applicant's consent. Staff shall refund any unused fees, if applicable. Inactive applications are defined as:
 - a. Applications for which additional information has been required by staff and the required information has not been received;
 - b. Applications for which additional application or processing fees have been required and the additional fees have not been received; and/or
 - c. Applications which have been formally put on hold for purposes of redesigning the project and the new design has not been received.

Sec. 16-1-325. Application and review fees.

- (a) Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters will be charged to applicants for permits, plat approvals, zoning amendments, annexation, plan approvals, variances and other administrative relief. The standard fee schedule will be adopted periodically by the Board of Trustees and is available at the Town Hall.
- (b) The fees set forth in a standard fee schedule adopted by the Board of Trustees shall be paid by all applicants, with the exception of Town departments or agencies, and are nonrefundable. Upon written request of the applicant at the time the application is submitted, the Zoning Administrator may provide for the waiver of the above noted fees on a case-by-case basis.
- (c) In addition to the standard fees, the applicant and the owner of the property which is the subject of the application shall be required to pay any actual costs and expenses incurred by the Town for review, evaluation and processing of the application by consultants, including, but not limited to, engineering, legal and planning. The Town is authorized to require all applicants to enter into a cost agreement and require a deposit, based upon the estimated costs and expenses, from applicants and/or owners to offset the Town's costs and expenses for review, evaluation and processing of an application, prior to consideration of any application submittal pursuant to this Chapter. Subsequent deposits may be required when the initial deposit is eighty-five percent (85%) depleted. These deposits may exceed the total amount of fees collected using the standard schedule of fees. The Town shall not continue the processing of any application for which the applicant or the property owner has refused to deposit the funds to cover the Town's costs and expenses of review, evaluation and processing; and additional funds shall be deposited as necessary to cover outstanding balances prior to the recording of any approved final documents. Any funds remaining after paying the actual costs and expenses incurred by the Town shall be refunded to the applicant.
- (d) The Town may certify to the appropriate County Treasurer any amount due pursuant to this Section as a lien on the property for which the application is submitted to be due and payable with the real estate taxes for the Town if the applicant or the property owner does not pay such amount within thirty (30) days of written request by the Town.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-1-330. Pre-application conference.

Applicants requesting annexation, rezoning, subdivision, planned development, site plan approval, vested rights, fast track process for affordable housing or a conditional use permit are required to attend a pre-application conference with Town staff prior to submitting a formal application, unless waived by the Zoning Administrator. See Table 1.1 for the specific application types that require a pre-application conference. The purpose of the pre-application conference is:

- (1) To acquaint the applicant with the Bennett Comprehensive Plan, Land Use Code, design and construction manuals and other pertinent documents.
- (2) To inform the applicant of the submittal requirements necessary for the application.
- (3) To inform the applicant of any associated fees or charges that may be associated with the application.

Sec. 16-1-335. Neighborhood meeting requirement.

Depending on the type and scope of application, the applicant may be required by the Zoning Administrator to attend a neighborhood meeting. The purpose of the neighborhood meeting is to receive input from adjacent property owners and residents concerning the applicant's proposed development plans prior to formal review and action by the Town.

Sec. 16-1-340. Public hearing notice requirements.

- (a) Applicability of Section. The requirements of this Section apply only to public hearings required by this Chapter and as shown on the Review Process Chart in Table 1.1. Where that chart indicates that a public meeting (in contrast to a public hearing) is required, this Section does not apply and notice of such meeting is subject only to the requirements of the Colorado Open Meetings law, Section 24-6-401, et seq., C.R.S. The requirements for public notice are shown below on Table 1.2, except that notice requirements for site specific development plans shall be as provided in Section 16-1-520.
- (b) Published Notice. At least fifteen (15) days prior to any public hearing which requires published notice (thirty (30) days for annexation petition hearing - see Section 31-12-108, C.R.S.), the Zoning Administrator shall cause to be published in the legal section of a newspaper of general circulation within the Town a notice of such public hearing. The notice shall specify the kind of action requested; the hearing authority; the time, date and location of hearing; and the location of the parcel under consideration by at least two (2) of the four (4) following methods:
 - (1) Street address;
 - (2) County parcel identification number;
 - (3) General description, such as proximity to intersecting streets; or
 - (4) A legal description.
- (c) Posted Notice. At least fifteen (15) days prior to any public hearing which requires posted notice, the applicant shall post signs upon the parcel under consideration which provide notice of the kind of action requested; the hearing authority; the time, date and location of the hearing; and the location of the parcel under consideration by at least two (2) of the four (4) following methods:
 - (1) Street address;
 - (2) County parcel identification number;
 - (3) General description, such as proximity to intersecting streets; or
 - (4) A legal description.

The signs shall be of a size and form prescribed by the Zoning Administrator and shall consist of at least one (1) sign facing, and reasonably visible and legible from, each adjacent public right-of-way. The applicant shall place

Commented [SC5]: Added per priority 1 - fast track process for affordable housing.

the signs on the property (near the property boundary) facing all public roadways, with a maximum of four (4) signs. The applicant shall be responsible for checking the signs during the posting period. If a sign has been moved, been destroyed or fallen, the sign shall be replaced by the applicant. The fact that a parcel was not continuously posted the full period shall not, at the sole discretion of the hearing authority, constitute grounds for continuance where the applicant can show that a good faith effort to meet this posting requirement was made. Within ten (10) days after final Town action on the application, the applicant shall remove the posted signs. Property posting is not required where zoning exclusively involves public right-of-way only.

- (d) Mailed Notice. At least fifteen (15) days prior to any public hearing which requires notification by mail, the applicant shall mail notice of the kind of action requested; the hearing authority; the time, date and location of hearing; and the location of the parcel under consideration by at least two (2) of the four (4) following methods:
- (1) Street address;
 - (2) County parcel identification number;
 - (3) General description, such as proximity to intersecting streets; or
 - (4) A legal description.

The notice shall be of a form approved by the Zoning Administrator. The Zoning Administrator may require that the notice of such hearing also be hand-delivered to the entities intended to be notified. A map with a list of ownership by parcel identification number and mailing address shall be provided by the applicant to the Zoning Administrator at least twenty (20) days prior to the scheduled public hearing. Failure of a property owner to receive a mailed notice will not necessitate the delay of a hearing and shall not be regarded as constituting inadequate notice. The notice and a vicinity map shall be mailed by the applicant, via the United States Postal Service using first-class mail to:

- (1) Owners of property included within the application;
 - (2) Owners of property within three hundred (300) feet of the subject property, or which is separated from the subject property only by a public right-of-way, railroad right-of-way or water course;
 - (3) The board of directors of any owners' association existing with respect to any adjoining property; and
 - (4) Owners of mineral estate. The applicant shall be solely responsible for preparing and mailing notice to mineral estate owners in the manner as codified at Section 24-65.5-101, C.R.S., as amended from time to time. The legislation generally requires that notice of the public hearing be sent to the mineral estate owners not less than thirty (30) days before the date scheduled for the hearing.
- (e) Public Notice Time Requirements. Unless otherwise provided in this Chapter, public notice time requirements include the day the notice is posted, appears in the newspaper or is mailed, and shall not include the day of the public hearing.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. 663-16, §1, 6-28-2016; Ord. 742-22, §7, 6-14-2022)

Sec. 16-1-345. Enforcement.

- (a) It is unlawful to erect, construct, alter, maintain or use any building or land area in violation of any provision of this Chapter. No permit, certificate, license or other approval, the use of which is subject to the provisions of these regulations, shall be issued by any department, agency or board until it has been determined that all substantive requirements have been met and all procedures have been followed. If any person, including but not limited to the officers or agents of a corporation responsible for its action or inaction and the partners or members of a partnership, company or joint venture, shall violate or cause the violation of any of the provisions of this Chapter, they and each of them shall be guilty of a separate offense for each and every day or portion thereof during which a violation is committed or continues. Upon conviction thereof, they shall be liable for a fine of up to the maximum fine set forth in Section 1-4-20 of this Code per violation.

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- (b) Whenever the Zoning Administrator becomes aware of an alleged violation of this Chapter, Town staff shall investigate the complaint, take whatever action is warranted and inform the complainant in writing of what actions have been or will be taken.
 - (c) The owner, tenant or occupant of any building, land or part thereof, as well as any architect, builder, contractor, agent or other person who participates in, assists, directs, creates or maintains any situation that is in violation of this Chapter, may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.
 - (d) The provisions of this Chapter may be enforced by the following methods, which may be used in conjunction with each other:
 - (1) Nonissuance or restrictions placed on a building permit;
 - (2) Nonissuance or restrictions placed on a certificate of occupancy;
 - (3) Injunctions;
 - (4) Inspection and ordering removal of violations; and
 - (5) Criminal liability.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-1-350. Compliance required.

- (a) The Zoning Administrator is empowered to cause any building, structure or land to be inspected and examined, and to order, in writing, the remediation of any condition found to exist in violation of any provision of this Chapter. After any such order has been served, no work shall proceed on any building, structure or land covered by such order, except to correct or comply with said order.
- (b) The Town Attorney, acting on behalf of the Board of Trustees, may maintain an action for an injunction to restrain any violation of this Chapter.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-1-355. Town nonliability.

The adoption of this Chapter shall not create any duty to any person, firm, corporation or other entity with regard to the enforcement or nonenforcement of this Chapter or for inspections or re inspections authorized in this Chapter. No person, firm, corporation or other entity shall have any civil liability remedy against the Town, or its officers, employees or agents, for any damage arising out of or in any way connected with the adoption, enforcement or nonenforcement of this Chapter. Nothing in this Chapter shall be construed to create any liability, or to waive any of the immunities, limitations on liability or other provisions of the Governmental Immunity Act, Section 24-10-101, et seq., C.R.S.

Sec. 16-1-360. Amendments to Code.

Amendments to the text of this Chapter may be initiated by the Town or by citizen petition.

- (1) Requests to amend this Chapter initiated by the Board of Trustees, Planning Commission or Town staff will be prepared as a draft ordinance by Town staff, shall be reviewed and recommended by the Planning Commission at a public hearing and presented to the Board of Trustees at a public hearing. In this procedure, the Zoning Administrator will be considered to be the applicant.
- (2) Any citizen of the Town may petition the Board of Trustees to amend this Chapter by filing a written petition with the Zoning Administrator. In this procedure, the citizen filing the petition will be considered to be the applicant.

Division 4 Annexation

Sec. 16-1-410. Scope.

This Article contains procedures and requirements for all annexations to the Town using the petition method to ensure that petitions are processed in an orderly manner, that municipal services are or can be made adequate and available to the property and that all statutory requirements relating to annexation per Section 31-12-101, et seq., C.R.S., are fulfilled.

Sec. 16-1-420. Required dedications.

- (a) As a condition of annexation, and except as may be specifically provided in an annexation agreement, the Town may require at the time of annexation the dedication of major streets or easements to and through the property being annexed that may be needed in advance of subdivision of the property.
- (b) As a condition of annexation, and except as may be specifically provided in an annexation agreement, the petitioners may be required to construct all roads, utilities and other improvements at their sole expense and according to the requirements, standards and specifications of the Town.
- (c) As a condition of annexation, and except as may be specifically provided in an annexation agreement, the petitioners may be required to dedicate water rights, pursuant to Section 13-4-10 of this Code and land for public purposes pursuant to Section 16-5-510, or cash in lieu thereof, in accordance with the provisions of this Chapter or as otherwise adopted by ordinance.

(d) As a condition of annexation, to be included in the annexation agreement, the Town will require an affordable housing deed restriction, as defined in Section 16-2-210, on ten percent (10%) of dwelling units or residential lots for all projects with twenty (20) dwelling units or more. These units or lots shall be comparable to the market rate units or lots in size, exterior finish and design and integrated into the overall project. They shall be completed no more than halfway through the project.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. 742-22, §9, 6-14-2022)

Sec. 16-1-430. Annexation agreement.

- (a) The Town may require that the petitioners for annexation enter into an annexation agreement with the Town. The annexation agreement may contain provisions for zoning of the property, the physical development of the property, the timing of development, the allocation of the cost of required public improvements and services and/or other matters relating to the public interest.
- (b) All executed annexation agreements shall be recorded with the appropriate County Clerk and Recorder.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-1-440. Proposed zoning.

- (a) The proposed zoning for the area to be annexed may be addressed in the annexation agreement. The annexation agreement may provide for disconnection of the property if, after annexation, the proposed zoning is materially different than that specified in the annexation agreement.
- (b) The Town may zone the property either concurrent with the proposed annexation or within ninety (90) days of recording of the annexation, per Section 31-12-115, C.R.S.
- (c) Nothing in this Article shall be construed as preempting the Planning Commission's role in recommending approval of the zoning for the property. The Planning Commission shall conduct a public hearing on any application for the initial zoning of the property separately from the annexation review process, although the zoning and annexation hearings before the Board of Trustees may occur on the same date.

Commented [SC6]: Added per Priority 2 - require affordable housing with annexations and PDs.

Commented [SC7]: 10% is offered here as a suggestion. A few examples: Longmont requires 12%, Eagle requires 15% and Salida requires 16.7% for most all housing developments (not just annexations). When thinking about adjusting this percent, consider balancing the need for affordable housing with the developer's cost and impact to market rate units.

Commented [SC8]: This threshold is offered as a suggestion. 20 units is likely larger than the average threshold - the typical may be more like 0 to 10 units. With Bennett experiencing mostly huge developments it seems okay that the threshold is a bit higher. Regardless of the final threshold, if the Town begins to see development just under the established threshold you could change it or add an equivalent fee for those under the threshold.

Commented [SC9]: This is similar to 16-5-540 in which commencement of park facilities must start by ½ way through the building permits and be completed before the last ¼ of permits are issued. This gives the Town a little leverage to be sure they are actually build while providing the developer a little flexibility on timing.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-1-450. Standards for annexation.

In considering a petition for annexation, the Board of Trustees shall consider the following standards:

- (1) The property to be annexed is a reasonable and logical extension of the Town and compatible with the goals and policies of the Comprehensive Plan and the Three-Mile Area Plan.
- (2) The degree to which areas proposed for annexation due to their configuration, cause excessive police, fire, utility and street costs.
- (3) Whether zoning of the area proposed for annexation is reasonable in terms of existing Town zoning classifications and consistent with the Comprehensive Plan and the Three-Mile Area Plan.
- (4) The area proposed for annexation should be located where street extensions and water and sewer utility services are possible without undue expense to the Town. Where exceptional costs may be required in serving the area proposed for annexation, financial arrangements to extend streets, water or sewer mains should be agreed upon prior to annexation.
- (5) Stormwater drainage shall be considered prior to annexation to ensure that flooding problems within and adjoining the area proposed for annexation will not be increased by development of the land.
- (6) Whether annexation of the area is in the best interests of the Town.

Sec. 16-1-460. Effective date.

The property is annexed as of the effective date of the annexation ordinance, except as otherwise provided in Section 31-12-113, C.R.S.

Division 5 Vested Property Rights

Sec. 16-1-510. Request for approval.

If an applicant wishes the approval of a development plan to have the effect of creating vested property rights, the plan shall include a statement that it is being submitted for designation as a site specific development plan, as defined in Section 16-1-210. Failure to include such a statement shall render the approval not a site specific development plan, and no vested property rights shall be deemed to have been created.

Sec. 16-1-520. Notice and hearing.

No site specific development plan shall be approved until after a public hearing before the Board of Trustees, preceded by written notice of such hearing as required by Section 16-1-340 of this Chapter. Such notice may, at the Town's option, be combined with the notice required by Section 31-23-304, C.R.S., for zoning regulations, or with any other required notice. At such hearing, interested persons shall have an opportunity to be heard.

Sec. 16-1-530. Approval, effective date and amendments.

A site specific development plan shall be deemed approved upon the effective date of the Board of Trustees' approval action relating thereto. The approval of the Board of Trustees shall be accompanied by any terms or conditions imposed on the site specific development plan. In the event amendments to a site specific development plan are proposed and approved, the effective date of such amendments, for purposes of duration of a vested property right, shall be the date of the approval of the original site specific development plan, unless the Board of Trustees specifically finds to the contrary and incorporates such finding in its approval of the amendment.

Sec. 16-1-540. Forfeiture of vested rights.

Failure to abide by any terms or conditions imposed by the Town on the approval of any site specific development plan shall constitute a forfeiture of any vested property right created by the plan, unless otherwise specifically agreed by the Town in writing. Such forfeiture shall occur by operation of law, without notice or hearing.

Sec. 16-1-550. Notice of approval.

Every document which constitutes a site specific development plan shall contain the following language:

Approval of this plan creates a vested property right pursuant to Article 68 of Title 24, C.R.S., as amended.

Failure to contain this statement shall invalidate the creation of the vested property right. In addition, a notice describing generally the type and intensity of use approved, the specific parcel or parcels of property affected, the terms and conditions of any approval, and stating the date of approval of the site specific development plan and that a vested property right has been created, shall be published once, not more than fourteen (14) days after approval of the site specific development plan, in a newspaper of general circulation within the Town. Failure of the applicant to publish said notice constitutes a forfeiture of the vested property right.

Sec. 16-1-560. Payment of costs.

In addition to any and all other fees and charges imposed by this Chapter or any ordinance of the Town, the applicant for approval of a site specific development plan shall pay all costs occasioned to the Town as a result of the site specific development plan review, including publication of notices, public hearing and review costs.

Sec. 16-1-570. Other provisions unaffected.

Approval of a site specific development plan shall not constitute an exemption from or waiver of any other provisions or requirements of the Town pertaining to the development and use of property.

Sec. 16-1-580. Limitations.

Nothing in this Article is intended to create any vested property right, but only to implement the provisions of Article 68 of Title 24, C.R.S. In the event of the repeal of said article or a judicial determination that said article is invalid or unconstitutional, this Article shall be deemed to be repealed and the provisions hereof no longer effective; or in the event only a portion of said article is declared void or unconstitutional, the portion of this Article corresponding thereto shall be deemed repealed and no longer effective.

Division 6 Nonconforming Lots, Uses and Structures

Sec. 16-1-610. Existing nonconformance.

Certain lots, uses of land and structures may be found to be in existence on the effective date of this Chapter which do not meet the requirements of this Chapter but which were either conforming or legally nonconforming uses or buildings under prior ordinances. It is the intent of this Section to allow the continuance of such nonconformities as legal nonconforming lots, uses, or structures upon the terms and conditions set forth hereafter.

Sec. 16-1-620. Nonconforming lots.

Nonconforming lots on record as of January 20, 2015, (the effective date of this Chapter) may be built upon if all other relevant district requirements are met and the approval of the Board of Adjustment is obtained.

Commented [SC10]: Depending on how the zoning district uses and dimensions are changed, you may want to edit this section to be sure it works well for those changes. Like if you keep the suggestion to not allow single-unit homes in R-2 and R-3, it may be appropriate to adjust this section to be very clear that those uses can continue and maybe even be expanded. This typically comes up as a major concern from the community when talking about big changes to existing zoning.

Sec. 16-1-630. Nonconforming uses.

A nonconforming use of a building or lot may be continued as follows:

- (1) A nonconforming use may not be changed to any other nonconforming use, yet may be changed to a conforming use. A nonconforming use may also be extended throughout any part of a building which was legally constructed or designed for such activity, i.e., a conforming structure, prior to January 20, 2015, (the effective date of this Chapter).
- (2) If a nonconforming use has been discontinued for a period of six (6) consecutive months or more, it shall not thereafter be reestablished, and any future use shall be in conformance with the provisions of this Chapter.
- (3) A conforming structure or a building containing a nonconforming use which has been damaged by fire or other causes to the extent of fifty percent (50%) or less of the cost of repairing the entire structure or facility may be restored, provided that such work is started within six (6) months of such damage and completed within one (1) year of the time the restoration is commenced. The above provision shall not apply to nonconforming residential uses in the Commercial zoning district; such uses may be restored irrespective of the extent of damage if such repair is commenced within six (6) months from the date of damage and is completed within one (1) year of the time the restoration is commenced. Failure to commence or complete such repair within the time frames required by this paragraph shall constitute a forfeiture of the right to use or occupy the structure as a nonconforming use.
- (4) A nonconforming structure or building containing a nonconforming use may not be restored or expanded except in compliance with current standards. Any structural alteration that would reduce the degree of nonconformance or change the use to a conforming use is allowed. Any building declared unsafe by the Building Inspector that contains a nonconforming use may be strengthened or restored to a safe condition.
- (5) Nothing herein shall require any change in plans, construction or designated use of a building or structure for which approval of the Town Board has been obtained prior to January 20, 2015 (the effective date of this Chapter), and construction of which shall have commenced within six (6) months following the date of such approval and completed within one (1) year of the date of such approval. Failure to commence or complete construction within the time frames required by this paragraph shall constitute a forfeiture of the right to construct such building or structure, or designate its use, as legally nonconforming.

Sec. 16-1-640. Nonconforming structures.

- (1) A nonconforming building or structure may continue to be occupied or used as follows: A nonconforming structure or building containing a conforming use may be altered or expanded only if such structural alteration would reduce the degree of nonconformance. Maintenance repairs that are needed to maintain the good condition of a building shall be allowed.
- (2) If a nonconforming building is damaged such that the cost of repair exceeds seventy-five percent (75%) of the cost of replacing the entire structure, it shall be restored only in compliance with the requirements of this Chapter. Where the cost of repair is seventy-five percent (75%) or less of the cost of replacing the entire structure, it may be repaired to its former nonconforming state; provided, however, that any such repair is commenced within (6) months from the date of damage and is completed within one (1) year of the time the restoration is commenced. Failure to commence or complete such repair within the time frames required by this paragraph shall constitute a forfeiture of the structure's legally nonconforming status.
- (3) Nothing herein shall require any change in plans or construction of a building or structure for which approval of the Town Board has been obtained prior to January 20, 2015, (the effective date of this Chapter), and construction of which shall have commenced within six (6) months following the date of such approval and completed within one (1) year of the date of such approval. Failure to commence or complete construction

within the time frames required by this paragraph shall constitute a forfeiture of the right to construct such building or structure as legally nonconforming.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-1-650. Nonconforming signs.

Whenever one (1) of the following conditions occurs or exists, a sign which is nonconforming to the regulations of this Chapter shall be brought into conformance or the use thereof shall terminate:

- (1) Whenever an alteration of face size or sign height is made or sought to be made that is not permitted pursuant to Section 16-3-540.
- (2) Whenever there is a request made for a permit to change the sign.
- (3) When any such sign or nonconforming portion thereof is destroyed by any means to an extent of more than fifty percent (50%) of its value.

ARTICLE II Zoning

Division 1 Purpose and Applicability

Sec. 16-2-10. Purpose.

The purpose of this Article is to create a vital, cohesive, well-designed community in order to enhance the Town's small-town character and to:

- (1) Encourage the most appropriate use of land and promote a logical growth pattern;
- (2) Regulate and restrict the location and use of buildings, structures and land for residence, business, trade, industry or other purposes;
- (3) Regulate and determine the size of building lots, yards and other open spaces;
- (4) Promote good design and arrangement of buildings or clusters of buildings and uses in residential, business and industrial development;
- (5) Encourage innovative, quality site planning, architecture and landscaping that reflect improvements in the technology of land development;
- (6) Ensure adequate buffering between adjacent different land uses;
- (7) Aid in preserving and enhancing the overall community image as future development and redevelopment occurs;
- (8) Prevent the overcrowding of land, poor quality in development, waste and inefficiency in land use, danger and congestion in travel and transportation and any other use or development that might be detrimental to the stability and livability of Bennett;
- (9) Improve neighborhood appearance and customer convenience by providing adequate parking provisions; and
- (10) Promote the health, safety, morals and general welfare of Town residents.

Sec. 16-2-20. Applicability.

- (a) No building or structure shall be erected nor shall any existing building or structure be moved, altered or extended except in conformity with the provisions of this Article.

- (b) No part of any required yard, open space, off-street parking space or loading space shall be reduced in size or area, except as otherwise provided in this Article.
- (c) No yard or lot existing at the time of adoption of the ordinance codified in this Article shall be reduced in size or area below the minimum requirements set forth herein. Yards and lots created after said effective date shall meet at least the minimum requirements established by this Article.
- (d) This Article shall not apply to utilities located in a public or private right-of-way.
- (e) The uses and occupancies permitted in this Article shall also be subject to the regulations in Chapter 18 of this Code and other ordinances of the Town, except as provided in this Article; and provided, however, whenever the regulations in this Article require a greater size of yards or lots, or require a lower height of building or less number of stories, or impose other higher standards than required by other applicable ordinances or laws, the provisions of this Article shall govern.
- (f) Prior to issuance of a building permit, conditional use permit, site plan approval or granting of a change in use, the applicant shall demonstrate that the property will comply with all applicable provisions of this Chapter.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. 742-22, §11, 6-14-2022)

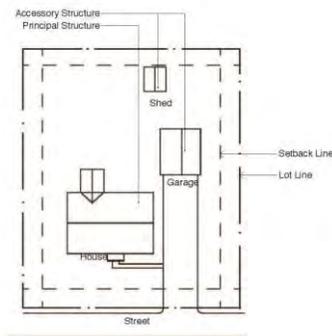
Division 2 Definitions

Sec. 16-2-210. Definitions.

The words and phrases used in this Article shall have the meanings defined below:

Accessory building or structure means a building or structure detached from a principal building and customarily used with, and clearly incidental and subordinate to, the principal building or use, and located on the same lot with such principal building. See Figure 2-1.

Figure 2.1



Accessory Dwelling Unit (ADU) means a ~~dwelling unit or apartment~~ integrated within a single-unit family dwelling, or located in a detached accessory building or structure located on the same lot as a single-unit family dwelling. ~~The ADU is incidental to or subordinate to the single-unit dwelling.~~ For purposes of calculating residential density, each ADU shall count as one-half (½) dwelling unit.

Accessory use means a use incidental to or subordinate to the principal use of a lot or contiguous lots in the same ownership or commonly associated with the principal use and integrally related to it.

Commented [SC11]: Modified per Priority 3 - revise existing zoning district standards.

Affordable housing means and includes:

- A. Rental housing that is affordable to a household with an annual income at or below sixty (60) percent of the area median income (AMI), and for which the rent payment costs the household less than thirty (30) percent of its monthly income.
- B. For-sale housing that could be purchased by a household with an annual income at or below one hundred (100) percent of the AMI, for which the mortgage payment costs the household less than thirty (30) percent of its monthly income.

Affordable housing deed restriction means a clause in the recorded deed that limits how a dwelling unit can be used, as approved by the Town. The deed restriction shall:

- (a) Require affordability of the affected unit for the greatest duration allowed by law and survive any foreclosure, unless the restrictions are otherwise released or modified with the written consent of the Town.
- (b) Require that all owners and/or renters meet the income limits as defined as Affordable Housing above.
- (c) Require all owners and/or renters to maintain their sole residence and abode in Bennett or provide written intent of their desire and intent do so.
- (d) Prohibit the sub-leasing of rental units and the leasing of for-sale units.
- (e) Give priority to those who earn the majority of their income in the Town of Bennett.

Agriculture or agricultural means the keeping or maintenance for sale, lease or personal use of plants and animals, including but not limited to forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; cattle, sheep, swine, horses and goats; vegetables; nursery, floral, ornamental and greenhouse products; or lands devoted to a soil conservation program.

Alley means the public or private right-of-way or easement within a block upon which the rear of a building lot generally abuts. Its use is for secondary access to the lot and/or service purposes. An alley shall not be considered a street.

Alternative Tower Structure means any man-made trees, clock towers, bell steeples, light poles, water towers, farm silos, or similar alternative design mounting structures that conceal where technically feasible the presence of WCFs to make them architecturally compatible with the surrounding area pursuant to Division 9 of Article II. A stand-alone pole in the Right-of-Way that accommodates Small Cell Facilities is considered an Alternative Tower Structure provided it meets the concealment standards of Division 9 of Article II. Alternative Tower Structures are not considered Towers, for the purposes of Division 9 of Article II.

Animal hospital, large means any facility which is maintained by or for the use of a licensed veterinarian in the diagnosis, treatment or prevention of animal diseases wherein the animals treated include cattle, horses, pigs, goats, sheep, swine and any other farm animals. Accessory uses may include the confinement of animals for medical reasons, grooming and destruction.

Animal hospital, small means any facility which is maintained by or for the use of a licensed veterinarian in the diagnosis, treatment or prevention of animal diseases wherein the animals are limited to dogs, cats or other comparable household pets. Accessory uses may include the confinement of animals for medical reasons, grooming and destruction.

Antenna means any device used to transmit and/or receive radio or electromagnetic waves such as, but not limited to panel antennas, reflecting discs, microwave dishes, whip antennas, directional and non-directional antennas consisting of one or more elements, multiple antenna configurations, or other similar devised and configurations.

~~*Apartment* means a type of multifamily dwelling unit, typically renter rather than owner-occupied. See definition of multifamily dwelling below in Dwelling, multifamily.~~

Commented [SC12]: Added for Priority 1 - fast track process for affordable housing. Note that these percentages are the minimum allowed per Prop 123.

Commented [SC13]: Added per Priority 2 - require affordable housing with all annexations and PDs. This could be defined in a separate policy or document if desired so it is easier to modify. Please adjust as you see fit to balance the need for affordable housing with the potential to detract development.

Commented [SC14]: Deleted per Priority 3 - revise existing zoning district standards.

Area Median Income (AMI) means the median family income of a household of a given size within a given geographic area that is calculated on an annual basis by the Department of Housing and Urban Development (HUD).

Commented [SC15]: Added per Priority 1 - fast track process for affordable housing.

Artificial turf means a manmade substitute for organic turf, lawn, or sod which effectively simulates the appearance of a well-maintained lawn.

Assisted living facility means a residential facility that provides meals and assistance with daily activities, such as dressing, grooming, and bathing, for the elderly or adults who are unable to manage these activities themselves.

Automobile wrecking means a building, structure, parcel of land or portion thereof, where two (2) or more motor vehicles not in running condition, or parts thereof, are stored in the open and are not being restored to operation, or any land, building or structure used for wrecking or storing of such motor vehicles or farm machinery, or parts thereof, stored in the open and not being restored to operating condition.

Bar/tavern means an eating/drinking establishment providing or dispensing by the drink for on-site consumption fermented malt beverages and/or malt, special malt, vinous or spirituous liquors, and in which the sale of food products, such as sandwiches and light snacks, is secondary. A bar/tavern may include provision of live entertainment and/or dancing; however, a bar/tavern shall not include any sexually oriented business use.

Base Station means a structure or equipment, other than a tower and equipment associated with a tower, at a fixed location that enables FCC licensed or authorized wireless communications between user equipment and a communications network. The term includes without limitation:

- A. Equipment associated with wireless communications services such as private broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul that, at the time the relevant application is filed with the Town under Division 9 of Article II, has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.
- B. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplied, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems ("DAS") and small-cell networks) that, at the time the relevant application is filed with the Town under Division 9 of Article II, has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

The definition of Base Station does not include any structure that, at the time the relevant application is filed with the Town under Division 9 of Article II, does not support or house equipment described in paragraphs A and B above.

Bed and breakfast establishment means an owner-occupied single-unit family dwelling where up to a maximum of five (5) rooms may be rented for overnight lodging. The five (5) lodging rooms may be in addition to bedrooms used by a resident family.

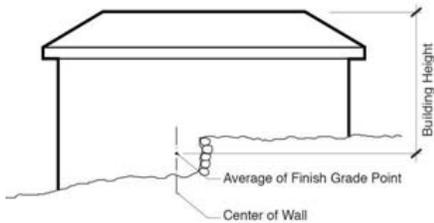
Borrow pit means an excavation dug to provide material (borrow) for fill elsewhere.

Building means any permanent structure built for the shelter or enclosure of persons, animals, chattels or property of any kind, which is governed by the following characteristics:

- a. Is permanently affixed to the land.
- b. Has one (1) or more floors and a roof.

Building height means the vertical distance from the average of the finished ground level at the center of all walls of a building to the highest point of the roof surface, exclusive of chimneys, ventilators, pipes and similar apparatus. See Figure 2-2.

Figure 2.2



Business services mean retail or service establishments whose customers are primarily other businesses.

Camouflage or Camouflage Design Techniques means any measures used in the design and siting of Wireless Communication Facilities with the intent to minimize or eliminate the visual impact of such facilities to surrounding uses. A WCF Site utilizes Camouflage Design Techniques when it (i) is integrated as an architectural feature of an existing structure such as a cupola, or (ii) is integrated in an outdoor fixture such as a water tank, while still appearing to some extent as a WCF. This definition does not include the use of Concealment design elements so that a facility looks like something other than a wireless Tower or Base Station.

Candela means a unit of measurement equal to the amount of light given out through a solid angle by a source of one (1) candela radiating equally in all directions.

Cargo container means standardized reusable vessels that were:

- a. Originally designed for or used in the packing, shipping, movement or transportation of freight, articles, goods or commodities; and/or
- b. Originally designed for or capable of being mounted or moved by rail, truck or ship by means of being mounted on a chassis or similar transport device. This definition includes cargo containers, transport containers, cargo boxes, sea crates and portable site storage containers having a similar appearance to and similar characteristics of cargo containers.

Cemetery means land used or intended to be used for the burial of the dead and dedicated for cemetery purposes. A cemetery may include a funeral home or mortuary or a columbarium, but shall not include a crematory.

Collocation

- A. For the purposes of Eligible Facilities Requests, means the mounting or installation of transmission equipment on an Eligible Support Structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.
- B. For the purposes of facilities subject to shot clocks governed by 47 U.S.C. Sec. 332, means attachment of facilities to existing structures, regardless of whether the structure or location has previously been zoned for wireless facilities.

Concealment means utilization of elements of stealth design in a facility so that the facility looks like something other than a wireless Tower or Base Station. Language such as "stealth," "camouflage," or similar in any permit or other document required by the Town Code is included in this definition to the extent such permit or other document reflects an intent at the time of approval to condition the site's approval on a design that looks like something else. Concealment can further include a design which mimics and is consistent with the nearby natural, or architectural features (such as an artificial tree), or is incorporated into (including without limitation, being attached to the exterior of such facility and painted to match it) or replaces existing permitted facilities (including without limitation, stop signs or other traffic signs or freestanding light standards) so that the presence of the WCF is not apparent. This definition does not include conditions that merely minimize visual impact but do

not incorporate Concealment design elements so that the facility looks like something other than a wireless Tower or Base Station.

Conditional use means the use of land that is permitted in a zoning district with possible imposition of special conditions to mitigate possible adverse impacts, as provided for in Section 16-2-330 of this Chapter.

Contractor's office means a mobile trailer or any temporary structure used by a construction contractor for headquarter purposes during construction of a subdivision or structure.

Convenience store means a general retail store that sells goods and services and that may include the sale of food products, gasoline, groceries and sundries.

Corner vision clearance triangle means a triangular space at the street corner of a corner lot, free from obstruction to vision.

Crematory means any establishment at which human or other remains are cremated.

Cultivation or cultivate shall mean: (i) all phases of growth of marijuana from seed to harvest; or (ii) preparing, packaging, or repackaging, labeling, or relabeling of marijuana prior to consumption or prior to incorporation into a marijuana-infused product.

Day care center, adult means a facility, whether nonprofit or for-profit, that provides care, protection and supervision for eight (8) or more adults on a regular basis away from their primary residence for less than twenty-four (24) hours per day.

Day care center, child means a state licensed facility, by whatever name known, which is maintained for the whole or part of a day for the care of five (5) or more children who are eighteen (18) years of age or younger and who are not related to the owner, operator or manager, whether such facility is operated with or without compensation for such care and with or without stated educational purposes. The term includes, but is not limited to, facilities commonly known as day-care centers, day nurseries, nursery schools, preschools, play groups, day camps, summer camps, centers for developmentally disabled children and those facilities which give twenty-four-hour-per-day care for dependent and neglected children, but specifically excludes any home day care as defined below. Child day care centers are also those facilities for children under the age of six (6) years with stated educational purposes which are operated in conjunction with a public, private or parochial college or a private or parochial school, except that the term shall not apply to a kindergarten maintained in connection with a public, private or parochial elementary school system of at least six (6) grades.

Day care, home means a state-licensed facility for child care in the permanent residence of the provider for the purpose of providing day care and training for a child or children away from their primary residence for less than twenty-four (24) hours per day. Operation of a day care home is subject to the Child Care Licensing Act, Section 26-6-101, et seq., C.R.S., and considered for purposes of this Chapter to be a home occupation.

Detention facility means and includes:

- a. Facilities for the judicially required detention or incarceration of people, where inmates and detainees are under twenty-four-hour supervision by sworn officers, except when on an approved leave; or
- b. Group homes, halfway houses or alternatives to incarceration for individuals previously convicted of sexual assaults, sexual abuse or other sex-related criminal offenses; or
- c. Group homes, halfway houses or alternatives to incarceration containing any individual who will be subject to the issuance of an arrest or escape warrant if he or she leaves the facility.

Provided that the use otherwise complies with this definition, a detention facility may include, by way of illustration, a prison, jail, probation or detention center or juvenile detention home. Detention facilities, except for group homes for juvenile offenders, do not qualify as either a household living or group living facility, and are not allowed in any zoning district.

On occasion, the entities with which the Town contracts for law enforcement services may be required to detain, on a temporary basis, a person who is in violation of the law. Such temporary detention shall not be considered a

Commented [SC16]: Modified per Priority 3 - revise existing zoning district standards.

detention facility under this Chapter. Temporary detention within the Town is restricted to the specific criteria outlined within an agreed upon contract and shall be used only when absolutely necessary for the safety of Town residents.

Development plan, final means a plan of a planned development (PD), together with written materials, showing the character and layout of the tract, including the exact location, square footage and dimension of lots, buildings or building envelopes, yards, courts, parking, fences, common open space and other features; the use of each building and area; the architectural elevations of buildings indicating height, materials and color; detailed landscape plan; streets, curb cuts and alleys; and utilities, drainage and other easements.

Development plan, outline means a conceptual plan of a proposed planned development (PD), together with written materials, showing the general character and layout of the development parcel, including the approximate location and density/intensity of uses, the approximate location of public and common open space, the location of existing and proposed streets and alleys, and the relationship of the development to adjacent areas that it may affect.

Drive-up facility (also known as a drive-in or drive-through facility) 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.

Dwelling, duplex two-family means a single building dwelling on a single lot containing two (2) attached dwelling units under one roof. The dwelling units shall be able to function independent of each other, but may be located side-by-side, in front and behind, or above and below each other, totally separated from each other by an unpierced wall extending from foundation to roof.

Dwelling, mixed-use means one (1) or more dwelling units that are located in a building with space for a principal nonresidential use. The residents of the dwelling units are not required to use or operate the nonresidential space.

Dwelling, multi-unit family means one (1) or more buildings or portion of buildings on a single lot a residential building that containing at least five (5) or more individual dwelling units, where each unit is designed for or occupied by one (1) household/families living independently of each other regardless of whether the dwelling units are owned or rented or condominium units.

Dwelling, single-unit attached townhome means a structure comprised of two (2) or more dwelling units attached side by side, or in a townhouse or row house layout connected by shared walls, in which each unit:

- A. Shares one (1) or two (2) interior common vertical side or rear walls reaching from the building foundation to the roof structure;
- B. each of which has an entrance to the dwelling unit and direct access to at least one (1) street fronting the lot on which the unit is located to the outside at street level;
- C. Is designed for use and occupancy for one (1) household; and
- A-D. each of which is a separately conveyable legal ownership interest.

Dwelling, single-unit family detached means one (1) a residential dwelling unit building on one (1) lot designed for the occupancy of one (1) household/family. This term includes manufactured homes.

Dwelling, triplex or fourplex means a single building on a single lot containing three (3) or four (4) dwelling units under one roof. The dwelling units shall be able to function independently of each other.

Dwelling unit means a single structure or portion of a structure that is designed, occupied, or intended to be occupied exclusively by one (1) household and includes permanent provisions for living, sleeping, eating, cooking, and sanitation. This includes units constructed on-site and units all or part of which are constructed in an off-site facility and then transported to and assembled into completed dwelling units on-site, one (1) or more rooms connected together, but structurally divided from all other rooms in the same structure and constituting a separate, independent housekeeping unit for permanent residential occupancy by humans, with facilities for sleeping, cooking and eating, and with sanitary facilities.

Commented [SC17]: With regulations around how "family" is defined it seems best to stay away from using that term for types of housing.

Commented [SC18]: This was added to be sure that modular housing units can be installed in Bennett. DOLA's Division of Housing regulates these. Go here for more info: [Factory Built Structures | Division of Housing](#)

Commented [SC19]: Edited per Priority 3 - revise existing zoning district standards. Note that the revised terms have been reorganized to remain in alphabetical order which was not done with track changes on. Also, these terms have been updated throughout the code.

Eligible Facilities Request means a request for approval of the modification of an Existing Tower or Base Station that does not substantially change the physical dimensions of such Tower or Base Station involving:

- A. Collocation of new Transmission Equipment.
- B. Removal of Transmission Equipment.
- C. Replacement of Transmission Equipment.

A request for modification of an Existing Tower or Base Station that does not comply with the generally applicable building, structural, electrical, and safety codes or with other laws codifying objective standards reasonably related to health and safety, or does not comply with any relevant federal requirements, is not an Eligible Facilities Request.

Eligible Support Structure means any Tower or Base Station as defined in this Section, provided that it is Existing at the time the relevant application is filed with the Town under Division 9 of Article II.

Equipment Cabinets mean a cabinet or building used to house equipment used by telecommunication providers at a Wireless Communications Facility. This definition does not include relatively small electronic components, such as remote radio units, radio transceivers, amplifiers, or other devices mounted behind antennas, if they are not used as physical containers for smaller, distinct devices.

Establishment means a place of business, industry or professional office with its furnishings and staff.

Events center means a publicly or privately owned building devoted to assembly of people for social, professional or recreational activities such as meetings, weddings or conferences.

Existing means, for purposes of Division 9 of Article II, a constructed Tower or Base Station that was reviewed, approved, and lawfully constructed in accordance with all requirements of applicable law as of the time of an Eligible Facilities Request, provided that a Tower that exists as a legal, non-conforming use and was lawfully constructed is existing for purposes of this definition.

Family means and includes:

- a. One (1) or more persons ~~related by blood, marriage or adoption, occupying a dwelling unit living together~~ as a single household unit; ~~or~~
- b. ~~A group of not more than five (5) persons not related by blood, marriage or adoption, living together as a single household unit; or~~
- c. ~~A family foster home, licensed by the State, or certified by the Arapahoe County Department of Human Services or Adams County Department of Social Services, or a state-licensed child placement agency, and having no more than four (4) foster children, shall also be considered a family.~~
- b. Any group of persons whose right to live together under conditions similar to other types of households of the same size is protected by the provisions of the federal Fair Housing Amendments Act of 1988, as defined in that Act and interpreted by the courts, or by any similar legislation of the State of Colorado.
- d. ~~A family shall not include more than one (1) person required to register as a sex offender pursuant to Section 18-3-412.5, C.R.S., unless related by blood, marriage or adoption.~~
- c. The number of persons occupying each dwelling unit shall not exceed the maximum permitted by the applicable adopted building code or safety code, or by any applicable state or federal law or regulation.

Commented [SC20]: Edited per Priority 3 - revise existing zoning district standards. Recommend comprehensive attorney review here. This is newly regulated by HB24-1007. Consider removing the definition and use of "family" all together.

Farmers and artisans market means a temporary retail sales operation where farmers, local growers, producers, ranchers and artisans can sell their produce and products directly to the public. These items may include, but are not limited to: wool, wool products, natural fibers and products from natural fibers, fleece, flowers, herbs, fruits, vegetables, meats, dairy, honey, cheese, beverages, paintings, ceramics and arts and crafts. Farmers and artisans markets may include related events, such as farm and fiber animals for exhibition and/or demonstration. Fiber animals may include rabbits, goats, sheep, alpaca, llamas and yaks. Food vendors and beverages may be sold for the purpose of serving the public attending the market.

Farm-life activities and entertainment means displays, contests and constructions involving the agricultural products of a farm, such as corn mazes, hay tunnels, cooking contests, pumpkin patches, etc., and related activities showcased by festivals, contests, events and admissions, including, but not limited to, hay rides, chuck wagons, community square dances, tractor and horse pulls, sleigh rides, etc.

Financial services means establishments that provide retail banking services, mortgage lending and similar financial services to individuals and businesses. This classification includes those institutions engaged in the on-site circulation of cash money and check-cashing facilities, but shall not include bail bond brokers. This classification also includes Automated Teller Machines (ATMs), a device that dispenses cash and conducts limited banking transactions for customers using a credit card, bank card, or other similar personal banking card. These devices may be part of a bank office, a drive-up banking center or may be freestanding units in retail centers or within other buildings.

Floor Area Ratio (FAR) means the amount of gross floor area of all principal buildings on a lot or block, as the case may be, divided by the total area of such lot, or the block size, respectively, on which such buildings are located. For mixed-use blocks, the residential square footage shall be added to the commercial development for a total block FAR.

Foot-candle means a unit of light or luminance. One (1) foot-candle (f.c.) equals one (1) lumen per square foot of area. When metric units are used, lux is the unit of light quantity. One (1) lux equals one (1) lumen per square meter of area. One (1) foot-candle equals approximately 10.8 lux. For the purpose of establishing consistent measurements, both foot-candles and lux are measured at finished grade.

Full cut-off means a luminaire designed so that light is aimed downward. No light emission is allowed above a horizontal plane through a luminaire's lowest light-emitting part.

Fully shielded light fixture means a light fixture constructed in such a manner that all light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal plane as determined by a photometric test or certified by the manufacturer. Any structural part of the light fixture providing this shielding must be permanently affixed to the light fixture.

Funeral home or mortuary means an establishment in which dead bodies are prepared for burial or cremation and in which wakes and funerals may be held. Funeral home or mortuary does not include a crematory.

Garage, detached means any detached building or portion of a building, including carports, in which private or pleasure-type motor vehicles are stored or kept.

Glare means the sensation produced by a bright source within the visual field that is sufficiently brighter than the level to which the eyes are adapted to cause annoyance, discomfort or loss in visual performance and visibility; blinding light. The magnitude of glare depends on such factors as the size, position, brightness of the source, and the brightness level to which the eyes are adapted.

Golf course (excluding miniature golf) means a large unobstructed acreage, involving enough room over which to walk or ride, point-to-point, over a generally prescribed course and to strive to send a ball long distances with variable accuracy without unreasonably endangering other players or intruding upon them.

Greenhouse/nursery means a building/structure in which plants and gardening supplies are kept within an enclosed building or a fully screened enclosure; also a retail business selling plants and garden supplies in which all merchandise other than plants is kept within an enclosed building or a fully screened enclosure, and fertilizer of any type is stored and sold in package form only. Stock in trade shall be comprised primarily of live plant material, with hardscape materials, such as railroad ties, boulders, landscape gravel and crushed rock, limited to a relatively small percentage of sales.

Gross floor area (GFA) means the total area in square feet of all floors of a building measured from exterior walls.

Group home means a group living facility in which six (6) or more individuals can live together and receive supportive services and are supervised by persons who live in the residence. A group home shall not have more

than twelve (12) residents, including supervisory personnel, except as otherwise provided by this Code. Except for group homes for juvenile offenders, group homes shall not include detention facilities, which are not allowed in any zoning district. In addition, a group home shall not include more than one (1) person required to register as a sex offender pursuant to Section 18-3-412.5, C.R.S., except as otherwise provided in this Code. In the event a group living facility for disabled persons does not meet the definition of *group home* as contained herein, but requires reasonable accommodation pursuant to the Fair Housing Amendments Act of 1988 (42 U.S.C. § 3601, et seq.), such group living facility shall not include more than one (1) person required to register as a sex offender pursuant to Section 18-3-412.5, C.R.S., as amended, except as otherwise provided herein.

Group home for persons with developmental disabilities means a state-licensed group living facility serving not more than eight (8) persons exclusively for the care of persons with developmental disabilities, as defined and regulated by the Colorado Department of Human Services. A group home for persons with developmental disabilities shall not include more than one (1) person required to register as a sex offender pursuant to Section 18-3-412.5, C.R.S.

Group home for the aged means a group living facility of up to eight (8) persons sixty (60) years of age or older who do not require medical attention associated with a residential health care facility. Group homes for the aged persons shall be either:

- a. Licensed as an assisted living residence or alternative care facility by the Colorado Department of Human Services; or
- b. Certified as an adult foster care facility by the Arapahoe County Department of Human Services or Adams County Department of Human Services. A group home for the aged shall not include more than one (1) person required to register as a sex offender pursuant to Section 18-3-412.5, C.R.S.

Group home for juvenile offenders means a group living facility licensed or certified by the State, housing residents placed by the Arapahoe County Department of Human Services, Adams County Department of Human Services or the Colorado Department of Human Services, for purposes of rehabilitation, special care, supervision or treatment for social, behavioral or disciplinary problems. A group home for juvenile offenders shall not have more than fourteen (14) residents, plus additional required staff, and shall not include more than one (1) person required to register as a sex offender pursuant to Section 18-3-412.5, C.R.S.

Group home for persons with behavioral or mental health disorders means a state-licensed group living facility serving not more than eight (8) persons exclusively for the care of persons with behavioral or mental health disorders, as defined and regulated by the Colorado Department of Human Services. A group home for persons with behavioral or mental health disorders shall not include more than one (1) person required to register as a sex offender pursuant to Section 18-3-412.5, C.R.S.

Group living facility means a residential occupancy of all or part of a structure by a group of people that does not meet the definition of household living, motel/hotel or detention facility. In group living facilities, tenancy is arranged on a monthly or longer basis, there is generally a common eating area and the size of the group may be larger than a household. *Group living facilities*, by way of illustration, may include assisted living facilities, group homes, group homes for juvenile offenders, group homes for persons with development disabilities, group homes for the aged, group homes for persons with behavioral or mental health disorders and nursing homes. *Group living facility* shall not include detention facilities for adult offenders (persons eighteen (18) years old and older), and *group living facility* shall not include more than one (1) person required to register as a sex offender pursuant to Section 18-3-412.5, C.R.S., except as otherwise provided herein.

Heliport means an area provided for the landing or taking off of a helicopter.

Home occupation means any business use which is conducted principally within a dwelling by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character of the dwelling or create more than occasional and minimal vehicular and pedestrian traffic.

Horizontal plane means an imaginary line drawn across the bottom of a light fixture above which no light shall be emitted.

Commented [SC21]: These definitions may need to be revised per the edits made to the definition of Family and Household. Please work with the Town attorney.

Hospital means an institution providing health services, primarily for in-patients and medical or surgical care of the sick or injured, including related facilities such as laboratories, out-patient facilities, training facilities, central service facilities and staff offices.

Household living means any individual, or two (2) or more persons related by blood or marriage or between whom there is a legally recognized relationship, or a group of unrelated persons, occupying the same dwelling unit, including but not limited to any group of persons whose right to live together or without undue restrictions are protected by the provisions of the federal Fair Housing Act Amendments of 1988, as defined in that Act and interpreted by the courts, or by any similar legislation of the State of Colorado residential occupancy of all or part of a structure by an individual or a group of people who meet the definition of a family, and where tenancy is arranged on a month-to-month or longer basis.

IESNA means the Illuminating Engineering Society of North America.

Illuminance means the amount of light falling onto a unit area of surface (luminous flux per unit area) measured in lumens per square meter (lux) or lumens per square foot (foot-candles).

Initial horizontal luminance means the lumen rating of a lamp when the lamp is new and has not depreciated in light output (rated lamp lumens). Lamp lumen depreciation equals 1.0. The measurement is taken horizontal to the ground.

Junk means products subject to being dismantled or recycled that include, but are not limited to, scrap lumber, scrap metals and materials, discarded furniture, fixtures, appliances, motor vehicles, parts and tires and all wrecked, abandoned, demolished, dismantled, and inoperable motor vehicles, machinery, trailers and other goods that are so worn or deteriorated as to make them unusable in their existing condition.

Junk yard means any outside area in the Town at which any person shall store or accumulate junk as defined herein.

Kennel means any establishment or other place where one (1) or more animals, such as dogs and cats, are boarded, trained, bred, kept or fed for money or any other consideration, or for sale. A kennel does not include the breeding or boarding of animals as an accessory to a principal permitted agricultural use or a pet shop or a veterinary office or clinic, as defined herein.

Lamp means a generic term for a source that produces optical radiation (i.e. "light"), often called a bulb or tube.

Lamp watts means the rated watts of the lamp, not including the watts of external auxiliaries.

Landfill means a site where the collection of discarded food waste, or any other unwanted or useless material is disposed of by burying it in natural or excavated holes or depressions.

Landscape lighting means lighting not mounted to poles or buildings, for the purpose of illuminating trees, shrubbery and other natural external elements.

Legislative zoning means a rezoning initiated by the Town that is prospective in nature and reflects public policy of a permanent or general character impacting the Town on a scale greater than at the individual property level. Legislative zoning affects a large number of properties and the proposed rezoning is not applicable to a specific individual or readily identifiable group only.

LED means light-emitting diode.

Light pollution means light scattered by the atmosphere that interferes with the appreciation or observation of night skies.

Light trade and technical uses means the fabrication, assembly, packaging or repair, rental or servicing of any commodity, the sale of which is permitted within the subject zoning district.

Light trespass means unwanted light that falls on neighboring properties or produces glare or distraction for observers away from the area for which the light is intended (also called "nuisance glare").

Commented [SC22]: Revised per Priority 3 - revise existing zoning district standards. HB24-1007 regulates this now. Recommend comprehensive attorney review.

Lighting means light produced by man-made sources, including electric lamps, gas lamps, and similar sources.

Lighting equipment means equipment specifically intended to provide electric illumination, including, but not limited to, luminaires, poles, posts and related structures, electrical wiring, and other necessary or auxiliary components.

Lighting system means, on a site, all manmade lighting sources, associated infrastructure, and controls.

Limited equipment rental means the rental of equipment primarily intended for individual use and minor residential gardening and construction projects. This use does not include the rental, storage or maintenance of large construction equipment (see definition of *vehicle/equipment sales and rentals*).

Lot line, front means the property line dividing a lot from a street. On a corner lot only one (1) street line shall be considered as a front line and the shorter street frontage shall be considered the front line.

Lot line, rear means the line opposite the front lot line.

Lot line, side means any lot lines other than front lot lines or rear lot lines.

Lumens (lm) means unit of luminous flux; used to measure the amount of light emitted by lamps. One (1) foot-candle is one (1) lumen per square foot.

Luminaire means the complete lighting unit assembly (fixture), consisting of a lamp, or lamps and ballast(s) (when applicable), together with the parts designed to distribute the light (reflector, lens, diffuser), to position and protect the lamps, and to connect the lamps to the power supply.

Main entry means the primary or principal entrance, place of ingress or egress used most frequently by the public.

Manufactured home means a type of dwelling, single-unit detached structure that is:

- a. Installed on a permanent, engineered foundation;
- b. Partially or entirely manufactured in a factory;
- c. A minimum of fourteen (14) feet in width and thirty-six (36) feet in length;
- d. Complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401, et seq.) (HUD Code); and
- e. To the extent applicable, complies with all building and safety codes adopted by the Town and set forth in Chapter 18 of this Code.

Manufacturing means establishments involved in the manufacturing, processing, fabrication, packaging or assembly of goods. Natural, manmade, raw, secondary or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site.

Manufacturing, primary means establishments engaged in the initial processing or treatment of raw material or manufacturing of products which require additional processing, fabrication or assembly for ultimate use by the consumer.

Manufacturing, secondary means establishments engaged in the manufacture of products for final utilization or consumption. This usually involves the secondary processing, fabrication or assembly of semi-finished products from a primary manufacturing industry.

Marijuana 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 marijuana concentrate. *Marijuana* or *marihuana* does not include industrial hemp, nor does it include fiber produced from the stalks, oil or cake made from the seeds of the

Commented [SC23]: Modified per Priority 3 - revise existing zoning district standards.

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.

Medical marijuana means marijuana that is cultivated and sold for a purpose authorized by Article XVIII, §14 of the Colorado Constitution.

Microbrewery means an establishment, licensed by the appropriate state and/or federal authorities, where malt liquors are manufactured, and packaged and distributed on- or off-premises, with manufacturing not to exceed fifteen thousand (15,000) barrels of malt liquor on its licensed premises each calendar year. May include food for consumption as an accessory use.

Microdistillery means a business, licensed by the appropriate state and/or federal authorities, typically known as a craft or designer distillery that manufactures spirituous liquors on site for distribution on- or off-premises in quantities not to exceed two hundred (200) barrels of finished product per year. May include food for consumption as an accessory use.

Microwinery means a facility, licensed by appropriate state and/or federal authorities, for the production of wine not to exceed one thousand (1,000) cases per year for distribution on- or off-premises. May include food for consumption as an accessory use.

Mini-storage or self-storage means a provision of storage space for household or commercial goods within an enclosed building with direct public access to individual storage spaces.

Mobile home means any ~~dwelling, detached single-unit family detached dwelling,~~ with all the following characteristics:

- a. ~~Designed for long-term occupancy and containing sleeping accommodations, a flush toilet, tub or shower/bath and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems; and~~
- ~~b. Built on a chassis and designed to be transported on its own wheels; and~~
- c. Does not comply with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401, et seq.) (HUD Code).

Mobile home park means any parcel of ground upon which two (2) or more manufactured or mobile homes are occupied as dwelling units.

Motel/hotel means a building or group of buildings that contain living or sleeping accommodations in guest rooms for transient occupancy and may or may not have individual entrances from outside.

NITS means one (1) candela per meter squared. This is a standard unit of measurement for luminance which is the amount of brightness leaving a surface.

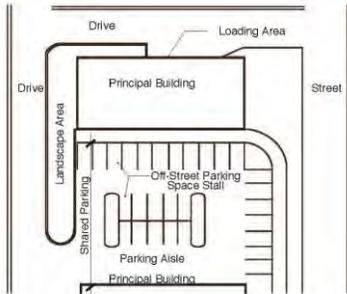
Nursing home means a state-licensed group living facility regulated as a skilled nursing facility, as defined in Section 25-1-107.5, C.R.S.

Off-street loading means a site or portion of a site devoted to the loading or unloading of motor vehicles or trailers, including loading berths, and parking areas designated for loading only. See Figure 2.3.

Off-street parking means a site or portion of a site devoted to the off-street parking of motor vehicles, including parking spaces, aisles, access drives and landscaped areas. See Figure 2-3.

Commented [SC24]: Modified per Priority 3 - revise existing zoning district standards.

Figure 2.3



Office means establishments providing executive, management, administrative or professional services, including medical or dental services, but not involving the sale of merchandise, except as incidental to a permitted use.

Ornamental lighting means lighting that is not a sign and does not impact the function and safety of an area, but is purely decorative, or used to illuminate architecture and/or landscaping, installed for aesthetic effect.

Outdoor retail display means the temporary outdoor display of goods, materials or other things for sale or rent during a retail business's regular business hours.

Outdoor storage means storage of materials, merchandise, stock, supplies, machines, operable vehicles, equipment, manufacturing materials or chattels of any nature that are not kept in a structure having at least four (4) walls and a roof, regardless of how long such materials are kept on the premises. This definition shall not apply to items for sale to the general public such as new and used cars, recreational vehicles, boats, landscape and building materials, where such items are permitted for sale in the zoning district in which they are located. *Outdoor storage* shall not apply to the storage of wrecked or inoperable vehicles. (See definition of *junk yard*.) In addition, *outdoor storage* does not include outdoor parking of motor vehicles regularly used in connection with the operation of an establishment or parked for less than forty-eight (48) hours for maintenance service.

OTARD means an over-the-air receiving device.

OTARD Antenna means

- A. An antenna that is designed to receive direct broadcast satellite service, including direct-to-home satellite services, that is one (1) meter or less in diameter; or
- B. An antenna that is designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instruction television fixed services, and local multipoint distribution services, and that is one (1) meter or less in diameter or diagonal measurement; or
- C. An antenna that is designed to receive television broadcast signals.

OTARD antenna structure means any pole, tower, or other structure designed and intended to support an OTARD Antenna.

Parking lot or parking area means an area, other than a street or alley, designed or used primarily for the temporary parking of vehicles.

Parking, shared means joint use of a parking lot or area for more than one (1) principal use. See Figure 2-3.

Parking stall or space means a surfaced area, enclosed in the main building or in an accessory building or unenclosed, that is designated and used for off-street parking. See Figure 2-3.

Patient means a person who has a debilitating medical condition as defined in Article XVIII, §14(1)(c) of the Colorado Constitution.

Pawnshop means a shop that lends money at interest in exchange for personal property deposited as security.

Permitted use means a use which is listed as a use permitted by right in any given zone district in this Chapter. Uses permitted by right are not required to show need for their location.

Personal services means establishments engaged in the provision of informational, instructional, personal improvement, personal care and similar services.

Primary caregiver means a natural person, other than the patient and the patient's physician, who is eighteen (18) years of age or older and has significant responsibility for managing the well-being of a patient who has a debilitating medical condition as defined in Article XVIII, §14(1)(f) of the Colorado Constitution.

Primary residence means the residential structure that a person, by custom and practice, makes his or her principal domicile and address and to which the person intends to return, following any temporary absence, such as vacation. Residence is evidenced by actual daily physical presence, use, and occupancy of the primary residence and the use of the residential address for domestic purposes, such as, but not limited to, slumber, preparation of and partaking of meals, regular mail delivery, vehicle and voter registration, or credit, water and utility billing. A person shall have only one primary residence within the Town.

Principal building or structure means a building or structure which constitutes, by reason of its use, the primary purpose for which a lot is used.

Principal use means the primary or predominant use of any lot or parcel, such use possibly occurring in more than one (1) building or structure. Generally, the establishment of any one (1) use listed as permitted by right or conditionally in this Article would constitute the establishment of a principal use on a given lot or parcel.

Public building means any building held, used or controlled exclusively for public purposes by any department or branch of government, state, county, municipality or special district, without reference to the ownership of the building or of the realty upon which it is situated.

Recreation or amusements facilities, private or public means any indoor or outdoor establishment that is maintained or operated for the amusement, patronage or recreation of the general public.

Recreation field means an area consisting of an outdoor field devoted to active sports or recreation, such as football, soccer, baseball, softball, tennis, miniature golf, sport stadiums or the like, intended for public use or for the use of private members.

Recreational vehicle means a vehicle designed to provide temporary living quarters and which is built into, as an integral part of, or as a permanent attachment to, a motor vehicle chassis or van, and shall not include trailers of any kind, but shall include a motor home. *Recreational vehicle* also means any travel trailer that is mounted on wheels and designed to be towed by a motorized vehicle, and contains windows and sleeping, cooking and heating equipment that were built-in as an integral part of the original design and construction of the vehicle.

Recreational vehicle park means a parcel of land providing space and facilities for motor homes or other recreational vehicles for recreational use of transient lodging.

Recycling facilities means the collection of material for reuse such as aluminum cans, glass, paper, etc.

Refuse collection facilities means a site where the collection of discarded food waste, or any other unwanted or useless material is disposed of by burying it in natural or excavated holes or depressions.

Refuse transfer station means a collection facility, resource recovery center, building or processing site for the temporary deposition, consolidation and aggregation of waste.

Related Accessory Equipment means the Transmission Equipment customarily used with, and incidental to Wireless Communication Facilities antennas, including by way of example, coaxial or fiber-optic cable, regular and backup power supply and remote radio units.

Rental services means a retail business that rents to the general public merchandise, such as furniture, equipment, tools, appliances and similar goods, that are housed inside and outside a building.

Research and development, general means research, development and testing laboratories that do not involve the mass manufacture, fabrication, processing or sale of products. Such uses shall not violate any odor, dust, smoke, gas, noise, radiation, vibration or similar pollution standard as specified herein.

Restaurant means an eating/drinking establishment where the principal business is the sale of food and beverages in a ready-to-consume state where fermented malt beverages, malt, special malt and vinous and spirituous liquors may be produced on the premises as an accessory use. See also *restaurant, fast food*.

Restaurant, fast food means an eating/ drinking establishment that may be either a freestanding operation, or a non-freestanding operation incorporated into a building within which one (1) or more other compatible and complementary uses exist, and whose principal business is the sale of pre-prepared or rapidly prepared food to the customer in a ready-to-consume state for consumption either within the restaurant building or for carry-out with consumption off the premises, and whose design or principal method of operation includes two (2) or more of the following characteristics:

- a. The elimination, in whole or in part, of table service, thus requiring customers to place orders at the counter where the orders are filled;
- b. The food is usually served in edible containers or in paper, plastic or other disposable containers;
- c. The facilities for on-premises consumption of food are insufficient for the volume of food sold by the establishment;
- d. The restaurant may provide a drive-up facility for placing and receiving food orders.

Retail business means establishments that sell, lease or rent consumer, home and business goods, but excluding merchandise/retail uses classified or defined more specifically in this Article (e.g., vehicle-related sales).

Right-of-Way means, in the context of Division 9 of Article II, any public street or road that is dedicated to public use for vehicular traffic.

Rooming, lodging or boarding house means a group living facility where meals, lodging, or both, are provided for compensation for five (5) or more persons, but not more than eight (8) persons, not including members of the proprietor's immediate family who might be residing in the same building. The word compensation shall include compensation in money, services or anything of value. A boarding, lodging or rooming house shall not include more than one (1) person required to register as a sex offender pursuant to Section 18-3-412.5, C.R.S. See also *group living facility*.

Salvage means any personal property which is or may be stored or accumulated, salvaged for resale, reduction or similar disposition, or which is possessed, transported, owned, collected, accumulated, dismantled or assorted for any of the aforesaid purposes. Without limiting the aforesaid definition of salvage, the term shall include used or salvaged iron, brass, lead, copper and other base metal of metals, and their compounds or combination, used or salvaged rope, lumber, appliances, brick, tile, plumbing fixtures, rags, glass, rubber and similar articles, and used motor vehicles or machinery used, owned or possessed for the purpose of wrecking or salvaging parts therefrom.

Salvage yard means any outside area in the Town at which any person shall store or accumulate salvage as defined herein.

Service station means any building, land area or other premises used for the retail dispensing or sales of vehicular fuels; minor towing, servicing and repair of automobiles and light trucks; and including as an accessory use the sale and installation of lubricants, tires, batteries and similar vehicle accessories. Body and fender work, transmission work, engine overhaul work or repair of heavy trucks or vehicles are excluded from this use. If a use

Commented [SC25]: This definition may need to be revised per the edits made to the definition of Family and Household. Please work with the Town attorney.

that fits this definition also includes the sale of ready-to-eat food products (not intended for on-premises consumption), groceries and sundries, such use shall be classified as a convenience store as provided above.

Setback means the required minimum distance between the lot line and the closest projection of a building or structure along a line at right angles to the lot line. Setbacks shall be unobstructed from the ground to the sky except cornices, eaves, or similar architectural features may extend into a required setback not more than two (2) feet or as otherwise specifically allowed in this Chapter.

Setback line means the line that is the required minimum distance from any lot line and that establishes the area within which the principal structure must be erected or placed. See Figure 2-4.

Site in the context of Division 9 of Article II for Towers and Eligible Support Structures, a Site means the current boundaries of the leased or owned property surrounding the Tower or Eligible Support Structure and any access or utility easements currently related to the Site. For Alternative Tower Structures, Base Stations and Small Cell Facilities in the Right-of-Way, a Site is further restricted to that area comprising the base of the structure and to other Related Accessory Equipment already installed on the ground.

Site plan means a plan describing with reasonable certainty the type and intensity of a proposed permitted use for a specific parcel of property, in accordance with Section 16-2-310 of this Chapter.

Small Cell Facility means a WCF where each antenna is located inside an enclosure of no more than three (3) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three (3) cubic feet; and primary equipment enclosures are no larger than seventeen (17) cubic feet in volume. The following associated equipment may be located outside of the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation box, ground-based enclosure, back-up power systems, grounding equipment, power transfer switch and cut-off switch.

Special event means and includes:

- a. Any organized event, specifically including, but not limited to, a circus, carnival, fair, party or celebration which reasonably may be expected to attract more than one hundred (100) persons at any one (1) time.
- b. Exclusions. The term special event shall not include any event sponsored in whole or in part by the Town or another political subdivision of the State, or any organized activities conducted at sites or facilities typically intended and used for such activities. Examples of such exempt activities include, but are not necessarily limited to, sporting events such as golf, soccer, softball and baseball tournaments conducted on courses or fields intended and used for such activities; wedding services conducted at reception halls or similar facilities; funeral services conducted at funeral homes or cemeteries; religious services, wedding services and funeral services conducted at places of worship; or activities occurring within, or upon the grounds of, a private residence or upon the common areas of a multifamily residential development.

Stable means a building for housing domestic animals or livestock.

Strobe light means a scientific instrument that provides a flashing light synchronized with the periodic movement of an object; it can make moving objects appear stationary.

Structure means a combination of materials to form a construction for use, occupancy or ornamentation whether installed on, above or below the surface of land or water.

Substantial change means a modification that changes the physical dimensions of an Eligible Support Structure such that after the modification, the structure meets any of the following criteria:

- A. For Towers, it increases the height of the Tower by more than ten percent (10%), or by the height of one (1) additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater, as measured from the top of an existing antenna to the bottom of a proposed new antenna; for other Eligible Support Structures, it increases the height of the

structure by more than ten percent (10%) or more than ten (10) feet, whichever is greater, as measured from the top of an existing antenna to the bottom of a proposed new antenna;

- B. For Towers, it involves adding an appurtenance to the body of the Tower that would protrude from the edge of the Tower more than twenty (20) feet, or more than the width of the Tower structure at the level of the appurtenance, whichever is greater; for Eligible Support Structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet;
- C. For any Eligible Support Structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, as determined on a case-by-case basis based on the location of the Eligible Support Structure but not to exceed four (4) cabinets per application; or for Base Stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent (10%) larger in height or overall volume than any other ground cabinets associated with the structure;
- D. When the change entails any excavation or deployment more than thirty (30) feet in any direction outside the current site.
- E. When the change would defeat the concealment elements of the Eligible Support Structure by causing a reasonable person to view the structure's intended stealth design as no longer effective;
- F. For any Eligible Support Structure, it does not comply with record evidence of conditions associated with the siting approval of the construction or modification of the Eligible Support Structure or Base Station equipment, unless the noncompliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that would not exceed the thresholds identified in above paragraphs A, B, C and D of this definition.

For purposes of determining whether a Substantial Change exists, changes in height are measured from the original support structure in cases where deployments are or will be separated horizontally, such as on building rooftops; in other circumstances, changes in height are measured from the dimensions of the Tower or Base Station, inclusive of approved appurtenances and any modifications that were approved prior to February 22, 2012.

~~Teacherage means any housing facility for teachers and other school employees provided by a school district.~~

Commented [SC26]: Removed per Priority 3 - revise existing zoning district standards.

Temporary moving or storage containers means a storage container associated with a temporary use, such as building renovation or the process of moving into or out of a dwelling unit. Temporary moving or storage containers, as hereby defined, do not include *cargo containers* as defined in this Article.

Temporary use means a land use that is only permitted for a specified period of time.

Tower means a structure that is designed and built for the sole or primary purpose of supporting any FCC licensed or authorized antennas and their associated facilities, including but not limited to, private, broadcast and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul and the associated site. The term includes radio and television transmission towers, self-supporting lattice towers, guy towers, monopoles, microwave towers, common carrier towers, cellular telephone towers and the like. Alternative Tower Structures and Small Cell Facilities in the Rights-of-Way are not Towers.

Translucent means permitting light to pass through but diffusing it so that persons, objects, etc., on the opposite side are not clearly visible. Frosted window glass is translucent but not transparent.

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

Utilities, major include generating plants, electrical substations, switching buildings and water or wastewater treatment plants. *Major utilities* also includes overhead electrical transmission lines and distribution feeder lines that collect and transmit over 110 kV of power. *Major utilities* does not include uses more specifically defined in this Chapter, including telecommunications facilities.

Utilities, minor means above- and below-ground electrical transmission lines (except as included in the definition of *major utilities* above); above- and below-ground natural gas lines; flood control or drainage facilities; transportation or communications utilities and similar facilities of public agencies or public utilities; utilities that are necessary to support legally established uses and involve only minor structures such as electrical distribution lines, poles or cables; switch boxes; transformer boxes; cap banks; and underground water and sewer lines. Such minor utility facilities generally do not have employees on-site, and the services may be publicly or privately provided. *Minor utilities* does not include uses more specifically defined in this Chapter, including telecommunications facilities.

Vehicle/equipment repair, major means repair of automobiles, trucks, motorcycles, mobile homes, recreational vehicles or boats, including the sale, installation and servicing of related equipment and parts. This use includes auto repair shops, body and fender shops and transmission and engine overhaul shops. This use excludes junk yards, vehicle dismantling or salvage and tire retreading or recapping.

Vehicle/equipment sales and rentals means sale or rental of automobiles, motorcycles, trucks, tractors, trailers, construction or agricultural equipment, mobile homes, boats and similar equipment, including incidental storage and incidental maintenance.

Vehicle repair, minor means limited repair of automobiles, motorcycles and light trucks that may include tune-ups, brakes, mufflers, automobile glass replacement and other minor repair customarily done in service stations, but in no case shall *minor vehicle repair* include auto/truck body and fender work or repair of heavy equipment or trucks or repair shops where vehicles are stored in an inoperable condition for more than twenty-four (24) hours.

Vehicle storage means storage of parking tow-aways, impound yards and storage lots for automobiles, trucks, buses and recreational vehicles. *Vehicle storage* includes only the storage of operable vehicles.

Veterinary offices or clinics means an establishment that provides medical treatment and care to animals, and which may include temporary or overnight boarding of animals that are recuperating from treatment. A veterinary clinic or office does not include a kennel, as that term is defined above.

Warehousing and distribution means a permanent facility for the storage of products, supplies, and equipment offered for distribution (not for direct sale to the general public). Goods are generally delivered to other firms or the final consumer, except for some will call pickups. There is little on-site sales activity with the customer present. Accessory uses may include offices, truck fleet parking and maintenance areas.

Wholesale establishment means a use engaged in enclosed wholesale of manufactured products, supplies and equipment, including accessory offices and showrooms. Products may be picked up on site or delivered to the customer. Other accessory uses may include product repair, parking, minor fabrication services and repackaging of goods.

Wireless Communications Facility or *WCF* means a facility used to provide personal wireless services as defined at 47 U.S.C. Section 332 (c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services. A WCF does not include a facility entirely enclosed within a permitted building where the installation does not require a modification of the exterior of the building; nor does it include a device attached to a building, used for serving that building only and that is otherwise permitted under other provisions of the Code. A WCF includes an antenna or antennas, including without limitation, directions, omni-directions and parabolic antennas, Base Stations, support equipment, Small Cell Facilities, Alternative Tower Structures, and Towers. It does not include the support structure to which the WCF or its components are attached if the use of such structures for WCFs is not the primary use. The term does not include mobile transmitting devices used by

Commented [SC27]: Consider either removing this or adding manufactured homes to the list. Not many mobile homes are sold any more since they were constructed before 1976.

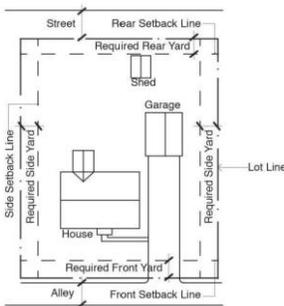
wireless service subscribers, such as vehicle or handheld radios/telephones and their associated transmitting antennas, nor does it include other facilities specifically excluded from the coverage of this Section.

Xeriscape means a landscaping method employing predominantly live, low-water-consuming plant materials that require little or no irrigation.

Yard means an open space unoccupied and unobstructed from the ground upward. See Figure 2.4.

- a. *Front yard* means a yard extending across the full width of the lot between the front lot line and the nearest line or point of the principal structure.
- b. *Rear yard* means a yard extending across the full width of the lot between the rear lot line and the nearest point of the principal structure.
- c. *Side yard* means the yard between a principal structure and the side lot line measured horizontally at right angles to the side lot line from the side lot line to the nearest point of the main principal structure.

Figure 2.4



Zoning district means an area or area within the limits of the Town for which the regulations and requirements governing development, including use, lot, area of buildings and other requirements, are uniform.

Zoning Map means the official zoning map adopted by the Town by ordinance, as amended.

Division 3 Administration and Procedures

Sec. 16-2-305. Fast Track Process for Affordable Housing

- (a) The fast track process for affordable housing allows for expedited review of qualified affordable housing projects to facilitate the creation of affordable housing within the Town of Bennett and to comply with Colorado Proposition 123, C.R.S. § 29-32-105(2).
- (b) This fast track process applies to applications in which at least fifty (50) percent of the proposed residential units are affordable housing as defined in this Code. This fast track process applies exclusively to the following applications:
 - (1) Building permits.
 - (2) Conditional uses.
 - (3) Final development plans.
 - (4) Site plans.

Commented [SC28]: Added per Priority 1 - fast track process for affordable housing. It has been reviewed and okayed by DOLA staff.

Commented [SC29]: This is the minimum required by the state. The Town could consider reducing this percentage to allow more projects to qualify for this fast-track process.

Commented [SC30]: Definitions have been added to section 16-2-210. Consider adding a time period in which the units must remain affordable. This is not required by the state but is a good practice to ensure the incentive provided by the town results in lasting affordability.

(5) Variances and administrative variances, and

(6) Vested rights/site specific development plans.

(c) The applicant can opt-out of this process at any time.

(e) All fast track process applications shall be reviewed and decided on by the Zoning Administrator. The Zoning Administrator may refer any fast track process application to the decision-making body assigned to the specific application in Table 1.1, if in their opinion the application presents issues that require additional attention. When an application is referred, the standard process in this Code shall be followed and the ninety (90) calendar day review period described in subsection (g) below applies.

(f) In reviewing applications under this fast track process, the review criteria for each specific application applies.

(g) Once staff determines the application is substantially complete, a final decision shall be made in ninety (90) calendar days or less, including any public hearings if applicable. This ninety (90) calendar day period does not include any pre-application conference, post-approval steps or appeals. The requirements of this Section do not preclude the Town from processing an application in less than ninety (90) calendar days. While each of the above applications have their own ninety (90) calendar day time frame, they will be run concurrently where possible. The ninety (90) calendar day review timeframe may be extended in the following circumstances:

(1) At the request of the applicant, a one-time extension up to ninety (90) calendar days may be provided for the applicant to address comments on the application from an agency that has approval authority over the application.

(2) At the discretion of the Town, a thirty (30) calendar day extension may be provided for the applicant to address comments, requests for additional information, or project revisions and for staff to review such information or revisions. The Town shall notify the applicant of the intent to extend the process, and the applicant is encouraged to respond within five (5) calendar days acknowledging the extension.

Sec. 16-2-310. Site plan requirement.

(a) A site plan is a detailed development plan for a property, which generally provides the opportunity to evaluate the intended use, and such design elements as circulation, parking and access; open space and landscaping; building location and configuration; grading and drainage; setbacks and screening; public improvements; and other elements, which determines if the proposal has been planned consistently with the intent of this Chapter. A site plan shall be required for:

(1) All permitted and conditional uses located in all zoning districts with the exception of individual, detached single-unit family and duplex two-family dwelling units.

(2) Any change in use.

(3) Any site that has been vacant, or for a use that has not been operational, for six (6) months or longer.

(b) The Zoning Administrator shall have the authority to waive the requirement for a site plan upon a determination that such site plan is not necessary.

(c) The Zoning Administrator shall have the authority to specify which criteria of this Chapter shall apply to each site plan application.

(d) An applicant for site plan approval shall submit copies of the required application materials in accordance with the Applicant Guide.

(e) The Zoning Administrator may elect to send the materials out for referral in accordance with the Applicant Guide. The comment period shall not exceed twenty-one (21) days.

(f) Upon completion of the application review, the Zoning Administrator shall approve, approve with conditions or deny the application and inform the applicant in writing as to the decision and criteria for the decision. All

Commented [SC31]: Go here [Frequently Asked Questions for Expedited Review](#) for more info on what procedures this must apply to. The Town could consider adding additional procedures (like select subdivision procedures) to this list if desired. Just be sure that the 90-day review timeline is possible.

Commented [SC32]: This is not required by the state but it is very hard to meet a 90 day deadline when you have to have 1 or 2 hearings. If administrative approval is not desired, consider sticking with the established procedures and reviewing bodies and call special meetings if needed.

Commented [SC33]: Note that a site plan process should not be used if land is to be subdivided. If any subdivision (per definition in this code) is occurring, the subdivision procedures must be followed. Site plan review can run concurrently with subdivision but site plan alone is for building vertically.

review criteria and conditions shall be based on requirements of this Chapter, other published Town ordinances, technical criteria and Town policies. The Zoning Administrator shall consider the following criteria to the extent applicable:

- (1) Zone district standards for setbacks, building heights, lot area and lot coverage.
 - (2) Parking, lighting and landscaping standards unless otherwise waived by the Zoning Administrator in accordance with the applicable zone district standards.
 - (3) Bennett Design Standards for the applicable zone district.
 - (4) Infrastructure standards, including but not limited to Roadway Design and Construction and Water and Wastewater Standards, as required by the Town Engineer.
 - (5) Bennett-Watkins Fire Rescue standards for the proposed use and structures.
 - (6) Applicable requirements of utility and other service providers.
- (g) Within fifteen (15) days after the Zoning Administrator's denial of a site plan application or approval with conditions, the applicant may appeal the decision to the Board of Trustees by filing a written notice of appeal with the Town Clerk. The notice shall state the basis for the appeal. Upon receipt of such notice of appeal, the site plan application shall be scheduled for de novo review before the Board of Trustees at a public hearing. Notice of the public hearing shall be in accordance with Section 16-2-130 of this Chapter. Upon completion of the public hearing, the Board of Trustees may approve, deny or approve with conditions the site plan application, and the Board of Trustees' decision shall be final.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. 679-17, §5, 12-12-2017; Ord. 742-22, §13, 6-14-2022)

Sec. 16-2-320. Permitted uses.

A permitted use is a use allowed by right in a zone district, subject only to site plan approval. A permitted use is not required to demonstrate need for its location, and therefore does not require approval to locate in a zone district in which it is permitted. Permitted uses are specified in the Land Use Table in Section 16-2-470.

Sec. 16-2-330. Conditional uses.

- (a) This Section is intended to provide additional criteria to be used in determining whether a proposed conditional use is compatible and beneficial to the surrounding properties and inhabitants and that the proposed conditional use is not detrimental to the surrounding properties and inhabitants. Conditional uses are specified in the Land Use Table in Section 16-2-470.
- (b) In order for a conditional use to be approved, there must also be a specific finding by the Board of Trustees that the proposed use is compatible and beneficial to the surrounding properties and inhabitants and not detrimental. The following criteria shall be considered in determining whether or not to grant a conditional use:
- (1) Will the proposed use be in harmony and compatible with the existing or planned uses of the surrounding neighborhood;
 - (2) Will the proposed use be consistent with the Bennett Comprehensive Plan;
 - (3) Will the proposed use result in density or intensity of use that will be inappropriate for the site or incompatible with existing or planned uses in the surrounding area;
 - (4) Will the proposed use cause significant adverse or undesirable impacts to the surrounding area, including, but not limited to, visual impacts, air emissions, noise, light, vibrations, glare, heat, odors, water pollution, electromagnetic interference and other nuisance effects;
 - (5) Will the proposed use incorporate and integrate architectural and landscape features to appropriately mitigate impacts from the proposed use;

-
- (6) Will the proposed use result in undue traffic congestion, traffic hazards or other hazards to persons or property;
 - (7) Will the proposed use be adequately served with public utilities, services and facilities (i.e., water, sewer, street system, storm drainage, parks system, etc.) while maintaining adequate levels of service for existing development; and
 - (8) Will the proposed use be detrimental to the health, safety or welfare of current or future inhabitants of the Town?
- (c) In considering an application for a conditional use, the Planning Commission and the Board of Trustees may impose conditions on the application to mitigate impacts as necessary.
 - (d) The application shall include the development application form, a site plan prepared in accordance with Section 16-2-310, and appropriate fees as required in the Applicant Guide. The application for a proposed conditional use shall include at least the following additional information:
 - (1) A detailed description of the proposed conditional use, including but not limited to hours of operation; vehicle and pedestrian traffic patterns and demands; employment levels; occupancy levels; management plans with respect to the demands of the use upon public services and facilities; narrative describing the reasons for the proposed change and describing other operational aspects of the use; and such other information as may be requested by the Zoning Administrator, Planning Commission or Board of Trustees.
 - (2) A statement describing the benefits of the proposed use; how that use will be compatible with existing and planned surrounding uses; and how the proposed use will satisfy each of the criteria set forth in paragraph (a) above, as applicable.
 - (3) Additional information as may be reasonably required by the Zoning Administrator or additional relevant information as deemed necessary by the Planning Commission or Board of Trustees to properly evaluate the request.
 - (e) An approved conditional use shall not be conducted until all necessary permits have been issued by the Town. If required by the Town, an approved conditional use shall not be conducted until the applicant has entered into an agreement with the Town specifying that all conditions imposed by the Town will be satisfied, that any public improvements required in connection with the use will be constructed (with financial guarantees therefor posted by the applicant), that any demands for other public facilities or services will be satisfied in the manner required by the Town, that the use and improvements will be in accordance with the approved application and development schedule and, if the conditional use is approved for a limited duration, that the use will be discontinued upon the expiration of the time period identified in the approved plan.
 - (f) As a condition of approval of a conditional use application, the Board of Trustees may provide that such approval is exclusive to the applicant to whom such approval is granted. Further, if the conditional use is proposed for a limited duration, the Board of Trustees may provide that such approval is limited to the time period approved by the Town and that the use must be discontinued upon expiration of such time period.
 - (g) If an approved conditional use is not in substantial operation within two (2) years after the date of the Board of Trustees' approval, the Board of Trustees may initiate proceedings to review the conditional use. Such review shall occur in the same manner as a review for the initial approval of the conditional use and, upon such review, the conditional use may be revoked or the development schedule may be extended.
 - (h) No approved conditional use may be modified or expanded, enlarged, expanded in parking area or expanded in ground area unless the approved conditional use is amended and approved in accordance with the procedures applicable to initial approval of a conditional use as set out in this Section.
 - (i) In the event of noncompliance by the applicant with an approved conditional use or the conditions imposed by the Board of Trustees, the Board of Trustees may call the conditional use up for further review. Upon such review and after notice given to the applicant, the Board of Trustees may revoke the previously approved

conditional use or amend the previous approval. The Board of Trustees may refer a called-up conditional use to the Planning Commission for its review and recommendation, which review shall be after notice is given to the applicant.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-2-340. Temporary uses.

- (a) Temporary uses of land are permitted in any zoning district (unless restricted to particular zoning districts herein), subject to the specific regulations and time periods listed in Table 2-1, and to the other applicable regulations of the zoning district in which the use is permitted and other temporary use standards as established by the Town.

Table 2.1
Temporary Uses

Use	Zone Districts	Period
(1) Contractor's office/temporary construction uses	All	Time to be specified; must be concurrent with Building Permit; must be terminated within thirty (30) days of issuance of project Certificate of Occupancy for all types of construction
(2) Temporary real estate sales office	RE, R-1, R-2, R-3 and MH	Not to exceed twelve (12) months
(3) Seasonal or off-site retail sales, which include, but are not limited to: sale of seasonal fruits and vegetables; sale of fireworks; and sale of Christmas trees.	A, C, EC and P	Not to exceed thirty (30) days, and provided that any permits required by law are obtained
(4) Circuses, carnivals, festivals and other special events, which include, but are not limited to: concerts, athletic events, rodeos, and parades.	All	Not to exceed seven (7) days, and provided that any permits required by law are obtained
(5) Flea markets, farmers and artisans markets, and farm-life activities and entertainments	A, C, EC and P	Not to exceed one (1) event per week during a single continuous six-month time period in any calendar year and provided that any permits required by law are obtained
(6) Mobile Food Vendor	All	Time to be specified. Subject to procedures and requirements as established by the Zoning Administrator.
(7) Temporary Moving or Storage Containers	All	Moving storage pods and containers as an accessory structure or storage use, provided such storage facilities are associated with a valid temporary use, such as building renovation or the process of moving into or out of a dwelling unit. Such pods and containers may be situated on the property for a period not to exceed 180 days in association with activities related to a valid

	<p>temporary use permit. In the absence of a valid temporary use permit, such containers are permitted to be situated on the property for periods not exceeding 30 consecutive days or more than 45 days in any consecutive 12-month period. No more than two such containers shall be located on the property at any one time. In the event, there is not an appropriate area for storage on private property, the Zoning Administrator may consider placement on public right-of-way.</p>
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- (b) Applications for temporary uses shall be submitted in accordance with the Applicant Guide.
- (c) The Zoning Administrator may approve, approve with conditions or disapprove an application for a temporary use. The Zoning Administrator may also impose conditions on the temporary use that will mitigate anticipated adverse impacts. Such temporary use shall be valid only for the period of time specified, and only two (2) renewals of a temporary use may be granted by the Zoning Administrator. Failure to terminate such temporary use by the specified time shall be considered a violation of this Article.
- (d) A temporary use permit shall not be granted for a use except upon a finding that the use will, during the time of its existence:
 - (1) Be compatible with the surrounding uses and community facilities;
 - (2) Not be detrimental to or constitute a danger to the health, safety and welfare of the citizens of the Town;
 - (3) Conform in all other aspects to the applicable zoning regulations and standards, except as specifically modified for the temporary use during the time it is permitted; and
 - (4) Leave the site, following the temporary use, in a state that is capable of being, and assurance has been provided that it will be, restored to a satisfactory condition.
- (e) If the temporary use is approved, the Zoning Administrator shall issue a temporary use permit that shall specify time limits and other conditions as placed on the temporary use.
- (f) Within fifteen (15) days after the Zoning Administrator's denial of a temporary use application or approval with conditions, the applicant may appeal the decision to the Board of Trustees by filing a written notice of appeal with the Town Clerk. The notice shall state the basis for the appeal. Upon receipt of such notice of appeal, the temporary use application shall be scheduled for de novo review before the Board of Trustees at a public hearing. Notice of the public hearing shall be in accordance with Section 16-2-130 of this Chapter. Upon completion of the public hearing, the Board of Trustees may approve, deny or approve with conditions the temporary use application, and the Board of Trustees' decision shall be final.
- (g) Upon the approval of an application for a temporary use, a majority of the Board of Trustees may "call up" the application for review of the Zoning Administrator's decision at the next regularly scheduled Board of Trustees meeting or soon thereafter. The Zoning Administrator may also choose to "push up" the temporary use application to the Board of Trustees to either approve or deny the application.
- (h) The applicant shall obtain all required permits prior to moving the temporary facilities onto the site.

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- (i) The Board of Trustees may, upon seven (7) days' written notice to an applicant, stating the contemplated action and in general the grounds therefor, and after a reasonable opportunity for the applicant to be heard, revoke a temporary use permit on any of the following grounds:
- (1) The applicant has violated a zoning regulation or standard of the Town;
 - (2) The applicant has violated a term, limitation or condition of the temporary use permit;
 - (3) The applicant has maintained or allowed a nuisance in connection with the operation of the permitted use; or
 - (4) The applicant has been convicted of violating any federal or state law or Town ordinance or regulation in connection with the operation of the permitted use.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. 742-22, §14, 6-14-2022)

Sec. 16-2-350. Planned developments.

- (a) As provided for in Section 16-2-475, an applicant has the opportunity to establish a PD zoning district for the purpose of creating a planned development.
- (b) The initial zoning for a PD District is established by an Outline Development Plan (ODP). Site planning for development within a PD District is established by one (1) or more Final Development Plans (FDP).
- (1) An ODP, which reflects the overall concept of the Planned Development, shall include ODP maps and drawings, a written textual statement and such other forms as required by the Applicant Guide.
 - (2) An FDP, which may reflect the entire development as delineated on the ODP or any logical portion thereof, shall be submitted following the approval of the ODP. The FDP shall include FDP maps and drawings, a written textual statement and such other forms as required by the Applicant Guide.
- (c) The Planning Commission and the Board of Trustees may approve a PD application if it meets the intent and regulations of Section 16-2-475 and this Article and complies with this Chapter and other controlling regulations and documents. The Planning Commission and Board of Trustees shall consider the following in making their decision for approval, approval with conditions or denial of a PD:
- (1) The proposed PD District is compatible with present development in the surrounding area and will not have a significant, adverse effect on the surrounding area;
 - (2) The proposed PD District is consistent with the public health, safety and welfare, as well as efficiency and economy in the use of land and its resources;
 - (3) The proposed PD District is consistent with the overall direction and intent of this Article and the intent and policies of the Comprehensive Plan and other pertinent policy documents of the Town;
 - (4) The proposed PD District provides for a creative and innovative design which could not otherwise be achieved through ~~either the use of any combination of the~~ standard zoning districts or overlay districts.
 - (5) The exceptions from the zoning regulations requested in the proposed PD are warranted by virtue of innovative design and additional benefits ~~amenities~~ incorporated in the PD District.
 - (6) The PD provides adequate circulation in terms of the internal street circulation system, designed for the type of traffic generated, for separation from living areas, convenience, safety, access and noise and exhaust control. Proper circulation in parking areas has been provided in terms of safety, convenience, separation and screening. The PD provides for buffering from collector and arterial streets through earthen berms, landscaping and other methods.
 - (7) The PD provides functional open space in terms of practical usability and accessibility, and optimum preservation of natural features, including trees and drainage areas, recreation, views, natural stream courses, bodies of water and wetlands.

Commented [SC34]: Modified this section per Priority 4 - only allow PDs when greater benefit is provided, etc.

- (8) ~~To the extent practicable,~~ the PD provides variety in terms of housing types, housing size, densities, facilities and open space.
- (9) The PD provides for pedestrian and bicycle traffic in terms of safety, separation, convenience, access, destination and attractiveness. If possible, there shall be an internal pedestrian circulation system separate from the vehicular system that allows access to adjacent parcels, parks, open space or recreational facilities within the PD, as well as links to trail systems of the Town.
- (10) Building types in terms of appropriateness to density, site relationship and bulk.
- (11) Building design in terms of orientation, spacing, materials, color, texture, storage, signs and lighting.
- (12) Landscaping of the site in terms of purpose, such as screening, types and materials used, maintenance suitability, water demands and effect on the area.
- (13) Services, including utilities, fire, police protection and other such services are available or can be made available to adequately serve the development.

~~(14) No structures in the PD shall encroach on a floodplain except as permitted by the Town's floodplain ordinance.~~

~~(15) No occupied structure shall be located on ground showing severe subsidence potential without adequate design and study approved by the Town.~~

~~(16) Visual relief and variety of views shall be incorporated within the PD through building placement, shortened or interrupted street vistas, visual access to open space and other design methods.~~

- (d) Upon approval of a PD application by the Board of Trustees, the applicant shall within one hundred and eighty (180) days revise the PD application to meet any conditions of approval and submit final documents to the Zoning Administrator. Upon a written request from the applicant filed at least thirty (30) days prior to expiration of the one-hundred-eighty-day deadline to submit final documents, the Board of Trustees may grant a single extension not to exceed an additional ninety (90) days. If final documents are not recorded within the time required, the PD zoning shall survive but no development can occur until an ODP and FDP are approved.
- (e) Approval of an ODP shall be valid for three (3) years.
 - (1) A one-year extension of approval time may be applied for in writing to the Board of Trustees. No more than three (3) such one-year extensions shall be approved.
 - (2) The approval of an ODP shall not result in the creation of any vested property rights. Such approval shall allow the applicant to proceed to the next development plan stage, subject to the time limits set forth in this Section and the other requirements of this Chapter.
 - (3) An approved ODP that does not proceed to the next development plan stage within three (3) years, or after one (1) or more approved extensions, shall be deemed expired. A property with an expired ODP shall be required to apply for a new ODP and FDP or rezone the property prior to any site development.
- (f) An amendment to the ODP shall follow the same procedures set forth in this Chapter pertaining to the approval of an ODP. The Zoning Administrator may authorize minor changes in the ODP that do not:
 - (1) Alter the basic relationship of the proposed development to adjacent property;
 - (2) Change the uses permitted;
 - (3) Increase the height of building or structures; or
 - (4) Decrease the amount of required off-street parking.

Commented [SC35]: Moved to 16-2-475 since they are requirements, not just items for the PC or Board to consider.

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- (g) An amendment to an FDP is a change in site planning, and shall follow the same procedures set out in this Chapter pertaining to the approval of an FDP. The Zoning Administrator may approve an amendment to a FDP, provided that the amendments are only:
- (1) Architectural. Minor changes in the color; exterior appearance; lot coverage; screening of outdoor storage areas; signage; or location of buildings, structures or divisional walls if required for engineering reasons or other circumstances not foreseen at the time the FDP was approved. No change authorized by this Paragraph may increase or decrease the dimensions of any building or structure by more than twenty-five percent (25%) or permit an accessory structure whose size is greater than ten percent (10%) of the area of the principal building or structure.
 - (2) Landscaping and site features. Changes in plant materials, minor alterations in the location of plantings, changes in plant quantities or sizes, changes to the location of internal sidewalks or changes in location of parking spaces if required for engineering reasons or other circumstances not foreseen at the time the FDP was approved. No change authorized by this Paragraph may increase landscaping by twenty-five percent (25%), or decrease landscaping or sidewalks by more than ten percent (10%).
- (h) Any administrative amendments authorized by the Zoning Administrator for an ODP or FDP shall be transmitted to the Planning Commission and Board of Trustees for their information by written communication from the Zoning Administrator.
- (i) Any changes which are approved for an ODP or FDP shall constitute an amendment thereto and must be on file with the Town and noted as amendments to the ODP or FDP.
- (j) After the planned development has been approved, the use of land and the construction, modification or alteration of any buildings or structures within the planned development will be governed by the approved ODP and FDP in addition to any other provisions of this Code unless such provisions were waived or modified during the ODP or FDP approval process. The approved ODP shall constitute the zoning document for the planned development, and the approved FDP shall govern land development within such PD zone. However, property that is zoned within a PD may be rezoned in accordance with the procedures in Sec. 16-2-360 of this Code.
- (k) Where a PD was established as PD Overlay prior to the adoption of this Chapter, the property retains its original zoning classification subject to the provisions of the approved ODP or FDP.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. 663-16, §7, 6-28-2016; Ord. 679-17, §6, 12-12-2017; Ord. 742-22, §15, 6-14-2022)

Sec. 16-2-360. Rezoning.

The Board of Trustees has determined that the Zoning Map should not be amended (rezoning of property approved) unless the rezoning is consistent with the goals and policies of the Comprehensive Plan and promotes the general welfare of the community. If a proposed rezoning is inconsistent with the Comprehensive Plan, the request may only be approved if the applicant demonstrates that the requested rezone is justified because of changed or changing conditions in the particular area, in the Town in general or that the rezoning is necessary to correct a manifest error in the existing zone classification. None of the foregoing shall apply to legislative zoning as defined in Section 16-2-210 of this Code, a rezoning sponsored by the Town or a rezoning incident to a Comprehensive Plan amendment.

- (1) Rezoning of individual property may be initiated by the Town, by citizen petition or by application filed by the landowner.
- (2) Requests for rezoning initiated by the Board of Trustees, Planning Commission or Town staff will be prepared as a draft ordinance by the Town Attorney and Town staff and shall be reviewed and considered by the Planning Commission and presented to the Board of Trustees at a public hearing. In this instance, the Town shall be considered to be the applicant.

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- (3) To initiate a rezoning of private property, the petitioner must be the owner of the affected property or a citizen of the Town who has submitted the application with a petition signed by owners of a majority of the land affected by the request. In this instance, the person submitting the application shall be considered to be the applicant. Applications for rezoning shall be submitted in accordance with the Applicant Guide.
 - (4) An application for rezoning shall not be accepted where a prior application for rezoning to the same requested zone district has been denied by the Board of Trustees within the preceding twelve (12) months.

Sec. 16-2-370. Variances.

- (a) Variances from the provisions of this Chapter on individual lots may be granted when the Board of Adjustment finds that all of the following conditions exist:
 - (1) The existence of extraordinary conditions or circumstances, such as size, shape, location, topography or surroundings of the land, structure or building involved, which deprive the applicant of privileges enjoyed by other properties in the same zone district and in the vicinity;
 - (2) The extraordinary conditions or circumstances did not result from the present or prior actions or inactions of the applicant;
 - (3) Granting of the variance will be in harmony with the general purpose, intent and character of the zone district, will not substantially or permanently injure the appropriate use of adjacent property, and is not otherwise detrimental to the public health, safety and welfare;
 - (4) The variance requested is the minimum action needed that will permit the reasonable use of the land, building, or structure with the least modification possible to the requirements of this Chapter;
 - (5) The variance will not permit a use that is prohibited in the zone district; and
 - (6) No other relief is available through the application of alternative development standards or an alternative development configuration that is allowed by this Chapter.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. 742-22, §16, 6-14-2022)

Sec. 16-2-380. Fair Housing Act reasonable accommodations.

- (a) The federal Fair Housing Act, 42 U.S.C. §3601, et seq., as amended, requires that local governments be prepared to make "reasonable accommodations" in order to permit housing for certain protected individuals to occur in residential areas. In response to a written application identifying the type of housing being provided and the portions of the Fair Housing Act that require reasonable accommodations be made for such housing, the Zoning Administrator is authorized to approve modifications to the Town's land use, zoning and animal laws, rules, policies, practices and procedures as set forth in this Chapter and Article VII of Chapter 7 of this Code.
- (b) The Zoning Administrator may approve a type of reasonable accommodation different from that requested by the applicant if the Zoning Administrator concludes that a different form of accommodation would satisfy the requirements of the federal Fair Housing Act with fewer impacts on adjacent neighborhoods. The decision of the Zoning Administrator shall be accompanied by written findings of fact as to the applicability of the Fair Housing Act, the need for reasonable accommodations, and the authority for any reasonable accommodations approved. The decision of the Zoning Administrator shall be final for purposes of judicial review.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-2-390. Reserved.

Ord. 754-22, §3, adopted Aug. 9, 2022, repealed §16-2-390, which pertained to eligible telecommunications facility requests, and derived from Ord. No. 661-16, §3, adopted Feb. 23, 2016.

Division 4 Zoning Districts

Sec. 16-2-405. Official Zoning Map.

- (a) Zoning district boundaries are established as shown on the Official Zoning Map of the Town of Bennett, Colorado (the "Zoning Map"), as amended, which map is hereby made a part of this Chapter by reference.
- (b) It shall be the responsibility of the Zoning Administrator to maintain the Zoning Map, to interpret the map, to make information from the map available to the public and to make timely changes to the map after action by the Board of Trustees.
- (c) The Zoning Map shall, at a minimum, contain the following information:
 - (1) Town limits, street rights-of-way, zone district boundary lines, zone district titles and property lines as appropriate to clarify boundaries;
 - (2) A table listing the history of all changes to the map from the date of initial adoption, including: annotation of Board of Trustees' action; description of property involved; ordinance or resolution number; date of Board of Trustees' action; County Clerk recording information; and the Zoning Administrator initials on each entry.
- (d) Unless otherwise defined on the Zoning Map, district boundary lines follow:
 - (1) Lot lines;
 - (2) Centerlines of streets, alleys, railroad rights-of-way or such lines as extended; or
 - (3) Town boundary lines.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. 742-22, §17, 6-14-2022)

Sec. 16-2-410. Standard zoning districts.

- (a) In order to carry out the purposes of this Chapter, the Town is hereby divided into the following ~~ten (10)~~ standard zoning districts:
 - (1) Agricultural (A) District
 - (2) Residential Estate (RE) District
 - (3) Low Density Residential (R-1) District
 - (4) Alternate Low Density Residential (R-1A) District
 - ~~(5)~~ Mid Density Residential (R-2) District
 - ~~(6)~~ High Density Residential (R-3) District
 - ~~(7)~~ Mobile Home (MH) District
 - ~~(8)~~ General Commercial (C) District
 - ~~(9)~~ Employment Center (EC) District
 - ~~(10)~~ Industrial (I) District
 - ~~(11)~~ Public (P) District

Commented [SC36]: All edits to the standard zoning districts (Sections 16-2-410 to 16-2-465) are per Priority 3 - revise existing zoning district standards.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. 742-22, §18, 6-14-2022)

Sec. 16-2-415. A - Agricultural District.

- (a) The A District is intended to provide for the continuation of agricultural activities. The A District is suitable for agricultural purposes due to soil quality, location, present land use and the availability of irrigation water.
- (b) Land uses are permitted as shown in the Land Use Table in Section 16-2-470.
- (c) Lot and building requirements shall be as shown in Table 2.-2.

**Table 2.2
Agricultural District Standards**

Standard	A - Agricultural District
Minimum Lot Area	217,800 square feet
Minimum Lot Width	300 feet
Maximum Lot Coverage	10%
Minimum Front Yard Setback (Principal Structure)	50 feet
Minimum Front Yard Setback (Accessory Structure)	50 feet
Minimum Side Yard Setback (Principal Structure)	50 feet
Minimum Side Yard Setback (Accessory Structure)	10 feet
Minimum Rear Yard Setback (Principal Structure)	50 feet
Minimum Rear Yard Setback (Accessory Structure)	20 feet
Maximum Height (Principal Structure)	45 feet
Maximum Height (Accessory Structure)	60 feet

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. 679-17, §8, 12-12-2017)

Sec. 16-2-420. RE - Residential Estate District.

- (a) The RE District is intended to provide an opportunity for single-unitfamily dwellings on large lots, with the option of a reduced level of public improvements. Subdivisions in the RE District may be served internally with paved, rural streets. Where approved by the Town Engineer and permitted by appropriate regulatory agencies, lots in excess of one (1) acre may be served with individual septic systems in lieu of public sewer.
- (b) Land uses are permitted as shown in the Land Use Table in Section 16-2-470.
- (c) Lot and building requirements for the RE District shall be as shown in Table 2.-3.
- (d) The following additional standards are established for residential development in the RE District:
 - (1) Only one (1) detached garage is permitted per lot or dwelling unit, and all single-unitfamily dwellings shall have at least a two-car garage. The maximum square footage of a detached garage shall be one thousand (1,000) square feet or eighty percent (80%) of the square footage of the building footprint of the principal residential dwelling, whichever is less.
 - (2) Accessory structures shall be allowed in accordance with the requirements of Subsection 16-2-465(d) of this Code.

**Table 2.3
Residential Estate District Standards**

Standard	RE - Residential Estate District
Minimum Lot Area/Dwelling Unit	21,780 square feet

Minimum Lot Width	100 feet
Maximum Lot Coverage	50%
Minimum Floor Area/Dwelling Unit	2,000 square feet
Minimum Principal Structure Footprint	1,500 square feet
Minimum Front Yard Setback (Principal Structure)	35 feet
Minimum Front Yard Setback (Accessory Structure)	35 feet
Minimum Side Yard Setback (Principal Structure)	35 feet
Minimum Side Yard Setback (Accessory Structure)	10 feet
Minimum Rear Yard Setback (Principal Structure)	35 feet
Minimum Rear Yard Setback (Accessory Structure)	10 feet
Maximum Height (Principal Structure)	35 feet
Maximum Height (Accessory Structure)	12 feet, 18 feet <u>except for detached garages,</u> 18 feet

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. 679-17, §§ 7, 8, 9, 12-12-2017)

Sec. 16-2-425. R-1 - Low Density Residential District.

- (a) The R-1 District is intended to provide for the development of low-density ~~detached and attached single-unit and duplex single family~~ residential dwellings on traditionally suburban sized lots.
- (b) Land uses are permitted as shown in the Land Use Table in Section 16-2-470.
- (c) Lot and building requirements for the R-1 District shall be as shown in Table 2.4.

Commented [SC37]: Note that the following comments regarding what land use patterns and developments could fit into the zoning districts as edited are not suggested rezonings, just a list to help conceptualize what could be built in the districts as edited.

**Table 2.4
Low Density Residential District Standards**

Standard	R-1 - Low Density Residential District
Minimum Lot Area/ Dwelling Unit	5,000 <u>7,500</u> square feet
Maximum Lot Area	10,000 square feet
Minimum Lot Width	50 <u>70</u> feet <u>35 feet for single-unit attached</u>
Maximum Lot Coverage	60%
Minimum Floor Area/Dwelling Unit	800 square feet
Minimum Front Yard Setback (Principal Structure)	20 feet
Minimum Front Yard Setback (Accessory Structure)	20 feet
Minimum Side Yard Setback (Principal Structure)	5 feet <u>0 feet for single-unit attached interior</u>
Minimum Side Yard Setback (Accessory Structure)	5 feet
Minimum Rear Yard Setback (Principal Structure)	20 feet
Minimum Rear Yard Setback (Accessory Structure)	5 feet
Maximum Height (Principal Structure)	35 feet
Maximum Height (Accessory Structure)	12 feet, 18 feet <u>except detached garages, and ADUs,</u> 18 feet

Commented [SC38]: The following land use patterns/developments could likely fit into this zoning district as edited:

- Bennett Crossing (lot sizes are 5,400- 10,907sf, avg 6,342sf, setbacks appear smaller than proposed)
- Bennett Ranch Filing 1 and 3 (lots 5,750-8,000sf, smaller setbacks than proposed)
- Bruner Property (lot sizes are 5,000- 13,149sf, avg is 5,620 sf, setbacks appear smaller than proposed)
- Prospect Ridge Bluffs and Villa lots (lot sizes 6,600-7,700sf, 15' front, 15' rear unless garage in rear 5')
- SkyView (lot sizes appear to be around 5,000sf, setback 20' front , 5' side and 15' rear)
- Historic downtown neighborhood
- Centennial subdivision
- Similar to, but a bit more dense than, what the Comp Plan defines as "Low Residential" land use which is typically less than 5 dwellings per acre of single-family detached.

Commented [SC39]: To allow for ADUs on top of detached garages.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. 679-17, §§ 8, 9, 12-12-2017)

Sec. 16-2-426. R-1A—Alternate Low Density Residential District.

- (a) The R-1A District is intended to provide for the development of ~~areas containing alternative low density detached and attached single-unit and duplex single-family~~ residential dwellings ~~on small lots.~~
- ~~(b) This zone district can be achieved through planning efforts and review of density and/or limitations on the number of units.~~
- ~~(c)~~ Land uses are permitted as shown in the Land Use Table in Section 16-2-470.
- ~~(d)~~ Lot and building requirements shall be as shown in Table 2.4.1.

Table 2.4.1
Alternate Low Density Residential District Standards

Standard	R-1A → Alternate Low Density Residential District
Minimum Lot Area/ Dwelling Unit	2,400 5,000 square feet
Maximum Lot Area	6,000 square feet
Minimum Lot Width	25 50 feet 20 feet for single-unit attached
Maximum Lot Coverage	70%
Minimum Floor Area/Dwelling Unit	800 square feet
Minimum Front Yard Setback (Principal Structure)	10 feet, w/ max. setback not to exceed an average of adjacent principal structures
Minimum Front Yard Setback (Accessory Structure)	10 feet
Minimum Side Yard Setback (Principal Structure)	5 feet 0 feet for single-unit attached interior
Minimum Side Yard Setback (Accessory Structure)	5 feet
Minimum Rear Yard Setback (Principal Structure)	10 feet
Minimum Rear Yard Setback (Accessory Structure)	5 feet
Maximum Height (Principal Structure)	35 feet
Maximum Height (Accessory Structure)	12 feet, except 18 feet for detached garages, 18 feet and ADUs

Commented [SC40]: The following land use patters/developments could likely fit into this zoning district as edited:

- Bennett Village (lots 3,757-4,750sf, 40' wide)
- Mundell Farms single unit lots (lot sizes 4,200-5,500sf, 40-50' wide, setbacks: front 20', rear 20', side 5') and duplex lots (2,850sf lots, 30' wide, setbacks: front 20', rear 15', side interior 5'/corner 15')
- Muegee Farms cottage courts - Carriage house and American dream models (lots 2,700-3,300sf, front street setbacks 10-15')
- Prospect Ridge courtyard, Village and Bungalow lots. Grove lots (lots 2,100-2,590sf, 5' front and rear setbacks). Garden lots (lots 2,450-2,940sf, setbacks: 5' front and rear, 15' rear if garage is in the front).
- Kiowa Creek Preserve MDR areas
- Bennett Farms MDR areas
- This district and the residential districts below mostly fit into the Comp Plan "mixed residential" land use described as containing a variety of housing types and densities. However, they have not been modified to accommodate a mix of uses and neighborhood centers.

Commented [SC41]: To allow for ADUs on top of detached garages.

(Ord. 742-22, §19, 6-14-2022)

Sec. 16-2-430. R-2 - Mid Density Residential District.

- (a) The R-2 District is intended to provide for the development of areas containing moderate density ~~single-family and two-family~~ residential dwellings, ~~ranging from two (2) to six (6) dwelling units.~~
- (b) Land uses are permitted as shown in the Land Use Table in Section 16-2-470.
- (c) Lot and building requirements shall be as shown in Table 2-5.

Table 2.5
Mid Density Residential District Standards

Standard	R-2 - Mid Density Residential District
Minimum Lot Area/ Dwelling Unit	3,500 square feet 1,800 square feet for single unit attached
Minimum Lot Width	25 feet 20 feet for single-unit attached

Commented [SC42]: The following land use patters/developments could likely fit into this zoning district as edited:

- Ash Street Townhouses (lots 2,400sf, width 25' interior/30' exterior, setbacks appear larger than the minimum proposed)
- Bennett Ranch Filing 2 (lots 2,400sf, width 25' interior/30' exterior, setbacks: 40'ish front, rear 5')
- Bennett Ave Townhouses (2,400 sf lots, 25' wide, setbacks: 5' side, 25' front, 20' rear)
- This is similar to the current R-3.

Maximum Lot Coverage	70%
Minimum Floor Area/Dwelling Unit	800 square feet
Minimum Front Yard Setback (Principal Structure)	10 feet, w/ max. setback not to exceed an average of adjacent principal structures
Minimum Front Yard Setback (Accessory Structure)	10 feet
Minimum Side Yard Setback (Principal Structure)	5 feet 0 feet for single-unit attached interior
Minimum Side Yard Setback (Accessory Structure)	5 feet
Minimum Rear Yard Setback (Principal Structure)	10 feet 5 feet for single-unit attached
Minimum Rear Yard Setback (Accessory Structure)	5 feet
Maximum Height (Principal Structure)	35 feet
Maximum Height (Accessory Structure)	12 feet; 18 feet except for detached garages, 18 feet

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. 679-17, §§ 8, 9, 12-12-2017)

Sec. 16-2-435. R-3 - High Density Residential District.

- (a) The R-3 District is intended to provide for higher density multi-family residential development, starting at five (5) dwelling units.
- (b) Land uses are permitted as shown in the Land Use Table in Section 16-2-470.
- (c) Lot and building requirements shall be as shown in Table 2-.6.

**Table 2.6
High Density Residential District Standards**

Standard	R-3 - High Density Residential District
Minimum Lot Area/Dwelling Unit	7,000 2,400 square feet 1,400 square feet for single-unit attached
Minimum Lot Width	40 50 feet; 20-25 feet for single-unit attached townhome dwellings
Maximum Lot Coverage	75%
Minimum Floor Area/Dwelling Unit	600 square feet
Minimum Front Yard Setback (Principal Structure)	20 25 feet; 5 feet except in MS overlay and for single-unit attached, 5 feet
Minimum Front Yard Setback (Accessory Structure)	20 25 feet 5 feet in MS overlay and for single-unit attached
Minimum Side Yard Setback (Principal Structure)	7 25 feet; 0 feet except in MS overlay and for single-unit attached interior, 0 feet; 5 feet for single-unit attached townhome dwellings
Minimum Side Yard Setback (Accessory Structure)	5 feet
Minimum Rear Yard Setback (Principal Structure)	10 20 feet; except in 5 feet in MS overlay and for single-unit attached, 5 feet

Commented [SC43]: The following land use patters/developments could likely fit into this zoning district as edited:

- Mundell Farms Townhomes (lot size is 1,700- 2550sf, 20-30' wide, setbacks: rear 15', front 20', side 0'/10 exterior)
- Prospect Ridge townhouses (lots 1,400-2,800sf, width 30'-40', setbacks: 5' front and rear, 0-6' side)
- Creates the opportunity for multi-unit development that doesn't exist much in Bennett.

Minimum Rear Yard Setback (Accessory Structure)	5 feet
Maximum Height (Principal Structure)	40 feet
Maximum Height (Accessory Structure)	12 feet, except 18 feet for detached garages, 18 feet

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. 679-17, §§ 8, 9, 10, 12-12-2017)

Sec. 16-2-440. MH - Mobile Home District.

- (a) The MH District is intended to provide for the residential use of mobile homes or manufactured homes, whether for lease or ownership on individual lots or in a mobile home park.
- (b) Land uses are permitted as shown in the Land Use Table in Section 16-2-470.
- (c) Lot and building requirements shall be as shown in Table 2-7.
- (d) Additional requirements for mobile home parks are stated in Section 16-2-520.

Commented [SC44]: Per Priority 3 (revise existing zoning district standards) there are a few other edits throughout the code addressing that mobile and manufactured homes are allowed in the MH district.

**Table 2.7
Mobile Home District Standards**

Standard	MH- Mobile Home District
Minimum Lot Area	2,400 2,250 square feet
Minimum Lot Width	25 40 feet
Maximum Lot Coverage	75%
Minimum Front Yard Setback (Principal Structure)	10 20 feet
Minimum Front Yard Setback (Accessory Structure)	10 20 feet
Minimum Side Yard Setback (Principal Structure)	5 feet
Minimum Side Yard Setback (Accessory Structure)	5 feet
Minimum Rear Yard Setback (Principal Structure)	10 feet
Minimum Rear Yard Setback (Accessory Structure)	5 feet
Maximum Height (Principal Structure)	20 feet
Maximum Height (Accessory Structure)	12 feet; 15 feet for except detached garages, 15 feet

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. 663-16, §4, 6-28-2016; Ord. 679-17, §§ 8, 9, 12-12-2017)

Sec. 16-2-445. C - General Commercial District.

- (a) The C District is intended to provide for commercial and service businesses that serve the residents of the Town and a larger regional market area and can include residential uses.
- (b) Land uses are permitted as shown in the Land Use Table in Section 16-2-470.
- (c) Lot and building requirements shall be as shown in Table 2-8.
- (d) For those properties zoned Commercial in that area encompassed within the following: from Kiowa Avenue north to Colfax Avenue and South First Street east to Custer Street; notwithstanding the provisions of Article I, Division 6 of this Chapter, those residential uses existing prior to June 26, 2007, shall be allowed to continue. No increase in the number of ~~dwelling residential~~ units per lot or additions to ~~dwelling residential~~ units shall be permitted unless the property is redeveloped in compliance with this Code.
 - (1) For pre-existing mobile home parks within this area that were not processed pursuant to Article 1, Division 6 of this Chapter, requesting a mobile or manufactured home replacement, the following minimum standards shall apply:

- a. There shall be a minimum ten-foot separation between units;
- b. The unit shall be located a minimum of fifteen (15) feet from the perimeter of the overall property line operated as a mobile home park;
- c. The placement of the unit shall accommodate a minimum of one (1) off-site parking space; and
- d. An overall park plan shall be submitted with the request which shows, at a minimum, the overall mobile home park, including the identification of all spaces, with measurements and a site specific site plan for the space requesting a mobile or manufactured home replacement or any other information the Zoning Administrator determines to be necessary to review the request.

Table 2.8
General Commercial District Standards

Standard	C - General Commercial District
Minimum Lot Area	None
Maximum Lot Coverage	80%
Maximum Floor Area Ratio	.5
Minimum Front Yard Setback (Principal Structure)	15 feet
Minimum Front Yard Setback (Accessory Structure)	15 feet
Minimum Side Yard Setback (Principal Structure)	10 feet
Minimum Side Yard Setback (Accessory Structure)	5 feet
Minimum Rear Yard Setback (Principal Structure)	15 feet
Minimum Rear Yard Setback (Accessory Structure)	5 feet
Maximum Height (Principal Structure)	50 feet
Maximum Height (Accessory Structure)	30 feet

Commented [SC45]: Generally works for:
 •Bennett Farms MU areas (except that duplexes would not be allowed)
 •Kiowa Creek Preserve MU areas (except that duplexes would not be allowed)

Commented [SC46]: Consider removing the max. lot coverage and max. FAR.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. 679-17, §8, 12-12-2017)

Sec. 16-2-450. EC - Employment Center District.

- (a) The EC District is intended to provide for a concentration of commercial and industrial land uses near major interchanges along the I-70 highway corridor. Employment centers serve as a location for mixed-use ~~non~~residential secondary to commercial and industrial land uses, inclusive of large-scale warehousing, manufacturing, outdoor storage, distribution and trans-loading facilities.
- (b) Land uses are permitted as shown in the Land Use Table in Section 16-2-470.
- (c) Lot and building requirements shall be as shown in Table 2-9.

Table 2.9
Employment Center District Standards

Standard	EC - Employment Center District
Minimum Lot Area	None
Maximum Lot Coverage	75%
Maximum Floor Area Ratio	.5
Minimum Front Yard Setback (Principal Structure)	50 feet
Minimum Front Yard Setback (Accessory Structure)	50 feet
Minimum Side Yard Setback (Principal Structure)	25 feet
Minimum Side Yard Setback (Accessory Structure)	10 feet
Minimum Rear Yard Setback (Principal Structure)	25 feet
Minimum Rear Yard Setback (Accessory Structure)	10 feet
Maximum Height (Principal Structure)	75 feet

Commented [SC47]: Consider removing the max. lot coverage and max. FAR.

Maximum Height (Accessory Structure)	30 feet
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(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. 679-17, §8, 12-12-2017)

Sec. 16-2-455. I - Industrial District.

- (a) The I District is intended to provide for limited or light industrial businesses which, by their nature, have minimal detrimental effect beyond the zone district in which they are located. Accordingly, industrial and manufacturing operations may locate in an I District as 1) a permitted use when their operations do not constitute a detriment to the public health or welfare by reason of smoke, radiation, noise, dust, odor, gas, glare, vibration, particulate matter or water pollution; or 2) by conditional use permit when the industrial or manufacturing operation is such that by reason of any of the foregoing, it may not be appropriate in the particular location in which it chooses to operate without certain safeguards to be appropriate.
- (b) Land uses are permitted as shown in the Land Use Table in Section 16-2-470.
- (c) Lot and building requirements shall be as shown in Table 2.-10.

**Table 2.10
Industrial District Standards**

Standard	I-Industrial District
Minimum Lot Area	None
Maximum Lot Coverage	80%
Maximum Floor Area Ratio	.3
Minimum Front Yard Setback (Principal Structure)	50 feet
Minimum Front Yard Setback (Accessory Structure)	50 feet
Minimum Side Yard Setback (Principal Structure)	10 feet
Minimum Side Yard Setback (Accessory Structure)	5 feet
Minimum Rear Yard Setback (Principal Structure)	10 feet
Minimum Rear Yard Setback (Accessory Structure)	5 feet
Maximum Height (Principal Structure)	60 feet
Maximum Height (Accessory Structure)	30 feet

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. 679-17, §8, 12-12-2017)

Sec. 16-2-460. P - Public District.

- (a) The intent of the P District is to provide a zoning classification for property devoted to public, quasi-public and institutional buildings and uses including limited residential uses, such that those properties, while unique in many respects, may nevertheless be subject to appropriate land use regulations.
- (b) Land uses are permitted as shown in the Land Use Table in Section 16-2-470.
- (c) Lot and building requirements shall be as shown in Table 2.-11.

**Table 2.11
Public District Standards**

Standard	P - Public District
Minimum Lot Area	None
Maximum Lot Coverage	80%
Minimum Front Yard Setback (Principal Structure)	15 feet
Minimum Front Yard Setback (Accessory Structure)	20 feet

Commented [SC48]: Consider removing the max. lot coverage.

Minimum Side Yard Setback (Principal Structure)	5 feet
Minimum Side Yard Setback (Accessory Structure)	5 feet
Minimum Rear Yard Setback (Principal Structure)	15 feet
Minimum Rear Yard Setback (Accessory Structure)	5 feet
Maximum Height (Principal Structure)	50 feet
Maximum Height (Accessory Structure)	30 feet

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. 663-16, § 5, 6, 6-28-2016; Ord. 679-17, §8, 12-12-2017)

Sec. 16-2-465. Lot and building requirements.

Lot and building requirements for the ~~ten (10)~~ standard zoning districts are subject to the following additional provisions:

Commented [SC49]: There are 11 districts. Simply remove this number so it doesn't get outdated as the code is edited.

- (a) No part of a yard, open space, buffer area, off-street parking area, loading space, lot area or building setback area required by this Chapter shall be used to meet a required standard for any other building, lot or use, unless a specific exception therefor is stated in this Chapter.
- (b) No yard, building setback or lot area existing at the time of the adoption of the ordinance codified herein shall be reduced in dimension or area below the minimum requirements set forth herein.
- (c) The number of principal and accessory structures permitted on any zone lot shall be limited as follows:
 - (1) For single-unit~~family~~ and ~~duplex~~~~two-family~~ residential uses, no more than one (1) principal structure plus permitted accessory structures per lot or tract of land in the A, RE, R-1, ~~R-1A~~, R-2, ~~R-3~~ and MH Zone Districts is permitted. In order to qualify as a single principal structure, all portions of a structure must be structurally linked to each other, and not merely connected through the use of patios, breezeways, arcades or similar devices.
 - (2) For ~~multiple-family~~ residential uses in the ~~R-2 and~~ R-3 Zone Districts, there is no limit on the number of principal or accessory structures permitted.
 - (3) For ~~residential~~, commercial and industrial uses in the C, EC, and I Zone Districts, there is no limit on the number of principal or accessory structures permitted.
 - (4) For any use in the P Zone District, there is no limit on the number of principal or accessory structures permitted.
 - (5) For any use in a PD or PD Overlay, refer to the approved ODP or FDP.
- (d) Accessory Structures shall be limited as follows:
 - (1) The maximum number of accessory structures is limited to two (2) buildings per residential lot. A detached garage is included in the maximum number, if present.
 - (2) No accessory structure shall be located within any platted or recorded easement of the Town or over any utility except as otherwise expressly agreed to in writing by the Town or utility provider, as applicable.
 - (3) Accessory buildings are not permitted in front yards. Accessory buildings in residential districts, excluding detached garages, ~~shall not exceed a height of twelve (12) feet and~~ shall not exceed two hundred fifty (250) square feet of floor area. Accessory structures shall meet the minimum setback requirements in Division 4 of this Article 2.
 - (4) The maximum cumulative lot coverage of all accessory buildings, including detached garages, shall not exceed the building footprint of the principal building.

Commented [SC50]: Do not restate regulations as it leaves room for errors and confusion. Height of accessory structures is in each districts dimensional table.

(5) Only one (1) detached garage is permitted per residentially zoned lot or parcel. The maximum square footage shall be one thousand (1,000) square feet or eighty percent (80%) of the square footage of the building footprint of the principal residential dwelling, whichever is less.

~~(6) The minimum residential dwelling building footprint and minimum residential floor area square footage required for any residential zoning district shall be exclusive of any garage area.~~

(7) Accessory structures shall resemble the principal structure on the lot. Without limiting the generality of the foregoing, such resemblance shall be with respect to roof pitch, roof material, building material siding, and color.

(8) Truck vans, converted mobile homes, travel trailers, recreational vehicles, bus bodies and similar prefabricated items and structures are not permitted to be used as accessory buildings or structures.

(e) Penthouse or roof structures for elevators, stairways, tanks, ventilating fans or similar mechanical equipment required to operate and maintain the building, church steeples, flagpoles, chimneys, smokestacks or similar structures may be erected above the height limits herein. Private radio, television and ham radio antennas for personal use as approved by federal regulation may be erected to any height.

(f) Cornices, eaves or similar architectural features may extend into a required setback not more than two (2) feet.

(g) Fences and walls shall be subject to the standards contained in Section 16-2-790.

(h) Signs shall be subject to the standards contained in Article 3.

(i) Cargo containers.

(1) Cargo containers are allowed as accessory buildings or structures in the C, EC, P, A and I Zone Districts only, subject to the following conditions:

a. A diagram depicting the lot layout is required prior to the placement of a cargo container in any of the allowed zone districts.

b. A building permit is required prior to placement of a cargo container larger than sixteen (16) feet in length, ensuring effective anchoring/foundation. The application shall show the proposed cargo container is accessory to the permitted use of the property and meets the placement criteria for the zone.

c. No more than two (2) cargo containers are allowed per lot or parcel.

d. Cargo containers shall meet the setback requirements of the underlying zone district.

e. Cargo containers shall not be stacked above the height of a single container.

f. Cargo containers shall be used strictly for the storage of non-hazardous materials and for no other purposes. Materials stored within cargo containers are subject to review and approval by the Fire District.

g. Cargo containers shall resemble the principal structure on the lot. Without limiting the generality of the foregoing, such resemblance shall be with respect to roof pitch, roof material, building material siding, and color.

h. Cargo containers shall not be used for any advertising purpose and shall be kept clean of all alpha-numeric signage and writing.

i. As a condition of placement, cargo containers may be required to be fenced or screened from abutting properties and/or rights of way.

j. Cargo containers shall be in an approved designated area and on the same property as the principal use and will be included in the calculation of overall lot coverage.

Commented [SC51]: Removed min. footprints and floor areas so this is no longer needed.

- k. Cargo containers shall not occupy required off-street parking, loading or landscaping areas.
- l. Cargo containers shall comply with the standards set forth in Section 8-5-10(e) for parking on a hardened surface unless otherwise allowed pursuant to a temporary use permit under Section 16-2-340.
- (2) Cargo containers are prohibited in all other zone districts in the Town except as follows:
 - a. The temporary placement of moving containers/moving pods on residentially zoned properties, or on properties the primary use of which are residential, for the limited purpose of loading and unloading household contents shall be permitted for a period of time not exceeding thirty (30) days in one (1) calendar year with an approved temporary container permit from the building department. The temporary container permit fee shall be set forth in the Town's adopted fee schedule.
 - b. Licensed and bonded contractors may use cargo containers for the temporary location of an office, equipment, and/or materials storage structure during construction which is taking place on the property where the cargo container is located, if the use of the cargo container is authorized pursuant to a temporary use permit.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. 663-16, §8, 6-28-2016; Ord. 679-17, §11, 12-12-2017; Ord. 696-19 §9, 2019; Ord. 742-22, §20, 6-14-2022)

Sec. 16-2-470. Land uses.

- (a) Land uses permitted within each standard zoning district are designated by symbols in Table 2.12, Land Use Table. The listed symbols are defined as follows:
 - P = Use permitted by right.
 - C = Conditional use, permitted pursuant to Section 16-2-330.
- (b) Land uses permitted within a PD District shall be listed on the approved plan.
- (c) Accessory buildings, structures and uses, as defined in Section 16-2-210, are allowed in all zone districts.
- (d) No land, building or structure shall be used for any purpose other than as provided for among the uses listed in the zoning district in which such land, building or structure is located.
- (e) Any use not permitted in a zone either specifically or by interpretation by the Zoning Administrator is hereby specifically prohibited from that zone. Uses that are similar to, but not specifically listed as, a permitted use may be approved by the Zoning Administrator.
- (f) All uses are subject to the performance standards contained in Section 16-5-505 of this Article, any applicable Use Standards provided in Division 5 of this Article; and all applicable special area plans, master plans and design guidelines adopted by the Town.

**Table 2.12
Land Use Table**

Land Use Categories	Zone Districts										
	A	RE	R-1	R-1A	R-2	R-3	MH	C	EC	I	P
A. AGRICULTURAL USE											
(1) Auction arena or livestock sales	C										C
(2) Crop production, pasture grazing land or private ranching	P										P
(3) Greenhouse/nursery	P									C	P

Land Use Categories	Zone Districts										
	A	RE	R-1	R-1A	R-2	R-3	MH	C	EC	I	P
(4) Poultry hatcheries, fish hatcheries, commercial ranching and dairy farms or animals raised or kept for profit or production, except as allowed in Section 7-7-30	C										C
B. ANIMAL SERVICES											
(1) Animal boarding (kennels) and training	C							C		C	
(2) Animal hospital, large	C									C	
(3) Animal hospital, small	C							C		P	
(4) Riding academies and stables	C										
(5) Veterinary offices or clinics	C							P		P	
C. EDUCATIONAL USES											
(1) Day care center, adult or child		C	C	C	C	C		C			P
(2) Elementary and secondary education school	P	P	P	P	P	P	P	C			P
(3) Postsecondary colleges and universities								C	P	P	P
(4) Private business, trade and vocational school								C	P	P	P
D. INDUSTRIAL USES											
(1) Commercial steam cleaning/laundry operations								C		C	
(2) Commercial trash removal companies without trash storage or refuse transfer operations										C	
(3) Concrete or asphalt products production										C	
(4) Custom crafts (such as ceramics, furniture making and stained glass production)								P		P	
(5) General machine shops										P	
(6) General research and development									P	P	
(7) Laboratory: medical, dental, optical, scientific								C	P	P	
(8) Light trade and technical uses								C	P	P	
(9) Manufacturing, assembly, finishing or fabrication; primary										C	
(10) Manufacturing, assembly, finishing or fabrication; secondary									C	P	
(11) Meat processing plant										C	
(12) Outdoor storage, except self-storage/mini-storage										C	
(13) Publishing plant									C	P	
(14) Recycling facilities										C	C
(15) Refining or initial processing of basic raw materials										C	

Land Use Categories	Zone Districts											
	A	RE	R-1	R-1A	R-2	R-3	MH	C	EC	I	P	
(16) Refuse transfer station											C	C
(17) Self-storage, mini-storage								C			P	
(18) Soil amendments packaging and processing such as peat moss, top soil and composted manure; but excluding raw manure or chemical fertilizers											C	
(19) Warehousing and distribution									P		P	
(20) Waste-related uses, refuse transfer station											C	C
(21) Wholesale establishments, including accessory offices									P		P	
E. PUBLIC/INSTITUTIONAL USES												
(1) Cemetery	C		C	C								P
(2) Charitable institutions								P	P		P	P
(3) Clubs and lodges								P			P	P
(4) Cultural facilities, including a library or museum	C							P	P			P
(5) Events or recreation center								C	P			P
(6) Fire or police station	C	C	C	C	C	C	C	P	P	P	P	P
(7) Hospitals								C	P		P	
(8) Post office								P				P
(9) Religious institutions	P	P	P	P	P	P	P	P	P	P	P	P
(10) Town Hall, Public Works facility, governmental office and facility												P
(11) Zoos, arboretum, botanical gardens, community gardens	P							C				P
F. RECREATION USES												
(1) Golf course and driving range	C	C	C	C	C	C						C
(2) Indoor commercial recreation or entertainment, including bowling alleys, movie theaters								P	P		P	
(3) Outdoor commercial recreation or entertainment, including miniature golf, amusement parks								P	C		C	
(4) Outdoor playing fields	C	C	C	C	C	C	C	P	P	P	P	P
(5) Parks, both active and passive, and trails	P	P	P	P	P	P	P	P	P	P	P	P
(6) Recreation facilities owned or operated by the Town or other government organization with supporting accessory uses, whether publically or privately owned or operated but in no event shall accessory uses occupy more than 10% of the gross floor area of the facility		C	C	C	C	C						P
(7) Shooting range, indoor											C	
(8) Shooting range, outdoor	C											

Land Use Categories	Zone Districts										
	A	RE	R-1	R-1A	R-2	R-3	MH	C	EC	I	P
(9) Recreational vehicle park	C					C	C				C
G. RESIDENTIAL USES											
(1) Assisted living facility or nursing home					C	P					
(2) Dwelling, duplexTwo-family dwelling			P	P	P	C					P [5]
(3) Dwelling, mixed-use								P	P		P [5]
(4) Dwelling, Multi-unitfamily dwelling					P [2]	P [3]		P	C		P [5]
(5) Dwelling, single-unit attachedTownhome dwelling			P [1]	P [1]	C P [2]	P [3]		P			P [5]
(6) Dwelling, Single-familyunit dwelling detached	P	P	P	P	P	C	P				P [5]
(7) Dwelling, triplex or fourplex					P			P			P [5]
(8) Group home for the aged, persons with developmental disabilities, and persons with behavioral or mental health disorders in compliance with all state and federal law.	P	P	P	P	P	P					
(9) Group home for juvenile offenders							C				
(10) Home occupations	P	P	P	P	P	P	P		P		
(11) Rooming, lodging or boarding houses							P		C		P [5]
(12) Manufactured homes	P	P	P	P	P	P	P				P [5]
(13) Mobile homes							P				
(9) Teacherage											C
H. FOOD AND BEVERAGE SERVICE											
(1) Bar, tavern, nightclub								P	C	C	
(2) Microbrewery, microdistillery, microwinery with taproom or tasting room								C	C	P	
(3) Restaurant, fast food								P	P	C	
(4) Restaurant, fast food with drive-up								P	P	C	
(5) Restaurant								P	P	C	
I. RETAIL USES											
(1) Building materials supply	C							C	C	P	
(2) Outdoor retail display and sales	C							C		C	C
(3) Pawnshops								C		C	
(4) Retail business (<5,000 sq. ft.)								P	P		
(5) Retail business (>5,000 sq. ft. <25,000 sq. ft.)								P	P		
(6) Retail business (>25,000 sq. ft.)								P	P		
(7) Sexually oriented business								C		P	
J. SERVICES AND VISITOR ACCOMMODATION											
(1) Bed and breakfast establishment	C	C	C	C	C	C	C				
(2) Dry cleaning								P		P	

Commented [SC52]: Revised this section of the table per Priority 3 - revise existing zoning district standards. Note that the list was reorganized into alphabetical order and renumbered without track changes on (it would have been too confusing to read)

Commented [SC53]: Any C or P that is proposed to be removed in this section is so that land zoned for higher densities actually gets used for higher densities rather than single unit or duplex dwellings.

Commented [SC54]: Table note [5] restricts all residential uses in the P District to be deed restricted as proposed to be defined in this code. This is the replacement for the teacherage use that is exclusive to school district employees.

Commented [SC55]: For the notes in [], see below the table.

Commented [SC56]: Single-unit dwellings are no longer allowed so manufactured homes can not be allowed because they are single units by definition.

Zone Districts											
Land Use Categories	A	RE	R-1	R-1A	R-2	R-3	MH	C	EC	I	P
(3) Financial services (such as banks, savings and loan and brokerages) with drive-in facilities								P	P		
(4) Financial services (such as banks, savings and loan and brokerages) with no drive-in facilities								P	P		
(5) Funeral homes and mortuaries								P			
(6) Crematory								C		C	
(7) Hotel and Motels								P	P		
(8) Limited equipment rental								P		P	
(9) Offices; administrative business and professional, except health-related								P	P	P	
(10) Offices; medical, dental or other health-related, including urgent care facilities								P	P	C	
(11) Personal services, other (<5,000 sq. ft.)								P	P	P	
(12) Personal services, other (>5,000 sq. ft. <25,000 sq. ft.)								C	P		
(13) Personal services, other (>25,000 sq. ft.)								C	P		
(14) Repair, furniture and major household appliance								P	P	P	
(15) Repair, other except vehicle-related repair								P	P	P	
K. TRANSPORTATION FACILITIES											
(1) Ambulance service	C	C	C	C	C	C	C	C	C	P	
(2) Heliports/helistops									C	C	C
(3) Overnight campground and travel trailer parking	C							C			
(4) Passenger terminal and transit facilities								P	P		P
(5) Private automobile parking lots or parking garages as a principal use								C	C	C	C
(6) Public automobile park 'n ride (commuter) lots								C	P	P	P
L. UTILITIES AND TELECOMMUNICATIONS											
(1) Overhead electric transmission lines and distribution feeder lines over 110 kV	C	C	C	C	C	C	C	C	C	C	C
(2) Public utilities, major	C								C	P	P
(3) Public utilities, minor	P	P	P	P	P	P	P	P	P	P	P
(4) Towers	C	C	C	C	C	C	C	C	C	C	C
(5) WCF attachments to Base Stations and Alternative Tower Structures	P	P	P	P	P	P	P	P	P	P	P
(6) Eligible Telecommunications Facilities Request	P	P	P	P	P	P	P	P	P	P	P
M. VEHICLE-RELATED SALES AND SERVICE											

Land Use Categories	Zone Districts										
	A	RE	R-1	R-1A	R-2	R-3	MH	C	EC	I	P
(1) Automobile rentals								C	P	P	
(2) Freestanding automobile washing facility								C	C	C	
(3) Major vehicle/equipment repair (includes auto body repair, paint shops and incidental sales of parts)								C		C	
(4) Minor vehicle repair (includes minor repair where vehicles are not stored in an inoperable condition)								P	C	P	
(5) Motor vehicle dealer/sales, new and used (includes RVs, trailers, mobile homes)								C	C	C	
(6) Service station, fueling station (minor repairs or integrated carwash included)								P	C	P	
(7) Truck stops								C		C	
(8) Vehicle/equipment sales and rentals (other than motor vehicles)								C	C	P	
(9) Vehicle or automobile wrecking or salvage yard, including outdoor storage of inoperable vehicles										C	
(10) Vehicle storage including outdoor recreational vehicle storage (operable vehicles only)										C	
(11) Vehicle towing services										P	

Commented [SC57]: See comment above on the definitions of this use. Refine this to match if editing the definition.

- [1] Maximum of two (2) dwelling units.
- [2] Maximum of six (6) dwelling units.
- [3] Minimum of five (5) dwelling units.
- [4] Residential uses in the General Commercial District shall not exceed forty percent (40%) of the gross floor area within the development.
- [5] All residential uses in the P District must have an affordable housing deed restriction as defined in Section 16-2-210.

Commented [SC58]: This % is offered as a suggestion. Adjust as you see fit. The idea is to allow a mix of uses but not convert all of the Town's commercial land into residential uses since commercial land provides jobs, a tax base, and necessary services to the community.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. No. 661-16, §5, 2-23-2016; Ord. 663-16, §9, 6-28-2016; Ord. 679-17, §12, 12-12-2017; Ord. 696-19 §10, 2019; Ord. 742-22, §21, 6-14-2022; Ord. 754-22, §5, 8-9-2022; Ord. 773-23, § 2, 7-25-2023; Ord. No. 780-24, § 1, 4-23-2024)

Sec. 16-2-475. PD - Planned Development District.

- (a) Pursuant to the Planned Unit Development Act of 1972, Article 67 of Title 24, C.R.S., the Planned Development (PD) District is created as an alternative to the conventional land use regulations contained within a standard zoning district.
- (b) The PD District is a distinct zoning district that provides a means by which development standards and permitted land uses can be customized for a specific site. The PD District is intended to:
 - (1) Promote and improve the health, safety and general welfare of the residents of the Town of Bennett, while maintaining the intent of this Chapter;

Commented [SC59]: This section was revised per Priority 4 - only allow PDs when a greater benefit is provided, etc., unless otherwise noted. This section should include the intent and requirements while Section 16-2-350 is all about the procedures.

- ~~(2) Encourage innovative and creative patterns of development by providing flexibility in land use regulations by allowing for the creation of the standards different from those in this Chapter;~~
- ~~(3) Result in substantial additional benefits to the Town than could otherwise be achieved through this Code, while maintaining the intent of this Chapter;~~
- ~~(2) Permit an applicant to propose a land use plan which can be considered as to its overall merits under a unified procedure;~~
- (3) Encourage imaginative uses of open space, and special consideration of property with outstanding natural or topographical features;
- (4) ~~Encourage~~ Provide a diversity of housing types and affordable housing while maintaining high quality living environments;
- (5) Provide a mix of uses like retail, office, employment, civic and recreation uses conveniently located to housing;
- (6) Provide for more efficient use of land including the reduction of land area disturbed for utility lines and motor vehicle access;
- (7) Facilitate use of the most appropriate design and construction techniques in the development of land; and
- (8) Advance the guiding principles contained within the Comprehensive Plan.

(be) PD Standards

- ~~(1) PDs shall be used only when no other standard zoning district or overlay district, and no combination of those districts, can be used to approve a large development. PDs shall not be used when a conditional use, variance, rezoning or administrative adjustment could achieve a similar result.~~
- ~~(2) PDs shall utilize the existing standard zoning districts or overlay districts, or a combination of those districts, and document any requested changes from those standard zoning districts, including but not limited to the lot and building requirements and the land uses in this Division. The requests shall only be permitted for innovative designs and the provision of substantial additional benefits as required below. Any combination of land uses and lot and building requirements may be approved in a PD District if the Board of Trustees determines that such uses are compatible with one another and with the use of adjoining land.~~
- ~~(3d) There PD shall contain be at least two (2) acres of contiguous land no minimum size for a PD District.~~
- ~~(e) The maximum permissible density within a PD District shall be determined based upon the land uses proposed for the development and shall be based upon the density standards for similar types of uses as specified in standard zoning districts. However, such density requirements may be altered through the approval process of the planned development if the spirit and intent of the development criteria contained in Section 16-2-350(d) are met and if the Board of Trustees finds that the development plan contains areas allocated for usable open space or common park area in excess of public use dedication requirements, or that the alteration is warranted by the amenities incorporated in the development plan, and the needs of residents for usable and functional open space, parks and buffer areas can be met.~~
- (4f) PDs shall be used only for development that provides substantial additional benefits to the Town that would not otherwise be required in this Code. This includes:
 - a. An affordable housing deed restriction, as defined in Section 16-2-210, on ten percent (10%) of dwelling units or residential lots for all projects with twenty (20) dwelling units or more. These units or lots shall be comparable to the market rate units or lots in size, exterior finish and design and integrated into the overall project. They shall be completed no more than halfway through the project; and

Commented [SC60]: This is what the DOLA model code uses. Consider if you want this to be larger. Some communities do not set a minimum and some have a minimum up to 20 acres. Larger thresholds discourage PDs for smaller projects since they are so time intensive and the intent of PDs is really geared toward larger developments.

Commented [SC61]: Added per Priority 2 - require affordable housing with annexations and PDs.

Commented [SC62]: See comment on this % in section 16-1-420.

Commented [SC63]: See comment on this number in section 16-1-420.

- b. All significant mix of dwelling unit and lot types available to people of different backgrounds, income, age, abilities and all phases of life for all projects with twenty (20) dwelling units or more; and one or more of the following:
- c. Neighborhoods with a mix of uses and densities with easy access to parks and open space, schools, cultural facilities, places of worship, shopping and employment;
- d. Preservation and enhancement of existing natural open space or features with an emphasis on flood hazard, water value, natural mineral wealth, prime open space locations or agricultural production;
- e. Additional areas allocated for public land or public schools;
- f. More efficient and well-connected infrastructure and services;
- g. Sustainable development practices like various methods of site design and building location, architectural design of individual buildings, and landscaping design capable of reducing energy consumption and improving onsite stormwater management;
- h. Inclusion of buildings designed to be accessible such as level access from the street and/or zero entry thresholds; or
- i. Other substantial benefits as accepted by the Town and included in the Comprehensive Plan or other pertinent policy documents of the Town.

Commented [SC64]: Terms like “significant” and some of the standards below are subjective. These can be very helpful in allowing flexibility rather than establishing set numbers or percentages. However, they can be complicated to enforce as folks interpret them differently. We’d suggest the creation of an internal code interpretation document (if you don’t already have one) that tracks guidelines as to how these more subjective standards are enforced. Like do you aim for a certain number or percent on some, or if only doing one of items c-i then the threshold is larger than if doing multiple of items c-i.

- (5) No structures in the PD shall encroach on a floodplain except as permitted by the Town's floodplain ordinance.
- (6) No occupied structure shall be located on ground showing severe subsidence potential without adequate design and study approved by the Town.
- (7) Visual relief and variety of views shall be incorporated within the PD through building placement, shortened or interrupted street vistas, visual access to open space and other design methods.

Commented [SC65]: This list is mostly from the Town’s Comprehensive Plan with a few examples from other Towns at the end of the list.

(c) Procedures for creating a PD District are contained in Section 16-2-350.
(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. 742-22, §22, 6-14-2022)

Commented [SC66]: Moved from 16-2-350 as these are requirements.

Sec. 16-2-480. Overlay districts.

- (a) An overlay district is a supplemental district that may be superimposed over any standard zoning district established in Section 16-2-410. The boundaries of each overlay district shall be established by ordinance of the Town Board and shall be shown on the Zoning Map. On and after the date of adoption by the Town Board of such ordinance, all real property within the boundaries of each overlay district shall become subject to the requirements of that overlay district.
- (b) Any use by right or conditional use permitted in an underlying standard zoning district shall also be permitted in an overlay district. Additional uses may also be permitted if the proposed use conforms with the intent of the overlay district.
- (c) Lot and building standards for development within an overlay district shall be established by a site plan submitted in accordance with Section 16-2-310.
- (d) In addition to the standard zoning and PD districts listed above, and in accordance with the Comprehensive Plan, three (3) Overlay Districts are established:
 - (1) Old Town Residential Mixed Use (RMU) Overlay District.
 - (2) Old Town Commercial Mixed Use (CMU) Overlay District.
 - (3) Main Street - Downtown (MS) Overlay District.

Commented [SC67]: Revised (Section 16-2-480 to 16-2-495) per Priority 3 - revise existing zoning district standards.

Commented [SC68]: Adding an “O” to these abbreviations would also be helpful in clarifying that they are overlays. This was not completed in the redlines but consider using “RMU-O”, “CMU-O”, and “MS-O” as the abbreviation throughout the code and on the zoning map.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. 663-16, §10, 6-28-2016)

Sec. 16-2-485. RMU - Old Town Residential Mixed Use Overlay District.

- (a) The RMU Overlay District is intended to promote reinvestment in, and protect the existing character of, Bennett's original residential neighborhoods. A primary objective of the RMU Overlay District is to provide property owners flexibility for building renovation and redevelopment along with opportunity for relief from lot restrictions associated with underlying R-1 zoning.
- (b) In addition to the permitted uses allowed in the underlying R-1 zoning district, the following uses are permitted uses in the RMU Overlay District, subject to administrative review and approval of the Zoning Administrator:
 - (1) Individual mobile home on a permanent foundation, subject to Low Density Residential (R-1) District Standards;
 - (2) ~~Duplex~~Two-family dwelling, subject to Mid Density Residential (R-2) Standards;
 - (3) Fire station, subject to Public District (P) Standards.
 - ~~(4) Accessory dwelling units, subject to Section 16-2-560 of the Code.~~
- (c) In addition to the conditional uses allowed in the underlying R-1 zoning district, the following uses are permitted as conditional uses in the RMU Overlay District, subject to Planning Commission review and Board approval:
 - (1) Assisted living facility or nursing home, subject to Mid- (R-2) or High Density Residential (R-3) District Standards;
 - (2) ~~Triplex~~Multi-family dwellings ~~limited to no more than three (3) units (triplex)~~, subject to MidHigh Density (R-2) Residential District Standards;
 - (3) ~~Single-unit attached~~Town-home dwellings ~~limited to no more than three (3) units~~, subject to MidHigh Density Residential (R-2) Standards;
 - (4) Retail business less than five thousand (5,000) square feet, subject to General Commercial District (C) Standards; and
 - (5) Personal Services less than five thousand (5,000) square feet, subject to General Commercial District (C) Standards.
- (d) Upon written request of a property owner, the Zoning Administrator may approve an administrative variance from underlying R-1 zoning district development standards on non-conforming lots in the RMU Overlay District where development, redevelopment or renovation would otherwise not be feasible.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. 663-16, §11, 6-28-2016; Ord. 679-17, §13, 12-12-2017)

Sec. 16-2-490. CMU - Old Town Commercial Mixed Use Overlay District.

- (a) The CMU Overlay District is intended to promote safe environments for both the pedestrian and vehicular travel. Unlike the Main Street Overlay District, this environment incorporates SH-79 and Colfax Avenue regional travel of large tractor trailers, as well as local residents in and adjacent to the CMU Overlay District. The CMU Overlay District promotes a pedestrian-active street where buildings are oriented to the street with standards allowing flexibility in building, circulation and parking lot layout.
- (b) All new development in the CMU Overlay District shall be subject to the recommendations of the Bennett Design Guidelines for Mixed Use Development.
- (c) Upon written request of a property owner, the Zoning Administrator may approve an administrative variance from setbacks, parking and landscape standards where the application of such parking and/or landscape standards is not consistent with the intent of the Bennett Design Guidelines.

Commented [SC69]: Duplex dwellings are proposed to be permitted by right in the R-1 district. Consider removing this line if that edit remains. Unless you specifically want to allow duplexes per the newly proposed R-2 standards.

Commented [SC70]: No need to state this here because it makes it seem like an added permitted use in the overlay when ADUs are allowed in all of R-1 per 16-2-560.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. 663-16, §12, 6-28-2016; Ord. 679-17, §14, 12-12-2017; Ord. 742-22, §23, 6-14-2022)

Sec. 16-2-495. MS - Main Street - Downtown Overlay District.

- (a) The MS Overlay District is intended:
 - (1) to enhance the convenience, ease and enjoyment of transit, walking, shopping and public gathering along the designated portion of First Street;
 - (2) to promote an urban, mixed-use environment with commercial, residential and civic activities; and
 - (3) to promote safe, active and pedestrian-scaled commercial streets through the use of storefront-style designs with horizontal and vertical mixed use building forms that clearly define and activate the public street edge.
- (b) All new development in the MS Overlay District shall be subject to the recommendations of the Bennett Design Guidelines for Mixed Use Development.
- (c) Upon written request of a property owner, the Zoning Administrator may approve an administrative variance from setbacks, parking and/or landscape standards where the application of such standards is not consistent with the intent of the Bennett Design Guidelines.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. 663-16, §13, 6-28-2016; Ord. 679-17, §15, 12-12-2017; Ord. 742-22, §24, 6-14-2022)

Division 5 Use Standards

Sec. 16-2-505. General performance standards for all uses.

All uses conducted in all zone districts must comply with the following performance standards:

- (1) Glare and heat. Any operation producing intense glare or heat shall be conducted within an enclosed building or with other effective screening in such a manner as to make such glare or heat completely imperceptible from off site.
- (2) Vibration. Industrial or commercial operation shall cause no inherent and recurring generated vibration perceptible without instruments at any point along the property line.
- (3) Light. Exterior lighting, except for warning, emergency or traffic signals, shall comply with the lighting standards set forth in Division 8 of this Article.
- (4) Smoke. All industrial and commercial uses which produce smoke or any air contaminant shall be subject to the jurisdiction and regulations of the Colorado Air Quality Control Department and the Colorado Air Quality Control Division. Visible emissions of any kind at ground level past the lot line of the property on which the source of the emissions is located, are prohibited.
- (5) Odors. No industrial or commercial use shall cause or allow the emission of malodorous air contaminants from any single source such as to result in detectable odors which are apparent outside the property boundaries.
- (6) Noise. All uses shall be conducted such that noise generated is controlled at its source or so attenuated by the structure from which it radiates that it does not become objectionable from off site.
- (7) Fugitive dust. No industrial or commercial operation shall be allowed to produce fugitive dust in amounts which are noticeable outside of the property boundaries of the use.
- (8) Electromagnetic and electrical interference. No equipment shall be operated in such a manner as to adversely affect the operation of any off-premises electrical, radio or television equipment. It shall be

unlawful to operate, or cause to be operated, any planned or intentional source of electromagnetic radiation for such purposes as communication, experimentation, entertainment, broadcasting, heating, navigation, therapy, vehicle velocity measurement, weather survey, aircraft detection, topographical survey, personal pleasure or any other use directly or indirectly associated with these purposes which does not comply with the then-current regulations of the Federal Communications Commission regarding such sources of electromagnetic radiation, except that for all governmental communications facilities, governmental agencies and government owned plants, the regulations of the interdepartmental Radio Advisory Committee shall take precedence over the regulations of the Federal Communications Commission, regarding such sources of electromagnetic radiation.

- (9) Wastes. All liquid and solid wastes produced shall be confined within the property boundaries until disposed of by proper means. No person shall cause or permit any materials to be handled, transported or stored in a manner which allows or may allow particulate matter to become airborne or liquid matter to drain onto or into the ground.

Sec. 16-2-510. Home occupations.

- (a) Home occupations are permitted uses in all residential districts, subject to the following standards:
 - (1) The use must be conducted entirely within a dwelling or accessory building.
 - (2) The use may employ a maximum of one (1) person other than those members of the ~~immediate family~~household residing on the premises.
 - (3) The home occupation must be clearly incidental and secondary to the use of the dwelling for dwelling purposes and must not change the residential character thereof.
 - (4) The total area used for home occupations shall not exceed twenty-five percent (25%) of the total floor area within the lot. The area used for the home occupation shall be considered to include all storage areas and work spaces clearly utilized or essential in the operation of the home occupation.
 - (5) There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation.
 - (6) On-site retail sales are not permitted.
 - (7) Storage on the premises of material or equipment used or serviced as a part of the home occupation must be completely enclosed within a building. No storage of hazardous materials is permitted.
 - (8) Home occupations shall not create any glare, fumes, odors or other objectionable conditions detectable to the normal senses beyond the boundaries of the zone lot.
 - (9) Persons operating home occupations shall grant the Town reasonable access for the purpose of verifying compliance with this Chapter.
- (b) Home occupations shall not be interpreted to allow any of the following businesses:
 - (1) The onsite display or sale of any merchandise or articles except as may be produced by members of the household residing in the dwelling unit.
 - (2) Service, repair, painting, or modification, for compensation or gain, of any motorized vehicles, or parts or accessories for any motorized vehicles, including, but not limited to, motor vehicles, trailers, boats, personal watercraft, recreation vehicles, and snowmobiles. This prohibition shall not apply to work on a vehicle as a hobby.
 - (3) Animal hospital or kennel.
 - (4) Restaurant.
 - (5) Licensed home daycare exceeding the limits defined in Section 16-2-210.

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- (6) Repair of equipment having a combustion engine of the use of any equipment having a combustion engine in the process of conducting any home occupation.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. 742-22, §25, 6-14-2022)

Sec. 16-2-515. Group homes.

- (a) Group homes allowed as a use permitted by right are identified in Table 2.12. Group homes that are identified as conditional uses in Table 2.12 may be approved as conditional uses subject to the requirements set forth below. In conducting the hearing for the conditional use permit, the Planning Commission and Board of Trustees shall consider an analysis of the following:
 - (1) Building height and setbacks;
 - (2) Building coverage of the lot;
 - (3) Traffic and parking;
 - (4) Compatibility of building design with the character of the surrounding area; and
 - (5) Whether the types of treatment activities or the services proposed to be conducted upon the premises are in a manner substantially consistent with the activities otherwise permitted in the zoning district.
- (b) A group home may not be located closer than seven hundred fifty (750) feet to any other group home.
- (c) No permanent certificate of occupancy will be issued for a group home until the person applying for the group home has submitted a valid license from a governmental agency having jurisdiction.
- (d) If active and continuous operations are not carried on in a group home for twelve (12) consecutive months, the group home use shall be considered to have been abandoned and no longer allowed. The group home use can only be reinstated after obtaining a new approval from the Planning Commission.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. 742-22, §26, 6-14-2022)

Sec. 16-2-520. Mobile home parks.

Mobile home parks in which manufactured and/or mobile homes are located shall comply with the following standards:

- (1) The space between the lower edge of the ~~mobile home~~ unit and the ground shall be completely enclosed (skirted) with suitable and uniform weatherproof material.
- (2) Vehicle parking.
 - a. There shall be a minimum of two (2) off-street parking spaces provided for each manufactured or mobile home unit within the park.
 - b. All parking surfaces shall be paved.
- (3) Streets and access.
 - a. Paved streets shall extend from the existing street system as necessary to provide convenient access to each manufactured or mobile home space and to common facilities and uses.
 - b. All streets, whether public or private, shall be paved and constructed to Town specifications.
- (4) Pedestrian walkways, at least two (2) feet in width and paved, shall be provided for access to each manufactured or mobile home from a paved street or driveway or parking area connected to a public street.
- (5) Water and sewer service. All mobile home parks shall have all spaces or stands connected to the public water supply of the Town. All mobile home parks must have all spaces or stands connected to an approved public sewer system serving the Town.

Commented [SC71]: Clean up per Priority 3 - revise existing zoning district standards.

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- (6) Refuse disposal. The storage, collection and disposal of refuse shall be conducted to control odors, insects, rodents and other nuisance conditions.
 - (7) Setback requirements.
 - a. Housing units within a mobile home park shall be separated by a distance of not less than fifteen (15) feet.
 - b. Housing units within a mobile home park shall be set back not less than ten (10) feet from any internal street or alley, and not less than twenty (20) feet from any public street abutting the perimeter of the mobile home park.
 - (8) Tie-downs and blocking. Every manufactured and mobile home shall be secured against wind damage by blocking and tie-downs approved by the Building Official.

Sec. 16-2-525. Reserved.

Ord. 754-22, §6, adopted Aug. 9, 2022, repealed §16-2-525, which pertained to telecommunications facilities and derived from Ord. 646-14 §1(Exh. A), adopted Dec. 9, 2014; and Ord. No. 661-16, §5, adopted Feb. 23, 2016.

Sec. 16-2-530. Borrow pits.

Except under the following instances, borrowing may not be done without obtaining a conditional use permit:

- (1) Minor projects which have cuts or fills each of which is less than five (5) feet in vertical depth at its deepest point measured from the existing ground surface, which include all of the following:
 - a. Less than fifty (50) cubic yards of earth material;
 - b. The removal of less than ten thousand (10,000) square feet of vegetation.
- (2) Minimum excavation required in connection with a building or other structure authorized by a valid building permit.
- (3) Grading work being done pursuant to an approved grading plan in conjunction with an approved recorded plat or overlot grading plan being done on the same property.
- (4) Trenching incidental to the construction and installation of approved underground pipeline, septic tank, disposal lines, electrical or communication facilities, and drilling or excavation for approved wells or fence posts.
- (5) Grading or excavation in accordance with plans incorporated in an approved mining permit, reclamation plan or reservoir permit.
- (6) Maintenance and cleaning of ditches, lakes, ponds and water storage reservoirs.
- (7) No processing, crushing or similar treatment of earth material may occur on the borrow pit site.

Sec. 16-2-535. Mining.

Mining is a mechanism allowing for extraction of sand, gravel, and clay, including attendant operations such as crushing and stockpiling. Quarrying of hard rock aggregate is generally prohibited. Mining operations, crushing and stockpiling are permitted as a conditional use within any land use category. Mining equipment shall be considered mechanical equipment; however, it will not be subject to the screening or camouflaging requirements herein. Mining operations shall, however, be subject to the following requirements under the following instances:

- (1) All mining equipment and operations areas must be screened from the sight of adjacent properties or right-of-way by the use of berms or by other equivalent means.
- (2) All mining equipment shall be located behind building setback lines.

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- (3) Mining equipment shall not exceed thirty-five (35) feet in vertical height unless totally screened.
 - (4) All access roads longer than one hundred (100) feet used for ingress and egress from the public roadway to the area of mining operations shall be paved to the standard for local roadways and shall be maintained to minimize fugitive dust generated by vehicles.
 - (5) Any required state highway access permits shall be obtained prior to any mining operation.
 - (6) Any necessary traffic improvements, identified through any requirement of the Town, County or other local jurisdictions (as appropriate), that are needed for safety and proper circulation shall be constructed. Mining activity traffic will not lower the level of service of the public roadway providing access lower than the level of service "B".
 - (7) All mining activities shall meet applicable air quality standards as set by the Colorado Air Quality Control Commission.
 - (8) Mining structures and equipment shall be prohibited in the same locations as is outdoor storage. All mining operations shall be at least two hundred (200) feet from the property line.
 - (9) No open pit mine shall be deeper than two hundred (200) feet. No reclaimed open pit mine shall be left deeper than one hundred (100) feet.
 - (10) Mining, processing or transporting operations shall be within the time limits of 6:00 a.m. to 6:00 p.m., except for Sunday when such activity shall be prohibited. Maintenance operations shall not be subject to this provision.
 - (11) The use of explosives is subject to all state and federal standards and restricted to a maximum of five (5) days per calendar year.
 - (12) Mining and all associated activities and uses must meet State residential noise standards regarding noise pollution.
 - (13) All reclaimed slopes shall not exceed 3:1. A diverse permanent vegetative cover shall be established on all disturbed areas to achieve erosion control equal to conditions prior to mining. The cover shall be predominantly of native species.
 - (14) Sediment caused by accelerated soil erosion shall be removed from runoff water before leaving the site. Runoff shall not be discharged from the site in quantities or at velocities above those occurring before mining.

Sec. 16-2-540. Reservoir construction.

Open mining operations, crushing and stockpiling are permitted as a conditional use within any land use category for the purpose of creating a reservoir. The standards specified for reservoir construction are the same as those for mining in Section 16-10-540 with the exception that there is no depth limitation and the finished grades will be the same as the standards specified by the State for reservoirs. Any reservoir design and construction must be approved by the Town Engineer.

Sec. 16-2-545. Commercial marijuana cultivation and sale.

- (a) The use of property as a medical marijuana store, medical marijuana cultivation facility, medical marijuana products manufacturer are all land uses prohibited in any zone district, including in any PD zone district. For purposes of this Section, *medical marijuana store*, *medical marijuana cultivation facility* and *medical marijuana-infused products manufacturer* shall have the meanings set forth in Section 6-3-20 of this Code. Nothing in this Section shall be construed to prohibit, regulate or otherwise impair the protections of the use of medical marijuana by patients as provided in Article XVIII, §14 of the Colorado Constitution, or the provision of medical marijuana by a primary caregiver to a patient in accordance with Article XVIII, §14 of the Colorado Constitution, Title 12, Article 43.3, C.R.S., Section 25-1.5-106, C.R.S., and the rules promulgated thereunder.

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- (b) The use of property as a retail marijuana cultivation facility, retail marijuana product manufacturer, retail marijuana testing facility or retail marijuana store are all land uses prohibited in any zone district, including in any PD zone district. For purposes of this Subsection, *retailmarijuana cultivation facility*, *retailmarijuana product manufacturer*, *retail marijuana testing facility* and *retail marijuana store* shall have the meanings set forth in Section 6-4-20 of this Code. Nothing in this Section shall be construed to prohibit, regulate or otherwise impair the protections for the personal use of marijuana as provided in Article XVIII, §16(3) of the Colorado Constitution.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. 742-22, §28, 6-14-2022)

Sec. 16-2-550. Residential marijuana cultivation.

- (a) Regulations. It is unlawful to cultivate, produce or process medical marijuana or marijuana for personal use in the Town except in compliance with the following regulations:
- (1) The cultivation, production, processing, possession and transportation of marijuana plants shall be done in full compliance with all applicable provisions of Sections 14 and 16 of Article XVIII of the Colorado Constitution.
 - (2) Marijuana plants shall be cultivated, produced or processed exclusively within: (i) the primary residence; or (ii) if the primary residence is a ~~detached single-unit-family detached dwelling-unit~~, a garage or accessory structure associated with the primary residence and that is located on the same lot as the primary residence.
 - (3) Marijuana may not be cultivated openly or publicly or in any area that is located outside of the exterior walls of the primary residence, garage or accessory structure, including but not limited to the yard. For purposes of this section, openly shall mean that the area where marijuana is cultivated is not protected from unaided observation lawfully made from outside the perimeter of the primary residence, garage or accessory structure not involving physical intrusion. Publicly shall mean that the area where marijuana is cultivated is open to general access without restriction.
 - (4) Marijuana may be cultivated, produced and processed only within a defined and contiguous area not exceeding thirty-two (32) square feet in area and ten (10) feet in height. This limit applies regardless of the number of qualified patients or caregivers or persons otherwise allowed to possess and grow marijuana for personal use residing in the primary residence.
 - (5) A person cultivating, producing or processing marijuana must reside in the primary residence where the cultivation occurs or the primary residence associated with the garage or accessory structure where the cultivation occurs. For rental property, the lessee shall obtain written authorization from the property owner or property management company before commencing to cultivate, produce or process marijuana on the property.
 - (6) The following additional requirements shall apply for cultivation that occurs inside the primary residence:
 - (i) If a person under twenty-one (21) years of age lives at the primary residence, the cultivation, production and processing area for the marijuana plants must be enclosed and locked, which means that it shall be secure at all points of ingress or egress with a locking mechanism such as a key or combination lock designed to limit access.
 - (ii) If no person under twenty-one (21) years of age lives at the primary residence, the external locks of the dwelling unit constitute an enclosed and locked space but if a person under twenty-one (21) years of age enters the primary residence, the person must ensure that access to the marijuana cultivation, production and processing are is reasonably restricted for the duration of that person's presence in the dwelling unit.
 - (7) The following additional requirements shall apply for cultivation that occurs inside a garage or accessory structure of a ~~detached single-unit-family detached~~ dwelling:

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- (i) Any garage or accessory structure used for the cultivation of marijuana shall be secure, locked and fully enclosed with a ceiling, roof and with all sides closed to the weather with walls, windows or doors. The garage or accessory structure shall be constructed with rigged wood, sheet rock or other construction materials strong enough to prevent entry except through an open door. Greenhouse film is not an acceptable construction material.
 - (ii) The garage or accessory structure shall be secure at all points of ingress or egress with a locking mechanism such as a key or combination lock designed to limit access.
 - (iii) Notwithstanding any other provision of this Code to the contrary, a building permit is required when a new or existing accessory structure or garage will be used for the cultivation of marijuana. The Chief Building Official is hereby authorized to issue building permits for accessory structures and garages where marijuana is cultivated for the purpose of ensuring such structure or garage is in compliance with the requirements of this Section and the applicable building and technical codes. Any person cultivating marijuana in such a structure shall also be required to notify the Bennett Fire Protection District prior to the commencement of cultivation and obtain all applicable permits required by the Fire District.
- (8) Marijuana shall not be cultivated, produced or processed within the common area of any ~~duplextwo-family, triplex, fourplex, multi-unitfamily, or mixed-useattached~~ dwelling unit.
- (9) The cultivation, production and processing of marijuana shall not be perceptible from the exterior of the dwelling unit, garage or accessory structure where the plants are cultivated, including, but not limited to:
- (i) Common visual observation;
 - (ii) Light pollution, glare, or brightness that disturbs the repose of another;
 - (iii) Undue vehicular or foot traffic, including unusually heavy parking in front of the dwelling unit; and
 - (iv) Noise from an exhaust fan in violation of Sections 10-9-10 or 10-9-20 of this Code.
- (10) The smell or odor of marijuana cultivation shall not be capable of being detected by a person with a normal sense of smell from any adjoining lot, parcel, or tract of land not owned by the owner of the primary residence or from any adjoining public right-of-way. No summons and complaint shall be issued nor shall there be a conviction for violation of this subsection (10) unless two (2) or more unrelated witnesses have filed complaints (verbal or written).
- (11) Lighting for indoor marijuana cultivation shall be by light-emitting diodes ("LED"), compact fluorescent lights (CFLs) or fluorescent lighting. The use of any other lighting, including high-intensity discharge lighting, is only permitted when the premises are equipped with an automatic fire suppression system that meets the requirements of National Fire Protection Association standard number 13 that is referenced in Section 903.3.1.1 of the current edition of the International Building Code and International Fire Code adopted by the Town. Automatic fire suppression systems shall be subject to permitting and inspection by the Bennett Fire Protection District as provided in the current edition of the International Fire Code adopted by the Town.
- (12) In addition to the requirements in this Section, marijuana cultivation, production and processing shall meet all applicable requirements of the Town's building and technical codes, including electrical, fire and plumbing codes, adopted in Chapter 18 of this Code.
- (13) No chemical shall be used to enhance or extract tetrahydrocannabinol (THC) from marijuana.
- (14) The use of compressed, flammable gases, including but not limited to, butane, propane and hexane, for marijuana cultivation, production or processing is prohibited.
- (15) Chemicals used for marijuana cultivation shall not be stored in the habitable areas of the dwelling unit or within public view from neighboring properties or public rights-of-way. Hazardous materials shall be

stored in accordance with the requirements of the current edition of the International Fire Code adopted by the Town and shall not exceed the quantities permitted by the International Fire Code.

- (16) It shall be unlawful for any marijuana cultivation activity to be hazardous or to adversely affect public health or safety due to the use or storage of chemicals, materials, processes, products or wastes or from other actions related to the cultivation of marijuana or by creating dust, glare, heat, noise, noxious gases, odor, smoke, traffic, vibration or other impacts.

(b) Inspection; Inspection Warrant.

- (1) Subject to the requirements and limitations of this section, any peace officer performing law enforcement duties and functions within the Town, any Town or Bennett Fire Protection District employee, or official designated by the Town Manager shall have the right to enter upon any property and into any dwelling unit, garage or accessory structure within the Town where marijuana is being cultivated, produced or processed during reasonable hours for the purpose of conducting a physical inspection of the premises to determine if the premises comply with the requirements of this Section. However, no agent or employee of the Town shall enter upon any property to conduct such an inspection without either the permission of the landowner or occupant, or without an inspection warrant issued pursuant to this section.
- (2) If verbal permission to inspect the dwelling unit, garage or accessory structure from the affected landowner or occupant is not obtained, or if the dwelling unit, garage or accessory structure is locked and the peace officer, Town or Bennett Fire Protection District employee or official has been unable to obtain permission of the landowners or occupant, the peace officer, employee or official may request that an inspection warrant be issued by the Municipal Court Judge pursuant to Rule 241 of the Colorado Municipal Court Rules of Procedure.
- (3) In case of an emergency involving imminent danger to public health, safety, or welfare, any peace officer performing law enforcement duties and functions within the Town or any Town or Bennett Fire Protection District employee, or official designated by the Town Manager may enter any dwelling unit, garage or accessory structure within the Town to conduct an emergency inspection for the cultivation, production or processing of marijuana without a warrant and without complying with the requirements of this Section.
- (4) The Board of Trustees declares that this Section is an ordinance involving a serious threat to the public safety or order within the meaning of Rule 241(a)(1) of the Colorado Municipal Court Rules of Procedure.
- (5) The Municipal Court Judge may issue an inspection warrant authorizing the inspection of a dwelling unit, garage or accessory structure used for the cultivation, production or processing of marijuana in accordance with Rule 241(b) of the Colorado Municipal Court Rules of Procedure. Any inspection warrant issued pursuant to this section shall fully comply with the applicable provisions of Rule 241 of the Colorado Municipal Court Rules of Procedure.
- (6) The Municipal Court Judge may impose such conditions on an inspection warrant as may be necessary in the Judge's opinion to protect the private property rights of the landowner of the property to be inspected, or to otherwise make the warrant comply with applicable law.
- (7) It shall be unlawful and a misdemeanor offense for any landowner or occupant to deny any peace officer performing law enforcement duties and functions within the Town, any Town or Bennett Fire Protection District employee, or official designated by the Town Manager or other authorized person access to the property owned or occupied by such landowner or occupant if the peace officer or other authorized person presents an inspection warrant issued pursuant to this Section.

- (c) Applicability of Nuisance Ordinance. The cultivation, production or processing of marijuana within a dwelling unit, garage or accessory structure in the Town in any manner that is not in compliance with the requirements of this Section is declared to be a public nuisance, and may be abated in the manner provided in Article I of Chapter 7 of this Code. Sections 7-1-210 and 7-1-220 of this Code concerning the non-

exclusivity of the nuisance abatement procedure apply with respect to the enforcement of this Section as well.

- (d) Condition precedent to Challenge. It is a condition precedent to any legal challenge to any portion of this Section, or the application of any portion of this Section to any specific property, that the person initiating such challenge shall have first given the Town written notice of intent to bring such challenge not less than ninety days before filing any legal proceeding. Such notice shall be sent to the Board of Trustees of the Town of Bennett by certified mail, return receipt requested, at 207 Muegge Way, Bennett, CO 80102, and shall set forth: (i) the name and address of the claimant and the claimant's attorney, if any; and (ii) a concise statement of the factual and legal basis for the claimant's challenge to this Section or the application of this Section to the claimant's property. To the extent that the provisions of this section conflict with the notification requirements of section 24-10-109, C.R.S., or any other applicable law, the provisions of such statute or other applicable law shall control.
- (e) Violation; Penalties. Any person who shall be convicted of or plead guilty or no contest to a violation of any provision of this Section shall be subject to the penalty provisions of Section 1-4-20 of this Code.

(Ord. No. 649-15, §3, 3-24-2015; Ord. 699-19, § 5, 7-9-2019; Ord. 742-22, §29, 6-14-2022; Ord. 761-22, §1, 11-8-22)

Sec. 16-2-555. Salvage yards and junkyards.

- (a) Salvage yards and junkyards are permitted as a conditional use in the Industrial zoning district, subject to the following screening requirements.
- (1) No conditional use permit shall be issued by for any salvage yard or junkyard in the Town unless the premises on which such business or storage is carried is entirely enclosed by a solid fence at least six (6) feet in height. Such fence shall be a masonry wall, a wooden fence, a steel fence or concealing chain link as approved by the Zoning Administrator. Such fence shall be maintained in a neat, substantial, safe condition. All gates shall open inward and shall be kept closed when the premises are not open for business.
 - (2) Such wall, fence or the gates thereof shall not contain any advertising sign or poster other than that needed to identify the enclosed business.
 - (3) Salvage or junk operations, including storage, shall not encroach upon or use any area outside the enclosed area.
 - (4) No screening shall be required in the following instances:
 - a. The common boundary between adjacent salvage yards and junkyards.
 - b. That portion of the boundary to be enclosed is contiguous to a view-obscuring topographic feature rendering screening unnecessary.
 - c. That portion of the boundary to be enclosed is contiguous to an industrial use of similar nature to a salvage yard or junkyard which is of such a view-obscuring arrangement, topographic or otherwise, as to render screening unnecessary. Any dispute as to the need for enclosure in the foregoing instances shall be determined by the Board of Trustees in considering an application for a conditional use permit. The Board of Trustees may allow an alternate method of enclosure in substitution for the wall or fence, provided that the alternative method of enclosure shall fulfill the intent to keep out children; to keep out persons attempting to enter salvage yards and junkyards illegally; to keep such areas free from rodents; and to effectively screen such yards from public view.
- (b) Salvage and junk in an enclosed yard shall be so piled or placed that adequate passageways are open to permit the unobstructed passage of firefighting vehicles. Such passageways within the yard shall be approved in writing by the Fire Chief, Bennett Fire Protection District.

- (c) It shall be the duty of the person operating a salvage yard or junkyard to maintain the premises so used in a clean, sanitary, and neat condition, and in such a manner as to eliminate and exclude rodents.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-2-560. Accessory dwelling units (ADUs).

- (a) Number of ADUs. One (1) ADU shall be allowed on a residential lot in the R-1, R-1A or R-2 zoning district in conjunction with any new or existing detached single-unit family dwelling.
- (b) Location.
- (1) An ADU may be added to or included within a single-unit family dwelling, or located in a detached accessory structure on the same lot as the principal building.
 - (2) ADUs shall conform to all setback, height, and lot coverage restrictions and any other standards or regulations required in the R-1 or R-2 zoning district.
- (c) Size/scale.
- (1) The total square footage of an ADU shall not exceed the smaller of one thousand (1,000) square feet or forty percent (40%) of the total square footage of the principal building excluding any garage area.
 - (2) If an ADU occupies an entire single floor within a principal building, the Zoning Administrator may allow for an increase in the allowed size of the ADU in order to efficiently use all of the floor area, so long as all other standards of this section are met.
- (d) Subdivision. An ADU shall not be subdivided or otherwise segregated in ownership from the principal building.
- (e) Occupancy. Either the principal building or the ADU must be occupied by an owner of the property on which the principal building and ADA are located.
- (f) Parking. One off-street parking space is required for an ADU in addition to the parking required for the principal building. Parking spaces may include private driveways, garages, carports, or off-street areas reserved for vehicles.
- (g) Exterior Modification. Only one entrance on the front of the principal building is permitted. Additional entrances are permitted on the side and rear of the principal structure. The Zoning Administrator may allow both entrances to the principal building and ADU to be located on the front of the structure where design, site layout, and construction considerations significantly hinder other options. Additions to an existing principal structure or the development of a newly constructed detached ADU shall be designed consistent with the existing facade, roof pitch, siding, and windows of the principal building.
- (h) Home Occupations. Home occupation shall be allowed, subject to the requirements of this Article, in both the ADU and the principal structure.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-2-565. Recreational vehicle parks.

- (a) The purpose of this section is to minimize potential negative impacts of recreational vehicle parks, while promoting the quality of life in Bennett and serving as a tourism base camp for visitors to Colorado.
- (b) Any recreational vehicle (RV) park shall be subject to the following standards:
- (1) Screening through site selection, landscaping, buffering and fencing shall be used to minimize the visual impact of RVs on adjacent or surrounding arterial streets or highways.
 - (2) Park entrances shall be located such that vehicles have convenient and direct access to arterials. Routes to the park shall not pass through residential neighborhoods.

Commented [SC72]: These proposed edits suggest not allowing single unit dwellings in the R-2 district. If that moves forward, remove all references to R-2 from this section and add R-1A.

Commented [SC73]: Note for attorney: This was not prioritized as an edit but HB24-1152 requires ADUs to be allowed where single unit dwellings are allowed, must be admin approved, can not require parking or owner occupancy, and generally can not be more strict than regs for single unit dwellings. This applies to PDs and HOAs. This could also open up funding (Accessory Dwelling Units | Colorado Department of Local Affairs)

Commented [SC74]: It is quite odd that a garage can be 80% of the total square footage of the principal building (see 16-2-465(d)(5)) but ADUs can only be 40%. Consider increasing this percent to 80 to at least allow ADUs to be the same size as garages.

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- (3) The RV park shall be landscaped in accordance with the standards and provisions of Chapter 16, Division 7 of the Bennett Municipal Code, subject to the following additional requirement.
 - a. Perimeter buffer widths of recreational vehicle parks shall be minimum of twenty (20) feet at the front entrance and ten (10) feet on the side and rear lot lines.
 - (4) A minimum of forty-five percent (45%) of the RV park shall be open space. This may include natural areas, landscaped perimeter buffers, landscaped areas between camping areas, trails and walks, the landscaped portions or RV sites, active recreation areas and any other landscaped portions of the site. Open space for RV park uses is defined for purposes of this section as those areas that are landscaped or left in a natural state. Open space shall not include the vehicular area of RV sites, parking, roadways, buildings or other similar improvements.
 - (5) Vehicular areas of each RV site shall be a minimum of fifteen (15) feet by sixty-five (65) feet and shall be separated from any other RV site by a landscaped area a minimum of ten (10) feet in width extending the full length of the adjacent RV sites. These areas will be covered with crushed asphalt, crushed concrete, asphalt or concrete following the road design standards for the Town of Bennett.
 - (6) Each ten (10) foot landscaped area between RV sites shall provide a minimum of one (1) deciduous shade tree (two and one-half (2½) inch caliper minimum) and five (5) shrubs (five (5) gallon minimum) and shall be seeded with native grasses at a minimum.
 - (7) Two (2) RV sites may be combined with no landscaped area between provided that utility services for both sites occupy the space between the sites, the recreational vehicles have a minimum separation of ten (10) feet, and a landscaped area on both sides of the combined spaces is provided which is a minimum width of eighteen (18) feet and extends the full length of the adjacent RV spaces.
 - (8) Utility connections, associated equipment and site amenities shall not be located within required landscaped areas. Any slide-outs, stairs or similar items shall be contained within the vehicular area of the site.
 - (9) Additional vehicular parking shall be required at all common facilities including check in station, recreation area, comfort stations, maintenance building or other similar facilities at a rate of two (2) spaces per one thousand (1,000) square feet of building area. Guest parking may occur within the vehicular area of an RV site, on roadways built to allow parking or in common parking areas.
 - (10) No more than one recreational vehicle shall be permitted at any individual site. Vehicles which tow or are towed by the recreational vehicle shall also be parked in the same portion of the site as the recreational vehicle.
 - (11) A system of pedestrian links shall be provided throughout the park which link all sections of the park with other sections, and result in the ability of pedestrians to avoid traveled roadways. This system may include both sidewalks and trails, and shall be convenient to all RV sites and link all areas with all facilities including the entry station. The pedestrian system shall continue to the street from which park access is taken.
 - (12) Recreational vehicle parks shall have a full time manager on site at all times or shall provide alternative security measures for park residents acceptable to the Town.
 - (13) Guest stays shall be limited to one hundred eighty (180) days per year. Long term occupancy is limited to park managers, one maintenance employee and their immediate families. An exception to the one hundred eighty-day stay limit shall be made to accommodate medical emergencies involving registered guests or their family members within one degree of kinship by either blood or marriage. Proof of such a medical emergency shall require the guest to produce for the manager a physician's note stating a medical condition requires the guest to remain for their own health or to attend to a family member's health. If such a note is produced the manager may allow the guest to remain an additional sixty (60) days for a total stay of two hundred forty (240) days. Managers shall be required to retain the notes in their records for one (1) year and to produce them to Town personnel on demand.

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- (14) The park shall keep a record of registered guests and their length of stay to be available for Town inspection at any time.
 - (15) Services and amenities within the park shall be restricted to use by registered campers and their guests, and the Town may require at a minimum water, sewer and electricity for each site, water and sewer facilities for common buildings common bathrooms and showers in the camping area, laundry facilities, a management office and an active recreational area depending on the park size, anticipated lengths of stays and proposed uses within the park.
 - (16) Dump stations shall be required. The number and size of such dump stations shall be determined based on the park size, anticipated lengths of stays and proposed uses within the park.
 - (17) If a tent area will be provided in the park, toilets and showers shall be required. Guest stays in tents shall be limited to no more than ten (10) days per year unless approved by the conditional use permit process.
 - (18) Vans which have been modified as campers, commercial tractor-trailers and sleeping in other vehicles not designed as a recreational vehicle shall not be permitted.
 - (19) No blocking or skirting of RVs is permitted.
 - (20) No outdoor storage by park guests is permitted.
- (c) Application of tax. The Town's lodging occupation tax shall apply to the furnishing of lodging in a recreational vehicle park pursuant to Chapter 4, Article VII of this Code.

(Ord. 696-19 §11, 2019; Ord. 742-22, §30, 6-14-2022)

Sec. 16-2-570. Outdoor storage.

- (a) Outdoor storage is permitted as an accessory use in all zone districts, subject to the following standards:
- (1) In no case shall the storage or parking of trailers, semi-trailers, cargo containers or shipping containers outdoors, or the warehousing of goods in such containers, be permitted as a principal use. Cargo and shipping containers shall only be allowed in accordance with Section 16-2-465(2) Commercial and industrial outdoor storage areas shall be incorporated into the overall site design and shall have screening, which is complementary in design to the primary structure on the site.
 - (2) If the outdoor storage area is covered, then the covering shall be designed to be complementary to the primary structure on the site.
 - (3) Goods stored in an outdoor storage area shall be limited to storage of materials associated with the business on the lot and shall be displayed for the purpose of sale, rental or lease, business of vehicle storage or storage of businesses' vehicles and equipment.
 - (4) No materials may be stored in areas intended for vehicular or pedestrian circulation including emergency access.
 - (5) Outdoor Storage for construction shall be allowed on a temporary basis and shall be removed within thirty (30) days of the last Certificate of Occupancy being issued within the filing and the site shall be restored to its original state.

(Ord. 742-22, §31, 6-14-2022)

Division 6 Parking Standards

Sec. 16-2-610. Parking space requirements.

- (a) Unless otherwise provided, land uses are required to have off-street vehicle parking spaces in accordance with the standards of this Division. The number and type of spaces is determined by the use of the property. Table 2.13 identifies the number of off-street parking spaces required with the construction of or addition to any building, or the implementation or expansion of the use of a site.

**Table 2.13
Off-Street Parking Requirements**

Use	Parking Spaces Required
Residential	
Single-unit family detached and attached and duplex dwellings	2.0 per dwelling unit
Multi-unit family, mixed-use, triplex and fourplex dwellings:	
Studio	1.25 per dwelling unit
1 bedroom	1.5 per dwelling unit
2 or more bedrooms	2.0 per dwelling unit
Assisted living facility	0.5 per dwelling unit
Motel or hotel	1.25 per guest room, plus 1 per 100 square feet of restaurant/lounge, plus 2.5 per 100 square feet of meeting/banquet room
Group or nursing home	1 per room
Hospital	1 per 3 beds, plus 1 per 5 average daily outpatient treatments, plus 1 per 4 medical staff, plus 1 per student/faculty/staff
Food and Beverage	
Restaurant (without bar)	12 per 1000 square feet of gross floor area
Restaurant (with bar)	15 per 1000 square feet of gross floor area
Fast food restaurant	10 per 1000 square feet of gross floor area
Retail/Service	
Animal hospital/veterinary clinic	1 per 300 square feet of gross floor area
Furniture, appliance or building material store	1 per 300 square feet of gross floor area
General retail (not in shopping center)	1 per 300 square feet of gross floor area
Grocery stores and discount superstores/clubs (freestanding)	1 per 250 square feet of gross floor area
Home improvement superstores	1 per 200 square feet of gross floor area
Shopping center	1 per 250 square feet of gross floor area
Motor vehicle sales and service	1 per 500 square feet of gross floor area, plus 1 per 6,000 square feet of outdoor vehicle display area, plus 2 per service bay
Vehicle wash facility	1 per employee max shift plus vehicle stacking
Personal service	1 per 300 square feet of gross floor area
Office/Business Services	
Bank	1 per 250 square feet of gross floor area
Business or professional office	1 per 300 square feet of gross floor area
Medical office, dental office or clinic	1 per 200 square feet of gross floor area

Commented [SC75]: Edited per Priority 3 (revise existing zoning district standards) to ensure all newly defined dwelling types are included in this list.

Wholesale establishment or warehouse	1 per 400 square feet of retail, wholesale and office area, plus 1 space per 1,000 square feet of other floor area
Industrial use (excluding office) not mentioned specifically under another use in this Section	1 per 500 square feet of gross floor area
Cultural/Recreational/Entertainment	
Public assembly	.25 per person in permitted capacity
Library	1 per 225 square feet of gross floor area
Museum	1 per 300 square feet of gross floor area
Religious institutions	0.6 per seat
Cinemas	Single screen: 0.5 per seat; up to 5 screens: 0.33 per seat; 5 to 10 screens: 0.3 per seat; over 10 screens: 0.27 per seat
Theaters (live performance)	0.4 per seat
Arenas and stadiums	0.33 per seat
Recreational facilities and health clubs	1 per 3 persons permitted capacity
Educational	
Day care center or preschool	0.35 per person (licensed capacity)
Elementary or secondary school	0.35 per student
College or university	Determined by parking study
Governmental	As determined by Zoning Administrator

Note(s)—When determining the number of parking spaces to be required, fractions of spaces shall be rounded to the nearest whole number.

- (b) Accessible (ADA) Parking Requirements.
 - a. Residential Uses.
 - i. Handicapped-accessible parking for residential uses shall be provided pursuant to the Americans with Disabilities Act Accessibility Guidelines (ADAAG) and the Federal Fair Housing Act.
 - b. Non-Residential Uses.
 - i. Handicapped-accessible parking spaces shall be provided pursuant to the ADAAG.
- (c) When one (1) building is planned to include a combination of different uses, the minimum parking required will be determined by applying the above requirements based upon the floor area for each use. The maximum number of parking spaces required for the building shall be the sum of the requirements for each separate use.
- (d) Off-street parking areas may be located to jointly serve two (2) or more buildings or uses, provided that the total number of spaces is not less than that required for the total combined number of buildings or uses. However, this number may be reduced based on the results of a shared parking demand analysis based on recognized standards and methodologies.
- (e) For specific land uses not listed, the Zoning Administrator shall determine the appropriate number of parking spaces required, based upon the type of activity, similarity to listed uses, expected parking demand to be generated and other information from appropriate traffic engineering and planning criteria.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. 742-22, §32, 6-14-2022)

Sec. 16-2-620. Loading requirements.

- (a) Each required off-street loading space shall be of a size not less than that required for an off-street parking space, as set forth in Section 16-2-640(e), but scaled larger to delivery vehicles expected to be used, logically and conveniently located for bulk pickups and deliveries, and accessible to such vehicles when required off-street parking spaces are filled; provided that for industrial uses, the off-street area required for the off-street loading space shall be a twelve-foot by forty-five-foot loading space with a fourteen-foot height clearance; provided further that if more than one (1) berth is provided the minimum dimensions are held to be ten (10) feet by forty-five (45) feet with a fourteen-foot height clearance.
- (b) The number of off-street loading spaces required for each use is set forth in Table 2-14. Where the use of the premises is not specifically mentioned, loading requirements shall be determined by the Zoning Administrator based upon requirements for similar uses, expected demand generated by the proposed use, temporal factors and other information from appropriate traffic engineering and planning criteria.

**Table 2.14
Loading Zone Standards**

Use	Square Feet of Gross Floor Area	Required Off-Street Loading Berths
Commercial		
Retail or wholesale	10,000—25,000	1
	25,000—50,000	2
	50,000—100,000	3
	For each additional 50,000 or major fraction thereof	1 additional
Mortuary	For each 5,000	1
Hospital (In addition to space for ambulance)	For 10,000—300,000	1
	For each additional 300,000 or major fraction thereof	1 additional
Hotel	For each 10,000	1
Office	For each 10,000	1
Industrial		
Manufacturing or warehousing	10,000—25,000	1
	25,000—40,000	2
	40,000—60,000	3
	60,000—100,000	4
	For each additional 50,000 or major fraction thereof	1 additional
Educational		
School	For each 15,000	1

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-2-630. Stacking requirements.

The purpose of stacking space requirements is to promote public safety by alleviating on-site and off-site traffic congestion that might otherwise result from the operation of a drive-up or drive-through facility. For all applicable drive-up or drive-through uses, the following off-street stacking requirements shall apply:

- (1) At a minimum a stacking space shall be eight and one-half (8.5) feet wide and eighteen (18) feet long.

- (2) A stacking space at a drive-in or drive-through window, menu board, order station, designated drop-off zone, or service bay is considered to be a stacking space.
- (3) An area reserved for stacking spaces may not double as a circulation driveway, maneuvering area, or off-street parking space.
- (4) Stacking spaces may be located anywhere on the building site, provided that traffic impacts on and off site are minimized and the location does not create negative impacts on adjacent properties due to noise, light or other factors.
- (5) A minimum of four (4) stacking spaces per one thousand (1,000) square feet of gross floor area plus two (2) stacking spaces for the first drive through window and two (2) stacking spaces for each additional window shall be provided.
- (6) For uses that have drive-through bays or stalls, a minimum of two (2) stacking spaces per bay or stall shall be provided.

Sec. 16-2-640. Parking area design standards.

- (a) The required number of parking spaces in all off-street parking areas shall be unobstructed and free of all other uses.
- (b) All off-street parking areas and access drives shall be surfaced with asphalt or concrete, except that other dust-free surfaces such as washed road base with a chemical dust suppressant may be approved by the Zoning Administrator for parking areas in the industrial districts, based on type of use, location and impact to adjoining properties.
- (c) Landscaping around off-street parking areas with two (2) or more spaces shall conform to the Town of Bennett Development Design Guidelines.
- (d) Lighting from any parking area shall comply with Division 8 of this Article.
- (e) Off-street parking spaces shall be at least nine (9) feet wide by eighteen (18) feet deep, except that parallel parking spaces shall be not less than ten (10) feet wide by twenty-two (22) feet long.
- (f) Off-street parking spaces for persons with disabilities shall be twelve (12) feet wide, unless the space is parallel to a pedestrian walk. The parallel-handicapped parking space shall be adjacent or close to an ADA approved ramp. Other dimensions shall be the same as those for standard parking spaces. Handicapped parking spaces shall have unimpeded ramp access to a walk. Every handicapped parking stall shall be identified at the head of the parking space with a raised, standard identification sign, centered between three (3) feet and five (5) feet above the parking surface. The sign shall include the international symbol for accessibility and state "reserved," or contain similar wording, in accordance with Section 16-3-420(5).
- (g) The minimum width of traffic aisles in parking lots shall be as listed in Table 2.15.

**Table 2.15
Parking Dimensions**

Parking Angle	Curb Length	Stall Length	Aisle Width		Bay Width	
			One Way	Two Way	One Way	Two Way
A	B	C	D	D	E	E
90 degrees	9 feet 10 feet	19 feet	24 feet	26 feet	64 feet	64 feet
60 degrees	10.5 feet	21 feet	18 feet	22 feet	60 feet	64 feet
45 degrees	13 feet	20 feet	13 feet	20 feet	53 feet	60 feet
30 degrees	18 feet	18 feet	12 feet	20 feet	46 feet	55 feet
Parallel	23 feet	8 feet	12 feet	20 feet	20 feet	36 feet

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. No. 660-16, §1, 2-23-2016; Ord. 742-22, §33, 6-14-2022)

Sec. 16-2-650. Reserved.

Editor's note(s)—Ord. No. 679-17, § 16, adopted October 12, 2017, repealed § 16-2-650, which pertained to parking of recreational vehicles and derived from Ord. 646-14, § 1(Exh. A), adopted December 9, 2014.

Division 7 Landscape Standards²

Commented [SC76]: Took a pass at editing this section based on the revised residential uses and definitions in Priority 3. Please double check that this works.

Sec. 16-2-700. Purpose and intent.

- (a) The purpose and intent of these regulations is to establish landscape standards that enhance the environmental, economic, aesthetic, and recreational resources of the Town and to promote sustainable management of the Town's water resources. All landscape plans shall be designed for good site accessibility and visibility; safe pedestrian and traffic circulation; compatibility of adjacent land uses; enhancement of outdoor recreational opportunities; protection of endangered and significant ecotypes, soils, and wildlife habitat; climate resilience; and prevention of the spread of invasive species;
- (b) Enhance and promote a unique image for the Town of Bennett.
- (c) Protect the public health, safety and welfare by:
 - (1) Minimizing noise, air, water and visual pollution;
 - (2) Screening and buffering incompatible land uses;
 - (3) Reducing the amount of reflected glare and heat absorbed in and around developments;
 - (4) Breaking up large expanses of parking lots;
 - (5) Preserving property values and neighborhood characteristics by lessening the impacts of potentially incompatible uses;
 - (6) Providing screening from wind and blowing snow;
 - (7) Conserving water resources by implementing the use of xeriscaping, drought-tolerant native plantings; and using efficient water-wise landscaping;
 - (8) Ensuring landscaping is an integral part of the site design and development process;
 - (9) Providing landscape design that is compatible with any adjacent site features including buildings, trails, parking lots, utilities, signs, drainage, etc.; and
 - (10) Promoting the use of reclaimed water for use in landscaping where appropriate.

(Ord. No. 782-24, §1(Exh. A), 7-9-2024)

²Ord. No. 782-24, §1(Exh. A), adopted July 9, 2024, repealed the former Div. 7., §§ 16-2-710—16-2-795, and enacted a new Div. 7, §§ 16-2-700—16-2-795 as set out herein. The former Div. 7 pertained to similar subject matter and derived from Ord. 646-14 §1(Exh. A), 12-9-2014, adopted Dec. 9, 2014; Ord. 679-17, §17, 18, 19, 20, adopted Dec. 12, 2017; Ord. 696-19 §12, 2019, adopted in 2019; Ord. 742-22, §34, adopted June 14, 2022; Ord. 761-22, §1, adopted Nov. 8, 2022.

Sec. 16-2-705. Landscape definitions.

Applicable property means applicable property means commercial, institutional or industrial property; common interest community property; or a street right-of-way, parking lot, median, or transportation corridor. It does not include residential property.

Artificial turf means an installation of synthetic materials developed to resemble natural grass.

Backflow preventer means a mechanical device installed at the beginning of the irrigation system to prevent a reverse water flow and contamination of the potable water supply.

Bioretention facility (also known as rain gardens and porous landscape detention) means an engineered, depressed landscape area designed to capture and filter or infiltrate the water quality capture volume.

Buffer means to lessen or moderate the impact of something or a dissimilar land use. A continuous edge of land provided along the perimeter of a lot where landscaping and or distance is used to transition one use from adjacent uses or public uses.

Caliper (sometimes called (DBH) diameter at breast height) means the diameter (expressed in inches) of a tree trunk measured four and five tenths (4.5) feet above the ground level.

Certified irrigation auditor means a person who has successfully completed formal training, certification, licensing, or other similar qualifications by the Irrigation Association or Qualified Water Efficient Landscaper (QWEL) to perform irrigation audits.

Commercial, institutional or industrial means commercial, institutional, or industrial property; and includes local government, schools, and businesses, among others.

Common elements means in a condominium or cooperative, all portions of the condominium or cooperative other than the units; and in a planned community, any real estate within a planned community owned or leased by the owners' association other than a unit.

Common interest community means real estate described in a declaration with respect to which a person, by virtue of such person's ownership of a unit, is obligated to pay for real estate taxes, insurance premiums, maintenance, or improvement of other real estate described in a declaration. Ownership of a unit does not include holding a leasehold interest in a unit of less than forty (40) years, including renewal options. The period of the leasehold interest, including renewal options, is measured from the date the initial term commences.

Common interest community property means property within a common interest community that is owned and maintained by a unit owners association, such as entry ways, parks, and other common elements as defined in Section 38-33.3-103 (5).

Desirable tree means a tree that is in good health, with good form and minimal to no disease or decay and not an invasive species.

Diameter at breast height (DBH) means the tree diameter (expressed in inches) measured four and five tenths (4.5) feet above the ground level.

~~Duplex is generally a property with two (2) living units. Those units can be side by side or stacked one on top of the other. There are separate entrances for each unit and sometimes separate garages and yards as well.~~

Ecotypes means a group of organisms, normally a subdivision of a species, that is adapted to a specific environment. It is sometimes called ecospecies, describing a genetically distinct geographical variety, population or race within species, which is adapted to specific environmental conditions.

Functional turf means turf that is located in a recreational use area or other space that is regularly used for civic, community, or recreational purposes, which may include playgrounds; sports fields; picnic grounds; amphitheatres; portions of parks; and the playing areas of golf courses, such as driving ranges, chipping and putting greens, tee boxes, greens, fairways and roughs.

Commented [SC77]: Removed per Priority 3 - revise existing zoning district standards. Duplex is defined in Article II, Division 2.

Grass buffer means densely vegetated strips of grass designed to accept sheet flow from up gradient development, enabling infiltration and slowing runoff. Grass buffers provide filtration (straining) of sediment. Buffers differ from swales in that they are designed to accommodate overland sheet flow rather than concentrated or channelized flow.

Grass swale means densely vegetated trapezoidal or triangular channels with low-pitched side slopes designed to convey runoff slowly. Grass swales have low longitudinal slopes and broad cross-sections that convey flow in a slow and shallow manner, thereby facilitating sedimentation and filtering (straining) while limiting erosion.

Ground cover vegetation means any plant that grows over an area of ground. Ground cover provides protection of the topsoil from erosion or drought. In an ecosystem, the ground cover forms the layer of vegetation below the shrub layer known as the herbaceous layer. They are generally wider than tall.

Hardscape means hard landscape materials in the built environment that are incorporated into a landscape. Decorative non-living material including inorganic mulch, rock mulch, decorative or pattern concrete, brick pavers, wood chips, decorative rock, boulders, ornamental features, birdbaths, sculptures, planters, benches, statues, low stone edging, or other similar materials. This can include paved areas such as patios, sports courts, and trails, retaining walls, and any other landscaping made up of hard wearing materials such as wood, stone, and concrete, as opposed to softscape, the horticultural elements of a landscape. A well-balanced landscape design will include an attractive combination of both hardscaping and softscaping elements.

Hydrozone means plants grouped together by soil suitability and water use in distinct hydrozones in an effort to conserve water. Hydrozones are divided into four (4) main categories: High, Moderate, Low and very low water usage zones.

Invasive plant species means plants that are not native to the state and that means are introduced into the state accidentally or intentionally; have no natural competitors or predators in the state because the state is outside of their competitors' or predators' range; and have harmful effects on the state's environment or economy or both.

Irrigation audit means a procedure to collect and present information concerning the uniformity of application, precipitation rate, and general condition of an irrigation system and its components. This procedure, according to the Irrigation Association includes a visual site inspection of the installed irrigation system for performance according to design criteria.

Land reclamation means the combined process by which adverse environmental effects of past disturbances on the land are minimized and returned to a beneficial end use.

Landscape area means the pervious area outside the buildings, structures, drives and parking on a lot or parcel. This surface area shall be treated with organic/inorganic plant materials such as grass, ground cover, trees, shrubs, vines and other horticultural materials. Landscaping may include elements of softscaping and hardscaping or other decorative surfacing such as wood chips, crushed stone or other mulch materials. Not all water quality control measures can be considered landscaped area.

Landscape islands means a landscape area enclosed by raised curbs and located on the end of a row of parking spaces or between two (2) parking spaces in the row.

Landscape median means the strip of landscaping between rows of parking. Usually has a parking Island on either end.

Maximum lot coverage means maximum lot coverage percentage as regulated in Chapter 16 includes all structures, paving, driveways, sidewalks, steps, ramps, walls, patios, and parking.

Mulch means the use of organic ground cover to reduce water loss through evaporation, reduce soil loss, and suppress weeds. Rubber mulch or recycled mulch containing construction or demolition waste is prohibited

Native plant means a plant species that is indigenous to the state of Colorado.

New development project means a new construction project that requires a building or landscaping permit, plan check, or design review.

Nonfunctional turf means any turf that is not functional turf. Nonfunctional turf includes turf located in a street right-of-way, parking lot, median, or transportation corridor. Non-functional turf does not include turf that is designated to be part of a water quality treatment solution required for compliance with federal, state, or local agency water quality permitting requirements that is not irrigated and does not have herbicides applied.

Qualified Water Efficient Landscaper (QWEL) means an individual who has successfully completed the Qualified Water Efficient Landscaper training and certification program. The QWEL program is a comprehensive in-depth training and certification program, emphasizing irrigation, landscape, water management and horticultural best management practices.

Recreation—Active means recreation activities of a more structured nature often requiring equipment and taking place at prescribed places, sites, courses or fields.

Recreation—Passive means recreational activities that do not require prepared facilities like sports fields or pavilions.

Redevelopment project means a construction project that requires a building or landscaping permit, plan check, or design review; and results in a disturbance of more than fifty (50) percent of the aggregate landscape area.

Screening means to hide something, to form protection from an adverse situation or environment. A shield or partition between different land uses. To block the view of something between one property and another.

Shrub means multistemmed perennial woody plants less than fifteen (15) feet tall. Unlike herbaceous plants (i.e. ground cover) shrubs have persistent woody stems above the ground.

Significant specimen tree means a tree that is unique in its size, shape, color, or texture.

Softscape means the living elements like soil, trees, flowers, grass, and shrubs, the horticultural elements of a landscape.

Special district means per CRS 32-1-103 (2) any quasi-municipal corporation and political subdivision organized or acting pursuant to the provisions of Title 32, article 1, CRS.

Streetside landscape strip: Formerly known as a tree lawn, the areas between the street curb and the sidewalk. The term "tree lawn" appears to denote that there would be grass or a lawn in this area, which is now prohibited, thus the change in name. If wide enough, the streetside landscape strip, would contain street trees. Along streets where the sidewalk abuts the street curb, the streets side landscaping strip may be outside the sidewalk and not between the sidewalk and the curb.

Swale means shallow ditches that blend in with surrounding landscape design, facilitate water management, and encourage natural irrigation. Swales take advantage of natural slopes in the land to direct water downward into all the soil as opposed to letting it pool above ground or waterlog a specific region.

Transportation corridor means a transportation system that includes all modes and facilities within a described geographic area, having length and width.

Tree lawn means the area between sidewalk and street which contains landscaping, more recently called streetside landscape strip. It is possible that the landscaping area between the street and sidewalk would not contain trees or lawn thus the change in name to streetside landscaping strip.

Tree protection zone means a defined area above and below grade around each tree where construction activities are limited or restricted to prevent injury to a preserved tree.

Turf means continuous plant coverage consisting of nonnative grasses or grasses that have not been hybridized for arid conditions and which, when regularly mowed, form a dense growth of leaf blades and roots.

Undisturbed areas of quality means areas that have not been disturbed and can be used for water quality and/or storage, wildlife habitat or buffer.

Vegetable garden means a non-commercial garden for the cultivation of fruits, vegetables and herbs, other than marijuana, that are grown for personal or household consumption.

Water budget means a site-specific method of calculating an allowable amount of water to be used by the landscape and then designing the landscape to meet this budget.

Water-wise landscape or *water-wise landscaping* means a water and plant management practice that is intended to be functional and attractive; emphasizes the use of plants that require lower supplemental water, such as native and drought tolerant plants; and prioritizes the following seven (7) key principles of landscape planning and design;

- A. Planning and design for water conservation, beauty, and utility.
- B. Improving soil.
- C. Applying efficient irrigation.
- D. Limiting turf to high traffic, essential areas.
- E. Selecting plants that have low water demand.
- F. Applying mulch
- G. Maintaining the landscape.

Weed means as defined in section 7-1-10 including but not limited to those plants listed on the Colorado Department of Agriculture Noxious Weed species list. This definition shall not include flower gardens, shrubberies, vegetable gardens, small grain plots, successional grasses utilized for erosion control, and pastures used for feed, fodder, or forage, provided the same are adequately weeded and maintained.

Xeriscape means as defined in CRS section 38-33.3-103 (33), means the combined application of the seven (7) principles of landscape planning and design, soil analysis and improvement, hydro zoning of plants, use of practical turf areas, uses of mulches, irrigation efficiency, and appropriate maintenance under CRS 38-35.7-107 (1) (a) (III) (A).

(Ord. No. 782-24, §1(Exh. A), 7-9-2024)

Sec. 16-2-710. Landscape plan requirement.

- (a) A landscape plan prepared in conformance with this Division shall be submitted for:
- (1) All residential and nonresidential development proposed within the Town requiring approval of a site plan or final development plan prior to the issuance of a building permit. Landscaping plans for single-~~unit~~~~family~~ residential developments, subdivisions and planned developments shall be required for common open space areas, common interest community property, street rights-of-way and parks, but not for ~~individual~~ single-~~unit detached-family~~ or duplex lots.
 - (2) Expansions of existing sites or use:
 - a. A non-residential project requiring a building permit that cumulatively increases a structure or building's square footage by twenty-five percent (25%) or more.
 - b. A non-residential project that has previously increased square footage by less than twenty-five percent (25%) and applying for a new building permit that cumulatively triggers the twenty-five percent (25%) or more threshold.
 - c. Expansion of a parking lot by twenty percent (20%) or twenty (20) spaces or more, whichever is less.

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- d. A project that requires a grading permit.
 - e. Restore or change to existing landscape areas by twenty-five percent (25%) or more. The plan submittal requirement does not apply to existing conforming single-unit-family or duplex residential lots.
 - f. A redevelopment or construction project that results in a disturbance of more than fifty percent (50%) of the aggregate landscape area.
- (b) A landscaping plan submitted with a site plan or final development plan must comply with the landscaping requirements of this Division, including all commercial, institutional, or industrial property. Landscaping plans for single-unit-family residential developments shall be required for common open space areas, adjacent street rights-of-way and parks, common interest community property, but not for individual lots.
 - (c) Landscape plans required by this section shall be prepared by a licensed landscape architect and shall be stamped and signed, unless otherwise waived by the Town Manager, except this requirement does not apply to single-unit-family or duplex-two-family lots.
 - (d) Unobstructed open space and common open space improvements shall include, but are not limited to, landscaping, patios, plazas, arcades, pedestrian and/or bicycle pathways, fences, retaining walls, benches, fountains, statuary, kiosks, light fixtures, picnic shelters and other site amenities.
 - (e) All portions of a site not occupied by structures, water bodies, streets, roads, driveways, sidewalks, parking areas and other vehicle use areas are required to be landscaped in accordance with these standards.
 - (f) All landscape plans shall include a water budget. The overall water use shall not exceed twelve (12) gallons per square foot per year of total landscaped area.
 - (g) This ordinance does not apply to:
 - (1) Ecological restoration projects not requiring a permanent irrigation system.
 - (2) Land reclamation projects not requiring a permanent irrigation system.
 - (h) Landscape plans shall be submitted in accordance with the Applicant Guide.

(Ord. No. 782-24, §1(Exh. A), 7-9-2024)

Sec. 16-2-720. Landscape design criteria.

All landscaping plans shall comply with the applicable design standards of this Division.

- (1) Plant materials.
 - a. The following ratios apply for commercial/industrial development: Two (2) trees and five (5) shrubs, or an acceptable combination of trees and shrubs, for every one thousand (1,000) square feet of landscaped area.
 - b. The following ratios apply for residential development: Two (2) trees and five (5) shrubs or an acceptable combination of trees and shrubs, for every one thousand (1,000) square feet of landscaped area.
 - c. Within a required landscaped area, ornamental clump grasses may be exchanged for up to fifty percent (50%) of the required shrubs at a ratio of three (3) ornamental clump grasses for one (1) shrub if one (1) gallon clump grasses are selected.
 - d. All development sites, excluding individual single-unit-family and duplex lots, shall feature consistently landscaped areas along the front, sides, and rear property lines.
 - e. Trees and shrubs shall be configured in appropriate groups. Grouping of plants shall be distributed throughout the landscaped areas in order to avoid overly dense concentrations of

plant materials or obstructing views determined important through the development review process.

- f. Landscaping shall be protected from vehicles by the placement of wheel stops, curbs or other acceptable means.
- g. All installed plants shall be selected from the approved Town of Bennett plant list unless an alternative plant species is approved through the Town review of the proposed design. Alternative plant material must be called out on the plan.
- h. All plants shall meet or exceed the plant quality and species standards of the American Standard for Nursery Stock.
- i. Plants shall be grouped together by soil suitability and water use in distinct hydrozones (very low, low, medium). No combining of hydrozones is permitted except between low and very low. The landscape plan can include various number or sizes of each zone but overall the landscape plan may not exceed the overall water budget.
- j. A minimum of seventy-five percent (75%) of plants shall be native and/or drought-tolerant species selected from the plant list in the low to very low categories.
- k. Plants listed as noxious species by the County Weed Control Board or on the Colorado State Noxious Weed lists are prohibited.
- l. Plants shall be selected and planted appropriately based on their adaptability to the climatic, geologic, and topographical conditions of the project site including solar orientation for plant placement to maximize summer shade and winter solar gain. Trees shall be located to maximize summer shade and minimize winter shade.
- m. Vegetation planned to be within a corner vision clearance triangle and sight line areas shall comply with Section 16-5-615. Height of evergreen and deciduous shrubs at maturity should be taken into account to meet these requirements.
- n. Landscape plans shall be designed to provide a variety of colors, spacing, materials, plant types, mulch and ground cover types to provide a visually appealing and healthy complement to the built environment of the town. Large areas of the same plants, ground cover, mulch or same color stone should be avoided. A well-balanced landscape design will include an attractive combination of both hardscaping and softscaping elements.

(2) Plant Size and Installation

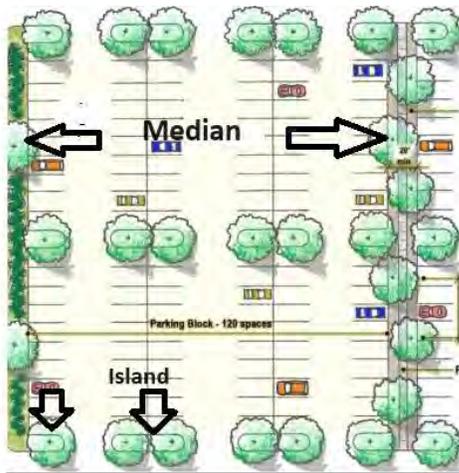
- a. All plants shall equal or exceed the measurements specified in Table 1. Plant Specifications.
- b. The following minimum sizes apply wherever landscaping is required:

TABLE 1—PLANT SPECIFICATIONS	
Plants	Minimum Size
Deciduous Trees	2.0-inch caliper
Ornamental Trees	2.0-inch caliper
Evergreen Trees	6 feet height
Shrubs	5-gallon container will be counted as 1 shrub. 1-gallon container may be counted as 1/3 shrub.
Ornamental Clump Grass and Perennials	1-gallon container grasses
Vegetative Groundcover	2" pot or greater

(3) Groundcover.

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- a. All landscaped areas shall consist of one hundred percent (100%) ground coverage in living vegetation, organic mulch, rock mulch, or other approved hardscape non-living material.
 - b. A minimum of fifty percent (50%) of the landscape area shall be covered by living plants at maturity. Vegetative cover may consist of ground covers, perennials, shrubs, ornamental grasses, bulbs, and native grass mixes selected from the Town of Bennett plant list. While there is no limit on the amount living plant coverage on a lot there is a limit on the amount of irrigated turf that would be allowed.
 - c. Remaining coverage (fifty percent (50%) or less) of the landscape area may be achieved through the application of decorative non-living material or hardscaping including organic mulch, rock mulch, decorative or pattern concrete, brick pavers, wood chips, decorative rock, boulders, ornamental features, birdbath, sculpture, planters, bench, statues, low stone edging, or other similar materials. The fifty percent (50%) maximum coverage of non-living material used in a landscape area also applies to and includes artificial turf.
 - d. Rock and stone mulch does not qualify as a hardened surface for meeting parking regulations.
 - e. While paved areas such as patios, walks, trails, plazas, or sports courts count as ground cover and hardscaping in a landscape plan, paved features such as those are counted as part of the maximum lot coverage percentage limits found in Chapter 16 Zoning District Standards.
- (4) Turf limitations—Town of Bennett recognizes turf grass has practical benefits but is considered a high-water use plant material. Turf grass shall be limited as follows:
- a. A property owner shall not install, plant, or place, or allow any person to install, plant or place, any nonfunctional turf, artificial turf or invasive plant species as part of a new development project or redevelopment project on any portion of commercial, institutional, or industrial property; common interest community property; or a street right-of-way, parking lot, median, or transportation corridor.
 - b. There is no limitation on installation of grass seed or sod that is a native plant or has been hybridized for arid conditions.
 - c. Where allowed, turf grass sod or turf grass seed shall be selected from the Town of Bennett approved plant list. High water use turf grasses are prohibited except as approved by the Town as functional turf. Low water use hybrid grasses are encouraged.
 - d. Turf grass shall be installed as a unique hydrozone and be irrigated separately.
 - e. In public and private parks, turf grass shall be restricted to functional turf in park and open space areas intended for passive or active recreation.
 - f. In single-~~unit~~family detached, single-~~unit~~family detached cluster~~attached~~, ~~two-family~~ duplex residential development, irrigated turf grass shall be limited to 25 percent (25%) of the total combined yard area not to exceed a maximum of one thousand five hundred (1500) square feet on a lot.
 - g. In ~~triplex, fourplex, multi-unit~~family, and mixed-use developments ~~(e.g. triplex, fourplex, townhome, multi-apartment or condominium)~~ turf grass shall not exceed twenty-five percent (25%) of the required common area and shall be only used in high use or active/passive recreation areas meeting the definition of functional turf.
 - h. In commercial, institutional, industrial, business, local government and school development, irrigated turf grass is prohibited except as approved for passive or active recreation areas by meeting the definition of functional turf. There is no prohibition on the use of native grass.
 - i. Irrigated turf grass is prohibited in buffers, parking lot islands, street medians, streetside landscape strips, and subdivision entries.

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- j. Golf courses shall limit the use of turf grass to the playing areas fairways, greens, driving ranges, chipping and putting greens, tee boxes and roughs. Efforts to further reduce the demand for irrigation are encouraged including the use of native and low to very low water use grasses in out-of-play areas. Use of reclaimed water is required if available or becomes available.
 - k. Water quality control measures and stormwater management designs shall comply with vegetation specified in the stormwater management plan. Irrigated turf grass should be minimized if possible.
 - l. Nonessential turf is prohibited.
- (5) Plant diversity. To reduce the risk of tree loss due to pests, the following percentages shall be applied. Not more than thirty percent (30%) of trees and shrubs installed on a project shall be of a single genus and not more than twenty percent (20%) of trees and shrubs shall be of a single species. Percentages shall be listed in the planting schedule.
- (6) Soil amendments and mulch.
- a. All landscape areas shall be tilled to a minimum depth of six (6) inches and amended with approved soil amendments with a minimum of four (4) cubic yards per one thousand (1,000) square feet, or three (3) cubic feet per one thousand (1,000) square feet for native seeds areas.
 - b. All planting beds, raised beds, and plant containers shall be mulched with a minimum of three-inch depth of rock mulch over a water permeable landscape fabric or four-inch shredded wood mulch over the amended soil.
 - c. Rubber mulch or recycled mulch containing construction or demolition waste is prohibited.
 - d. Non-organic mulch application around the base of plants is discouraged.
 - e. Piling or mounding of mulch around the base of trees shall be avoided.
 - f. Existing topsoil shall be stockpiled during construction for use in landscape areas prior to planting.
 - g. No topsoil shall be removed from the subject property unless the Town approves the transfer of the soil to a Town-owned park or open space area, or to another approved location.
 - h. The use of weed-free seed, gravel, or fill dirt is required.
 - i. Site shall be free of rocks, dirt clods, and debris over three-quarter inch (3/4") diameter in size.



Landscape Island

An Island is at the end or midway of a row of parking spaces. Can be either an island by itself or attached to a median

10 parking spaces maximum between landscape Islands.

8' minimum width of an island.

Island length shall match parking stall length.

Landscape Median

Median is the long row of landscape area between rows of parking.

Two parking rows maximum between landscape medians.

8' minimum width of a median. 13' width if with a pedestrian walk

(7) Parking areas:

- a. Interior coverage means at least five percent (5%) of the interior area of a parking lot shall be landscaped if the lot contains) twenty (20) or more parking spaces. At least fifty percent (50%) of the required landscaped area shall include living plant material. Nonfunctional turf, irrigated turf grass, artificial turf or invasive plant species are not allowed in parking lots, medians, street right-of-way or transportation corridors.
- b. Parking Lot Islands: Landscaped parking lot islands must be delineated by a clear physical barrier such as concrete curbs or landscaping timbers to protect the plant material from vehicular damage. At least fifty percent (50%) of the island shall be covered in living plant material at maturity. A minimum of twenty percent (20%) of plant material shall be evergreen. Parking lot islands shall meet the following requirements:
 1. Be located at the end of each parking row.
 2. Be located within each parking row so that there are no more than ten (10) spaces without a landscape island separating them.
 3. Be a minimum of eight (8) feet wide, measured from inside of curb to inside of curb, and be the length of the adjacent parking space, with a minimum area of one hundred forty-four (144) square feet. Islands at the end of parking rows will be eighteen (18) feet by eight (8) feet.
 4. Contain at least one tree and four (4) shrubs per single parking row island and two (2) trees and eight (8) shrubs per double parking row island.
 5. Contain mulch cover over the entire island not hardscaped. The edge of planting beds must be designed and installed to contain the mulch from, blowing, rolling, washing or otherwise spilling over onto the parking or driveways.
 6. Landscaping within landscaped islands at the end of parking rows shall meet sight vision triangles so as not to obstruct the visibility of vehicles entering or exiting the parking lot.
 7. Consider if landscape islands are appropriate for curb cuts to allow for stormwater infiltration into the landscape islands.

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8. Other stormwater techniques, such as rain gardens, grass swales, and bioretention may be incorporated into parking lot islands in accordance with stormwater management plans.
 - c. Parking lot medians must be delineated by a clear physical barrier such as concrete curbs or landscaping timbers to protect the plant material from vehicular damage. Parking lots with more than three (3) drive aisles require landscape medians between parking stalls and shall meet the following standards:
 1. Rows of parking spaces shall be divided by landscape medians parallel to the parking rows so that there are no more than three (3) drive aisles between landscape medians and a required parking lot buffer or landscape median.
 2. Landscape medians shall be a minimum of eight (8) feet wide. If the landscape median contains a water quality swale, the width needs to accommodate both the swale and landscaping and follow the Storm Management Manual. The median must be a minimum of thirteen (13) feet wide if it contains a sidewalk.
 3. Landscape medians shall have at least one deciduous canopy tree, four (4) shrubs per thirty (30) linear feet along the length of the median. These are in addition to the required trees and shrubs for the parking lot islands.
 4. Plantings with a mature height of six (6) inches or more shall not be planted in the vehicle overhang area (thirty (30) inches from the front of curb into the landscape median).
 5. Other stormwater management techniques, such as rain gardens and grass swales may be incorporated into parking lot medians in accordance with the Town's Stormwater Management plan to reduce runoff or filter pollutants.
 - d. Parking lot screening:
 1. Berms, walls, fences, plants, planters or combinations thereof shall be used to screen the parking lot and vehicle headlights from view from surrounding public rights-of-way and from all dissimilar adjacent uses.
 2. All perimeter areas of the parking lot shall be landscaped to provide visual relief to large expanses of paving and to provide ample shading to reduce heat build-up.
 3. Whenever structures such as walls or fences are used to create a screen, plants shall be located on the sides of the structure which is visible from adjacent public rights-of-way.
 4. The top of the landscape screen around the parking area shall be at least three (3) feet higher than the surface of the parking area, except where clear visibility must be maintained as provided in Section 16-2-770 of this Chapter, or due to traffic or pedestrian safety considerations.
 - e. Exceptions. If the parking lot cannot meet landscaping requirements due to unique site constraints, grade or conditions, the Zoning Administrator may approve alternative design which meet the intent of these regulations.
- (8) Drive-through.
- a. For drive-through aisles, that are adjacent to public rights-of-way, provide a wall, plantings, or some combination of those or similar solutions to minimize the visual impact of reader board signs, directional signs, headlight glare, and the queued vehicles. The screening must be no less than three (3) feet high and no more than four (4) feet high. Shrubs used for screening shall be evergreen and the screen wall shall match the building on-site.
 - b. If the service window, remote teller, menu board, or similar components of a drive-through facility is adjacent to and/or facing a residential use, a 20-foot wide buffer with 6-foot high solid

fence or wall must be provided along the entire length of the property line(s) closest to the residential district.

(9) Public rights-of-way and street trees:

- a. Public rights-of-way: Landscaping shall be provided in the street right-of-way adjacent to the property in the area between the property line and the curb (when there is a detached sidewalk or no sidewalk); or from the back of sidewalk to the property line (when the sidewalk is attached to the curb).
- b. Streetside landscaping : Street trees shall be required unless the Zoning Administrator determines they are unnecessary for the area. The number of street trees and shrubs required for each property shall be one (1) tree and four (4) shrubs for each thirty (30) feet of street frontage. The width of the streetside landscape tree planting strip shall be eight (8) feet unless waived by the Zoning Administrator.
- c. The location of street trees shall be within the streetside landscape strip, behind the sidewalk or the front yard depending on width of street side landscape strip, location of utilities or topography. Dry utilities shall avoid using the street side landscaping strip for installation of utilities and placement of utility easements.
- d. If a utility conflicts with the installation of street trees, applicants shall provide shrub equivalents. If vegetation of any type, other than grass, is prohibited by the easement holder, then the applicant shall be required to provide the required trees elsewhere on site. Relocated street trees shall not be used to satisfy other required landscaping requirements.
- e. Street trees shall be deciduous, thornless, fruitless canopy trees of species that mature to heights of between thirty (30) and sixty (60) feet.
- f. The property owner, HOA or special district adjacent to the public or private street shall maintain any street trees and landscaping.
- g. The sight distance area shall be maintained at all roadway intersections, crossings, and parking areas.
- h. No irrigated turf grass, nonfunctional turf, artificial turf or invasive plant species shall be planted in medians or the streetside landscape strip. Use of irrigated native grasses, grass seed or sod that is a native plant or has been hybridized for arid conditions are allowed.
- i. Landscape elements placed adjacent to existing and proposed roadways (in the right-of-way) shall be designed to minimize conflicts between vehicular and pedestrian traffic while providing an aesthetic landscape environment that is relatively easy to maintain.

(10) Utility Setbacks. Landscape and utility plans shall be coordinated to avoid conflict with each other. Landscape plans should be developed after the location of utilities and the easements have been identified.

(11) Existing landscaping:

- a. The owner or developer shall incorporate existing healthy trees and shrubs into the landscape design in their existing location whenever possible. Existing trees and other plants in reasonably healthy condition may be removed only if the owner or developer has satisfactorily demonstrated to the Town that site design restrictions necessitate their removal. Existing trees may be used to satisfy the quantity requirements of landscape standards.
- b. All existing trees and plants that are incorporated into the landscape design must be adequately protected in the tree protection zone by means of temporary fencing and be properly maintained during construction to ensure their survival. Tree protection zone shall be equal to the tree's dripline or 1.5-feet radially from the tree for every 1-inch tree caliber

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- c. The landscape design should promote and preserve climate-adapted native species, trees, and natural areas and reduce the amount of irrigation to stay at or below the water budget after the landscaping is established.
 - d. Where there are significant existing trees and shrubs on a site, the Town shall require an inventory of plant material and submission of a tree preservation plan. All existing trees within areas proposed to be disturbed by development on and off-site and in the adjacent right-of-way shall be surveyed by a professional forester, arborist, or a registered landscape architect and have location, species, size, and condition or health noted in the tree preservation plan.
 - e. No trees shall be removed from a property in the six (6) months preceding a development application pertaining to that property. If evidence is provided that trees were removed within six (6) months of a development application submittal, the property owner and/or applicant will be required to replant an equivalent amount of the of the removed tree caliper.
 - f. If feasible, a tree that cannot remain in its existing location shall be spaded and relocated to another location on-site or off-site by a professional tree spade company. All measures shall be taken to ensure the survival and health of the tree. Existing trees and other plants in reasonably healthy condition may be removed only if the owner or developer has satisfactorily demonstrated to the Town that site design restrictions necessitate their removal.
 - g. Undeveloped areas with natural vegetation or undisturbed areas of quality may be allowed to count toward the minimum landscape planting requirements, as determined by the Town. The percentage of these areas eligible to partially satisfy the minimum requirement will be determined based upon its effectiveness to function as a buffer and enhance the visual and natural attributes of the site.
 - h. Trees that meet one or more of the following removal criteria shall be exempt from the requirements of this subsection:
 - 1. Dead, dying or naturally fallen trees, or trees determined by the Town to be a threat to public health, safety, or welfare.
 - 2. Trees that are determined by the Town to substantially obstruct clear visibility at roadways, intersections, alleys and driveways.
 - 3. Trees included on the Colorado Department of Agriculture noxious weed list, unless the tree is deemed a significant specimen tree by the Town.
 - i. If the site design precludes incorporation of some or all existing desirable trees, then replacement shall be made as follows:
 - 1. For any desirable trees that cannot be incorporated or are lost due to or prior to construction, the applicant shall provide an equivalent amount of the number and caliper of trees lost on-site and in the right-of-way adjacent to the property, in addition to meeting the minimum tree planting requirements.
 - 2. If the Town or third party consultant determines that on-site or right-of-way replacement is not possible, the required replacement shall be provided on an adjacent site or the nearest public land if feasible as determined by the Town.
- (12) Public and private open space, stormwater detention areas and drainage channels. All public and private open space, stormwater detention areas and drainage channels not designated as natural areas in accordance with Section 16-5-640 of this Chapter must be designed and landscaped in such a manner as to blend properly with the property and adjacent areas while not violating the functional needs of the stormwater facility. Slopes shall not exceed the design standards for detention areas located in open space as specified in the Town of Bennett Storm Drainage Criteria Manual. Wetlands on public and private property shall be maintained in their natural state, and the property owner may

receive a credit, in kind, to a portion of the open space, public land dedication or floodplain requirements.

- (13) Seeding. All future development phases within a site that are stripped of vegetation shall be seeded with an appropriate native seed mixture to prevent wind and water erosion during the time the site remains undeveloped, in accordance with an approved grading plan. A financial guarantee may be required for seeding in stormwater detention areas, and future development phases shall not be released until the grass required to comply with these standards has become established in a manner which prevents erosion. See The Development Design Guidelines for approved grasses.
- (14) The landscaping of all parks, right of ways, medians, entrance features, trails and pathway corridors, within a residential development project shall be completed prior to the issuance of building permits for more than fifty percent (50%) of the dwelling units approved in the project unless otherwise approved or restricted by the Town Board.

(Ord. No. 782-24, §1(Exh. A), 7-9-2024)

Sec. 16-2-730. Screening and buffering of site.

- (a) Screening. Outside trash receptacles, loading docks, open storage areas and utility boxes shall be screened from view from public rights-of-way and from all adjacent uses other than industrial. Screening for such areas shall be provided for by means of walls, solid fences or evergreen plantings. The following are special requirements for utility boxes and trash receptacles:
 - (1) Utility boxes means all above-ground utility boxes, which include electric transformers, switch gearboxes, cable television boxes and telephone pedestals and boxes shall be screened on the sides visible from the public rights-of-way that are not used for service access. If live plants are used for screening they must meet the utility setbacks set by the utility company.
 - (2) Trash receptacles means trash receptacles and dumpsters shall be entirely screened from view and enclosed by a solid, gated wall or fence (trash enclosure) at least six (6) feet in height. The trash enclosure shall use materials compatible with the building structure and designed to be visually harmonious with the overall building architecture. The trash enclosure shall be sited so the service vehicle can conveniently access the enclosure and maneuver without backing onto a public right-of-way.
- (b) Site buffering—A buffer yard is required between dissimilar uses.
 - (1) A buffer yard is a landscape area between two (2) different land uses and is designed to provide a transition between the uses, mitigate or minimize potential nuisances such as noise, light, and glare, protect the character of an area, and protect natural resources from impacts of nearby development.
 - (2) General buffer standards.
 - a. Buffers may be interrupted for necessary pedestrian and vehicle access.
 - b. Buffers may contain a combination of landscaping, berms, walls, grade change, and fences.
 - c. Landscaping provided in buffer areas shall be located on the outside of walls or fences to maximize the intent of the screening and buffering.
 - d. Buffers in mixed-use districts may include hardscape as part of buffer design.
 - (3) Buffer minimum width and where required—See buffer chart in Development Design Guidelines. Buffer yards must be shown on the landscape plan and the specific landscaping features being used to mitigate the dissimilar uses identified.
 - (4) In general, if a use is developed adjacent to an existing use that does not have the required buffer yard, the new use may be required to provide the buffer yard entirely on-site.

(Ord. No. 782-24, §1(Exh. A), 7-9-2024)

Sec. 16-2-740. Alternative compliance.

- (a) If a proposed landscape or irrigation plan can meet the objectives of this Section through alternative or creative methods, or when warranted by new technology or alternative methods for installation and materials.
- (1) An applicant may request approval of such alternative method of compliance by following this process:
 - (2) Attend a pre-application meeting to discuss the request with Planning Division staff. The pre-application meeting material shall include a written request explaining the applicant's rationale and a site plan. This meeting must occur prior to the submittal of an application.
 - (3) Provide an application that shall include:
 - a. A description of site conditions, including topography, soils, existing vegetation, environmental values, and identification of limitations.
 - b. An explanation of methods and techniques in the alternative design and how they will achieve the desired objectives and otherwise meet the water efficiency objectives of these regulations.
 - c. The alternative landscape and/or irrigation plans.
 - (4) There may be variations to these standards in an approved Site Development plan, Development Agreement, HOA or Districts plan.

(Ord. No. 782-24, §1(Exh. A), 7-9-2024)

Sec. 16-2-750. Plant selection.

Except for designated natural areas and wetlands, landscaping materials shall be placed or planted according to the provisions of this Division. The following criteria are applicable to all landscape plans:

- (1) Only those species which are healthy and compatible with the local climate and the site soil characteristics, drainage and water supply shall be planted.
- (2) Plants prohibited near sidewalks, streets and utility lines:
 - a. Plants selected shall not by their growth habits obstruct, restrict or conflict with the safe use or maintenance of any roadway, sidewalk, alley or utilities.
 - b. Plants which have thorns or spines shall not be planted upon public rights-of-way or be closer than two (2) feet from walks or other pedestrian areas.
- (3) Recommended plant material. For a list of plant material and species recommended by the Town, please inquire with the Zoning Administrator.

(Ord. No. 782-24, §1(Exh. A), 7-9-2024)

Sec. 16-2-760. Irrigation.

- (a) Underground automatic irrigation systems are required for all permanent landscaping which cannot survive on natural precipitation. The use of drip, trickle, subterranean and other water-conserving irrigation methods is encouraged, as is the use of organic mulches and other water-conserving design features. The overall irrigation system design should emphasize efficient water use and conservation. The irrigation system shall be designed to prevent water waste, overwatering, overspray, and drainage of water onto any paved or unplanted surface or onto buildings or structures. Where available reclaimed water or purple pipe water shall be considered for use in an irrigation system.
- (b) All irrigation systems shall be contained by the appropriate backflow prevention assembly.

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- (c) Irrigation service connections (taps) shall not interconnect downstream of the meter. Irrigation mains shall not intersect with other irrigation mains serviced off another service connection.
- (1) Resilient wedge shut off valve with drain, or stop and waste, is required downstream of the meter.
 - (2) Master valves are required.
 - (3) 'Smart' irrigation controllers are required for all irrigation systems that require a dedicated tap.
- (d) All required landscaped area vegetation shall be served by a functioning automatic irrigation system, a weather-based smart controller and rain sensor to override the irrigation cycle when sufficient rainfall has occurred. Multi-program controllers shall be used when the landscape design contains more than one hydrozone and shall be designed to irrigate hydrozones separately.
- (e) Irrigation systems shall be run consistent with the rules established in [Section] 13-3-410.
- (f) Irrigation zones utilizing spray heads and rotors shall have head to head coverage with no overspray on surrounding hardscapes or structures.
- (g) Dual meter installations are allowed for irrigated areas between two thousand five hundred (2,500) and five thousand (5,000) square feet, not exceeding seven and one half (7.5) feet per second through the service connection, and a demand of less than ten (10) gallons per minute (gpm).
- (h) Irrigated areas greater than five thousand (5,000) square feet require a dedicated irrigation tap. This requirement does not apply to single-~~unit~~~~family~~ lots.
- (i) Maximum velocity shall not exceed seven and one half (7.5) feet per second through the service connection.
- (j) Irrigation shall be hydrozoned, grouping similar water demands by irrigation zone. Turf shall be designated as its own hydrozone. Turf irrigation zones should be further separated by slope, exposure, and turf-type water needs.
- (k) Only drip and sub-surface irrigation systems will be allowed in areas less than six (6) feet in width or smaller.
- (l) Pop-up spray heads shall be equipped with internal check valves, internal pressure regulator, and matched precipitation rate spray or rotor nozzle.
- (m) Rotors shall be equipped with internal check valves.
- (n) Pop-up height shall be six (6) inch for sod areas and twelve (12) inch for native grass areas.
- (o) Drip emitters and sub-surface drip shall be equipped with internal check valves at each emitter.
- (p) Irrigation charts and hydraulic worksheets are required as part of the landscape plan submittal.
- (q) A passing backflow prevention assembly test is required prior to the issuance of a certificate of occupancy. This shall include a mechanical test of the assembly, validation of protection for degree of the hazard present, and proper installation according to manufacturer's recommendations.
- (Ord. No. 782-24, §1(Exh. A), 7-9-2024)

Sec. 16-2-770. Completion.

- (a) Substitutions. All substitutions of plant material on an approved landscape plan must be approved by Landscape Architect that designed the plan and the Zoning Administrator.
- (b) Inspections. Landscaping shall be installed and completed in compliance with the approved landscape plan.
- (c) The landscape architect of record shall inspect and certify that the landscape area (and irrigation system) has been constructed as depicted on the approved landscape and irrigation plans.
- (d) Prior to the issuance of a certificate of occupancy, the landscape architect of record shall submit a Certification of Landscape Installation to the Town which indicates the installation was done in accord with

the approved plans. Any failure to complete the required landscaping by the deadlines specified herein shall result in withholding of Certificates of Occupancy until compliance with the requirement occurs.

- (1) If the developer or owner has not completed all the installation of the landscaping and irrigation due to winter weather and wishes to obtain a certificate of occupancy, a landscape agreement and collateral must be provided to the Town Zoning Administrator.
 - (2) Upon installation of the landscaping required by the approved landscape plan and inspection by the landscape architect of record to confirm compliance with said plan, the Town shall inspect and release the collateral provided by the Developer if found to comply.
- (e) All landscaping in development projects is considered an improvement, completion of which is governed by Bennett Municipal Code Section 16-5-540.
- (f) Approved developer agreements, planned development zoned projects, site development plans, HOA requirements and special district plans may have landscaping requirements that vary from these standards. The final approved plans and recorded documents shall be considered to be in conformance of this section of the code for enforcement and regulatory purposes.

(Ord. No. 782-24, §1(Exh. A), 7-9-2024)

Sec. 16-2-780. Maintenance.

- (a) Maintenance of required landscaping on private property and public rights-of-way. The property owners or a designated homeowners' association shall be responsible for the proper maintenance of the landscaping and the irrigation systems on their property and on that portion of the public right-of-way adjacent to their property up to the curb (or sidewalk where the walk is attached to the curb). The landscaping shall be maintained to meet the following standards, except for those areas designated as natural areas or large tracts of vacant or agricultural land:
- (1) Grass shall be kept free of weeds.
 - a. The use of weed-free seed, gravel, or fill dirt is required.
 - b. The use of competitive grasses, shrubs, or trees that provide sufficient ground cover may be required where weed problems already occur or may occur in the future.
 - c. Plant species that appear on the Colorado State Noxious Weed lists are unacceptable for use in proposed landscaping.
 - d. For landscape areas that are presently bare and susceptible to erosion and runoff, the property owner shall be required to revegetate the area.
 - e. Weeds as defined in Section 7-1-10.
 - f. Notice of Violation and Penalty as per Bennett Municipal Code.
 - (2) Rock, mulch or groundcover areas shall be kept free of weeds.
 - (3) Trees and shrubs shall not overhang or encroach upon streets, walkways, drives, parking areas, traffic signs or traffic signals to the extent that they interfere with the intended use of those facilities. Tree limbs which overhang the public sidewalk shall be kept trimmed to a height of at least eight (8) feet above the sidewalk level. Tree limbs which overhang the public street shall be kept trimmed to a height of at least thirteen (13) feet above the street level.
 - (4) Pruning and trimming. Regular plant maintenance shall be performed to maintain plant health, support plant growth, and achieve design and aesthetic goals.
 - (5) Landscaping, including evergreen and deciduous shrubs within sight triangles and sight line areas, shall be maintained to be no taller than allowed per [Section] 16-5-615.

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- (6) Keep grass mown to a maximum height of six (6) inches. This does not apply to native or ornamental grasses.
 - (7) Irrigation systems and their components shall be maintained to sustain water efficiency consistent with the originally approved design.
 - (8) Grounds keeping. All landscaped areas shall be kept clean and free of invasive plant species.
- (b) Replacement of materials: Dead or diseased plant material shall be replaced within one (1) growing season with the same type of plant material and placed in substantially the same location as shown on the approved landscape plan. Substitutions may be allowed as replacement material, provided that the material is approved by the Zoning Administrator.
- (c) Compliance.
- (1) All development or new development to which these landscape standards apply must submit landscape and irrigation plans that demonstrate compliance with the minimum water efficiency and landscape standards set forth in this division.
 - (2) Vegetation that is deemed to be a traffic of safety hazard may be removed by the town with costs of the removal or trimming to be billed to the owner.
 - (3) Failure to maintain: The provisions of Section 16-1-345 regarding violations shall apply if it is found that adequate maintenance is not being performed according to this Section. Failing to maintain landscaping in accordance with the requirements of this Division shall be declared a public nuisance, and may be abated in the manner provided in Article I of Chapter 7 of this Code. Sections 7-1-210 and 7-1-220 of this Code concerning the non-exclusivity of the nuisance abatement procedure apply with respect to the enforcement of this Division as well.

(Ord. No. 782-24, §1(Exh. A), 7-9-2024)

Sec. 16-2-790. Fences and walls.

- (a) General. Fences and walls shall comply with the following general requirements:
- (1) A building permit from the Town is required prior to the construction of any fence or wall that is greater than thirty-six (36) inches in height. Fencing intended for decorative purposes only, and which does not include any area to be completely enclosed, may be allowed on any part of a parcel, provided that it does not exceed thirty-six (36) inches in height.
 - (2) It shall be the responsibility of the property owner to locate all property lines.
 - (3) Height shall be measured at the finished grade on the side of the fence or wall nearest the street, alley or abutting property.
 - (4) On corner lots, no obstruction is allowed within the corner vision clearance triangle established for the adjacent intersection.
 - (5) Agricultural fences such as hog panels, chicken wire, field fence and snow fence types are not permitted. The Zoning Administrator may allow alternative style fences in special circumstances in annexed areas where containment of animals is required.
- (b) Residential zoning districts. Fences and walls in residential zone districts shall meet the following standards:
- (1) No barbed wire, sharp-pointed or jagged materials along the top of the fence shall be permitted.
 - (2) No above ground electrically charged fences shall be permitted, although underground electrical fences may be permitted for the purposes of containing pets within a residential lot.
 - (3) Height limits and construction type:
 - a. Front yards:

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1. Maximum height: four (4) feet.
 2. Fences shall be constructed of either split rails or pickets. A solid wall or stockade type fence not to exceed thirty-six (36) inches in height shall also be permitted alongside front yard property lines. Chain link fencing is prohibited in front yards except within the following areas:
 - i. The RMU Overlay District; and
 - ii. Between Bennett Avenue to Colfax Avenue and Birch Street to Custer Street.
 3. Wire fencing is allowed for animal control only when mounted on the inside of an approved fence and not exceeding the height of the fence it is attached to.
- b. Side and rear yards:
1. Maximum height: six (6) feet.
 2. Construction: may be one hundred percent (100%) solid.
- (c) Nonresidential zoning districts. Fences and walls in agricultural, commercial and industrial zone districts shall meet the following standards:
- (1) Maximum height: eight (8) feet.
 - (2) Barbed wire, razor wire or electrical security fences shall be permitted only in industrial and agricultural zone districts and upon written approval of the Zoning Administrator. Security fences may be topped with up to three (3) strands of barbed wire.
- (d) Installation. All fences shall meet the following installation requirements:
- (1) Fences shall be installed so that the finished side faces a public way or public space. All post and structural members, not decorative in nature, shall be on the side facing the fence owner's property.
 - (2) Fencing shall be installed vertical to the ground and the top finish of the fence shall be uniform in height. Fences shall follow the contour of the ground as far as practical. Adjustments for grade shall occur at the bottom of the fence to every extent possible.
 - (3) Gates adjacent to sidewalks, alleys and public rights-of-way shall open inward to the private property. Opening or movable gates or fences shall be designed and constructed so that no part of the fence or gate extend over the property line when operating.
 - (4) An improved driving/parking surface is required prior to the construction of any gate which will serve as vehicular access for long-term parking in the backyard.
 - (5) No fencing shall be erected so as to restrict access by emergency equipment to any building.
- (e) Maintenance of fences and walls is covered in Section 7-2-150.
- (Ord. No. 782-24, §1(Exh. A), 7-9-2024)

Sec. 16-2-795. Artificial turf and plants.

- (a) Use of artificial turf. The use of artificial turf as a landscaping material shall only be permitted in residential zone districts and athletic fields of play within the Town when installed in accordance with this Section. Artificial turf may not be used to satisfy living plant material requirements. In no case would artificial turf be allowed on greater than fifty percent (50%) of the open area of the lot, tract or parcel.
- (b) Prohibited use. The use of indoor or outdoor plastic or nylon carpeting or similar material and the use of artificial trees, shrubs, vines, or other plants as landscaping materials are prohibited.
 - (1) Artificial turf is only allowed in multi-unit-family residential zone districts for areas designated by the town development review process as high pedestrian traffic areas such as sports fields and courts,

sports facilities, picnic eating area, playgrounds on public and private property, outdoor seating, dog potty areas and active recreation areas.

- (2) Artificial turf shall be pervious and installed according to industry specifications and maintained in a manner to mimic a healthy living turf.
- (c) Artificial turf standards. The use of artificial turf shall be subject to the following standards:
 - (1) Materials. Artificial turf shall be of a type known as cut pile infill and shall be manufactured from polypropylene, polyethylene, or a blend of polypropylene and polyethylene fibers stitched onto a polypropylene or polyurethane meshed or hole-punched backing with a face weight greater than sixty (60) ounces per square yard. Hole-punched backings shall have holes spaced in a uniform grid pattern with spacing not to exceed four (4) inches by six (6) inches on center. The Zoning Administrator may approve an alternative product if it is of equal or greater quality of product. Biobased products derived from plants and other agriculture, marine and forestry materials and may be certified as USDA Bio-preferred product are preferred.
 - (2) Installation. Artificial turf shall be installed pursuant to the manufacturer's specifications over a compacted and porous road base material and shall be anchored at all edges and seams. Seams shall be glued and not sewn. An infill medium consisting of ground rubber, ground coal slag, clean washed sand and ground rubber, or other approved mixture shall be brushed into the fibers to ensure that the fibers remain in an upright position and to provide ballast that will help hold the turf in place and provide a cushioning effect.
 - (3) Grading. Artificial turf areas shall be graded to drain water runoff into an area of living landscaping material or to otherwise provide positive drainage of the artificial turf area in accordance with an approved drainage plan. Standing water and areas of ponding water are prohibited, and any area where standing water occurs shall be remedied.
 - (4) Slope restrictions. The installation of artificial turf on slopes greater than six percent (6%) shall be approved by the Town Engineer and the Public Works Department who may impose conditions on such installation including but not limited to type of infill required, grading requirements, and the amount of living landscaping material required to ensure sufficient drainage for runoff.
 - (5) General appearance.
 - a. Artificial turf shall be installed and maintained to effectively simulate the appearance of a well-maintained lawn.
 - b. Artificial turf shall have a minimum eight (8) year, no-fade warranty as issued by the manufacturer.
 - c. Artificial turf shall be maintained in a green fadeless condition and shall be maintained free of stains, weeds, debris, tears, holes, and impressions. Artificial turf shall be replaced once it is unable to be maintained as required.
 - d. The Zoning Administrator may require, for areas considered as high traffic, the utilization of artificial turf with spines in the blades or spirochetes in addition to infill in order to ensure the look of a well-maintained lawn.
- (d) Compliance with other laws, regulations, and standards. In addition to the requirements of this Section, applicants installing artificial turf within the Town shall obtain a building permit and comply with all federal and state laws and regulations and ASTM International standards concerning artificial turf, including but not limited to any limitations on the maximum lead content in artificial turf products.
 1. Artificial turf shall not be installed, planted, placed in any development or redevelopment on any portion of commercial, institutional, industrial, local government, school, business common interest property, street right of way, parking lot, median or transportation corridor. Artificial turf is allowed on athletic fields of play.

(Ord. No. 782-24, §1(Exh. A), 7-9-2024)

Division 8 Lighting Standards

Sec. 16-2-810. Purpose and applicability.

- (a) Purpose. The purpose of these lighting standards is to:
- (1) Provide adequate lighting for safety and security;
 - (2) Reduce light pollution, light trespass, glare, sky glow impacts and offensive light sources;
 - (3) Prevent inappropriately aimed or poorly designed or installed exterior lighting;
 - (4) Encourage quality lighting design, light fixture shielding, uniform light intensities and lighting controls; and
 - (5) Promote efficient and cost-effective lighting to conserve energy.
- (b) Applicability. The lighting standards contained herein shall apply to all exterior lighting, including illumination from outdoor signs, and any interior lighting from buildings or structures that affect the outdoor environment, unless otherwise exempted herein. The following uses shall conform to the requirements of this Division:
- (1) New development. All new development that requires Town approval of a site plan or planned development plan shall conform to the lighting standards set forth in this Division and shall submit a lighting plan in accordance with Section 16-2-830.
 - (2) New construction or remodeling. All new construction for which a building permit is required and any remodeling of an existing building or structure for which a building permit is required shall conform to the lighting standards set forth in this Division; provided, however, that compliance with the requirements of this Division is required for a remodel of an existing building or structure only with respect to the remodeled portion of the existing building or structure. The requirements of this Division shall be met prior to a final inspection for any building permit.
 - (3) New lighting. All new exterior lighting and interior lighting from buildings or structures that affect the outdoor environment shall conform to the lighting standards set forth in this Division.
 - (4) Existing lighting systems. All existing, legally installed and operative nonconforming lighting systems may be continued; provided, however, that compliance with the requirements of this Division is required when a luminaire or any other lighting equipment or part of a lighting system is replaced and an electrical permit is required for such replacement.
 - (5) Exemptions. The standards of this Division shall not apply to the following types of exterior lighting:
 - a. Holiday lights: Holiday lights on residential and nonresidential properties.
 - b. Aviation lighting: Lighting used exclusively for aviation purposes. All heliport lighting shall be turned off when the heliport is not in use.
 - c. Public safety lighting. Lighting required for public safety which includes: lighting within the right-of-way; emergency repairs within the right-of-way; and lighting installed by a governmental entity for the purposes of health, safety and welfare.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. 728-21, §1, 7-13-2021)

Sec. 16-2-820. Prohibited lighting.

Search, blinking, pulsating, flashing, changing intensity, strobe, beacon and laser lights are all prohibited from use.

Sec. 16-2-830. Lighting plan.

When a lighting plan is required as part of a site plan or final development plan, an applicant shall comply with submittal requirements for those plans as set forth in the Applicant Guide. When an application is not part of a formal subdivision or zoning application and is being processed through the site plan process, the applicant must submit a light plan that complies with the requirements set forth in the Applicant Guide. If the Zoning Administrator determines that the proposed lighting plan does not comply with this Section, the plan shall not be approved and the building permit shall not be issued.

Sec. 16-2-840. Design standards.

Lighting shall meet the following design standards:

- (1) Lighting zones: Pursuant to Section 16-2-860, all zoning districts within the Town are placed within one (1) of two (2) lighting zones. Lighting within the lighting zones shall comply with the allowable light levels, light trespass levels, light pole heights and curfew requirements set forth in Table 2-16.
- (2) Shielding requirements: The illumination from an exterior lamp shall be a full cut-off fixture and fully shielded from view from adjacent properties and public rights-of-way, except as otherwise permitted herein. Fixtures shall meet the definitions for fully shielded and full cut-off as defined in Division 2 of this Article.
- (3) Side shields: Any exterior light fixture located within fifteen (15) feet of a property line of a residential zoning district or an existing residential use or within ten (10) feet of a public right-of-way shall provide side shields on the sides facing the property line, residential use, or public right-of-way, as applicable.
- (4) Light from buildings: The luminance levels at building entrances and windows may exceed the maximum allowed (see Table 2-16) by one hundred percent (100%) of the site lighting to a distance of five (5) feet from the building in order to accommodate light spillage from within the building and light from window signage (example: a convenience store).
- (5) Illuminating signs: In addition to compliance with Article III of this Chapter, all signs shall comply with the following lighting standards:
 - a. Internally illuminated signs:
 - i. Luminous intensity shall be limited to a maximum of 0.3 foot candles between dusk to dawn as measured from the sign's face.
 - b. Externally illuminated signs:
 - i. All light must be aimed directly onto the sign. No sign shall be illuminated with fixtures that provide unshielded upward transmission of light.
 - ii. The total initial horizontal luminance level from external light sources shining on a sign shall not exceed eighty (80) lumens per square foot of sign face.
- (6) Canopy lighting: Lighting fixtures mounted on canopies are permitted in non-residential zoning districts only and shall be installed such that the bottom of the light fixture or its lens, whichever is lower, is recessed or mounted flush with the bottom surface of the canopy and parallel to the ground. Full cut-off light fixtures with side shields may project below the underside of a canopy. All light emitted by an under-canopy fixture shall be substantially confined to the ground surface directly beneath the perimeter of the canopy.

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- (7) Flag poles: A flag may be illuminated by one (1) upward or downward aimed and shielded spotlight light fixture which shall not exceed one thousand (1,000) lumens. Flag pole lighting is exempt from the curfew limitations set forth in Section 16-2-850. The light source from the fixture, whether aimed upward or downward, must be shielded such that it is not visible from adjacent properties.
 - (8) Motion sensors: Motion sensor activations shall be permitted so long as the sensor is triggered by motion within the owner's property lines. The Zoning Administrator may grant exceptions to this requirement pursuant to Section 16-2-880.
 - (9) Architectural and landscape lighting: All light must be aimed directly onto the surface intended to receive the light source. All light fixtures shall be shielded and any uplighting on buildings may be permitted provided that no luminance escapes the facade. Building facades may be illuminated with a maximum of eight (8) lumens per square foot of the area intended to receive the light source.
 - (10) Recreational facilities: The maximum initial horizontal illumination for recreational facilities shall be the lesser of fifty (50) f.c. or the IESNA standards for the specific recreational facility. Lighting for parking lots and pedestrian areas shall be a maximum of five (5) f.c. All exterior lights shall be extinguished by 10:00 p.m. or immediately after the conclusion of the final event of the day. Lighting for security shall comply with Table 2-16.
 - (11) Single-~~unitfamily~~ detached dwellings:
 - a. Full cut-off fixtures must be utilized for exterior lighting of single-~~unitfamily~~ detached dwellings in order to direct light emissions down onto the site and not shine direct illumination or glare onto adjacent properties.
 - b. The curfew requirements set forth in Section 16-2-850 do not apply to single-~~unitfamily~~ detached dwellings.
 - (12) Right-of-way lighting: Lighting located within the public right-of-way shall comply with the definition of full cut-off as defined in Division 2 of this Article.
 - (13) Design requirements. The style, color and design of the fixtures shall be compatible with the overall design concept and use of materials for the building, site and area of the lighting plan. Individual sites or projects shall use a consistent lamp source for uniformity in light color and intensity.

Sec. 16-2-850. Hours of operation.

All nonresidential light fixtures shall be subject to the following curfew: all exterior lighting fixtures, except the minimum necessary for security, shall be extinguished by 10:00 p.m. or within one (1) hour after the close of the facility, whichever is later, and remain extinguished until dawn, or one (1) hour prior to the commencement of business, whichever is earlier. Lights during pre- and post-curfew hours shall be operated as follows:

- (1) Pre-curfew: Pre-curfew light levels shall meet the standards set forth in this Division.
- (2) Post-curfew: Post-curfew light levels necessary for security shall comply with the standards set forth in Table 2-16. Motion sensors may be used for lighting fixtures not needed for constant security lighting.

Sec. 16-2-860. Lighting zones.

Lighting Zones are designated as follows:

- (1) Lighting Zone 1: Low and moderate ambient lighting. Areas where lighting might adversely affect flora and fauna or disturb the character of the area. The vision of human residents and users is adapted to low to moderate light levels. Lighting may be used for safety, security, convenience, decorative or architectural detailed as described herein.

- (2) Lighting Zone 2: Moderately high ambient lighting. Areas of human activity where the vision of human residents and users is adapted to moderately high light levels. Lighting is generally desired for safety, security or convenience and it is often uniform or continuous.
- (3) Table 2-16 specifies the zoning districts within, and applicable to, each Lighting Zone:

Table 2.16
Lighting Zone Criteria

Standard	Lighting Zone 1 Agricultural (A), Single-Family Low Density Residential (R-1), Mid Density Two-Family Residential (R-2), High Density Multi-Family Residential (R-3) and Mobile Home District (MH), Public (P) and all applicable residential PDs	Lighting Zone 2 Commercial (C), Employment Center (EC), Industrial (I) and applicable PDs
Maximum illumination	5 f.c. building entries and parking lots	5 f.c. building entries and parking lots; 20 f.c. under canopies for uses such as fueling stations
Maximum light level at the property line	0.5 f.c.	0.5 f.c.
Post-curfew	Entry lights may be left on. Parking lots with more than two (2) poles and pedestrian circulation lighting shall be reduced to security levels.*	Entry lights may be left on. Parking lots with more than two (2) poles and pedestrian circulation lighting shall be reduced to security levels.*
Maximum pole height	25 feet in parking lots; 12 feet for all sidewalks and pedestrian circulation routes	35 feet in parking lots; 12 feet for all sidewalks and pedestrian circulation routes

Commented [SC78]: This is suggested clean up. If you move forward with it, also consider adding RE and R-1A to this table.

* Security levels shall mean one (1) or more of the following techniques: (a) fifty percent (50%) reduction in lighting equipment; (b) motion sensors for lighting fixtures not needed for constant security lighting; or (c) site specific lighting such as lighting a trash dumpster, pay phone, or employee entrance.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-2-870. Installation and maintenance.

Light fixtures shall be installed and maintained in a manner consistent with the lighting plan approved by the Town. The property owners and occupants shall be jointly responsible for the proper maintenance of the lighting fixtures and equipment on their property. Landscaping improvements shall be maintained as required by Section 16-2-780 in order eliminate conflicts between lighting fixtures and mature landscaping.

Sec. 16-2-880. Exceptions.

- (a) Criteria: The Zoning Administrator may grant an exception from the provisions of this Division if:
 - (1) The proposed exception is based upon a specific hardship that is unique to the site, is not self-inflicted by the property owner and is directly attributable to existing topographical or other site conditions that do not allow the applicant to satisfy the requirements of this Division;
 - (2) The proposed exception shall at no time allow proposed light levels to exceed maximum lumen limits; and
 - (3) The proposed exception does not conflict with the overall intent of this Division to eliminate glare, light pollution and light trespass.

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- (b) Equivalent material: The Zoning Administrator may approve any alternative design, material or method, provided that it provides an approximate equivalent method of satisfying these standards and complies with IESNA recommendations.
 - (c) Conditions. In granting any exception pursuant to this Section, the Zoning Administrator may impose reasonable conditions to further the purpose of this Division.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Division 9 Wireless Telecommunications Facilities

Sec. 16-2-910. Purpose and goals.

The purpose of these provisions is to establish requirements for the siting of Wireless Communications Facilities (WCFs). The goals of these provisions are to:

- (a) Provide for the managed development and installation, maintenance, modification, and removal of wireless communications infrastructure in the Town with the fewest number of WCFs to complete a network without unreasonably discriminating against wireless communications providers of functionally equivalent services including all of those who install, maintain, operate, and remove WCFs.
- (b) Promote and protect the public health, safety, and welfare by reducing the visibility of WCFs to the fullest extent possible through techniques including but not limited to concealment design techniques and undergrounding of WCFs and the equipment associated therewith.
- (c) Encourage the deployment of smaller, less intrusive WCFs to supplement existing larger WCFs.
- (d) Encourage the use of wall mounted panel antennas.
- (e) Encourage roof mounted antennas only when wall mounted antennas will not provide adequate service or are not otherwise feasible.
- (f) Encourage the location of Towers in non-residential areas, in a manner that minimizes the total number of Towers needed throughout the community.
- (g) Encourage strongly the collocation of WCFs on new and existing Sites.
- (h) Encourage owners and users of Antennas and Towers to locate them, to the extent possible, in areas where the adverse impact on the community is minimized.
- (i) Enhance the ability of wireless communications service providers to provide such services to the community quickly, effectively, and efficiently.
- (j) Effectively manage Small Cell WCFs in the Right-of-Way.

Sec. 16-2-920. Applicability; waiver; exemptions.

The requirements set forth in this Section shall apply to all WCF applications for Base Stations, Alternative Tower Structures, Alternative Tower Structures located within Right-of-Way, and Towers as defined in Section 16-2-210. The Town shall have the authority to waive any requirement or standard set forth in this Section, if the Town makes a determination that the specific requirement or standard is preempted by federal or state law. Prior to applying the waiver to any pending application, the Town shall, in consultation with the Town Manager and Town Attorney, make a written preemption determination which written determination shall identify the specific requirement or standard that is being waived and cite to the specific federal or state law provision that preempts the specific Town requirement or standard set forth in this Section. The requirements set forth in this Section shall not apply to:

- (a) *Amateur Radio Antennas.* Amateur radio antennas that are owned and operated by a federally licensed amateur radio station operator or are used exclusively for receive-only antennas, provided that the

requirement that the height be no more than the distance from the base of the antenna to the property line is met. The Town Manager or his or her designee has the authority to approve modifications to the height restriction, if in the reasonable discretion of the Town, modifications are necessary to comply with federal law.

- (b) *Pre-existing WCFs.* Any WCF for which a permit has been properly issued prior to July 1, 2017, shall not be required to meet the requirements of this Section, other than the requirements of subsections 16-2-930(a), (e) and (f) below. Changes and additions to pre-existing WCFs (including trading out of antennas for an equal number of antennas) shall meet applicable requirements of this Section.
- (c) *Miscellaneous Antennas.* Antennas used for reception of television, multi-channel video programming and radio such as OTARD antennas, television broadcast band antennas, and broadcast radio antennas, provided that the requirement that the height be no more than the distance from the base to the property line are met. The Town Manager or her/his designee has the authority to approve modifications to the height restriction related to OTARD antennas and OTARD antenna structures, if in the reasonable discretion of the Town, modifications are necessary to comply with federal law.

Sec. 16-2-930. Operational standards.

- (a) *Federal Requirements.* All WCFs shall meet the current standards and regulations of the FAA, the FCC and any other agency of the federal government with the authority to regulate WCFs. If such standards and regulations are changed, then the owners of the WCF governed by this Section shall bring such facility into compliance with such revised standards and regulations within the time period mandated by the controlling federal agency. Failure to meet such revised standards and regulations shall constitute grounds for the removal of the WCF at the owner's expense.
- (b) *Radio Frequency Standards.* All WCFs shall comply with federal standards for radio frequency emissions. If concerns regarding compliance with radio frequency emissions standards for a WCF have been made to the Town, the Town may request that the owner or operator of the WCF provide information demonstrating compliance. If such information is not sufficient, in the reasonable discretion of the Town, to demonstrate compliance, the Town may request and the owner or operator of the WCF shall submit a project implementation report which provides cumulative field measurements of radio frequency emissions of all antennas installed at the subject Site, and which compares the results with established federal standards. If, upon review, the Town finds that the facility does not meet federal standards, the Town may require corrective action within a reasonable period of time, and if not corrected, may require removal of the WCF pursuant to subsection (a) above. Any reasonable costs incurred by the Town, including reasonable consulting costs to verify compliance with these requirements, shall be paid by the owner or operator of the Site.
- (c) *Signal Interference.* All WCFs shall be designed and sited so as not to cause interference with the normal operation of radio, television, telephone and other communication services utilized by adjacent residential and non-residential properties; nor shall any such facilities interfere with any public safety communications. The applicant shall, at the time of application, provide a written statement ("Signal Interference Letter") from a qualified radio frequency engineer, certifying that a technical evaluation of existing facilities and the proposed WCFs indicates no potential interference problems. The Town shall be permitted to monitor interference levels with public safety communications during the construction and operational phases for any WCF site.
- (d) *Legal Access.* In all applications for WCFs outside of the Right-of-Way, an Applicant shall demonstrate that it owns or has lease rights to the Site.
- (e) *Operation and Maintenance.* To ensure the structural integrity of WCFs, the owner and operator of a WCF shall ensure that it is maintained in compliance with standards contained in applicable local building and safety codes. If upon inspection, the Town determines that a WCF fails to comply with such codes and constitutes a danger to persons or property, then, upon written notice being provided to the owner and/or operator of the WCF, the owner and operator shall have thirty (30) days from the date of notice to bring such

WCF into compliance. Upon good cause shown by the owner or operator, the Town may extend such compliance period not to exceed ninety (90) days from the date of said notice. If the owner or operator fails to bring such WCF into compliance within said time period, the Town may remove such WCF at the owner's and operator's expense. No hazardous materials shall be permitted in association with WCFs, except those necessary for the operations of the WCF and only in accordance with all applicable laws governing such materials.

(f) *Abandonment and Removal.*

- (1) WCFs which are not in use for communications purposes or which are deemed abandoned under subsection (2) below, for a period of six (6) consecutive months, shall be removed by the WCF owner. Removal shall occur within ninety (90) calendar days of the end of said six-month period. Upon removal, the site shall be revegetated to substantially the condition it was in prior to the existence of the telecommunications facility.
- (2) WCFs shall be deemed abandoned if one (1) or more of the following conditions exist:
 - a. Power service is disconnected;
 - b. All of the equipment required for transmission has been removed from the site; or
 - c. The WCF owner has lost ownership, lease rights or other legal authority to use the property for purposes of operating a WCF, and the site has not been legally transferred to another entity possessing such authority.
- (3) In the event that the owner fails to remove the abandoned WCF within the time specified in subsection (1) above, the Town is hereby authorized to remove or cause the removal of the abandoned WCF without any liability for trespass. All costs incurred by the Town, including an administrative cost equal to twenty-five percent (25%) of all direct costs, shall be charged as a lien against such real property and the owners thereof.
- (4) If the amount specified in subsection (3) above is not paid within thirty (30) calendar days of invoicing, the Town shall have the right to seek collection of any amount due, plus statutory interest and any and all costs of collection, including but not limited to its attorney's fees, through institution of an action at law or in equity.
- (5) If the WCF owner intends to abandon or cease use of a WCF, the owner shall notify the Zoning Administrator, in writing, of such intent within thirty (30) days of such decision, and in no event later than the date of abandonment.

(Ord. 754-22, §4, 8-9-2022)

Sec. 16-2-940. Design standards.

The Town shall adopt and make available administrative regulations describing Design Standards regarding WCFs and related infrastructure, and no new WCFs shall be constructed unless they comply with such Design Standards.

Sec. 16-2-950. Review procedures and requirements.

No new WCF shall be constructed and no Collocation or modification to any WCF may occur except after a written request from an Applicant, reviewed and approved by the Town in accordance with this Section. WCFs are allowed as either a conditional or permitted use in the zone districts as shown in the Land Use Table in Section 16-2-470, except that Eligible Facilities Requests are allowed as a permitted use in all zoning districts subject to the provisions of this Division 9. All WCFs, except Eligible Facilities Requests, shall be reviewed pursuant to the following procedures:

- (a) *Submittal Requirements.* Each Applicant for a WCF shall be required to submit:

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- (1) Completed review application form;
 - (2) Submittal Fee;
 - (3) Signal Interference Letter (Section 16-2-930(c));
 - (4) Inventory of Existing Sites (subsection (b) below); and
 - (5) Any other information deemed necessary by the Town to determine compliance with this Section.

- (b) *Inventory of Existing Sites.* Each Applicant for a WCF shall provide to the Town a narrative and map description of the Applicant's existing or then currently proposed WCFs within the Town, and outside of the Town within one (1) mile of its boundaries. In addition, the Applicant shall inform the Town generally of the areas of the Town in which it believes WCFs may need to be located within the next three years. The inventory list should identify the Site name, Site address, and a general description of the facility (e.g., rooftop antennas and ground mounted equipment). This provision is not intended to be a requirement that the Applicant submit its business plan, proprietary information, or make commitments regarding locations of WCFs within the Town. Rather, it is an attempt to provide a mechanism for the Town and all Applicants for WCFs to share general information, assist in the Town's comprehensive planning process, and promote collocation by identifying areas in which WCFs might be appropriately constructed for multiple users.

The Town may share such information with other Applicants applying for administrative approvals or conditional permits under this Section or other organizations seeking to locate WCFs within the jurisdiction of the Town, provided however, that the Town is not, by sharing such information, in any way representing or warranting that such Sites are available or suitable.

- (c) *Applications for Base Stations, Alternative Tower Structures, and Alternative Tower Structures within Right-of-Way.* In all zoning districts, and planned developments, each application for a Base Station, Alternative Tower Structure, or Alternative Tower Structure within Right-of-Way shall be reviewed and considered for approval by the Town for conformance to this Section. Except for Small Cell WCFs in the Right-of-Way that meet all requirements of this Section or Eligible Facilities Requests, the Town Manager may refer the application to Board of Trustees for approval if the Town Manager finds the proposed WCF to have a significant visual impact (e.g., proximity to historic or designated view corridors, or on significant community features) or otherwise is substantially incompatible with the structure on which the WCF will be installed, or it does not meet the clear intent of this Section.
- (d) *Applications for Towers.* In all zoning districts and planned developments, Towers may be permitted only as a conditional use. Such Towers shall be reviewed for conformance to this Section using the use by conditional review procedures set forth in Section 16-2-330 of the Town Code in conjunction with the applicable sections of this Section. All applications for Towers shall demonstrate that other alternative design options such as Base Stations or Alternative Tower Structures are not viable options.
- (e) *Administrative Review Procedures for Eligible Facilities Requests.*
- (1) *Application.* In all zoning districts and planned developments, Eligible Facilities Requests for collocation on or modification of an Existing Tower or Base Station shall be considered a use permitted by right subject to administrative review and determination by the Town. The Zoning Administrator shall prepare, and from time to time revise and make publicly available, an application form which shall be limited to the information necessary for the Town to consider whether an application for collocation or modification is an Eligible Facilities Request. The application may not require the Applicant to demonstrate a need or business case for the proposed modification or collocation. Application information may include, without limitation, whether the project:
 - a. Would result in a Substantial Change;

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- b. Violates a generally applicable building, structural, electrical, or safety code or other law codifying objective standards reasonably related to public health and safety.
- (2) **Type of Review.** Upon receipt of an application for an Eligible Facilities Request pursuant to this Section, the Zoning Administrator shall review such application to determine whether the application so qualifies.
- (3) **Timeframe for Review.** Subject to the tolling provisions of subparagraph (4) below, within sixty (60) days of the date on which an Applicant submits an application seeking approval under this Section, the Zoning Administrator shall approve the application unless it determines that the application is not covered by this Section. If the application does not qualify as an Eligible Facilities Request, the denial of the application shall be in writing and shall set forth the reasons for the Zoning Administrator's decision.
- (4) **Tolling of the Timeframe for Review.** The sixty (60) day review period begins to run when the application is filed, and may be tolled only by mutual agreement of the Town and the Applicant, or in cases where the Zoning Administrator determines that the application is incomplete:
- a. To toll the timeframe for incompleteness, the Zoning Administrator must provide written notice to the Applicant within thirty (30) days of receipt of the application, specifically delineating all missing documents or information required in the application;
- b. The timeframe for review begins running again when the Applicant makes a supplemental written submission in response to the Zoning Administrator's notice of incompleteness; and
- c. Following a supplemental submission, the Zoning Administrator will notify the Applicant within ten (10) days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in subsection 4(a) of this subsection (e). In the case of a second or subsequent notice of incompleteness, the Zoning Administrator may not specify missing documents or information that were not delineated in the original notice of incompleteness.
- (5) **Failure to Act.** In the event the Town fails to act on a request seeking approval for an Eligible Facilities Request under this Section within the timeframe for review (accounting for any tolling), the request shall be deemed granted. The deemed grant of approval becomes effective when the Applicant notifies the Town in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.
- (6) **Interaction with Telecommunications Act Section 332(c)(7).** If the Zoning Administrator determines that the Applicant's request is not an Eligible Facilities Request as delineated in this Section, the Applicant shall be advised as to the relevant provisions of the Town Code that govern the process to consider the request, and any additional information that may be required to be submitted in order for the request to be considered complete. If the Applicant subsequently indicates an intent for the proposal to be considered under the relevant section of the Town Code and submits all required information the presumptively reasonable timeframe under Section 332(c)(7), as set forth in applicable federal and state law, will begin to run from the issuance of the submittal of the Applicant's complete information.
- (f) **Abandonment and Removal.** Prior to approval, affidavits shall be required from the owner of the property and from the Applicant acknowledging that each is responsible for the removal of a WCF, including Related Accessory Equipment, that is abandoned or is unused for a period of six (6) months.
- (g) **Decision.** Any decision to approve, approve with conditions, or deny an application for a WCF shall be in writing, supported by substantial evidence in a written record, and shall be provided to the Applicant within ten (10) days of the decision. If the approval is for a concealed WCF, the written decision shall specifically identify that the WCF is a concealed facility.

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- (h) *Compliance with Applicable Law.* Notwithstanding the approval of an application for collocation or an Eligible Facilities Request as described herein, all work done pursuant to WCF applications must be completed in accordance with all applicable building, structural, electrical and safety requirements as set forth in the Town Code, and any other applicable regulations. In addition, all WCF applications shall comply with the following:
- (1) Comply with any permit or license issued by a local, state, or federal agency with jurisdiction of the WCF;
 - (2) Comply with easements, covenants, conditions and/or restrictions on or applicable to the underlying real property;
 - (3) Be maintained in good working condition and to the standards established at the time of application approval or as otherwise required by applicable law; and
 - (4) Remain free from trash, debris, litter, graffiti, and other forms of vandalism. Any damage shall be repaired as soon as practicable, and in no instance more than ten (10) days from the time of notification by the Town or after discovery by the owner or operator of the Site.
- (i) *Compliance Report.* Upon request by the Town, the Applicant shall provide a compliance report within forty-five (45) days after installation of a WCF, demonstrating that as installed and in operation, the WCF complies with all conditions of approval, applicable Town requirements and regulations.

Sec. 16-2-960. Standards for approval.

No WCF, including Related Accessory Equipment, shall be approved unless it meets the following approval criteria:

- (a) Visual impacts are minimized and view corridors are protected to the greatest extent feasible.
- (b) Unless a Tower site, or otherwise waived pursuant to this Section, the WCF utilizes concealment design techniques to avoid adverse impacts on the surrounding area, by ensuring that the facility looks like something other than a Tower or Base Station;
- (c) The WCF meets the applicable design standards for the type of WCF in accordance with Section 16-2-940, Design Standards and the regulations adopted pursuant thereto; and
- (d) The WCF is and will be operated at all times in accordance with Section 16-2-930.
- (e) The Town's intent is to have several providers use the same structure or site to keep the number of WCFs to a minimum as a means of reducing the overall visual impacts throughout the community. If collocation is a feasible alternative to the construction of a new Tower, then collocation is required.
- (f) If it is practical to attach WCFs to water towers, existing transmission towers, or existing buildings, or light poles or utility poles, then such locations shall be used instead of new Towers.
- (g) WCFs that are attached to existing Base Stations are subject to the following requirements:
 - (1) Façade-mounted facilities (antenna mounted on the side of a building) may not extend above the parapet wall, or, in the case of a pitched roof, above the fascia.
 - (2) The maximum height of a WCF that is mounted on a rooftop is the shorter of:
 - a. Twenty (20) feet taller than the building to which it is attached; or
 - b. Ten (10) feet taller than the maximum height allowed in the zone for a principal building.
 - (3) Rooftop antennas shall either be:
 - a. Mounted to a penthouse;
 - b. Set back such that they are not visible from ground level on adjacent rights-of-way or residential uses at a distance of one hundred (100) feet or less; or

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- c. Reasonably screened from ground level view, and designed in a manner which is compatible with the materials, colors, and architectural details of the existing building or structure.
- (4) Equipment that does not depend upon an elevated location to operate shall be located:
- a. Within a building;
 - b. Within an underground enclosure; or
 - c. Within an enclosure at ground level which is screened from view from all abutting properties, streets, and trails.
- (h) Telecommunication towers are subject to the following requirements:
- (1) The minimum setback shall be the setback applicable to principal structures in the zone in which the tower is located, plus one (1) foot per foot that a tower extends above the maximum building height for the zoning district.
 - (2) Towers shall be nonreflective, unpainted galvanized steel or painted neutral colors or such shades that are appropriate and compatible with the surrounding environment.
 - (3) No lighting shall be permitted on Towers except that required by the Federal Aviation Administration (FAA).

ARTICLE III Sign Regulations

Division 1 Purpose and Applicability

Sec. 16-3-10. Authority and purpose.

Pursuant to authority found in state law, the sign regulations in this Article are adopted for the purpose of promoting the health, safety and general welfare of the Town.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. No. 660-16, §2(Exh. A), 2-23-2016)

Sec. 16-3-20. Application.

A sign may be displayed, erected, placed, established, painted, created, altered or maintained in the Town only in conformance with the standards, procedures, exemptions, and other requirements of this Article.

- (1) If any provision of this Article conflicts with any other adopted Town code that regulates signs, the more restrictive standards shall control and apply.
- (2) Signs shall be permitted in the various zoning districts as accessory structures in accordance with the regulations contained in this Article.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. No. 660-16, §2(Exh. A), 2-23-2016)

Sec. 16-3-30. Intent.

The intent of these regulations is to provide a balanced and fair legal framework for the design, construction, and placement of signs that:

- (1) Promote the efficient communication of messages, and ensure that persons exposed to signs are not overwhelmed by the number of messages presented;
- (2) Encourage the innovative use of sign design;

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- (3) Promote both renovation and proper maintenance of signs;
 - (4) Reduce administrative burdens;
 - (5) Enable fair and consistent permitting and enforcement;
 - (6) Ensure that signs are compatible with their surroundings, and prevent the construction of signs that are a nuisance to occupants of adjacent and contiguous property due to brightness, reflectivity, bulk, or height;
 - (7) Enhance property values and business opportunities;
 - (8) Promote the safety of persons and property by ensuring that signs do not create a hazard by:
 - a. Confusing or distracting motorists; or
 - b. Impairing drivers' ability to see pedestrians, obstacles or other vehicles, or to read traffic signs;
 - (9) Protect the public welfare and enhance the appearance and economic value of the landscape by avoiding sign clutter that can compromise the character, quality, and viability of commercial corridors; and
 - (10) Assist in wayfinding.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. No. 660-16, §2(Exh. A), 2-23-2016)

Division 2 Definitions

Sec. 16-3-210. Definitions.

The words and phrases used in this Article shall have the meanings defined below:

Banner means a temporary sign having characters, letters illustrations or ornamentations applied to flexible material (e.g. vinyl, plastic, canvas, cloth, fabric or other lightweight non-rigid material) with only such material for a backing, which projects from, hangs from or is affixed to a building or structure. Banners include building pennants, cable-hung banners and wave banners.

Billboard means a large sign which directs attention to a business, activity, commodity, service, entertainment or communication which is not conducted, sold, or offered at the premises on which the sign is located, or which does not pertain to the premises upon which the sign is located.

Electronic message center means a sign that is capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means.

Message hold time means the time interval a static message must remain on the display before transitioning to another message.

Sign means any advertisement, identification, announcement, direction or communication produced in whole or in part by the construction, erection, affixing or placing of a structure on any land or on any other structure or produced by painting on or posting or placing any printed, lettered, pictured, figured or colored material on any building, structure or surface.

Sign, abandoned means a sign for a business that no longer exists at that address, building or property.

Sign, awning means a sign permanently affixed to a sheet of canvas or other material stretched on a frame and used to keep the sun or rain off a storefront, window, doorway, or deck.

Sign, canopy means a sign permanently affixed to a roofed shelter supported by a building, or combination of building and columns.

Sign, directional 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.

Sign, external accessory use means a sign located outside of a principal commercial use affixed to accessory commercial structures.

Sign, freestanding means any sign supported by structures or supports that are placed on or anchored in the ground and are not attached to any building or structure. *Sign, inflatable* means a balloon, blimp or other inflated object used for attracting attention.

Sign, menu means a permanently mounted sign at a drive-up or drive-through facility that is not legible from the adjacent street right-of-way.

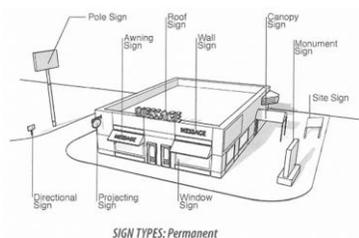
Sign, monument means a permanent freestanding sign supported by, or integrated into, a base or pedestal at least seventy five percent (75%) of the sign width.

Sign, notification means a sign that dictates actions on private property.

Sign, off-premises means any sign normally used for promoting an interest other than that of a business, individual, products, or service available on the premises where the sign is located.

Sign, permanent means any sign constructed of permanent materials and permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.

Figure-3.1: Sign, permanent



Sign, pole means a permanent freestanding sign supported by one (1) or more poles or pylons.

Sign, portable means a moveable sign that is not permanently affixed to a building, structure, or the ground. For purposes of this Article, portable signs are specific to signs mounted on trailers, wheeled carriers, or A-frames that are designed to be placed onto a surface without being secured to it.

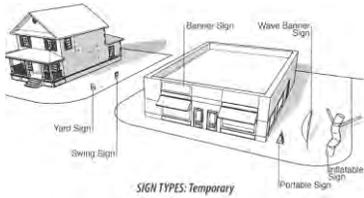
Sign, projecting means a sign which is attached perpendicular to the wall of a building or structure.

Sign, site means a freestanding sign constructed of vinyl, plastic, wood, metal or other durable material.

Sign, swing means a temporary freestanding 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.

Sign, temporary means any banner, blimp, wind or fan-driven sign, or other sign constructed of light fabric, cardboard, wallboard, plywood, sheet metal, paper or other materials, with or without a frame, intended or designed to be displayed for a limited period of time.

Figure-3.2: Sign, temporary



Sign, traffic control means a sign erected in a public right-of way by an authorized governmental agency for the purposes of traffic regulation and safety.

Sign, wall means any sign painted on or affixed to the building wall, or any sign consisting of cut-out letters or devices affixed to the building wall with no background defined on the building wall in such a manner that the wall forms the background surface of the sign.

Sign, wayfinding means a sign authorized by a governmental body for placement in the public right-of-way that is designed to orient and navigate the general public from place to place.

Sign, window means a sign which is applied or attached to the exterior or interior of a window, or applied to, attached to, or located within one (1) foot of the interior of a window, which can be seen through the window from the exterior of the structure.

Sign, yard means a temporary 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.

Sign face means an exterior display surface of a sign including nonstructural trim, yet exclusive of the supporting structure.

Transition duration means the time interval it takes the display to change from one (1) complete static message to another complete static message.

Work of art means art which in no way identifies a product, business, or enterprise and which is not displayed in conjunction with a commercial enterprise that would realize direct commercial gain from such a display.

(Ord. No. 660-16, §2(Exh. A), 2-23-2016; Ord. 772-23, § 1, 7-25-2023)

Division 3 Administration and Procedures

Sec. 16-3-310. Permits required.

- (a) Prior to the erection or installation of any permitted permanent or temporary sign, but not including exempt signs under Section 16-3-350, a sign permit shall be obtained pursuant to this Article.
- (b) Sign permits shall be required for master sign plans, and/or sign programs specified in an approved final development plan.
- (c) A revocable permit shall be required whenever a person seeks to erect a sign on public property or within a public right-of-way.
- (d) No sign permit shall be issued for any sign on private property without written consent of the property owner or the owners authorized agent.
- (e) A building permit shall be required where applicable to ensure the structural integrity of the type of sign requested.

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- (f) It shall be unlawful to erect or install any sign without having first obtained the permits required by this Article and the Town's building code.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. No. 660-16, §2(Exh. A), 2-23-2016)

Sec. 16-3-320. Permit approval criteria.

- (a) Applications for sign permits and sign plans (when required by this Article) shall be submitted in accordance with the Applicant Guide.
- (b) The Zoning Administrator shall review the sign permit application in light of the approval criteria in this Article and shall either approve, approve with conditions or deny such application.
- (c) An application for a sign permit may be approved if it complies with the applicable standards set forth in this Article or a final development plan, and all applicable building code requirements. In cases where there is a conflict between this Article and the final development plan, the final development plan shall control.
- (d) An application for a revocable permit may be approved if it complies with the following criteria:
- (1) The applicant agrees to the terms of a revocable permit agreement, including, but not limited to, any provisions that require compensation to the Town for use of public property or public right-of-way and that indemnify the Town and hold the Town harmless from future damages or liability claims.
 - (2) The proposed sign complies with all applicable use, development and design standards set forth in this Article, and all applicable building code requirements.
 - (3) The proposed sign shall not interfere with street intersection visibility or in any other way adversely affect the public health, safety or welfare.
 - (4) The proposed sign shall not be located over any existing or future utilities and may be removed by the Town if necessary for reconstruction of a street, sidewalk, utilities or to protect the health, safety and welfare of the citizens of the Town, with no liability to the Town for replacement or repair.
 - (5) The proposed sign has been approved by the Town Engineer based on the Town Engineer's review of the proposal under all Town ordinances, resolutions, rules, regulations and policies governing the use of public property and public rights-of-way.
- (e) A sign permit shall lapse and have no further effect unless a sign has been erected in compliance with the terms and conditions of the permit within six (6) months after the date of the sign permit approval.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. No. 660-16, §2(Exh. A), 2-23-2016; Ord. 772-23, § 2, 7-25-2023)

Sec. 16-3-330. Minor modifications to sign standards.

- (a) The Zoning Administrator shall be authorized to grant minor modifications of any sign standard, including, but not limited to, sign area modifications of twenty percent (20%) or less, subject to the approval criteria noted in Subsection (c) below. Such actions may be taken in order to encourage the implementation of alternative or innovative practices that provide equivalent benefits to the public.
- (b) An applicant requesting a modification to the sign standards that does not qualify as a minor modification must obtain a variance per Section 16-2-370 of this Chapter.
- (c) Approval criteria. Minor modifications may be approved by the Zoning Administrator only upon a finding that all of the following criteria have been met:
- (1) The requested modification eliminates an unnecessary inconvenience to the applicant and will have no significant adverse impact on the health, safety or general welfare of surrounding property owners or the general public;
 - (2) Any adverse impacts resulting from the minor modification will be mitigated to the maximum extent practical; and

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- (3) The requested minor modification is either:
 - a. Of a technical nature and is required to compensate for some practical difficulty or unusual aspect of the site or the proposed sign; or
 - b. An alternative or innovative design practice that achieves to the same or better degree the objective of the existing design standard sought to be modified.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. No. 660-16, §2(Exh. A), 2-23-2016)

Sec. 16-3-340. Master sign plan.

For any master planned residential community, multi-tenant retail center, industrial park or other unified form of commercial site development or redevelopment, the applicant may submit a master sign plan that consists of coordinated and/or shared signage for the entire development. Such master plan may be incorporated into an Outline Development Plan in PD—Planned Development zone districts or Preliminary Plats within any zoning district.

- (1) In general, signs shall have mutually unifying elements which may include uniformity in materials, color, size, height, letter style, sign type, shape, lighting, location on buildings, and design motif.
- (2) Materials and textures of signs shall be compatible with the architectural character of the site and building(s). Supporting sign structures of freestanding signs shall be compatible with the primary finish and colors of the associated building(s).
- (3) Where possible, freestanding signs shall integrate tenant signs into a single sign structure.
- (4) Wayfinding signage systems shall be of a unified graphical system. Such signage shall be placed in consistent locations near site entries, key points on the internal automobile and pedestrian circulation system, building entries, seating areas, and sidewalk intersections.
- (5) In reviewing an applicant's submittal of a master sign plan conforming to the provisions of this Section, the Zoning Administrator may vary standards for area, height and number of individual signs.
- (6) The Zoning Administrator may approve up to a twenty-percent change in one (1) or more dimensional standards (area and/or height) based on the applicant demonstrating that the change is warranted by a master sign plan that represents exceptional design.

(Ord. No. 660-16, §2(Exh. A), 2-23-2016; Ord. 772-23, § 3, 7-25-2023)

Sec. 16-3-350. Signs allowed without permit.

- (a) Generally, the following types of signs are allowed in all zoning districts without a sign permit, subject to the provisions of this Section.
- (b) Exempt signs shall otherwise be in conformance with all applicable requirements of this Article, and the construction and safety standards of the Town.
- (c) Changing or replacing the copy on an existing lawful sign shall also not require a permit, provided the copy change does not change the nature of the sign or render the sign in violation of this Article.
- (d) All signs not listed in this Section (and that are not prohibited under Section 16-3-360) require a sign permit pursuant to Section 16-3-310 above.
 - (1) Flags, provided that the following restrictions are met:
 - a. For residential uses, the height of the pole on which the flag is mounted does not exceed the height of the principal structure on the lot or the distance from the flagpole to the lot line, whichever is less;

Commented [SC79]: Added per Priority 5 - revise the two-step major subdivision process.

- b. For nonresidential uses, the height of the pole on which the flag is mounted does not exceed the height of the principal structure on the lot or forty (40) feet, whichever is less;
 - c. The location of the flagpole is set back a distance from a property line that is at least equal to its height.
- (2) Banners and inflatable signs shall be allowed without a sign permit provided that the following requirements are met:
- a. One (1) banner per business may be displayed on a building wall, not to exceed one-half ($\frac{1}{2}$) square foot for each linear foot of exterior wall up to a maximum area of one hundred (100) square feet;
 - b. Two (2) freestanding wave banners are permitted per business, up to a maximum height of twelve (12) feet and a maximum square footage of fifty (50) square feet each;
 - c. No banner shall be illuminated, animated or constructed of reflective materials;
 - d. Inflatable signs shall be securely anchored or tethered to the ground, building or structure; and
 - e. Banners and inflatable signs shall comply with the sign design and maintenance standards in Sections 16-3-510 and 16-3-530.

Figure 3.3: Banner Sign Detail

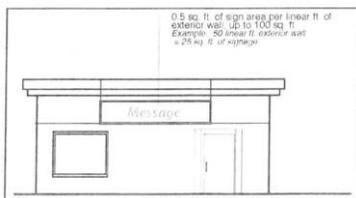
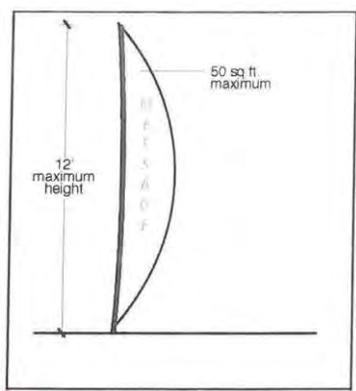


Figure 3.4: Wave Banner Detail



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- (3) Signs erected by any governmental or quasi-governmental agency, including, but not limited to, traffic control, legal notice, community events and wayfinding signs.
 - (4) Signs erected by public utility companies, oil and gas companies, or construction companies to warn of danger or hazardous conditions, including signs indicating the presence of underground cables, gas lines and similar devices.
 - (5) Any sign displayed on a window or inside a residential building.
 - (6) Permanent window signs, provided that such signs are limited to twenty-five percent (25%) of the total window area of an establishment in a commercial zoning district, and are illuminated only during the times the establishment is in operation.
 - (7) Temporary window signs, provided that such signs are limited to seventy percent (70%) of the total window area in a commercial zoning district.
 - (8) Posting of addresses on buildings in locations that are visible from the street as necessary for the effective delivery of postal and public safety services, provided that such signs:
 - a. Are attached to the building identified;
 - b. Are limited to two (2) per building;
 - c. Are not more than six (6) square feet in total area for each sign; and
 - d. May be illuminated.
 - (9) Temporary decorations or displays, if they are clearly incidental to, customarily, and commonly associated with any national, state, or local holiday or religious celebration; such signs may be of any type, number, area, height, location, illumination or animation.
 - (10) Portable A-frame signs, provided that the following restrictions are met:
 - a. One (1) portable A-frame sign shall be allowed for each business in commercial zoning districts, under the following conditions:
 1. The maximum area of each face of a portable A-frame sign shall be six (6) square feet.
 2. The maximum height of a portable A-frame sign shall be four (4) feet.
 3. No portable A-frame sign shall be placed within twenty-five (25) feet of another portable sign.
 4. A portable A-frame sign may be in place only during the business hours of the business to which it relates.
 5. A minimum three-foot unobstructed walkway shall be maintained at all times on any sidewalk where a portable A-frame sign is located. Such sign shall not impede pedestrian movement and must be removed immediately upon the request of the Zoning Administrator upon a determination that it is in violation of this Article or unsafe.
 6. Portable A-frame signs are permitted in the public right-of-way only if the adjacent business or building is built to the front property line and has a zero setback. No portable A-frame sign may be placed on any public right-of-way or public property unless a revocable permit to occupy such space has been obtained pursuant to Section 16-3-310(c).
 - (11) Yard signs, as defined in Section 16-3-210, and subject to the standards in Division 4.
 - (12) Site signs, as defined in Section 16-3-210 and subject to the standards in Division 4.
 - (13) Swing signs, as defined in Section 16-3-210 and subject to the standards in Division 4.
 - (14) Notification signs, as defined in Section 16-3-210 and which do not exceed two (2) square feet in area.

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- (15) Works of art, as defined in Section 16-3-210.
 - (16) Inflatable signs, as defined in Section 16-3-210 and limited to one (1) per nonresidential property.
 - (17) External accessory use signs limited to an aggregate sign area of forty (40) square feet in area, as defined in Section 16-3-210.
 - (18) Signs carried by a person that are not set on or affixed to the ground, or propped on objects.
 - (19) Vehicular signs, such as a sign attached to a truck or motor vehicle, where the vehicle is primarily used for business purposes other than advertising. Signs may be placed on motorized vehicles, provided that:
 - a. The vehicle upon which the sign is affixed must be used for the daily operation of the business and not primarily to display signage; and
 - b. No sign shall project more than one (1) foot above the roofline of the vehicle to which it is attached. When not in use, any vehicle with an attached sign must be parked on the business premises of the business that it advertises and not closer than fifty (50) feet to the public right-of-way (or, if there is no parking on the business premises, it must be legally parked). No signage may be painted or affixed in any manner to trailers.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. No. 660-16, §2(Exh. A), 2-23-2016; Ord. 679-17, §21, 12-12-2017; Ord. 696-19 §14, 2019; Ord. 772-23, § 4, 7-25-2023)

Sec. 16-3-360. Prohibited signs.

The following types of signs are prohibited except as noted:

- (1) All signs not expressly permitted under this Article, or exempt from regulation in accordance with Section 16-3-350.
- (2) Signs attached to trees or other plant materials.
- (3) Any revolving or rotating sign.
- (4) Any sign displaying flashing or intermittent lights, or lights of varying intensity of illumination. All lighted signs shall comply with the lighting standards set forth in Division 9 of Article 2 of this Chapter.
- (5) Any sign with direct or indirect lighting that causes direct glare into or upon any lot, tract or public right-of-way that is adjacent to the lot, tract or public right-of-way where the sign is located. The light from any light source intended to illuminate a sign shall be so shaded, shielded or directed so that the light intensity or brightness shall not cause glare to affect surrounding properties, or cause glare to affect safe vision of pedestrians or operators of vehicles moving on public or private streets, driveways or parking areas.
- (6) Signs contributing to confusion of traffic control devices or emergency service vehicles, or which hide or interfere with the effectiveness of such devices or vehicles.
- (7) Any sign that obstructs access to or impedes operation of any window, door, fire escape, stairway, ladder or opening intended to provide light, air, ingress or egress for any building as may be required by law.
- (8) Any sign that impedes safe pedestrian or vehicular movement.
- (9) Any sign that obstructs the view of a person operating a motor vehicle in any direction at the intersection of a street or with an alley or driveway (see corner vision clearance provisions in Section 16-5-615).
- (10) Any sign that emits a sound which is intended to attract attention.
- (11) Any off-premises sign, as defined in Section 16-3-210, not otherwise explicitly permitted in this Article.

(12) Any sign attached to a building that projects above the top of the building, unless explicitly permitted in this Article as a roof sign.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. No. 660-16, §2(Exh. A), 2-23-2016; Ord. 679-17, §22, 12-12-2017)

Division 4 Standards

Sec. 16-3-410. Sign standards by zoning district.

Signs in all zoning districts shall be subject to the standards set forth in this Section. The number, location and size of signs set forth in Tables 3-1 and 3-2 shall also comply with the standards by sign type listed in Section 16-3-420.

- (1) Standards for Residential Zoning Districts. Signs in the RE, R-1, ~~R-1A~~, R-2, R-3, and MH zoning districts, and residential land use designations within an agricultural or residential PD zoning district, shall be subject to the following standards:

Table 3.1
Standards for Residential Zoning Districts

Sign Type	Maximum Number	Maximum Area	Maximum Height
Awning or Canopy Sign	1 per door or window	0.5 square feet of signage for each linear foot of awning or canopy	No higher than roof or parapet line; 9 feet minimum pedestrian clearance; 14 feet minimum vehicular clearance
Directional Sign	Per approved sign plan	6 square feet	4 feet
Monument sign	1 per public, quasi-public or institutional use; 2 per main entrance to a subdivision, multi unit-family housing complex or mobile home park	32 square feet	6 feet
Site Sign	1 per street frontage	16 square feet	6 feet
Swing Sign	1 per street frontage	6 square feet, inclusive of riders	6 feet
Temporary sign (located on undeveloped property or property under development)	1 per street frontage	<20 ac.=64 square feet	8 feet
	2 per street frontage	>20 ac.=96 square feet	12 feet
Wall Sign	1 per single-family or two-family dwelling unit with a home-based business	2 square feet	8 feet
	1 per principal multi unit family family residential	32 square feet	No higher than 1 foot below roof or parapet line

	building, per street frontage		
	1 per public, quasi-public or institutional use	32 square feet.	No higher than 1 foot below roof or parapet line
Yard Sign	Unlimited, within maximum area requirements	6 square feet per sign/24 square feet total	4 feet

- (2) Standards for Nonresidential Zoning Districts. Signs in the C, EC, ~~1-1, 1-2~~ and P zoning districts, and nonresidential land use designations within an agricultural, residential or PD zoning district, shall be subject to the following standards:

Commented [SC80]: Consider rewording this, especially if residential uses will be allowed in some of these districts per the proposed edits.

Table 3.2
Standards for Nonresidential Zoning Districts

Sign Type	Maximum Number	Maximum Area	Maximum Height
Awning or Canopy Sign	Unlimited	0.5 square feet of signage for each linear foot of awning or canopy	No higher than roof or parapet line; 9 feet minimum height pedestrian clearance; 14 feet minimum height vehicular clearance
Directional Sign	Per approved sign plan	6 square feet	4 feet, except when used on a vehicular clearance structure: minimum of 14 feet
Monument Sign	1 per legal lot of record, except within a unified site development	75 square feet	8 feet for lots < 150 lineal feet of frontage; 10 feet for lots > 150 lineal feet of frontage
	1 per multi-tenant retail center, industrial park or other form of unified site development	150 square feet	25 feet
Menu Sign	2 per drive-through lane	75 sq. ft. per drive-through lane	7 feet
Pole Sign	1 per legal lot of record proximate to I-70/SH79 intersection (Figure 3.11(b): Pole Sign Location Detail)	380 square feet	60 feet
Projecting Sign	1 per building entrance	15 square feet	No higher than roof or parapet line; 9 feet minimum height
Roof Sign	1 per principal building	100 square feet	No higher than 4 feet above the roofline, parapet or fascia wall on a flat roof; no higher than roofline on a peaked or mansard roof
Site Sign	1 per street frontage	32 square feet	8 feet
Swing Sign	1 per street frontage	6 square feet, inclusive of riders	6 feet
Temporary sign (located	1 per street frontage	32 square feet	8 feet

on developed property)			
Temporary sign (located on undeveloped property or property under development)	1 per street frontage	<5 ac.=64 square feet	8 feet
	2 per street frontage	>5 ac.=96 square feet	12 feet
Wall Sign	Unlimited. Within allowed maximum area	1.5 square feet of area per lineal foot of exterior wall frontage, up to a maximum of 100 square feet per building façade	Not higher than the eave line of the principal building
Yard Sign	Unlimited, within maximum area requirements	6 square feet per sign/24 square feet total	4 feet

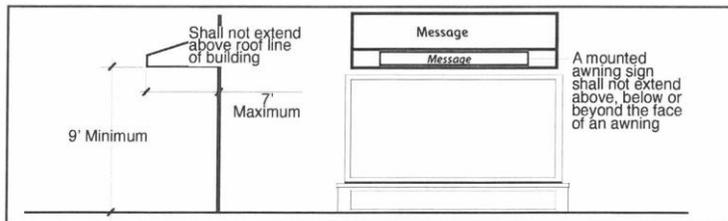
(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. No. 660-16, §2(Exh. A), 2-23-2016; Ord. 772-23, § 5, 7-25-2023)

Sec. 16-3-420. Standards by sign type.

The following types of permanent signs shall be allowed, subject to the standards set forth in this Section:

- (1) Awning signs.
 - a. Location. Signs may be placed only on awnings that are located on first- and second-story building frontages, including those fronting a parking lot or pedestrian way. An awning may include a printed or mounted sign. No sign mounted to an awning shall project beyond, above or below the face of an awning.
 - b. Quantity, Area and Height. Sign quantity and area shall comply with the requirements established in Section 16-3-410. No structural element of an awning shall be located less than nine (9) feet above finished grade. Awnings on which signs are printed or mounted shall not extend over a public right-of-way more than seven (7) feet from the face of a supporting building. No awning, with or without signage, shall extend above the roofline of any building.
 - c. Lighting. Awnings may be internally illuminated in nonresidential zones only.

Figure 3.5: Awning Sign Detail



- (2) Canopy signs.

- a. Quantity, Area and Height. Sign quantity and area shall comply with the requirements established in Section 16-3-410. No structural element of a canopy sign shall be located less than nine (9) feet above finished grade. Canopies on which signs are printed or mounted shall not extend over a public right-of-way more than seven (7) feet from the face of a supporting building. No canopy, with or without signage, shall extend above the roofline of any building. No canopy sign shall project above the top of the canopy upon which it is mounted. However, a sign may project horizontally from the face of a canopy the distance necessary to accommodate the letter thickness and required electrical equipment, but not more than twelve (12) inches.
- b. Lighting. Canopies may be internally illuminated in nonresidential zones only.

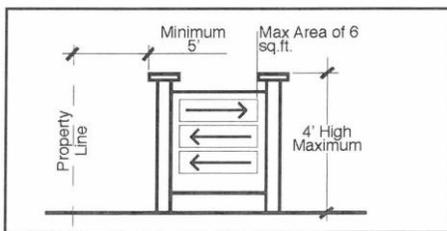
Figure 3.6: Canopy Sign Detail



(3) Directional signs.

- a. Location. Directional signs shall be allowed per a sign plan approved by the Zoning Administrator. Directional signs shall be no closer than five (5) feet from any property line.
- b. Quantity, Area and Height. Directional signs shall comply with the quantity, area and height requirements established in Section 16-3-410.
- c. Lighting. Directional signs may be internally illuminated.

Figure 3.7: Directional Sign Detail

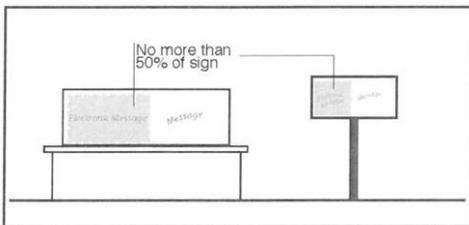


(4) Electronic message centers.

- a. Location. An electronic message center may be integrated up to fifty percent (50%) of the allowed sign area of a nonresidential freestanding pole or monument sign. Existing signage proposed for conversion to the use of an electronic message center shall conform to the sign standards in this Article prior to issuance of a sign permit. Nonconforming signs shall not be eligible for conversion to an electronic message center.

- b. Quantity, Area and Height. An electronic message center shall comply with the quantity, area and height requirements established for pole or monument signs in Section 16-3-410.
- c. Lighting. Lighting from the electronic message center shall not exceed 0.3 foot candles between dusk to dawn as measured from the sign's face. The electronic message center shall have automatic dimmer software or solar sensors to control brightness for nighttime viewing. The intensity of the light source shall not produce glare, the effect of which constitutes a traffic hazard. Documentation shall be provided from the sign manufacturer which verifies compliance with auto dimming and brightness requirements.
- d. Transition Method. The electronic message center shall be limited to static messages. Displays shall not flash, rotate, scintillate, blink or strobe illumination when transitioning between messages.
- e. Transition Duration. The transition duration between messages shall not exceed one (1) second.
- f. Message Hold Time. The message hold time shall be a minimum of three (3) seconds.

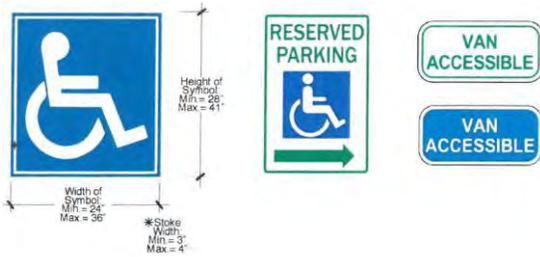
Figure 3.8: Electronic Message Center Detail



(5) Handicap parking signs.

- a. Location. Handicap parking space signage shall be installed as required by Section 16-2-640(f) and show the symbol of accessibility (see Figure 3-6).
- b. Quantity, Area and Height. A handicap parking sign shall be a minimum twelve (12) inches wide and eighteen (18) inches high centered between three (3) feet and five (5) feet above the ground at the head of the required space and may be mounted on a pole or structure. The sign shall have a white background with green lettering stating "Reserved Parking" and the white international symbol of accessibility on blue background. Van accessible spaces shall have an additional sign, "Van Accessible", mounted below the symbol of accessibility. The accessibility parking space shall be striped in white on the pavement and marked with the international symbol of accessibility. The symbol shall be a minimum twenty-eight (28) inches in height and twenty-four (24) inches in width with the blue background symbol and optional white border.

Figure 3.9: Handicap Parking Sign Detail



(6) Monument signs.

- a. Location. A monument sign shall be located on a site frontage adjoining a public or private street, easement or right-of-way. The minimum setback from any property line shall be equal to the height of the sign. Upon approval of the Zoning Administrator, a monument sign can be integrated into a fence or wall. With the exception of entry signs on a single lot, no new monument sign shall be placed within fifty (50) lineal feet of an existing monument sign.
- b. Quantity, Area and Height. A monument sign shall comply with the quantity, area and height requirements established in Section 16-3-410.
- c. Landscaping. Landscaping shall be provided at the base of the supporting structure equal to twice the area of one face of the sign. For example, twenty (20) square feet of sign area equals forty (40) square feet of landscaped area. The Zoning Administrator may reduce or waive this requirement if it is determined that the additional landscaping would not contribute significantly to the overall aesthetic character of the project, or if physical conditions of the site would preclude all or a portion of the landscaping.
- d. Lighting. Monument signs may be illuminated.

Figure 3.10(a): Monument Sign Detail

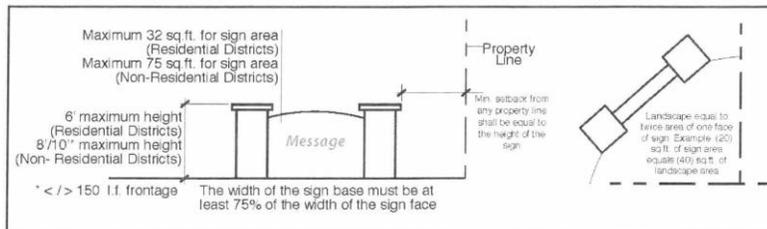
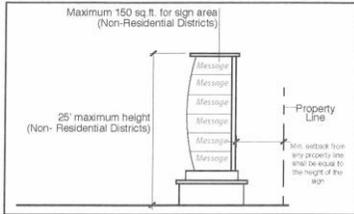


Figure 3.10(b): Multi-Tenant Monument Sign Detail



- (7) Pole signs.
- a. Location. A pole sign shall be located on a site frontage adjoining a public or private street, easement or right-of-way. No freestanding pole sign in any zoning district shall be erected closer than ten (10) feet from any property line, or closer than four (4) feet to any building (See Figure 3-8(a)). Pole signs shall not be located within one hundred (100) feet of any residential zoned property. No new pole sign shall be located outside of a fifteen hundred-foot wide strip greater than fifteen hundred (1,500) feet north or south, or three thousand (3,000) feet east or west, from the center point of the intersection of State Highway 79 and 1-70 (see Figure 3-8(b)). No new pole sign shall be placed within one thousand (1,000) lineal feet of an existing pole sign.
 - b. Quantity, Area and Height. A pole sign shall comply with the quantity, area and height requirements established in Section 16-3-410.
 - c. Landscaping. Landscaping shall be provided at the base of the supporting structure in an appropriate amount to be determined by the Zoning Administrator during review of a sign plan. The Zoning Administrator may waive this requirement if it is determined that the landscaping would not contribute significantly to the overall aesthetic character of the project, or if physical conditions of the site would preclude all or a portion of the landscaping.
 - d. Lighting. Pole signs may be internally illuminated.

Figure 3.11(a): Pole Sign Detail

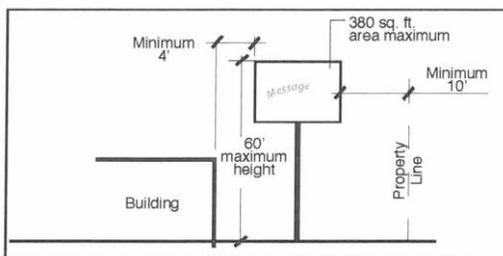
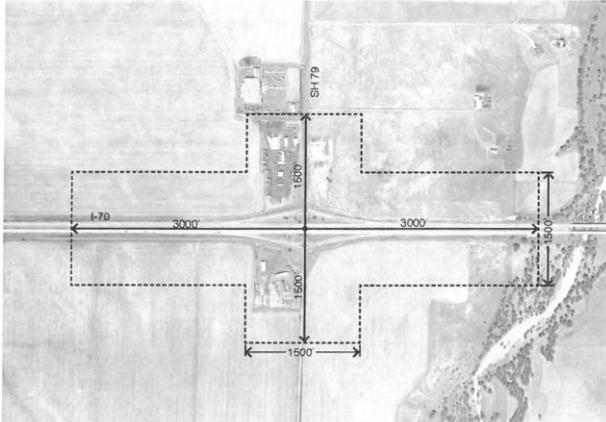
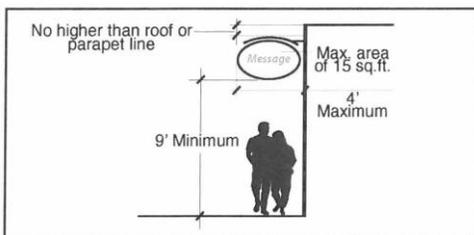


Figure 3.11(b): Pole Sign Location Detail



- (8) Projecting signs.
- Location. Projecting signs shall be placed on a ground floor facade, except for businesses located above the ground level with direct exterior pedestrian access.
 - Quantity, Area and Height. A projecting sign shall comply with the quantity, area and height requirements established in Section 16-3-410. No structural element of a projecting sign shall be located less than nine (9) feet above finished grade. Projecting signs shall not be higher than the wall from which the sign projects if attached to a single story building, or the height of the bottom of any second story window if attached to a multi-story building. Projecting signs shall not extend more than four (4) feet from the face of a supporting building.
 - Lighting. Projecting signs shall not be illuminated.

Figure 3.12: Projecting Sign Detail

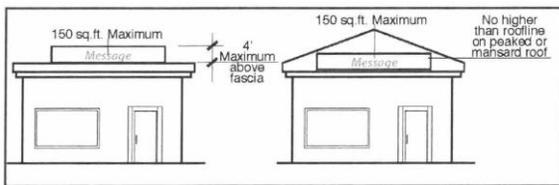


- (9) Roof signs.
- Location. A permanent nonresidential roof sign may be permitted, subject to approval by the Zoning Administrator, where the nature of the use, the size of the site or other physical constraints result in a situation where either a wall or freestanding sign cannot be installed without practical difficulties. The negative impact on the visual character of the site or

surrounding area resulting from the installation of a roof sign shall be minimized through the use of quality materials and compatible colors. A roof sign shall not include an electronic message board.

- b. Quantity, Area and Height. A roof sign shall comply with the quantity, area and height requirements established in Section 16-3-410.
- c. Lighting. Roof signs shall not be illuminated.

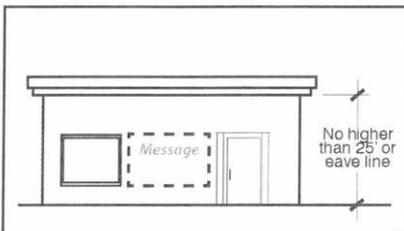
Figure 3.13: Roof Sign Detail



(10) Wall signs.

- a. Location. A wall sign shall not be placed to obstruct any portion of a window, doorway or other architectural detail.
- b. Quantity, Area and Height. A wall sign shall comply with the quantity, area and height requirements established in Section 16-3-410. Wall signs shall not be higher than the eave line of the principal building. No sign part, including cut-out letters, may project from the building wall more than required for construction purposes and in no case more than twelve (12) inches.
- c. Lighting. Wall signs may be illuminated in nonresidential zoning districts only. All lighting must be internal or by way of a full-cutoff light fixture so the source of the light is not directly visible off-site.
- d. If individual letters are mounted on a raceway, the raceway shall be the same or similar color as the color of the background of the building façade upon which the raceway is mounted.

Figure 3.14: Wall Sign Detail

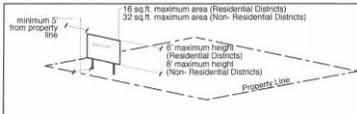


(11) Site Signs shall be permitted as follows:

- a. Location. Site signs shall be setback a minimum of five (5) feet from any property line. Site signs are not permitted on parcels with existing residential uses.

- b. Quantity, area and height. A site sign shall comply with the quantity, area and height requirements established in Section 16-3-410.

Figure-3.15: Site Sign Detail

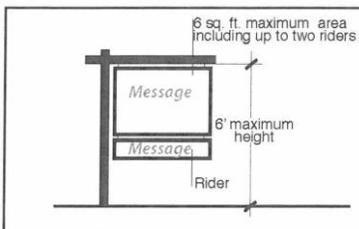


(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. No. 660-16, §2(Exh. A), 2-23-2016; Ord. 772-23, §§ 6—9, 7-25-2023)

Sec. 16-3-430. Temporary signs.

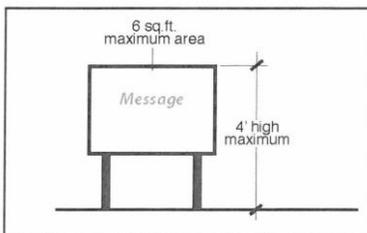
- (1) Swing Signs shall be permitted as follows:
 - a. Quantity, Area and Height. A swing sign shall comply with the quantity, area and height requirements established in Section 16-3-410. No more than two riders are to be attached to a swing sign, and shall be included in the maximum area of the sign.

Figure 3.16: Swing Sign Detail



- (2) Yard Signs shall be permitted as follows:
 - a. Quantity, Area and Height. A yard sign shall comply with the quantity, area and height requirements established in Section 16-3-410.

Figure 3.17: Yard Sign Detail



- (3) Portable trailer or wheeled carrier signs parked on public right-of-way, public property, or on private property shall be permitted as follows:
 - a. Within nonresidential zoning districts only;
 - b. Only one (1) such sign per property is allowed;
 - c. Such sign shall not exceed thirty-two (32) square feet in area and shall be no higher than eight (8) feet.
- (4) Prohibited signs. No sign listed as a prohibited sign in Section 16-3-360 shall be permitted, even on a temporary basis.
- (5) Permits. Each sign permit issued for a temporary sign pursuant to Division 3 of this Article and this Section shall include the dates upon which the sign shall be erected and removed.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. No. 660-16, §2(Exh. A), 2-23-2016; Ord. 679-17, §23, 12-12-2017; Ord. 696-19 §15, 2019; Ord. 772-23, § 10, 7-25-2023)

Sec. 16-3-440. Sign measurement.

- (a) Computation of Sign Area.
 - (1) The area of a sign face shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the message, logo, symbol, name, photograph, writing, representation, emblem, artwork, figure or other display used to differentiate the sign from the backdrop or structure against which it is placed (See Figure 3-17).

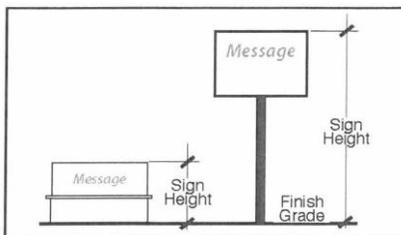
Figure 3.18: Sign Measurement Detail



- (2) Any supporting framework, bracing, poles, fence or wall, or architectural feature or landscape element that is clearly incidental to the sign display shall not be computed as sign area.
- (3) Architectural treatments that aid in integrating the signage with the building design are encouraged, but any such treatment shall not be created for the purpose of visually enlarging the size of the sign. If more than ten percent (10%) of any wall or roof surface of any nonresidential building or any accessory structure to a nonresidential use is painted, finished or surfaced in a distinctive color scheme that includes some or all of the same colors, shapes, symbols, images, patterns or textures used on any sign identifying an owner, tenant or user of the building, and the Zoning Administrator determines that such wall or roof surfaces serve as a sign for an owner, tenant or user of the building, such wall or roof area shall be counted as signage and shall be subject to the limitations on signage area in Table 3-2.
- (4) All sign faces visible from one (1) point shall be counted and considered part of the maximum total sign area allowance for a sign.
 - a. When two (2) identical sign faces are placed back to back so that both faces cannot be viewed from any point at the same time, and are part of the same sign structure, the sign area shall be computed by the measurement of one (1) of the two (2) sign faces.
 - b. When the sign has more than two (2) display surfaces, the area of the sign shall be the area of largest display surfaces that are visible from any single direction.

- (5) For the purpose of determining sign area and the allowable number of wall signs, a wall shall be considered the entire building side or elevation, and not each articulated wall face per building side or elevation.
- (b) Computation of Sign Height. The height of any sign shall be determined by the distance between the topmost portion of the sign structure and the ground elevation at the base of the sign (See Figure 3-18). The grade shall not be artificially changed solely to affect the sign height measurement.

Figure 3.19: Sign Height Detail



(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. No. 660-16, §2(Exh. A), 2-23-2016)

Division 5 Sign Design, Installation and Maintenance

Sec. 16-3-510. Sign design.

- (a) The design of a sign including copy, lettering size and style, and colors shall logically relate to the average speed of the motorists who will see it. Signs shall legibly convey their messages without being distracting or unsafe to motorists reading them.
- (b) All signs shall be designed to complement or enhance the other signs for a building or development.
 - (1) In general, signs shall have mutually unifying elements which may include uniformity in materials, color, size, height, letter style, sign type, shape, lighting, location on buildings, and design motif.
 - (2) Freestanding monument and pole signs shall have a sign face that is an integrally framed structure.
 - (3) The negative impact on the visual character of the site or surrounding area resulting from the installation of a pole sign shall be minimized through the use of wide pylons.
- (c) All signs shall be constructed in accordance with the following requirements:
 - (1) Permanent signs shall be fabricated on and of materials that are of good quality are durable and weather-resistant and are fastened or anchored sufficiently. All wood sign components shall be stained or painted to ensure durability.
 - (2) Temporary signs shall be durable and weather-resistant and fastened or anchored sufficiently, whether attached to the building or positioned in the ground.
- (d) Prohibited sign elements.
 - (1) The following elements shall not be incorporated as an element of any sign or sign structure, whether temporary or permanent:

-
- a. Animated, flashing or moving parts, including any moving, swinging, rotating or spinning parts or animated lights except electronic message centers.
 - b. Non-durable cardboard, card stock or paper except as used as a window sign.
 - c. No raw, unpainted plywood. No spray painted signs unless produced by a professional sign company or equivalent and approved by the Zoning Administrator.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. No. 660-16, §2(Exh. A), 2-23-2016; Ord. 679-17, §24, 12-12-2017)

Sec. 16-3-520. Sign installation.

- (a) All permanent signs and all components thereof, including sign structures and sign faces, shall be installed in compliance with all building and electrical codes.
- (b) Except for flags, window signs, portable A-frame signs and temporary signs conforming to the requirements of this Article, all signs shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. No. 660-16, §2(Exh. A), 2-23-2016; Ord. 679-17, §25, 12-12-2017)

Sec. 16-3-530. Sign maintenance.

All signs, both currently existing and constructed in the future, and all parts and components thereof, shall be maintained in a safe condition in compliance with all building and electrical codes, and in conformance with this Article.

- (1) All signs, including sign structures and sign faces, shall be kept neatly painted, including all metal parts and supports that are not galvanized or of rust-resistant metals, and in a general state of good repair. For the purposes of this section, good repair shall mean that there are no loose, broken, torn or severely weathered portions of the sign structure or sign face.
- (2) All electronic message center displays shall be equipped with a malfunction display and the ability to automatically shut off if a malfunction occurs. An electronic message center under repair shall be shut off.
- (3) The Zoning Administrator may order any sign to be repaired whenever needed to keep the sign in a safe condition and in compliance with these regulations.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. No. 660-16, §2(Exh. A), 2-23-2016; Ord. 679-17, §26, 12-12-2017)

Sec. 16-3-540. Sign removal and alteration.

- (a) Inspection. The Zoning Administrator may inspect any sign and shall have authority to order the painting, repair, alteration or removal of a sign and/or sign structure that constitutes a hazard to safety, health or public welfare by reason of abandonment or inadequate maintenance, dilapidation or obsolescence.
- (b) Sign Removal or Repair. In addition to any other remedies available under this Chapter, the Zoning Administrator may issue a written notice to sign owners of the need to remove or repair a sign, as follows:
 - (1) Any sign that does not meet the requirements set forth in this Chapter and does not qualify as a nonconforming structure.
 - (2) Any sign that has not been used in a bona fide manner as a sign for a consecutive period of one hundred and eighty (180) days and deemed abandoned by the Zoning Administrator.
 - (3) Any sign that is in disrepair or unsafe and deemed hazardous by the Zoning Administrator.
 - (4) Any sign identifying a business, professional or industrial establishment that has moved from the premises.

-
- (5) Signs or supporting structures that are the subject of a written notice shall be removed or repaired within fifteen (15) days after the date on which the Town issues the notice. If the sign is not repaired or removed within that time, the Town may remove the sign from the premises on which it is located and store the sign. Costs incurred by the Town for removal, storage and disposition of the sign will be assessed to the owner of the sign, supporting structure or property to which the notice was sent.

(c) Altering or Moving Existing Signs.

- (1) Any alteration to an existing sign shall require a new permit pursuant to Division 3 of this Article before the sign may be altered. Alterations shall include, without limitation:
- a. Changing the size of the sign;
 - b. Changing the shape of the sign;
 - c. Changing the material of which the sign is constructed;
 - d. Changing or adding lighting to the sign;
 - e. Changing the location of the sign; or
 - f. Changing the height of the sign.
- (2) Existing conforming or nonconforming signs may be altered in any way that does not change the size, height, background, shape or location of the sign without bringing the entire sign into conformance, provided that the cost of the alteration is less than fifty percent (50%) of the sign's replacement cost.
- (3) Signs may be removed for maintenance and replaced on the same support, without obtaining a new permit.
- (4) Whenever a business, industry, service or other use is discontinued, any sign or sign copy pertaining to the use shall be removed by the person or entity owning or having possession of the property within one hundred and eighty (180) days after the discontinuance of such use, except a sign advertising the lease or sale of the building.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. No. 660-16, §2(Exh. A), 2-23-2016)

ARTICLE IV Subdivision Regulations

Division 1 Purpose and Applicability

Sec. 16-4-10. Title.

This Article shall be known as the *Subdivision Regulations of the Town of Bennett*.

Sec. 16-4-20. Intent.

It is the intent of this Article:

- (1) To establish appropriate standards for subdivision design that will:
- a. Encourage the development of sound, economical and stable neighborhoods and healthy living environments, in conformance with the goals and policies of the Comprehensive Plan.
 - b. Provide lots of adequate size, configuration and design for the purpose for which they are intended to be used.
 - c. Promote superior design and design flexibility.
 - d. Preserve the significant natural features and environmental quality of the Town.

- e. Guide the physical development of the Town in ways that complement the Town's character and culture.
 - f. Promote a cohesive sense of community among new and current residents, precluding neighborhood design or restrictions that in any way isolate any neighborhood from the rest of the community.
 - g. Provide complete and accurate public land records.
- (2) To establish standards for utilities and other public services that will:
- a. Provide an efficient, adequate and economical supply of utilities and services to land proposed for development without adverse effects to property that is currently served.
 - b. Ensure that adequate stormwater drainage, sewage disposal, water supply and other utilities, services and improvements needed as a consequence of the subdivision of the land are provided.
 - c. Provide for the reasonable extension of utilities and services to other lands that may be developed in the future.
 - d. Provide the equitable distribution of the cost of new and expanded public services needed to support new land development.
- (3) To ensure the provision of adequate and safe traffic circulation that will:
- a. Minimize traffic hazards through appropriate street design, providing safe and convenient vehicular and pedestrian traffic circulation systems.
 - b. Provide adequate vehicular access to abutting properties.
 - c. Provide streets of adequate capacity and appropriate design and function.
- (4) To ensure adequate public facilities that will:
- a. Provide for the recreational, cultural, educational and other public facility needs of the community.
 - b. Facilitate effective law enforcement and fire protection.
- (5) To contribute to the proper development of the community in accordance with the goals and policies of the Comprehensive Plan as it may be updated from time to time.
- (6) To establish subdivision procedures and application requirements that will:
- a. Allow the efficient, predictable and thorough processing and evaluation of requests to subdivide property.
 - b. Provide adequate public notice and forums for dialogue regarding issues related to the development of land.

Sec. 16-4-30. General provisions.

- (a) All responsibilities and obligations of the subdivider resulting from the approval of plans or plats under the provisions of these regulations shall be binding upon the subdivider's successors.
- (b) Unless a waiver has been granted, no subdivision shall be approved if any portion of the subdivision creates a violation of any of the standards established by this Chapter or any applicable special area plans or design guidelines, or if it creates a lot that does not comply with zoning requirements.
- (c) Subdivisions may be approved and constructed in phases. Each phase, either alone or in combination with earlier phases, must meet the requirements of this Chapter and all other local, state and federal laws.
- (d) Subdivision review may be conducted concurrently with initial zoning or with site plan review.

Commented [SC81]: Note that this means that any of the procedures in this Article IV may run concurrently with initial zoning and/or site plan. Consider when creating the Applicant Guide for the new Preliminary Plat process to specifically call out when submittal of this info is required if they want to run the process concurrently.

-
- (e) Subdivision review shall be conducted concurrently with or following zoning review whenever a proposed subdivision necessitates a rezoning, conditional use permit or planned development.
 - (f) Any subdivider seeking a waiver from any of the requirements of this Chapter shall either submit a letter to the Zoning Administrator, indicating in detail the nature of the requested waiver and the reasons why it should be approved, or shall include such request in its application for a final plat. The Board of Trustees shall approve, approve with conditions or deny the waiver at a meeting or during the public hearing on the final plat, as appropriate.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-4-40. Status of existing plats.

All plats of property that, upon the effective date of these regulations, have been previously approved by the Board of Trustees are considered to be approved subdivisions.

Sec. 16-4-50. Violations and enforcement.

- (a) No owner or agent of the owner shall transfer ownership of any portion of land by reference to a subdivision plat before such plat has been approved in accordance with the provisions of this Article and recorded with the appropriate County Clerk and Recorder, and before all of the subdivider's responsibilities as stated in a development agreement have been completed. Each transaction involving any individual portion of land shall be deemed a separate violation of the terms of this provision. Nothing herein contained shall prevent the Town from seeking other relief, such as injunctive relief, against violation of this Chapter.
- (b) No building permits shall be issued for the construction or alteration of any structure on any property unless a plat of such property has been approved and recorded, and public improvements have been installed or guaranteed in accordance with the requirements of this Chapter.
- (c) The description of land by metes and bounds or by reference to a portion of a subdivided lot in a deed or other instrument of transfer of ownership in order to avoid compliance with these regulations shall constitute a violation of these regulations.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Division 2 Definitions

Sec. 16-4-210. Definitions.

The words and phrases used in this Article shall have the meanings defined below:

Administrative adjustment means a minor adjustment to an existing approved, recorded plat. Minor adjustments constitute the correction of errors, or slight adjustments of property lines where the plat retains essentially the same design. Minor adjustments do not include the creation of any additional lots, changes to streets or extension of utilities.

Boundary line adjustment means either a lot merger or minor changes in the boundary lines of two (2) or more adjacent platted lots of record (or parcels) where such adjustment does not create additional lots.

Lot merger means the merging of not more than three (3) contiguous lots into a lesser number of lots than had originally existed.

Resubdivision means a subdivision of land resulting in further division of previously subdivided lots.

~~*Sketch plan* means a map of a proposed subdivision, containing information specified that is used as a reference for initial discussions between an applicant and the Town.~~

Subdivider means any person, firm, partnership, joint venture, association, corporation or other business entity which participates as the owner, developer or other party responsible for the platting of a subdivision.

Subdivision means the division of land, lot, tract or parcel into two (2) or more lots, parcels, plats, sites or other divisions of land for the purpose of sale, lease, offer or development, whether immediate or future. Unless the method of disposition is adopted for the purpose of evading this Chapter, the term subdivision shall not apply to any division of land which:

- a. Creates parcels of land, such that the land area of each of the parcels, when divided by the number of interests in any such parcel, results in thirty-five (35) or more acres per interest;
- b. Is created by order of any court in this State or by operation of law;
- c. Is created by a lien, mortgage, deed of trust or any other security instrument;
- d. Is created by a security or unit of interest in any investment trust regulated under the laws of this State or any other interest in an investment entity;
- e. Creates cemetery lots;
- f. Creates an interest or interests in oil, gas and other minerals, or water which are now or hereafter severed from the surface ownership of real property;
- g. Is created by the acquisition of an interest in land in the name of a husband and wife or other persons in joint tenancy or as tenants in common, and any such interest shall be deemed for purposes of this Subparagraph as only one (1) interest;
- h. Is created by or for the conveyance of real property to the Town in satisfaction of land dedication, subdivision, annexation or other Town requirements; or to a public entity having the power of eminent domain;
- i. Is a result of an estate proceeding; or
- j. Is a division of land determined by the Board of Trustees not to be within the intent and scope of this Chapter.

Subdivision, major means all subdivisions not classified as boundary line adjustments, administrative adjustments, or minor subdivisions.

Subdivision, minor means a subdivision fewer than four (4) new lots, parcels, tracts, spaces or interests, and does not require public infrastructure to be constructed in association with the subdivision.

Division 3 Administration and Procedures

Sec. 16-4-310. Classification of subdivisions.

All proposed subdivisions of land shall be classified as an administrative adjustment, a boundary line adjustment, a minor subdivision or a major subdivision.

Sec. 16-4-320. Subdivision processing procedures.

The procedures contained in this Division shall be used to conduct the processing and review of subdivision applications.

Sec. 16-4-330. Administrative adjustment review process.

- (a) An administrative adjustment is a means of correcting errors or making minor adjustments to an approved and recorded subdivision plat that are so insignificant that public meetings or hearings would not be warranted.
- (b) Administrative adjustments are permitted if all of the following conditions are met:

-
- (1) No additional lots are created.
 - (2) All proposed lot line changes result in lots, together with any existing buildings, that meet all zoning and subdivision requirements, including setbacks and area requirements.
 - (3) The proposal does not seek to change basic lot configurations.
 - (4) The area of any individual platted lot is changed no more than fifty percent (50%).
 - (5) No attempt is being made to circumvent the fifty-percent limitation through the submission of sequential administrative subdivisions.
 - (6) No street rights-of-way or utility or drainage easements are affected, and no utility mains need to be extended.
- (c) The review and processing of an administrative adjustment shall involve three (3) primary steps, as follows:
- (1) Application.
 - (2) Staff review and approval.
 - (3) Recording of affidavit of correction with the appropriate County Clerk and Recorder.
- (d) The materials required to accompany an application for an administrative adjustment shall be in accordance with the Applicant Guide.
- (e) Approval or denial of application. Within thirty (30) days of a complete administrative adjustment application, the Zoning Administrator shall determine whether the proposed administrative adjustment complies with the requirements of this Article and shall approve, approve with conditions or deny the application. Notice of the approval or denial shall be in writing and shall be provided to the applicant. If the administrative adjustment is approved, the application shall be finalized, and an affidavit of correction prepared by a licensed surveyor shall be recorded.
- (f) Right to appeal. Within fifteen (15) days after the date of the Zoning Administrator's denial of an application for an administrative adjustment, the applicant may appeal the decision to the Board of Trustees by filing a written notice of appeal with the Town Clerk. The notice shall state the basis for the appeal. Upon receipt of such notice of appeal, the requested administrative adjustment shall be scheduled for de novo review before the Board of Trustees pursuant to the public hearing procedures set forth in Section 16-1-340 of this Chapter. Upon completion of such public hearing process, the Board of Trustees may approve, deny or approve with conditions the requested administrative adjustment, and the Board of Trustees' decision shall be final.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-4-340. Boundary line adjustment review process.

- (a) The purpose of this Section is to permit a lot merger or minor changes in the boundary lines of adjacent lots or parcels without requiring the processing of an entire subdivision plat application.
- (b) Before any boundary line adjustment shall be legally effective for any purpose, whether immediate or future, including, but not limited to, any sale, transfer of ownership or building development of the affected or resulting lots or parcels, the procedures prescribed by this Section shall be followed.
- (c) The review and processing of an boundary line adjustment shall involve three (3) primary steps, as follows:
 - (1) Application.
 - (2) Staff review and approval.
 - (3) Recording of documents with the appropriate County Clerk and Recorder.

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- (d) The boundary line adjustment review process is commenced by filing with the Town an application in accordance with the Applicant Guide.
- (e) Approval or denial of application. Within thirty (30) days of a complete boundary line adjustment application, the Zoning Administrator shall determine whether the proposed boundary line adjustment complies with the requirements of this Chapter and shall approve, approve with conditions or deny the application. Notice of the approval or denial shall be in writing and shall be provided to the applicant. If the boundary line adjustment is approved, the application shall be finalized, and the appropriate documents shall be recorded.
- (f) Right to appeal. Within fifteen (15) days after the date of the Zoning Administrator's denial of an application for a boundary line adjustment, the applicant may appeal the decision to the Board of Trustees by filing a written notice of appeal with the Town Clerk. The notice shall state the basis for the appeal. Upon receipt of such notice of appeal, the requested boundary line adjustment shall be scheduled for de novo review before the Board of Trustees pursuant to the public hearing procedures set forth in Section 16-1-340 of this Code. Upon completion of such public hearing process, the Board of Trustees may approve, deny or approve with conditions the requested boundary line adjustment, and the Board of Trustees' decision shall be final.
- (g) Conditions of approval may be imposed on any boundary line adjustment as may be necessary to conform the application to the requirements of this Section or to other applicable requirements of this Code.
- (h) Boundary line adjustment review standards. The decision to approve or deny a proposed boundary line adjustment shall be based upon whether the applicant has demonstrated that the proposed adjustment meets all of the following standards:
- (1) The adjustment involves adjacent lots or parcels;
 - (2) No new lot or parcel is created;
 - (3) The resulting lots or parcels comply with the applicable subdivision standards and zoning standards unless the applicant has first obtained approval for a zoning variance pursuant to Section 16-2-360 of this Chapter;
 - (4) The lots or parcels, as approved, will not conflict with existing structures or utilities upon the property;
 - (5) The lots or parcels, as approved, will not be deprived of access or have nonconforming access as a result of the adjustment;
 - (6) The adjustment does not create, or mitigates to the extent possible, negative impacts on the surrounding property;
 - (7) If applicable, the adjustment does not materially impair the purposes, intent or development contemplated under a site plan or Final Development Plan affecting the property;
 - (8) The resulting lots or parcels allow for the efficient use of property;
 - (9) The adjustment involves only lots or parcels with identical zoning;
 - (10) All owners and record title interest holders have consented to the adjustment;
 - (11) The properties subject to the proposed adjustment are not owned by persons who, within the preceding six (6) months, have submitted one (1) or more boundary line adjustments for properties adjacent to or within the same block as the properties subject to the application;
 - (12) The adjustment does not dedicate rights-of-way or easements; and
 - (13) The adjustment is not being used to adjust building envelopes or building site dimensions where no adjustment of legal boundaries is proposed.
- (i) Finalization and recording of boundary line adjustment.
- (1) The approval of a boundary line adjustment shall be evidenced by the issuance of a certificate of approval that has been executed by the Zoning Administrator and Town Clerk on behalf of the Town.

The certificate shall be void and of no further force and effect unless it is ready to be recorded as hereinafter provided within one hundred eighty (180) days of the date of the decision on the boundary line adjustment.

- (2) Prior to the recordation of the certificate of approval, the final site plan drawing, all final deeds exchanging property between the affected parcels and all final instruments necessary to release or amend deeds of trust or similar encumbrances on the properties shall be submitted to the Zoning Administrator for final review. The applicant shall be responsible for addressing any corrections requested by Town staff. Upon Town approval, the fully executed originals of such documents shall be recorded in the office of the appropriate County Clerk and Recorder by the Town, the applicant or an escrow agent (if an escrow has been opened by the applicant), as the Zoning Administrator may direct. Immediately following the recordation of such items, the original, fully executed Town certificate of approval shall be recorded. No boundary adjustment shall be effective unless and until such certificate has been recorded.
 - (3) The applicant shall pay all recording costs associated with the boundary line adjustment.
 - (4) In the event the deeds, final site plan or other documents required for the finalization of the approved boundary line adjustment are not submitted to the Zoning Administrator within one hundred eighty (180) days following the effective date of the approval, such approval shall be void and of no further force and effect, and no Town certificate of approval shall be recorded.
- (j) Deed restriction in lieu of lot merger. In the event the owner of property, consisting of not more than three (3) adjacent lots and containing an existing single-unit~~family~~ residential structure, wishes to obtain a building permit for either an accessory structure to be located on the property or an addition to the existing structure without completing a lot merger, the owner may request that, in lieu of a lot merger, the Building Official issue the building permit after receiving from the owner a deed restriction in a form approved by the Town Attorney. The deed restriction shall restrict the owner's ability to convey the property without first subdividing it or completing a lot merger. The deed restriction shall be released by the Town upon completion of a subdivision or a lot merger combining all adjacent lots, or upon the determination of the Zoning Administrator that the purpose for which the deed restriction was given is no longer served. The Zoning Administrator shall have the authority to execute any such deed restriction and any release of a deed restriction on behalf of the Town.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-4-350. Minor subdivision review process.

- (a) A subdivision application shall be classified as a minor subdivision application and governed by this Section when the application proposes to create fewer than four (4) new lots, parcels, tracts, spaces or interests, unless such application proposes or requires public infrastructure to be constructed in association with the subdivision, in which case the subdivision shall be classified as a major subdivision regardless of size. The processing and review of a minor subdivision consists of three (3) primary steps, as follows:
 - (1) The submittal and review of a final plat in accordance with this Article.
 - (2) A public hearing for the final plat before the Planning Commission.
 - (3) A public hearing for the final plat before the Board of Trustees.
- (b) Upon approval of a minor subdivision application by the Board of Trustees, the applicant shall within one hundred and eighty (180) days revise the minor subdivision application to meet any conditions of approval and submit final documents to the Zoning Administrator, including the signed development agreement and improvement guarantee. Upon a written request from the applicant filed at least thirty (30) days prior to expiration of the one-hundred-eighty-day deadline to submit final documents, the Board of Trustees may grant a single extension not to exceed an additional ninety (90) days. If final documents are not recorded

Commented [SC82]: Consider removing this step if all major subdivision final plats only require review by the board.

within the time required, approval of the minor subdivision application shall lapse and be of no further force or effect.

(Ord. 646-14 §1(Exh. A), 12-9-2014; Ord. 679-17, §27, 12-12-2017)

Sec. 16-4-360. Major subdivision review process.

All subdivisions that do not fit within the definition of administrative adjustment, boundary line adjustment or minor subdivision as defined in this Article require processing and review as a major subdivision consisting of ~~seven (7) the following~~ primary steps, ~~as follows~~:

- (1) The submittal and review of a ~~preliminary sketch plat~~ ~~by Town staff and Planning Commission~~ in accordance with this Article.
- (2) ~~A public hearing for the preliminary plat before the Planning Commission.~~
- (3) ~~A public hearing for the preliminary plat before the Board of Trustees.~~
- (4) The submittal and review of a final plat in accordance with this Article.
- (5) ~~A public hearing for the final plat before the Planning Commission.~~
- (6) A public hearing for the final plat before the Board of Trustees.
- (7) ~~Execution of a development agreement and recordation of the plat.~~
- (8) The completion of public improvements required by the development agreement.
- (9) The transfer of land or fees as required by this Chapter.

Sec. 16-4-370. Sketch plan review.

~~The sketch plan is intended to provide the subdivider with preliminary informal feedback from the Town staff and the Planning Commission on format and substance. Sketch plan review assists the subdivider in understanding the Town's preliminary position on the development, prior to the effort associated with the final plat documents, and to provide the Town with an overall master plan for the proposed development.~~

- (1) ~~Specific processing steps shall consist of:~~
 - a. ~~The subdivider shall submit to the Zoning Administrator all documents required in the Applicant Guide.~~
 - b. ~~The Planning Commission shall review the sketch plan in a public meeting and provide feedback to the subdivider. The meeting is intended to be for the mutual exchange of information and development concepts. The feedback shall take the form of recommendations endorsed by a majority of the Planning Commission members present. The recommendations by the Planning Commission may include an endorsement of the sketch plan concept, suggestions for modifications to the concept, or endorsement of alternative designs and specifics necessary to accomplish the Town's goals.~~
 - c. ~~The subdivider shall incorporate comments from the Planning Commission and from the Town staff into the final plat.~~
- (2) ~~Sketch plan comments from the Town shall remain valid for ninety (90) days. Comments made by the Town during the sketch plan review shall not be binding on the Town's consideration of any subsequent final plat application nor result in a vested property right pursuant to Article I, Division 5 of this Chapter or state statute. After the sketch plan review, the applicant may submit an application for a final plat.~~
- (3) ~~The Town shall use the following criteria to evaluate the applicant's sketch plan application:~~

Commented [SC83]: Revised per Priority 5 - revise the two-step major subdivision process.

Commented [SC84]: This is a required step of the final plat procedure (16-4-380(3)) so no need to list it as a separate step. This edit means the development agreement could go to the Town for approval during the preliminary plat step, after approval of the preliminary plat, or no later than final plat. It could be up to the developer and the risk they want to take and/or staff's guidance/recommendation.

Many communities require a certain amount of the public improvements to be completed before the final plat can be approved. This is because a final plat creates saleable lots so it can be used as leverage to be sure the improvements are completed. Development agreements are much harder for towns to enforce. Contact Cortez, CO to learn what happens when final plats are approved without basic improvements - they have hundreds of unbuildable lots owned by individuals who are very upset they can not built.

Commented [SC85]: Public land dedications should be made during the final plat. And aren't fees due much earlier than the very end of the subdivision process? This step may need to be deleted or edited.

Commented [SC86]: A conceptual review is to be handled during the required pre-application conference. Review by the DRC will also be included.

Consider adding the following info to the Applicant Guide: The purpose of the pre-application conference is to mutually exchange information and review the feasibility of a potential subdivision. It is an opportunity for the subdivider to provide the Town with a conceptual plan for subdivision and development and for the Town to provide informal feedback related to compliance with the municipal code, town standards, comp plan, etc. Consider also adding an expiration date to the feedback given at the pre-application conference or a timeline in which the preliminary plat must be submitted. You don't want someone applying years after initial consideration as the regulations may have changed by then.

- a. ~~The land use mix within the project conforms to the Town's Zoning District Map and furthers the goals and policies of the Comprehensive Plan.~~
- b. ~~The sketch plan represents a functional system of land use and is consistent with the rationale and criteria set forth in this Chapter and the Comprehensive Plan.~~
- c. ~~The utility and transportation design is adequate, given existing and planned capacities of those systems.~~
- d. ~~Negative impacts on adjacent land uses have been identified and satisfactorily mitigated.~~
- e. ~~There is a need or desirability within the community for the applicant's development and the development will help achieve a balance of land use and/or housing types.~~

Commented [SC87]: Moved to preliminary plat.

Sec. 16-4-370. Preliminary plat review.

~~The preliminary plat is intended to provide for the review of a proposed subdivision to ensure compliance with this Code, Town standards, the Comprehensive Plan and the adequate provision of facilities and services.~~

(1) ~~Specific processing steps shall consist of:~~

- a. ~~The subdivider shall submit to the Zoning Administrator all documents required in the Applicant Guide.~~
- b. ~~The Planning Commission shall review the preliminary plat in a public hearing.~~
- c. ~~Within thirty (30) days after the Planning Commission review of the preliminary plat, the Planning Commission shall approve, approve with conditions or disapprove the preliminary plat.~~
- d. ~~The preliminary plat shall be presented to the Board of Trustees for its review and action at a public hearing.~~

Commented [SC88]: Consider requiring a more than is currently required for sketch plan, including construction documents (maybe to about 50-70% design and engineering). Note that site plan and/or initial zoning docs are due at this time if they want to run the process concurrently.

(2) ~~The Town shall use the following criteria to evaluate the preliminary plat application:~~

- a. ~~The preliminary plat is in compliance with this Code and Town standards, and furthers the goals and policies of the Comprehensive Plan.~~
- b. ~~The preliminary plat satisfactorily addressed the recommendations provided during the pre-application conference or any other previous approvals or agreements.~~
- c. ~~The proposed infrastructure and public services are adequate, given existing and planned capacities of those systems.~~
- d. ~~Negative impacts to adjacent land have been identified and satisfactorily mitigated. The subdivision will not create an unsafe or hazardous condition.~~
- e. ~~The preliminary plat proposes reasonable project phasing in terms of infrastructure, provision of public land, and any other aspect of the development that will be developed across multiple phases.~~

Commented [SC89]: Moved from previous sketch plan criteria and modified.

(3) ~~Upon approval of a preliminary plat application by the Board of Trustee, the applicant shall within three (3) years submit a final plat. Upon a written request from the applicant filed at least thirty (30) days prior to expiration of the three (3) year deadline to submit final documents, the Board of Trustees may grant an extension not to exceed one (1) year. No more than three (3) such one-year extensions shall be approved. If a final plat is not submitted within the time required, approval of the preliminary plat application shall lapse and be of no further force or effect. In the case of partial final plat submission, the approval of the remaining portion of the preliminary plat shall automatically gain an extension of one (1) year.~~

Commented [SC90]: The timelines proposed here match the current ODP timelines. The typical range is likely between 1-3 years.

Sec. 16-4-380. Final plat review.

The final plat is intended to complete the subdivision of land ~~for all or a portion of the land considered in the preliminary plat~~ consistent with the Town's technical standards.

- (1) Specific processing steps shall consist of:
 - a. The subdivider shall submit to the Zoning Administrator all documents required in the Applicant Guide.
 - ~~b. The Planning Commission shall review the final plat in a public hearing.~~
 - ~~c. Within thirty (30) days after the Planning Commission review of the final plat, the Planning Commission shall approve or disapprove the proposed subdivision, in accordance with Section 31-23-215, C.R.S.~~
 - d. The final plat shall be presented to the Board of Trustees for its review and action at a public hearing.
- (2) The Town shall use the following criteria to evaluate the ~~applicant's~~ final plat application:
 - a. The final plat incorporates recommended changes, modifications and conditions attached to the ~~preliminary sketch plat, unless otherwise approved by the Planning Commission.~~
 - b. All applicable ~~regulations and~~ technical standards in accordance with this Chapter and adopted Town documents have been met.
- (3) Upon approval of a Final Plat application by the Board of Trustees, the applicant shall within one hundred and eighty (180) days revise the Final Plat application to meet any conditions of approval and submit final documents to the Zoning Administrator, including the signed development agreement and improvement guarantee. Upon a written request from the applicant filed at least thirty (30) days prior to expiration of the one-hundred-eighty-day deadline to submit final documents, the Board of Trustees may grant a single extension not to exceed an additional ninety (90) days. If final documents are not recorded within the time required, approval of the Final Plat application shall lapse and be of no further force or effect.

Commented [SC91]: Is this the process that is followed for the final platting of a PD? If so, this should reference that it is also for all or a portion of land considered in a FDP.

Commented [SC92]: If this is also the process used for the final platting of PDs, this should also reference compliance with the ODP.

Sec. 16-4-390. Resubdivision and vacation of right-of-way or easement.

- (a) Resubdivision. The resubdivision of any lots, tracts or parcels, or the relocation or addition of streets within a subdivision, shall be considered a resubdivision and shall be prepared and submitted in compliance with the requirements for a major subdivision as set forth in Section 16-4-360. In the event that any dedicated streets are relocated as a result of a resubdivision, it is necessary for the Town to first vacate those existing streets, with said vacation to be effective prior to the approval of the final plat.
- (b) Vacation. The vacation of any right-of-way or easement shall be in accordance with C.R.S. § 43-2-301, et seq. (Ord. 646-14 §1(Exh. A), 12-9-2014)

ARTICLE V Dedications and Improvements

Division 1 Purpose and Applicability

Sec. 16-5-10. Purpose.

The Town's municipal services include raw water supply, treatment, re-use and potable water distribution; public transportation facilities (streets, sidewalks and bike paths); stormwater collection; and wastewater collection and treatment. Authority to connect to and otherwise modify these facilities is regulated by application for which must be made to the Town. These facilities must be planned and constructed in advance of their need.

This is accomplished by the property developer responsible for paying the cost of all common facilities needed for their development, and then dedicating them to the Town. Major common infrastructure facilities (pump stations, raw water supply pipelines, interceptor sewers, treatment plant expansion, regional detention, etc.) are only occasionally found to be necessary and therefore not addressed as a part of this Chapter. It is expected that the need for these unique facilities will be discussed at the conceptual stage of development proposals and design criteria and construction responsibility resolved at an early stage in the project. Also, the other utility services, which are provided by nonmunicipal entities (gas, electric, telephone, cable TV, etc.), are not described herein.

Sec. 16-5-20. Future obligations.

This Article is intended to increase the water supply of the Town in order to meet the increased water requirements attributable to annexations, subdivisions, resubdivisions and extensions of water service. Under no circumstances should this Article be interpreted to relieve the applicant, its successors, assigns or future residents of the subject land, of any obligation to install water mains or other facilities; to pay tap fees or plant investment fees which may be imposed by the Town for the expansion or improvement of its water treatment and wastewater facilities; or to pay reasonable fees or charges to the Town for the provision of services.

Sec. 16-5-30. Exceptions.

- (a) This Article shall not apply to the subdivision or resubdivision of any annexed lands where the applicant can demonstrate that the requirements of this Article have already been met. Also, this Article shall not apply to any annexation or subdivision agreements into which the Town has entered, but only to the extent such agreements are in direct conflict with the provisions hereof and only to the extent said agreements have not been altered or amended, or expired, prior to the fulfillment of any water rights dedication, or cash in lieu of water rights obligations contained therein.
- (b) Whenever an application pertains to the annexation, subdivision, resubdivision or water service extension to a parcel of property already serviced by Town water, the applicant will not have to comply with the dedication requirements for the land area encompassed by the lots containing those existing dwellings or structures which are presently so served; provided, however, that no additional burden is placed on the Town water system by construction, change of land use, expansion of floor area, increase in water use or otherwise on the lots so exempted.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Division 2 Definitions

Sec. 16-5-210. Definitions.

The words and phrases used in this Article shall have the meanings defined below:

Approved Development Plan means a site plan, [preliminary plat](#) or final development plan as approved in its final form by the Town pursuant to the Town Code, as may be amended from time to time pursuant to the Town Code, that may identify, among other things:

- (1) Public Improvements necessary for facilitating development of the property within the District Boundaries or the Service Area; and
- (2) Any developer guarantees in connection with development of the property.

Appurtenant means belonging to, accessory or incident to, adjunct, appended or annexed to.

Board of Directors means the board of directors of a District.

BRI means Bennett Regional Improvements.

BRI Authority means one (1) or more authorities established by a BRI Establishment Agreement.

BRI Establishment Agreement means a written agreement establishing a BRI Authority which has, at minimum, Title 32 special districts from three (3) or more Approved Development Plan areas as parties to the BRI Establishment Agreement.

BRI Master Plan means one (1) or more master plans adopted by a BRI Authority establishing Regional Improvements which will benefit the taxpayers and service users of the Districts which constitute such BRI Authority, which master plan may change from time to time.

BRI Mill Levy means the following:

- (a) For districts with property within their boundaries developed or proposed to be developed with any residential uses the mill levy imposed for payment of the costs of the planning, design, permitting, construction, acquisition and financing of the improvements described in the BRI Master Plan, shall be: (i) one (1) mill for collection beginning for each district in the first year of collection of a debt service mill levy by such district and continuing in each year thereafter through the twentieth year; and (ii) five (5) mills from the twenty-first year through the fortieth year or the date of repayment of the debt incurred for Public Improvements, other than Regional Improvements, which ever first occurs; and (iii) for an additional ten (10) years thereafter, the mill levy shall be equal to the average debt service mill levy imposed by such district in the ten (10) years prior to the date of repayment of the debt incurred for Public Improvements other than Regional Improvements; and
- (b) For districts with property within their boundaries developed or proposed to be developed solely for commercial uses the mill levy imposed for payment of the costs of the planning, design, permitting, construction, acquisition and financing of the improvements described in the BRI Master Plan, shall be: (i) one (1) mill for collection beginning for each district in the first year of collection of a debt service mill levy by such district and continuing in each year thereafter through the twentieth year; and (ii) one and one-half (1.5) mills from the twenty-first year through the fortieth year or the date of repayment of the debt incurred for Public Improvements, other than Regional Improvements, which ever first occurs; and (iii) for an additional five (5) years thereafter, the mill levy shall be the lesser of twenty (20) mills or a mill levy equal to the average debt service mill levy imposed by such district in the ten (10) years prior to the date of repayment of the debt incurred for Public Improvements other than Regional Improvements; and
- (c) Any district may, pursuant to written agreement with the Town, extend the term for application of the BRI Mill Levy beyond the years set forth in (a) and (b) above.
- (d) All mills described in this BRI Mill Levy definition shall be subject to the Mill Levy Adjustment.

Commercial development means all development other than that zoned or used for residential or industrial occupancy; commercial development shall include, but not necessarily be limited to, developments containing office, retail and similar uses and structures.

Conveyance of legal title to water rights means the legal process by which legal title to the water rights to be dedicated is transferred to the Town by appropriate deed, assignment or other instrument of conveyance as may be required by the Town.

Debt means bonds, notes, debentures, certificates, contracts, capital leases or other multiple fiscal year obligations for the payment of which a District has promised to impose an ad valorem property tax mill levy, collect Fee revenue, and/or levy Special Assessments.

District means a special district organized under the Special District Act whose service plan is to be approved by the Town under applicable state law and any existing District that, on or after the effective date of this the ordinance codified herein, is wholly within the corporate limits of the Town.

End User means any owner, or tenant of any owner, of any taxable improvement within a District who is intended to become burdened by the imposition of ad valorem property taxes subject to the Maximum Debt Mill Levy. By way of illustration, a resident homeowner, renter, commercial property owner, or commercial tenant is an

End User. A person or entity that constructs homes or commercial structures with the intention of selling to others is not an End User.

Intergovernmental Agreement means the intergovernmental agreement between a District and the Town regarding the provisions of the service plan, which intergovernmental agreement may be amended from time to time by a District and the Town.

Maximum Debt Mill Levy means the maximum mill levy a District is permitted to impose upon the taxable property within the District for payment of Debt, and shall be fifty (50) mills for so long as the total amount of aggregate Debt of the District exceeds fifty percent (50%) of the District's assessed valuation. At such time as the total amount of aggregate Debt of the District is equal to or less than fifty percent (50%) of the District's assessed valuation, either on the date of issuance of any Debt or at any time thereafter, the mill levy to be imposed to repay such portion of Debt shall not be subject to the Maximum Debt Mill Levy if End Users cast the majority of affirmative votes taken by the District's Board of Directors at the meeting authorizing such action, and, as a result, the mill levy may be such amount as is necessary to pay the debt service on such Debt, and the Board of Directors may further provide that such Debt shall remain secured by such increased mill levy, notwithstanding any subsequent change in the District's Debt to assessed value ratio. The Maximum Debt Mill Levy shall be subject to a Mill Levy Adjustment. The Maximum Debt Mill Levy does not include the BRI Mill Levy.

Maximum Operation and Maintenance Mill Levy means the maximum mill levy the District is permitted to impose upon the taxable property within the District for payment of Operation and Maintenance Costs, and shall be fifty (50) mills until such time that the District issues Debt. After the District issues Debt, the Maximum Operation and Maintenance Mill Levy shall be ten (10) mills. The Maximum Operation and Maintenance Mill Levy shall apply to the District's ability to increase its mill levy as necessary for provision of operation and maintenance services to its taxpayers and service users until such time as End Users cast the majority of affirmative votes taken by the District's Board of Directors at a meeting authorizing an increase of such Maximum Operation and Maintenance Mill Levy.

Maximum Aggregate Mill Levy means the maximum combined mill levy a District is permitted to impose upon the taxable property within the District for payment of all expense categories, including, but not limited to, Debt, capital costs, organizational costs, and Operation and Maintenance Costs, except that the Maximum Aggregate Mill Levy shall not include the BRI Mill Levy. The Maximum Aggregate Mill Levy shall be sixty (60) mills until such time as End Users cast the majority of affirmative votes taken by the District's Board of Directors at a meeting authorizing an increase of such Maximum Aggregate Mill Levy. The Maximum Aggregate shall be adjusted to reflect any Mill Levy Adjustment in the Maximum Debt Mill Levy and the Maximum Operation and Maintenance Mill Levy.

Mill Levy Adjustment means, if, on or after January 1 of the year of approval of the Service Plan, there are changes in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement, the Maximum Debt Mill Levy, the Maximum Operation and Maintenance Mill Levy, and the BRI Mill Levy may be increased or decreased to reflect such changes, such increases and decreases to be determined by the Board of Directors in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the applicable mill levy, as adjusted for changes occurring after January 1 of the year of approval of the Service Plan are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

Model Service Plan means the Town's model Title 32 district service plan, as the same may be amended from time to time by the Board of Trustees. There shall be a single-district Model Service Plan and a multiple-district Model Service Plan.

Operation and Maintenance Costs means:

- (1) Planning and design costs of Public Improvements identified by a District as being payable from its operation and maintenance mill levy;
- (2) The costs of repair, replacement and depreciation of the Public Improvements;

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- (3) The costs of any covenant enforcement and design review services a District may provide; and
 - (4) The costs of ongoing administrative, accounting and legal services to a District.

Petitioners means those persons proposing a service plan or an amendment to an approved service plan.

Public Improvements means a part or all of the improvements authorized to be planned, designed, acquired, constructed, installed, relocated, redeveloped and financed as generally described in the Special District Act and in accordance with the Approved Development Plan, except as specifically limited by the service plan, that benefit the property within the District boundaries and/or service area and serve the future taxpayers and inhabitants of the property within the District boundaries and/or service area as determined by the Board of Directors of the District.

Regional Improvements means improvements or facilities that benefit the property within a District's boundaries and which are to be financed in whole or in part with the BRI Mill Levy and in accordance with the service plan.

Service Plan Amendment means an amendment to a service plan approved by Board of Trustees in accordance with this Article and the applicable state law.

Subdivider means an applicant for a subdivision, as defined in Article IV of this Chapter.

Sufficient legal supply means that the water rights proposed for dedication shall have a sufficient probability of being physically and legally available for pumping and use by the Town in order to provide a dependable supply of water to the Town. To qualify as a sufficient legal supply, any water right proposed for dedication must be free and clear of all liens, encumbrances and assessments. If the water right proposed for dedication is not-non-tributary groundwater, the proposed dedication shall include approved replacement plans by the Groundwater Commission as necessary to allow the ability to pump the not-non-tributary groundwater included with the proposed dedication.

Total Debt Limit means the Total Debt Limit set forth in a service plan for a District, which Total Debt Limit includes any Debt issued for Public Improvements and Regional Improvements.

Water right means a decreed, vested, conditional or inchoate right to use a certain portion of the waters of the State by reason of the appropriation and/or beneficial use of the same, including any tributary, nontributary and not-non-tributary groundwater and surface water, decreed and undecreed water rights and return flows appertaining thereto, and the right to all water from the Denver, Upper Arapahoe, Lower Arapahoe and Laramie-Fox Hills Aquifers, as provided for in a determination of water rights for the property by the Colorado Groundwater Commission.

Division 3 Administration and Procedures

Sec. 16-5-310. General provisions.

- (a) Subdividers shall be required to design, install, pay for and warranty streets, utilities, drainage improvements and other infrastructure needed to support subdivision developments.
- (b) Subdividers shall be required to arrange for the provision of adequate and timely services by utilities provided by entities other than the Town, including gas, electric and telephone.
- (c) Public improvements provided by subdividers shall meet the requirements of the applicable Town design criteria manuals, the Town's adopted street and drainage standards, other requirements of Town ordinances, requirements of the Colorado Department of Transportation, and requirements of all other state and federal agencies.
- (d) Unless otherwise provided for in an annexation agreement or development agreement, subdividers shall be responsible for public improvements throughout a subdivision, including those improvements serving abutting land dedicated for public use, and the provision of extensions that will be necessary to serve adjacent land.

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- (e) Unless otherwise specified in the development agreement, each phase of a subdivision must be served by all required improvements.
 - (f) It shall be the responsibility of the subdivider to have competent inspections performed on all phases of construction of required public improvements, and to provide to the Town as-built drawings and inspection reports as may be required by the Town Engineer to ensure that construction was performed according to plans and specifications approved by the Town Engineer.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-5-320. Project construction documents.

The design and construction of infrastructure improvements are the responsibility of the developer. The design must be documented in writing, should be made part of the final drainage or utility master plan as appropriate and should be reflected in the construction documents. These construction documents must be prepared to a condition of completeness suitable for competitive bid even if competitive bidding is not utilized. The design and construction shall comply with the Town's codes, ordinances and appropriate Town design manual.

Sec. 16-5-330. Initiation of improvements.

No construction or installation of public improvements shall begin until a development agreement has been approved by the Town. Thereafter, the developer shall be permitted to commence construction and/or installation of the improvements, after obtaining the required permits from the Town and other entities.

Sec. 16-5-340. Acceptance of improvements.

- (a) During the progress of construction of facilities which will be dedicated to the Town, the subdivider shall conduct those tests which are specified in the construction documents and the development agreement, and those which are otherwise necessary as a part of standard construction quality control. Results of those tests shall be provided to the Town within two (2) days of the day of the test.
- (b) All facilities will remain in the ownership of the subdivider until officially accepted by the Town in writing. Acceptance can be made in part for fully functional portions of the development, but normally will be made for all proposed dedications as a whole. Conditional acceptance may be given for nonessential components (e.g., open space trails, etc.) on a case-by-case basis as mutually agreed to by the subdivider and Town. Interim inspections of work in progress are desirable, especially for those items which are otherwise not easily viewed or for which field modifications may be necessary.
- (c) Review for acceptance by the Town is initiated by the subdivider. At the time the subdivider judges that the facilities are substantially complete, he or she will request of the Town a certificate of completion acceptance. That request shall be accompanied by a statement from the subdivider's engineer that all the facilities have been constructed in substantial conformance with Town standards and the plans and specifications, and a set of as-built drawings which highlight any modifications from the original construction documents. The Town will conduct its review of the facilities to be dedicated and either accept, reject or conditionally accept them. Once acceptance is made or confirmation that acceptance conditions have been met occurs, the Town acquires ownership. At that time the subdivider shall provide a two-year guarantee of all facilities. During the guarantee period, the subdivider shall promptly repair or replace any facilities which the Town determines to be deficient. When any such restoration is complete, the warranty will be deemed fulfilled, the Town will become the owner and any remaining bond retainage will be returned to the subdivider.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Commented [SC93]: This language does not specify when the development agreement goes for Town approval within the subdivision or PD process. As noted edited in Section 16-4-360, the development agreement should be required no later than concurrent with the final plat but could be as early as with the preliminary plat.

Division 4 Reserved³

Secs. 16-5-405—16-5-465. Reserved.

Division 5 Park and School Dedication and Improvement

Sec. 16-5-510. Public land dedication requirements.

- (a) At the time of subdivision, the subdivider shall dedicate to the Town and improve to the Town's specifications usable tracts of land that are free from liens or encumbrances, for park land and public facilities. This land may be used for public parks, trails, open space, public facilities or recreational purposes. The public land dedication requirement shall be equal to ten percent (10%) of the total land area contained within the subdivision. This requirement applies to all subdivisions where additional lots are being created, regardless of zoning classification.
- (b) The subdivider shall make payment to the Town in lieu of public land dedication if the Town determines that:
 - (1) The proposed land dedication would be inconsistent with the provisions of the Comprehensive Plan;
 - (2) The proposed land dedication is at a location which is unacceptable to the Town; or
 - (3) The Town would derive greater benefit at the time from a cash-in-lieu payment than from the provision of land for the development of the required facility.
- (c) The amount of a cash-in-lieu payment shall be determined by the size of the required land dedication (in acres, rounded to two (2) decimal points), times:
 - (1) The average per-acre cost of land as determined by a real estate appraisal prepared by an appraiser acceptable to both the subdivider and the Town. The appraisal shall be secured and paid for by the Town, which shall in turn be reimbursed for such expense by the subdivider; and
 - (2) For the park land portion only, the average cost per acre to purchase and improve undeveloped land for park purposes pursuant to the Town's adopted standards and specifications.
- (d) Cash-in-lieu payments shall be restricted to use in acquiring and improving land for used for public parks, trails, open space, public facilities or recreational purposes within the Town, and shall be in an interest-bearing account, with all interest reserved for the same purposes.
- (e) The public land dedication requirement is in addition to all other land dedications, including but not limited to, land dedications required for streets, roads, and drainage facilities.

(Ord. 735-22 §2, 1-25-2022)

Editor's note(s)—Ord. 735-22 §2, adopted Jan. 25, 2022, repealed the former § 16-5-510, and enacted a new § 16-5-510 as set out herein. The former section pertained to dedication requirements and derived from Ord. 646-14 §1(Exh. A), adopted Dec. 9, 2014; and Ord. 685-18 §1, adopted Feb. 13, 2018.

Sec. 16-5-520. Fair contributions for public school sites.

- (a) For all subdivisions of land, the subdivider shall dedicate land for a public school site to the Bennett School District No. 29-J (the "School District"). In the event the dedication of land is not in the best interest of the School District, the subdivider shall make a payment in lieu of land dedication or a combination of land dedication and an in-lieu payment.

³Sec. 1 of Ord. No. 656-15, adopted Sept. 22, 2015, repealed, reenacted with amendments, and relocated Div. 4, §§ 16-5-405—16-5-465, to Ch. 13, Art. IV, §§ 13-4-10—13-4-130.

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- (b) The amount of such contribution of either land or payment in lieu of land (the "fair contribution for public school sites") shall be determined in accordance with the provisions of the Intergovernmental Agreement Concerning Land Dedications or Payments in Lieu for School Purposes between the Town and School District, as may be amended from time to time.
 - (c) The following uses shall be excepted from the fair contribution for public school sites requirement:
 - (1) Construction of any nonresidential building or structure;
 - (2) Alteration, replacement or expansion of any legally existing building or structure with a comparable new building or structure which does not increase the number of residential dwelling units;
 - (3) Construction of any building or structure for a limited term stay or for long-term assisted living, including but not limited to bed and breakfast establishments, adult boarding or rooming houses, family-care homes, group-care homes, halfway houses, hotels, motels, nursing homes or hospices; and
 - (4) Construction of any residential building or structure that is subject to recorded covenants restricting the age of the residents such that the residential building or structure may be classified as "housing for older persons," pursuant to the Federal Fair Housing Amendments Act of 1988, as amended.
 - (d) In the event the fair contribution for public school sites includes the dedication of land, the subdivider shall provide to the Town, prior to recording of the final plat, proof that such dedication has been made to the School District in accordance with the following requirements:
 - (1) The subdivider has conveyed to the School District by warranty deed title to the land slated for dedication, which title is free and clear of all liens, encumbrances and exceptions (except those approved in writing by the School District), including without limitation, real property taxes, which will be prorated to the date of conveyance or dedication. If requested by the School District, the subdivider shall also enter into a contract with the School District for the sale and purchase of real property containing customary terms for the land which is being conveyed to the School District.
 - (2) At the time of conveyance, the subdivider has provided a title insurance commitment and policy in an amount equal to the fair market value of the dedicated property; and
 - (3) Arrangements have been made such that at the appropriate time, and not later than the issuance of the first residential building permit for the subdivision, the subdivider shall either provide or pay the costs associated with ensuring that the school site has direct access to a publicly dedicated street improved to Town standards, utilities (including water, sewer, storm sewer, electric, natural gas and telecommunications) stubbed to the school site, and overlot grading of the school site, which shall include mass grading but not final/fine grading.

Commented [SC94]: It is unclear how land can be dedicated prior to the final plat that legally creates separate lots. Consider clarifying here that the dedication is to be described during the preliminary plat step and then made with the final plat.

(Ord. 735-22 §1, 1-25-2022)

Editor's note(s)—Ord. 735-22 §1, adopted Jan. 25, 2022, repealed the former § 16-5-520, and enacted a new § 16-5-520 as set out herein. The former section pertained to cash-in-lieu requirements and derived from Ord. 646-14 §1(Exh. A), adopted Dec. 9, 2014; and Ord. 685-18 §2, adopted Feb. 13, 2018.

Sec. 16-5-530. Land dedication credit for private facilities.

Where parks, open space, trails and recreation facilities are developed for the exclusive use of the residents of a particular subdivision, a portion of the improvements, not to exceed seventy-five percent (75%), shall be credited against such requirements, provided that the Board of Trustees determines that it is in the public interest to do so, and that the following standards are met:

- (1) The land and/or facilities are intended to be privately owned and maintained in perpetuity by the present and future residents of the subdivision;
- (2) The private ownership and maintenance of the land and/or facilities are provided for in a written agreement acceptable to the Town;

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- (3) The proposed land area is suitable for use for parks and recreation purposes;
 - (4) The proposed facilities comply with the provisions of this Article and are approved by the Board of Trustees; and
 - (5) The proposed facilities are not inconsistent with the provisions of the Town's Parks, Trails and Open Space Master Plan and the Comprehensive Plan.

Sec. 16-5-540. Commencement and completion of improvements.

The development of all parks and recreation improvements must be commenced prior to issuance of a building permit for the second one-half (½) of the contemplated dwelling units in the subdivision, (e.g., in the case of a one hundred (100) unit subdivision, prior to issuance of a permit for the fiftieth unit. All parks and recreation improvements must be completed prior to issuance of a building permit for the final one-fourth (¼) of the contemplated dwelling units in the subdivision (e.g., in the above example, prior to issuance of a permit for the seventy-fifth unit). Failure to comply with these deadlines shall result in a freeze on permit issuances until such deadlines are met. Extenuating circumstances which prevent compliance with this Section can be appealed to the Board of Trustees.

Division 6 Street, Drainage and Utility Dedication and Improvement

Sec. 16-5-605. Dedication requirements.

- (a) Subdividers shall be required to dedicate rights-of-way for public streets and easements for drainage and utility facilities as needed to serve the area being annexed or developed.
- (b) In cases where any part of an existing or planned road is in or adjacent to the tract being developed or subdivided, the subdivision applicant shall be required to dedicate such additional right-of-way as may be necessary to increase such roadway to the minimum width required in this Chapter and the Town of Bennett Storm Drainage Criteria Manual.
- (c) Dedication of sites for flood control purposes and other municipal uses shall be mutually agreed upon between the subdivider and the Board of Trustees.
- (d) The Town may assess fees to be paid by the subdivider to provide for the provision of public facilities necessitated by the development.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-5-610. Streets.

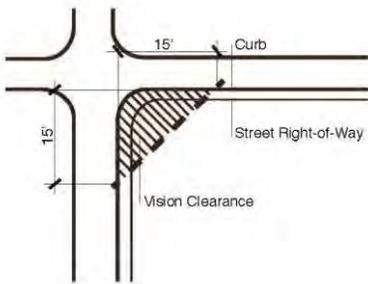
- (a) Streets shall be aligned to join with planned or existing streets and formed to augment the existing grid pattern. Intersections of streets shall be at right angles. In areas where the grid pattern has not been followed, new subdivisions should be designed to return to the grid pattern to the extent possible. Streets shall be designed to connect through to future subdivisions.
- (b) The street layout shall form an interconnected system of streets primarily in a rectilinear grid or modified pattern. The use of cul-de-sacs and other roadways with a single point of access is discouraged.
- (c) New developments shall interconnect with existing neighborhoods wherever possible, through street, trail and open space connections.
- (d) Dead-end streets shall be discouraged except in cases where such streets are designed to connect with future streets on adjacent land, in which case a temporary turnaround may be required. Turnarounds may not be required if no lots in the subdivision are dependent on the street for access.
- (e) Tracts subdivided into large parcels in anticipation of further subdivision shall be designed to accomplish logical streets and other linkages.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-5-615. Corner vision clearance triangle.

- (a) In order to provide safe sight lines at intersections, a corner vision clearance triangle must be maintained at all public and private street intersections.
- (b) The corner vision clearance triangle shall be described as that area lying within a triangle with its corners formed by the intersection of the extended curb lines of two (2) intersecting streets, and the points along the two (2) curb lines located fifteen (15) feet back from the point of intersection of the extended curb lines. See Figure 5-1.

Figure 5.1 Corner Vision Clearance Triangle



- (c) The corner vision clearance triangle shall be kept clear of all objects higher than twenty-four (24) inches that could obstruct view. The following exceptions are allowed:
 - (1) Street signs, traffic lights, streetlights, fire hydrants and similar public facilities.
 - (2) Street trees that are a deciduous variety, with the lowest branch and foliage at least eight (8) feet above the road surface.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-5-620. Existing supply and distribution systems.

- (a) If an area proposed to be annexed is served by an existing water system, the Town as a condition of annexation may require that such system, including all water rights and facilities related thereto, be dedicated to the Town for integration into the Town water system. The Town in its sole and absolute discretion may determine not to require dedication of such existing system and, in such case, may make a downward adjustment in the dedication requirement if the Board of Trustees determines, in its sole and absolute discretion, that it is appropriate to do so to account for such existing system which is not required to be dedicated to the Town.
- (b) In deciding whether to require dedication of an existing system, or whether to allow a downward adjustment in the dedication requirement for an existing system which is not required to be dedicated to the Town, the Board of Trustees, with assistance from the Town staff, shall make a full analysis of the potential future water supply burden which may be placed upon the Town by the property proposed to be annexed, and shall consider all factors affecting the water supply situation, including but not limited to the following:
 - (1) The probability that the applicant will continue to rely on the other system and not seek Town water service at some time in the future;

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- (2) The legal obligation of the Town to supply water to the annexed areas regardless of any existing system in the area;
 - (3) The extent to which water distribution lines have been extended into the area, or the extent to which the extension of such lines is assured;
 - (4) The age and condition of the existing water supply system; and
 - (5) The existence of any obligations or commitments respecting the continued use of such other water system.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-5-625. Water and wastewater line extension policy.

- (a) Statement of purpose. It is the purpose of this policy to provide a fair and equitable distribution of the costs of installing water and wastewater lines and associated appurtenances to all the parties benefiting from their installation. This policy covers most cases, but recognition is made that special cases may occur. When special cases do occur, deviations may be made from the specifics of the policy, provided that the final arrangements maintain this fair and equitable intent. Such arrangements can be made by mutual agreement between the Board of Trustees and the developer of the property and shall be contained in a development agreement executed by both parties. This Article shall be interpreted and enforced to ensure that a developer will pay all direct costs and its proportionate share of indirect costs.
- (b) Line installation policy. In order to facilitate the orderly continuation of the Town's water distribution and wastewater collection systems, water and wastewater mains shall be installed to the furthest point or points of a property. The developer shall install lines on all sides of the property and/or through more than one (1) internal easement or right-of-way if it is determined that those lines are needed to provide service to other properties beyond the subject property.
- (c) All mains which are necessary for the service to or within a property or as required above shall be installed at the cost of the developer, except that mains larger than those required to serve the property but required by the Town shall be subject to the provisions of Section 16-5-635 below.
- (d) The developer shall be responsible for payment of the Town's review of plans, inspection of installation and associated costs. Such costs shall be in accordance with the Town's fee schedules or the actual costs, where applicable. Payment of such costs shall be made prior to the Town's acceptance of the improvements.
- (e) Upon completion of the work and written acceptance by the Town, the water distribution and wastewater collection systems shall become the property of the Town.
 - (1) The Town shall own and maintain the water mains, water main appurtenances and fire hydrants and appurtenances therein. The property owner shall maintain the service line attachment to the main line, meter, meter pit, vaults and all other appurtenances from the main line. For fire service lines, the Town's ownership ends at the valve on the main or the point of connection to the last domestic service off the line.
 - (2) The Town shall own and maintain the wastewater mains, manholes and regional wastewater lift stations. The property owner shall maintain the wastewater service line and attachment to the main line. Where a lift station is built to provide service to a specific development or area, the Town may either establish a special monthly assessment to cover maintenance, overhead and depreciation or require a property owners' association to cover these costs.
- (f) All workmanship and materials shall be warranted in writing by the developer against any defects for a period of two (2) years from the date of preliminary acceptance by the Town. Any repair or reconstruction performed during such warranty period as a result of defects in material and/or workmanship shall be warranted for a period of two (2) years from the acceptance of such repair or reconstruction by the Town.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-5-630. Reimbursement policy and procedure.

- (a) Reimbursement for line extension through undeveloped property. In accordance with the Comprehensive Plan and the Master Plan, development is encouraged in areas directly adjacent to the Town. In the event a development is not located adjacent to the Town, a developer may find it necessary to install water or wastewater lines and appurtenances through undeveloped property to obtain service. The developer may request the establishment of a reimbursement agreement to recover a portion of the line installation costs from subsequent future development along the line.
 - (1) The establishment of a reimbursement agreement is optional and must be requested by the developer prior to construction of the line.
 - (2) The reimbursable amount shall not be increased or decreased to reflect fluctuations in construction costs and shall not be increased for interest or decreased for depreciation. The date of the construction quote or bid shall establish the initial index value.
 - (3) The reimbursement agreement shall expire after a period of ten (10) years from the acceptance of the line unless extended in writing by the Board of Trustees.
 - (4) Reimbursement payments shall be due and payable prior to the installation of any service or line extension to the undeveloped parcel.
 - (5) If the line is installed through or adjacent to more than one (1) property, the future developers shall pay for their proportional share based on the usage of the line generated through their property.
- (b) Reimbursement for line extension through previously developed areas. A developer may find it necessary to replace an existing undersized or otherwise inadequate line to obtain service. The developer may be eligible to establish a reimbursement agreement in the following cases:
 - (1) If a property adjacent to the replacement line had a tap on the original undersized line and is later subdivided, the developer of this second property shall reimburse the original developer an amount determined pursuant to the provisions of this Chapter.
 - (2) If the line to be replaced is in such a condition or configuration that it would, in the opinion of the Town Engineer, be eligible for replacement, the Town may pay the portion of the cost that it would incur to replace or upgrade the line.
- (c) Reimbursement for major structures. A developer may find it necessary to install a major structure to obtain water or wastewater service, in which case the developer may be eligible to establish a reimbursement agreement.
 - (1) A reimbursement agreement may be established if the major structure is a component of the water distribution or wastewater collection system that will bring direct benefits to an identifiable area. Examples are:
 - a. Wastewater lift stations.
 - b. Water booster pump stations.
 - c. River or highway crossings.
 - (2) The cost of the utility line or structure required by the project itself shall be paid by the developer. The cost of the remainder of the utility line, required by the Town may be paid by the Town.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-5-635. Line oversizing policy.

- (a) General. The purpose of the line oversizing policy is to enable a developer to recover the costs incurred to install an oversized water or wastewater line. The oversized portion is the difference between the line size

required by the proposed use of the property and the line size required by the Town to meet future growth demands. The developer is required to bear the full costs for installing eight-inch wastewater lines or larger if required to serve that development, and for installing all water lines six (6) inches in diameter or larger if required to serve that development.

- (b) Line sizing. The actual size of the water or wastewater line required shall be initially established by the developer with supporting documentation to verify that the sizes of the water and wastewater lines meet the Town's specifications. Final evaluation and design shall be determined by the Town. Criteria to be used for this determination shall include, but shall not be limited to the following:
 - (1) Utility master plan requirements.
 - (2) Potential future demand on the water or wastewater system as related to the proposed development.
 - (3) Hydraulic design criteria of the water or wastewater system.
- (c) Town participation in oversizing project. The Town may require a developer to install an oversized water or wastewater line. If an oversized line is required, the Town will participate in the project costs if the oversizing is required to provide service to the Town's existing customers.
- (d) Developer reimbursement. When the Town requires a developer to oversize either water or wastewater lines to meet the needs of anticipated development, the developer may request the Town to enter into a reimbursement agreement. The agreement may provide that the developer will be reimbursed the cost of the required oversizing from future developments, which make use of the oversizing. The reimbursement agreement shall expire upon repayment to the developer of the oversizing costs or the expiration of ten (10) years from the completion of the installation.
- (e) Determination of eligible project costs.
 - (1) Only those components of the water or wastewater line project that are specifically related to the oversizing shall be included for oversizing participation. Eligible costs shall be limited to those additional costs of materials to furnish and install the oversized pipe, fittings, valves and service saddles. The costs for design, service lines, manholes, surface repairs and connected lines and appurtenances are not eligible.
 - (2) Construction quotes. If the developer is aware that there will be oversizing required and that the cost of the oversizing is estimated to be less than five thousand dollars (\$5,000.00), the developer shall obtain a minimum of three (3) written quotes from qualified contractors for construction of the oversized line. The lowest quote shall be the basis for determining eligible oversizing costs.
 - (3) Competitive bids. If the cost of the oversizing is estimated to be greater than five thousand dollars (\$5,000.00), the developer shall obtain competitive bids for the construction of the oversized line. The Town and the developer have the right to reject any and all bids, for cause.
 - (4) Determination of final costs. The developer's engineer shall submit to the Town a summary of the final eligible project costs. The final costs shall be based on the lower of the actual installation costs or the lowest bid received for the project.
- (f) Water and wastewater development agreement. If the Town agrees to participate in an oversizing project, the developer shall prepare a reimbursement agreement, which will include:
 - (1) An estimate of the oversized line project costs, prepared by a professional engineer. Itemization of the cost estimate shall be attached to the agreement.
 - (2) Distribution of project costs between the Town and the developer.
 - (3) Time schedule or phasing plans with which the developer agrees to comply.
 - (4) Any reimbursement agreements between the developer and future developers along the oversized line.

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- (5) The water and wastewater development agreement shall be reviewed and signed by the Town Engineer, the Town Attorney and the developer.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-5-640. Drainage and storm sewers.

(a) General requirements.

- (1) In conjunction with the final plat, the developer shall prepare a drainage study that will identify those measures and improvements needed to control, detain, retain or discharge, as appropriate, surface water flows within the subdivision.
- (2) All drainage plans and specifications associated with a drainage study shall bear the seal of a professional engineer registered with the State and shall include a statement signed by the engineer attesting to the following:
 - a. That the plans and specifications are in full compliance with the Town's codes, ordinances, standards and criteria for drainage improvements;
 - b. That the plans and specifications will achieve the purposes for which the improvements are intended; and
 - c. That the engineer accepts responsibility for any liability caused by negligent acts, errors or omissions on the part of the engineer in preparing the plans and specifications.
- (3) The developer shall be responsible for maintaining all drainage improvements until final acceptance of them by the Town, homeowners' or other owners' association.
- (4) The developer shall dedicate to the Town or other appropriate entity all existing and proposed drainage easements on the final plat.
- (5) The Town will allow the use of the street system for drainage to the extent permitted by the Town of Bennett Storm Drainage Criteria Manual.
- (6) The drainage facilities for the subdivision shall be designed to accept flows from areas upstream of the subdivision and to release flows from the subdivision in a manner which does not adversely affect the downstream properties.
- (7) Except where essential, as determined by the Town, drainage improvements shall be located solely within the subdivision they are intended to benefit.
- (8) In those instances in which a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage easements shall be secured by the developer, shall be identified on the final plat of the subdivision and shown by an appropriate instrument of grant, which shall be recorded with the County Clerk and Recorder of the county in which the property is located.

(b) Drainage way and floodplain restrictions.

- (1) The Town may impose special restrictions on drainage ways and floodplains within a subdivision if it determines that such restrictions are necessary for the health, safety and/or welfare of the present or future inhabitants of the Town. These restrictions may include, but are not limited to, the following:
 - a. Preserving the drainage way or floodplain to ensure adequate width for maximum potential flow volumes and to permit proper maintenance of the drainage way.
 - b. Retaining the drainage way or floodplain vegetation or improving it pursuant to a landscape plan approved by the Town.
 - c. Prohibiting any clearing or grading activities or dumping of earth or waste material which may cause damage or destruction within the drainage way or floodplain.

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- (2) The developer shall maintain all drainage ways and floodplains within the subdivision pursuant to Town requirements until such areas are:
 - a. Transferred to a new owner, homeowners' association or other owners' association, at which time such party shall assume all responsibilities.
 - b. Dedicated to the Town as stipulated in the final plat and/or development agreement.
 - (c) Drainage area dedications and easements.
 - (1) Should a drainage way, watercourse or floodplain within a subdivision be designated for open space or park development in the Comprehensive Plan or other Master Plans for the Town, the developer shall either dedicate a perpetual drainage easement to the Town or convey the property to the Town by deed, at the Town's discretion.
 - (2) Where drainage facilities occur outside of dedicated street rights-of-way, perpetual drainage easements or a deed for the affected property shall be conveyed to the Town along with sufficient access to a public street for maintenance purposes.
 - (3) All drainage easements or property conveyances shall be of sufficient width to contain a drainage facility and to transport runoff from a one-hundred-year flood in compliance with the Town's codes, ordinances and the Town of Bennett Storm Drainage Criteria Manual.
 - (d) Site considerations.
 - (1) Grading should minimize disturbance of natural topography and existing trees.
 - (2) Steep or unstable land and/or areas having inadequate drainage shall not be subdivided into building lots unless the subdivider makes adequate provision to prevent the same from endangering life, health or other property.
 - (3) Any land subject to flooding or any natural drainage channels shall not be platted as building lots unless adequate provisions to eliminate or control flood hazards in the subdivision or on the building site or other affected lands are made by the subdivider in accordance with Article VII of this Chapter and approved by the Town Engineer.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-5-645. Water facilities.

Water distribution systems shall be designed and installed in accordance with the Town's codes, ordinances and the Town of Bennett Sanitary Sewer and Water System Design and Construction Standards Manual.

- (1) General requirements.
 - a. The developer shall be responsible for the installation or extension of water distribution facilities to the subdivision which provide adequate water for potable use, landscaping watering, fire suppression and other uses as are permitted by the zoning classification of the land.
 - b. The water system shall be designed and installed by the developer in accordance with this Article and the Town's codes, ordinances and the Town of Bennett Sanitary Sewer and Water System Design and Construction Standards Manual.
 - c. Water lines shall be installed to serve each subdivision lot and/or building envelope.
- (2) Water line easements and groundwater dedication.
 - a. All proposed water utility easements shall be dedicated to the Town and shown on the final plat.
 - b. Water line easements shall be a minimum of thirty (30) feet in width or as otherwise required by the Town to accommodate the installation and maintenance of the lines and facilities.

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- c. Water line easements shall be dedicated as exclusive easements.
 - d. Structures or other obstructions shall be prohibited within water line easements.
 - e. Water line easements acquired in adjoining properties shall be recorded with the County Clerk and Recorder of the county in which the property is located.
- (3) Fire suppression requirements.
- a. The subdivider shall install and maintain exterior fire suppression systems for the subdivision, including fire hydrants and water storage facilities, and shall maintain the system until final acceptance of the system by the Town.
 - b. All new developments may be required to install water re-use lines.
 - c. Fire flows and durations for all types of construction shall conform to Appendix III of the Fire Code.

Sec. 16-5-650. Sewerage facilities.

Wastewater collection systems shall be designed and installed in accordance with the Town's codes, ordinances and the Town of Bennett Sanitary Sewer and Water System Design and Construction Standards Manual.

- (1) General requirements.
- a. The developer shall be responsible for the installation or extension of sanitary sewer facilities to the subdivision which are sufficient for such uses as are permitted by the zoning classification of the land.
 - b. The sewerage facilities shall be designed and installed by the developer in accordance with this Article and the Town's codes, ordinances and the Town of Bennett Sanitary Sewer and Water System Design and Construction Standards Manual.
 - c. Sewerage lines shall be installed to serve each subdivision lot and/or building envelope.
 - d. The Town may prohibit the installation of trees and certain other plantings within sewer easements.
- (2) Sewer line easements.
- a. All proposed sewer utility easements shall be dedicated and shown on the final plat.
 - b. Sewer main easements shall be a minimum of twenty (20) feet in width or as otherwise required by the Town to accommodate the installation and maintenance of the lines and facilities.
 - c. Sewer main easements shall be dedicated as exclusive easements.
 - d. Structures or other obstructions shall be prohibited within sewer line easements.
 - e. Sewer main easements acquired in adjoining properties shall be recorded with the County Clerk and Recorder of the county in which the property is located.

Sec. 16-5-655. Location of other utilities.

- (a) All new utility lines, including but not limited to gas, electric, telephone and cable television lines, shall be located underground throughout the subdivision.
- (b) Existing overhead utility lines that are within or adjacent to the subdivision, other than major electric transmission lines, shall be buried at the expense of the developer.
- (c) Any above-ground utility devices or installations approved by the Town shall be located, wherever possible, in areas where they are visually unobtrusive and do not detract from local aesthetics.

- (d) All existing and proposed nonwater or sewer utility easements shall be dedicated to the appropriate entity and shown on the final plat.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Commented [SC95]: Editing note. This section was repealed and replaced via Ord 797-25. See the Ord for new language.

Division 7 Performance Guarantees

Sec. 16-5-710. Development agreement.

- (a) Subdividers shall be required to design, install, pay for and warranty streets, utilities, drainage improvements and other infrastructure needed to support subdivision developments.
- (b) The obligation for constructing and installing the improvements stipulated in the development agreement or annexation agreement and for fulfilling all other obligations contained in the agreement shall fall upon the subdivider, the subdivider's successors in interest, assignees or any other parties who acquire title to the land or to any lot or part thereof.
- (c) Subdividers shall be required to arrange for the provision of adequate and timely services by utilities provided by entities other than the Town, including gas, electric and telephone.
- (d) Public improvements provided by subdividers shall meet the requirements of the applicable Town design criteria manuals, the Town's adopted street and drainage standards, other requirements of Town ordinances, requirements of the Colorado Department of Transportation, and requirements of all other state and federal agencies.
- (e) Unless otherwise provided for in an annexation agreement or development agreement, subdividers shall be responsible for public improvements throughout a subdivision, including those improvements serving abutting land dedicated for public use, and the provision of extensions that will be necessary to serve adjacent land.
- (f) The development agreement shall be prepared by the Town and shall include the following:
- (1) An itemized listing of those improvements described in the construction plans, as well as any other improvements specified in the preliminary or final plat approval, ~~or annexation agreement~~, or otherwise required by the Town.
 - (2) An estimate, acceptable to the Town, of the expected cost of the improvements, expressed in total unit quantities, per unit cost and total cost per improvement.
 - (3) A time schedule, acceptable to the Town, for the completion of the improvements. If the improvements are to be completed on a phased basis, deadlines for the completion of each phase must be specified and a map provided which illustrates clearly the location of each phase.
 - (4) A warranty period, as specified by the Town, covering each of the improvements. Generally, the warranty period will be two (2) years; however, due to individual circumstances, this period might be longer.
 - (5) The specific amounts of cash-in-lieu payments, if any, to be made to the Town.
 - (6) Any other requirements that the subdivider must satisfy as a condition of the approval of the final plat.
 - ~~(7) Prior to recording, a copy of the Town ordinance or resolution approving the final plat shall be included as an appendix to the agreement.~~
- (g) The improvements to be constructed and installed by the subdivider, pursuant to the Town's design standards and construction specifications, shall include, but not necessarily be limited to:
- (1) Road grading and surfacing;
 - (2) Curbs and gutters;

Commented [SC96]: Removed to allow for development agreements to be completed before final plat if desired.

- (3) Sidewalks and ADA ramps;
 - (4) Sanitary sewer system;
 - (5) Storm sewers or storm drainage system;
 - (6) Water distribution facilities, including fire hydrants and storage tanks;
 - (7) Street lights;
 - (8) Underground telephone and electrical lines;
 - (9) Landscaping and irrigation improvements;
 - (10) Street signs and traffic control devices;
 - (11) Permanent survey reference monuments and monument boxes;
 - (12) Natural gas distribution lines;
 - (13) Other facilities as may be required or specified by the Board of Trustees.
- (h) The development agreement shall be reviewed and acted upon by the Board of Trustees, following a determination by the Town staff that the agreement is adequate in terms of format and content. Development agreement review shall be conducted concurrently with the site plan, subdivision or PD.
- (i) Once approved, the development agreement shall be signed by the subdivider, and the property owner (if other than the subdivider) and submitted to the Town for the Mayor's signature and recording with the appropriate County Clerk and Recorder.
- (j) Unless otherwise specified in the development agreement, each phase of a subdivision must be served by all required improvements.
- (k) It shall be the responsibility of the subdivider to have competent inspections performed on all phases of construction of required public improvements, and to provide to the Town as-built drawings and inspection reports as may be required by the Town Engineer to ensure that construction was performed according to plans and specifications approved by the Town Engineer.
- (l) Requests for extension of development agreement. All requests by an owner for an extension of time to complete improvements or to otherwise perform under the terms of a development agreement shall be considered by the Board of Trustees at a public meeting. Prior to consideration of such requests, the subdivider shall submit a letter of explanation. The letter shall include a request for a specific extension of time for completing the remaining improvements, accompanied by a statement indicating what improvements have been completed and the degree of their completion, a statement indicating what circumstances have prevented the completion of the improvements and a statement indicating what surety will be provided.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-5-720. Public improvement guarantees.

- (a) Prior to the approval by the Board of Trustees of the development agreement, the subdivider shall submit to the Town performance guarantees in accordance with the provisions of this Article to ensure that the required public improvements will be satisfactorily completed and paid for by the date specified in the agreement.
- (b) The development agreement shall specify conditions of default and the terms under which the Town may draw upon the guarantee to complete required public improvements in the event of default.
- (c) In phased subdivisions, the Town may, at its discretion, permit improvement guarantees and dedication assurances in conformance with the phasing schedule authorized in the development agreement.

Commented [SC97]: Intentionally included the general terms "subdivision" and "PD" so that the development agreement can be processed anywhere within the sub steps of those processes. Change preliminary plat/final plat or ODP/FDP if desired to be more specific.

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- (d) The amount of the financial guarantee shall be sufficient to cover the entire cost of mobilizing and completing the improvements in the event that the owner does not complete the improvements according to the terms of the development agreement. The amount of the guarantee must be specified in the agreement. The required amount is one hundred fifteen percent (115%) of the estimated construction costs as agreed to by the subdivider and the Town Engineer. The Town may, at its discretion, require a lower amount if warranted.
- (e) Subject to approval by the Town Attorney, the types of guarantees listed below are acceptable to the Town:
- (1) An irrevocable letter of credit from a bank or financial institution. The letter of credit shall provide for payment upon demand to the Town if the developer has not performed the obligations specified in the development agreement and if the issuer has been notified of such default. The issuer of the letter of credit shall guarantee that at all times the total amount of the credit will be retained until released in whole or in part by the Town.
 - (2) An escrow agreement, with cash in escrow, providing that the escrow agent shall be a bank or financial institution acceptable to the Town, that the escrow agent guarantees that the escrowed funds will be used for required improvements as specified in the development agreement and for no other purpose, and that the escrow agent will not release any portion of such funds without prior approval of the Town. If the Board of Trustees determines that there is a default of the development agreement, the escrow agent shall release any remaining escrowed funds to the Town.
 - (3) A cash deposit with the Town.
- (f) It shall be the responsibility of the subdivider to keep all the performance guarantees current. The Town shall have the right to increase or decrease the amount of the guarantees at one-year intervals to reflect updated estimates of the cost of the required improvements.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-5-730. Acceptance and warranty of improvements.

- (a) Following the construction and installation of all public improvements specified in the development agreement, and delivery to the Town of as-built drawings and inspection reports on all required public improvements, the subdivider shall submit a written request for preliminary acceptance of the improvements. Following a physical inspection of the improvements and upon being satisfied that they meet all Town requirements, the Town Engineer may issue a preliminary acceptance of the improvement, subject to a two-year warranty.
- (b) Prior to preliminary acceptance, the subdivider shall provide to the Town a proper warranty for any defects discovered in the public improvements within two (2) years after preliminary acceptance for maintenance. Under the terms of the warranty, the subdivider shall be responsible for the repair, replacement and/or maintenance of any improvement required by the Town which fails to meet the Town's standards or to function properly, due to defects in material, workmanship, construction and/or installation, within a period of two (2) years from the date of acceptance. The warranty shall provide a financial guarantee equal to fifteen percent (15%) of the cost of installation, and shall be in a form acceptable to the Town Attorney.
- (c) Should the warranty security provided to the Town prove inadequate to pay the total costs of repairing or replacing defective improvements, the subdivider shall be responsible for such costs, and the Town may utilize any or all of the measures proscribed by law to achieve prompt compliance.
- (d) Upon completion of the two-year warranty period, the subdivider shall be entitled to obtain final acceptance of the improvements if the Town Engineer finds that the improvements are substantially free of defects in materials and workmanship and have been repaired and maintained to the extent required in the development agreement. If the Town Engineer finds that any part of the improvements are not substantially free of defects in materials and workmanship or have not been repaired and maintained as required under

the development agreement, the subdivider shall thereupon take such action as is necessary to cure any noncompliance.

- (e) At the time of final acceptance of the improvements, the subdivider shall be entitled to a release and return of the warranty security.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-5-740. Maintenance of public improvements.

The subdivider shall be required to maintain all required public improvements described in the development agreement until:

- (1) The Town Engineer has issued a notice of final acceptance of the public improvements to the subdivider; and/or
- (2) In the event that some improvements that serve multiple properties in the subdivision are intended for private maintenance, the Town has performed a final inspection of the private improvements and has approved them, and the subdivider has in turn conveyed the title and the maintenance obligation for the improvements to a homeowners' association, to a landowners' association or to some other responsible entity approved by the Town.

Sec. 16-5-750. Release or use of performance guarantees.

The Town may release or use performance guarantees as follows:

- (1) In the event that all or a portion of the public improvements are satisfactorily completed and approved by the Town Engineer a prorated portion of the performance guarantee may be released by the Town.
- (2) In the event the required public improvements are not fully and satisfactorily completed in compliance with the terms of the development agreement, the Town may declare the agreement in default and can:
 - a. Deny further issuance of building permits, certificates of occupancy, water meters or water and sewer tap hookups until the improvements are fully and satisfactorily completed;
 - b. Require that all uncompleted improvements be constructed and installed without delay regardless of the extent of subdivision development at the time of default; and/or
 - c. Utilize the performance guarantees to complete the remaining improvements, either through use of one (1) or more contractors or through use of the Town's work force. Upon completion of the remaining improvements, any unused portion of the performance guarantees, minus the Town's legal costs and the Town's administrative costs, equal to twenty percent (20%) of the total of all costs associated with the completion of the remaining improvements, and any other documented costs incurred by the Town, shall be released or returned.

Sec. 16-5-755 Development Agreements and Improvement Guarantees of Public Improvements for Limited Size Developments

(a) As used in this section, the term "Limited Size Development" means any Development as defined in Section 16-1-210 involving an area of 2 acres or less, and Public Improvements estimated to cost \$300,000 or less.

(b) The Zoning Administrator is authorized on behalf of the Town to enter into a Development Agreement with the developer of a Limited Size Development that includes those requirements of Section 16-5-710 the Zoning Administrator deems to be appropriate to the Limited Size Development. Such Development Agreement shall include the type and amount of Public Improvement Guarantee provided for in Section 16-5-720 that the Zoning Administrator deems to be appropriate.

(c) Except as specifically modified by this Section, all other obligations of a Subdivider under the provisions of Chapter 16, Division 7 shall apply to the developer of a Limited Size Development.

Commented [SC98]: Editing note: New language included here per Ord 795-25.

Sec. 16-5-760. Private improvements.

- (a) The Town will accept for maintenance only those improvements that are constructed to the standards of the Town.
- (b) In the event a subdivision is to contain any improvements or facilities that are not for public use, but which are for the private use of the owners or occupants of two (2) or more lots or dwelling units, and where such private improvements are approved by the Town, the maintenance and operation of such privately owned improvements must be provided for in a written agreement with the Town. The private improvements might consist of, but not necessarily be limited to, tennis courts, swimming pools, parkways, roadways or greenbelts.
- (c) All privately maintained roadways that provide primary access to two (2) or more residential lots must be covered by a public access easement, providing unrestricted access by the public and by emergency vehicles.
- (d) All privately maintained roadways that provide primary access to two (2) or more commercial or industrial lots must be covered by a public access easement, providing unrestricted access by emergency vehicles.
- (e) The development agreement shall contain any provisions the Town deems necessary to assure that:
 - (1) The proposed private facilities will be constructed or installed as represented; and
 - (2) Measures have been taken to assure the proper future operation and maintenance of the improvements.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Division 8 Special Districts

Sec. 16-5-805. Legislative declaration.

- (a) Special districts ("Districts") organized under Title 32, Article 1, C.R.S. (the "Special District Act"), under appropriate circumstances, provide an economic alternative to the development of municipal infrastructure at the expense and risk of the Town.
- (b) The intent of this Division is to impose conditions, restrictions and requirements on the development by Districts of public improvements and the issuance of debt, in order to preserve the financial integrity of the Town and the health, safety, prosperity, security and general welfare of all of the residents and citizens of the Town. The Special District Act may not in certain respects adequately address the local concerns and interests of the Town in regulating the Districts' development of public improvements and incurrence of debt to finance such development, both of which ultimately have a direct financial consequence to the Town. It is necessary and advisable to specify the events and conditions which, under the Special District Act, likely constitute material modifications to an approved District service plan, in the context of the particular business and legal relationship between the Town and Districts. The provisions of this Division are also intended to provide procedures for the processing and review of proposals for formation of new Districts, and to define the restrictions and limitations which may be imposed by the Town as a condition to the approval of such Districts consistent with the policy and intent of this Division.
- (c) The primary purpose of Districts within the Town is to fund the local and regional public improvements and facilities necessary for the development of private property. A District shall be authorized to construct Public Improvements as the same are more specifically defined in an Approved Development Plan, the Intergovernmental Agreement, or other agreement to which the Town is a party or otherwise gives its written consent. Districts may provide for the continued operation and maintenance of such facilities only as

provided in their respective approved service plans and the Intergovernmental Agreement executed by the District and the Town.

- (d) The Town, in furtherance of the best interests of its residents and the preservation and protection of the health, safety, prosperity, security and general welfare of its residents, declares its intent:
- (1) To prevent the indebtedness incurred by Districts from adversely affecting the credit worthiness and credit ratings of the Town;
 - (2) To ensure that the cost burden of infrastructure in newly developed areas is placed upon those benefitting from such infrastructure improvements;
 - (3) To prevent the shifting of development risk to non-developers;
 - (4) To minimize the likelihood of excessive tax and fee burdens upon Town residents located within Districts;
 - (5) To require facilities and services to be provided efficiently;
 - (6) To prevent the shifting of costs of Districts to residents of the Town who do not live within the geographic boundaries of a District; and
 - (7) To permit the use of Districts to serve only those residential, commercial or industrial developments that will enhance the quality of the entire community.
- (e) The adoption of this Division is necessary, requisite and proper for the government and administration of local and municipal matters under the Town's authority.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-5-810. Reservation and construction.

In addition to the power, authority and protection set forth in this Division, the Town reserves all the powers and authority granted to municipalities by the Special District Act and Article XX of the Constitution of the State of Colorado. The provisions of this Division shall be construed and applied to supplement the applicable provisions of the Special District Act and in the event that any conflicts exist between the Special District Act and this Division, such inconsistencies are specifically intended and the provisions of this Division shall control, it being the intention that all requirements for the processing of proposed service plans for Districts within the Town's boundaries are contained in this Division.

Sec. 16-5-815. Model Service Plan and Intergovernmental Agreement.

In addition to the requirements of C.R.S. § 32-1-202 (2), as the same may be amended from time to time, the proposed service plan shall provide as follows:

- (a) The Maximum Debt Mill Levy the District shall be authorized to impose is fifty (50) mills for so long as the total amount of aggregate Debt of the District exceeds fifty percent (50%) of the District's assessed valuation. At such time as the total amount of aggregate Debt of the District is equal to or less than fifty percent (50%) of the District's assessed valuation, either on the date of issuance of any Debt or at any time thereafter, the mill levy to be imposed to repay such portion of Debt shall not be subject to the Maximum Debt Mill Levy if End Users cast the majority of affirmative votes taken by the District's Board of Directors at the meeting authorizing such action, and, as a result, the mill levy may be such amount as is necessary to pay the debt service on such Debt, and the Board may further provide that such Debt shall remain secured by such increased mill levy, notwithstanding any subsequent change in the District's Debt to assessed value ratio. The Maximum Debt Mill Levy shall be subject to a Mill Levy Adjustment. The Maximum Debt Mill Levy does not include the BRI Mill Levy.
- (b) The Maximum Operation and Maintenance the District shall be authorized to impose is fifty (50) mills until such time that the District issues Debt. After the District issues Debt, the Maximum Operation and

Maintenance Mill Levy shall be ten (10) mills. The Maximum Operation and Maintenance Mill Levy shall apply to the District's ability to increase its mill levy as necessary for provision of operation and maintenance services to its taxpayers and service users until such time as End Users cast the majority of affirmative votes taken by the District's Board of Directors at a meeting authorizing an increase of such Maximum Operation and Maintenance Mill Levy.

- (c) The Maximum Aggregate Mill Levy shall be the maximum combined mill levy District is permitted to impose upon the taxable property within the District for payment of all expense categories, including, but not limited to, Debt, capital costs, organizational costs, and Operation and Maintenance Costs, except that the Maximum Aggregate Mill Levy shall not include the BRI Mill Levy. The Maximum Aggregate Mill Levy shall be sixty (60) mills until such time as End Users cast the majority of affirmative votes taken by the District's Board of Directors at a meeting authorizing an increase of such Maximum Aggregate Mill Levy. The foregoing notwithstanding, any action taken by a District to increase the Maximum Debt Mill Levy must be taken in accordance with subsection (a) above.
- (d) All Debt issued by the District must be issued in compliance with the requirements of Section 32-1-1101, C.R.S. and all other requirements of State law. On or before the effective date of approval of an Approved Development Plan by the Town, the District shall not: (a) issue any Debt; nor (b) impose a mill levy for the payment of Debt by direct imposition or by transfer of funds from the operating fund to the Debt service funds; (c) impose and collect any fees used for the purpose of repayment of Debt, or (d) levy any special assessments.
- (e) The District shall not pledge any revenue or property of the Town as security for the indebtedness set forth in the service plan. Approval of the service plan shall not be construed as a guarantee by the Town of payment of any of the District's obligations; nor shall anything in the service plan be construed so as to create any responsibility or liability on the part of the Town in the event of default by the District in the payment of any such obligation.
- (f) The District shall not issue Debt in excess of the Total Debt Limit, as set forth in the service plan, which Total Debt Limit includes any Debt issued for Public Improvements and Regional Improvements; provided that the Total Debt Limit does not include the principal amount of Debt which has been refunded or which is a contractual pledge of taxes or other revenue from a District to another District.
- (g) Any Debt issued by a District with a pledge or which results in a pledge that exceeds the Maximum Debt Mill Levy (subject to the Mill Levy Adjustment) shall be deemed a material modification of the Service Plan pursuant to Section 32-1-207, C.R.S. and shall not be an authorized issuance of Debt unless and until such material modification has been approved by the Town as part of a Service Plan Amendment. The Town shall be entitled to all remedies available at law to enjoin such actions of the District, including the remedy of enjoining the issuance of additional authorized but unissued debt, until such material modification is remedied.
- (h) A district shall impose the BRI Mill Levy and shall convey it as follows:
 - (1) If a district has executed a BRI Authority Establishment Agreement and the Town has been offered the opportunity to participate in the BRI Authority Establishment Agreement, the terms of which provide for the Town to appoint no less than thirty percent (30%) and no more than forty-nine percent (49%) of the board members who will serve as the board of directors of the BRI Authority to be established by such BRI Authority Establishment Agreement, regardless as to whether the Town becomes a party to such BRI Authority Establishment Agreement, the revenue from the BRI Mill Levy shall be conveyed to the BRI Authority for the planning, designing, constructing, installing, acquiring, relocating, redeveloping or financing of the Regional Improvements set forth in the BRI Master Plan and for the operations of such BRI Authority; or
 - (2) If the Town and a district have executed an agreement then the revenue from the BRI Mill Levy shall be conveyed to the Town for use in planning, designing, constructing, installing, acquiring, relocating, redeveloping or financing of the Regional Improvements which benefit the service users and taxpayers of the district in accordance with such agreement; or

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- (3) If neither (h)(1) or (h)(2) above is applicable then the revenue shall be conveyed to the Town and (A) the Town shall place in a special account all revenues received from the BRI Mill Levy imposed in the property within the district boundaries and shall not expend such revenue until an agreement is executed between the district establishing the terms and conditions for the provision of the Regional Improvements; and (B) if the agreement is not executed within two (2) years from the date of the approval of the service plan by the Town and neither (h)(1) or (h)(2) above have occurred within two (2) years from the date of the approval of the service plan by the Town, then the revenue from the BRI Mill Levy shall be conveyed to the Town for use by the Town in the planning, designing, constructing, installing, acquiring, relocating, redeveloping or financing of the Regional Improvements which benefit the service users or taxpayers of the district as prioritized and determined by the Town.
 - (4) A district may, pursuant to written agreement with the Town, extend the terms for application of the BRI Mill Levy beyond the years set forth in the definition of BRI Mill Levy in Section 16-5-210.
 - (5) A district shall cease to be obligated to impose, collect and convey to the Town the revenue from the BRI Mill Levy at such time as the area within the District's boundaries is included within a different district organized under the Special District Act, or a General Improvement District organized under Section 31-25-601, et seq., C.R.S., or Business Improvement District organized under Section 31-25-1201, et seq., C.R.S., which other district has been organized to fund a part or all of the Regional Improvements.
 - (6) A district shall have the authority to issue Debt for the Regional Improvements in an amount not to exceed the amount set forth in the service plan.
- (i) Unless otherwise modified in the provisions of the Intergovernmental Agreement between the Town and the district, the district shall comply with the following requirements, which shall be set forth in the service plan:
- (1) Operation and Maintenance Limitation. The District shall dedicate the Public Improvements to the Town or other appropriate jurisdiction or owners association in a manner consistent with the Approved Development Plan, the Intergovernmental Agreement, and other rules and regulations of the Town and applicable provisions of the Town Code. Except for park and recreation improvements, the District shall not be authorized to operate and maintain any part or all of the Public Improvements unless the provision of such operation and maintenance is pursuant to the Intergovernmental Agreement with the Town. Unless otherwise specified in the Intergovernmental Agreement, all parks and trails shall be open to the general public free of charge. The District shall have the power to provide ongoing covenant enforcement and design review services in accordance with the Special District Act as part of its operation and maintenance activities.
 - (2) Fire Protection Limitation. The District shall not be authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance, operate or maintain fire protection facilities or services, unless such facilities and services are provided pursuant to a written agreement with the Town and with Bennett Fire Protection District. The authority to plan for, design, acquire, construct, install, relocate, redevelop or finance fire hydrants and related improvements installed as part of the water system shall not be limited by this provision.
 - (3) Television Relay and Translation Limitation. The District shall not be authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance, operate or maintain television relay and translation facilities and services, other than for the installation of conduit as a part of a street construction project, unless such facilities and services are provided pursuant to the Intergovernmental Agreement.
 - (4) Limitation on Extraterritorial Service. The District shall be authorized to provide services or facilities outside the District boundaries or service area, or to establish fees, rates, tolls, penalties or charges for any services or facilities only in accordance with an Approved Development Plan,

the Intergovernmental Agreement, or other agreement to which the Town is a party or otherwise gives its written consent.

- (5) Telecommunication Facilities. The District agrees that no telecommunication facilities shall be constructed except pursuant to the Intergovernmental Agreement and that no such facilities owned, operated or otherwise allowed by the District shall affect the ability of the Town to expand its public safety telecommunication facilities or impair existing telecommunication facilities.
- (6) Construction Standards Limitation. The District will ensure that the Public Improvements are designed and constructed in accordance with the standards and specifications of the Town and of other governmental entities having proper jurisdiction. The District will obtain the approval of civil engineering plans from the appropriate jurisdiction and will obtain applicable permits for construction and installation of Public Improvements prior to performing such work.
- (7) Zoning and Land Use Requirements. The District shall be subject to all of the Town's zoning, subdivision, building code and other land use requirements.
- (8) Growth Limitations. The Town shall not be limited in implementing Board of Trustee or voter approved growth limitations, even though such actions may reduce or delay development within the District and the realization of District revenue.
- (9) Conveyance. The District agrees to convey to the Town, upon written notification from the Town and at no cost to the Town, any interest in real property owned by the District that is necessary, in the Town's sole discretion, for any Town capital improvement projects for transportation, utilities or drainage, so long as such conveyance does not interfere with the District's ability to construct, operate and/or maintain Public Infrastructure, as the same may be limited by the service plan.
- (10) Eminent Domain. The District shall be authorized to utilize the power of eminent domain only in accordance with the Intergovernmental Agreement. In the event the limit on the District's ability to exercise the power of eminent domain inhibits the District's ability to issue debt, or will cause the interest on any Debt issued by the District to be included in gross income for federal income tax purposes, and the District shall have obtained the written opinion of bond counsel with respect to the foregoing, the limit set forth herein or in the Intergovernmental Agreement on the District's ability to exercise the power of eminent domain shall be of no further force or effect, and shall be retroactive to the date of the organization of the District if the avoidance of the interest on Debt being included in gross income for federal income tax purposes as described in this paragraph so necessitates.
- (11) Water Rights/Resources Limitation. The District shall not acquire, own, manage, adjudicate or develop water rights or resources except as otherwise provided pursuant to the Intergovernmental Agreement.
- (12) Inclusion Limitation. Without prior written notice to the Town, the District shall not include into its boundaries any property except the property within the Inclusion Area Boundaries. No property will be included within the District at any time unless such property has been annexed into the Town's corporate limits.
- (13) Exclusion Limitation. The District shall not exclude from its boundaries any property within the District Boundaries without the prior written consent of the Town, in the event the District is governed by a single-district service plan, or without the prior written notice to the Town, in the event the District is governed by a multiple-district service plan. The District shall not exclude from its boundaries property upon which a Debt mill levy has been imposed for the purpose of the inclusion of such property into another district that has been or will be formed under the Special District Act, without the prior written consent of the Town.

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- (14) **Overlap Limitation.** The boundaries of the District shall not overlap with any other district formed under the Special District Act if such overlap will cause the District mill levy to exceed the Maximum Debt Mill Levy, the Maximum Operation and Maintenance Mill Levy and/or the Maximum Aggregate Mill Levy.
- (15) **Sales and Use Tax.** The District shall not exercise its Town sales and use tax exemption.
- (16) **Monies from Other Governmental Sources.** The District shall not apply for or accept Conservation Trust Funds, Great Outdoors Colorado Funds, or other funds available from or through governmental or non-profit entities that the Town is eligible to apply for, except pursuant to the Intergovernmental Agreement. This Section shall not apply to specific ownership taxes which shall be distributed to and be a revenue source for the District without any limitation.
- (17) **Consolidation Limitation.** The District shall not file a request with any Court to consolidate with another Title 32 district without the prior written consent of the Town, unless such consolidation is with one of the other Districts to which the service plan applies.
- (18) **Sub-district Limitation.** The District shall not create any sub-district pursuant to Section 32-1-1101, C.R.S. without the prior written consent of the Town.
- (19) **Fees.** The District may impose and collect Fees for services, programs or facilities furnished by the District, and the District may from time to time increase or decrease the Fees. The District may use the revenue from Fees for the payment of Operation and Maintenance Costs and for the payment of any indebtedness of the District.
- (20) **Special Assessments.** If authorized in the Intergovernmental Agreement, the District may establish one or more special improvement districts within the District Boundaries and may levy a special assessment with the special improvement district in order to finance all or part of the costs of any Public Improvements to be constructed or installed that the District is authorized to finance.
- (21) **Bankruptcy Limitation.** All of the limitations contained in the service plan, including, but not limited to, those pertaining to the Maximum Aggregate Mill Levy, the Maximum Debt Mill Levy, the Maximum Operation and Maintenance Mill Levy, and Fees have been established under the authority of the Town to approve a service plan pursuant to Section 32-1-204.5, C.R.S. It is expressly intended that such limitations:
- (A) Shall not be subject to set-aside for any reason or by any court of competent jurisdiction, absent a Service Plan Amendment; and
 - (B) Are, together with all other requirements of Colorado law, included in the "political or governmental powers" reserved to the State under the U.S. Bankruptcy Code (11 U.S.C.) Section 903, and are also included in the "regulatory or electoral approval necessary under applicable non-bankruptcy law" as required for confirmation of a Chapter 9 Bankruptcy Plan under Bankruptcy Code Section 943(b)(6).
- The filing of any bankruptcy petition by the District shall constitute, simultaneously with such filing, a material departure of the express terms of the service plan, thus necessitating a material modification that must be submitted to the Town for its consideration as a Service Plan Amendment.
- (22) **Reimbursement Agreement.** If the District utilizes reimbursement agreements to obtain reimbursements from third-party developers or adjacent landowners for costs of improvements that benefit third-party landowners, such agreements shall be done in accordance with Town Code. If a reimbursement agreement exists or is entered into for an improvement financed by the District, any and all resulting reimbursements received for such improvement shall be deposited in the District's debt service fund and used for the purpose of retiring the District's debt.

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- (j) Intergovernmental Agreement. The District shall enter into a written agreement with the Town, to be executed at the first District meeting after such District is formed, that the District will be bound by each of the terms and conditions set forth in its approved service plan.

Sec. 16-5-820. Hearing and determination.

- (a) A public hearing shall be held by the Board of Trustees to consider the service plan. Any testimony or evidence which, in the discretion of the Board of Trustees, is relevant to the organization of the District shall be considered.
- (b) After consideration of the service plan, reports and any evidence and testimony accepted or taken at the public hearing, the Board of Trustees shall approve without condition, approve with condition or disapprove the proposed service plan or amendment, applying the following criteria:
- (1) Whether there is a sufficient existing and projected need for organized service in the area to be serviced by the proposed District;
 - (2) Whether the existing service in the area to be served by the proposed District is inadequate for present and projected needs;
 - (3) Whether the proposed District is capable of providing economical and sufficient service to the area within its proposed boundaries; and
 - (4) Whether the area to be included in the proposed District has or will have the financial ability to discharge the proposed indebtedness on a reasonable basis.
- (c) Within twenty (20) days after the public hearing, the Board of Trustees shall adopt a resolution regarding the proposed service plan. If the service plan is approved, a resolution of approval shall be adopted. If the service plan is disapproved, a resolution for such disapproval shall be adopted, including the reasons for such disapproval. If the service plan is conditionally approved, the amendments to be made in, or additional information relating to, the service plan, together with the reasons for such amendments or additional information, shall be set forth in writing, and the hearing shall be continued until such amendments or additional information is incorporated in the service plan. Upon the incorporation of such amendments or additional information in the proposed service plan, the Board of Trustees shall adopt a resolution of approval.
- (d) The Board of Trustees resolution shall document the Board of Trustees' final determination for the purpose of any appeal to the district court.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-5-825. Material modification.

The Model Service Plan has been designed with sufficient flexibility to enable the District to provide required services and facilities under evolving circumstances without the need for numerous amendments. Actions of the District enumerated below shall be deemed to be material modifications to the service plan requiring a Service Plan Amendment, and the Town shall be entitled to all remedies available under State and local law to enjoin such actions of the district, including the remedy of enjoining the issuance of additional authorized but unissued debt, until such material modification is remedied:

- (1) The occurrence of any event or condition which is defined under the service plan or Intergovernmental Agreement as necessitating a Service Plan Amendment.
- (2) The material default by the District under any Intergovernmental Agreement with the Town.
- (3) Any change in the stated purposes of the District or additions to the types of facilities, improvements or programs provided by the District;

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- (4) Any action or proposed action by the District which would interfere with or delay any planned or required dissolution of the District.
 - (5) Any of the events or conditions enumerated in Section 32-1-207(2), C.R.S.

Sec. 16-5-830. Determination of applicability.

Should the District dispute that one (1) or more of the occurrences enumerated in Section 16-5-825 above is a material modification, the District may request a hearing before the Board of Trustees after consultation with Town staff. After hearing and receipt of any relevant information presented by the District and the recommendation of Town staff, the Board of Trustees shall make a finding as to whether such occurrence constitutes a material modification. In the event it is found that a material modification has taken place, the District shall submit its request for an amendment in accordance with this Division, unless waived by the Board of Trustees. Upon a finding that no material modification has taken place, the District shall be relieved from obtaining an amendment. The Board of Trustees may, however, require a later amendment if the change or deviation, on a cumulative basis, subsequently becomes material. In making its determination, the Board of Trustees shall consider, among other relevant information, whether the modification will have a probable adverse financial impact on the Town.

Sec. 16-5-835. Service plan amendment.

- (a) Except as otherwise provided in the approved service plan and except when the Board of Trustees has determined that no material modification has occurred pursuant to Section 16-5-830 above within ninety (90) days of the occurrence of an action, event or condition enumerated in Section 16-5-825 above, the Board of Directors shall forward an appropriate petition to the Board of Trustees for approval requesting a Service Plan Amendment. The petition for amendment shall include:
 - (1) Any information or documentation required under the applicable provisions of the Special District Act;
 - (2) Any material changes since the service plan was last reviewed and approved by the Board of Trustees to any of the information, assumptions or projections furnished in conjunction with the petition for approval of organization of a District or contained in the service plan;
 - (3) A detailed explanation of the activity, events or conditions which resulted in the material modification, including what action was taken or alternatives considered, if any, by the District to avoid the action, event or condition;
 - (4) The impact of the material modification on the District's ability to develop the public improvements necessary to meet its capital development plan;
 - (5) The effect of the material modification on the District's ability to retire as scheduled its debt and its ability to issue and market additional debt, if any;
 - (6) A current financial plan for the District reflecting development absorption rates anticipated within the District's service area, projected annual revenues and expenditures based upon such projected absorption rates, debt issuance and amortization schedules and a projection of anticipated capital outlays;
 - (7) The financial impact of the modification on existing residents of the District;
 - (8) An updated five-year capital improvements plan; and
 - (9) What alternatives or options are available to the District if the requested amendment is not approved.
- (b) All of the required information shall be supported by appropriate technical analysis, reports and supporting documents of qualified professionals and consultants. The amendment shall be processed and reviewed in the same manner as prescribed by the Applicant Guide for an initial service plan, except that the submittal requirements of this Section shall apply. Additionally, the District shall execute a cost agreement and funds deposit agreement constituting its agreement to reimburse all Town costs incurred by the Town in review of

the application, including, but not limited to, attorney, financial advisor, engineer and similar consultant fees. The application fee set by Town resolution shall be a deposit applied to such costs. This Section shall not impair the right of the Town to bring an action in the district court to enjoin the activities of the District pursuant to Section 32-1-207(3)(b), C.R.S.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-5-840. Partial exemption.

If any District has not undertaken development of public improvements or issued any debt, it may apply to the Board of Trustees for an exemption from compliance with this Division for a period of time not to exceed two (2) years. The Board of Trustees may grant an exemption if the Board of Directors submits a resolution to the Town Board of Trustees stating that, upon issuance of the exemption, the District's authorization under the service plan and the Intergovernmental Agreement with the Town to undertake development of public improvements or issue any debt is temporarily suspended. With issuance of the partial exemption, the District shall be excluded from compliance with this Division, except that the District annually, not later than September 1, shall submit financial statements from the previous year and the budget for the current year.

Sec. 16-5-845. Capital facilities.

Districts are prohibited from developing or constructing any public improvements unless such public improvements are authorized under the service plan and intergovernmental agreement and any applicable Town ordinances.

Sec. 16-5-850. Sanctions.

Should any District fail to comply with any applicable provision of this Division, the Board of Trustees by resolution may impose one (1) or more of the following sanctions, as it deems appropriate:

- (1) Exercise any applicable remedy under the Special District Act;
- (2) Withhold the issuance of any permit, authorization, acceptance or other administrative approval necessary for the District's development or construction of public improvements;
- (3) Exercise any legal remedy under the terms of any intergovernmental agreement under which the District is in default; or
- (4) Exercise any other legal remedy, including seeking injunctive relief against the District, to ensure compliance with the provisions of this Division.

ARTICLE VI Sexually Oriented Businesses

[\[No revisions proposed to this Article\]](#)

ARTICLE VII Flood Damage Prevention Regulations

Division 1 Purpose and Applicability

Sec. 16-7-10. Title.

This Article shall be known as the *Flood Damage Prevention Regulations of the Town of Bennett*, and may be so cited and pleaded.

Sec. 16-7-20. Authority.

The Legislature of the State of Colorado has, in Title 29, Article 20 of the Colorado Revised Statutes, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Town adopts this Article based on the following findings of fact:

- (1) The flood hazard areas of Bennett are subject to periodic inundation, which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the health, safety and general welfare of the public.
- (2) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

Sec. 16-7-30. Purpose.

It is the purpose of this Article to promote public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to critical facilities, infrastructure and other public facilities such as water, sewer and gas mains; electric and communications stations; and streets and bridges located in floodplains;
- (6) Maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
- (7) Ensure that potential buyers are notified that property is located in a flood hazard area.

Sec. 16-7-40. Methods of reducing flood losses.

In order to accomplish its purposes, this Article uses the following methods:

- (1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- (4) Control filling, grading, dredging and other development which may increase flood damage; and
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

Sec. 16-7-50. Application.

This Article shall apply to all Special Flood Hazard Areas and areas removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F) within the jurisdiction of the Town.

Sec. 16-7-60. Compliance.

No structure or land shall hereafter be located, altered, or have its use changed within the Special Flood Hazard Area without full compliance with the terms of this Article and other applicable regulations. Nothing herein shall prevent the Town from taking such lawful action as is necessary to prevent or remedy any violation. These regulations meet the minimum requirements as set forth by the Colorado Water Conservation Board and the National Flood Insurance Program.

Sec. 16-7-70. Abrogation and greater restrictions.

This Article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Article and another Article, Chapter, ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Sec. 16-7-80. Interpretation.

In the interpretation and application of this Article, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the Town; and
- (3) Deemed neither to limit nor repeal any other powers granted under State law.

Sec. 16-7-90. Warning and disclaimer of liability.

The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by manmade or natural causes. This Article does not imply that land outside the Special Flood Hazard Area or uses permitted within such areas will be free from flooding or flood damages. This Article shall not create liability on the part of the Town or any official or employee thereof for any flood damages that result from reliance on this Article or any administrative decision made there under.

Division 2 Definitions

Sec. 16-7-210. Definitions.

The words and phrases used in this Article shall have the meanings defined below:

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

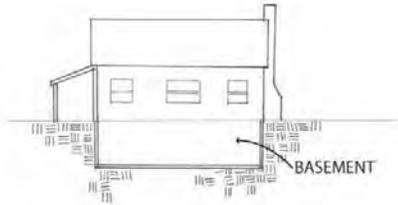
Alluvial fan flooding means a fan-shaped sediment deposit formed by a stream that flows from a steep mountain valley or gorge onto a plain or the junction of a tributary stream with the main stream. Alluvial fans contain active stream channels and boulder bars, and recently abandoned channels. Alluvial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

Area of shallow flooding means a designated Zone AO or AH on the Flood Insurance Rate Map (FIRM) with a one (1) percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Base Flood Elevation (BFE) means the elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-30, AR, AR/A, AR/AE, AR/A1-30, AR/AH, AR/AO, V1- V30, and VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

Basement means any area of a building having its floor sub-grade (below ground level) on all sides. See Figure 7.1.

Figure 7.1



Channel means the physical confine of a stream or waterway consisting of a bed and stream banks, existing in a variety of geometries. See Figure 7.2.

Channelization means the artificial creation, enlargement or realignment of a stream channel.

Code of Federal Regulations (CFR) means the codification of the general and permanent Rules published in the Federal Register by the executive departments and agencies of the Federal Government. It is divided into fifty (50) titles that represent broad areas subject to Federal regulation.

Critical facility means a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for Regulatory Floodplains in Colorado, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the Town at any time before, during and after a flood.

Development means any manmade change in improved and unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

DFIRM database means data and analyses that accompany DFIRMs. The FEMA Mapping Specifications and Guidelines outline requirements for the development and maintenance of DFIRM databases.

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

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

Federal register means the official daily publication for Rules, proposed Rules, and notices of Federal agencies and organizations, as well as executive orders and other presidential documents.

FEMA means Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- a. The overflow of water from channels and reservoir spillways;

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

Flood, 100-year means a flood having a recurrence interval that has a one-percent chance of being equaled or exceeded during any given year (1-percent-chance-annual flood). The terms "one-hundred-year flood" and "one percent chance flood" are synonymous with the term "100-year flood." The term does not imply that the flood will necessarily happen once every one hundred (100) years.

Flood, 500-year means a flood having a recurrence interval that has a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-chance-annual flood). The term does not imply that the flood will necessarily happen once every five hundred (500) years. Flood control structure means a physical structure designed and built expressly or partially for the purpose of reducing, redirecting, or guiding flood flows along a particular waterway. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Flood Insurance Rate Map (FIRM) means an official map on which the Federal Emergency Management Agency has delineated both the Special Flood Hazard Areas and the risk premium zones applicable to the Town.

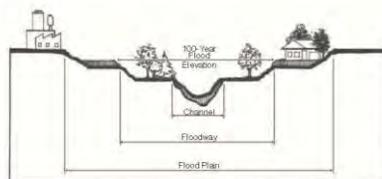
Flood Insurance Study (FIS) means the official report provided by the Federal Emergency Management Agency. The report contains the Flood Insurance Rate Map as well as flood profiles for studied flooding sources that can be used to determine Base Flood Elevations for some areas.

Floodplain or floodprone area means any land area susceptible to being inundated as the result of a flood, including the area of land over which floodwater would flow from the spillway of a reservoir. See Figure 7.2.

Floodplain, 100-year means the area of land susceptible to being inundated as a result of the occurrence of a one-hundred-year flood.

Floodplain, 500-year means the area of land susceptible to being inundated as a result of the occurrence of a five-hundred-year flood.

Figure 7.2



Floodplain Administrator means the Town official designated by title to administer and enforce the floodplain management regulations.

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

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

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

Floodproofing means any combination of structural and/or non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway (regulatory floodway) means the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. See Figure 7.2.

Freeboard means the vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

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

Historic structure means any structure that is:

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

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

Letter of Map Revision Based on Fill (LOMR-F) means FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.

Letter of Map Revision, Conditional (CLOMR) means FEMA's comment on a proposed project, which does not revise an effective floodplain map that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

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

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

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

Manufactured home means a structure transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured home park means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

Manufactured home park, existing means a manufactured home park for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of this Article.

Manufactured home park, expansion to existing means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Manufactured home park, new means a manufactured home park for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this Article.

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

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

National Flood Insurance Program (NFIP) means FEMA's program of flood insurance coverage and floodplain management administered in conjunction with the Robert T. Stafford Relief and Emergency Assistance Act. The NFIP has applicable Federal regulations promulgated in Title 44 of the Code of Federal Regulations. The U.S. Congress established the NFIP in 1968 with the passage of the National Flood Insurance Act of 1968.

Commented [SC99]: Consider being consistent with definitions and terms throughout this Flood Damage Prevention section and the rest of the code. For example, most of your code uses the term "Mobile home park" and this uses "Manufactured home park". If you are going to update the definitions of mobile and manufactured home elsewhere, it is a good time to make the full code consistent.

New construction means a structure for which the "start of construction" commenced after March 5, 2007, in Adams County and December 17, 2010, in Arapahoe County, and includes subsequent improvements to the structure.

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

Physical Map Revision (PMR) means FEMA's action whereby one (1) or more map panels are physically revised and republished. A PMR is used to change flood risk zones, floodplain and/or floodway delineations, flood elevations, and/or plan features.

Recreational vehicle means a vehicle which is:

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

Special Flood Hazard Area (SFHA) means the land in the floodplain within the Town subject to a one (1) percent or greater chance of flooding in any given year, i.e., the 100-year floodplain.

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

Structure means a walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure just prior to when the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before "Start of Construction" of the improvement. The value of the structure shall be determined by the local jurisdiction having land use authority in the area of interest. This includes structures which have incurred "Substantial Damage", regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions or
- b. Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

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

Variance means a grant of relief to a person from one (1) or more requirements of this Article when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this Article.

Violation means the failure of a structure or other development to be fully compliant with this Article. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance is presumed to be in violation until such time as that documentation is provided.

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

Division 3 Administration and Procedures

Sec. 16-7-310. Designation of the Floodplain Administrator.

The Town Manager is hereby appointed as Floodplain Administrator to administer, implement and enforce the provisions of this Article and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

Sec. 16-7-320. Duties and responsibilities of the Floodplain Administrator.

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

- (1) Maintain and hold open for public inspection all records pertaining to the provisions of this Article, including the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and any floodproofing certificate required by Section 16-7-340(a)(3).
- (2) Review, approve, or deny all applications for Floodplain Development Permits required by adoption of this Article.
- (3) Review Floodplain Development Permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
- (4) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
- (5) Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this Article, including proper elevation of the structure.
- (6) Where interpretation is needed as to the exact location of the boundaries of the Special Flood Hazard Area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
- (7) When Base Flood Elevation data has not been provided in accordance with Section 16-7-410, the Floodplain Administrator shall obtain, review and reasonably utilize any Base Flood Elevation data and Floodway data available from a Federal, State, or other source, in order to administer the provisions of Division 5 of this Article.
- (8) For waterways with Base Flood Elevations for which a regulatory Floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the Flood Insurance Rate Map, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and

anticipated development, will not increase the water surface elevation of the base flood more than one-half (½) foot at any point within the Town.

- (9) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, the Town may approve certain development in Zones A1-30, AE, AH, on the Flood Insurance Rate Map which increases the water surface elevation of the base flood by more than one-half (½) foot, provided that the Town first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision), fulfills the requirements for such revisions as established under the provisions of Section 65.12 and receives FEMA approval.
- (10) Notify adjacent communities and the State Coordinating Agency, which is the Colorado Water Conservation Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.
- (11) Ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.

Sec. 16-7-330. Establishment of floodplain development permit.

A Floodplain Development Permit shall be required to ensure conformance with the provisions of this Article.

Sec. 16-7-340. Floodplain development permit procedures.

- (a) Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to Special Flood Hazard Area. Additionally, the following information is required:
 - (1) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures.
 - (2) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed.
 - (3) A certificate from a registered Colorado Professional Engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Section 16-7-430.
 - (4) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
- (b) Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this Article and the following relevant factors:
 - (1) The danger to life and property due to flooding or erosion damage;
 - (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (3) The danger that materials may be swept onto other lands to the injury of others;
 - (4) The compatibility of the proposed use with existing and anticipated development;
 - (5) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (6) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
 - (7) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
 - (8) The necessity to the facility of a waterfront location, where applicable;

(9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(10) The relationship of the proposed use to the comprehensive plan for that area.

(Ord. 646-14 §1(Exh. A), 12-9-2014)

Sec. 16-7-350. Variance procedures.

The Floodplain Administrator shall hear and render judgment on requests for variances from the requirements of this Article as follows:

- (1) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (½) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided the relevant factors in Section 16-7-340 have been fully considered. As the lot size increases beyond the one-half (½) acre, the technical justification required for issuing the variance increases.
- (2) Upon consideration of the factors noted above and the intent of this Article, the Floodplain Administrator may attach such conditions to the granting of variances as deemed necessary to further the purpose and objectives of this Article as stated in Section 16-7-30.
- (3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (4) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (5) Prerequisites for granting variances:
 - a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - b. Variances shall only be issued upon:
 1. Showing a good and sufficient cause;
 2. A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing Town ordinances.
 - c. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the Base Flood Elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (6) Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a Functionally Dependent Use provided that:
 - a. The criteria outlined in Section 16-7-350(1)—(5) are met, and
 - b. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- (7) The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

Division 4 Standards

Sec. 16-7-410. Basis for establishing the Special Flood Hazard Area.

The Special Flood Hazard Areas identified by the Federal Emergency Management Agency in scientific and engineering reports entitled, "The Arapahoe County, Colorado, and Incorporated Areas, Flood Insurance Study," dated December 17, 2010, and "The Flood Insurance Study for Adams County, Colorado, and Incorporated Areas," dated March 5, 2007, with accompanying Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps (FIRM and/or FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this Article. These Special Flood Hazard Areas identified by the FIS and attendant mapping are the minimum area of applicability of this Article and may be supplemented by studies designated by the Town. These supplemental studies may include Flood Hazard Area Delineation (FHAD) studies produced by the Urban Drainage and Flood Control District, or other 100-year floodplain studies approved by the Town, Adams County, Arapahoe County or other local, regional, state or federal agencies.

Sec. 16-7-420. General standards.

In all Special Flood Hazard Areas the following provisions are required for all new construction and substantial improvements:

- (1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- (4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (5) All manufactured homes shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
- (6) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters; and
- (8) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

Sec. 16-7-430. Specific standards.

In all Special Flood Hazard Areas where base flood elevation data has been provided as set forth in Section 16-7-410 or Section 16-7-320, the following provisions are required:

- (1) Residential Construction. New construction and Substantial Improvement of any residential structure shall have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one (1) foot above

the base flood elevation. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

- (2) Nonresidential Construction. With the exception of Critical Facilities, outlined in Section 16-7-480, new construction and Substantial Improvements of any commercial, industrial, or other nonresidential structure shall either have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, be designed so that at one (1) foot above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered Colorado Professional Engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. Such certification shall be maintained by the Floodplain Administrator, as stated in Section 16-7-340.
- (3) Enclosures. New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered Colorado Professional Engineer or architect or meet or exceed the following minimum criteria:
 - a. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
 - b. The bottom of all openings shall be no higher than one (1) foot above grade.
 - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.
- (4) Manufactured Homes. All manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the Flood Insurance Rate Map on sites (i) outside of a manufactured home park, (ii) in a new manufactured home park, (iii) in an expansion to an existing manufactured home park, or (iv) in an existing manufactured home park on which manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are elevated to one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. All manufactured homes, placed or substantially improved on sites in an existing manufactured home park within Zones A1-30, AH and AE on the FIRM that are not subject to provisions (i), (ii), (iii) or (iv) above, shall be elevated so that either:
 - a. The lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are one (1) foot above the base flood elevation, or
 - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (5) Recreational Vehicles. All recreational vehicles placed on sites within Zones A1-30, AH, and AE on the FIRM either:
 - a. Be on the site for fewer than one hundred eighty (180) consecutive days,

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- b. Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions), or
 - c. Meet the permit requirements of Section 16-7-340, and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section.
- (6) Prior Approved Activities. Any activity for which a Floodplain Development Permit was issued by the Town or a CLOMR was issued by FEMA prior to February 11, 2014, may be completed according to the standards in place at the time of the permit or CLOMR issuance and will not be considered in violation of this Article if it meets such standards.

Sec. 16-7-440. Standards for areas of shallow flooding (AO/AH Zones).

Located within the Special Flood Hazard Area established in Section 16-7-410 are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

- (1) Residential Construction. All new construction and Substantial Improvements of residential structures must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one (1) foot above the depth number specified in feet on the Flood Insurance Rate Map (at least three (3) feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.
- (2) Nonresidential Construction. With the exception of Critical Facilities, outlined in Section 16-7-480, all new construction and Substantial Improvements of nonresidential structures, must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one (1) foot above the depth number specified in feet on the FIRM (at least three (3) feet if no depth number is specified), or together with attendant utility and sanitary facilities, be designed so that the structure is watertight to at least one (1) foot above the base flood level with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy. Within Zones AH or AO, adequate drainage paths around structures on slopes are required to guide flood waters around and away from proposed structures. A registered Colorado Professional Engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as stated in Section 16-7-340, are satisfied.

Sec. 16-7-450. Floodways.

Located within Special Flood Hazard Area established in Section 16-7-410, are areas designated as Floodways. The State of Colorado has adopted Floodway standards that are more stringent than the FEMA minimum standard. The Colorado statewide standard for the designated height to be used for all newly studied reaches shall be one-half (½) foot (six (6) inches). Letters of Map Revision to existing Floodway delineations may continue to use the Floodway criteria in place at the time of the existing floodway delineation. Since the Floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following additional provisions shall apply:

- (1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory Floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed by a licensed Colorado Professional Engineer and in accordance with standard engineering practice that the proposed encroachment would not result in

any increase (requires a No-Rise Certification) in flood levels within the Town during the occurrence of the base flood discharge.

- (2) If Section 16-7-450(1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Article.
- (3) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, the Town may permit encroachments within the adopted regulatory floodway that would result in an increase in Base Flood Elevations, provided that the Town first applies for a CLOMR and floodway revision through FEMA.

Sec. 16-7-460. Alteration of a watercourse.

For all proposed developments that alter a watercourse within a Special Flood Hazard Area, the following standards apply:

- (1) Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition, and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.
- (2) Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.
- (3) Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable floodplain management regulations.
- (4) Any stream alteration activity shall be designed and sealed by a registered Colorado Professional Engineer or Certified Professional Hydrologist.
- (5) All activities within the regulatory floodplain shall meet all applicable floodplain management regulations.
- (6) Within the Regulatory Floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a Floodway analysis and report, sealed by a registered Colorado Professional Engineer, that there is not more than a 0.00-foot rise in the proposed conditions compared to existing conditions in the Floodway resulting from the project, otherwise known as a No-Rise Certification, unless the Town first applies for a CLOMR and Floodway revision in accordance with Section 16-7-450.
- (7) Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

Sec. 16-7-470. Properties removed from the floodplain by fill.

A Floodplain Development Permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F), unless such new structure or addition complies with the following:

- (1) Residential Construction. The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one (1) foot above the Base Flood Elevation that existed prior to the placement of fill.
- (2) Nonresidential Construction. The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one (1) foot above the Base Flood Elevation that existed prior to the placement of fill, or together with attendant utility and sanitary facilities be designed so that the structure or addition is watertight to at least one (1) foot above the base flood level that existed prior to the placement of fill

with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

Sec. 16-7-480. Standards for critical facilities.

- (a) Critical Facilities are classified under the following categories: Essential Services; Hazardous Materials; At-risk Populations; and Vital to Restoring Normal Services. It is the responsibility of the Floodplain Administrator to identify and confirm that specific structures in the Town meet the following criteria:
- (1) Essential services facilities, unless exempted per paragraphs g. and h. below, include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines, as follows:
 - a. Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and, emergency operation centers);
 - b. Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory surgical structures but excluding clinics, doctors offices, and non-urgent care medical structures that do not provide these functions);
 - c. Designated emergency shelters;
 - d. Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits);
 - e. Public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines);
 - f. Air Transportation lifelines (airports (municipal and larger), helicopter pads and structures serving emergency functions, and associated infrastructure (aviation control towers, air traffic control centers, and emergency equipment aircraft hangars);
 - g. Specific exemptions to this category include wastewater treatment plants (WWTP), non-potable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances;
 - h. Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the Town that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-year floodplain or are compliant with the provisions of this Article, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Town on an as-needed basis upon request.
 - (2) Hazardous materials facilities, unless exempted per paragraphs f. and g. below, include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials. Facilities shall be determined to be Critical Facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a Material Safety Data Sheet (MSDS) on file for any chemicals stored or used in the workplace, and the chemical(s) is stored in quantities equal to or greater than the Threshold Planning Quantity (TPQ) for that chemical, then that facility shall be considered to be a Critical Facility. The TPQ for these chemicals is: either five hundred (500) pounds or the TPQ listed (whichever is lower) for the three hundred fifty-six (356) chemicals listed under 40 C.F.R. § 302 (2010), also known as Extremely Hazardous Substances (EHS); or ten thousand (10,000) pounds for any other chemical. This threshold is

consistent with the requirements for reportable chemicals established by the Colorado Department of Public Health and Environment. OSHA requirements for MSDS can be found in 29 C.F.R. § 1910 (2010). The Environmental Protection Agency (EPA) regulation "Designation, Reportable Quantities, and Notification," 40 C.F.R. § 302 (2010) and OSHA regulation "Occupational Safety and Health Standards," 29 C.F.R. § 1910 (2010) are incorporated herein by reference and include the regulations in existence at the time of the promulgation this Article, but exclude later amendments to or editions of the regulations. These facilities may include:

- a. Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);
 - b. Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;
 - c. Refineries;
 - d. Hazardous waste storage and disposal sites;
 - e. Above ground gasoline or propane storage or sales centers;
 - f. Specific exemptions to this category include finished consumer products within retail centers and households containing hazardous materials intended for household use; pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products; and agricultural products intended for agricultural use;
 - g. Specific exemptions to this category also include buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the local authority having jurisdiction by hazard assessment and certification by a qualified professional (as determined by the local jurisdiction having land use authority) that a release of the subject hazardous material does not pose a major threat to the public. These exemptions shall not apply to buildings or other structures that also function as Critical Facilities under another category outlined in this Article.
- (3) At-risk population facilities include medical care, congregate care, and schools. These facilities consist of:
- a. Elder care (nursing homes);
 - b. Congregate care serving twelve (12) or more individuals (day care and assisted living);
 - c. Public and private schools (pre-schools, K–12 schools), before-school and after-school care serving twelve (12) or more children);
- (4) Facilities vital to restoring normal services including government operations, unless exempted per paragraph c below. These facilities consist of:
- a. Essential government operations (public records, courts, jails, building permitting and inspection services, Town administration and management, maintenance and equipment centers);
 - b. Essential structures for public colleges and universities (dormitories, offices, and classrooms only);
 - c. These facilities may be exempted if it is demonstrated to the Floodplain Administrator that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are compliant with this Article, and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Floodplain Administrator on an as-needed basis upon request.

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- (b) Protection for Critical Facilities. All new and substantially improved Critical Facilities and new additions to Critical Facilities located within the Special Flood Hazard Area shall be regulated to a higher standard than structures not determined to be Critical Facilities. For the purposes of this Article, protection shall include one (1) of the following:
- (1) Location outside the Special Flood Hazard Area; or
 - (2) Elevation of the lowest floor or floodproofing of the structure, together with attendant utility and sanitary facilities, to at least two (2) feet above the Base Flood Elevation.
- (c) Ingress and Egress for New Critical Facilities. New Critical Facilities shall, when practicable as determined by the Floodplain Administrator, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.

(Ord. 646-14 §1(Exh. A), 12-9-2014)